

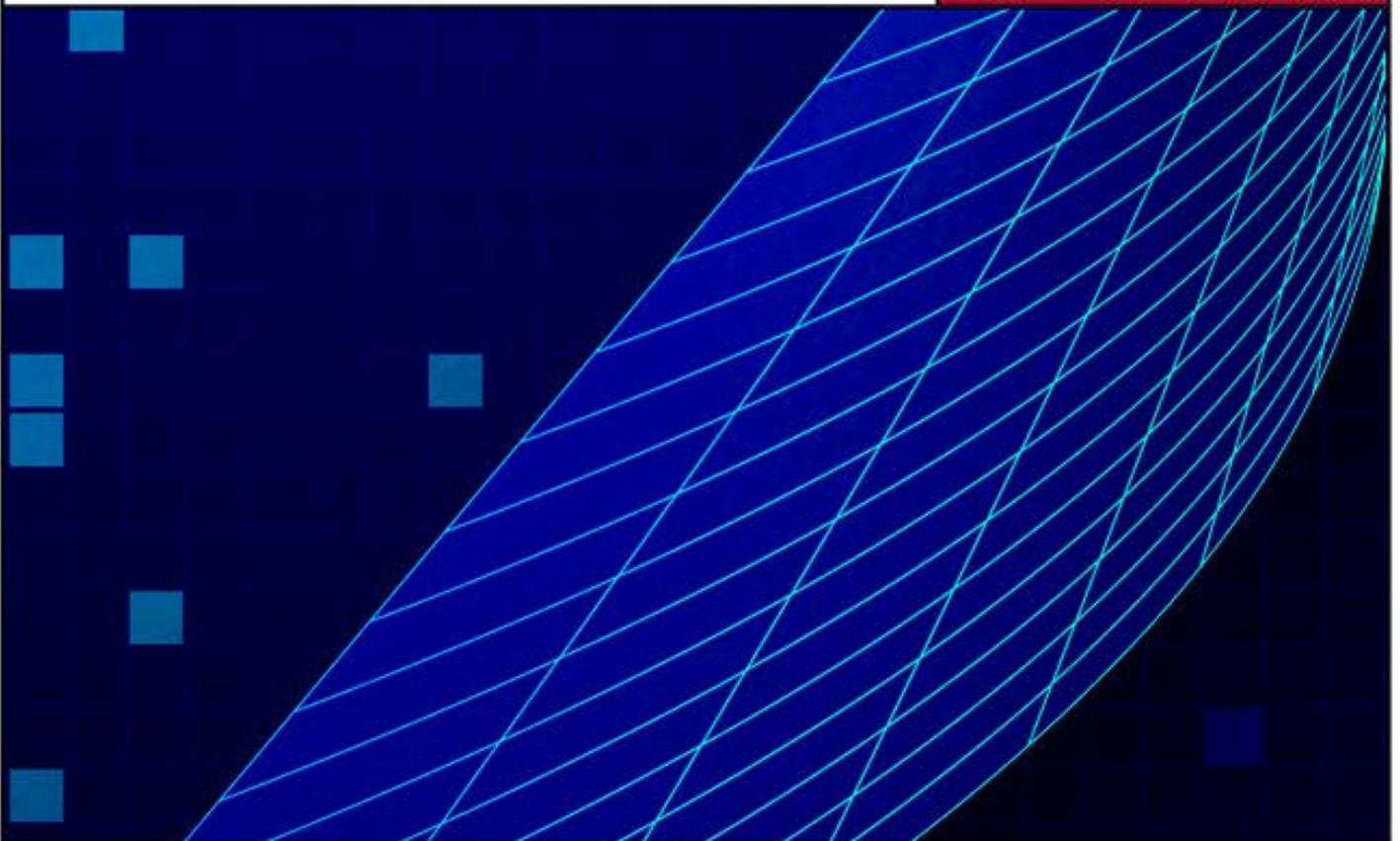
**Submission to the
Australian Government**



**WORKPLACE GENDER EQUALITY ACT 2012
CONSULTATION ON REPORTING MATTERS**

 **AUSTRALIAN INDUSTRY GROUP**

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WORKPLACE GENDER EQUALITY ACT 2012

CONSULTATION ON REPORTING MATTERS

Introduction

The Australian Industry Group ('Ai Group') welcomes the opportunity to comment on the reporting matters under the Gender Equality Indicators ('GEIs') in the *Workplace Gender Equality Act 2012* ('WGE Act') and the issues raised in the Government's Issues Paper.

