



Women With Disabilities ACT
WWDACT

29 January 2013

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Sent By Email

Dear Madam,

**Feedback on the Workplace Gender Equality Act 2012
Consultation on Reporting Matters**

Women With Disabilities ACT (WWDACT) would like to thank you for the opportunity to provide feedback on development of Reporting Matters pertaining to the Workplace Gender Equality Act 2012. We are happy for our views to be made public. Please let me know if WWDACT can be of further assistance.

Yours sincerely

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Feedback on the

Workplace Gender Equality Act 2012

Consultation on Reporting Matters

January 2013

Prepared by: Sue Salthouse
 Convenor, WWDACT

1. Background

Women with Disabilities ACT (WWDACT) is a systemic advocacy and peer support organisation for women and girls with disabilities in the ACT. WWDACT follows a human rights philosophy, based on the *Convention on the Rights of Persons with Disabilities* and the *Convention on the Elimination of Discrimination against Women*. We welcome the amendments to the *Equal Opportunity for Women in the Workplace Act 1999* including changing its title to the more apt *Workplace Gender Equality Act 2012* which reflects a focus on gender equality.

In the ACT there are 31,542 women with a disability, who make up 56.4% of the total population with disabilities,¹ and 18% of the population of women. Disaggregated data about workforce participation of these women, rates of unemployment, educational attainment and post-secondary qualifications are not publicly available. However 2009 national figures² show that the participation rate for women with disabilities was 65%, compared to men with disabilities of 80%. The latter figure is much more closely aligned to the 87% participation rate of the non-disabled population. Sex disaggregated data for unemployment rates is not publicly available for the ACT, but is generally higher for women with disabilities than for men with disabilities. Similarly the unemployment rate for people with disabilities (4.3%) is higher than for the non-disabled (3.5%).³

WWDACT agrees that priority attention should go to improving the situation for all women, but is concerned that the Workplace Gender Equality Act 2012 and the disallowable instruments under development have little scope to encourage corporate attention to improving levels of employment of women with disabilities.

Article 6 of the Convention on the Rights of Persons with Disabilities (CRPD) states:

1. *States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.*
2. *States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the*

¹ Australian Bureau of Statistics, *Disability, Ageing and Carers Australia: Summary of finding 2009*, Cat no: 4430.02009, Commonwealth of Australia, Canberra, 2012 quoted in Strong Women Great City A snapshot of finding from a survey of ACT women with disabilities Women with Disabilities ACT and women's centre for health matters, December 2012 at page 3.

² Ibid.

³ Ibid.

human rights and fundamental freedoms set out in the present Convention.

Thus the CRPD has relevance to our consideration of the Workplace Gender Equality Act (WGE) 2012 and related Reporting Matters.

2. Introduction

WWDACT is grateful for the opportunity to provide input to the Consultation on Reporting Matters for the *Workplace Gender Equality Act 2012*.

2.1 General

WWDACT believes that streamlining of Reporting requirements is essential. The less onerous the task the higher will be levels of quality compliance. This highlights a need to harmonise definitions of business. The Australian Bureau of Statistics (ABS) defines a **medium-sized business** as “an actively trading business with 20-199 employees”. In contrast the WGE Act requires reporting by companies with 100 or more employees. Duplication of work may arise where WGE reporting procedures cross over with ABS survey requirements in this area, and companies are required to record data in a slightly difference way for each purpose.

In addition for ABS data collection, employment size is based on a head count, rather than full-time equivalent (FTE) persons. In the WGE Act (Part 1, Section 3 Interpretation) a **relevant employer** is not further defined so that it not possible to say whether ‘head count’ or FTE will be used to determine the threshold for a ‘private sector company with 100 or more employees’. This affects organisations in the disability sector.

A company with a highly casualised female workforce may be able to report a high proportion of women in a head count, even though this would reduce to a lower proportion of the workforce if FTEs are quoted. Women (and women with disabilities who do manage to find employment) are over-represented in the casualised workforce.

In stereotypical female employment areas, the raw count of number of women employees may give an equitable look ‘on paper’ to the composition of the workforce, but will mask the overall lack of opportunity for women with disabilities and their consequent corraling in low-paid, part-time, short-term, casual jobs. WWDACT is further concerned that the Reporting Regime must take into consideration the situation for Australian Disability Enterprises (ADEs), and the situations where employer subsidy through the Wage Subsidy Scheme and Enhanced Subsidy Scheme will similarly mask the reality that the employee with disabilities is working for less than award wage.

WWDACT makes the following comments on the Indicators and outcomes as outlined in the consultation paper:

2.1.1 Gender Equity Indicators of the Act

- The gender composition of the workforce
- Gender composition of governing bodies
- Equal remuneration between women and men
- 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
- Consultation with employees on issues concerning gender equality in the workplace.

2.1.2 Key projected outcomes

- To improve women's workforce participation across Australia
- To improve women's representation in leadership positions in workplaces and on governing bodies
- To improve equal remuneration for work of equal value, between women and men
- To increase flexible working for both women and men, particularly those with family or caring responsibilities
- To promote employee and employer engagement on gender equality.

2.1.3 Suitability of the outcomes to sufficiently reflect the intent of the Act, and their Possible Amendment or Expansion

i. To improve women's workforce participation across Australia

- The measurement of workforce participation must be able to also identify the nature of the employment. Women have been disproportionately affected by the casualisation of the workforce, and are over-represented in low paid, short term, part-time work, and report higher levels of under-employment than men. For example, in educational institutions, this seems an entrenched mode of operation in the TAFE system.⁴ The workforce participation rate does not necessarily correctly show the higher insecurity of jobs for women in the workforce. Socio-economic barriers to workforce participation are gender related and include education and training, availability of childcare, workplace culture, workplace policies and procedures and employer attitudes (DIIRD 2008⁵ in ABS 2010⁶).
- Improved workforce participation will not necessarily measure an improvement in outcomes for women, and statistics on workforce participation must also be viewed in tandem with unemployment figures.

⁴ Casualisation of the TAFE Teaching Workforce, A speech by Pat Forward (AEU Vice President TAP Sector), states that by 1996, of the 36% of ongoing teachers in TAFE VIC (), 26.5% were male and 9.7% were female. accessed online 31 January 2013, <http://www.aeuvic.asn.au/casualisation.html>

⁵ DIIRD (Department of Innovation, Industry and Regional Development), 2008, *Working Victoria: Victoria's Workforce Participation Strategy*, State of Victoria

⁶ ABS 6210.2 - Workforce Participation and Workplace Flexibility, Victoria, Dec 2010

- The “gender composition of the workforce” (GEI #1) will only be crudely measured through a reporting regime which requires only numbers, or proportion, of women on governing bodies, in executive positions, in managerial positions, and in the general workforce. The reporting regime will need to include information about the nature of the work, e.g. whether primary teaching (predominantly female employees), or primary production (predominantly male employees), so that stereotypical work areas for either men or women can be identified, and incentive measures put in place to address imbalances.
- The GEIs will not have a great effect on the over-representation of women in caring professions, and their under-representation in higher-paid professions. Women are also under-represented in highly paid blue-collar jobs (such as mining) and in growth area jobs (such as IT and the Green Economy). The GEI will not substantially address these disparities⁷.

ii. To improve women’s representation in leaderships positions in workplaces and on governing bodies

- The proposed Indicators which require reporting on the number of women in leadership positions (GEI #2) and on governing bodies (GEI #3) will generate quantitative data only. It is not clear how useful this will be in assessing changes in attitudes, decreases in harassment and the overall quality of the changes.
- **Leadership Position** is not defined in the Act, and some guidelines will be needed. How will Leadership Positions be compared across vastly different business, e.g. from a factory to a legal practice.
- A system of weighting would be useful to give organisations incentives or opportunities to promote and mentor women with disabilities into leadership positions.

iii. To improve equal remuneration for work of equal value, between women and men

- The December 2012 Gender Pay Gap report⁸ on starting salaries demonstrates that information on starting salaries must be reported. In 2012, males started full-time work on a median salary of \$55,000 (up from \$52,000 in 2011) while females in full-time employment earned \$50,000 (no change from \$50,000 in 2011).

⁷ Women in Adult & Vocational Education & Economic Security for Women (2011), *Career Pathways for Women and Girls: Emergent and Non-traditional Occupations and Industries (Viable Work)*, June 2011, WAVE eS4W, viewed online 29 January 2013 at: http://www.security4women.org.au/wp-content/uploads/eS4W-StrategiesToAttractWomen_Rationale_Final.pdf

⁸ Graduate Careers Australia *GradStats: Employment and Salary Outcomes of Recent Higher Education Graduates* December 2012, viewed online 24 January 2013 at: http://www.graduatecareers.com.au/wp-content/uploads/2011/12/GCA-GradStats-2012_FINAL1.pdf
<http://www.dca.org.au/app/webroot/files/file/Work-life%20and%20flexibility%20documents/DCA%20Men%20Get%20Flexible%20FINAL%202024%20Aug%202012.pdf>

The report shows further details of employment outcomes for new graduates with disabilities [Table 1b: *Breakdown of bachelor degree graduates available for full-time employment, by various cohorts, 2012 (%)*]. These details demonstrate the need for some measure of additional characteristics of women employees, e.g. disability or other marginalising attribute. The GradStats report shows that, one year after graduation, only 69.3% of graduates with disabilities were in F/T employment compared to an average F/T employment level for new graduates of 76.1%. Similarly 14.7% of graduates with disabilities were seeking F/T work whilst not working, compared to 8.6% overall. This lower rate of success in gaining employment is close to the experience of Indigenous graduates. No sex disaggregated about starting salary differences for graduates with disabilities was given in the report.

