



## Research Brief *Gender Equality Act 2020 (Vic)*

### Introduction

With approximately 65 per cent of Australians aged 15 years and over employed or actively seeking employment, workplaces have significant social influence as key settings in the community where individuals spend the majority of their adult lives (Australian Bureau of Statistics, 2018). Whilst Australia has made progress in recent years, the Workplace Gender Equality Agency's most recent scorecard demonstrate just how much more needs to be done to address gender-based gaps in terms of representation, remuneration and flexibility in the workplace (Workplace Gender Equality Agency, 2020). This Research Brief reflects on the purpose and reporting requirements of the Gender Equality Act 2020 (Vic) including the role of the Public Sector Gender Equality Commissioner tasked with monitoring its ongoing implementation. The Brief also outlines the obligations and reporting requirements under the Act, which commenced on 31 March 2021.

### Background

The 2016 Victorian Royal Commission into Family Violence (RCFV) identified gender inequality as a key focus area in Victoria's mission to reduce family violence. In their work to achieve the long-term vision of the Royal Commission, the Victorian Governments launched the State's first gender equality strategy in December 2016 – Safe and Strong, which included a commitment to legislate the promotion of gender equality in the workplace. This triggered a four-year consultation process resulting in the Australian first Gender Equality Act 2020 (Vic). In addition to this unprecedented legislative intervention, the Victorian Government established the Commission for Gender Equality in the Public Sector, and the appointment of the first Public Sector Gender Equality Commissioner. Obligations under the Act commenced on 31 March 2021, with the first Gender Equality Assessment Plans due to the Commissioner on 31 October 2021.

### The Gender Equality Act 2020 (Vic)

The Gender Equality Act 2020 (Vic) aims to improve gender equality and the status of women in Victorian public sector workplaces in Victoria. The Act is intended to:

- draw attention to the systemic causes of gender inequality in policy, programs and delivery of services in workplaces and communities,
- highlight the impact of intersectional forms of disadvantages or discrimination on the bases of Aboriginality, age, disability, ethnicity, gender identity, race, religion, sexual orientation and other attributes,
- prompt structural change to redress disadvantage and address stigma, stereotyping, prejudice and violence,
- push for the enhancement of economic and social participation regardless of gender, and
- promote 'the right to equality set out in the Charter of Human Rights and Responsibilities and the Convention on the Elimination of All Forms of Discrimination against Women' (pt 1 s 4(a-f)).

### Defined Entities

The Act applies to certain organisations referred to as *defined entities*, which employ 50 or more people. Captured broadly under the scope of the public sector, defined entities include public sector organisations, universities, local councils and

health services. Excluded from this list however are school councils and the Victorian Civil Administrative Tribunal (VCAT), as outlined in the Gender Equality Regulations 2020 (Vic). A full list of defined entities can be found on Commission website (Victorian Government, 2021).

### Obligations of Defined Entities

Defined entities are duty-bound to both promote and take active steps towards achieving gender equality in their workplace including in the development and delivery of policies and programs as well as the delivery of services to the public. Defined entities have several obligations under the Act including conducting a Workplace Gender Audit and a Gender Impact Assessment. The Act also requires defined entities to develop a Gender Equality Action Plan every 4 years with the first Action Plans due on 31 October 2021.

### Workplace Gender Audit

Under the Victorian Act, a Workplace Gender Audit is the first step in the development of the Gender Equality Action Plan. The Audit allows for the collection of baseline data on the current state and nature of gender inequality in the organisation, identifying existing strengths and areas in need of further attention. To do this, organisations need to report on their current performance against the workplace gender equality indicators (Gender Equality Act 2020 [Vic] pt 1 s 3 definition of 'gender equality indicators'):

- gender composition of all levels of the workforce and governing bodies,
- equal remuneration for work of equal or comparable value across all levels of the workforce, irrespective of gender,
- sexual harassment in the workplace,
- gendered segregation in the workplace,
- recruitment and promotion practices in the workplace,
- availability and utilisation of terms, conditions and practices relating to family violence leave, flexible working arrangements, and working arrangements supporting employees with family or caring responsibilities, and any other prescribed matters.