Ai Group is a peak industry representative body representing industries with around 440,000 businesses employing approximately 2.4 million people. Ai Group and its affiliates have approximately 60,000 members which employ in excess of 1.25 million employees in numerous sectors including manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and services, airlines and other industries.

Ai Group played a leading role in representing industry's interests during the development of the WGE Act. We were actively involved as a member of the Government's Implementation Advisory Group and we made a number of submissions to the Government during the development process. We also made a detailed submission to the Senate Committee inquiry into the legislation and appeared at the public hearing. Throughout this process, Ai Group has expressed support for workplace gender equality and for appropriate legislation to support gender equality.

Ai Group's reservations about certain provisions of the WGE Act are set out in the submission we made to the Senate Committee inquiry and are not repeated here. The Act is now in force and it is important that any reporting matters have positive rather than negative effects on businesses and workplaces.

The Explanatory Memorandum for the Bill states that '(t)he new reporting framework is aimed at reducing the regulatory burden on business'. This aim must not be forgotten during the development of the reporting matters.

The reporting matters need to take account of the fact that a company with 100 employees will have very different information systems to a company with 10,000 employees. The needs and characteristics of smaller employers who are already struggling to cope with an excessive regulatory burden must be kept foremost in mind.

It is employers who will need to implement the reporting matters, not unions or special interest groups. Therefore, the views of Ai Group and other employer representatives need to be given substantial weight. Ai Group represents large and small employers.

For the 2013/14 reporting cycle, employers should only be required to report on a small number of matters involving readily collectible data. This will assist in ensuring that employers remain supportive of the WGE Act. Over time the reporting matters can be expanded once employers have become familiar with the requirements of the legislation and have implemented systems to collect the necessary data. It would also allow any problems to be more readily addressed for subsequent reporting periods than if a more onerous reporting system was immediately implemented.

Proposed approach to be taken in the first legislative instrument made under s.13 of the WGE Act

Section 13 of the WGE Act requires that the Minister, by legislative instrument, specify matters in relation to each GEI prior to the beginning of each reporting period to which they apply.

As a minimum, the legislative instrument must specify one matter in relation to each of the following five gender equality indicators:

- (a) gender composition of the workforce;
- (b) gender composition of governing bodies of relevant employers;
- (c) equal remuneration between women and men;
- (d) 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; and
- (e) consultation with employees on issues concerning gender equality in the workplace.

The initial legislative instrument should only specify five reporting matters – one for each GEI. The reporting matter for each GEI should be either an outcome matter or a process matter.

It will be hard in the short time available until the start of the reporting period on 1 April 2013 to develop five reporting matters which are simple, valid and do not impose an undue burden upon employers. Any attempt to impose a greater number of reporting matters on employers would be unworkable and unfair.

Under the WGE Act, employers are exposed to adverse consequences if they fail to comply with the Act, including being named in a report of the Workplace Gender Equality Agency ('Agency'), being named in some other way, becoming ineligible to compete for Government contracts, or being excluded from Government grants. If an employer is locked out of Government contracts because of a failure to comply with the reporting requirements of the WGE Act, millions of dollars of work could be lost with a consequent devastating effect on the business and its employees. Hence, the reporting matters must not make compliance onerous for employers

The following comments relate to the questions raised in the Government's Issues Paper.

Key outcomes (Questions 1 and 2)

The Issues Paper identifies five 'key outcomes' to be measured and driven by the GEIs. The outcomes are largely consistent with the principal objects in paragraphs 2A(a) to 2A(d) of the WGE Act but the vital principal object in paragraphs 2A(e) is missing, i.e. "*to improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace*".

The principal objects as set out in s.2A of the WGE Act adequately describe the purpose of the Act and the reporting arrangements. A separate set of 'key outcomes' is unnecessary.

