



# Legislating for gender equality

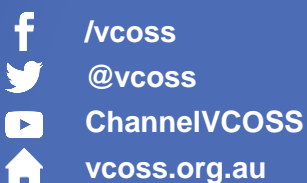
Submission to the Department of Health  
and Human Services Gender Equality  
Legislation consultation

October 2018

The Victorian Council of Social Service is the peak body of the social and community sector in Victoria.

VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, advocacy groups and individuals interested in social policy.

In addition to supporting the sector, VCOSS represents the interests of Victorians experiencing poverty and disadvantage, and advocates for the development of a sustainable, fair and equitable society.



This submission was prepared by Charlotte Newbold and Veronica Perera and authorised by VCOSS CEO Emma King.

For enquiries please contact Llewellyn Reynders at [llewellyn.reynders@vcoss.org.au](mailto:llewellyn.reynders@vcoss.org.au)

A fully accessible version is available online at [vcoss.org.au/policy/](https://vcoss.org.au/policy/)



VCOSS acknowledges the traditional owners of country and pays respect to past, present and emerging Elders.

This document was prepared on the lands of the Kulin Nation.



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# Glossary

<b>Aboriginal</b>	used to represent Aboriginal and Torres Strait Islander
<b>gender</b>	describes the socially-constructed norms, roles, attributes and expectations shaping our understanding of what it means to be a woman or a man in society, commonly using the categories of 'man' and 'woman' (gender identity) and 'masculine' and 'feminine' (gender expression) <sup>1</sup>
<b>gender equality</b>	the realisation of equal outcomes for women, men and gender diverse people, this includes equal representation, opportunities, status, rights and benefits <sup>2</sup>
<b>gender equity</b>	the process of being fair to women, men and gender diverse people, with the aim of achieving gender equality <sup>3</sup>
<b>gender diverse</b>	the many different ways people identify their gender, such as genderqueer, non-binary, agender and gender fluid <sup>4</sup>
<b>women</b>	includes all women and girls, including cis-women, trans-women and intersex women

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<sup>1</sup> Women's Health West, *Why Gender Matters: a guide for community health services*, 2015.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Minus 18, [\*Gender is not uniform\*](#)

# Executive summary

VCOSS welcomes the opportunity to provide feedback on the draft legislation and consultation paper.

VCOSS congratulates the Victorian Government's on developing our first Gender Equality Bill. We recognise the Government's commitment to supporting gender equality within the public sector, and more broadly through social procurement. This commitment underpins the Victorian Government's Gender Equality Strategy: *Safe and Strong*. Gender inequality and rigid gender roles are a major factor driving family violence.

VCOSS is the peak body for social and community services in Victoria. VCOSS members reflect the diversity of the sector and include large charities, peak organisations, small community services, Neighbourhood Houses, advocacy groups and individuals interested in social policy. In addition to supporting the sector, VCOSS represents the interests of Victorians facing disadvantage and vulnerability in policy debates and advocates for the development of a sustainable, fair and equitable society.

Advancing gender equality benefits not only women but society more broadly. Countries with greater gender equality have significantly lower levels of family violence, higher rates of wellbeing and lower depression among both men and women.<sup>5</sup> Advancing women's equality could increase the Australian economy by \$297 billion each year.<sup>6</sup> Violence against women costs Australia \$22 billion a year.<sup>7</sup>

The Gender Equality Bill provides an opportunity to challenge ingrained cultural beliefs about women's role in society and their leadership potential. Meaningful change across organisations will not occur without a deep commitment by public sector leaders to drive real change. This Bill represents an excellent first step towards supporting gender equality in the public sector. It provides an impetus for change in the not-for-profit and business sectors.

VCOSS has consulted widely with members to develop this submission. It sets out recommendations on strengthening the Bill. VCOSS looks forward to working with the Victorian Government to advance gender equality and build a fairer, safer and more inclusive society.

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<sup>5</sup> Science Nordic, [Gender equality gives men better lives](#), Norway, 2015.

<sup>6</sup> Angela Priestley, Equality for women could boost the economy by 12%, 27 April 2018, accessed at <https://www.smartcompany.com.au/finance/economy/mckinsey-research-equality-women-boost-economy-12/>

<sup>7</sup> KPMG, [The cost of violence against women and their children in Australia](#), Final report: Prepared for the Department of Social Services, May 2016; VicHealth, [Economic cost of violence](#), November 2015.

