

Submission to the Review of the *Gender Equality Act 2020* (Vic)

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Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

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# Acknowledgement of Country

I acknowledge and pay respect to the Traditional Owners of the lands on which we work. My office is based on the lands of the Wurundjeri people – Country on which I and many of my team members also live and work. Other team members live and work on the lands of the Bunurong, Gunaikurnai, and Dja Dja Wurrung peoples.

I acknowledge the Traditional Owners and Custodians of Country throughout Victoria and pay respect to Elders past and present. I recognise the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to Country and their continuing custodianship of the land, waterways and seas.

I proudly recognise First Nations peoples as having the world's oldest continuous living cultures, and acknowledge that the heritage, traditions and customs of Aboriginal communities throughout Victoria are vibrant, rich and diverse.

I respect that Elders and other leaders of Aboriginal communities in Victoria are critical to redressing inequality and disadvantage and improving outcomes for all Victorian women. Their leadership includes First Nations women, lesbian, gay, bisexual, trans and gender diverse, non-binary, sistergirls, brotherboys, intersex and queer people who drive gender equality across Victoria. I thank them and honour their important work.

As I reflect on previous government policies and practices, I acknowledge the continuing negative impacts on Aboriginal and Torres Strait Islander peoples. I recognise and embrace the opportunity to collaborate and work together with First Nations peoples, families, and communities towards improved economic, social, and cultural outcomes.

Finally, I acknowledge that First Nations people are the experts in relation to Aboriginal communities, cultures and lands. Treaty provides an opportunity to ensure that Aboriginal communities always have the ability to develop and deliver practical solutions at the local level. It also provides an opportunity to help create a better future for all Victorians, together. I am proud that Victorians have accepted the invitation to walk with First Peoples on the journey to Treaty and strongly encourage all other Australian jurisdictions to follow.

# Executive Summary

I make this submission, as Victoria’s inaugural Public Sector Gender Equality Commissioner, to inform the independent of review of the Gender Equality Act 2020 (‘Act’), (the ‘Review’).

Over the past four years, over 300 duty holders across the Victorian Public Service, universities and local councils have undertaken workplace gender audits, developed Gender Equality Action Plans (‘GEAPs’), undertaken gender impact assessments (‘GIAs’), and reported on their progress — establishing Australia’s most comprehensive gender equality framework.

My experience providing advice, support and oversight of this important work as envisaged by the legislation has provided me with unparalleled insight into the practical application of the Act, its successes, and the areas where it can be strengthened. My submission is informed by this direct experience and draws on international best practice from jurisdictions currently leading the way in the pursuit of intersectional gender equality.

The submission demonstrates that the Act represents a transformational approach to achieving workplace gender equality that has been successfully implemented as intended, with significant potential for enhanced effectiveness through targeted refinements that will accelerate progress toward intersectional gender equality for all Victorians.

## Implementation achievements

The implementation of the Act has required a novel approach: there was no pre-existing blueprint for regulating gender inequality on this scale. My office and I developed a unique and thoughtful strategy by combining best-practice regulatory principles, research insights on workforce gender equality, and strategic partnerships.

Duty holders have demonstrated a strong commitment to their obligations. It is clear that there are many passionate, dedicated staff members that have expended considerable effort to advance gender equality within their organisations.

This has resulted in:

* the creation of Australia's most comprehensive public sector gender equality dataset, with around 100 million data points collected to date;
* 100% submission rate for all primary reporting obligations under the Act, achieved through an education-focused approach, requiring zero formal enforcement actions;
* over 1,300 stakeholder engagements delivered, including 190 in-person duty holder visits across metro, regional and rural Victoria;
* measurable progress demonstrated across multiple workplace gender equality indicators (WGEIs);
* strong voluntary improvements beyond minimum compliance requirements; and
* international recognition of the Act as landmark legislation influencing legislation and policy development across multiple jurisdictions, nationally and internationally.

## Review context: the trajectory of change

This submission recommends that the Review consider the Act’s implementation and its contributions towards achieving gender equality within the appropriate context.

Global experience demonstrates that achieving systemic gender equality is a multi-generational effort. Even in leading jurisdictions such as Iceland, the pursuit of this objective remains ongoing despite over six decades of legislative action.

Progress has also been shaped by significant contextual pressures, including the operational and fiscal impacts of the COVID-19 pandemic, public sector budget constraints, the diverse nature of the organisations covered by the Act, and a challenging social environment for equity initiatives.

The Act's initial phase has focused on building a strong foundation, including establishing measurement frameworks and organisational capability.

## Recommendations for enhanced operational effectiveness

Based on four years of implementation, this submission identifies opportunities to refine the Act to enhance its effectiveness, reduce regulatory burden, and accelerate progress. The 35 recommendations focus on five key areas:

* **Strengthening the Commissioner's functions (Recommendations 1-9)**: Key recommendations include expanding the Commissioner’s powers to conduct investigations into systemic gender equality issues, formally recognising the Commissioner's data analysis function, and amending the title to 'Gender Equality Commissioner' to better reflect the role's broad, community-focused objectives.
* **Refining duty holder obligations (Recommendations 10 -25)**: To improve efficiency, it is recommended that reporting processes be streamlined by separating workplace gender audits from Gender Equality Action Plans and progress reports. It is also proposed that GIA reporting be strengthened to require disclosure of findings, ensuring greater transparency and accountability.
* **Operational efficiency (Recommendation 26 -27)**: To improve administrative efficiency, it is recommended that organisations be required to notify the Commissioner of any that would affect their status as a duty holder under the Act.
* **Scope and coverage of the Act (Recommendation 28)**: To better support smaller duty holders, it is recommended that the Commissioner be empowered to issue guidelines on proportionate progress, allowing entities with fewer resources to focus their efforts on WGEI priority areas.
* **Systemic, structural and cultural change (Recommendations 29 - 35)**: It is recommended that the collection of intersectional data become mandatory (with a two-year delay to build organisational capacity) to better address compounded forms of discrimination. To improve inclusivity, the Act should be amended to explicitly include transgender, non-binary, and gender-diverse people.

These recommendations preserve the education-focused, resource-efficient approach that has delivered implementation success while addressing identified operational challenges

# Introduction

As Victoria's Gender Equality Commissioner, I welcome this opportunity to contribute to the statutory review of the Gender Equality Act 2020 (‘Act’), (the ‘Review’).

## Overview of the Act and this submission

The Act is an ambitious piece of legislation designed to drive transformational progress towards gender equality in the Victorian public sector and the wider Victorian community. Emerging from the 2016 Royal Commission into Family Violence and Victoria’s first gender equality strategy, 'Safe and Strong: A Victorian Gender Equality Strategy' (‘Safe and Strong’) (DPC 2016), the Act recognises that gender equality is a precondition for preventing gendered violence (Legislative Assembly 2020).

The Act came into effect on 31 March 2021 and applies to Victorian public sector entities that have 50 or more employees (‘duty holders’), including universities and local councils. At present, the Act covers over 300 organisations and 450,000 employees across Victoria. It contains powerful mechanisms to ensure the Victorian public sector takes proactive and consistent steps to achieve gender equality, including by requiring duty holders to:

* develop, publish and implement a Gender Equality Action Plan (‘GEAP’) every four years based on the results of a workplace gender audit;
* make reasonable and material progress in relation to the Act’s workplace gender equality indicators (‘WGEIs’), and publicly report on this progress every two years; and
* undertake gender impact assessments (‘GIAs’) on all new policies, programs and services that impact the public and publicly report this activity every two years.

The Act is internationally recognised as a landmark piece of legislation: it has influenced the development of gender equality policy and regulation across multiple national and international jurisdictions, including Saudi Arabia, Jersey, Tasmania, South Australia, and New South Wales (‘NSW’). It is also the first formal integration of the concept of compounded discrimination (intersectionality) into Australian equality law. This means that duty holders must consider the disadvantage or discrimination that a person may experience on the basis of Aboriginality, age, disability, ethnicity, gender identity, race, religion and/or sexual orientation in addition to gender inequality across the majority of their obligations.

Over time, the Act will:

* **Increase women’s economic security**: by addressing the gender pay gap and gendered segregation in the workforce, ensuring gender equitable recruitment and promotion practices to strengthen retention, and addressing structural inequalities preventing women from accessing leadership positions.
* **Increase workforce participation rates**: by reducing discrimination experienced by carers and parents, increasing men’s access to and uptake of flexible work arrangements and non-traditional caring roles, and increasing flexible work arrangements for all.
* **Improve health and wellbeing outcomes**: by reducing rates of sexual harassment in the workplace, increasing/providing access to and uptake of flexible working arrangements, appropriate return to work arrangements and family violence leave, reduced impact of poverty and stress through increased economic security.
* **Promote the achievement of gender equality throughout the broader Victorian community**: by requiring duty holders to undertake GIAs in relation to all new and up review policies, programs and services.

As Commissioner, it is my duty to promote and advance the objectives of the Act, provide advice and education to duty holders to encourage best practice and facilitate compliance, as well as undertake research into matters related to the operation and objectives of the Act. I am supported in this role by my office (publicly referred to as the Commission for Gender Equality in the Public Sector (‘CGEPS’)), which is comprised of a small team of 17 staff (15.63 FTE) employed by the Department of Families, Fairness and Housing.

I make this submission with the benefit of my experience implementing the Act over these first four years of its operation, encompassing the first four-year reporting cycle under the Act. In doing so, I have drawn on information I have gathered from duty holders during the 190 in-person visits I have made to their offices and in numerous additional online forums and meetings during this time. I have drawn on the findings and recommendations provided to my office based on independent reviews of the Act’s implementation, as well as feedback from staff in my office, and other key stakeholders. I have also considered international best practice from jurisdictions currently leading the way in the pursuit of intersectional gender equality, as well as research undertaken by key national and international organisations, research teams and individual academics.

In my view, the Act represents a transformational approach to achieving workplace gender equality across Victoria's public sector, universities, and local councils. Notwithstanding the opportunities for advancement outlined in Section 6 of this submission, I have been able to implement the Act as intended by the Parliament. Four years since commencement, the Act has achieved strong success while demonstrating significant potential for enhanced effectiveness through targeted refinements.

This submission responds to the Review’s Terms of Reference (‘TOR’) through three key lenses:

* the implementation of the Act as intended, including the extent to which: the Commissioner is fulfilling their functions and exercising their powers under the Act; duty holders are fulfilling their obligations and performing their duties under the Act; and the Minister for Women (‘Minister’) is fulfilling their obligations under the Act (Section 4);
* the effectiveness of the Act in contributing to gender equality, including progress towards driving systemic, structural and cultural change (Section 5); and
* opportunities to improve the Act’s operational effectiveness, reduce the regulatory burden on both duty holders and my office, and ensure the Act can continue to drive progress towards workplace gender equality for all Victorians (Section 6).

Before doing so, this submission outlines a number of factors relevant to the measurement of the effectiveness of the Act in contributing to gender equality and the successful implementation of the Act over the first four years of its operation (Section 3).

## Strategic vision for the Act’s implementation

### 2.2.1 Commissioner’s strategic priorities

My office’s [2025-2028 Strategic Plan](https://www.genderequalitycommission.vic.gov.au/strategic-plan) (‘Strategic Plan’) focuses on three pillars that align with the Act's maturing implementation: 1) evidence-based impact; 2) enhanced duty holder capability; and 3) leading practice regulation.

#### Pillar 1: Evidence-based impact

Over the next four years, my office and I will build and translate the evidence base for intersectional gender equality in Victoria’s public sector workplace. This includes the following activity areas:

* Expand, translate, and communicate evidence about what works to improve workplace gender equality.
* Deepen our analysis and reporting on workplace gender audit data to highlight where inequality gaps are being closed or persist and to drive conversations about gender equality among duty holders and the public.
* Fund and support research that will fill knowledge gaps about how to progress intersectional gender equality in Victoria’s public sector workplaces and beyond.
* Identify and showcase leading practice to encourage duty holders to take action.
* Produce and regularly update on our website, evidence-based guidance on what works to drive gender equality on each of the WGEIs under the Act.

This work includes the suite of priority [performance measures](https://www.genderequalitycommission.vic.gov.au/performance-measures) that my office has recently developed with the support of prominent economist, Dr Leonora Risse (Risse 2025a, 2025b). These measures, comprised of both critical and supplementary measures, will be used to monitor and report on the Victorian public sector’s progress toward gender equality over time.

#### Pillar 2: Enhanced duty holder capability

We will also focus on supporting duty holders to enhance their capability to meet their obligations under the Act by:

* regularly assessing duty holder training needs to better target support to those who need it most;
* ensuring all written guidance is timely and provided in clear, accessible, and concise format;
* providing support and advice to duty holders via website content, enquiries system, and Commissioner visits to meet immediate, short-term and longer-term support needs;
* strengthening my evidence-based education, training, resources and advice to support duty holders to build their knowledge and capability to meet their obligations under the Act, including in relation to intersectional analysis;
* ensuring my office has the necessary knowledge and skills to help duty holders to understand obligations and compliance requirements; and
* continuing to create peer-learning networks and support Communities of Practice.

#### Pillar 3: Leading practice regulation

Finally, my office and I are taking steps to be a ‘leading practice regulator’. Key activity areas include:

* Establish, refine, and effectively communicate my regulatory approach to minimising gendered harms and targeting regulatory effort based on risk of harm.
* Develop and communicate regulatory priorities every two years.
* Support duty holders to understand how their actions contribute to broader regulatory outcomes.
* Deliver timely assessment and communication of compliance outcomes to duty holders.
* Produce timely analysis of audit data and reporting on progress towards gender equality in Victorian public sector workplaces.

As part of this work, I have developed a [Regulatory Approach](https://www.genderequalitycommission.vic.gov.au/regulatory-approach) and am in the process of developing a regulatory strategy. My regulatory approach is to use guidance, education, and deterrence to motivate action and improve intersectional gender equality. My Strategic Plan contains key activity areas and measures to compliment this approach, including completing compliance assessments and providing feedback to duty holders on obligations within five months of submission.

I apply a risk-based approach to prioritising and directing effort to where it will make the biggest difference and am committed to reducing barriers to compliance and regulatory duplication and burden. I will continue to work with entities that have complementary regulatory roles to expand the influence of the Act and work together to achieve mutual regulatory goals.

### 2.2.2 Adaptation to a maturing regulatory environment

During the next four years of the Act’s operation, my office and I will be implementing the Act in a maturing regulatory environment. This will entail:

* Reduced basic compliance support as duty holders develop internal capability (which will be supported by my activities under Pillar 2 of the Strategic Plan).
* Increased focus on regulatory priorities, currently proposed as: sexual harassment, the gender pay gap, men’s uptake of paid parental leave, and GIA implementation.
* Enhancement of analytical capabilities to identify and address systemic issues.
* Management of emerging issues impacting on workplace gender equality, such as the impacts of AI and automation on workforce segregation and economic pressures affecting gender equality investment.

# Measuring success: factors relevant to a context-appropriate assessment framework

This submission recommends that the Review considers the trajectory of systemic change and relevant contextual factors when assessing the effectiveness of the Act in achieving gender equality and the Act's implementation success over its first four years of operation.

## The trajectory of systemic change

Global reports suggest that achieving gender equality is a multi-generational effort: it will take 152 years to reach economic gender parity, 169 years to close the political empowerment gap, 286 years to close gaps in legal protections and remove discriminatory laws, and 140 years for women to be equally represented in organisational leadership and positions of power (Kali Pal et al. 2024, UN 2022, UN 2023).

Systemic change in gender equality therefore goes beyond simply enacting new legislation. Rather, a range of complementary legal, policy and regulatory approaches in addition to broader cultural change, ‘*long term* advocacy, political pressure, and a *high level* of commitment and investment from Government’ is required to shift the dial incrementally across the public sector and then throughout the private sector (Rogers 2024: 10: emphasis added).

When we look to the highest global performer in gender equality, Iceland, it is clear that the Act is very much in its infancy. Iceland introduced legislation making discriminatory pay between men and women unlawful in 1961 — 64 years ago — and, even with this long-standing legislation, gender inequality persists (Rogers 2024).

Four years therefore represents the beginning phase of structural gender equality transformation. In this initial phase, the implementation of the Act has been focused on building a strong foundation for sustained, long-term gender equality progress, including by:

* establishing measurement frameworks and baseline understanding; and
* implementing initial interventions and building organisational capability.

This has positioned the jurisdiction for accelerated progress in subsequent implementation phases and has established the Act as representing the ‘gold standard in workplace gender equality legislation in Australia’ (Rogers 2024: 49). Progress should be evaluated against international benchmarks for similar legislation, recognising Victoria's position as global leader in comprehensive, intersectional gender equality legislation.

## Contextual factors affecting progress

There are a number of economic, social and organisational factors that should be considered when determining the effectiveness of the Act in achieving gender equality.

### 3.2.1 Economic and social context

When assessing the effectiveness and implementation of the Act, it is important to note that Victorian workplaces — including my own office — were severely impacted by the global pandemic. The COVID-19 crisis (and the measures introduced by the Victorian Government in response) impacted duty holder organisational priorities and service delivery demands, particularly in the health and community services sector. It also exacerbated pre-existing gender inequalities, including by widening the gender pay gap and by disproportionately lowering women’s workforce participation rates (while simultaneously increasing their unpaid labour burden) (Risse 2023).

The Victorian Government's emergency response to the pandemic, while necessary, has created a new set of fiscal pressures that have influenced public sector capacity:

* **Budget repair and savings measures**: The Victorian government has implemented budget repair measures, including savings and efficiency targets for the public service.
* **Constrained funding environment for duty holders and my office**: The focus on fiscal consolidation has created a more constrained funding environment for the public sector, including my office.

