Diversity Council Australia's
Submission to the Public Consultation on
Reporting Requirements under the
Workplace Gender Equality Act 2012

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About DCA

DCA provides diversity advice and strategy to over 250 organisations, many of whom are Australia's biggest employers. DCA member organisations are estimated to employ more than one million Australians, representing around 10 per cent of the Australian workforce.

In partnership with our member organisations, our mission is to:

• Lead debate on diversity in the public arena;
• Develop and promote the latest diversity research, thinking and practice; and
• Deliver innovative diversity practice resources and services to enable our members to drive business improvement.

DCA appreciates the opportunity to have input into this consultation and hopes as Australia's only not-for-profit diversity advisor to Australian business that our views, as well as those of other key stakeholders are given serious consideration before the Government makes any final decision on changes to the gender reporting regime.

Background

Diversity Council Australia works with its members in businesses across Australia to support their genuine efforts to improve outcomes for women and other diverse employees.

Consultations with our members indicate they overwhelmingly support the Workplace Gender Equality Act 2012 ('WGE Act') as a mechanism to deliver tangible benefits for women, their businesses, and the general community.

DCA undertook extensive consultation with its members during the 2009 Review of the Equal Opportunity for Women in the Workplace Act 1999, the introduction of the WGE Act in 2012 and the subsequent design and implementation of the WGE Act reporting requirements. More recently, DCA has provided significant support for our members in preparation for and implementation of the latest WGE Act reporting requirements.

DCA's consultation on gender reporting over recent years has included a number of dedicated stand-alone consultations to hear members' views and seek feedback on legislative proposals, as well as continuing regular, quarterly dialogue with members through our highly successful Gender Reporting Network (attended by Workplace Gender Equality Agency (WGEA) representatives).

DCA member organisations have been overwhelmingly supportive of the legislation as a way to:

• Improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace;

• Promote and improve gender equality (including pay equity between women and men) in employment and in the workplace;

• Support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters;

• Promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities);

- Provide an important new mechanism to advance the more widespread adoption of workplace flexibility; and

- Foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace.

DCA members have particularly welcomed the new mechanisms for easy on-line reporting. These will be simpler and more accurate than former requirements and make it straightforward for companies to report on their actions to promote gender equality and benchmark their performance against their competitors.

While many DCA members are leading the world in innovative diversity practice, and in particular gender equality strategies, you would be aware there remains substantial opportunity for improvement in gender equality in Australian workplaces. This is evidenced by key equality indicators such as the gender pay gap (17.5% in 2013), and the negligible change in the representation of women in executive ranks (e.g. women comprise 9.2% of executives in the ASX 500, only 12 ASX 500 companies have female CEOs, women hold 12.3% of directorships in the ASX 200 but only 9.2% in the ASX 500 women).

A recent report from the World Bank highlights that among the most important corporate practices to increase women's employment or their longevity in employment – and which shows a return on investment – is setting up employee data infrastructure that disaggregates human resource data by sex to monitor the outcomes associated with company employment policies.[1] The importance of the mechanisms and tools provided by WGEA to business to support reporting under the Act cannot be underestimated.

The most recent World Economic Forum Global Gender Gap report[2] notes that Australia still faces the challenge of fully closing economic and participation gaps for women – in particular, the gaps in senior positions, wages and leadership levels. The report points to research showing that the reduction in the male-female employment gap has been an important driver of European economic growth in the last decade and closing this gap would have massive economic implications for developed countries like Australia.

DCA and our members regard the WGE Act reporting arrangements as an important mechanism to reduce women's labour market disadvantage whilst simultaneously improving business productivity.

The current consultation

To gauge our members' views on the current consultation on reporting requirements under the WGE Act, DCA conducted a survey of members in which we asked for feedback on the Department's guiding questions. More than ninety different employers provided information about their experiences with gender reporting, showing the enormous degree of interest among employers about the issue of gender reporting. Two thirds of those organisations who responded to our survey (64 organisations) had reported to WGEA in this reporting year. A small number of addition organisations were still in the process of submitting their report, or were anticipating reporting in future years (7).

