



3 March 2023

Committee Secretary
Senate Finance and Public Administration Committees
PO Box 6100
Parliament House
Canberra ACT 2600

By email: fpa.sen@aph.gov.au

Dear Secretary

Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023

The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the Senate Standing Committees regarding the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023 (the Bill).

The Commission strongly supports the Australian Government's efforts to improve the *Workplace Gender Equality Act 2012* (Cth) (WGE Act) to ensure the Workplace Gender Equality Agency (WGEA) has the appropriate powers, tools and levers to achieve the objectives of the WGE Act, including to promote and improve gender equality in employment.

The Commission previously made a submission pertaining to the 2021 review of the WGE Act (2021 Review), which endorsed amendments to the WGE Act. On that occasion, the Commission highlighted that it has conducted several independent reviews and national inquiries relating to gender equality and works with organisations on improving their workplace culture. The Commission shared our experience of what works to improve gender equality in the workplace, including a number of observations about the opportunity to further enhance the WGEA Act and WGEA.

The Commission supports the proposed amendments. If adopted, the Bill will – in conjunction with the remade Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023 (2023 Gender Equality Indicators Instrument) and Workplace Gender Equality (Gender Equality Standards) Instrument 2023 (together, the 2023 Instruments) - go a significant way towards improving transparency and promoting the accountability needed to accelerate the rate of change on workplace gender equality in Australia. For instance: by empowering WGEA to work with employers to drive change in their workplaces; improving gender pay gap transparency by enabling WGEA to publish gender pay gaps of relevant employers for each reporting period; strengthening internal accountability by requiring relevant employers to provide certain reports to their governing body and strengthening the minimum standards to focus on ‘gender equality standards’.

I am particularly pleased with the reforms to give effect to Recommendation 42 of the Commission’s Respect@Work report and Recommendation 5.1 of the 2021 Review by including ‘sexual harassment’, ‘harassment on the ground of sex’ or ‘discrimination’ as gender equality indicators.¹ This will align the WGE Act with the 2023 Instruments. Reporting in accordance with the 2023 Gender Equality Indicators Instrument will capture more meaningful information on what employers are doing to prevent and respond to workplace sexual harassment, including: policy or strategy provisions; accountability and responsibility frameworks; training availability and frequency; disclosure processes and management of disclosures; communication expectations from governing bodies; risk assessment and reporting; prevalence data; and supports available for staff who experience harassment or discrimination.²

The Respect@Work Report found that the collection of data on the nature, prevalence and reporting of sexual harassment is critical to our understanding of the issue and prevention efforts. These amendments are an excellent outcome in our collective efforts to address gender inequality in Australian workplaces, and further complement recent legislative amendments under the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth) – notably, the introduction of a positive duty in the *Sex Discrimination Act*

¹ Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual harassment in Australian Workplaces* (March 2020) 745.

² Federal Register of Legislation, ‘Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023’ (Web Page 22, February 2023) <<https://www.legislation.gov.au/Details/F2023L00085>>.

1984 (Cth). I encourage WGEA's ongoing engagement and consultation with the Respect@Work Council to ensure the data related to these indicators can be collected at the workplace level in a safe manner.³

Given the Bill fulfills 4 of the 10 recommendations (in full or in part) from the 2021 Review, the Commission encourages continued work to fulfill the outstanding recommendations through careful consideration and consultation.

Noting the above, the Commission is supportive of the Bill and I welcome these amendments as contributing to the significant progress underway to address gender inequality in Australia.

The Commission is happy to provide further assistance to the Committee in its consideration of this matter.

Yours sincerely

Kate Jenkins
Sex Discrimination Commissioner

³ "There is a risk that requiring employers to report on some measures may, in fact, have unintended and undesirable consequences, driving counterproductive behaviour in reporting organisations, in an effort to appear to be 'performing well' in relation to these measures." Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual harassment in Australian Workplaces* (March 2020) 742–743.