Measurable outcomes and process indicators (Questions 3, 4, 5 and 6)

The Issues Paper states that "*the information gathered by employer reports needs to be meaningfully aimed at providing employers with the information they need to work towards the key objectives*". This is important. The information to be gathered by employers for the purpose of reporting under the WGE Act must be meaningful to employers and provide them with the information they need to work toward improving gender equality in their workplaces. It is important that any measurable outcomes and process indicators are practical and useful for employers.

The table accompanying the Issues Paper (i.e. Draft Framework for Reporting Measures under the Gender Equality Indicators) lists some examples of measurable outcomes and process indicators. Ai Group disagrees that it is necessary for multiple reporting matters to be implemented for each GEI, particularly in the initial reporting period in 2013/14. We also disagree that it is necessary for each GEI to have both a measurable outcome and a process indicator.

It is important that the reporting matters do not place an onerous regulatory burden on employers. Reporting under the WGE Act will undoubtedly require employers to develop new systems to collect and analyse data. Employers need time to become accustomed to the new reporting requirements and to implement the necessary systems. Therefore, for the 2013/14 reporting period, only one reporting matter should be specified in the legislative instrument made under s.13 of the WGE Act for each of the five GEIs.

Furthermore, some of the examples of reporting matters listed in the table attached to the Issues Paper are problematic as highlighted by the following examples:

- '*Base pay by gender*': To obtain a valid and fair measure of pay equity performance in a workplace the jobs performed by males and females and the individuals in those jobs would need to be analysed in terms of the duties performed, level of responsibility, skills, qualifications, hours worked,

performance, experience, etc. Such analysis would impose an onerous and unreasonable regulatory burden upon employers.

- *'Performance pay by gender'*: Performance pay is usually based upon the performance of individual employees. To obtain a valid and fair measure of pay equity in this area, the jobs performed by males and females and the performance of individuals in those jobs would need to be analysed. Such analysis would impose an onerous and unreasonable regulatory burden upon employers.
- *'Rates/quantum of parental leave available'*: The rates or quantum of parental leave available is not a fair measure of gender equality. Most parents have access to unpaid parental leave under the *Fair Work Act 2009* in conjunction with Government funded parental leave payments and dad and partner pay. This measure would simply show which employers provide parental leave entitlements above those in the *Fair Work Act 2009* and *Paid Parental Leave Act 2010*.

Most employers do not have systems in place to readily collect the information which would be required if the 'examples of reporting matters' in the table were implemented.

Impact on business (Questions 7 and 8)

Measurable outcomes, in our view, will be more difficult and costly for employers to report upon than process indicators as many employers do not have systems in place to readily collect the data and compile the information.

The burden on employers should be reduced through the Government and the Agency relying upon public sources of information for relevant matters where such information is available, rather than imposing a duplicate reporting requirement upon employers. For example, statistics on the gender composition of particular occupations and industries, and the pay disparity within them, is available from the Australian Bureau of Statistics.

Timing (Questions 9 and 10)

As discussed above, a phased approach is essential to avoid imposing an unreasonable regulatory burden on employers. Consistent with such phased approach, the initial legislative instrument should only specify five reporting matters – one for each GEI. The reporting matter for each of the five GEIs should be either a measurable outcome matter or a process indicator.

Assistance (Question 11)

Ai Group is working closely with the Agency to disseminate information about the WGE Act and reporting arrangements to employers, but more could be done if we had more resources. Ideally, the Government would allocate funding for education

programs to be delivered by Ai Group and other industry groups to assist employers to comply with the reporting requirements under the WGE Act and to further the principal objects of the Act.

Industries (Question 12)

Regardless of how industries are defined, different employers in an industry will have very different operations and staff profiles. For example, in the labour hire industry, one labour hire company may mainly employ engineers or construction workers, while another may mainly employ nurses. It would appear to be impossible to determine fair and valid reporting matters at an industry level, particularly if minimum standards are to be linked to such matters.

Further consultation

Ai Group is keen to continue to participate in the consultation process relating the development and implementation of the reporting arrangements.