



Summary – Gender Equality Bill exposure draft submission

OCTOBER 2018

Overview

The Victorian Gender Equality Strategy, *Safe and Strong*, recognises that Victorians should ‘live in a safe and equal society, have access to equal power, resources and opportunities’ and be ‘treated with dignity, respect and fairness’. It also recognises that ‘gender equality is essential to economic prosperity and that gender inequality has significant economic cost’.

Through our experience promoting and protecting the right to equality in Victoria, we know how important the workplace is as a setting for achieving gender equality.

We are well aware that women in Victoria continue to be paid less than men for work of equal value, are subject to harm including sexual harassment, do not progress or receive the promotional opportunities they deserve and do not have access to flexible work or the support they need to thrive at work. At the same time, workplaces can play a preventative role and help drive gender equality across the community when they proactively identify and address structural barriers that hold women back.

We understand the impacts of gender inequality go beyond economic insecurity. They can undermine a person's physical and mental health, and have an impact on their families and ability to fully participate in society. Gender inequality also has an enormous impact on the community and society. Research has found that factors associated with gender inequality are the most consistent predictor of violence against women. Men are also affected by gender inequality, such as when they are denied access to flexible work so they can care for their children.

The ongoing barriers to gender inequality suggest that further measures are needed to ensure the full advancement of women, as well as substantive equality of women and men.

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Gender equality legislation is an important tool

In Victoria, the right to equality is enshrined in the *Equal Opportunity Act 2010* and the *Charter of Human Rights and Responsibilities Act 2006*. These laws operate alongside limited protections of the right to equality under federal law.

Legislation with a dedicated focus on gender equality is an important tool to achieve gender equality in practice. Notably, four of the five top-rated countries in the World Economic Forum's 2017 *Global gender gap report* have some form of gender equality legislation.

The Commission welcomes the release of the Gender Equality Bill exposure draft, which aims to ensure that Victoria's public sector takes active steps to promote gender equality in the workplace. Importantly, the draft prioritises the achievement of gender equality in the workplace, by:

- imposing positive obligations on the public sector
- focusing attention on the underlying causes of gender inequality in the workplace
- providing an opportunity to understand the state of gender equality in the public sector
- providing a platform to monitor progress towards a future state of gender equality
- complementing and strengthening existing legislative protections of the equality right.

This leadership and commitment, when married with effective action-oriented planning, enforcement mechanisms, support, funding and oversight, can create real change.



Key recommendations to strengthen the Bill

The Victorian Equal Opportunity and Human Rights Commission's submission highlights important opportunities to strengthen the Gender Equality Bill exposure draft to ensure that it is consistent with human rights obligations and leading best practice. Some of our key recommendations are set out below.

- The legislation should include a robust definition of the term 'gender' that clarifies that the legislation applies to women and men, is inclusive of people who identify as trans and are intersex, and captures intersectional experiences of gender equality.
- The objectives of the legislation should be strengthened by aligning them more closely with those in the *Equal Opportunity Act*, the *Workplace Gender Equality Act 2012* (Cth) and the *Sex Discrimination Act 1984* (Cth).
- There should be a single list of minimum standards that defined entities must address in their Gender Equality Action Plans.
- Adequate funding should be allocated to support the development and delivery of tailored education, consultancy and guidance materials to support defined entities to develop Gender Equality Action Plans.
- The clauses related to targets and indicators need to be clarified. They also need to be expanded to capture additional areas where gender inequality occurs in the workplace.
- The Secretary should be required to consult with gender equality stakeholders and consider their recommendations, before prescribing targets and indicators.
- An agency independent of government should oversee the implementation of the legislation. The body should be adequately resourced to undertake this role.
- The functions and powers of the independent body should be enshrined in the legislation and include the ability to:
 - provide independent support, guidance, resources and advice
 - review Gender Equality Action Plans and any related reports or analysis
 - maintain a public register of Gender Equality Action Plans and related reports
 - request further information to assist it in reviewing compliance with the legislation
 - offer targeted support and advice to non-compliant entities to help them comply
 - submit a report to the Minister with the names of non-compliant defined entities, including the details of non-compliance and the steps the entity proposes to take to address non-compliance
 - publish the names of non-compliant entities in its own report or on its website
 - report to the Minister on the overall implementation of the legislation and progress towards gender equality in Victoria.
- Considering our existing functions and expertise, we consider that the Commission is well placed to perform the role of the independent body.
- The Victorian Government should also ensure there is strong complementary legislation to create an enabling environment for gender equality. This includes further strengthening the *Equal Opportunity Act 2010* to improve the protections available under the Act and reinstating the Commission's previous functions in relation to the threshold requirements of the investigation function, conducting public inquiries and enforcing compliance with the Act.

For a copy of our submission, including all of our recommendations, please [visit our website](#).

Contact us

Enquiry Line	1300 292 153 or (03) 9032 3583
Fax	1300 891 858
Hearing impaired (TTY)	1300 289 621
Interpreters	1300 152 494
Email	enquiries@veohrc.vic.gov.au
Follow us on Twitter	twitter.com/VEOHRC
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humanrightscommission.vic.gov.au