



March 2023

A Roadmap to Closing the Gender Pay Gap

WGEA Legislative Reforms

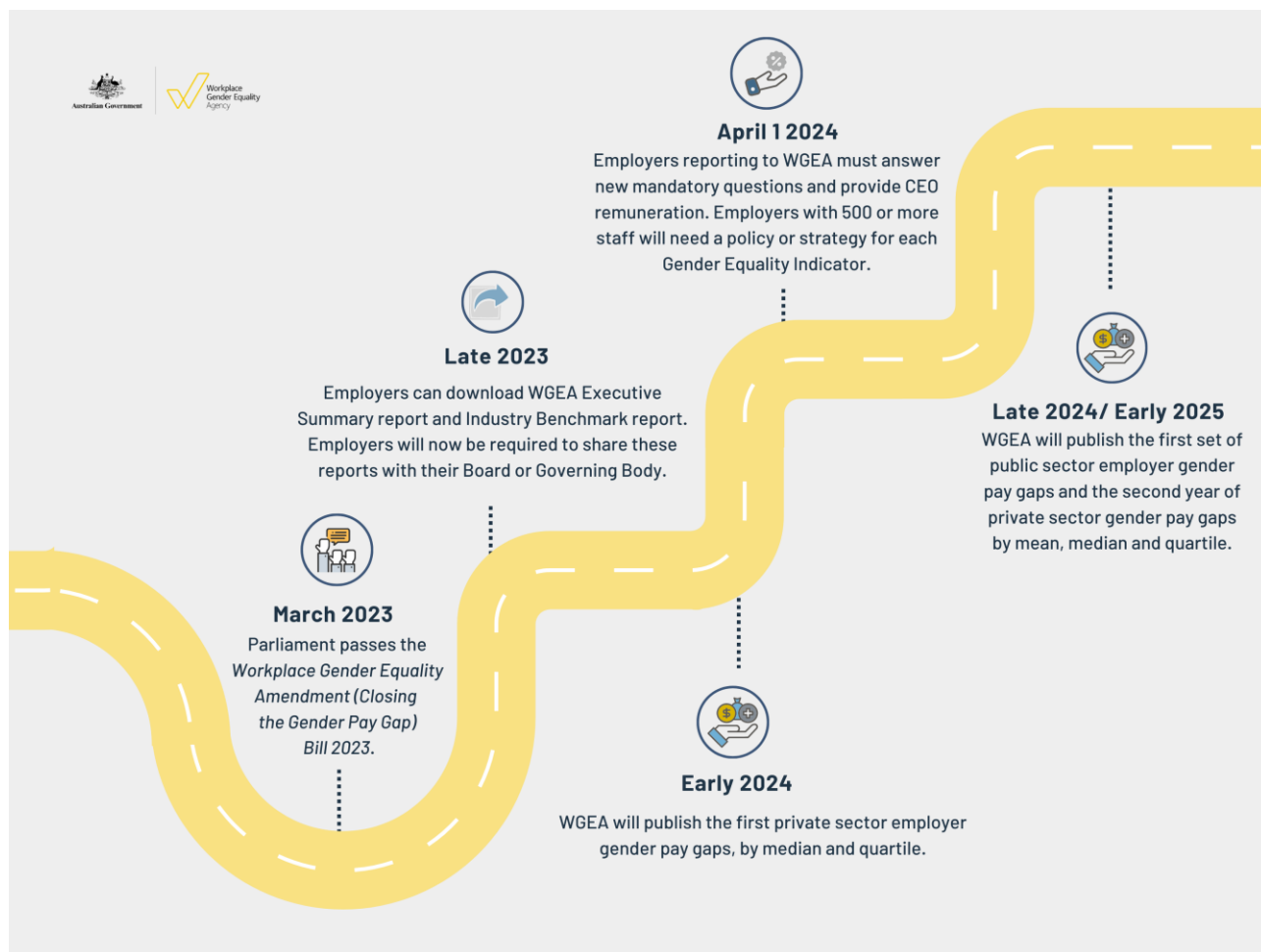
Explainer FAQ

In March 2023, Parliament passed the *Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023*.

