



Women  
With  
Disabilities  
Australia  
(WWDA)

Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

Att: WGEA Review Team  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

24 November 2021

To the Workplace Gender Equality Agency (WGEA).

We thank you for the opportunity to provide this response to the WGEA Consultation on the review of the *Workplace Gender Equality Act 2012*. This letter is informed by our extensive research base on women, feminine identifying and non-binary people with disability as well as feedback from our national membership.

As you may be aware, WWDA is the national Disabled People's Organisation (DPO)<sup>i</sup> and National Women's Alliance (NWA)<sup>ii</sup> for women, girls, feminine identifying, and non-binary people with all types of disability in Australia; and uses the term 'women and girls' to refer to our members. WWDA is managed and run by women and non-binary people with disability and represents more than two million disabled women and girls in Australia. WWDA has affiliate organisations and networks of women with disability in most states and territories of Australia and is recognised domestically and internationally for our leadership in advancing the rights and freedoms of women and girls with disability.

While WWDA supports the work of the WGEA and welcomes the review to consider whether the agency has the appropriate powers, tools and levers to achieve the objectives of the *Workplace Gender Equality Act*, we would like to assert that the issue of employment of women with disability cannot be examined without an understanding of, and the need for targeted measures to address, the underlying structural barriers to workforce participation.<sup>iii</sup>



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

## Background

Across all areas, women with disability experience multiple and intersecting forms of discrimination and disadvantage that relate to their gender as well as their disability, which creates and perpetuates their inequality. In practice this means that women with disability have far fewer opportunities, lower status and less power and influence than men with disability (and non-disabled women), and far less chance of realising substantive enjoyment of rights, such as freedom to act and to be recognised as autonomous, fully capable adults, to participate fully in economic, social and political development, and to make decisions concerning their circumstances and conditions.<sup>iv</sup>

This discrimination is extremely evident when women with disability try to access paid employment opportunities. Despite the existence of Federal, state and territory protections against discrimination in interviews and recruitment processes, women with disability commonly experience difficulties accessing jobs that they are qualified for and experienced in due to ableist attitudes towards disability, as well as assumptions that employees with disability create increased costs for their employers. In a 2018 national survey of people with disability run by a partnership of peak body disability organisations, a majority of respondents (91%), 72% of whom were women with disability, reported that they do not have the same employment opportunities as their non-disabled peers;<sup>v</sup> reflecting that data that women and men with disability are much more likely to be unemployed (10%) than those without disability (5%) and are much more likely to live in poverty.<sup>vi</sup>

When women with disability are in the workforce, they are much less likely to be employed (44.4%) than men with disability (51.3%)<sup>vii</sup> and much more likely to be in part-time employment (56% of women with disability who are employed) than men with disability (22% of men with disability who are employed).<sup>viii</sup> Additionally,



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

employed women with disability experience much higher rates of discrimination and harassment, with an estimated two in five employed people with disability (42.0%) reporting that they experienced unfair treatment or discrimination due to their disability at work.<sup>ix</sup> While there is no data or information available on the superannuation situation of women with disability, it is logical that the superannuation balances of women with disability would be lower than those of women without disability, who we already know on average have 42% or \$114,000 less superannuation at retirement than men.<sup>x</sup>

In the workforce as well as outside of it, women with disability experience compounded inequality and discrimination related to their gender as well as their disability. This disadvantage is further compounded for women with disability who are also Aboriginal and/or Torres Strait Islander, culturally and linguistically diverse, lesbian, gay, bisexual, transgender, intersex, queer or asexual (LGBTIQ+), have a history of incarceration, are living in rural and remote areas or living in low socio-economic conditions.

Currently the issues that face women with disability are often siloed as a disability policy responsibility only. This means there is little authority to leverage change across other Australian Government departments, such as the Office for Women (OFW).

With this in mind, it is essential that any review of the WGEA should consider how the agency can interact and work with other government departments, agencies and programs if it is ever to make real inroads to addressing the intersectional forms of disadvantage that are faced by women with disability in the workforce.