The Review should also consider the impacts of current political and social backlash against Diversity, Equity and Inclusion initiatives which — while more pronounced in the United States and United Kingdom — has led to:

* **Increased scrutiny**: Public sector bodies are facing a greater need to justify their gender equality initiatives and to demonstrate their value in the face of a more sceptical, and at times hostile, public and media environment.
* **Gender fatigue and resistance**: Societal debate can lead to ‘gender fatigue’ among staff and management and can embolden internal resistance from sceptics of gender equality measures.
* **Resource allocation**: In a climate of fiscal constraint, gender equality programs can be seen as ‘non-essential’ and become targets for savings, particularly if they are perceived as being politically contentious.

### 3.2.2 Organisational variability and budget constraints

The Review should consider the organisational variability across the 300 duty holders under the Act. In particular:

* **Size differences**: The size of duty holders varies from 50 to over 85,000 employees. Smaller duty holders face different capacity constraints than large duty holders, including those relating to the availability of resources and funding to dedicate to gender equality work.
* **Geographic considerations**: Rural and regional duty holders face different challenges than metropolitan entities, including capability gaps, limited access to resources (including training and expertise), geographic isolation and workforce shortages (Right Lane Consulting 2024a).
* **Sector variations:** Some duty holder sectors may demonstrate faster progress due to greater historical gender equality focus, higher levels of unionisation, and historically lower levels of industry segregation.

The assessment should also acknowledge the significant achievements delivered by duty holders and my office within modest budgets. Independent consultation with duty holders and my office has revealed that resource constraints was the top-cited barrier when reporting on progress in 2023 (Right Lane Consulting 2024b). The report from this consultation highlighted that my office, then comprised of 16.5 FTE, ‘and with limited funding…supported and monitored the progress of defined entities, receiving and analysing close to 300 progress reports and audits from defined entities that are diverse in size, function, and capacity’ (Right Lane Consulting 2024b: 5). In making recommendations as part of this Review, this submission recommends that the independent reviewer explicitly consider these resourcing restraints and the additional resourcing capacity that will be required in implementing any recommended amendments to the Act.

# Implementation of the Act (TOR 1.1-1.3)

## The Commissioner fulfilling their functions and exercising their powers under the Act (TOR 1.1)

The Commissioner's functions under section 36 of the Act have been implemented with success over the first four years, delivering transformational outcomes within modest budget allocations. This implementation success provides the foundation for the opportunities for legislative enhancements recommended in Section 6 of this submission.

### 4.1.1 Promoting the Act’s objects and purposes

My office and I have engaged in a wide array of activities that both directly and indirectly promote and advance the objects of the Act (s 4), spanning strategic engagement and collaboration, data collection and analysis, targeted research, and the development of comprehensive support and education for duty holders. As the majority of these will be discussed in relation to my remaining functions under the Act, I outline below the extensive stakeholder engagement and strategic collaboration my office and I have undertaken over the first four years of the Act’s operation.

#### Extensive stakeholder engagement

High-level engagement has proven crucial for raising the profile of the Act and its objects across the Victorian public sector (and beyond).

Over the course of the Act’s operation to date, my office and I have conducted hundreds of stakeholder engagements, as outlined in the below table.

Table 1. Summary of Commissioner engagements 2021 - 2025

|  |  |  |
| --- | --- | --- |
| Year | Total number of engagements | Highlights |
| 2021 | 254 | 138 speaking engagements, 68 external stakeholder meetings, 44 events attended, 20 media interviews, mentions and published op edsConsultation on amendment of the Gender Equality Regulations 2020 (‘Regulations’) |
| 2022 | 239 | 96 speaking engagements, 6 published op eds, 27 media interviews and enquiries, 4 news stories published |
| 2023 | 381 | 112 speaking engagements, 186 external stakeholder meetings, 50 media interviews, mentions and published op ed articles11 trips across 24 regional areas, meeting 68 rural and regional duty holdersConsultation on the Gender Equality Amendment Regulations 2023 |
| 2024 | 320 | 57 speaking engagements, 133 external stakeholder meetings, 9 media interviews, mentions and public op eds, 30 events attended63 regional, rural and metro duty holder visits  |
| 2025 (as of 30 June) | 118 | 23 speaking engagements, 12 media interviews, mentions and public op eds, 11 events attended and 47 external stakeholder meetings 37 duty holder visits, including 4 rural and regional trips visiting 11 duty holders |

I have now personally visited two thirds of all duty-holders at their offices across Victoria – this includes almost all duty holder organisations in regional and rural areas. Feedback following duty holders visits and speaking engagements is consistently positive and reiterates the way in which my direct engagement fuels organisational and leadership engagement, confirms the importance and legitimacy of the work, sparks enthusiasm, and prompts important conversations. For example, a duty holder that I visited in April 2025 confirmed that this engagement:

* gave gender equality a ‘greater voice’ in their organisation: “As a result, I (as the GE lead) have been given even more opportunity to brief the Board, Executive and our senior leaders and consult with them on gender equality”; and
* provided ‘a timely reminder’ of the organisation’s obligations: “We always appreciate prompts and reminders about our obligations such as GIAs to ensure they aren’t falling behind”.

These impacts were also confirmed by the independent review of the Act’s implementation undertaken by Right Lane Consulting in 2023 (Right Lane Consulting 2024b).

My office and I also regularly engage with duty holders, stakeholders and interested parties via our monthly newsletter, which currently has 2600 subscribers.

#### Submissions, consultation and strategic collaboration

I have made a large number of submissions on relevant federal and State legislation and policy to influence broader policy frameworks and address systemic gender inequality within, and beyond, the Victorian public sector. This includes lodging formal submissions in relation to the *Workplace Gender Equality Act 2012* (Cth) (‘WGE Act’), the Respect@Work legislative amendments, the National Plan to End Violence Against Women and Children, the Inquiry into Economic Security for Victorian Women, decisions of the Victorian Independent Review Tribunal, and the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).

My team and I have engaged across government to identify opportunities for strategic promotion of the Act’s objects, including collaboration with the Department of Trade and Finance and the Department of Premier and Cabinet in relation to Gender Responsive Budgeting and embedding GIAs into legislative and regulatory impact assessments and Cabinet submission processes. We have also worked directly with unions, peak bodies such as the Municipal Association of Victoria, and Women’s Health Services across the state, in the implementation of the Act.

I have also been consulted with by governments in other Australian states and internationally, (including Tasmania, NSW, South Australia, the World Bank in Washington DC, and Saudi Arabia) and have presented at the Women Deliver global conference in Rwanda in 2023.

#### Summary

Through extensive promotion of the Act’s objects and purposes, Victoria has become a global leader in comprehensive, intersectional gender equality legislation with growing international consultation requests. This includes through over 1,300 stakeholder engagements over four years, reaching the diverse duty holder base and key stakeholders, such as peak bodies and unions.

The influence of the Act has spread across national and international jurisdictions and has impacted government policy and regulation, research and academic literature, and local level workplace policies and practices. This includes supporting key gender equality developments in Victoria, such as the Gender Responsive Budgeting amendments made to the *Financial Management Act 1994* (Vic)(‘FMA’) and the integration of the Act and its gender equality mechanisms into 'Our Equal State: Victoria's Gender Equality Strategy and Action Plan 2023-2027' (‘Our Equal State’).

My office has undertaken this important work with remarkable resource efficiency, achieving maximum impact through strategic partnerships, knowledge sharing, and central regulatory activities.

### 4.1.2 Supporting duty holder compliance, providing advice on the Act’s operation, and establishing information and education programs

The first reporting obligations to be met by duty holders under the Act (GEAPs informed by workplace gender audits) were due to be submitted to me on 31 October 2021, just seven months after the Act came into effect. To enable these obligations to be met, I established an office of staff (growing to approximately 13 FTE in the first 12 months) and we:

* designed, in consultation with stakeholders, the requirements that duty holders would need to deliver in order to meet their obligations under the Act;
* developed a reporting platform which enables duty holders to review their workplace gender data for quality and completeness, analyse this data for the purposes of developing their GEAPs and progress reports, and submit their reporting obligations in compliance with the Act; and
* supported the 300 new duty holders to understand the Act and their obligations through the design and delivery of ‘roadshows’ and guidance materials (summarised below).

The effectiveness of the Commissioner’s support, education and advisory functions is evident in the compliance rate of duty holders (discussed below) as well as in the comprehensive, publicly available suite of resources developed to support duty holders to comply with the Act.[[1]](#footnote-2) This includes:

* **Extensive guidance material** on the development of GEAPs, workplace gender audits, progress reports, progress audits, and GIAs. Following each of the previous reporting cycles under the Act, my office has engaged independent reviewers to provide advice and feedback on our processes. We have applied this feedback — in addition to consultation feedback received directly from duty holders — to each iteration of the guidance materials, including those developed for the upcoming 2025 reporting cycle. These new 2025 guidance materials (informed by the learnings of a full reporting cycle under the Act) have received a significant amount of positive feedback from duty holders.
* **Advice for specific industries** on the application of the Act in particular industry contexts, this includes through the development of tailored guidance in consultation with specific sectors and through engagement with various Communities of Practice.
* **Templates** for the preparation of workplace gender audits, progress audits, GEAPs, and GIAs.
* **Case studies and videos** to illustrate best practice compliance with respect to undertaking and embedding GIAs, developing GEAPs, and making progress with respect to the WGEIs.
* **On-demand webinars and videos** on key obligations and key concepts, such as intersectionality. For example, this year my office developed 4 on-demand videos providing overviews of the Act’s obligations that have been viewed nearly 1,400 times. My office also delivered a live introductory webinar attended by nearly 300 people.

These materials are available on my website, which had some 14,000 people visit in the 2024-25 financial year alone.

Following both the 2021 and 2023 obligation rounds, my office prepared public data insight reports that not only provided an overview of the state and nature of workplace gender inequality across the Victorian public sector, but also provided duty holders with advice as to how they might address key areas for improvement. For example, the 2025 Pay Gap and Sexual Harassment Insights Reports contain practical steps and resources to assist duty holders to address the gender pay gap and workplace sexual harassment. (CGEPS 2025a:12-23, CGEPS 2025b:18-23).

My office and I also provide a significant amount of in-depth, tailored support to duty-holders, particularly in the lead up to (and during) reporting obligation submission windows. This includes:

* **Training webinars, roadshows and sessions** on the Act’s obligations and using guidance materials to comply.
* **Provision of compliance reports** following obligation submissions to support duty holders to understand what they had done well, and what they needed to develop further.[[2]](#footnote-3)
* **Enquiry email service**, which received approximately 1,400 enquiries in 2024-25 and provides tailored advice and support in relation to the Act.
* **Drop-in sessions** enabling duty holders to put questions directly to subject matter experts in my office. For example, more than 200 people registered for one of five drop-in sessions dedicated to the 2025 workplace gender audit. Hundreds more have registered for upcoming audit, GEAP and progress reporting drop-in sessions related to the 2025 GEAP and progress reporting obligations. A total of 21 drop-in sessions will be run in 2025, with several more planned for 2026.

#### Summary

Through the provision of comprehensive, tailored advice, support and guidance materials, my office and I have supported 300 duty holders to understand and comply with their obligations under the Act. This has resulted in a 100% submission rate across all primary reporting obligations over the first two complete reporting cycles under the Act, with no formal enforcement actions required. These notable outcomes are discussed further in Section 4.2 of this submission.

Duty holders have provided feedback that my office’s guidance materials have been used extensively to prepare reporting obligations and that compliance reports have promoted better engagement with the Act’s obligations from organisational leadership (A+C Consulting 2022). My office has observed improved submission quality and a high level of voluntary improvements to reporting requirements beyond compliance. This is also further discussed in Section 4.2.

This education-focused approach not only aligns with best practice regulation and my Regulatory Approach but is also more cost-effective than enforcement activities and demonstrates the importance of a scalable education model that can balance reach with resourcing restraints.

### 4.1.3 Undertaking research

Undertaking research related to the Act and its objectives is an important function of the Commissioner. Targeted research maximises and expands the impact of the Act and builds the evidence base about what works in promoting gender equality for everyone. To date, this has been supported by:

* 10 research projects funded between 2020 – 2023, relevant to the operation of the Act, including four projects specifically focused on compounded inequality.[[3]](#footnote-4) This research continues to produce new publications, further building the evidence base on intersectional workplace gender equality (Blackham et al. 2025, Blackham et al. 2023).
* Awarding a 2.5-year research project in 2024 that will monitor select duty holders working towards the gender equality targets contained in Our Equal State.[[4]](#footnote-5) This is discussed further below at Section 4.1.4.
* Establishing a student research program (involving 10 interns to date) and a PhD research program (one student currently).
* Engaging independent consultants to undertake research and reviews related to reporting processes under the Act and the challenges faced by duty holders in undertaking GIAs (AGEP 2022, A+C Consulting 2022, Right Lane Consulting 2024a, 2024b).

As noted above, my office has also published a number of first-of-their-kind reports based on insights derived from the data submitted to me under the Act by duty-holders. This includes Australia’s first report on intersectional public sector workforce data in October 2022, [Intersectionality at Work: Building a baseline on compounded gender inequality in the Victorian Public Sector](https://www.genderequalitycommission.vic.gov.au/intersectionality-work) (‘Intersectionality at Work Report’).

The research and insights produced by my office are widely used across diverse research, evidence building and policy-making contexts. For example, the Intersectionality at Work Report has recently been cited in two academic articles (Blackham 2024, Vasil et al. 2025), the Federal Government’s [Gender Framework](https://www.jobsandskills.gov.au/research/studies/gender-economic-equality-study), and the [Being Valued Toolkit](https://www.yourch.org.au/being-valued/) supported by WorkSafe Victoria, Transgender Victoria and Your Community Health. It has also formed a foundation for the [Jobs and Skills Australia Gender Economic Study](https://www.jobsandskills.gov.au/research/studies/gender-economic-equality-study), for the Diversity Council of Australia’s 2025 ‘[Applying Intersectionality at Work](https://www.dca.org.au/research/intersectionality-at-work)’ guidance and for the Workplace Gender Equality Agency’s (‘WGEA’) work on intersectionality.

#### Summary

Over the first four years of the Act’s operation, my office and I have developed strategic research partnerships and leveraged internal research capabilities to develop a strong evidence base for the Act’s implementation. This includes through the completion of 10 research projects, the publication of Australia's first intersectional public sector workforce analysis, growing academic recognition, and considerable secondary reliance on our research and insights to develop policy and guidance materials, nationally and internationally.

### 4.1.4 Reporting to the Minister

My office and I are regularly engaged with the Minister and their Office. This includes:

* Consultation and collaboration on the development of implementation mechanisms, such as the model enterprise bargaining agreement clause relating to the referral of systemic gender equality disputes to the Commissioner for resolution, amendments to the Regulations, and the development of future regulations under the Act (see below).
* Quarterly meetings between myself and the Minister to provide implementation updates, discuss strategic priorities and seek support on key issues.
* Briefing the Minister and providing input to Office for Women’s briefs in relation to matters the Minister is responsible for in their administration of the Act.
* Assisting the Minister to fulfill their obligation to develop a State GEAP (The Act: s 50), Our Equal State, and participating in a number of launch events across Melbourne and regionally.
* Accompanying the Minister to the Women Deliver 2023 Global Conference in Rwanda in July 2023.

#### Development of targets and quotas regulations

Sections 17 and 54 of the Act provide the legislative foundation for prescribing gender equality targets and quotas in relation to the WGEIs. While the power to make regulations under the Act is vested in the Governor in Council, my office and I are responsible for leading their development in collaboration with the Minister, their office, and the Office for Women.

There is clear evidence to support the effectiveness of targets and/or quotas as a mechanism to drive progress towards gender equality (Victorian Government 2019). My office and I have provided strategic advice to the Minister in relation to the proposed timing for the development of regulations prescribing gender equality targets and quotas under the Act, in which we have recommended an evidence-based approach as opposed to immediate development and implementation. This approach recognises that effective target-setting requires a comprehensive evidence base, sufficient baseline data, a clear understanding of organisational barriers and enablers, and proven implementation strategies tested in real workplace settings.

To build this evidence base, my office and I have:

1. commissioned an external research team to undertake a targets pilot with a diverse cohort of 18 duty holders;
2. integrated optional target-setting guidance in the 2026 GEAP guidelines; and
3. developed a phased implementation strategy (outlined below).

*Targets pilot research*

In 2024, I commissioned Professor Michelle Ryan's research team at the Australian National University to investigate barriers and enablers to setting and achieving gender equality targets. This strategic research will directly inform the development of regulations under the Act prescribing targets and quotas with evidence-based insights and will conclude in 2026.

Key preliminary findings emerging from the project suggest that strong leadership buy-in is a critical success factor and many participants have highlighted the importance of personal visits from the Commissioner to boost leadership commitment. The findings also reveal the importance of deliberately designed and implemented frameworks for addressing the gender pay gap and workplace sexual harassment.

##### *Integration of targets into GEAP guidance*

I have integrated target-setting in the 2026 GEAP guidance, encouraging duty holders to set targets in relation to the WGEIs by using the performance measures framework developed with the assistance of Dr Risse. The guidance materials emphasise that targets should be ‘aspirational but achievable, measurable, time-bound, and related to outcomes’ (CGEPS 2025c: 41).

This will provide duty holders with an opportunity to familiarise themselves with gender equality target-setting without compliance requirements, and to begin identifying potential organisational barriers and enablers to setting and achieving gender equality targets,

My office will review the number of duty holders that voluntarily adopt targets in the 2026 GEAP reporting cycle and will undertake analysis to determine their effectiveness in driving progress in relation to the WGEIs.

##### *Phased implementation strategy*

##### The below table outlines the proposed implementation strategy in relation to the introduction of targets and quotas under the Act if required.

Table 2. Proposed targets/quotas implementation strategy

|  |  |
| --- | --- |
| Phase 1: Evidence-based targets (2029 - 2031) | Phase 2: Comprehensive framework (2033+) |
| * Leadership representation targets for large duty holders (500+ employees)
* Pay gap reduction targets
* Sexual harassment elimination targets
* Industry-specific targets addressing occupational segregation
* Parental leave targets
 | * Intersectional representation targets for large duty holders
* Regular review and adjustment mechanisms
 |

#### Summary

Over the first four years of the Act’s operation, my office and I have worked closely with the Minister, where necessary, to ensure effective implementation. This includes through research, planning and advice with respect to proposed regulations prescribing gender equality targets and quotas under the Act. The strategic, evidence-first approach my office and I have taken with respect to these regulations positions Victoria to implement the most effective gender equality targets globally, based on comprehensive understanding of what works in our specific public sector context combined with robust data analysis identifying where intervention is most needed.

