



YWCA CANBERRA

**Submission to the Review of the *Workplace Gender  
Equality Act 2012***

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## **Acknowledgement of Country**

YWCA Canberra proudly recognises the rights of Aboriginal and Torres Strait Islander peoples to own and control their cultures and pays our respect to these rights. YWCA Canberra acknowledges the need to respect and encourage the diversity of Indigenous cultures and to respect Indigenous worldviews, lifestyles and customary laws. We extend our respect to the Aboriginal and Torres Strait Islander women who for thousands of years have preserved the culture and practices of their communities on country. This land was never surrendered, and we acknowledge that it always was and will continue to always be Aboriginal land.

## **About YWCA Canberra**

YWCA Canberra is a feminist not-for-profit organisation that has provided community services and represented women's issues in Canberra since 1929. Our mission is 'We strengthen communities by supporting girls and women through our services and advocacy' and our vision is 'Girls and women thriving'. We provide essential, quality services for women, girls and families in the ACT and surrounding regions. We work in the areas of children's services, community development, homelessness and affordable housing, youth services, personal and professional training, women's leadership and advocacy.

We are externally accredited against the [Quality Improvement Council \(QIC\) Health and Community Service Standards \(7th Edition\)](#). Accreditation against the QIC standards support us to improve client and community engagement, diversity and cultural appropriateness, management systems, governance and service delivery, while committing to a cycle of continuous quality improvement. In addition to the QIC standards, we are accredited against the following external client related service standards for our key areas of work:

[Australian Charities and Not for Profit Commission](#)

[National Quality Standard for Early Childhood Education and Care and School Aged Care](#)

[National Regulatory System for Community Housing](#)

[Registered Training Organisations Standards](#)

Through our national Affiliate Association with YWCA Australia, we are part of the World YWCA network, which connects 120 countries across the globe.

## **Executive Summary**

YWCA Canberra welcomes the opportunity to contribute to the review of the Workplace Gender Equality Act 2012. As a feminist not-for-profit organisation with a 90-year history in Canberra and an employer of more than 300 people, we proudly report to the Agency in line with the requirements of the Act. Additionally, as an ACT Employer of Choice citation holder we are led by an active commitment to achieving gender equality in Australian workplaces and contribute to the broader public discussion regarding workplace policies and legislative reform that improves workplace culture for the community as a whole.

The value of women's labour to the Australian economy has never been so apparent. Throughout the COVID-19 pandemic, nurses, early educators, cleaners, and retail workers have laboured almost continuously while those in female dominated industries such as hospitality, tourism and higher education, were quickly displaced from the workforce. Support packages focused on tax-cuts and construction spending, and many women were arbitrarily excluded from income support measures based on their industry (early learning) or employment status (casuals). As a result, the gender pay gap widened. Given this paradox between the realities of women's working lives on the one hand and their collective remuneration and industry representation on the other and the absence of gender in policy development, the work of the Workplace Gender Equality Agency and the authority of the Act itself has never been more important.

Our submission emphasises improvements to the Workplace Gender Equality Act that will broaden the scope of 'relevant employers' to capture government employers at all levels, lift incentive frameworks, and improve the objects of the Act. We also recommend that reporting and transparency on gender-based harassment and discrimination be substantively incorporated in the Gender Equality Indicators.

### **Recommendations:**

1. The Workplace Gender Equality Act 2012 be amended to capture Commonwealth, State, Territory and local governments under the definition of relevant employer.
2. Drawing upon Single Touch Payroll systems to facilitate reporting, amend the definition of relevant employer to capture workplaces with fewer than 100 employees.
3. The Act be amended to capture gender-based harassment as a form of violence and the promotion of Australian workplaces that are free from violence.
4. The procurement thresholds for non-compliant relevant employers be amended so that they are blind to the nature of the government entity involved and the thresholds are an ambitious yet realistic incentive to employers.

5. The role of the Workplace Gender Equality Agency be expanded to move beyond the capturing of reporting data to compliance with standards.
6. The Workplace Gender Equality Agency be sufficiently resourced to undergo this transition and broaden its scope so as to meet the expectations of the Act and the community.

**1. The Workplace Gender Equality Act 2012 be amended to capture Commonwealth, State, Territory and local governments under the definition of *relevant employer*.**

It is noted that the Australian Government's response to the landmark *Respect@Work* report included an agreement to expand the definition of *relevant employer* to Commonwealth Government agencies. While this commitment is a welcomed step forward, there appears to be no equivalent commitment to resourcing this transition to meet the additional reporting requirements.

Beyond this, we also recommend the *relevant employer* definition be applied to all levels of government. This is particularly important at the level of local government authorities, which have consistently employed a lower representation of women and a heightened gender imbalance in part-time and full-time classifications, than other levels of government and whose reporting obligations to state authorities is both varied and often not inclusive of updated employment profiles.<sup>1</sup> Given the significant role local government can play in the labour market opportunities of regional and remote communities, the diversity of occupations available and alongside elevated rates of sexual harassment and under-reporting,<sup>2</sup> capturing the employment profiles and employer response mechanisms of local government workplaces would be an immense opportunity to appreciate the dynamics of local government employment as well as opportunities and barriers in this significant workforce.

**2. Drawing upon Single Touch Payroll systems to facilitate reporting, that the definition of *relevant employer* be expanded to capture workplaces with fewer than 100 employees on a voluntary reporting basis.**

At a workforce of around 5 million people, small businesses comprise a significant proportion of the private sector workforce. The opportunities presented by capturing regular data on this workforce is significant and YWCA Canberra supports the definition of *relevant employer* being amended to capture those employers with fewer than 100 employees on a voluntary basis.