Additionally, there are significant measures that the WGEA must take to ensure that the experiences and support needs of women with disability are



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

included its work. In the next section of this letter, we provide recommendations categorised under key headings which address the WGEA Review consultation questions outlined in the *WGEA Consultation Paper, October 2021*.<sup>xi</sup>

### **Research and data collection must be intersectional**

In Review of the Workplace Gender Equality Act 2012 Consultation Paper, the questions ask whether the gender equality indicators (GEIs) in the Workplace Gender Equality Act, and the data collected with respect to the GEIs, are appropriate to promote and improve gender equality.

While WWDA supports the current work of the WGEA and understands that the current GEI's work to provide a thorough overview of the gender composition of the workforce, we are concerned about the ability of the GEI's to effectively capture data that represents the experiences of women and girls with disability; as well as other marginalised groups of women, including Aboriginal and/or Torres Strait Islander women, culturally and linguistically diverse women, lesbian, gay, bisexual, transgender, intersex, queer and asexual (LGBTIQ+) women, women who have a history of incarceration, women who are living in rural and remote areas or women who are living in low socio-economic conditions.

Across Australia, there is already a dearth of disaggregated data, research and studies that provide insight into the employment of women with disability, including in relation to their experiences of discrimination, violence, abuse and exploitation in employment settings and services. This gap in information not only makes it difficult to understand the experiences of these cohorts, but also places significant limitations on the ability of the Australian Government to report on its international obligations, including those under the Convention of the Rights of Persons with Disabilities



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

(CRPD), such as the implementation of Article 27 [Right to Work]<sup>xii</sup> and Article 5 [Equality and non-discrimination]; as well as Article 11 [Right to Work] under the Convention of the Elimination of All forms of Discrimination Against Women (CEDAW).<sup>xiii</sup>

Through CRPD General Comment 6 [Equality and non-discrimination] the CRPD Committee has provided authoritative guidance on the implementation of, and intersection between CRPD Article 27 [Right to Work] and CRPD Article 5 [Equality and non-discrimination]; the Committee has clarified for example, that: "State parties must ensure that there is no discrimination on the grounds of disability in connection to work and employment, and that to achieve or accelerate de facto equality in the work environment as laid out in article 5, State Parties should, amongst other things:

- Transition away from segregated work environments for persons with disabilities and support their engagement in the open labour market, and in the meantime also ensure the immediate applicability of labour rights to those settings;
- Protect the rights of workers with disabilities; and ensure the right to freely chosen employment;
- Ensure that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start work;
- Expressly recognise the denial of reasonable accommodation as discrimination and prohibit multiple and intersectional discrimination, and harassment;
- Ensure proper transition into and out of employment for persons with disabilities in a non-discriminatory manner. State parties are obliged to ensure equal and effective access to benefits and entitlements, such as retirement or unemployment benefits. Such entitlements must not be infringed upon by exclusion from employment, thereby further exacerbating the situation of exclusion;



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

- Promote work in inclusive and accessible, safe and healthy working environments in the public and private sectors;
- Ensure that persons with disabilities enjoy equal opportunities regarding career advancement opportunities;
- Ensure access to training, retraining and education, including vocational training and capacity-building for employees with disabilities,
- Provide training on the employment of persons with disabilities and reasonable accommodation for employers, representative organisations of employees and employers, unions and competent authorities;
- Develop and enact universally applicable occupational health and safety measures for persons with disabilities, including occupational safety and health regulations that are non-discriminatory and inclusive of persons with disabilities;
- Recognise the right of persons with disabilities to have access to trade and labour unions.<sup>xiv</sup>

As the only national government body for promoting gender equality in the workforce, WWDA strongly recommends that the WGEA implement intersectional research methodologies that produce disaggregated data and evidence that reflects the experiences of women and girls with disability in employment, providing government with an appropriate means to measure progress towards the relevant international treaties such as the CRPD and CEDAW.