Together with the remade Legislative Instruments, which took effect on 6 February 2023, these legislative reforms are a significant step forward to help accelerate employer action to close the gender pay gap.

This FAQ provides detailed information on the legislative changes and links to further advice and tools for employers.

The key changes at a glance



Legislative reforms

The *Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023* made amendments to the *Workplace Gender Equality Act 2012 (WGE Act)*.

The WGEA reform package also included changes to the associated Legislative Instruments (*Workplace Gender Equality (Gender Equality Standards) Instrument 2023* and the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2023*).

In 2021, a [review of the WGE Act](#) made 10 recommendations to accelerate change for workplace gender equality. The reforms in this Bill, and the remade Legislative Instruments, deliver either in full, or in part, on six of the 10 recommendations.

Changes for employers

The reforms aim to accelerate workplace gender equality in Australia. Key changes are included in table below.

What's changing?	When will it happen?

Employers must share their WGEA Executive Summary and Industry Benchmark reports with their Board	From late 2023
WGEA will publish private sector employer gender pay gaps	From early 2024
Employers must provide additional information on employees including age, primary workplace location, CEO and casual manager remuneration	From April 2024
Reporting on sexual harassment, harassment on the ground of sex or discrimination will be mandatory	From April 2024
Employers with 500 or more staff must have a policy or strategy for each of the six Gender Equality Indicators	From April 2024
WGEA will publish Commonwealth public sector gender pay gaps	From late 2024 / early 2025

Who will these reforms apply to?

The reforms apply to organisations already required to report annually to WGEA.

Under the Act, this includes private sector employers and, from 2023, Commonwealth public sector organisations with 100 or more employees.

How will WGEA work with employers to ensure they understand and implement these reforms?

We understand these reforms will change the way employers have previously reported to WGEA. That's why the legislation allows appropriate lead time for employers before significant changes take effect.

WGEA will provide regular communication with employers about the changes and what they mean for them through:

- direct email
- updates to social media
- webinars and information sessions
- the provision of toolkits and resources
- communication via peak bodies

Why were these reforms introduced?

Overall, Australian employers have made progress against most of the six gender equality indicators since reporting to WGEA began in 2013-14.

But change isn't happening fast enough.

In fact, in recent years, progress on workplace gender equality in Australia has stalled. WGEA data, collected in the annual Employer Census, indicates employers are not necessarily following up with action to address their gender pay gaps.



It's more than 10 years since parliament first passed the *Workplace Gender Equality Act 2012*. These reforms will improve transparency, accountability and motivate action to accelerate progress on gender equality in workplaces.

Who was consulted on these reforms?

Feedback and ideas from employers, industry groups, academics, unions, advocacy groups and representatives from government contributed to shaping these landmark reforms.

The 2021 Review of the WGE Act and subsequent further consultation, including a series of virtual roundtables and a survey to relevant employers, informed the drafting of these reforms.

All employers required to report to WGEA were invited to complete a survey about these changes. The government received 344 responses to the survey.

Additionally, external stakeholders were invited to contribute via virtual roundtables. These stakeholders included a variety of organisations and targeted representatives from the business and not-for-profit sectors, employee organisations, higher education providers, the women's sector, users of WGEA's data and other interested parties.

What are the key changes for employers?

Collection of more detailed information to fill knowledge gaps

Existing gaps in the WGEA dataset mean the true state of gender inequality across Australian workplaces is not being measured. The reforms work to close these gaps.

From 2024, employers will be required to report workforce data on:

- employee age (year of birth)
- primary workplace location
- CEO remuneration

Mandatory reporting means data will be provided by all employers, rather than a smaller sample that may choose to provide this data voluntarily.

These more detailed insights will help WGEA better understand the factors influencing equality in Australian workplaces. Improving our understanding of this information will allow WGEA (and government more broadly) to drive targeted action for the benefit of Australian individuals, community organisations and businesses.

For more information on CEO remuneration, see **CEO Remuneration** section at page 8.