It should be noted that the following comments from our members have been provided in the context of widespread support for gender reporting. Members of DCA understand the

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[1] World Bank, 2014. *Gender at Work: A Companion to the World Development Report on Jobs.* Washington, DC:World Bank
[2] World Economic Forum. 2013. *The Global Gender Gap Report 2013*. Geneva: World Economic Forum.

adage that, 'what gets measured gets done'. Business values having clearly defined measurement and benchmarking systems in place. Many of our member organisations have indicated to DCA that the requirement to report is an essential tool in keeping their organisation focussed and providing them with the ability to obtain a competitive advantage by aiming to be an Employer of Choice for Women.

As succinctly stated by one of our members:

> *We recognise and support the critical importance of standardised reporting, both within and across industries, to drive improvements in gender equality and lifting female participation more broadly.*

This is the case even among those organisations that are clearly still struggling with implementing reporting arrangements and members were also generally positive about their dealings with the Agency.

Through DCA's Gender Reporting Network, we have worked closely with our members and with WGEA since the latest changes to the WGE Act were announced to ensure that organisations were well prepared for the 2014 reporting year.

The following highlights those issues which were identified by employers as areas which could be improved upon in terms of reporting requirements and processes. While most employers are managing reporting requirements well, a number are still experiencing challenges in particular areas and have identified some potential improvements.

Given the observations made by members, DCA believes that a priority for the Government should be to ensure that industry continues to receive a high level of individual assistance from WGEA, and it is hoped that with the work that has gone into the current reporting cycle at an individual enterprise level, the next reporting cycle will proceed more smoothly and be less resource intensive.

This was acknowledged by a number of respondents who told us that:

> *Broadly speaking, considering this is the first year of reporting, data requirements were clear.*

And:

> *We needed to realign all our definitions of our role levels to meet those of the Agency so that our reporting made sense to them. A lot of work, but it is done now. If they were to alter those level definitions then there would be some push back.*

The italicized comments above and following are direct quotes provided by our members about their experiences with gender reporting.

1. Collecting data

Of the organisations who provided feedback about their experiences with data collection, a large number highlighted difficulties, particularly in relation to the definitions and in aligning internal data collection with that required by the Agency. While most organisations are already collecting much of the data, as one organisation pointed out:

> *…We already collect much of the data for our own purposes…the difficulty is mainly trying to fit within the guidelines of the questions that are required for external purposes.*

While some organisations are obviously managing well with the new reporting arrangements, telling us for example that this reporting year was:

> *Much easier than the previous reporting requirements and certainly less onerous on the organisation*

And that:

> *Most elements we collected anyway. There was a bit of tweaking to be done around distance from Managing Director, but certainly not a showstopper.*

A number of others described elements of the process as 'difficult', 'complex' and 'time consuming'. This was particularly the case in relation to the need to collect data on occupational categories, employment type, industry classifications, pay data and on parental leave. For example:

> *The data collection for Workplace Profile has been extremely challenging. The Agency's guidelines have been far too general to address different scenarios. For instance, when annualising employees salaries, how to treat unpaid leave or parental leave, how to treat permanent full time employees who had a contingent worker status during the reporting period, how to treat employees who had overseas assignment and payrolled outside of Australia.*

However, there is no doubt that this data is important for advancing workplace gender equality. To take just one example, distance from CEO or equivalent is an important measure for the counting of gender representation in management to allow an accurate, and transparent, representation of women in senior management and leadership to be obtained. It is important for setting targets, benchmarking and measurement purposes. And it ensures appropriate comparisons are able to be made across organisations and across industries and enables collective data for the labour market.

2. Specific reporting items

2.1. Occupational categories

A number of employers are clearly experiencing difficulties in grappling with the definitions in Schedule 1 in relation to 'distance from the CEO or equivalent' and the occupational categories in non-managerial staff.