In order to do this, it is essential that the WGEA also amend the GEI's to include intersectional measures that explicitly go beyond the experiences of able-bodied, anglo-saxon men and women. Under GEI 4 for instance, the WGEA should include consideration of how employers support employees with disability and/or requirements for reasonable accommodations. While the GEI 4 does currently include "consideration of conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

with family or caring responsibilities," it is not clear whether these flexible working arrangements are also considered in situations where employees require flexibility or accommodations due to their own disability or chronic health conditions. Given the extensive evidence that the increase in flexible working arrangements, such as the option to work from home, have greatly benefited women and people with disability during the COVID-19 pandemic,<sup>xv</sup> WWDA would advise that it is now a timely opportunity to include these considerations in the WGEA indicators.

Under 'GEI 6 – sex-based harassment and discrimination,' the scope similarly appears to be limited. While the purpose of the indicator is to measure gendered forms of discrimination, it is not clear whether this extends to gendered forms of discrimination that are unique to women who face intersecting forms of oppression. When considering discrimination against women who take parental leave for example, the indicator should also consider whether employers are supportive of diverse parental experiences, such as women with disability who need time off to undergo IVF, women with disability using surrogate arrangements to carry their children, or LGBTIQ+ women who are not the birth mothers of their children.

While support for diverse experiences may be voluntarily reported on by employers under the GEI's, it appears that employers are only to report on measures that address discrimination on the basis of sex and gender at the exclusion of other forms of discrimination, such as ableism, racism, xenophobia, and queerphobia.

Rather than considering these different forms of discrimination independently of each other, the WGEA should also consider that a person is often affected by multiple forms of discrimination and disadvantage at once. 'Intersectionality' takes into account people's overlapping identities, characteristics and experiences in order to understand the complexity of the discrimination and its social justice implications. In other words, intersectionality recognises that people are often disadvantaged by



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

multiple sources of oppression, such as: their race, sex, gender, identity, sexual orientation, ability, class, religion, age, social origin, and other identity markers. Intersectionality acknowledges that identity markers (such as "Woman", "Disabled", "Aboriginal and/or Torres Strait Islander", "Culturally and Linguistically Diverse"; "LGBTIQA+") do not exist independently of each other, but rather, each informs the other, creating a merging of oppression that can often have aggravated or compounding effects.

Across all of the GEI's, WWDA recommends that the WGEA make it mandatory for employers to not only include data on men and women, but also ensure that those who sit outside of this binary are represented. When reporting to the WGEA it is currently optional for employers to provide information on non-binary and gender diverse individuals.<sup>xvi</sup> The rationale behind this logic is not clear and again, limits the ability for the agency to understand the full scope of experiences.

### **The definition of 'relevant employer' must be expanded**

Under the current definition of who is included as a 'relevant employer,' only "40%" of employers across Australia are eligible,<sup>xvii</sup> and many are left completely unaccounted for. While the current scope of the WGEA, which includes non-public-sector bodies and associations (whether incorporated or not) that employ 100 or more individuals in Australia may be practical for the collection of reporting, it is too limited to effectively capture data on the diverse range of experiences of women across Australia, including those of women with disability.

Like other marginalised groups of women in Australia, women with disability are more likely than men and non-disabled women to be employed in casual and insecure jobs, often in small non-for-profits and small businesses<sup>xviii</sup> which are unlikely to have 100 or more employees.



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

In order to ensure these experiences are included, WWDA recommends that the WGEA covers all employers, regardless of size or status as public or private.

Due to requirements for flexible work, disability and health issues, it needs to be considered that many women with disability also exclusively earn income via their own business, under independent contracts and as temporary workers. While it may be practically difficult for the WGEA to monitor these forms of unregulated employment; it should consider alternative means to collect data on the experiences of individuals in these circumstances. For example, the WGEA could consider ways to receive information and data from individuals as well as employers, so that contractors and small business owners could self-report on their experiences with the option to disclose, or not to disclose their identities.

These alternative means of reporting are particularly important for employees who may be at risk when sharing their identity or personal details. This includes employees who do unlawful or unregulated work such as sex workers,<sup>xix</sup> who would not otherwise be included in WGEA reports, but do face high rates of violence, abuse and discrimination<sup>xx</sup> that should be considered by the agency.