Reporting on sex-based harassment, harassment on the ground of sex or discrimination

These reforms expand reporting requirements on prevention and response to sexual harassment, harassment on the ground of sex or discrimination in the workplace.

Employers who do not currently collect this data have time to prepare with new reporting questions in 2023 to be asked on a voluntary basis. These questions will be mandatory from 2024:

- the provisions set out in any policy/strategy, including accountabilities for:
 - preventing and responding
 - the provision of training, its frequency, and its content
 - the disclosure processes and management of disclosures; and,
 - leadership statements or communication to demonstrate commitment to prevention and response
- information about sexual harassment risk management
- information about the prevalence data organisations currently collect
- supports available for staff

Mandatory sharing of reports to governing body

The new legislation requires employers to provide the WGEA Executive Summary report and Industry Benchmark report to their Board or Governing Body and to report the date these reports were shared. WGEA already provides these reports, confidentially, to each employer's CEO and reporting contact at the end of reporting.

Gender Equality Indicator policies for large organisations

From 2024, large organisations (500 or more employees) will be required to have policies or strategies that cover all six gender equality indicators.

Publishing employer gender pay gaps

Under the new legislation, WGEA will publish employer gender pay gaps, in addition to publishing the gender pay gap at a national, industry and occupational level.

International experience has shown that publishing employer gender pay gaps can lead companies to prioritise gender equality and to a lowering of employer gender pay gaps. Research found UK employers substantially narrowed the wage gap between men and women after gender pay gaps were made public.

These reforms will encourage employers to deploy and drive workplace policies, practices and environments that support gender equality, creating meaningful shifts in Australian working life.

When will WGEA publish employer gender pay gaps?

Until now, WGEA has collected gender pay gap data from employers, but has not had the legislative authority to publish it. Instead, employers received this information in a confidential report.

WGEA will publish the first set of private sector employer gender pay gaps in early 2024. This will cover the 1 April 2022 - 31 March 2023 reporting period.

Data for Commonwealth public sector organisations will be based on the 1 January 2023 – 31 December 2023 reporting period. As private and public sector organisations follow different reporting timelines, the first publication of Commonwealth public sector organisation's gender pay gaps will be published in late 2024 or early 2025.

Publishing gender pay gap data will draw on existing reporting data, so employers will not need to provide additional information to WGEA.

What will be published?

Employer gender pay gaps will be published by mean, median and remuneration quartile.

For the first release of employer gender pay gaps in early 2024, WGEA will only publish employer gender pay gaps by median and remuneration quartiles.

In future reporting periods – when CEO remuneration data can be included – employer gender pay gaps will be published by mean, median and remuneration quartiles.

Employers will be informed of their organisational gender pay gap well in advance of it being made public.

We understand that external or internal factors influence the results of an employer's gender pay gap. So, while the gender pay gap is a proxy for gender equality, it may not provide a complete picture of an organisation's commitment to it.

For this reason, employers will have the opportunity to provide a statement that gives context to their gender pay gap results or outlines their plans for action.

Why won't employer gender pay gaps, by mean, be part of the first release in early 2024?

These reforms make it mandatory for employers to report CEO remuneration. However, this change requires employers to be given a one-year notice period.

This means WGEA will not be able to include CEO remuneration in the calculations for the first release of employer gender pay gaps. CEO remuneration has a meaningful impact on the mean gender pay gap calculation but is insignificant for median and quartile calculations. Therefore, to ensure future comparability, WGEA will publish the first set of employer gender pay gaps only by median and remuneration quartiles in early 2024.

The following year the Agency will publish median, mean and quartile employer gender pay gaps. To ensure the release of this information is a carefully managed process, WGEA will continue to work with employers throughout 2023 and beyond to help them prepare for the changes.

How will WGEA calculate employer gender pay gaps?

The method of calculating employer gender pay gaps will not change. The reforms implement changes to the way these pay gaps are presented and require the Agency to publish them.

WGEA will continue to calculate both the base salary and full-time equivalent annual remuneration gender pay gaps for employers. This means that part-time and casual salaries are converted to full-time equivalent earnings. The total remuneration full-time equivalent pay gap calculations include superannuation, bonuses, and other additional payments.