For example, members told us that:

> *Allocating the employees and validating with the business where certain roles feel in regards to the manager and non- manager categories was a timely process and at times contradicted the internal definitions of what the business believes to be a manager /non-manager.*

Clearly some systems were better able to adapt to the required definitions than others – while one company told us:

> *Manager/non-manager categorisation … was a relatively simple process (albeit time consuming) as we have an existing structure and role classifications; these just needed to be adapted to the WGEA standard.*

Others indicated that:

> *Preparing data for the workplace profile and mapping our employees to the mandatory occupational categories was a complex and time consuming process.*

And:

> *We found the process of allocating employees into 'other managers ' and 'professionals' (especially knowing that a manager does not need to be responsible for people to be defined as a manager) as the most time consuming component.*

One company further noted that:

> *The categorisation of manager / non- manager staff was difficult as this could not easily be mapped to how we currently classify employees in our internal systems. This required input and review from a number of staff and was very time heavy.*

One organisation suggested that a key way to improve reporting would be to:

> *Remove the requirement to have the reporting level to the CEO from the Workforce Profile for Managers. I am not sure that this provides that much additional value outside of the differing Management categories. It just makes the whole process more complex.*

2.2. Employment type

Collecting data on contract employees appears to pose a particular difficulty for a number of organisations. For example:

> *Employment type… categorisation appeared to conflate contractors and fixed term employees, and also contracts for services with contracts of employment … In practice, this made the categorisations difficult to apply with confidence and hence could undermine data integrity*

And:

> *As we have been reporting for a number of years, our systems are already established to capture most of the data required for WGEA Annual Reporting. However, the inclusion of independent contractors has increased the difficulty of collection of data quite significantly as we now also need to interrogate accounting systems.*

One member suggested that the best action that could be taken to improve reporting would be to:

> *Remov(e) the requirement to report on independent contractors as this information does not come from a payroll/HRIS system and is much more difficult to collate and access*

2.3. Industry classifications

A number of organisations identified difficulties in relation to identifying their operations within the ANZSIC codes. For example:

> *It was difficult to determine the most appropriate ANZSIC code (particularly to the class level) for our organisation. Given ANZSIC codes are used for benchmarking purposes perhaps there should be more rigour/ guidance to ensure correct classification and consistency across industries/ similar organisations. In terms of specific feedback on the workplace profile.*

There were concerns that the Industry Classification structure is too broad to provide adequate comparative references, particular issues were faced in diversified companies and that the move to global structures being experienced by many DCA members, needs to be considered in terms of determining relevant industry comparisons:

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One organisation suggested that a way to address this problem could be by:

> *Providing standard workplace profile templates and clear definitions for different industry /entity types to provide greater consistency and meaningfulness in responses. This would ensure the benchmark reports are highly comparable and take out any guesswork for 'comparable' industry roles'. Currently organisations are required to classify their own workforce against standard occupational categories and although guidance is provided via definitions of each*

category in the reference guide, organisations may unwittingly categorise their workforce quite differently to an organisation in the same industry (particularly where titles such as senior manager or general managers are not utilised) and this may skew benchmarked data on areas such as pay by level . It may be worth having representatives from industries socialise a suggested 'standard' template (with WGEA's involvement), for common roles ie a mapping exercise. These could then be adopted for the relevant industry and downloadable from the online portal.

2.4. Pay Data

It is widely understood that gender pay inequity is a major source of inequality between women and men that has an impact well beyond the working lives of women (and subsequently an issue for government managing policy frameworks for an ageing population). Actions undertaken by businesses to close the pay gap have the potential to take significant steps towards redressing the problem and inspiring action by other civil society partners.

Proper analysis, and an objective to close the pay gap between men and women, are in the interests of businesses, government and individuals and have significant productivity implications.

However, there is no doubt that reporting on pay data is complex. While simplifying reporting may seem superficially attractive, simply reporting on a high level annualised pay gap, while useful, does not provide a sufficiently sophisticated analysis on the causes of any such gap or consequently appropriate methods to tackle it.