### **Increased accountability for employers**

Additionally, WWDA deems that the accountability mechanisms to ensure that employers comply with the *Workplace Gender Equality Act 2012* are too weak. Under the current requirements, the employers who do fit the eligibility criteria of being a 'relevant employer' are only required to have "policies or strategies in place to support **one** of the following indicators: gender composition of the workforce, equal remuneration between women and men, flexible working arrangements or sex-based harassment and discrimination if they have more than 500 employees."



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

Given all four indicators are essential to achieving gender equality in the workforce, and to ensure that Australia is compliant with its obligations under the CEDAW, it is unclear why employers should not have to comply with all four, and why this criterion would be limited to employers with over 500 employees.

For those employees that don't adhere to these extremely limited requirements, the repercussions also appear to be limited. Under the current rules, the only repercussions that appear to exist include being named in a report to the Minister, listed on the WGEA website and potentially facing reduced eligibility to tender for some Commonwealth grants or other financial assistance. While these repercussions may encourage the compliance of employers who rely on government funding; it is unlikely to have any bearing on most private-sector organisations, which compromise the majority of the WGEA's 'relevant employers.'<sup>xxi</sup>

In order to ensure employers are compliant with the Act, WWDA recommends increasing repercussions for non-compliance and strengthening reporting requirements. In addition to the lack of accountability mechanisms, the four indicators that employers are asked to report against are far too narrow to effectively capture the nature and scope of support that employers offer. As we have outlined earlier in this letter, WWDA asserts that all of the GEIs and reporting requirements for employers must include intersectional measures beyond an exclusive focus on gender. While it is understood that there may be complexities with collecting data from employees about their identities, the option to disclose characteristics such as race, disability and age should always be offered to employees as an option. Regardless of whether workplaces have employees that identify as being part of marginalised cohorts; it should be a requirement that all workplaces have policies to protect their employees from any form of discrimination and harassment, including discrimination based on disability.



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

## **Discrimination, Sexual Harassment and Assault Policies must be Intersectional**

Under Federal government legislation as well as legislation in every state and territory in Australia, it is illegal for someone to be discriminated against on the basis of a number of protected attributes including age, disability, race, sex, intersex status, gender identity and sexual orientation in certain areas of public life, including employment.<sup>xxii</sup> Despite these protections however, there appears to be minimal repercussions for employers who do not make efforts to implement them.

The impact of the lack of protections for employees with disability is clear from the data, which shows that complaints about discrimination in employment make up a significant proportion of all disability discrimination complaints made to Australian anti-discrimination agencies.<sup>xxiii</sup> The data shows that in 2020: an estimated 45.2% of employed people with disability reported experiencing unfair treatment or discrimination due to their disability from their employer in the past 12 months; and an estimated two in five employed people with disability (42.0%) reported that they experienced unfair treatment or discrimination due to their disability from their work colleagues.<sup>xxiv</sup>

Research has also found that employed women with disability face higher rates of sexual harassment, violence, abuse and discrimination in the workplace than women without disability and men with disability.<sup>xxv</sup> In, 2018 for example, the Fourth National Survey on Sexual Harassment in Australian Workplaces found that nine out of ten (89%) women with disability had been sexually harassed, compared to seven out of ten (68%) men with disability.<sup>xxvi</sup>

In order to address these high rates of harassment and discrimination, WWDA urges that it is essential that all employers be supported and trained to implement



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

intersectional strategies and/or policies that prevent all forms of violence, discrimination and harassment, including in recruitment processes, and provide mechanisms for employees to report occurrences and access support for any negative effects or trauma that results from their experiences. In line with standard practice, this should include provisions for employers to fund counselling or professional psychology support and paid leave for significant instances of harassment, discrimination and violence that occurs within the workplace, as well as outside of it.

