

Gender Equality Bill exposure draft

Merri Health submission to the Discussion Paper

27th September 2018

Merri Health creates healthy, connected communities through local health services for people at every age and stage of life.

We know that at different times, health needs change. That's why we support people throughout life, with a range of wraparound services spanning from children's health to aged care.

We've been the trusted health service of local communities for over 40 years. As a not-for-profit organisation, our focus is on partnering with people, responding to local needs, and strengthening the health of entire communities.

We provide services throughout northern metropolitan Melbourne and north eastern Victoria.

Merri Health congratulates the Victorian Government on their commitment to gender equality and the advancement of gender equality through legislation. We believe the public sector plays a key part in promoting gender equality and that the Gender Equality Bill (the Bill) takes necessary action towards achieving this.

Over the past 5 years, Merri Health has undertaken a comprehensive, whole of organisation approach to promoting gender equality, including the development, implementation and evaluation of Gender Equality Action Plans.

Please find below Merri Health's comments in relation to the Gender Equality Bill exposure draft [discussion paper](#) and enclosed questions.

Q1: What do you think are the critical actions necessary for the success of gender equality legislation?

We agree that gender equality legislation is a valuable tool for the promotion of gender equality. Promoting gender equality across our communities is long-term work that requires significant investment for successful implementation, along with supportive policy and legislative settings such as this legislation.

In our experience implementing a whole of organisation approach to promoting gender equality in our workplace, significant support must be provided to human resources and leadership teams via consultancy, professional development, and additional staffing to write and implement action plans and manage the implementation of significant change, as well as potential backlash and resistance.

It is also essential to clearly articulate the case for gender equality legislation, which involves acknowledging the role of gender inequality as an underlying driver of violence against women and children.

Q2: What other activities should the government undertake to support this legislation?

Many community health organisations, women’s health organisations and local councils are already active in promoting gender equality, and require sustained funding to continue this work.

We commend the Victorian Government’s significant investment to gender equality and preventing violence against women, particularly through the recent *Free from Violence* funding streams. However, we acknowledge that much of these resources have been allocated to community-based initiatives which is an essential action for this work. However, workplace-based initiatives also require considerable resourcing, particularly to support capacity building for teams who are likely to be responsible for the work, but may not have the history or experience working in the gender equality or preventing violence against women sector (for example, human resources).

The community health, women’s health and local government sectors also hold significant expertise in workplace and community-based gender equality that can be leveraged to support the implementation of the Bill. For example, the Building a Respectful Community partnership in Melbourne’s northern metropolitan region facilitated by Women’s Health in the North (WHIN) is endorsed by 26 partner organisations, including Merri Health, who have committed to actions towards achieving gender equitable, safe and inclusive workplaces, services, communities and communications.

Where the Victorian Government and public sector procures services from female-dominated industries – such as community health or children’s services – it should also recognise and work to redress the systematic undervaluing of these industries by increasing program funding allocated to salaries. The undervaluing of female-dominated sectors is a significant contributor to the gender pay gap, and governments can play a critical role in contributing to improvements in this area. Please see our response to question 10 below for more details in this regard.

Gender diversity

We recommend the Victorian Government review the language in the *Gender Diversity* section of the Discussion Paper to accurately reflect the existence of non-binary gender, the differences between sexuality, sex and gender and intersectionality for women. This review should be informed by people who are gender diverse and the organisations that represent them.

We also suggest the phrase “including people who identify as men and women” (Discussion Paper p11) be removed to reflect the fact the people who identify as women and men *are* women and men.

Inequalities relating to sexuality (e.g. lesbian, gay, bisexual) and sex (intersex) should also be differentiated from people of non-binary gender identities (e.g. trans and gender diverse) (Discussion Paper p11).

We also feel that the language used in the Bill should more accurately reflect the focus on equality for women in comparison to men, rather than being inclusive of all genders. This leads to the exclusion or omission of people who are non-binary. Specific recognition/inclusions in the Bill for people with non-binary genders should be considered.