A number of respondents – around a quarter of those who provided feedback on individual reporting items – specifically mentioned the difficulties involved in reporting on pay data:

> *Remuneration data for workplace profile - it was incredibly difficult to work through how the compensation data should be FTE'd.*

And:

> *Annualised average full-time equiv total remuneration - while the sourcing of base salary was relatively straightforward… sourcing the actual total remuneration received (including any overtime, equity, additional allowances, etc) was extremely difficult.*

And:

> *The requirement to annualise casual pay was problematic. As casuals receive loading and are therefore paid higher hourly rates than part-time/ full-time equivalents, annualising their hourly salary inflates total remuneration. This is particularly the case for casuals who work infrequently (e.g. are providing specialist expertise), a factor taken into account when determining their hourly rate.*

Further:

> *The requirement to include staff who had been in Australia for 6 months or more of the reporting period (but were not in Australia at the point in time we compiled our workplace profile) added additional complexity to the process and contradicts the requirement that data be representative of the workforce at a point in time during the reporting period. It also raised the question of how we treat their remuneration, particularly for individuals who received performance related bonuses in the local currency of their new location*

Another issue highlighted by a number of respondents related to problems with confidentiality of remuneration data. For example:

> *The structure of the workplace profile showed the compensation of several individuals, which is strictly confidential information internally.*

One organisation suggested that a way of addressing this issue might be to require reporting on the pay differentials, rather than the actual dollars:

> *The need to include the dollar value of remuneration figures which we regard as commercially sensitive. We have no concern in reporting pay differentials (percentage difference between male and female total remuneration at various levels) – but seek to protect the confidentiality of the actual $ value.*

2.5. Parental Leave

DCA, and its members, support the importance of continued collection of data on availability and uptake of parental leave, and in particular return to work from parental leave, as important indicators of gender equality. Publicly providing this data, alongside data on access to workplace flexibility, improves transparency and is an important mechanism for mainstreaming of flexibility.

Notwithstanding, a small number of issues were identified in relation to the issue of collecting parental leave data. Firstly, some organisations indicated that some parental leave data required for the workforce profile:

> *…is tracked manually so was not easy to pull.*

Secondly, some organisations have arrangements for parental leave that do not fit into the existing format. For example:

> *Question 5.1 regarding the number of weeks of parental leave provided, only allowed for one answer to be submitted. As a result, we needed to add a note to the 'additional comments' section of the report to outline our organisation has varying weeks entitlement based on length of service.*

In addition, a suggestion was put forward that:

> *The rationale for the inclusion of question 7 (how many F/M manager's and non-manager's, have utilised parental leave) is not clear. It appears to us that a raw number provides little value. Suggest the focus should be what percentage of employees are entitled to parental leave as opposed to how many have utilised it.*

3. Providing data to the Workplace Gender Equality Agency

Overwhelmingly, employers were positive about the new arrangements for providing data via the on-line portal, even though they may have experienced some difficulties with data collection. A number of respondents spoke highly about the improvement they had noted as a result of the on-line reporting. For example:

> *The report was easier to compile than in previous years due to the online questionnaire;*

> *The format of the reporting questionnaire was easier to complete than the previous format of open-ended questions and allows for greater consistency in the information requested and level of detail required;*

And even:

> *The new online portal was wonderful.*

There were however a number of comments made about difficulties with the online reporting system in particular with a number of organisations identifying technical issues with the AusKey system - although they generally noted that WGEA staff had been able to provide support with this. Respondents also acknowledged that:

There were some issues with the online portal during the reporting period. However, as this was the first year that this system was introduced, it was inevitable that there were some teething issues.

4. Time taken to complete the report

While there was a wide range of responses from members to this issue, close to half (44%) of organisations who estimated the time taken to complete the report told us it took them more than 20 hours. At the other end, slightly more than one quarter of respondents said it took between one and five hours to complete their report.

Similarly, we asked members to estimate how long it took their organisations to collate the information required, prior to preparing their reports. More than a third said it took more than 35 hours with another fifth stating it took between 21 and 35 hours. Only a small group estimated it took less than 5 hours.

Clearly, for those organisations who had HR systems which were already compatible with WGEA requirements, reporting took minimal time, whereas for others, significant time was spent aligning existing data formats with WGEA requirements.