Additionally, WWDA believes that there should be more impactful repercussions for employers who do not have policies and strategies in place to prevent and address all forms of violence, discrimination and harassment. Examples of this could include implementing extra costs for workers compensation insurance and mandatory training for employers.

### **Australian Disability Enterprises are Inherently Discriminative**

In the context of addressing violence and discrimination in the workplace, WWDA would also urge the WGEA and Federal Government to recognise that Australian Disability Enterprises (ADEs) and other segregated models of employment (commonly known as 'sheltered workshops') are inherently discriminative towards women with disability and should be considered within the scope of the WGEA.

While it is not well known about, segregated employment for people with disability through Australian Disability Enterprises (ADEs) excludes employees with disability from accessing basic rights as workers<sup>xxvii</sup> and enables employers to pay people with disability wages significantly below award rates through the Supported Wage System (SWS).<sup>xxviii</sup>



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

Because of their sheltered/segregated nature, there is minimal oversight of the daily workplace practices and instances of violence, abuse, exploitation and neglect in ADEs, meaning these instances are unlikely to be 'picked up' and/or reported. ADEs are not subject to the same levels of external oversight and regulation as mainstream workplaces. One of the key differences is that sheltered workshops operate under Federal and state industrial relations regulations but are exempt from national minimum wage regulations.<sup>xxix</sup> Instead sheltered workshops are required under the *Disability Services Act 1986* to pay supported employees' wages that are 'adjusted' using wage assessment tools. As reported in 2017, the average hourly rate in sheltered workshops was \$5.61 an hour.<sup>xxx</sup>

Along with all other forms of segregation, WWDA urges the WGEA and Department to recognise that the state sanctioning of ongoing segregated employment of people with disability in Australia is a contravention of the CRPD and other human rights treaties, such as the CEDAW, which support the right of all individuals to participate fully in all aspects of public life, including the right to work in meaningful, mainstream employment.

While ADE's are often celebrated for providing 'opportunities' to people with disability, this view ignores the fact that the system of segregated employment on the basis of disability is inherently discriminatory, based on ableist assumptions about inferiority, and promotes the exploitation of disabled people. For this reason, WWDA has been calling on successive governments over many years, to introduce a national strategy to transition away from all forms of segregation, including in employment and education.

Whilst WWDA supports initiatives that enable women with disability to find, secure and maintain meaningful employment, we are also extremely concerned by evidence that the government funded Disability Employment Services (DES) program, which



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

many recipients of income support payments are required to participate in, often funnels people into ADE's with the expectation that it will be a steppingstone to further employment. While low paid internships or training courses can be beneficial for some disabled people, the majority of individuals who work in ADE's are offered no opportunities for pay rises or progression and less than 1% have opportunities to move into mainstream employment.<sup>xxxii</sup>

Additionally, the sheltered and/or 'hidden' nature of segregated work environments, as well as a lack of independent oversight, means it is difficult for women with disability to speak up about violence, harassment, abuse and/or exploitation in their workplace, make a complaint, or seek information or assistance;<sup>xxxiii</sup> meaning that they create another means for women with disability to be excluded from national statistics.

## Concluding Recommendations

In response to the WGEA Consultation on the review of the *Workplace Gender Equality Act 2012*, WWDA urges the Federal Government to use this opportunity to revise the *Workplace Gender Equality Act* and Gender Equality Indicators (GEIs) to include intersectional measures that address the intersecting and compounding experiences of all women, non-binary and gender diverse people and ensure that the government has appropriate means to measure progress towards the relevant international treaties such as the CRPD and CEDAW. More specifically, WWDA recommends that:

- The Federal Government expand the aim of the *Workplace Gender Equality Act*, GEI's and minimum standards to include consideration of forms of discrimination against women, including discrimination based on Indigeneity, age, disability, race, migrant, refugee and LGBTIQ+ status;
- The WGEA expand GEI 4 to consider how employers support employees who



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

require flexibility or workplace accommodations for reasons other than family and caring responsibilities;