### 4.1.5 Exercising compliance powers

In the second reading of the Act, the independent Commissioner’s role was described as the ‘teeth’ of the legislation, someone able to provide the necessary monitoring, oversight, education and support to drive compliance (Legislative Assembly 2020). In particular, under the Act, the Commissioner has escalating compliance levers — from informal resolution, through to enforceable undertakings and taking non-compliant duty holders to the Victorian Civil and Administrative Tribunal (‘Tribunal’) — to ensure that compliance with the Act avoids tick-box reporting. These are set out in the table below.

Table 3. Hierarchy of compliance activities

|  |  |  |
| --- | --- | --- |
| Approach | What it looks like | Examples |
| **Communicate** | Communicate and share information with duty holders on why gender equality is important and what works to improve it | * Commissioner and staff meetings with duty holders
* Supporting Communities of Practice to encourage peer education
* Conducting research and partnering with researchers on gender equality issues
 |
| **Support to comply** | Provide practical guidance and templates for duty holders to maximise voluntary compliance | * Publishing guidance on mandatory standards and compliance requirements
* Providing education and training
* Promoting best practice in Commission communications channels
* Targeting communications to draw focus to compliance issues in the sector
 |
| **Monitor**  | Use information and data collected to identify sectors (or sub-sectors) that need proactive monitoring or extra support | * Partnering with co-regulators to influence particular industries
* Publicly reporting on compliance issues
* Issuing broad warnings about a compliance issue
* Convening forums to raise awareness of a particular compliance issue
 |
| **Remedy** | Use informal methods to remedy non-compliance by working with duty holders. If unsuccessful, formal notices and written undertakings may be used  | * Targeting correspondence to Boards, executives and heads of organisations
* Issuing a compliance notice
* Accepting a written undertaking from a duty holder in response to a notice
* Responding to specific disputes between employees and employers to resolve systemic gender equality issues
 |
| **Sanction** | Take more formal and public action to deter non-compliance and promote greater transparency and accountability | * Reporting publicly on enforcement actions taken by the Commissioner
* Raising issues with the Minister responsible for the duty holder
* Recommending action that the Minister take against the duty holder
* Naming the organisation and the obligation they failed to comply with
* Referring the matter to the Tribunal
 |

Aligned with my Regulatory Strategy, the compliance intervention I apply in any particular case of non-compliance is proportionate to the harm arising from the non-compliance, the attitude to compliance and culpability, capacity and the ability of the duty holder, and what is considered reasonable and material progress under the Act. I also consider the history of a duty holder’s compliance with the Act and their specific circumstances (such as their size, location and operating priorities) when determining the appropriate compliance intervention.

#### Compliance approach to date

In the first 4 years of the Act, I have provided high levels of support to duty holders to assist them to comply with their obligations.

For example, as will be further discussed below at Section 4.2.1, I took an educative approach to compliance with respect to the 2022 GEAP submissions. Approximately 30% of duty holders submitted a non-compliant GEAP on their first attempt. These duty holders were provided with detailed feedback in relation to the area/s of non-compliance and the amendments required to reach compliance level. This supportive, rather than punitive, compliance approach was particularly appropriate given the forward-facing nature of GEAPs and the importance of ensuring duty holders were set up for success across the four-year reporting cycle.

I adopted a similar compliance approach with respect to the 2023 progress reports. As discussed below at Section 4.2.2, only 34% of duty holders demonstrated compliance on all 9 progress reporting obligations. Rather than issuing compliance notices, I issued communications about having taken a lenient approach to compliance for this first progress reporting obligation. I also provided detailed feedback to each duty holder on each compliance criterion, including the requirements of the criterion, common mistakes, and how to achieve compliance in the next cycle.

Critically, I supported future compliance by focusing on a key issue I knew to be impacting compliance: inadequate resourcing. Some organisations have allocated insufficient budget to seek support or expert advice. In other cases, staff employed to do the work are on short-term and/or part-time contracts (Ryan et al. 2022). I therefore positioned responsibility for compliance with the Act and resourcing of the work squarely with governing bodies and senior leaders by directing all compliance correspondence to board chairs and heads of organisations. This compliance messaging highlighted that I had been lenient in my compliance assessment and approach for this first round of progress reporting under the Act and intended to take a stricter approach in the next cycle. Anecdotally, my office and I have been made aware that this approach has led to internal process changes, with obligations being placed in the appropriate organisational context of risk mitigation and risk management. My office and I are now also seeing an increased understanding that a duty holder’s obligations under the Act need to be visible at board level, with board accountability. Board Chairs and other board members are now very regularly in attendance at my duty holder visits and keen to assure me that gender equality is a matter of priority at board level.

#### Compliance approach moving forward

As we entered the second reporting cycle under the Act, I advised duty holders that my compliance approach will change. While still maintaining my approach of supporting duty holders to comply through informal methods in the first instance, I intend to hold duty holders (particularly larger organisations that have failed to meet compliance standards for the second time) accountable by taking more formal action. This includes issuing formal compliance notices, where necessary. This approach recognises that duty holders are now more experienced in relation to their obligations under the Act and ensures the Act remains a key mechanism for progress and accountability.

## Duty holders fulfilling their obligations and performing their duties under the Act (TOR 1.2)

It is important to recognise that, despite challenges, duty holders have demonstrated a strong commitment to their obligations under the Act. It is clear that there are many passionate, dedicated staff that have expended considerable effort to advance gender equality within their organisations over the first four years of the Act’s operation.

### 4.2.1 2021 audits, GEAPs and the ‘baseline’

Given the exceptional circumstances and uncertainty about the ongoing impacts of the COVID-19 pandemic, I granted two-stage extensions for organisations to submit their workplace gender audit data in late 2021 and their GEAPs in early 2022. Despite these challenges, 100% of workplace gender audits and 100% of GEAPs were submitted to me.

Approximately 90% of duty holders submitted compliant workplace gender audits on their first attempt. Given the novelty of this obligation, the audit revealed areas of limited data availability and poor data quality (particularly in relation to intersectional data). Every organisation received feedback on their audit submission and was given an opportunity to revise their data. More than 90 organisations revised their audit data, including more than 50 voluntary resubmissions where organisations elected to improve the quality of their submission when this was not required for compliance.

Approximately 70% of duty holders submitted compliant GEAPS on their first attempt. A GEAP was considered compliant if it addressed each of the requirements set out in the Act to a minimum standard. To support the strengthening of GEAPs, where a requirement was found to be non-compliant, the duty holder was provided with a detailed description of the requirement and guidance to address the issue and resubmit a revised GEAP. Duty holders were also given the opportunity to contest a finding of non-compliance.

Following resubmission, 100% of duty holder audits and GEAPs in 2021 were found to be compliant with the Act.

### 4.2.2 2023 audits and progress reports

In 2023, defined entities submitted their first progress reports to me under the Act. These reports demonstrated that the Victorian public sector is making progress towards the achievement of workplace gender equality. In particular, the median total remuneration pay gap decreased by 9.1% from 2021, the proportion of women Chief Executive Officers (‘CEOs’) increased from 39% in 2021 to 44% in 2023, and the average number of weeks of parental leave taken by men increased to 5.2 weeks. Many duty holders also reported well on their progress in implementing their GEAP strategies, with around 96% demonstrating compliance on this obligation, and we have seen positive changes made to public sector enterprise agreements, particularly related to parental leave and reproductive health and wellbeing leave (Victorian Public Service Enterprise Agreement 2024 (‘VPS Agreement’)). Over 1,500 GIAs were reported in progress reports, with 75% leading directly to actions that promote gender equality.

The progress reports also illustrated that significant gender inequality persists and that the capacity of entities to report intersectional data is still low. More women and people who self-describe their gender experienced sexual harassment in 2023 compared to 2021, and there was only a small improvement in women represented at senior leadership levels – from 47% in 2021 to 48% in 2023. Only 34% of duty holders demonstrated compliance on all nine progress reporting obligations, and 31% failed to demonstrate compliance on the GIA obligation (issues included reporting no GIAs without a permitted reason, reporting GIAs on internal policies, and failing to report actions that related to gender). While disappointing, these results are not unexpected given the significant contextual pressures discussed at Section 3 of this submission, including: the operational and fiscal impacts of the COVID-19 pandemic, public sector budget constraints, the diverse nature of the organisations covered by the Act, the challenging social environment for equity initiatives, and the gradual, multi-generational trajectory of gender equality realisation.

Making meaningful progress towards gender equality is a challenging and long-term project. It requires persistent leadership commitment, solid resourcing, tenacious focus, and strategic effort. Critically, it requires a robust, fit-for-purpose legislative framework. In Section 6 of this submission, I have outlined some key amendments to the Act to ensure duty holder obligations are clear, consistent and effective.

## The Minister fulfilling their obligations under the Act (TOR 1.3)

The Minister has been tasked with a number of duties under the Act, including:

* developing a State GEAP and progress report and causing these reports to be tabled in the Parliament (s 50);
* causing a review of the operation of the Act to be conducted after four and eight years, and causing the reports from these reviews to be laid before the Parliament (ss 52, 53); and
* obtaining the consent of relevant Ministers before regulations are made prescribing entities as ‘designated bodies’ under the Act (subs 38(2)).

### 4.3.1 State GEAP and progress report

The Minister has demonstrably fulfilled this duty through the preparation and publication of Our Equal State, which serves as a comprehensive roadmap for achieving gender equality in Victoria. It focuses on key issues and priorities for each life stage and includes actions to improve gender equality across five focus areas: cultural change; health and wellbeing; economic equity; safety and respect; and the public sector as a leader.

While the first progress report is not yet due, I am aware that the groundwork for this reporting has already been laid. This includes: the establishment of the Our Equal State Reference Group (the meetings of which I attend as an observer); the development of an outcomes framework; coordination by the Office for Women with the Victorian Public Sector (‘VPS’) Departments to assess their progress towards actions 94 – 97 in Our Equal State; briefings to the Victorian Secretaries Board; and the preparation of the progress report to be published and laid before the Parliament.

### 4.3.2 Consent to prescribe ‘designated bodies’

There have been two rounds of amendments to the Regulations that have resulted in the inclusion of additional entities as ‘designated bodies’ under the Act. In particular, the Regulations were amended in 2021 to include ‘universities’ (Gender Equality Amendment Regulations 2021) and again in 2023 to include ‘existing regional library corporations’ (Gender Equality Amendment Regulations 2023). On both of these occasions, the Minister sought and was granted consent from the Ministers responsible for these entities, in addition to the Minister for Industrial Relations (as the Minister responsible for administering the *Fair Work (Commonwealth Powers) Act 2009* (Cth), as required under the Act.

# Effectiveness of the Act in contributing to gender equality (TOR 2)

Notwithstanding the factors considered at Section 3 of this submission, including the myriad deep-seated, systemic drivers of workplace gender inequality, it is important to recognise the contributions of the Act in Victoria’s journey towards gender equality. This includes:

* Progress made by duty holders towards the WGEIs and embedding GIAs within their organisations.
* Progress made towards the objects of the Act.
* Evidence of cultural change and legislative influence.

## Progress made towards the WGEIs and embedding GIAs

### 5.1.1 Duty holder progress on the WGEIs

There are a number of recommendations made at Section 6 below in relation to strengthening the WGEIs and their implementation under the Act. Notwithstanding these opportunities for enhancement, as outlined at Section 4.2.2, duty holders are making progress in relation to the WGEIs. In particular:

* **Pay equity improvements**: The median total remuneration pay gap across all duty holders has reduced to 9.1%, with base salary pay gaps showing consistent improvement across most sectors. The data shows that targeted interventions in high-gap organisations and sectors are beginning to yield measurable results that will increase over time. It is also clear that duty holders have advanced their understanding in relation to the key drivers of the gender pay gap in their organisations and more broadly, which has enabled the development and implementation of more effective interventions.
* **Leadership representation advancement**: Women in CEO positions have increased from 39% to 44% across duty holder organisations, representing a sustained improvement trajectory. Women’s representation in senior leadership positions is showing incremental improvement across duty holder organisations (from 47% in 2021 to 48% in 2023) and gender balance was maintained across governing bodies (boards) and chairs of governing bodies.
* **More parental leave taken by men:** While women took more paid parental leave than men in 2021 and 2023, there was a small increase in average weeks of parental leave taken by men in 2023, compared to 2021.

It is important to note that many duty holders have focused their efforts over the last two years on setting up new processes, resources and practices to support gender equality initiatives. While more time is needed for many organisations to demonstrate quantitative progress against the WGEIs, it was promising to see that in their 2023 progress reports many duty holders showed thoughtful and reflective approaches to gender equality and identified where and how to make improvements.

### 5.1.2 Embedding GIAs

As noted above, more needs to be done by duty holders to undertake GIAs on key policies, programs and services. While most duty holders (69%) were assessed as having met the obligation to undertake in the most recent progress reporting period, I set the compliance bar low for this first round. Notwithstanding this, there is unmistakable evidence that GIAs are beginning to be embedded across the Victorian public sector (and beyond):

* **Gender Responsive Budgeting**: In 2024, Victoria became the first jurisdiction in Australia to legislate Gender Responsive Budgeting requirements (FMA: Pt 5, Div 4A). These changes embedded GIA as a ‘key building block’ in Victorian budgetary processes and policies as a means ‘to ensure that public financial management supports the promotion of gender equality through the way budgets are constructed, funds are collected and spent, and outcomes achieved’ (DTF 2024: 1).
* **Local councils leading the way**: Duty holders have developed innovative mechanisms to embed GIAs into their business-as-usual practices. For example, two councils launched GIA apps for staff members to use when conducting a GIA. The apps guide staff members through the 4-step process as outlined in my office’s Gender Impact Assessment Toolkit. The apps also integrate workflow and approval processes within the council.[[5]](#footnote-6) These councils are sharing the IP for their apps with other local councils, and the MAV is also considering supporting the development of an app for local council GIA data collection more generally.
* **Interstate adoption**: In 2024, the NSW Government released a GIA policy to provide guidance to general government sector agencies on when and how to complete GIAs and has provided links to my office’s resources to assist (NSW Treasury 2024). The Tasmanian Government has committed to adopting GIAs and developing tools to be used by government agencies in undertaking GIAs (Tasmanian Government 2022). Peak bodies in other state jurisdictions, such as South Australia, have recommended the adoption of GIA based on the resources published by my office (LG Professionals SA 2023).

## Progress made towards the objects of the Act

By implementing the Act with a focus on evidence-based policy development, compounded inequality and public sector accountability, and by working to identify and redress key barriers to workplace gender equality, my office and I have pursued (and seen progress toward) the objects of the Act (s 4).

### 5.2.1 Evidence-based policy development

The Act has created Australia’s most comprehensive public sector gender equality data set, with around 100 million data points collected over the first four years of the Act’s operation. This information has been used by my office and duty holders to develop evidence-based mechanisms for identifying and addressing the forms and causes of workplace gender inequality. This includes:

* **Duty holder GEAP development**: Duty holders have used the results of their workplace gender audits to develop tailored strategies and measures to address areas of inequality in their workplaces.
* **Benchmarking and insights**: My office undertakes detailed data analysis of workplace gender audit data to (among other things) inform organisation, industry and sector-level benchmarking and to develop insights reports. This, in turn, assists duty holders to develop, compare and improve their strategies and measures for addressing workplace gender inequality.
* **Tailored support**: My office also uses this data analysis to develop tailored duty holder support and education programs where it is needed most. This is discussed further below, at Section 6.1.1.
* **Research**: The data collected from duty holders has also been used as a basis for various research projects, discussed above at Section 4.1.3.

### 5.2.2 Intersectional focus

As mentioned above, the Act is the first Australian legislation to explicitly invoke the concept of intersectionality, recognising that marginalisation can compound when people’s lives are marked by other forms of discrimination. To support this recognition, and to pursue structural change as a means to redress disadvantage and discrimination, my office and I have embedded a strong intersectional focus in the implementation of the Act. This includes:

* **Intersectional data collection capacity-building**: The Intersectionality at Work Report provides duty holders with a number of recommendations for approaching intersectionality and intersectional data collection within their organisations, how to improve the collection, analysis and interpretation of intersectional data, and how to monitor and track this work over time (CGEPS 2023). My office has also committed to internal capacity building in relation to analysing data pertaining to intersectional gender equality.
* **Research partnerships**: As discussed further below at Section 6.1.1, in 2021 and 2022 I funded a series of research projects specifically focused on the experiences of compounded forms of inequality in duty holder workplaces. This includes the experiences of women from migrant and refugee backgrounds Aboriginal women, and women with disabilities in the Victorian public sector workforce.
* **Tailored guidance and education**: My office has published various materials that have been specifically designed to assist duty holders to better understand and apply the concept of compounded inequality. This includes comprehensive ‘Addressing Intersectionality Guidance’, which provides detailed advice on how to build organisational awareness about compounded inequality, strengthen intersectional community and stakeholder engagement and undertake their obligations under the Act with an intersectional lens (CGEPS 2022).
* **Targeted advocacy and promotion**: My office has worked with duty holders and other key stakeholders across the Victorian public sector to encourage the embedding of compounded inequality in all discourses and actions related to gender equality more broadly.

Despite being a novel concept for many duty holders when the Act first commenced, my office and I have witnessed growth in organisational understanding of compounded inequality and an overwhelming sense of commitment by duty holders to ‘get things right’ for all members of the Victorian community.