### Gender Equality Action Plans

The outcomes of the Workplace Gender Audit inform entities' Gender Equality Action Plans. Here organisations must outline the strategies and measures they are proposing to undertake to address existing gender inequalities (as identified via the Workplace Gender Audit). This includes the allocation of sufficient resources for implementation purposes. All action plans must be informed by the Gender Equality Principles outlined in the Act (Gender Equality Act 2020 [Vic] pt 1 s 6(1-10)):

- (1) All 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.
- (2) Gender equality benefits all Victorians regardless of gender.
- (3) Gender equality is a human right and precondition to social justice.
- (4) Gender equality brings significant economic, social and health benefits for Victoria.
- (5) Gender equality is a precondition for the prevention of family violence and other forms of violence against women and girls.
- (6) Advancing gender equality is a shared responsibility across the Victorian community.
- (7) All human beings, regardless of gender, should be free to develop their personal abilities, pursue their professional careers and make choices about their lives without being limited by gender stereotypes, gender roles or prejudices.
- (8) Gender inequality may be compounded by other forms of

disadvantage or discrimination that a person may experience on the basis of Aboriginality, age, disability, ethnicity, gender identity, race, religion, sexual orientation and other attributes.

- (9) Women have historically experienced discrimination and disadvantage on the basis of sex and gender.
- (10) Special measures may be necessary to achieve gender equality.

Once finalised action plans are submitted to the Commission for Gender Equality in the Public Sector.

### **The Commission for Gender Equality in the Public Sector**

The Commission for Gender Equality in the Public Sector was established to oversee the implementation of the Gender Equality Act 2020 (Vic). Led by the Public Sector Gender Equality Commissioner, the Commission is responsible for promoting gender equality in the public sector workforce and the broader Victorian community.

### **The Public Sector Gender Equality Commissioner**

Dr Niki Vincent was appointed by the Victorian Minister for Women Gabrielle Williams as Victoria's first Public Sector Gender Equality Commissioner in September 2020.

The role of the Commissioner is to:

- provide leadership in the promotion and advancement of the objectives of the Act in the public sector,
- support defined entities in compliance of the Act,
- provide advice about its operation and education and information about best practice and facilitating compliance,
- resolve workplace disputes relating to systemic gender equality issues, and
- monitor and publish Gender Equality Action Plans and progress reports.

### **Reporting requirements and timeline**

Initial reporting obligations under the Act include Gender Equality Action Plans and the outcomes from Workplace Gender Audits. These are due on 31 October and entities also required to publish their action plans on their website. A register of all action plans including submission of any amendments there will be maintained by the Commissioner and are publishable at their discretion.

Ongoing reporting obligations include biannual progress reports with the first due on 31 October 2023. Entities will be required to provide the Commissioner with details of:

- any gender impact assessments undertaken in the preceding two years and the actions taken as a result of the assessment/s,
- progress made on the measures and strategies outline in their action plans,
- updates on their performance against the gender equality workplace indicators, and
- performance and updates on targets and/or quotas since the previous reporting year.

### **Monitoring and Compliance**

Reporting is mandatory and failure to meet reporting requirements, along with failure to demonstrate sufficient and reasonable progress, can result in the Commissioner issuing a *compliance notice*. Entities are legally required to respond to compliance notices and disputes regarding compliance notices will be referred to the Victorian Civil Administrative Tribunal (VCAT) for review. The Commissioner is required to exhaust all informal avenues to resolve progress and compliance issues prior to issuing a formal notice.

### **References**

- Australian Bureau of Statistics. (2018). Labour Force Australia, January, 2018, cat. no. 6202.0. Canberra, Australia: Australian Bureau of Statistics.
- Gender Equality Regulations, S.R. No. 97/2020 (2020)
- Royal Commission into Family Violence. (2016). *Report and Recommendations, Parl Paper No 132*. Melbourne: State of Victoria.
- Victorian Government. (2016). *Safe and strong: A Victorian Gender Equality Strategy*. <https://www.vic.gov.au/safe-and-strong-victorian-gender-equality>
- Victorian Government. (2021). *List of defined entities under the Gender Equality Act*. <https://www.genderequalitycommission.vic.gov.au/list-defined-entities>
- Workplace Gender Equality Agency (2020). Australia's gender equality scorecard Key results from the Workplace Gender Equality Agency's 2019-20 reporting data. Retrieved from <https://www.wgea.gov.au/publications/australias-gender-equality-scorecard#download-2020-scorecard>

### **Legislation**

The Gender Equality Act 2020 (Vic)

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**For further inquiries:** [arts.monash.edu/gender-and-family-violence](https://arts.monash.edu/gender-and-family-violence)