- The WGEA expand the definition of what constitutes a 'relevant employer' to include all employers, in both the public and private sector with more than 20 employees, and later expanded to employers with 19 or less employees, in line with the roll out of reporting requirements under the Single Touch Payroll (STP);<sup>xxxiii</sup>
- The Federal Government make provisions to ensure that the WGEA can access other forms of Government collected employment data, such as Government data on the single-touch payroll and Centrelink data on individuals receiving income support payments;
- The WGEA require all 'relevant employers' to report against all of the GEI indicators and minimum standards;
- The WGEA offer opportunities for employers with less than 20 employees, as well as individual employees not covered under the Act, to report to the agency on a voluntary basis;
- The WGEA require 'relevant employers' to take active measures to address all forms of violence, discrimination and harassment against women and provide or recommend any supports or training employers may require to do so;
- The WGEA consider the implementation of a campaign to dispel concerns and myths around the financial and non-financial risks of hiring women with intersectional experiences, and in particular, women with disability
- The WGEA introduce more affective accountability mechanisms for employers who do not comply with the minimum standards, such as increased costs for workers compensation insurance and mandatory training for managers;
- The Federal Government recognise that all forms of segregated employment, through Australian Disability Enterprises and equivalent arrangements, are inherently discriminatory and work with DPO's to develop a national plan to transition away from all forms of segregation of people with disability,



Women  
With  
Disabilities  
Australia  
(WWDA)

Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

including in employment in education

- The WGEA consider the appointment of an expert co-design working group of women and nonbinary people with diverse intersectional experiences to advise on the effectiveness and implementation of the *Workplace Gender Equality Act*.

Thank you again for the opportunity to contribute to the consultation on the review of the *Workplace Gender Equality Act 2012*.

Yours sincerely

Carolyn Frohmader  
Executive Director  
Women With Disabilities Australia



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

## Endnotes

- <sup>i</sup> DPOs are organisations made up and governed by people with disability for people with disability.
- <sup>ii</sup> The National Women's Alliances (NWA) are a group of national women's organisations that make the views, voices and issues of Australian women heard by the government and the community. There are currently six National Women's Alliances in Australia, which Women With Disabilities Australia is one of.
- <sup>iii</sup> These structural barriers include but are not restricted to: poverty; gender bias and gender inequality; the intersection of gender and disability discrimination; lack of safe, accessible and affordable housing; lack of accessible and affordable transport; the high incidence and prevalence of gender-based violence; non-optional costs of disability; inflexible work arrangements, to name just a few.
- <sup>iv</sup> Frohmader, C (2020). [Response to the Employment Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#). Prepared for Women with Disabilities Australia (WWDA), August 2020. WWDA: Hobart, Tasmania, p. 17
- <sup>v</sup> Australian NGO CRPD Shadow Report Coordinating Committee (2019) [Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disabilities](#) in response to the List of issues prior to the submission of the combined second and third periodic reports of Australia, [CRPD/C/AUS/QPR/2-3]. Compiled by the Australian Civil Society CRPD Shadow Report Working Group, July 2019.
- <sup>vi</sup> Ibid; Price Waterhouse Coopers (PWC) (2011) [Disability expectations: Investing in a better life, a stronger Australia](#).
- <sup>vii</sup> Australian Bureau of Statistics (ABS) (2018) [4430.0 - Disability, Ageing and Carers, Australia: Summary of Findings](#), 2018.
- <sup>viii</sup> Australian Bureau of Statistics (ABS) (2020) [Disability and the Labour Force](#), ABS, Canberra.
- <sup>ix</sup> Ibid.
- <sup>x</sup> See for eg: Branley, A. (2019) [Women retire with almost half the super as men. This idea might help change that](#). *ABC News*; See also: Riach, K. (2018) [Snakes and ladders: Why women's superannuation is complex](#). *ABC News*.
- <sup>xi</sup> Department of Prime-Minister and Cabinet (2021) [Review of the Workplace Gender Equality Act 2012. Consultation paper, October 2021](#), Australian Government, Canberra.
- <sup>xii</sup> See UN General Assembly (2007) Convention on the Rights of Persons with Disabilities, United Nations General Assembly, A/RES/61/106.
- <sup>xiii</sup> UN General Assembly (1979) [Convention on the Elimination of All Forms of Discrimination against Women](#), United Nations General Assembly.
- <sup>xiv</sup> Committee on the Rights of Persons with Disabilities (2018) [Convention on the Rights of Persons with Disabilities. General comment No. 6 \(2018\) on equality and non-discrimination](#), United Nations General Assembly, CRPD/C/GC/6
- <sup>xv</sup> See e.g. Hirst, N & Foster, D (2021) ['COVID is changing the way we work – and for disabled people too,' The Conversation](#); See also: Scherer, J (2020) ['Australians with disability say working from home should be possible after the pandemic.'](#) *SBS News*.
- <sup>xvi</sup> Commonwealth Government of Australia (2020) [Workplace Gender Equality Agency: New Voluntary Data Fields](#), Australian Government, Canberra.
- <sup>xvii</sup> Department of Prime-Minister and Cabinet (2021) [Review of the Workplace Gender Equality Act 2012. Consultation paper, October 2021](#). Australian Government. Canberra, p. 5



Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
Winner, Tasmanian Women's Safety Award 2008  
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
Nominee, UNESCO Prize for Digital Empowerment of Persons with Disabilities 2020  
Nominee, National Disability Awards 2017  
Nominee, French Republic's Human Rights Prize 2003  
Nominee, UN Millennium Peace Prize for Women 2000

- 
- <sup>xviii</sup> Frohmader, C (2020). [\*Response to the Employment Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability\*](#). Prepared for Women with Disabilities Australia (WWDA), August 2020. WWDA: Hobart, Tasmania, p. 27 - 28
- <sup>xix</sup> sex work unregulated <https://www.sbs.com.au/news/why-women-in-the-sex-industry-are-feeling-left-out-of-conversations-on-sexual-violence/b077aa7e-361b-4359-9cb8-f72cab3c7e14>
- <sup>xx</sup> [https://aifs.gov.au/sites/default/files/publication-documents/acssa\\_issues8.pdf](https://aifs.gov.au/sites/default/files/publication-documents/acssa_issues8.pdf) high rates of sexual assault against sex workers – page 5
- <sup>xxi</sup> Private sector
- <sup>xxii</sup> See <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/australias-anti-discrimination-law>
- <sup>xxiii</sup> Australian Human Rights Commission (2016) [\*Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability\*](#), AHRC, Sydney.
- <sup>xxiv</sup> Australian Bureau of Statistics (ABS) (2020) Disability and the Labour Force. ABS, Canberra.
- <sup>xxv</sup> Frohmader, C (2020). [\*Response to the Employment Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability\*](#). Prepared for Women with Disabilities Australia (WWDA), August 2020. WWDA: Hobart, Tasmania
- <sup>xxvi</sup> Australian Human Rights Commission (2018) [\*Everyone's business: Fourth national survey on sexual harassment in Australian workplaces\*](#), Australian Human Rights Commission, Sydney.
- <sup>xxvii</sup> Frohmader, C (2020). [\*Response to the Employment Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability\*](#). Prepared for Women with Disabilities Australia (WWDA), August 2020. WWDA: Hobart, Tasmania, p. 22
- <sup>xxviii</sup> The Supported Wage System is a process that allows employers to pay a productivity-based wage for people with disability that matches an independently assessed productivity rate.
- <sup>xxix</sup> Women with Disabilities Victoria (2019), [\*Submission to Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces\*](#), Melbourne, Victoria.
- <sup>xxx</sup> Ibid.
- <sup>xxxi</sup> Frohmader, C (2020). [\*Response to the Employment Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability\*](#). Prepared for Women with Disabilities Australia (WWDA), August 2020. WWDA: Hobart, Tasmania, p. 29
- <sup>xxxii</sup> Ibid.
- <sup>xxxiii</sup> Australian Taxation Office (2021) [\*Single Touch Payroll: STP Reporting Requirements\*](#), Australian Government, Canberra.