5. Suggestions for improvements to reporting

A number of organisations also suggested allowing greater scope in reporting to allow organisations to explain their answers, that might not easily align with the format required. For example:

There were too many questions that did not allow an explanation of how we approach gender equality across our business. We are placing a lot of effort on flexible working in a bid to create a more family and female friendly working environment. The focus of the questions seemed to be too much on whether we had gender equality statements in policies rather than what we are doing. Many of the questions seem Yes/No with little or no room for explanation. This was frustrating

Similarly:

It would be beneficial if the reporting requirements were a bit more flexible in terms of what was being presented…not all the questions fit within the structure of the way that we report internally or the way that the organisation is structured. Therefore it took a lot longer to compile the information in a way that WGEA had requested.

A number of organisations offered examples of different scenarios which did not fit easily into the existing reporting format, a significant number mentioning issues related to annualising salaries where staff may have had periods of parental or other leave. For example:

The Agency's guidelines have been far too general to address different scenarios. For instance, when annualising employees salaries, how to treat unpaid leave or parental leave, how to treat permanent full time employees who had a contingent worker status during the reporting period, how to treat employees who had overseas assignment and payrolled outside of Australia.

And:

We suggest further consideration be given to different remuneration and performance schemes, particularly retention related performance payments. For example, a portion of a performance payment awarded in one year may not be paid until subsequent years. Equally, a person who is currently on a leave of absence such as parental leave, may

receive part of that retention payment (and no base salary) during a 12 month absence which we wouldn't want to annualise since it relates to a prior performance period.

6. Feedback on customised benchmarking

While there is general support for the value of benchmarking, organisations offered a number of suggestions about the most useful data items. The general view was reflected in the following quote that while:

[i]t was an enormous effort to collate all of the data required for the report…[t]he value will be in the benchmarking report that we receive, if it can provide real insights to drive change in the organisation and give us a sense of how we do benchmark against truly comparative organisations.

A number of organisations mentioned that they felt there would not be any real value in benchmarking governing bodies, because of the fact that many organisations were global companies with internationally based governance. For example:

The governing bodies gender data probably isn't useful to us either, as there's nothing meaningful we could do at the local level to influence that.

A number of organisations also noted that there are likely to be some limitations on the utility of benchmarking due to previously mentioned difficulties in relation to industry coding:

The value of benchmarking reports will be determined by how consistent organisations have been in their ANZSIC classification and interpretation of the requirements.

A further issue which was raised by a number of employers was the utility of benchmarking remuneration data. For example:

The requirement to include breakdown of individual components of total remuneration will be difficult to report and given variance in remuneration structures across organisations, is unlikely to provide meaningful benchmark data. We feel that the emphasis should remain on total remuneration and would request to have this additional requirement removed.

7. Preparations for 2015-16 reporting and anticipated difficulties

More than half of respondents have already begun preparing new data for reporting in 2015-16. These organisations indicated that this related to new data which they did not already collect, but that preparations had already begun. A further 17% of respondents indication that the new data which would be required in 2015-16 was data that they were already collecting on internal systems.

A number of respondents indicated that they were anticipating difficulties with reporting on recruitment data in relation to tracking application, interview and selection data by gender. Slightly more than a third of respondents anticipated difficulties in reporting from 2015, while a quarter were not expecting any difficulties and the remainder unsure.

Close to a half of the comments from organisations related to expected difficulties in collecting recruitment data – principally this was due to a need to collect this data manually, the additional cost involved in doing so and for reasons linked to the particular nature of their recruitment processes. For example, some organisations recruit via applications that are general in nature and not linked to a specific job and/or use recruitment agencies for senior executive positions in which clients similarly would not necessarily apply to a particular role. Also:

It will not be possible to provide recruitment data (applications, interviews and appointments) by gender for Manager and Non-manager categories. While we track applications data by

gender we typically don't specify job level (and therefore manager/ non-manager categories) as part of our recruitment process. Job level is something that is considered based on the applicant's unique skills and experience and is therefore determined upon hire. With tens of thousands of applications per year it will not be feasible for this data to be reported on

And:

Getting accurate information back from the business regarding the recruitment statistics. This is because we do not currently have an automated way of capturing the number of female applicants and number of females interviewed per role.