We would also ask the Victorian Government to consider how mandatory requirements embedded in this Bill might interact with gender diversity strategies already implemented by a range of Victorian organisations. For example, as a Rainbow Tick accredited organisation, Merri Health has implemented significant changes to organisational policies to only use gender neutral terms. We recognise the importance of explicitly acknowledging women and men, particularly in policies or strategies that aim to address gender inequities. However, we would recommend that the Victorian Government consults with organisations like Gay and Lesbian Health Victoria (GLHV) to ensure that implementing this Bill will not contradict outcomes in this area.

Q3: What do you think is best practice in measures to support implementation of legislation that drives lasting social change?

We support the development of Gender Equality Action Plans, procurement guidelines, key indicators and targets, and monitoring and reporting to promote gender equality.

We suggest that Victorian Government support for implementation must include:

- Robust and specific guidelines. The Workplace Gender Equality Agency's Employer of Choice for Gender Equality citation provides a robust framework that could support decision-making in relation to action plans, targets, monitoring and reporting.
- Investment in additional time for staff to develop and implement this work.
- Investment in professional development for human resources and leadership staff in relation to gender equality principles and managing potential backlash and resistance.
- Investment in consultancy services to provide expertise to organisations without adequate experience and skills in gender equality.

Q4: Do you agree that these are the critical principles and actions that should underpin the legislation? What should be added, or needs to be changed?

We support the statement that there are social and economic benefits of gender equality. We suggest that human rights, prevention of violence against women and their children and physical and mental health should be prominent in this discussion, with economic benefits as supporting factors. Gender Equality Principles in Division 2, point 7 of the Bill are more reflective of this.

Q5: What else should be included in Gender Equality Action Plans to support demonstrating compliance to the principles?

To ease administrative burden, Action Plan requirements should be aligned or incorporated into existing organisational requirements such as Workplace Gender Equality Agency annual reporting.

Q6: What preparation, guidance materials or training is needed to support organisations to develop Gender Equality Action Plans?

In our experience developing and implementing a Gender Equality Action Plan at Merri Health, we required:

- significant staff hours across teams to develop a whole-of-organisation approach to gender equality and build engagement
- training in gender equality principles, practical measures for implementation and managing backlash and resistance
- ongoing support for best practice implementation and troubleshooting from external partners

Teams responsible for the development and implementation of Gender Equality Action Plan, including Human Resources and Leadership teams, will require:

- Robust and specific guidelines. The Workplace Gender Equality Agency's Employer of Choice for Gender Equality citation provides a robust framework that could support decision-making in relation to action plans, targets, monitoring and reporting.
- Investment in additional hours for staff to develop and implement this work.
- Investment in professional development for human resources and leadership staff in relation to gender equality principles and managing backlash.
- Investment in consultancy services to provide expertise to organisations without adequate experience and skills in gender equality.

Q7: What kinds of public sector targets should be included in the regulations of the Gender Equality Bill?

We support the introduction of quotas, as they lend greater efficiency and accountability.

A quota of 40% women in leadership and governance bodies is suggested. This aligns with Workplace Gender Equality Agency Employer of Choice for Gender Equality citation guidelines and reflects the findings from the Gender Equality Bill Citizens' Jury report.

A combination of short term quotas and long term targets could also be considered. For example, a quota might represent the minimum standard of compliance in the immediate future (eg. 30% in 2 years), whereas the target would represent the ideal circumstance.

A higher quota should be set where the overall workforce is greater than 40% women. For example, if the overall workforce is 80% women, but the leadership is 40% women this may reflect barriers to career progression for women. Where this issue is identified in monitoring and reporting processes, it should trigger a review of targets and relevant strategies in action plans.

A 50% quota is not recommended as it implies a gender binary and is not inclusive of people who are non-binary or agender.

Negative perceptions and resistance against quotas or targets must be carefully managed by skilled staff with clear messaging around the legitimacy of quotas for the promotion of gender equality through gender equity measures.

It is also important to acknowledge that current legislative settings for organisations with community-elected boards are prohibitive to quotas. For example, despite commitment from our board and senior leadership to introduce quotas for all Merri Health board positions, we are unable to action this. We would recommend the Victorian Government review options for non-public sector organisations that are similarly restricted, and either seek to address these legislative restrictions or provide support for organisations to develop strategies to mitigate these limitations.

Q8: What is needed to ensure representation of women from diverse backgrounds?

We support the Victorian Government's commitment to ensuring that women from diverse backgrounds are represented in public sector boards and senior management. We recommend the Bill also look at ways to ensure diversity exists across boards/senior management, regardless of gender identity. This would ensure that diversity requirements are not just relevant to women representatives.

At this stage, it is not clear the extent to which diverse representation is a concern for public sector boards and senior management. We recommend integrating a requirement for mandatory data collection and analysis in the Bill, with poor performance triggering the development of a strategy within Gender Equality Action Plans. Once there is a better picture of the extent of the problem, it will also provide a strong foundation for future action at a state-wide level.

We feel it would also be useful to clarify which target population groups are prioritised under this action area. At a minimum, we would also recommend alignment with the Victorian Department of Health and Human Services' [identified populations](#):

- Aboriginal and Torres Strait Islander people
- culturally, linguistically and religiously diverse communities
- refugees and asylum seekers
- LGBTIAQ+ communities
- older people

We also recommend the inclusion of other communities, including people with disabilities, carers, and young people.

The Victorian Government should also engage directly with these communities to ensure their voices lead and inform strategy development to achieve diverse representation.

Q9: What frequency or volume of reporting would strike a balance between transparency and accountability, whilst minimising regulatory burden?

As a large organisation, we are required to report annually to the Workplace Gender Equality Agency (WGEA) on a range of measures around gender equity. We would recommend that reporting and compliance requirements for the Bill look at ways of integrating these reporting processes to minimise burden. Further, any organisations that have applied for citation as a

WGEA Employer of Choice for Gender Equality are required to submit significant evidence of their efforts to address gender inequity.

It would also be useful for public sector organisations – and those affected by procurement guidelines – to be able to use WGEA annual reporting and citation applications as evidence of compliance.

We also see opportunities to align reporting with regular accreditation processes, which are mandatory for a range of organisations (eg. the National Health and Human Services standards).

To ensure transparency and accountability, we would support all reports being made available publicly.

Q10: How can the Victorian Government leverage procurement and funding practices to promote gender equality in the wider community?

As a non-profit organisation that receives funding from the Victorian government, we are very supportive of the proposal to integrate gender equality measurements into procurement and funding guidelines.

Like many community sector organisations, Merri Health has committed to addressing gender inequality through a whole-of-organisation approach over the past five years. This includes making changes to policies and physical environments, increasing knowledge and skills of employees, and building meaningful partnerships. This sector also holds significant expertise in workplace and community-based gender equality that can be leveraged to support the implementation of the Bill. For example, the *Building a Respectful Community* partnership in Melbourne’s northern metropolitan region is endorsed by 26 partner organisations.

As a health sector organisation, Merri Health’s workforce is predominately women. With a significant proportion of our workforce paid under what was formerly known as the Social and Community Services (SACS) award, it is also important to acknowledge our experience of efforts to address pay inequity of traditionally female-dominated industries through legislative measures such as the Equal Remuneration Order (ERO) made by the Fair Work Commission. We enthusiastically welcome any commitment to redress the systematic undervaluing of roles that have been traditionally associated with women, and feel there is more work to be done in this area across a range of industries. However, it is important to acknowledge the significant costs associated with implementing this legislation for non-profit organisations. With community sector organisations like Merri Health receiving the majority of their funding from government, it is critical that all governments recognise the increased costs associated with implementing programs – either by increasing funding rates or by decreasing targets – as it is not feasible for non-profit organisations to absorb this cost. Without changes that match pay increases for this sector, the gender equality outcomes desired by this Bill are at risk of not being achieved.

It’s also important to build the case for why this Bill is good for business. Many organisations will be concerned about how this will negatively impact on their bottom line. With a range of other legislative changes in the human resources sector (for example, long service leave

portability), some sectors may consider themselves more at risk at being financially worse off with strict targets and reporting/compliance requirements.

If modelling exists around the financial implications for organisations to implement these changes, we would recommend that the Victorian share them publicly. If there are some sectors which are likely to be worse off (for example, non-profit organisations or small businesses), then we recommend considering slow or phased integration of these changes, additional supports to allow the changes to occur, and/or additional funding where organisations are delivering services on behalf of the Victorian Government.

We would also ask the Victorian Government to consider how various employment awards and enterprise agreements interact with procurement guidelines. Merri Health currently employs staff under approximately nine different enterprise agreements. Although individual organisations are able to implement organisation-specific policies, it cannot be in contradiction to employment conditions set out in those enterprise agreements and their associated awards.

In addition to organisations directly funded by the Victorian Government, it is also important to ensure sub-contractors comply with procurement guidelines. We also support the adoption of paid family violence leave as a requirement for Victorian Government suppliers.

Q11: Do you think that the proposal for monitoring and compliance of the Bill is fair and balanced?

We agree with the proposals for a monitoring and compliance system in addition to self-monitoring and to name non-compliant organisations. We also believe that it is critical to acknowledge, reward and promote exceptional practice publicly.

We would recommend that naming non-compliant organisations should be obligatory, where procedural fairness has been followed, rather than at the discretion of the Minister, in order to reduce the potential for undue influence.

To strengthen compliance, we also recommend including key performance indicators for management and leadership of participating organisations to achieve minimum standards against their organisation's Gender Equality Action Plan.

We also recommend that the Victorian Government consider imposing financial penalties for non-complying organisations, with monies raised reinvested into gender equity capacity building.

Q12: It is clear that the impact of gender equality is compounded by the way that gendered barriers interact with other forms of disadvantage and discrimination. What is needed to ensure that the advice of the Ministerial Council is considered in other policy areas that may compound or contribute to gender inequality?

We recommend the Victorian Government considers how gender equality measures and outcomes are integrated into policy and program development across all government departments and public sector organisations.

We suggest integrating gender equality criteria into existing social impact assessments used to analyse policies/programs, or developing a new gender equality impact assessment that draws on exemplary practice principles of gender analysis.

Q13: Do you think this timeline is appropriate for the proposed roll out?

The timelines presented appear reasonable provided adequate resourcing and professional development are available.

In our experience, Gender Equality Action Plans should be given 6-12 months to develop. Full consultation and analysis of systems and processes requires sustained and considered analysis over a period of time. It is also essential for building the necessary internal and external partnerships and capacity, and to identify organisation-specific priorities and solutions.

Q14: What preparations are needed to ensure readiness of impacted organisations before legislation takes effect?

In addition to resourcing and professional development investment of staff identified above, ongoing external support for workplaces is recommended.

We suggest replicating the Victorian Department of Education and Training's model for supporting the roll-out of respectful relationships curriculum. This includes support staff for each region, communities of practice and financial support for lead organisations.

Q15: What should be done to encourage or incentivise broader sectors or organisations to voluntarily comply with the principles, even if they are not obliged to do so?

We would suggest that organisations wanting to comply with the principles should have access to professional development and support staff. For example, if regional teams were established to support implementation for public sector and funded organisations, it may be possible to provide opportunities for non-funded organisations to also access these resources and support.

We would also recommend the introduction of awards or acknowledgements which highlight excellent practice or achievements.