Mean gender pay gap

The individual organisation's mean gender pay gap will be expressed as a percentage and the average dollar difference between women's and men's earnings at an organisation.

Median gender pay gap

The individual organisation's median gender pay gap will be expressed as a percentage and the average dollar difference between women's and men's earnings at an organisation. The median describes the figure in the middle of the dataset. Identifying the middle of the dataset assists in accounting for outliers, which is important given the inclusion of CEO, or the equivalent, remuneration in the calculation of employer gender pay gap data.

Employer remuneration quartile

WGEA will publish employer gender pay gaps and workforce composition data by quartiles.

This means providing data on the full-time equivalent gender pay gap for the organisation's highest paid quarter, upper middle quarter, lower middle quarter, and lowest paid quarter, along with the gender composition of each pay quartile.

The gender composition will state the proportion of women and men in each quartile.

CEO remuneration

Reporting CEO remuneration is an important step forward in gaining a more accurate representation of the real gender pay gap.

It should be noted that CEO remuneration has previously been reported to WGEA. Many employers (more than 50%) provide CEO remuneration to WGEA voluntarily on an annual basis.

Will WGEA publish CEO remuneration?

As with all remuneration data collected by WGEA, individual CEO pay information will be confidential.

How will this impact employer gender gaps?

Nearly 80% of CEOs in Australia are men. Because CEOs are often the highest paid employees at an organisation, we expect the inclusion of CEO remuneration to have a significant impact on employer *mean* gender pay gaps.

This is why WGEA will only publish both *mean* and *median* employer gender pay gaps once CEO remuneration is reported to WGEA.

Does this include remuneration for Partners?

At this stage CEO remuneration does not include remuneration for Partners in a partnership structure. This is because Partners are not classified as employees and therefore not captured in the WGEA dataset.

WGEA is working with the government to consider how to include Partners in its data collection (For more detail, see [Recommendation 7.3b in the 2021 Review of the WGE Act](#)).

What further reforms are proposed?

The legislative reforms will implement many of the 10 recommendations that were made in the 2021 Review of the *Workplace Gender Equality Act 2012*.

Most of the outstanding recommendations will be fulfilled through further legislative amendments, but are still undergoing careful consideration and consultation.

This includes:

- collection of information about employees who identify as non-binary
- collection of diversity information about employees
- setting and achieving gender equality targets
- additional changes to support Respect@Work

Collection of non-binary data

Since 2021, employers have been able to voluntarily report to WGEA on the workplace data they collect on employees who identify as non-binary. One of the recommendations of the 2021 Review was that the Act should be amended to enable the mandatory collection of this data.

WGEA is prioritising work in consultation with specialist organisations, the community sector, unions, and industry groups to develop an approach to collecting this data that is safe and respectful to people who identify as non-binary.

Collection of diversity data

Recommendation 6 of the 2021 Review recommended investigating the best way to collect data on other aspects of identity including on Aboriginal and Torres Strait Islander background, cultural and linguistic diversity, and disability.

WGEA has commenced research alongside key stakeholders on the best approach to collecting this data. Since 2022, WGEA has included voluntary questions in its Employer Census related to diversity and inclusion and encourages employers to provide voluntary employee diversity data where they collect it.

Setting and achieving gender equality targets

The Review also called for the addition of a new gender equality standard, requiring large employers with 500 or more employees to commit to and achieve specific targets and to report their progress to WGEA.

Development of these gender equality targets requires consultation with businesses and other stakeholders, to make sure they are genuine, measurable, achievable and include meaningful metrics shown to help progress gender equality.

Sex-based harassment, harassment on the grounds of sex or discrimination

This Bill supports implementation of recommendations made in the *Respect@Work* report. However, the report also made further findings that collecting data on the prevalence, nature and reporting of sexual harassment is essential to better understand the issue and that this data collection should be a priority.

In light of these findings, WGEA is undertaking further consultation with employers to better understand what data they currently collect relating to sexual harassment prevalence and outcomes – including NDAs or confidentiality clauses – and to understand how this data can be appropriately collected and reported at the workplace level.