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<sup>1</sup> [https://www.lgnsw.org.au/common/Uploaded%20files/PDF/Local\\_Government\\_Workforce\\_and\\_Future-Skills\\_Reports\\_%E2%80%93\\_Australia.pdf](https://www.lgnsw.org.au/common/Uploaded%20files/PDF/Local_Government_Workforce_and_Future-Skills_Reports_%E2%80%93_Australia.pdf)

<sup>2</sup> <https://www.audit.vic.gov.au/sites/default/files/2020-12/20201209-Sexual-Harassment-LG-report.pdf>

In this regard however, we do acknowledge that for many small business operators additional reporting requirements will be cumbersome and possibly unwelcomed. The progressive roll out and adoption of Single Touch Payroll however has transitioned how employers report to government agencies in ways that reduce duplication and administrative burdens. We believe that the opportunities presented by Single Touch Payroll in facilitating employer reporting and building a stronger dataset and understanding of small businesses are significant and should be genuinely explored. We support an initial roll out that is voluntary with sufficient WGEA resourcing that supports employers reach compliance.

### **3. The Act be amended to capture gender-based harassment as a form of violence and the promotion of Australian workplaces that are free from violence.**

Recent surveys conducted by YWCA Canberra have endeavoured to capture information relating to experiences of sexual harassment in the workplace. For many young people, workplace sexual harassment is a pervasive issue that employees and workplaces are often not equipped to adequately respond to.

A recent YWCA Canberra survey of more than 1200 women and non-binary people in Canberra found 20% had experienced sexual harassment in the preceding 12 months. The workplace accounted for the site of the most recent experience in 21% of instances. Those most affected by sexual harassment were young women aged 20-24, at a rate of nearly 1 in 2. Regardless of age bracket however, the overwhelming majority of respondents who had experienced sexual harassment said their mental health was detrimentally affected.

Sexual harassment, regardless of where it occurs, is a form of violence. Where it occurs in the workplace, reporting or resisting unwanted approaches or demands can become entangled with job security, access to entitlements, opportunities, or workplace blacklisting. In this regard, sexual harassment is irrefutably a barrier to women's economic advancement. As noted by the *Respect@Work* report, there is 'little consistency in the collection, monitoring and reporting'<sup>3</sup> on workplace sexual harassment by regulatory authorities or in the place of government workplaces, public service commissions.

We recommend that the Act be amended to incorporate the objects of eliminating workplace sexual harassment and the promotion of violence-free workplaces. We also support reporting changes that would incorporate baseline reporting on the availability and frequency of workplace training on

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<sup>3</sup> <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

sexual harassment as well as bystander interventions for all mandated *relevant employers*. Further to this, we support calls<sup>4</sup> for the Gender Equality Indicators (specifically Indicator number 6) to be amended to explicitly categorise sexual harassment as an Indicator.

**4. The procurement thresholds for non-compliant relevant employers be amended so that they are blind to the nature of the government entity and the thresholds are an ambitious yet realistic incentive to employers.**

Incentivising employer compliance through regulatory mechanisms or reporting requirements is a feature of the ACT Government's *Secure Local Jobs Code*. The Code binds ethical and safe workplace practices with eligibility to compete for procurement opportunities in a way that awards contracts only to those businesses that comply with labour standards around pay, superannuation, health and safety and freedoms of association. The Code applies to all procurement over \$25,000 (including construction) and over \$200,000 for procurement for services to the ACT Government.

While the Workplace Gender Equality Act currently precludes non-reporting employers from universal access to procurement opportunities, the thresholds are variable and sit between \$80,000, \$400,000 and \$7.5 million depending on the service being delivered and the government entity involved. We believe these thresholds, particularly the \$7.5million threshold for construction procurement, are so high as to be almost redundant. A review of the procurement thresholds that is blind to the nature of the government entity involved and applies an ambitious yet still realistic incentive to employers should be explored. Where procurement thresholds continue to remain unchanged at the conclusion of the review, a higher standard of reporting that incorporates oversight of workplace sexual harassment policies and training in bystander interventions should be applied.

**5. The role of the Workplace Gender Equality Agency be broadened to incorporate employer progress and compliance monitoring with standards.**

**6. The Workplace Gender Equality Agency be sufficiently resourced to undergo this transition and broaden its scope and to meet the demands of the amended Act and the community.**

We note that compliance to the Act is met through an employer meeting their reporting requirements and as noted above, disincentives for non-compliance are variable and, depending on the size of an employer's workforce, may have a negligible impact. For those *relevant employers* who are hostile to the principles of the Act or whose influence or scope do not meet the procurement

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<sup>4</sup> As noted in submissions made by the Workplace Gender Equality Agency and Equality Rights Alliance.

threshold preclusions, the role of the Agency is muted. For other employers, public naming and shaming penalties may only be passively considered.

While reporting has progressively increased in the years since the Act came into effect a plateauing in the number of employers complying has been evident in preceding years.<sup>5</sup> We believe there is a role for the Agency to play in promoting both participation in the reporting framework but also in monitoring compliance as well as the enforcement and impact of disincentive regimes themselves.

The Workplace Gender Equality Agency is a fundamental resource towards promoting and achieving women's economic security, but we are now at a critical juncture as the economy rebounds. While the current reporting framework has facilitated a stronger understanding of Australia's workplace and industry make-up as well as built awareness and compliance with the Act itself, the time for the Agency to transition and be resourced to monitor and assess compliance and progress has now come. Through sufficient resourcing to manage an expanded remit and work with a potentially greater number of small-business employers, the Agency can play a role in facilitating sweeping and embedded cultural change in Australia's workplaces.

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<sup>5</sup> <https://www.wgea.gov.au/about/governance/data-quality/2019-20-wgea-data-quality-report>