And:

Recruitment statistics, we anticipate to have 180,000 job applicants and we don't have a system to automatically map them into manager and non-manager categories and track who's been interviewed and what gender they are...Should we automate our system, it will cost us $100k. If we do it manually, it will be hours and hours of work!

Similarly, a number of employers raised potential problems of reporting on promotions. For example:

We have the ability to report on the number of promotions by gender, however we have concerns about providing this data without consideration given to the population size and other specific factors such as time in role, performance etc. Perhaps, the focus could be on what processes/ practices organisations have in place to ensure no gender bias in promotions decisions.

Organisations also mentioned anticipated difficulties in collecting elements of remuneration data. For example:

The breaking down the remuneration data to the level of detail required may also prove a challenge given the complexity of overtime, allowances and bonus payments applicable to our employees.

And:

Our remuneration data is complex and held within multiple systems. Given the extra granular nature of the 'additional requirements' we are expecting to face some difficulties.

Further:

The equal remuneration is anticipated to be a bit of a headache. Length of service is a component of our salary - so someone who is new will not earn the same as someone who has been here for 5 years, so this could be tricky.

8. Other general comments

In general, DCA members offered their support for gender equality reporting.

Respondents told us that:

We recognise and support the critical importance of standardised reporting, both within and across industries, to drive improvements in gender equality and lifting female participation more broadly.

And:

Feel this is very important to continue doing. The figures have had an impact on leaders, especially as they know the information is available publicly. Even though we collect the data through our normal HR systems, it has never been presented in this format. If this was

> *not a government requirement, we would not be reporting it, so the 'compliance' aspect of it keeps it on the agenda.*

This is the case even among those organisations who are clearly still struggling with implementing reporting arrangements.

> *I think that the work that WGEA are undertaking is vital and necessary and we are happy to comply with the requirements. However, by making the structure of the reporting requirements more flexible will mean that we are able to draw on data that we already collect without having to redo reports that we already provide*

Further:

> *Whilst we are supportive of the function of WGEA to promote and improve gender equality in the workplace, we would like to see more focus given to the purpose of compliance reporting so there is clearer alignment between reporting requirements and what the agency is trying to achieve – for instance, the reporting requirements don't appear to be closely aligned to the minimum standards. Greater emphasis could be placed on the value of reporting as opposed to the ease of providing the required data.*

Organisations were also generally positive about their dealings with the Agency:

> *Overall, the WGEA team were very helpful in answering the many questions we had in preparing our report. They were responsive and easy to deal with.*

And:

> *Appreciate this is the first full year of reporting under the Workplace Gender Equality Act 2012 and WGEA have done a good job of trying to get things into place within short timeframes and have been upfront that this is a learning experience for everyone and they don't have all the answers. Although a good experience overall with the Agency, it was difficult to get a hold of the Agency on a number of occasions (understand they had high call volumes) and this added pressure when clarity was required to progress with elements of reporting or preparations.*

It was also quite sensibly suggested that:

> *As we're yet to see the outcomes from the new reporting process (e.g. benchmarking data) it's premature for us to comment on the value the reporting framework has provided us as an organisation. We do know that the reporting process hasn't identified any additional insights that we weren't already aware of through our own internal metrics and processes, which we have invested significant effort in to be specific to our organisation. We welcome further consultation once the Agency has had the opportunity to assess, collate and benchmark the data. We also suggest (in line with comments we have previously provided) that any proposed amended reporting framework should be the subject of further consultation prior to being implemented.*

DCA also supports strongly continued consultation with employers as the reporting arrangements, and in particular the benchmarking, is bedded down.

Finally point, one employer mentioned that:

> *We have experience with gender diverse people, so assuming people are either male or female is problematic. People can be both male and female, neither male nor female, or something else.*

While recording data in relation to transgender and/or intersex employees clearly has little impact on general trends in workforce gender equality, this issue has been increasingly raised by DCA members as a matter of concern and we would suggest that the Agency might like to clarify for employers how they should manage it in the context of data collection and reporting.