# Recommendations

## Legislate for gender equality

- Proceed to legislate gender equity principles
- Consider recognising gender diversity in the principles
- Proceed to require a State Plan and public sector action plans, and formalise the Ministerial Council on Women's Equality
- Expand coverage to entities with 50 or more employees

## Boost women's leadership

- Regulate ambitious targets for women in both senior leadership and middle management
- Consult on setting targets and developing indicators
- Consider legislating a minimum quota option

## Enhance transparency

- Name non-complying entities in Parliament and consider further penalties
- Make Action Plan progress reports public
- Introduce a searchable agency database

## Leverage public purchasing power

- Consult with the community sector and business to develop procurement guidelines embedding gender equality

# Addressing gender inequality

Addressing gender inequality helps Victorian women participate in society and the economy. Gender inequality negatively affects women throughout their lives, including educational and training opportunities, career pathways and employment opportunities, work-life balance, access to leadership positions, health and safety, economic security and earning potential,<sup>8</sup> and social inclusion.

VCOSS recognises women are not a homogenous group and that they represent enormous diversity in cultural background, socioeconomic status, geographic location, sexuality, disability and age. Women from low socioeconomic backgrounds, Aboriginal communities, culturally and linguistically diverse backgrounds, those with disability and long-term health conditions, and those living in regional and rural Australia, experience multiple and intersecting forms of discrimination, disadvantage and marginalisation. These women experience greater risks of poverty, family violence, poor health and wellbeing, and exclusion from economic and social participation. If not effectively addressed, this intersectional disadvantage disempowers many women and limits their opportunities.

While gender inequality disproportionately affects women, gender norms are also detrimental to men. Achieving gender equality involves breaking down the gender norms and stereotypes affecting both men and women, including those working in feminised or masculinised industries. It helps women break the glass ceiling, and become senior leaders and middle managers in the public and private sectors. To date, pay equity progress has been slow, with the national gender pay gap standing at 14.6%,<sup>9</sup> and 12% in the Victorian public sector.<sup>10</sup>

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<sup>8</sup> For example, recent research by the Grattan Institute has found that female university graduates are now expected to earn 27 per cent less than men – or \$750,000 less – over their career. See Grattan Institute, Mapping Australian higher education 2018, accessed at <https://grattan.edu.au/wp-content/uploads/2018/09/907-Mapping-Australian-higher-education-2018.pdf>

<sup>9</sup> Australian Government, Workplace Gender Equality Agency, What is the gender pay gap? accessed at <https://www.wgea.gov.au/addressing-pay-equity/what-gender-pay-gap>

<sup>10</sup> Victorian Public Sector Commission, The State of the Public Sector, 2016-2017, p.31

# Legislate for gender equality

## Refine gender equity principles

### Recommendations

- Proceed to legislate gender equity principles
- Consider recognising gender diversity in the principles

The Bill proposes legislating gender equity principle. VCOSS a legislated definition, because it helps give gender equity legal force, and clarifies the scope of gender equity considerations. The principles define gender equality as a shared community responsibility addressing equality of power, resources and opportunity, universal application, connection to human rights, social justice, and social, economic and health benefits. The principles recognise the connection between gender inequality and family violence.

VCOSS members call attention to the principles' binary approach to gender. The consultation paper acknowledges the Bill does not seek to address all forms of gender inequality, and focuses on inequalities between men and women. This means the Bill can be construed to neglect recognising the gender inequality experiences of gender diverse people.

VCOSS suggests this omission be remedied by recognising gender diversity in the principles. Explicitly mentioning gender diversity in the legislation can allay fears the Victorian Government is cementing a binary gender conception.

## Build gender equity architecture

### Recommendation

- Proceed to require a State Plan and public sector action plans, and formalise the Ministerial Council on Women's Equality

VCOSS endorses the Bill's obligation for the Minister to prepare a State Gender Equity Plan. Legislating this requirement prompts concerted and ongoing Ministerial Action, and embeds gender equity in the machinery of government. The Plan, currently *Safe and Strong*, provides whole-of-government objectives and co-ordination, and a foundation for public sector entities on which to build their individual actions.

VCOSS similarly supports the Bill's requirement for public sector organisations to develop regular Gender Equality Action Plans. These provide concrete instruments to solidify



commitments for change. Action Plans must include strategies, indicators, analysis, and policy, program and service development to improve gender equality. They are also a mechanism to meet targets for women in leadership.

VCOSS supports formalising in legislation the existing Ministerial Council on Women's Equality. This will entrench advice on achieving women's equality in government structures.

## Expand coverage

### Recommendation

- Expand coverage to entities with 50 or more employees

The Bill obliges public sector entities to plan and report on gender equality, including all departments, local government, and agencies with over 100 full-time workers. This threshold excludes many agencies, and lowering it to 50 workers covers more entities. VCOSS recommends also obliging smaller agencies to pursue gender equality.

# Boost women's leadership

## Targets for change

### