



24 November 2021

WGEA Review Team – Consultation
Department of the Prime Minister and Cabinet
CANBERRA ACT 2600

Submission method: Online form.

Dear WGEA Review Team

Re: AFMA submission to Review of the Workplace Gender Equality Act 2012 – Consultation Paper

The Australian Financial Markets Association (AFMA) welcomes the opportunity to provide comment to the Department of the Prime Minister and Cabinet on the review of the Workplace Gender Equality Agency (WGEA) (Review). As an industry association representing a wide range of financial market participants through our over 120 financial institution members, we are supportive of the objectives of the review and the promotion of gender equality in Australian workplaces.

The Workplace Gender Equality Act 2012 (Act) serves a valuable purpose in Australian workplaces as it helps to raise the profile of gender equality in the workplace. AFMA supports the removal of barriers to the participation of women in the workplace and the elimination of discrimination based on gender where it exists in relation to employment matters.

The work of the WGEA assists the Government and the wider community to construct an informed picture of the state of gender treatment in the workplace and encourages organisations to dig deeper in relation to analysing their data and identifying any opportunities for improvement.

In response to this targeted review, the submission below highlights our key concerns namely:

- Data accuracy – AFMA is concerned that categorisation matters need to be refined to ensure like for like comparisons are made and the resulting data has high integrity;
- Workplace flexibility – it is important the WGEA’s metrics are kept current with the increased flexibility that has become the norm in the post-COVID workplace, and that WGEA provide input to other government bodies such as the Fair Work Commission to ensure all legislative changes are consistent with WGEA’s objectives; and

- Administrative efficiency – WGEA's processes could benefit from increased refinement, improvements in efficiency, and reduction in burden for contributors.

We trust our comments are of assistance and welcome further engagement on this important area.

Yours sincerely

A handwritten signature in cursive script that reads "Damian Jeffree".

Damian Jeffree
Senior Director of Policy

Responses to consultative questions

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?*

AFMA believes that the functions and powers of WGEA are appropriate for promoting and improving gender equality in the workplace.

As mentioned above, WGEA should work closely with other governing bodies to ensure that any changes to employment related legislation do not impact an organisation's ability to meet WGEA's objectives or minimum standards. For example, the 2020 Modern Award Amendments to the Banking and Finance Award significantly impacted many organisations' ability to allow some employees to work flexible hours by creating additional administrative burden and increased costs.

In our responses to further questions, we note some areas where there is scope for improvements to ensure that WGEA is as effective and efficient as possible in fulfilling its functions.

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?*

The WGEA reporting requirements provide a good template of actions and activities that, if fully delivered, provide a strong platform for achieving further improvements in gender equality. AFMA believes that WGEA could focus more on providing thought leadership in ways to improve gender diversity and be more proactive in sharing or identifying best practices across the business community. This is further explored under question 9 below.

Data sharing

AFMA would support greater assurances around the confidentiality of sensitive information of an organisation's employees that is required to be provided in WGEA submissions.

We note there are some limitations to the completeness of data that might be shared across government agencies. For example, the Australian Tax Office's Single Touch payroll does not account for all types of salary arrangements. While the Single Touch payroll manages the salary component of an employee's overall remuneration, it is not complete as it does not factor in more complex salary packaging arrangements or equity awards.

- 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?*

AFMA makes no comment but would support the broadening of organisations captured to include the public service organisations given the number of employees employed by these organisations.

- 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?*

The GEIs and the data collected with respect to the GEIs are generally appropriate to promote and improve gender equality.

We do note our concerns, however, that WGEA should seek to ensure that the increased flexibility in work arrangements that has accelerated due to COVID-19 are appropriately captured by the survey methodologies. We suggest that the survey questionnaire be shared with the industry to ensure that the framing is consistent and relevant to the way work arrangements have evolved.

- 5. In addition to gender, should WGEA collect other data on diversity and inclusion criteria on a mandatory basis, to enable a more nuanced analysis of men and women's experiences in the workplace? If yes, please specify criteria (eg cultural and linguistic diversity, disability, age, location of primary workplace). If not, why not?*

The principal objects of the Workplace Gender Equality Act 2012 have a clear and exclusive focus on gender equality. Extension of this remit to other diversity criteria is a matter that should properly be considered by Parliament.

At this time AFMA holds that there should be no requirement for the collection of further measures of diversity to be mandated. The collection of such sensitive granular data around linguistics or culture, etc. could only occur in a properly regulated structure where clear guiderails provide firms with appropriate protections.

In this context we note that many firms do not currently collect some of the criteria mentioned above by WGEA.

- 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?*

AFMA notes from industry feedback that ANZSCO codes are not a widely used role classification scheme in the private sector. Previously, the same Industry Subdivision code was used for each employee and the requirement in future to use specific Industry Class codes by employee would incur considerable time and effort.

AFMA supports the importance of equal pay for equal work. For statistics around equal pay for equal work to be accurate requires categorisation systems that ensure clear like-for-like comparisons. Categorisation systems that classify employees who have significantly different underlying work responsibilities under the same code risk creating misleading data.

There are limitations in the ANZSCO codes system that should be reviewed in this regard. For example, the role of 'Compliance managers' within firms, long a significant category in financial firms, does not have a specific code in the ANZSCO scheme.

Data quality and analysis

Consistency is also necessary in the interpretation of definitions particularly for comparisons to be coherent across different firms. Currently, there is a risk that the integrity of data may be compromised due to the lack of clarity around definitions. For example, the pay categories of base salary, fixed remuneration and total remuneration, and the pay components which should be considered for each category, are not specifically defined. Clearly defined, standard terms around remuneration and employee levels would assist in maintaining data consistency. In this regard we also suggest including worked examples along with definitions to help employers prepare more comparable reporting templates. The templates themselves should also be consistent.

Our members' experience is that the current requirement for pay remuneration data based on an employee's level may not provide WGEA with optimally accurate gender-based data. Nor does the WGEA submission give organisations the opportunity to provide relevant context to correct potentially misleading data. For example, an employee at a Director level in a revenue-generating role for a company is more likely to earn more than a Director level employee working in a support role.

Comparing pay on like-for-like roles rather than level would be preferable and would be more likely to create accurate data for WGEA analysis and interpretation.

AFMA also suggests a check on the utility of some elements of the data collection including for example the requirement to submit raw numbers on resignations, promotions, hires, etc. Percentages of relevant workforce parameters might be preferred as the raw numbers themselves may not provide much useful information given their dependence on organisational size. Similarly, data around annual leave cash outs, an entirely voluntary practice may not be of significant utility to WGEA.

Remuneration is highly sensitive data. Firms compete aggressively to hire and retain staff, it is commercial data, and should not be made 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?*

Reporting requirements

We recommend setting the reporting period to be biennial instead of annual.

The length of the reporting period should reflect a balance between minimising administrative load for reporting entities and ensuring that data does not become stale. A two-year timeframe would better reflect the period over which changes become fully reflected in data. Changing to two-year reporting would halve the administrative impost on organisations' resources, a substantive saving.

In the event WGEA, for its own purposes, wishes to receive annual data we suggest assigning reporting entities to one of two groups, each reporting on alternate years. We would expect the statistical accuracy of a 50% sample each year would be very high.

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?*

We recognise that the metric of 500 employees is crude and may not capture all regulated firms with significant businesses. However, AFMA is concerned about the high impost around establishing written policies for small organisations, particularly alongside the many other regulatory requirements with which they must comply. We also caution that these requirements may also work against some of the government's intent to improve Australia's attractiveness as an international financial centre.

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?*

WGEA could consider providing more supportive guidance to the industry and clear examples to assist in uplifting gender equality standards. We caution against a punitive approach. Firms are presently supportive and open to engagement and collaboration. Shifting to a more punitive approach risks firms moving to be more cautious about their engagement with WGEA.

WGEA could showcase and share good practice, and potentially work with relevant community groups to support firms that have good practices in place. We encourage a collaborative and supportive stance rather than a punitive approach that may risk an antagonistic dynamic.

WGEA could do more work to understand the gender equality aspects to workplace flexibility. Increases in flexibility during COVID are anecdotally reported to have been particularly helpful for women. Workplace flexibility is increasingly being seen as a key way to achieve desired gender equality outcomes. Understanding the relationship better may assist firms target flexibility outcomes that are supportive of gender equality.

Firms are also interested in learning about successful strategies for moving equality programs deeper into businesses.

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?

No comment.