### 5.2.3 Accountability of the public sector

Accountability across duty holders is a critical mechanism for promoting, encouraging, and facilitating the achievement of gender equality, as envisioned by the Act. In particular, the legislation establishes a clear chain of responsibility by: 1) setting mandatory reporting requirements that foster transparency and allow for public scrutiny; and 2) placing the onus for monitoring and enforcing these obligations on the Commissioner. In defining this chain of responsibility, and providing mechanisms for transparency and accountability, the Act creates a powerful engine for change.

Over the first four years of the Act’s operation, accountability of the public sector has been demonstrated in a number of ways, including:

* **Publication of reporting obligations and insights**: As permitted by the Act, I have published all reporting obligations submitted to me by duty holders on my publicly available Insights Portal. This means that any individual or organisation can access the GEAPs and progress report of any duty holder. The insights reports I have published based on these reporting obligations (discussed at Section 4.1.2) provide sector and industry-level analysis across the WGEIs, providing an additional layer of accountability through benchmarking.
* **Stakeholder advocacy and engagement**: My office and I regularly engage with key stakeholders, including peak bodies, unions and governmental committees, in relation to sector and industry-level duty holder progress under the Act. This ensures that other key bodies, with alternative levels of oversight and influence, are leveraged to ensure duty holders are held to account for their compliance with the Act.
* **Our Equal State**: The State GEAP outlines a number of actions designed to ensure that the public sector leads the way in the promotion and achievement of gender equality in Victoria. In setting out these actions, Our Equal State expressly recognises that the Act is the Victorian Government’s ‘strongest lever for change’ (DFFH 2023: 41).

### 5.2.4 Barriers and future focus areas

The effectiveness of the Act can also be measured through its power to make previously hidden or ignored barriers visible, undeniable and actionable. By enabling duty holders (and my office) to pinpoint barriers and areas of uncertainty, and requiring positive action, the Act has begun the work of illuminating the path that organisations should take to dismantle long-standing structures of inequality, as well as the support they need to do so. This includes:

* **Data deficiencies:** Duty holders have demonstrated commendable progress in their ability to collect and analyse gender equality data over the last four years. Notwithstanding this, intersectional data availability and quality remains variable across duty holders, as discussed below at Section 6, evidencing a requirement for continued capacity building.
* **Resourcing issues:** As discussed above, at Section 4.1.5, a key issue in the implementation of the Act is the availability and utilisation of adequate duty holder resources. I will continue to advocate for the appropriate resourcing of this work across the duty holder base.
* **Prevalence of sexual harassment:** Data from the 2023 progress reports revealed that sexual harassment rates increased in some sectors, demonstrating a need for sustained attention and tailored interventions. Achieving (and measuring progress towards) a reduction of workplace sexual harassment is complex. As such, this is an area towards which I intend to focus my regulatory efforts in the coming years.
* **Entrenched occupational and industrial segregation:** Duty holder progress reports also revealed the persistence of occupational and industrial segregation in areas traditionally classified as ‘men’s work’ and ‘women’s work’. This will require targeted strategies and additional effort to address in the coming years of the Act’s implementation.

## Evidence of cultural change and legislative influence

### 5.3.1 Cultural change

Despite the inherent difficulties in quantifying the cultural and systemic change brought about by the Act to date, there is clear evidence that the commencement of the Act marked a fundamental turning point in Victoria’s journey towards achieving gender equality by:

* **Embedding GIAs** into the core business of Victorian government, as discussed above.
* **Placing intersectional gender equality in focus**, as discussed above.
* **Illuminating gender inequality in Victorian public sector workforces**: For the first time, Victoria has a much clearer picture of the state and nature of workplace gender equality in the public sector. The Act has therefore created an undeniable, evidence-based case for change, inserted workplace gender inequality within organisational governance and risk frameworks, and forced organisational leadership to improve their awareness (and accountability) for the issue.
* **Addressing the drivers of family violence**: The Act plays a key role in Victoria’s family violence primary prevention framework. By addressing gender inequality in Victorian workplaces and more broadly across the Victorian community, the Act is addressing a primary driver of family violence in the community.
* **Raising the bar for other jurisdictions**: The Act and its implementation is being closely watched (and is influencing reform) widely across Australia and internationally, discussed further below at Section 5.3.2.

While achieving sustainable, cultural change is a long-term endeavour, the Act has fundamentally and permanently altered the Victorian landscape. It has created an enduring, legislated engine for change that moves gender equality from the margins to the mainstream of public administration. The focus has successfully shifted from *why* gender equality is important to *how* it will be achieved, measured, and sustained.

### 5.3.2. Legislative influence

The Act’s influence has spread across national and international jurisdictions and has impacted government policy and regulation, research and academic literature, and local level workplace policies and practices. In addition to the examples mentioned at Section 4.1.1 of this submission, this includes:

* **Internationally acclaimed model**: Academics have characterised the Act as ‘a base model for other regulators… reflective of what is required for effective regulation’ (Rogers 2024: 312) and have leveraged the legislation to make recommendations for addressing gender inequality in international contexts (Watt and Cho 2024, Rogers 2024).
* **Interstate adoption and recognition**: Since the commencement of the Act, my office and I have been consulted in relation to the adoption of the legislation and its various requirements in other Australian jurisdictions. The Act has been showcased at multiple national events, including the federal Women and Women’s Safety Ministerial Council (DPMC 2024), and is referenced in national and interstate guidance materials related to gender equality, discrimination and human rights (e.g. AHRC 2021, QHRC 2023). It has also been used in building the ‘case for change’ for the development of similar legislation in other Australian jurisdictions (WALGA 2020, Rogers 2024, Unions Tasmania 2021, LG Professionals SA 2023).

# Opportunities to enhance the operational effectiveness of the Act (TOR 1.4)

While implementation success has been high, four years of experience has identified specific opportunities to the enhance effectiveness of the Act through targeted amendments.

The following sections detail specific recommendations (and the rationale) to address these and other issues, while preserving the education-focused, resource-efficient approach that has delivered implementation success to date. The recommendations are organised around five strategic priorities:

* Commissioner functions and powers (Recommendations 1 - 9)
* Duty holder obligations (Recommendations 10 - 25)
* Operational efficiency (Recommendation 26 - 27)
* Scope and coverage of the Act (Recommendation 28)
* Systemic, structural and cultural change (Recommendations 29 - 35)

## Commissioner functions and powers

The recommendations in this section address TOR 1.1: The extent to which the Commissioner is fulfilling their functions and exercising their powers under the Act.

### 6.1.1 Expanding the Commissioner’s functions to include data collection, analysis, and dissemination as a regulator

The Commissioner's functions under the Act accurately capture my role as supporter and educator, but omit a key regulatory function: the collection, analysis and dissemination of gender-sensitive and intersectionality-informed data.

Gender-sensitive and intersectionality-informed data drives transformative change by enabling gender-inclusive policymaking. When connected to the WGEIs, it can be used to develop, monitor and evaluate the outcomes of gender-focused interventions, reveal barriers to achieving gender equality, and measure progress. Critically, the analysis and open reporting on gender-sensitive and intersectionality-informed data creates transparency, establishes accountability and builds momentum for change.

#### My role in collecting, analysing and disseminating data

To date, I have collected approximately 100 million data points across the first two reporting cycles under the Act, comprising workforce data (recruitment, training and payroll data) and employee experience data (including People Matter Survey (‘PMS’) responses). This represents Australia's most comprehensive gender-disaggregated dataset on public sector workplace gender equality.

Data collection and analysis is central to my regulatory role in four key ways:

* **Compliance assessment**: Duty holders submit data to me via the Gender Equality Reporting Platform developed by my office. I then use this data to assess compliance with the Act and, where appropriate, exercise my compliance and enforcement powers in accordance with the Act (s 22).
* **Insights**: My office undertakes detailed data analysis to derive organisation, industry and sector-level insights disseminated through benchmark reports, research reports and outputs, stakeholder engagements, and the online Insights Portal. This enables duty holders to compare their strategies, measures, progress and outcomes, and to use these insights to develop their GEAPs and progress reports.
* **Transparency**: The public nature of the reporting obligations under the Act were intended to provide an important layer of transparency and accountability across the Victorian public sector (Legislative Assembly 2019). The insights mechanisms outlined above empower employees, employee representatives, key stakeholders, and the public to view obligations and insights at a duty-holder, industry and sector level, to monitor systemic issues, and to advocate for change.
* **Targeted support and education**: The data analysis undertaken by my office informs my education, support and research agenda. For example, 2021 data revealed significant gaps in the way data on compounded inequality was collected and reported. As a result, I committed to (in carrying out my research and education functions under the Act: subs 36(d)-(e)) funding intersectional research in 2021 and 2022 and undertaking detailed and complex data analysis, culminating in the publication of the Intersectionality at Work Report. This supported duty holders to curate impactful, tailored solutions to these issues and also enabled me to provide education and support where it was needed most.

#### The importance of reflecting this regulatory function in the Act

Reflecting the data collection, analysis and reporting activities I carry out in the Commissioner’s functions under the Act is important to:

* reflect the central activities I carry out in my role as a regulator;
* recognise and advance the objects of the Act, in particular to: support the identification and elimination of systemic causes of gender inequality in policy, programs and delivery of services in workplaces and communities (The Act: subs 4(b)), and to recognise that gender inequality may be compounded by other forms of disadvantage or discrimination that a person may experience on the basis of their personal attributes (The Act: subs 4(c)); and
* ensure that, in my role as Commissioner, I am vested with all the powers necessary to undertake these critical activities.

| Recommendation 1I recommend that the functions of the Commissioner at section 36 of the Act are amended to explicitly include the collection, analysis and dissemination of information and data relevant to the operation and objectives of the Act. |
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### 6.1.2 Dealing with systemic gender equality issue disputes and conducting investigations

The dispute resolution function under Division 3 of Part 7 of the Act provides a potentially powerful mechanism to address systemic gender inequality. However, no disputes have been referred to me despite systemic issues being raised through other channels. This indicates scope to expand the Commissioner’s function to deal with systemic issues and serious contraventions of the Act.

#### Addressing the Act’s limitations to deal with systemic issues and serious contraventions

The Act empowers the Commissioner to resolve disputes only where they are referred in accordance with the terms of an enterprise agreement by persons covered by that agreement (The Act: s 39). This significantly limits the function's scope, excluding issues where:

* public sector workplaces lack enterprise agreements with an express referral clause;
* internal dispute resolution processes have not been exhausted before the matter is referred to me;
* the issue affects individuals not covered by enterprise agreements (such as volunteers, contractors, and service users);
* individuals or stakeholders not covered by the enterprise agreement identify the issue; and
* my office identifies the issue through compliance activities or other channels.

The wording ‘by a person *who is covered* by the [relevant] enterprise agreement’ (emphasis added) in the Act may also inadvertently prevent dispute referrals where a person is no longer covered by the agreement but the dispute stems from an issue that occurred when they were covered. Additionally, for the issue to fall within the scope of the current dispute resolution function under the Act, it must relate to one or more of the WGEIs (The Act: s 38). This means that there is currently no avenue to pursue complaints in relation to a duty holder’s positive duty to promote gender equality in policies, programs and service delivery (The Act: s 8), nor their GIA obligation (The Act: s 9).

I have also received feedback from key stakeholders, including unions, that there are significant practical barriers preventing dispute referrals:

* **Knowledge barriers**: systemic issues require awareness across organisations, but individuals often view their experiences as isolated events rather than indicative of a broader systemic issue. Employees who are not union members are not likely to communicate the issue to the relevant union, further limiting awareness of potentially systemic issues.
* **Resource barriers**: employee representatives find pursuing systemic claims costly to resource.
* **Evidentiary barriers**: difficulties accessing and compiling the necessary evidence, leading individuals to pursue claims in other jurisdictions instead, such as under the *Fair Work Act 2009* (Cth) (‘FW Act’) or the *Equal Opportunity Act 2010* (Vic) (‘EO Act’), which offer more immediate individualised redress.

To address these issues, I recommend that: 1) the Commissioner is provided with investigation powers in relation to serious issues and contraventions of the Act; and 2) the dispute resolution function is amended to ensure the Parliament’s intention is accurately reflected.

#### Proposed investigation function

I recommend amending the Act to provide the Commissioner with investigation powers for any matter relating to the Act's operation where:

1. the matter raises a serious issue affecting a class or group of persons; or
2. there are reasonable grounds to suspect contraventions of the Act have occurred; and
3. the investigation would advance the objects of the Act.

This would enable investigation where legitimate barriers exist to accessing the current dispute resolution process under the Act. I would also consider practical factors as to whether an investigation is appropriate, including likelihood of satisfactory outcomes, resource requirements, broad impact potential, and alternative approaches.

Following the model under the EO Act, the Commissioner should be able to apply to the Tribunal for orders compelling document production or attendance, enabling effective investigation whilst also providing procedural protections to the relevant parties (EO Act: Pt 9).

Potential outcomes (prioritising reinforcement and education) might include accepting written undertakings about rectification action; recommending Ministerial action to ensure compliance; publishing reports to promote sector awareness; applying to the Tribunal to enforce undertakings; or taking no further action.

#### Benefits of an investigation function

In recognising that the Act offers an effective base model for other regulators, Rogers (2024) highlighted that the introduction of an inquiry function would strengthen the Commissioner’s compliance powers under the Act. Embedding this function will also:

* address dispute resolution coverage gaps by enabling investigation of issues outside the scope of the dispute resolution function or those affecting volunteers, service users, and others not covered by the enterprise agreement;
* remove the resourcing, knowledge and evidentiary barriers noted above by shifting the investigation burden from individuals and unions to the Commissioner and their office;
* enhance the operational effectiveness of the Act by creating redress avenues for serious contraventions relating to the duty holder positive duty and GIA obligation under the Act; and
* strengthen the Commissioner’s regulatory role. While I prioritise building commitment through education and dialogue, enforceable remedies and investigatory powers are vital for addressing systemic wrongs and upholding the legislation.

| Recommendation 2I recommend that the Act is amended to provide the Commissioner with the power to conduct an investigation into any matter relating to the operation of the Act if:1. the matter raises an issue that is serious in nature and relates to a class or group of persons; or
2. there are reasonable grounds to suspect that one or more contraventions of the Act have occurred; and
3. the investigation would advance the objects of the Act.
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#### Reflecting the intention of the Parliament through alignment with the FW act

As noted above, the phrase ‘by a person covered by the enterprise agreement’ in subsection 39(1)(b) of the Act, read together with the definition of ‘covers’ in section 38, suggests coverage must exist at the time of referral rather than when the dispute was raised at the organisational level. This may inadvertently preclude certain individuals from referring a matter to me for resolution, even where they were permitted to raise the initial internal dispute ([2016] FWC 5089, [2014] FWC 7019).

For example, an individual may wish to raise a systemic gender equality issue about the classification and pay of non-executive employees that arose while employed under an enterprise agreement's classification structure. However, if the individual was subsequently promoted to an executive and role no longer covered by the agreement, the current wording might preclude referral.

However, modern statutory interpretation requires consideration of a provision’s context and purpose ((1997) 187 CLR 384, (1998) 194 CLR 355, (2017) 262 CLR 362). The purpose of the dispute resolution provision is to enable unresolved organisational disputes to be referred to an independent expert for resolution. The Explanatory Memorandum to the Gender Equality Bill 2019 (‘Bill’), confirms section 39 of the Act ‘empowers the Commissioner to deal with a dispute arising under an enterprise agreement...giving parties the opportunity to have it dealt with by someone with specific gender equality expertise’ (Legislative Assembly 2019).

I recommend aligning the Act with the parallel provisions of the FW Act, which do not require individuals to be covered by enterprise agreements to refer matters to the Fair Work Commission (‘FWC’). Instead, the FW Act requires enterprise agreements to include terms allowing the FWC to settle disputes ‘about any matters arising under the agreement’ and states the ‘FWC may deal with a dispute only on application by a party to the dispute’ (FW Act: subs 186(6)(a)(i)).

This ensures that where an individual is permitted to raise a dispute under an enterprise agreement—even where their coverage has ceased—they remain entitled to refer unresolved disputes to me.

| Recommendation 3I recommend that section 39(1)(b) of the Act is amended to the following effect:1. the dispute is referred to the Commissioner in accordance with a term of the enterprise agreement or workplace determination by a party to the dispute.
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### 6.1.3 Providing data specifications for reporting on the WGEIs

To better support duty holder compliance with their obligation to undertake workplace gender audits, I recommend enabling the Commissioner to issue data specifications ahead of reporting deadlines.

#### Data quality issues and the need for specifications

Following 2021 workplace gender audit and 2023 progress audit, my office identified critical and non-critical data issues across all seven WGEIs including: the failure to meaningfully classify the employee occupations and to properly calculate salary and remuneration data, incorrect or improbable data (for example, salaries of $999,999 and multiple CEO counts).

These problems created a range of significant impacts, including:

* duty holder non-compliance with the Act. For example, approximately one-third of 2023 progress audits required resubmission, half of which for reasons of non-compliance with the Act;
* the exclusion of significant audit data from public reports and research analysis due to failure to meet quality requirements and ability to skew the findings (even when technically compliant with the Act); and
* considerable time and resources expended by my office and duty holders. For example, my office spent 90 days processing resubmissions for past reporting obligations, creating significant strain on my small, under-resourced office.

#### Data specifications and the benefits of a transparent, flexible approach

To address this efficiently without requiring ongoing legislative review and amendment, I recommend that the Act enable the Commissioner to issue data specifications (as opposed to prescribing specific data points) ahead of reporting deadlines under the Act. This would include:

* data elements, including fields, names, types, and descriptions (gender, race, age);
* data sources (such as payroll systems, HR systems, or other sources); and
* constraints and rules, including acceptable values and conditions for data provision.

To ensure appropriate use of this specification-setting authority, I would implement robust procedural safeguards:

* **Consultation requirements**: Draft data specifications would be subject to formal consultation with duty holders, representative bodies, and relevant stakeholders, with minimum consultation periods to allow meaningful feedback.
* **Review cycles**: Specifications would be reviewed on regular cycles (for example, every two years) unless urgent changes are required, providing predictability for duty holders while enabling necessary updates to be made.
* **Clear rationale and guidance**: All specifications would be accompanied by explanatory materials detailing the rationale for requirements, examples of compliance, and guidance for implementation.
* **Transitional arrangements**: New or significantly changed specifications would include reasonable implementation timeframes and transitional provisions to prevent compliance difficulties.

Adopting this flexible, transparent approach has many benefits, including:

* **Futureproofing with stability**: Data specifications can adapt to evolving data practices and organisational gender equality maturity without the need for legislative amendment, while also providing predictable review cycles that enable duty holders to plan any necessary system changes and staff training.
* **Stakeholder-informed alignment**: Regular consultation ensures the data specifications remain aligned with other duty holder reporting obligations (for example, those under the *Local Government Act 2020* (Vic), the FMA, and the WGE Act) and capabilities, thereby reducing duplicative reporting requirements and ensuring the Act is responsive to duty holder feedback.
* **Quality improvement through collaboration**: Clear data specifications developed through stakeholder consultation will improve data quality and usability while reducing the resubmission burden on duty holders and my office.

#### Ensuring alignment with the Commissioner’s enforcement powers under the Act

I also recommend updating enforcement powers to enable compliance notices to be issued where duty holders fail to provide data compliant with published specifications without reasonable excuse. This ensures that:

* my ability to issue compliance notices with respect to key obligations under the Act remains consistent. This becomes increasingly important in circumstances where my recommendation in relation to the separation of the audit and reporting obligations is adopted (Recommendations 14 - 23);
* the criticality of accurate data collection and submission is anchored and accentuated within the Act (see discussion of Recommendation 1); and
* I am vested with the powers appropriate of a regulator. While my primary approach is to use dialogue and education, appropriate enforcement powers are critical to ensure individual duty holder compliance and prevent a culture of non-compliance with the Act more broadly.

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| Recommendation 4 Amend the Act to expressly require defined entities to collect and submit data according to data specifications published by the Commissioner, with provisions requiring consultation on draft specifications, and regular review cycles.  |
| Recommendation 5Amend section 22 of the Act to enable the Commissioner to issue compliance notices where defined entities fail to submit workplace gender audits in accordance with published data specifications without reasonable excuse, with safeguards ensuring specifications have been subject to appropriate consultation and review processes. |

### 6.1.4 Specifying a later date for the submission of data and reports

At present, the Commissioner can extend the time by which a duty holder must submit a progress report or a GEAP at the request of a duty holder (The Act: subs 19(2), 12(2)). In 2024, almost 30% of duty holders were granted individual extensions for their first progress audit or progress report submissions (or both).

In practice, extensions are sometimes required at industry, sector or all-entity levels for several reasons:

* **Large-scale operational disruption**: for example, from July 2020 to March 2022, duty holders conducted their inaugural workplace gender audits and developed their first GEAPs while managing COVID-19 pandemic challenges, particularly affecting the public health sector.
* **Harmonising reporting obligations under alternative legislation**: for example, universities have separate reporting periods (1 April 2021 – 31 March 2023) compared to other entities (1 July 2021 – 30 June 2023) to align with WGE Act obligations and reduce reporting burden.
* **Technology issues**: for example, delays in the availability of platforms supporting duty holder compliance may require deadline adjustments.

Amending the Act to provide discretion to the Commissioner to specify later submission dates would:

* enable me to provide regulatory relief to duty holders with related reporting requirements or facing acute operational challenges beyond their control;
* create procedural efficiency by reducing administrative burden for duty holders and my office by decreasing the need to submit and process individual extension requests; and
* focus on outcomes over prescription, future-proofing the legislation by prioritising submission of reportable obligations over rigid deadlines.

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| Recommendation 6Amend subsection 19(1)(b) of the Act to state ‘any later date specified by the Commissioner under subsection (2) or (3A)’ and insert new subsection to the following effect:3A) The Commissioner, at their discretion, may extend the time by which a defined entity or a group of defined entities must submit the progress report. |
| Recommendation 7Amend subsection 12(1)(b) to state "any later date specified by the Commissioner under subsection (2) or (3A)" and insert new subsection:3A) The Commissioner, at their discretion, may extend the time by which a defined entity or a group of defined entities must submit the Gender Equality Action Plan. |

### 6.1.5 Issuing guidelines under the Act

The Minister has been bestowed with a number of key powers under the Act, including the powers to:

* appoint a person to be the Commissioner or Acting Commissioner, and to suspend or remove the Commissioner or Acting Commissioner from office (subs 29(1),ss 33, 34);[[6]](#footnote-7) and
* issue guidelines under the Act (s 47).

To better support duty holder compliance with the Act, I recommend the Act is amended to transfer the function of issuing guidelines relating to duty holder obligations from the Minister to the Commissioner.

#### Commissioner-issued guidance and its benefits

A key pillar of my Strategic Plan is performing as a 'leading practice regulator', including the ability to effectively communicate with duty holders to support compliance. Guidelines are a core component of this approach.

To ensure regulator best practice, Better Regulation Victoria (‘BRV’) recommends reducing barriers to compliance through regulatory standards and requirements, targeting guidance where needed most, duty holder consultation, and providing clear, accessible information through appropriate channels (BRV 2022).

Several Victorian regulators issue their own guidelines:

* the Victorian Social Services Regulator (‘SSR’) has functions and powers to issue guidelines supporting social service providers under the *Social Services Regulation Act 2021* (Vic)(s 18) (‘SSR Act’);
* the Victorian Equal Opportunity and Human Rights Commission (‘VEOHRC’) can issue practice guidelines on any matter relating to the EO Act, following appropriate consultation and publication processes (EO Act: Pt 10, Div 1).

The provision of timely, dynamic, accurate and targeted guidance is integral for regulators to ensure compliance and improvement across its duty holder base. Removing Ministerial sign off on guidance material will support this timely delivery as approval time will reduce and not be impacted by other ministerial priorities. It will also support my independence as a statutory officer.

In summary, transferring guideline authority from the Minister to the Commissioner will:

* align with common regulatory practice of other Victorian regulators;
* improve efficiency by removing ministerial approval processes; and
* enable responsive regulation through timely and dynamic guideline issuing as needs arise.

Commissioner-issued guidelines should maintain the same legal weight under subsection 47(2) of the Act, requiring duty holders to have regard to the guidance.

| Recommendation 8I recommend that Section 47 of the Act be amended to replace the Minister with the Commissioner as the final authority to issue guidelines in accordance with the Act. |
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### 6.1.6 The Commissioner’s title as ‘Public Sector’ Gender Equality Commissioner

To better support the fulfillment of the Act's objects (particularly to promote gender equality, eliminate systemic causes of inequality, address compounded inequality, and enhance economic and social participation across genders), I recommend removing ‘Public Sector’ from the Commissioner’s title to establish the 'Gender Equality Commissioner' (The Act: s 28).

#### Legal inconsistency between title and statutory mandate

The current title creates a misleading restriction that is inconsistent with both the Act's objects and the Commissioner's existing statutory functions. While titled 'Public Sector' Commissioner, section 36 of the Act mandates functions extending beyond traditional public sector boundaries. Critically, the Act's objects (s 4) encompass community-wide gender equality: object (b) requires "elimination of systemic causes of gender inequality in policy, programs and delivery of services in workplaces and communities" while object (e) seeks to "enhance economic and social participation by persons of different genders." The restrictive title undermines the Commissioner's ability to fulfill these legislated community-wide objectives.

The restrictive title has created practical barriers to cross-sectoral engagement, including limiting media coverage and limiting invitations to speak at private sector events where my gender equality expertise would be valuable. Private sector stakeholders often do not recognise the relevance of the Commissioner's research and insights due to the perceived sectoral limitation in the title, despite the Commissioner's statutory mandate to research and promote gender equality broadly consistent with the Act's community-wide objects.

#### The scope, authority and strategic positioning of the Commissioner

The Commissioner's title carries significant implications for perceived scope, authority and strategic positioning within Victoria's gender equality architecture. Amending to 'Gender Equality Commissioner' would deliver four key benefits while maintaining existing regulatory boundaries:

* **Alignment with Parliamentary intent**: The modified title aligns with the Act's objects which explicitly extend to eliminating systemic inequality ‘in workplaces and communities’ (subs 4(b)) and enhancing ‘economic and social participation by persons of different genders’ (subs 4(e)). This amendment corrects a drafting inconsistency between Parliament's intended scope and the Commissioner's title, enabling better fulfillment of the legislature's original intent established in Safe and Strong (DPC 2016) and reiterated in Our Equal State (DFFH 2023).
* **Enhanced public engagement and knowledge transfer**: The current title restricts media engagement and public speaking opportunities, with coverage typically limited to public sector-focused outlets and events. Private sector organisations may not recognise the relevance of the Commissioner's statutory research function (The Act: subs 36(e)) and evidence-based insights due to the perceived sectoral limitation. Removing this artificial barrier would enable broader dissemination of gender equality expertise across all sectors, enhancing the achievement of the Act's community-wide objectives without regulatory expansion.
* **Improved collaborative leadership**: Broadening the title enables the Commissioner to more effectively exercise existing powers to promote the Act's objects ‘throughout the public sector’ (subs 36(a)) by positioning the role to facilitate cross-sectoral partnerships and lead state-wide dialogues. This leverages expertise rather than expanding regulatory authority.
* **Clarification of regulatory scope**: The amendment provides opportunity to clarify that the Commissioner's compliance and enforcement powers under sections 22-27 of the Act remain focused exclusively on duty holders, while the expertise sharing and research functions reflect the Act's broader community objectives.

The title 'Gender Equality Commissioner' provides a more fitting functional and symbolic representation of the Victorian Government's commitment to addressing gender inequality as a pervasive societal issue.

| **Recommendation 9**I recommend that section 28 of the Act is amended to modify the Commissioner’s title to ‘Gender Equality Commissioner’. |
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## Duty holder obligations

The recommendations in this section address TOR 1.2: Duty holders are fulfilling their obligations and performing their duties under the Act.

### Duty holders must demonstrate reasonable and material progress through public reporting every two years

The Act contains ambiguities regarding preparation and submission of audit data and reports. I recommend several minor amendments to ensure the Act clearly reflects Parliament's intended policy that duty holders demonstrate reasonable and material progress through public reporting every two years and use their workplace gender audit results to inform their GEAPs and progress reports.

#### Frequency of progress reporting and ‘reasonable and material’ progress

The Act requires duty holders to submit progress reports ‘on or before 31 October in every second year after submitting a Gender Equality Action Plan’ (subs 19(1)(a)) and demonstrate *progress* in relation to the WGEIs (subs 19(3)(c)). This current wording does not clearly reflect Parliament's intent that duty holders regularly report on their *‘reasonable and material’ progress* to ensure accountability and tracking of progress.

This intention was expressed in the Minister's second reading speech, which stated ‘Defined entities will be required to demonstrate *reasonable and material progress* through public reporting *every 24 months* (Legislative Assembly 2019). The Act's 2018 exposure draft similarly proposed requiring duty holders to demonstrate reasonable progress and explain why any relevant targets may not have been met (Victorian Government 2018: s 14).

These reporting requirements also support the key obligations under sections 16 and 18 of the Act for duty holders to make *reasonable and material progress* in relation to the WGEIs and any prescribed gender equality targets or quotas.

To ensure the Act clearly reflects this 24-month reporting intention, I recommend clarifying that progress reports must be submitted every 2 years and demonstrate "reasonable and material" progress.

#### Assessing whether 'reasonable and material' progress has been made

The Act requires duty holders to make reasonable and material progress in relation to the WGEIs (subs 16(1)). Subsection 16(2) of the Act provides seven factors I must consider when determining whether reasonable and material progress has been made, including entity size, circumstances, resources, operational priorities, and genuine attempts at progress.

If a duty holder fails to make reasonable and material progress, I may issue a compliance notice after first attempting to resolve the matter informally. However, I cannot issue compliance notices where duty holders have "reasonable excuse" for failing to make reasonable and material progress (The Act: subs 22(1)(e)).

In practice, duty holders comment on the factors at subsection 16(2) of the Act in their progress reports, explaining how these factors limited or contributed to their progress. I use this commentary to determine both whether reasonable and material progress was made and whether any lack of progress is justified (constituting ‘reasonable excuse’ for the purposes of my compliance powers under section 22 of the Act).

I recommend amending my compliance notice power to reflect this established practice by specifying that I must consider the subsection 16(2) factors when determining whether a duty holder has ‘reasonable excuse’ for failing to make progress.

This amendment would:

* reflect current practice where duty holders routinely comment on these factors and I assess progress accordingly; and
* provide clarity to duty holders and the public about what I must consider when determining whether they have a ‘reasonable excuse’ for failing to comply with their obligation to make reasonable and material progress.

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| Recommendation 10Amend subsection 19(1) of the Act to require progress reports be submitted on or before 1 May in each year following a Progress Reporting Year; or any later date specified by the Commissioner. |
| Recommendation 11Insert a new definition into section 3 of the Act for the phrase ‘Progress Reporting Year’ which specifies that a progress reporting year is 2023 and each subsequent 2nd year.  |
| Recommendation 12Amend subsection 19(3)(c) of the Act to clarify that duty holders must demonstrate ‘reasonable and material’ progress when reporting on workplace gender equality indicators and prescribed targets.Recommendation 13Insert an additional subsection at section 22 of the Act requiring the Commissioner to have regard to the factors at subsection 16(2) of the Act when determining whether or not a defined entity has reasonable excuse for their failure to comply with their obligation to make reasonable and material progress towards the workplace gender equality indicators. |

### 6.2.2 Duty holders must use the results of their workplace gender audit to inform the development of their GEAP and progress report

The Act currently requires duty holders to prepare GEAPs and to undertake workplace gender audits before developing those plans. For progress reporting, the Regulations require duty holders to prepare a ‘progress audit’: collect data against the WGEIs, compare this with the immediately preceding workplace gender audit, and include the comparison results in their progress report (reg 5C).

This progress reporting method was inserted into the Regulations in 2023 (Amendment Regulations) in response to duty holder feedback that the lack of specificity about WGEI information to be included in progress reports limited their ability to demonstrate progress. It also limited my ability to assess duty holder compliance with the Act and, consequently, to determine if any enforcement action was required.

While the regulatory amendment provided immediate clarity, it creates unnecessary duplication. I therefore recommend amending the Act to:

* consolidate audit requirements by subsuming progress audit requirements within workplace gender audit obligations;
* separate auditing from reporting by requiring duty holders to submit workplace gender audits on earlier, separate dates to their GEAPs and progress reports;
* update reporting dates to reflect this separation of the auditing and reporting components of GEAPs and progress reports; and
* restructure Parts 4 and 5 of the Act to create logical organisation of workplace gender equality obligations.

Practically, entities will undertake a single audit and use the data to inform both their GEAP and progress report. These changes will therefore simplify reporting obligations, ensure the Act contains necessary information for compliance, and create a streamlined approach when duty holders must submit both GEAPs and progress reports in the same year.

These changes will also reflect the Parliament's intention that workplace gender audits be used to measure progress, as the Minister stated in her second reading speech: ‘The workplace gender audit is designed to be a diagnostic tool...This information will be used to establish each organisation's baseline position on gender equality...as well as measure gender equality progress across Victoria’ (Legislative Assembly 2019).

#### Ensuring consistency and efficiency of reportable obligations

The Act currently handles preparation, submission, registration and publication inconsistently across different obligations, outlined in the below table.

Table 4. Obligation preparation, submission, registration and publication requirements

|  |  |  |
| --- | --- | --- |
| Obligation | Section | Requirement |
| GEAP | 10 | Preparation (duty holder) |
| 12 | Submission and publication (duty holder) |
| 14 | Registration and publication (Commissioner) |
| Progress report | 19 | Preparation and submission (duty holder) |
| 20 | Publication (duty holder) |
| 21 | Registration (Commissioner) |

As the Victorian Law Reform Commission (‘VLRC’) notes, legislative success ‘depends greatly on the careful organisation of the material with it’, including not only the order in which information is presented, but also the labelling of sections, Parts and Divisions, and the coherent grouping of information (VLRC 2021). I recommend reorganising Parts 4 and 5 of the Act to create greater uniformity across all obligations, using active voice and plain English principles (VLRC 2021).

This will ensure legislation promotes greater and clearer understanding, is less susceptible to misinterpretation, and frames obligations in active rather than passive voice.

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| Recommendation 14In conjunction with the recommendations in this section, I recommend that regulation 5C of the Gender Equality Regulations 2020 be repealed. |
| Recommendation 15 I recommend that section 19 of the Act is amended to include an additional subsection to the following effect:(X) For the purposes of subsection 19(3)(c)(i), a defined entity must:1. undertake a workplace gender audit in accordance with section 11;
2. compare the workplace gender audit with the immediately preceding workplace gender audit; and
3. include in the progress report the results of the comparison referred to in paragraph (b) necessary to demonstrate reasonable and material progress in accordance with section 16.
 |
| Recommendation 16I recommend that section 11 of the Act is amended to the following effect:**11 Defined entity must undertake a workplace gender audit** 1) A defined entity must undertake a workplace gender audit before developing a:1. Gender Equality Action Plan; and
2. progress report’
3. A workplace gender audit must assess the state and nature of gender inequality in the workplace of the defined entity as at 30 June in the:
	1. Gender Equality Action Plan reporting year; or
	2. Progress Reporting Year,

to which the audit relates, having regard to the following – …1. A workplace gender audit must be based on:
	1. gender-disaggregated data; and
	2. if available (see recommendation 3, data about Aboriginality, age, disability, ethnicity, gender identity, race, religion and sexual harassment.

Recommendation 17I recommend that subsection 10(1) of the Act is amended to the following effect:**10 Defined entity must prepare Gender Equality Action Plan** 1. A defined entity must prepare a Gender Equality Action Plan that includes the following matters –
	1. strategies and measures for promoting gender equality in the workplace of the defined entity, based on the results of the workplace gender audit;
	2. sufficient data collected as part of the workplace gender audit to demonstrate the strategies and measures referred to in paragraph (a) are based on the results of the audit; and
	3. any other prescribed measures.
 |
| Recommendation 18 I recommend that the Act is amended to remove current Part 5 – Reports and create the following divisions under new Part 4 – Workplace gender equality:* Division 1 – Workplace gender audits, containing an amended version of section 11 (see Recommendations 16, 4 and 5), as well as new sections detailing the submission, publication and amendment requirements relating to workplace gender audits (see Recommendations 20, 22 and 23)
* Division 2 – Gender equality action plans, containing current section 10 (Defined entity must prepare Gender Equality Action Plan), an amended version of section 12 (Publication and submission of Gender Equality Action Plan) (see Recommendations 19, 7 and 22), section 13 (Plan prepared for another purpose may be taken to be a Gender Equality Action Plan), section 14 (Commissioner to keep register of Gender Equality Action Plans)(see Recommendation 19) and an amended version of section 15 (Gender Equality Action Plan may be amended) (see Recommendations 22 and 23) of the Act
* Division 3 – Progress, containing an amended version of section 19 (Defined entity must prepare progress report) (see Recommendations 24, 35, 10, 12, 15, 19 and 6), an amended version of section 16 (Defined entity must make reasonable and material progress) (see Recommendation 28), the current section 17 (Prescribed gender equality targets and quotas) and section 18 (Defined entity must make progress), in addition to amended versions of section 20 (Progress report must be submitted to Commissioner and published) and section 21 (Commissioner must keep a register of progress reports) (see Recommendation 19)
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| Recommendation 19I recommend that:* the section 12 heading is amended to ‘Defined entity must submit and publish Gender Equality Action Plan’
* the section 14 heading is amended to ‘Commissioner registration and publication of Gender Equality Action Plans’
* the section 20 heading is amended to ‘Defined entity must submit and publish progress report’
* subsections 19(1)-(2), dealing with the submission of a progress report, are relocated to section 20
* subsection 19(3) is amended to the following effect (with consequential amendments to the remaining subsections ensure grammatical accuracy):

(3) A defined entity must prepare a progress report that – * the heading of section 21 is amended to ‘Commissioner registration and publication of progress reports’
* section 21 is amended to mirror the provisions in section 14, to require the Commissioner to keep a register of progress reports and to enable the Commissioner to publish progress reports.
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| **Recommendation 20**I recommend that additional sections are included within new Division 1 – Workplace gender audits (see Recommendation 14) to specify that:* a defined entity must prepare and submit a workplace gender audit in accordance with the Commissioner’s data specifications (see Recommendations 4 and 5);
* a defined entity must submit a workplace gender audit to the Commissioner on or before 1 December of each Gender Equality Action Plan Year and Progress Reporting Year, or any later date specified by the Commissioner. I recommend that this wording reflect proposed section 12(1)-(3A) (see Recommendation 7);
* the Commissioner must keep a register of workplace gender audits submitted to the Commissioner, consistent with the obligation to keep a register of GEAPs and progress reports (see Recommendation 19); and
* the Commissioner must, within a reasonable time after receiving a workplace gender audit, publish the results of a workplace gender audit submitted to the Commissioner.
 |
| Recommendation 21I recommend that subsection 12(1)(a) of the Act is amended to the following effect:1. 1 May each year following a Gender Equality Act Plan Reporting Year
 |

### 6.2.3 Provide further clarity as to the amendment of data and reports after submission

The Act currently places no limitations on the number of times entities can amend and resubmit reports after their initial submission. This unlimited resubmission facility is being misused and creates significant regulatory burden.

#### Resubmission of workplace gender audits

For the 2023 workplace audit obligations, approximately 100% of audits had data quality issues creating resubmission risk, with one-third actually resubmitted (half for non-compliance reasons).[[7]](#footnote-8) Each resubmission requires a comprehensive and complete review process to be undertaken by my office, regardless of change scope, as organisations commonly introduce new issues when revising data.

During resubmission processing, information becomes unavailable for organisational use, public inspection, and my office's research and analysis work. At present, my office continues to receive resubmissions for audits from the 2023 and the 2021 reporting period.

More concerningly, some duty holders appear to use the availability of unlimited resubmissions as quality review rather than compliance verification, resulting in poor initial submissions, inefficient resource use, and less meaningful information for the organisation, their employees and the public.

I recommend that, along with the separation of the workplace gender audit obligation from the reporting obligations, a new section is inserted into the Act to provide the Commissioner with discretionary authority to permit amendment and resubmission of audits on an exceptional basis.

#### Resubmission of GEAPs

Similar concerns arise with the resubmission of GEAPs, where the absence of restrictions has led to multiple submissions not aimed at addressing non-compliance, but rather to make non-substantive amendments —including minor design changes or textual corrections.

More problematically, duty holders may substantially revise strategies and measures late in reporting cycles (potentially three years into the four-year terms) to better demonstrate progress based on actual achievements rather than original commitments. This retrofitting undermines transparency and integrity, questioning entities' commitment to original objectives and complicating long-term accountability and progress monitoring.

I recommend moving from unlimited GEAP resubmissions to discretionary Commissioner authority for exceptional circumstances. This maintains reporting integrity while providing fair compliance opportunities. Exceptional circumstances might include addressing genuine compliance issues or responding to significant organisational changes or circumstances. Clear criteria will guide these decisions and be communicated through regulatory guidance.

#### Resubmission of progress report

Progress reports present unique concerns warranting different treatment than audits and GEAPs. These documents capture performance during specific historical periods and should represent entities' actual progress during those timeframes. Allowing amendments after submission creates several problems:

* **Historical integrity**: Progress reports document what actually occurred during defined periods; post-submission changes risk revisionist reporting.
* **Accountability erosion**: The ability to modify progress claims after submission undermines the core purpose of progress reports as an accountability mechanism.
* **Public transparency**: Stakeholders and the public need confidence that progress reports accurately reflect historical performance.

Given these concerns, progress reports should be treated as final historical records, with entities having only one opportunity to submit their account of progress during each reporting period.

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| Recommendation 22Amend section 15 of the Act to provide the Commissioner with discretion to permit the amendment and resubmission of a GEAP on an exceptional basis**.** Recommendation 23Insert a new provision into the Act to provide the Commissioner with discretion to permit the amendment and resubmission of a workplace gender audit on an exceptional basis. |

### 6.2.4 Reporting progress in relation to GIAs

The Act (subss 19(3)(a), 9(2)(b)) requires duty holders to report on GIA progress by:

1. identifying assessed policies, programs or services; and
2. reporting actions taken to meet different genders' needs, address inequality, and promote equality.

However, current reporting requirements provide insufficient oversight of GIA effectiveness and compliance.

#### GIA implementation gaps

In 2023, over 18% of duty holders (56 entities) failed to report a single GIA undertaken during the reporting period. This indicates to me that it is very likely that duty holders are missing opportunities to undertake GIAs in circumstances where a policy, program or service requires one. Government policies, programs and services, while often framed as gender-neutral, frequently have profoundly gendered consequences (Hastings et al. 2023).

Many duty holders provided brief, inadequate responses offering little insight as to whether GIAs are being undertaken effectively and in all circumstances in which they are required under the Act. For example, one public health entity described actions taken for a health outreach program GIA simply as: "The program was designed to be accessible to everyone, regardless of gender identity, location and age."

Current GIA reporting requirements do not obligate duty holders to disclose the gendered impacts that their GIAs uncovered. This prevents me from determining whether GIAs are being undertaken effectively and whether appropriate policy, program or service changes result from assessments.

This constrains my ability to assess compliance with this obligation under the Act, and therefore my role as a regulator. It also restricts the role played by the reporting and publication of progress reports to incentivise compliance by duty holders and provide an important layer of transparency and accountability (Legislative Assembly 2019). Evidence shows that properly conducted GIAs can have transformative impacts on organisational knowledge, culture and skills while uncovering innovative gender-responsive solutions (Government of Canada 2020).

#### Aligning the Act with the Government’ commitment to GIA integration

It is important that the Act reflect the Victorian government’s sustained commitment to embedding GIAs within public sector decision making since the passage of the Act.

In 2024, amendments to the FMA ensured gender equality consideration remains a key financial management principle (FMA: Pt 5, Div 4A). As a result, GIA requirements are now a feature of the State budget process.

The Victorian State GEAP, Our Equal State, also expressly commits the government to continue considering women's and gender diverse people's lived experiences in legislation, policies, programs and spending, reflecting the public sector's central role in addressing unequal gendered outcomes (DFFH 2025).

I recommend requiring duty holders to report on GIA details and findings, not just resulting actions. In summary, this would:

* enable proper oversight of GIA quality and effectiveness, ensuring the legislative framework captures the full value of GIA; and
* align with the government's expanded commitment to gender analysis, while providing the transparency necessary for effective regulatory oversight and public accountability.

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| Recommendation 24Amend subsection 19(3)(a)(ii) to require defined entities to report on assessment details made in accordance with subsection 9(2)(a), in addition to actions taken in response to subsection 9(2)(b) requirements |
| Recommendation 25Amend subsection 19(3)(a)(ii) to require defined entities to report on their findings regarding the matters contained in subsection 9(2)(c). |

## Operational efficiency enhancements

The recommendations in this section address TOR 1.3: Opportunities to enhance the operational efficiency of the Act; and TOR 3: Recommendations that would enhance the effectiveness and efficiency of the legislation.

### 6.3.1 Ensuring the Commissioner is aware of relevant duty holder changes

The Act currently lacks any obligation for organisations to notify my office when they become duty holders or experience changes affecting their duty holder status. This creates significant administrative inefficiency, barriers to the performance of my education and support functions, and compliance risks.

To rectify this, I recommend that the Act is amended to align with other regulatory frameworks that require organisations to notify the relevant regulator of a change to their legal structure, status, governance, class or constitution, that is likely to have a material impact on their status as a duty holder.

#### Administrative burden

At present, my small office must manually perform frequent and ongoing reconciliation of sources of public sector agency change information to determine duty holder status under the Act, including:

* Victorian Public Sector Commission’s (‘VPSC’) annual workforce census to identify organisations crossing the 50-employee threshold;
* VPSC's list of public sector employers for new or ceased entities; and
* Machinery of government changes affecting organisational classification.

This also creates additional unnecessary burden on organisations, who are often required to engage in back-and-forth dialogue with my office to confirm contact individuals and the relevant information.

#### Compliance issues

Without a positive obligation to assess and update the Commissioner on duty holder status under the Act, there is a heightened risk of entities either failing to meet their obligations or, conversely, expending unnecessary effort to comply with the Act where no such obligation exists.

For example, in one instance, an administrative office established under a VPS Department exceeded 50 employees on 30 June 2021 but was not identified through my office’s manual inquiries. Nor did the entity notify me that it was a duty holder under the Act. This meant I was unable to provide them with education and support in relation to their new obligations. The entity subsequently failed to submit its required 2021 GEAP, creating flow-on impacts for subsequent reporting cycles.

#### Alignment with other regulatory frameworks

Other Victorian and Commonwealth regulators require duty holders to notify them of relevant organisational changes:

* charities must notify the Australian Charities and Not-for-profits Commission of changes to legal name, governing documents, and responsible persons (*Australian Charities and Not-for-profits Commission Act 2012* (Cth): Div 65-5);
* social services providers must notify the Victorian SSR of organisational, staffing and other changes with material service delivery impacts (SSR Act: s 47).

These notification requirements create more efficient, proactive systems that ensure all duty holders understand and meet their obligations under the relevant legislation.

| Recommendation 26Insert a new section into the Act that requires all public service bodies, public entities, special bodies, local councils and universities to notify the Commissioner of a change to their legal structure, status, governance, class or constitution, that is likely to have a material impact on their status as a ‘defined entity’ under the Act. |
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### 6.3.2 Gender pay equity and the gender pay gap

The Act contains seven WGEIs (s 3) that represent the key areas where workplace gender inequality persists, and where reasonable and material progress towards gender equality must be demonstrated (s 16).

Currently, WGEI 3 is framed under the Act (s 3) as ‘equal remuneration for work of equal or comparable value across all levels of the workforce, irrespective of gender’ (‘Gender Pay Equity’).

I recommend that this be reframed as 'gender pay gap in overall earnings' to better reflect the broader legislative framework, Parliamentary intention, current practice and practical measurement realities.

#### The broader legislative framework

Under the FW Act, the FWC can make orders to ensure that there will be equal remuneration for work of equal or comparable value (FW Act: s 302), with significant penalties for non-compliance and criminal sanctions for intentional underpayment (FW Act: ss 305, 327A-B, 717A-B). This means duty holders are legally required to demonstrate complete compliance with Gender Pay Equity, leaving no scope for progress under WGEI 3 as it is currently framed under the Act.

#### Gender pay gap as the better, more common metric

In practice, gender equity in pay is measured using the *gender pay gap in overall earnings* — the difference in earnings between men and women across all occupations, industries and job types. This metric captures the range of factors that cumulatively contribute to gender differences in earnings, including:

* differences in occupations, industries, career experience, workforce interruptions, and caregiving behaviours that are patterned by gender. Across duty holders, women comprised 78% of all parental leave takers in 2023 (CGEPS 2021: 88). The impact of career interruptions, part-time employment and unpaid care related to parenthood account for 33% of Australia’s 21.8% gender pay gap (WGEA 2025);
* the undervaluation of jobs that are associated with women or traditionally thought of as ‘women’s work’. For example, women employed in the Health Care and Social Assistance industry and the Education and Training industry collectively represent over one-third of all employed women in Victoria (ABS 2022). These industries offer lower salaries, the lowest proportion of superannuation and discretionary payments, and have higher part-time and casual role rates (WGEA n.d.; FPARC 2017); and
* the effects of implicit gender biases that result in inequitable treatment, opportunities and outcomes in the workforce, regardless of credentials, experience and skillsets.

This metric is also used more commonly amongst national and international data collection institutions, including the International Labour Organisation, the Australian Bureau of Statistics (‘ABS’) and WGEA.

#### Parliamentary intent and current practice

A number of sources make it clear that the Parliament’s intention was that the gender pay gap in overall earnings be measured under WGEI 3. For example, in 2018, the Andrews Labor Government made an election commitment to ‘eliminate the gender pay gap in the Victorian Public Sector’ (Victorian Labor 2018). Further, the gender pay equity principles developed by the Equal Workplaces Advisory Council (and now contained in the VPS Agreement: cl 30.1) include ‘Establishing equal pay for work of equal or comparable value’. The Victorian Government has explained that these principles ‘acknowledge that to eradicate *the gender pay gap and its underlying causes* requires genuine engagement’ (IRV 2024: 4: emphasis added) across the sector.

My office currently uses the gender pay gap as the practical metric for Gender Pay Inequity because it is difficult to accurately derive meaningful insights related to work of ‘equal or comparable value’ from the ‘level to CEO’ pay data collected by duty holders as part of their workplace gender audits. This is largely due to differences across entities as to the interpretation of like-for-like work levels.

| Recommendation 27Amend the Act to replace the workplace gender equality indicator at subsection 3(c) from ‘equal remuneration for work of equal or comparable value across all levels of the workforce, irrespective of gender’ to ‘gender pay gap’. |
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## Coverage of the Act

The recommendations in this section address TOR 2.1: The appropriateness of the coverage of the Act, including size and types of organisations required to report.

### 6.4.1 Issuing guidance on proportionate progress requirements

The Act requires all duty holders to make reasonable and material progress across the seven WGEIs, regardless of organisational size (The Act: sub 16(1), s 3). However, duty holders range from entities with 50 staff to VPS Departments and other agencies that employ many thousands of employees, creating significant capacity disparities that affect meaningful progress.

To better support all duty holders, regardless of their size, to comply with the Act, I recommend that the Act is amended to enable the Commissioner issue guidelines related to proportionate progress requirements with respect to the WGEIs, particularly for duty holders with less than 200[[8]](#footnote-9) employees.

#### Capacity challenges across duty holder base

Analysis of the 2023 inaugural progress reports revealed that many small duty holders face disproportionate challenges. In particular:

* resource allocation difficulties are most acute in smaller duty holders where there is unlikely to be dedicated gender equality roles;
* limited analytical capacity affects smaller duty holders' ability to interpret data and develop targeted strategies across all seven WGEIs; and
* the compliance burden relative to available resources creates particular strain for duty holders with less than 200employees.

Recent consultation undertaken by my office confirmed these patterns, with smaller duty holders reporting:

* difficulty allocating sufficient specialist resources across all seven WGEIs simultaneously;
* tension between spreading limited effort across seven areas versus focusing on fewer WGEIs where meaningful change is achievable; and
* preference for concentrating resources on the WGEIs most relevant to their specific workplace challenges.

While many larger duty holders have shown some progress across the WGEIs, smaller duty holders can struggle to make demonstrable advances when required to address all seven WGEIs simultaneously. This results in minimal progress across multiple areas, rather than meaningful change in priority areas affecting their specific workplaces.

The factors at subsection 16(2) of the Act already recognise that organisational size, resources, and operational priorities may influence duty holder progress against the WGEIs. However, the Act does not currently provide a practical framework for proportionate implementation of the obligation to make reasonable and material progress in relation to the WGEIs.

#### Proportionate progress requirements and the benefits of this approach

I recommend that the Act is amended to allow the Commissioner to issue guidelines on proportionate progress requirements, and to consider these guidelines when determining whether a duty holder has made ‘reasonable and material’ progress (The Act: s 16). These guidelines could enable these smaller duty holders (with less than 200 employees) to focus on three priority WGEIs selected based on their workplace gender audit results and sector-specific guidance. Smaller duty holders would still report on all seven WGEIs but focus their improvement efforts on the identified priority areas.

This approach has many strengths, including:

* **Realistic resource allocation**: Smaller duty holders will be able to deploy limited resources strategically rather than spreading them less effectively across all seven WGEIs, prioritising actual outcomes over compliance performance.
* **Targeted impact**: Evidence tells us that addressing gender inequality requires sustained, focused attention (UN Women 2022).[[9]](#footnote-10) Concentrated effort on priority issues for smaller duty holders can achieve demonstrable progress, prompt greater organisational awareness, and incentivise duty holders to make further progress.
* **Capacity building**: Focus on select WGEIs enables duty holders to develop deeper understanding of those issues as well as build their analytical and compliance skills that can later support broader implementation of the Act.
* **Sector-wide efficiency**: Enabling all duty holders to make meaningful progress appropriate to their capacity, rather than minimal progress across all WGEIs, improves overall public sector performance.
* **Proportionate regulation**: Targeting regulatory effort based on risk of harm aligns with BRV’s best practice guidance for regulators (BRV 2022: 6).

I acknowledge that this approach may raise concerns that progress across the seven WGEIs could be negatively impacted. However, progress towards one indicator will drive progress towards others due to the interrelated nature of the causes of workplace gender inequality. Further, larger duty holders (employing the majority of public sector workers) would continue addressing all seven WGEIs and clear guidance would specify expectations for non-priority indicators in small duty holders.

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| Recommendation 28Include an additional factor under subsection 16(2) of the Act to the following effect:(h) any guidelines issues by the Commissioner relating to the prioritisation of the workplace gender equality indicators. |

### 6.4.2 Potential expansion of the Act’s scope and coverage

I have considered whether Act’s scope should be expanded beyond the public sector to explicitly include private sector workplaces. However, at this time, I do not recommend that such amendments are made considering:

* **Regulatory burden and enforcement costs**: A primary concern is the administrative and financial burden the Act's requirements would place on private companies, particularly small and medium-sized enterprises. My office and I would also require a significant increase in resources to ensure I could perform the functions under the Act with respect to the significantly increased duty holder base.
* **Potential for resistance**: The Victorian Government has expressed caution about imposing mandatory requirements without first fostering greater awareness and understanding about gender equality amongst private sector entities. Other policy tools, such as ‘nudges’, are suggested to be more appropriate at this time (Impact Economics and Policy et al. 2024).
* **Shifting industry norms**: A recent study of the Victorian private sector has revealed that industry segregation and gender stereotypes and norms are key challenges to reducing the gender pay gap according to large, medium and small businesses (Impact Economics and Policy et al. 2024). Government initiatives to address these challenges should precede the expansion of the Act.
* **The need for a tailored approach**: The diverse nature of the private sector, with its wide range of industries, business sizes and capacities, raises questions about whether a uniform legislative approach is appropriate.
* **Existing Commonwealth legislation**: The WGE Act currently requires large private sector employers to report on gender equality indicators. In 2020, WGEA observed employers becoming affected by gender equality fatigue, resulting in a decline in employer action (WGEA 2020). Additional legislative burden may increase this fatigue.

I have also considered whether additional categories of non-employee workers should be included within the coverage of the Act, such as volunteers or independent contractors. There are a number of reasons why this would be desirable: removing the two-tiered approach to gender equality, whereby certain workers are excluded from the benefits of the Act; ensuring that public sector workplaces are equitable and safe for all workers, regardless of their employment status; and encouraging duty holders to embed gender equality practices consistently across their workplaces to truly drive cultural change.

However, I do not consider this the appropriate time to expand the Act in this way. My office conducted a pilot with Country Fire Authority (‘CFA’) in 2022 – 2024 to test the application of workplace gender audit obligation on their volunteer workforce. The pilot revealed several challenges in relation to data collection (including system and template limitations) that impacted the usability of this data for both CFA and my office.

While these challenges can be overcome, my view is that many duty holders have only just begun their journey to achieving workplace gender equality and, rather than extending the scope of their current obligations in this way, it would be more appropriate to support duty holders to continue building their reporting capacity and compliance. I recommend that the expansion of the Act to include other categories of non-employee workers, such as volunteers and independent contractors, be revisited at the 8-year review of the Act’s operation under section 53.

## Systemic, structural and cultural change

The recommendations in this section address TOR 2.2: Progress towards driving systemic, structural and cultural change.

### 6.5.1 Family violence leave and related entitlements

As currently framed under the Act, WGEI 6, related to the availability and utilisation of terms, conditions and practices relating to (among other things) family violence leave, provides an incomplete picture of workplace supports.

I recommend that this indicator is broadened to include ‘family and domestic violence leave and support’ to capture the full range of supports that research shows are most effective in helping victim-survivors maintain employment and escape violence (Weatherall et al. 2021).

#### Capturing all supports available

WGEI 6 is measured by the number of people accessing family violence and carer’s leave over a reporting period, disaggregated by gender (CGEPS 2021). While the uptake of this leave plays an important role in supporting greater economic security by enabling those affected to remain in the workforce, effective family violence support extends beyond leave to include flexible work arrangements, job redesign, relocation options, and technology safeguards.

This is recognised in the VPS Agreement (cl 59), which includes meaningful workplace supports to minimise the impact on employment or affected employees who experience family violence such as changes to work patterns, duties, and communication systems. Victorian public sector workplaces also provide access to the Employment Assistance Program, family violence support services and changes or replacement of work Information Communications Technology services so they cannot be used to track an employee who is experiencing family violence (IRV 2021).

#### Alignment with the broader legislative framework

This broader approach aligns with existing legislative frameworks. In particular, the FW Act provides minimum entitlements to employees experiencing family and domestic violence to be reported on to WGEA. This includes access to paid family domestic violence leave as well as requests for flexible working arrangements.

WGEA itself uses the terminology of ‘family and domestic violence support’ terminology and requires employers to explain how they support employees experiencing family and domestic violence (e.g. formal policies and strategies, support mechanisms and leave), the absence of any measures to support such employees, and the availability of paid family and domestic violence leave.

#### Improve data collection and support better outcomes

Broadening the framing of WGEI 6 will enable me to capture the full spectrum of workplace interventions that help victim-survivors maintain employment and economic security. This will, in turn, support analysis and identification of good practice and peer-to-peer learning across the public sector.Greater uptake of the policies and provisions that supplement paid family violence leave can enable greater employee wellbeing, as well as retention and progression.

| Recommendation 29Amend section 3 of the Act to replace the words 'family violence leave' in the definition of 'workplace gender equality indicators' at subsection (f)(i) with 'family and domestic violence leave and support'. |
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### 6.5.2 Ensuring duty-holders consider compounded inequality when complying with their obligations under the Act

The Act embodies the first formal integration of compounded inequality (intersectionality) into Australian equality law. This concept recognises that disadvantage and discrimination intersect with gender inequality, magnifying the severity and frequency of impacts and generating new or more complex forms of marginalisation

Compounded inequality is embedded in the Act in two ways:

* within the objects of the Act and the and the Gender Equality Principles (The Act: ss 4, 6);
* through the requirement for duty holders to consider compounded inequality when preparing GEAPs and workplace gender audits, and when undertaking GIAs (subs 10(2)(a), 9(2)(c), 11(2)(c), 11(3)(b)).

#### Current gaps in compounded inequality consideration and their significance

The current requirements to consider compounded inequality when undertaking workplace gender audits and GIAs are qualified by "if practicable" or "if available" language. This has resulted in:

* a lack of prioritisation of compounded inequality by duty holders and ineffective approaches to undertaking intersectionality-based analysis;
* the creation of policy interventions that disproportionately benefit a small subset of the public, rather than effectively responding to the Victorian community’s needs; and
* the obfuscation of the experiences of individuals facing compounded forms of disadvantage and discrimination in the workplace and in the Victorian community.

The significance of intersectional approaches is evident when we consider that, in 2021:

* estimated industry pay gaps were generally largest between First Nations women and non-Indigenous men. For example, in the Public Healthcare Industry, the pay gap between First Nations women and non-Indigenous men was 35%;
* younger women (15 – 24) experienced the highest levels of workplace sexual harassment than any other age group (14%, almost four times the rate reported by men in the same age group); and
* women with disabilities experienced higher rates of workplace sexual harassment (12%, double the rate reported by women without disabilities) (CGEPS 2023: 25, 39, 58).

#### Considering compounded inequality in GIAs

At present, duty holders must consider compounded inequality when undertaking GIAs only “if practicable” (The Act: subs 9(2)(c)). This creates significant policy gaps, as government policies based on single identity categories (for example, gender alone) create "policy invisibility" for people experiencing structural disadvantage (such as ableism, colonialism or homophobia, etc.) (Manuel 2006, Corus et al. 2016, Nduva 2022, Nous 2025; Osborne et al. 2019). This invisibility results in individuals being excluded from the benefits of public policies, programs or services or, worse still, negatively impacted by them.

Research undertaken by my office reveals that many duty holders are not considering compounded inequality effectively, or at all. A 2024 research project[[10]](#footnote-11) found that 31% of rural and regional hospitals and 36% of rural and regional councils disagreed or were neutral that their leadership understands intersectional GIA requirements (Right Lane Consulting 2024a).

Further, while 2023 progress reports indicated that 72% of reported GIAs considered intersectionality, responses were often superficial if provided at all. For example, in response to the prompt ‘Explain how an intersectional lens was applied when completing the GIA’ a duty holder in the TAFE and Other Education sector stated: “An intersectional lens was applied by consulting key stakeholders, with particular focus on disability, race and religious beliefs”.

It is therefore unclear the extent to which compounded inequality was in fact considered by duty holders, and further that the approach to undertaking an intersectionality-based analysis is lacking: that is, duty-holders appear to be taking an additive approach to compounded inequality (Christoffersen 2021) and to be omitting importance factors, such as Aboriginality, age and sexual orientation.

#### Including intersectional data in workplace gender audits

Workplace gender audits must currently include data on intersectional attributes “if available” (The Act: subs 11(2)(c), 11(3)(b).

The 2021 audit data revealed significant gaps and inconsistencies in the way in which duty holders collect and report on this data. For example, 71% of employees had no recorded First Nations status, meaning more than 7 in 10 employees covered by that data either had no First Nations status recorded or worked for organisations that did not collect and store information about First Nations status through their workforce systems at all (CGEPS 2023: 23).

The 2023 progress audits revealed continued poor data quality in relation to intersectional attributes. For example, 81% of duty holders provided no religion data in relation to their governing body members and a further 8% provided no religion data for most of their governing body members. This failure to provide data becomes more pronounced when you look at the employee dataset: 70% of duty holders provided no religion data and a further 27% did not provide religion data for most of their employees, meaning 97% of duty holders had either no or incomplete religion data on their employees.

#### Staged implementation of mandatory intersectional data collection

I recommend that intersectional data collection be mandatory when undertaking workplace gender audits (and progress audits), with a two-year implementation delay to address:

* **System limitations**: Duty holders need time to reconfigure payroll and human resources systems and policies for comprehensive data collection, which can take considerable time and investment.
* **Cultural safety**: Creating environments where employees feel safe sharing intersectional data requires significant cultural change. Findings from my office’s research grants show that reports of discrimination and harassment are not being properly addressed at the managerial level (Bargallie et al. 2023). Without accountability and buy-in from middle managers for prioritising and driving a culture of safety, intersectionality data is likely to remain significantly underreported (even when reporting becomes mandatory).
* **Capacity building**: Duty holders need competency development in *Privacy and Data Protection Act 2014* (Vic) compliance, compounded inequality assessment, and intersectional analysis integration into workplace initiatives.
* **Sector support**: The VPSC is currently developing guidance for safe, inclusive intersectional data collection forms. Once released, this guidance will be a useful resource for duty holders in developing their approach intersectionality data collection.

#### Employee privacy and voluntary disclosure

It is important to clarify that this proposed amendment would mandate that employers ask for intersectional data, not that employees provide it. Employee disclosure will remain entirely voluntary, with individuals retaining full control over the disclosure and use of their personal information.

My office will provide comprehensive guidance covering the sensitive nature of intersectional data collection, including privacy considerations, best practice approaches for creating safe disclosure environments, and methods for ensuring employees understand their rights regarding data sharing. This guidance already exists and will be expanded to support effective implementation while protecting employee privacy and autonomy.

#### Mandatory consideration of compounded inequality and its benefits

Removing "if practicable" and "if available" qualifiers from the provisions of the Act relating to GIAs and workplace gender audits will:

* ensure that the advancement of gender equality under the Act benefits all Victorians (Orloff 1993, Devereux and Sabates-Wheeler 2004, Lister 2000, Fellows and Razack 1998);
* ensure that duty holders adhere to this requirement with the necessary level of commitment and attention;
* mitigate the risk of entities overlooking critical factors in their considerations when undertaking GIAs;
* support duty holders to build relationships and engage with communities affected by their policies, programs and services to ensure that the interventions they develop address context-specific inequalities;
* uphold the objects and principles of the Act that recognise compounded disadvantage and the need to affect structural change; and
* align the Act with the Our Equal State Action 103 commitment to improve intersectional data collection across the VPS.

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| Recommendation 30Remove "if practicable" from subsection 9(2)(c), requiring GIAs to consider compounded inequality based on Aboriginality, age, disability, ethnicity, gender identity, race, religion, or sexual orientation. |
| Recommendation 31Remove "if available" from subsection 11(3)(b), requiring workplace gender audits to be based on intersectional data collection (with employee disclosure remaining voluntary), with implementation delayed two years to enable proper preparation including comprehensive guidance on privacy-sensitive data collection practices. |

### 6.5.3 Ensuring the Act continues to be a powerful, nation-leading tool for addressing the systemic drivers of workplace gender inequality for all Victorians

#### Gender inclusivity of the Act

The Act intentionally omits a definition of 'gender' to allow the concept to evolve over time without requirement legislative amendments. However, this absence has led duty holders to conflate 'gender' with 'sex', focusing on cisgender[[11]](#footnote-12) women's equality and the inequalities that exist between cisgender women and cisgender men. The Act's express references to 'women' and 'girls' (subss 4(a), 6(5), 6(9)) without other gender descriptors reinforces assumptions that may exclude transgender women and gender-diverse individuals.

#### The experience of LGBTQIA+[[12]](#footnote-13) people in the workplace

International research confirms profound workplace disadvantage for gender and sex diverse individuals (Perales et al. 2020, Waite 2021, Dray et al. 2020, Kleintop 2021). For example:

* Canadian surveys found 18% of transgender people were denied positions and 13% dismissed from their employment because they were transgender (Baur and Al Scheim 2015).
* German studies show 43% of LGBTQIA+ individuals experience workplace harassment and discrimination because of their gender identity (Vries et al. 2020).
* US research consistently reports higher barriers to labour market entry, higher rates of workplace harassment and discrimination, much lower average earnings and higher rates of unemployment for LGBTQIA+ people when compared with the wider cisgender population (Leppel 2016, Carpenter et al. 2020, Granberg et al. 2020, James et al. 2016).

Australian evidence reveals that the majority of LGBTQIA+ people do not disclose their identity at work due to fears of heterosexism and career impacts (Bowers et al. 2006, Pitts et al. 2006, Robinson and Berman, 2010, Hill et al. 2021).These fears are well-founded: LGBTQIA+ individuals who are 'out' face significant levels of discrimination and harassment, including death threats and physical abuse threats; and many transgender people experience harmful workplace misgendering (Barrett et al. 2011, VLA 2024). Education sector research in particular found prejudicial treatment in the form of work sabotage (22%), unreasonable expectations (15%), and limited career development (15%) (Irwin 2002).

#### Gender inclusivity and its benefits

I recommend that the Act is amended to move beyond the gender binary and improve gender inclusivity. This would have many benefits:

* **Reflect objects of the Act**: The Act's objects explicitly reference people of different genders and gender identities, as well as human rights instruments that apply to people of all genders (subss 4(c) – 4(f)).
* **Reflect the Government’s commitment to support LGBTQIA+ Victorians**: The Government has: expressly acknowledged inequalities affecting LGBTQIA+ communities and affirmed the right to equality and fairness; committed to ‘relentless’ effort to ‘ensure LGBTQIA+ Victorians feel safe and respected, and can live visibly, wholly, and freely’; and been vocal in its support of transgender Victorians in the face of anti-trans rallies and movements (Legislative Assembly 2019, Shing 2024, Williams 2023).
* **Align with other Victorian legislation**: The EO Act (subss 6(d), 6(p), s 7-9) defines 'sexual identity' and 'gender identity' and prohibits discrimination on these bases, while the *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic) (subs 15(2)) affirms that sexual orientation and gender identity are ‘not broken and in need of fixing’.
* **Follow international best practice**: In committing to introduce the Act, the Government expressed the need to apply learnings from other progressive jurisdictions, including Nordic countries such as Iceland (DPC 2016). Iceland amended its equality law from ‘Equal Status and Equal Rights of Women and Men’ to ‘Equal Status and Equal Rights Irrespective of Gender’, acknowledging the historically disadvantaged positions of both women and gender-diverse individuals, and ensuring its provisions consider different experiences of people of difference gender.
* **Broader equality benefits**: Enhanced gender inclusivity benefits people of all genders – cis gender men and cis gender women included. Misogyny, attacks on femininity, and rigid gender norms drive both transphobia and discrimination against gender-diverse individuals. They are also key drivers of violence against cis gender women and cis gender men who do not conform to these views about how people ascribed certain characteristics should exist and behave in society.

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| Recommendation 32Replace references to 'sexual orientation' at subsections 4(c), 6(8), 9(2)(c)(viii), 11(2)(c)(viii) and 11(3)(b) with 'sexual identity'. |
| Recommendation 33Insert definitions at section 3:* "gender identity has the same meaning as it has in the *Equal Opportunity Act 2010*"
* "sexual identity has the same meaning as it has in the *Equal Opportunity Act 2010*"
 |
| Recommendation 34Insert additional gender equality principle at section 6: "Gender diverse, non-binary and transgender people have faced unique forms of discrimination and disadvantage on the basis of their gender identity and/or sexual identity." |

### 6.5.4 Considering further review of the Act

Division 4 requires a review of the Act to be conducted after four years (section 52) and eight years (section 53), with no legislative requirement for further reviews.

Given that promoting gender equality requires structural and systemic change over time, the eight-year review should consider whether further reviews are needed (and if so, how frequently) to maintain the Act's effectiveness and contemporary relevance.

#### The evolving nature of achieving gender equality

The Bill's second reading speech stated that reviews of the Act would ‘evaluate the legislation's ongoing effectiveness and continued alignment with the Victorian community's expectations and values’ (Legislative Assembly 2019).

Promoting gender equality presents dynamic, evolving challenges shaped by changing social, economic and legal contexts. As barriers faced by women and gender-diverse people continue changing, legislative practice must adapt accordingly. This legislation, the first of its kind in Australia legislation, is still in its infancy. Consideration for a further review of the Act after the eight-year juncture is essential to prevent it from becoming static and unresponsive to systemic gender inequalities.

Further, as my office refines its data collection, along with the scope of its functions and powers, we will also require re-evaluation to remain fit-for-purpose.

#### Best practice

Regular legislative reviews ensure legislation remains an effective tool for addressing gender inequality while evolving with contemporary research. This approach reflects best-practice governance.

International experience also demonstrates the importance of ongoing review mechanisms:

* **Canada**: Quebec's Pay Equity Act 1996 faced a Supreme Court challenge in 2018 after over 20 years without comprehensive review. The legislation dealt with pay processes for employers of women in female-dominated roles with no male comparator groups, potentially violating the Canadian Charter of Rights and Freedoms. While the legislation was ultimately upheld, the legal challenge highlighted how embedded review functions could have enabled more effective evolution with contemporary standards and avoided Supreme Court scrutiny.
* **United Kingdom**: The UK Equality Act (‘UK Act’) has been subject to repeated scrutiny regarding its effectiveness in driving pay practice changes, regulatory sufficiency, and potential expansion to include intersectional attributes. On this latter issue, the UK Act has been criticised due to its primary focuses on additive discrimination forms, omitting socioeconomic status and comprehensive disability impact consideration (Fawcett Society and YWT 2018). A Liaison Committee of the House of Lords reviewed the UK Act in 2016 and again in 2021, providing the UK government with recommendations to ensure the UK Act met its objectives (House of Lords Library 2022). The mechanisms for regular review of the UK Act provided insight to the UK government as to the impacts of the COVID-19 pandemic on individuals facing compounded inequality, and the need for the UK Act to be responsive to these impacts.

The Australian Federal Government's 2021 review into the WGE Act led to ten recommendations for strengthening gender equality standards, accelerating outcomes and reducing regulatory burden (DPMC 2021). This review proved instrumental in bridging the 'action gap' and enhancing the WGE Act’s impact. Critically, recommendation ten of this review calls for another review of the WGE Act five years after any legislative changes commence (DPMC 2021).

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| Recommendation 35Amend section 53 to require the eight-year legislative review to consider whether any further review of the Act is required. |

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## Legislation

*Australian Charities and Not-for-profits Commission Act 2012* (Cth)

*Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic)

*Equal Opportunity Act 2010* (Vic)

*Fair Work Act 2009* (Cth).

*Fair Work (Commonwealth Powers) Act 2009* (Cth)

*Financial Management Act 1994* (Vic)

*Gender Equality Act 2020* (Vic)

*Gender Equality Amendment Regulations 2023* (Vic)

*Gender Equality Bill* (Vic) (Exposure Draft, August 2018)

*Gender Equality Regulations 2020* (Vic)

*Independent Broad-based Anti-corruption Act 2011* (Vic)

*Legal Profession Act 2004* (Vic)

*Privacy and Data Protection Act 2014* (Vic)

*Workplace Gender Equality Act 2012* (Cth)

*Social Services Regulation Act 2021* (Vic)

## Legal cases

Construction, Forestry, Mining and Energy Union vs Thiess Pty Ltd [2016] FWC 5089

Denis Seiffert v Patrick Projects Pty Ltd [2014] FWC 7019

CIC Insurance Ltd v Bankstown Football Club Ltd (1997) 187 CLR 384

Project Blue Sky Inc v Australian Broadcasting Authority (1998) 194 CLR 355

SZTAL v Minister for Immigration and Border Protection (2017) 262 CLR 362

# Appendix 1

## Guides, templates, rules and rubrics

### Obligations under the Act

[Gender Equality Act Reporting Platform user guide](https://www.genderequalitycommission.vic.gov.au/gender-equality-act-reporting-platform-user-guide)

[Factors affecting reasonable and material progress](https://www.genderequalitycommission.vic.gov.au/factors-affecting-reasonable-and-material-progress)

#### 2021 workplace gender audits and GEAPs

2021 Workplace gender audit guidance

2021–2025 GEAP: Guidance for Defined Entities

2021 Workplace Gender Audit templates

[2021 workplace gender audit compliance issues index](https://www.genderequalitycommission.vic.gov.au/2021-workplace-gender-audit-compliance-issues-index)

[2021 GEAP compliance findings index](https://www.genderequalitycommission.vic.gov.au/2021-gender-equality-action-plan-compliance-findings-index)

#### 2023 progress audits and progress reports

[2023 Progress audit guide](https://www.genderequalitycommission.vic.gov.au/progress-audit-2023)

[2023 Progress audit data quality rules](https://www.genderequalitycommission.vic.gov.au/progress-audit-data-quality-rules-2023)

[2023 Progress report assessment rubric](https://www.genderequalitycommission.vic.gov.au/progress-report-assessment-rubric-published)

2023 Progress reporting guidance update

2023 Progress audit guidance

2023 Progress report templates

[2023 Progress report: Understanding compliance feedback](https://www.genderequalitycommission.vic.gov.au/understand-progress-report-2023-compliance-feedback)

[2023 Progress audit: Understanding compliance feedback](https://www.genderequalitycommission.vic.gov.au/understand-progress-audit-2023-compliance-feedback)

#### 2026 workplace gender audits, progress audits, GEAPs and progress reports

[2025 Audit guidance](https://www.genderequalitycommission.vic.gov.au/2025-audit-guidance)

[2025 Audit workforce reporting template](https://www.genderequalitycommission.vic.gov.au/2025-audit-guidance)

[2025 Practice note – gender equality employee experience survey](https://www.genderequalitycommission.vic.gov.au/employee-experience-surveys-audit)

[2025 employee experience questions](https://www.genderequalitycommission.vic.gov.au/employee-experience-surveys-audit)

[2025 employee experience reporting template](https://www.genderequalitycommission.vic.gov.au/employee-experience-surveys-audit)

[People matter survey for gender equality reporting – how to promote your survey guide 2025](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[People matter survey for gender equality reporting 2025 – key messages](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[People matter survey for gender equality reporting 2025 – email template invitations](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[People matter survey for gender equality reporting 2025 – news article](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[People matter survey for gender equality reporting 2025 – speaking notes](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[People matter survey for gender equality reporting 2025 – FAQs](https://www.genderequalitycommission.vic.gov.au/promotional-materials-2025-people-matter-survey-gender-equality-reporting)

[2026 gender equality action plan (GEAP) guidance](https://www.genderequalitycommission.vic.gov.au/gender-equality-action-plan-guidance-2026)

[2026 Progress report guidance](https://www.genderequalitycommission.vic.gov.au/2026-progress-report-guidance)

[2026 Gender equality action plan further how-to guides](https://www.genderequalitycommission.vic.gov.au/2026-gender-equality-action-plan-further-how-guides)

[Performance measures](https://www.genderequalitycommission.vic.gov.au/performance-measures)

[2026 Analysing your audit results - guidance note for using the performance measures](https://www.genderequalitycommission.vic.gov.au/analysing-your-audit-results)

2026 GEAP template

2026 Progress report template

#### GIAs

[About gender impact assessments guide](https://www.genderequalitycommission.vic.gov.au/about-gender-impact-assessments)

[GIA toolkit](https://www.genderequalitycommission.vic.gov.au/gender-impact-assessment-toolkit-and-templates)

[GIA templates](https://www.genderequalitycommission.vic.gov.au/gender-impact-assessment-toolkit-and-templates)

[Guidance Note – Determine if a GIA is required](https://www.genderequalitycommission.vic.gov.au/sites/default/files/2022-03/Determining%20whether%20a%20GIA%20is%20required%20Guidance%20Note%20v1%20%286%29.pdf)

[Guide to Embedding gender impact assessments into your organisation](https://www.genderequalitycommission.vic.gov.au/embedding-gender-impact-assessments-your-organisation)

[Guidance note for completing a GIA on a Council Plan](https://www.genderequalitycommission.vic.gov.au/guidance-note-completing-gia-council-plan)

### Intersectionality, dispute resolution and other

[Addressing Intersectionality Guidance](https://www.genderequalitycommission.vic.gov.au/applying-intersectionality)

[Dispute Resolution Function – Guidance Note](https://www.genderequalitycommission.vic.gov.au/disputes-commissioner-can-resolve)

[Internal resolution form – raising a dispute with your employer](https://www.genderequalitycommission.vic.gov.au/disputes-commissioner-can-resolve#guidance-and-forms)

[Enforcement of compliance with the Gender Equality Act](https://www.genderequalitycommission.vic.gov.au/compliance-gender-equality-act-2020)

## Case studies

[Video case study: How to do a gender impact assessment](https://www.genderequalitycommission.vic.gov.au/how-gender-impact-assessment-case-study-video)

[Designing for diversity: How storytelling helped attract more women to field roles](https://www.genderequalitycommission.vic.gov.au/designing-diversity-how-storytelling-helped-attract-more-women-field-roles)

[Video case study: GIA at the Department of Education's Expansion of Outside of School Hours Care (OSHC) Program](https://www.genderequalitycommission.vic.gov.au/case-study-gia-department-education-expansion-outside-school-hours-care-oshc-program)

[Video case study: Melbourne Polytechnic GIA on campus security](https://www.genderequalitycommission.vic.gov.au/video-case-study-gia-melbourne-polytechnic-campus-security)

[Video case study: Department of Transport and Planning GIA on the Tram Plan program](https://www.genderequalitycommission.vic.gov.au/video-case-study-department-transport-and-planning-gia-tram-plan-program)

[Video case study: Corangamite Shire Council Infringements Policy](https://www.genderequalitycommission.vic.gov.au/video-case-study-corangamite-shire-council-infringements-policy)

[Case study: Improving public toilet access](https://www.genderequalitycommission.vic.gov.au/case-study-improving-public-toilet-access)

[Case study: conducting a gender impact assessment on urban cooling community education](https://www.genderequalitycommission.vic.gov.au/case-study-conducting-gender-impact-assessment-urban-cooling-community-education)

[Case study: Developing trans and gender diverse services at BreastScreen Victoria](https://www.genderequalitycommission.vic.gov.au/case-study-developing-trans-and-gender-diverse-services-breastscreen-victoria)

[Case study: Undertaking a gender impact assessment on place naming](https://www.genderequalitycommission.vic.gov.au/case-study-gender-impact-assessment-place-naming)

[Case study: Addressing the gendered and intersectional nature of loneliness at Monash City Council](https://www.genderequalitycommission.vic.gov.au/case-study-addressing-gendered-and-intersectional-nature-loneliness-monash-city-council)

[Case study: Assessing the gendered nature of a mountain bike track in the City of Geelong](https://www.genderequalitycommission.vic.gov.au/case-study-assessing-gendered-nature-mountain-bike-track-city-geelong)

[Case study: Assessing the gendered impact of an aquatic centre](https://www.genderequalitycommission.vic.gov.au/case-study-assessing-gendered-impact-aquatic-centre)

[Case study: Assessing the gendered nature of a regional council’s Community Grants Program](https://www.genderequalitycommission.vic.gov.au/case-study-assessing-gendered-nature-regional-councils-community-grants-program)

[Case study: Applying a gender equality lens to childbirth & parenting education programs at Northern Health](https://www.genderequalitycommission.vic.gov.au/case-study-applying-gender-equality-lens-childbirth-parenting-education-programs-northern-health)

[Case study: Gender, toilets and evacuation centres](https://knowledge.aidr.org.au/resources/ajem-january-2022-gender-toilets-and-evacuation-centres/)

[Case studies for embedding gender impact assessments](https://www.genderequalitycommission.vic.gov.au/embedding-gender-impact-assessments-case-studies)

[Gender equality action plan case study](https://www.genderequalitycommission.vic.gov.au/gender-equality-action-plan-case-study)

## On-demand workshops and video guides

[Gender impact assessment workshops](https://www.genderequalitycommission.vic.gov.au/gender-impact-assessment-workshops)

[Gender equality action plan webinar](https://www.genderequalitycommission.vic.gov.au/gender-equality-action-plan-webinar)

Video guide: [Completing a gender equality action plan](https://www.youtube.com/watch?v=W0N5AofmFzw)

Video guide: [Completing your progress report](https://www.youtube.com/watch?v=QkY2vn7JqpQ)

Video guide: [Completing an audit](https://www.youtube.com/watch?v=JMTSqicDnpQ)

Video guide: [How to resubmit your audit data](https://www.genderequalitycommission.vic.gov.au/how-resubmit-2023-audit-data)

## Insights reports and publications

### CGEPS insights reports

[Baseline Report: 2021 workplace gender audit data analysis](https://www.genderequalitycommission.vic.gov.au/sites/default/files/2022-12/Baseline-report-2021-workplace-gender-audit-data-analysis.pdf) (2021)

[Intersectionality at Work: Building a baseline on compounded gender inequality in the Victorian public sector](https://www.genderequalitycommission.vic.gov.au/intersectionality-work) (2023)

[Key insights from 2023 audits](https://www.genderequalitycommission.vic.gov.au/key-insights-2023-audits) (2024)

[Insights Report: Sexual Harassment](https://www.genderequalitycommission.vic.gov.au/insights-report-sexual-harassment) (2025)

[Insights Report: Gender Pay Gap](https://www.genderequalitycommission.vic.gov.au/insights-report-pay-gap) (2025)

### Research publications funded by CGEPS

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Cho, HE and Segrave M ‘[Victorian local councils and gender equality: Examining commitments to diversity and the experiences of women from migrant and refugee backgrounds](https://www.genderequalitycommission.vic.gov.au/2022-research-projects/victorian-local-councils-and-gender-equality),’ Monash University, 2023

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Ryan, L, Blackham, A, Gaze, B, Ruppanner, L, and Ainsworth,S, ‘[Laying the foundation for gender equality in the public sector’](https://www.genderequalitycommission.vic.gov.au/2022-research-projects/laying-foundation-gender-equality-public-sector-university-melbourne-2022), The University of Melbourne, 2022

Sojo, V, Ryan, M, Fine, C, Wheeler, M, McGrath, M, Glennie, M, Roberts, V, Arthur, L, Hadoux, R, & Western, K, ‘[What works, what’s fair? Using systematic reviews to build the evidence base on strategies to increase gender equality in the public sector’](https://www.genderequalitycommission.vic.gov.au/2022-research-projects/what-works-whats-fair-university-melbourne-australian-national-university-and-swinburne-university), The University of Melbourne, The Australian National University, and Swinburne University of Technology, 2022

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Williams J, Khan MH, Mayes R, Obst P, and Lowe B ['Getting on at work: Progression and Promotion of Women with Disability in the Victorian Public Service report'](https://www.genderequalitycommission.vic.gov.au/2022-research-projects/getting-on-at-work), Queensland University of Technology (QUT), 2023

1. See Appendix 1 for a list of these materials. [↑](#footnote-ref-2)
2. Detailed information about what was required to demonstrate compliance in future progress reporting cycles was also made available on my website, accessible here: [Progress report 2023: Understanding compliance feedback | genderequalitycommission.vic.gov.au](https://www.genderequalitycommission.vic.gov.au/understand-progress-report-2023-compliance-feedback). [↑](#footnote-ref-3)
3. A full list of research projects I have funded can be found on my website: [Insights and evidence | genderequalitycommission.vic.gov.au](https://www.genderequalitycommission.vic.gov.au/evidence-and-research). [↑](#footnote-ref-4)
4. For further information, see my website: [2024 research grant awarded | genderequalitycommission.vic.gov.au](https://www.genderequalitycommission.vic.gov.au/2024-research-grant-awarded) [↑](#footnote-ref-5)
5. For further examples of duty holders embedding GIA within their organisations, see my website: [Case studies for embedding gender impact assessments | genderequalitycommission.vic.gov.au](https://www.genderequalitycommission.vic.gov.au/embedding-gender-impact-assessments-case-studies). [↑](#footnote-ref-6)
6. I do not wish to provide any substantive commentary in relation to the Minister’s exercise of these powers. [↑](#footnote-ref-7)
7. As at March 2025 - this number continues to grow. [↑](#footnote-ref-8)
8. This is the median number of employees employed by duty holders under the Act as of June 2024. At this time, the smallest duty holder under the Act had 50 employees and the largest 85,341, with the average number of employees approximately 1,600. There were 93 duty holders that employed 200 or less employees as of June 2024. [↑](#footnote-ref-9)
9. For case studies demonstrating the benefits of organisations concentrating their gender equality efforts, see: WGEA, ‘Case Studies’ (webpage), accessed 13 May 2025. [↑](#footnote-ref-10)
10. The research involved extensive consultations with ~44% of councils and 30% of hospitals in rural and regional Victoria as well as relevant peak bodies. [↑](#footnote-ref-11)
11. As explained by Tate, C et al (2020): ‘When an individual has the same label as their birth-sex throughout life, that individual is said to be *cisgender* because *cis* is Latin for “on the same side as.” [↑](#footnote-ref-12)
12. Many terms are used to describe people of diverse sex and/or gender identities, including agender, androgynous, cross dresser, drag king, drag queen, endosex, genderfluid, genderqueer, intergender, intersex, neutrois, pansexual, pan-gendered, third gender, third sex, transgender, transexed, transsexual, and without sex and gender identity. In addition, there are culturally specific terms, such as sistergirl and brotherboy, which are used by some Aboriginal and/or Torres Strait Islander people (AHRC 2013) [↑](#footnote-ref-13)