- There will need to be reviews to ensure that duty statements are not artificially changed so that, on paper, work does not appear to be of ‘equal value’ and this strategy used as a justification of differing starting salaries.

iv. To increase flexible working for both women and men, particularly those with family or caring responsibilities

- This outcome should be amended to read: “To increase flexible working for both women and men, particularly those with family or caring responsibilities, and women with disabilities.” It is not only people with family or caring responsibilities who need this facility in the workplace. Women with disabilities have personal care needs in addition to their caring roles as mothers and daughters. Women with disabilities, particularly those with professional qualifications, are forced out of the workforce because of the difficulty of having their need for flexible working hours met. For example, core hours may need to be relaxed so that a woman who relies on a support worker for personal care, can arrive in mid-morning; or a woman who relies on taxi transport may have to adjust her working hours to fit in with the availability of that transport.
- Many women with disabilities have high level tertiary qualifications, which are under-utilised because of workplace inflexibility. This is not efficient use of the public education funding which enabled them to get professional qualifications, and has an emotional and health detriment to the individuals.
- The Reporting Regime should also identify what positive recruitment policies are in place.
- In addition the Reporting Regime should also scrutinise company policies for evidence of equity in Salary Benefits packaging.
- Consideration should be given to comparative ranking of Gender Diversity Policies, for example a policy which aims to redress imbalances in work

stereotypical areas, such as Computer Science, Earth Sciences (where higher salaries are awarded to men) and Pharmacy (where higher salaries are awarded to women)⁹ could receive recognition for this.

v. **To promote employee and employer engagement on gender equality.**

- The Act is narrow in its approach, having the imperative emphasis on gender equality, but therefore being light on the diversity groups of women with disabilities, Aboriginal and Torres Strait Islander women and women from culturally and linguistically diverse background. Whilst minimum standards will be set, it would be good if the disallowable instruments could include reference to these groups.

2.1.4 Priority measurable outcomes in terms of each key objective

- Improving equal remuneration, including in starting salaries. The Gender Pay Gap report (December 2012) shows that the disparity in salaries starts in Year 1 of employment. Without addressing this the Gender Pay Gap will continue to widen
- Improving access to flexible working arrangements
- Improving managerial skills in order that the executive levels of an organisation understand and are able to both structure and manage flexible working arrangements.^{10 11}

2.1.5 Priority process indicators in terms

- If the WGE Agency can provide a template for reporting on policies, so that comparisons between organisations can be made this would assist with process streamlining, and enable better comparisons between disparate types of organisations.

⁹ Graduate Careers Australia *GradStats: Employment and Salary Outcomes of Recent Higher Education Graduates* December 2012, viewed online 24 January 2013 at: http://www.graduatecareers.com.au/wp-content/uploads/2011/12/GCA-GradStats-2012_FINAL1.pdf
<http://www.dca.org.au/app/webroot/files/file/Work-life%20and%20flexibility%20documents/DCA%20Men%20Get%20Flexible%20FINAL%202012.pdf>

¹⁰ Busine, M & Watt, B (2012) *Driving Workplace Productivity through High Quality Interactions*, Development Dimensions International, viewed online 24 January 2013 at:
http://www.ddiworld.com.au/DDIWorldAU/media/research/drivingworkplacerproductivity_rp_ddi_au.pdf

¹¹ Russell, G & O'Leary, J (2012) *Men Get Flexible: Mainstreaming Flexible Work in Australian Business, Creating quality flexible work and careers as standard business practice in Australian Workplaces*, Diversity Council of Australia, viewed online 24 January 2013 at: <http://www.dca.org.au/app/webroot/files/file/Work-life%20and%20flexibility%20documents/DCA%20Men%20Get%20Flexible%20FINAL%202012.pdf>

2.1.6 Alternative ways this information could be obtained

- Electronic reporting online against indicators to make reporting easier for both the Agency and the businesses.
- Harmonisation with Australian Charities and Not For Profit Commission reporting requirements will have additional benefits for NGOs and Not-For-Profit organisations.
- Harmonisation is also needed with the ASX Principles and Recommendations reporting requirements, in particular Principle3 Promote Ethical and Responsible Decision Making¹²

3. Conclusion

The *Workplace Gender Equality Act 2012* will have far reaching effects on the gender composition of Australian businesses in the private sector. The Reporting Regime developed for implementation of the Act must be harmonised with other reporting regimes which are already in place, or under development. The Reporting Regime must also include ways in which characteristics, such as disability, Aboriginality or migrant background can be included in reports in such a way as to promote ease of comparison between companies, and a self-regulating incentive for companies to improve their performance. Company reports should be publicly available on the Agency website.

¹² *Corporate governance Principles and Recommendations with 2010 Amendments*, 2nd Edition, ASX Corporate Governance Council, viewed online 1 February 2013 at
http://www.asxgroup.com.au/media/PDFs/cg_principles_recommendations_with_2010_amendments.pdf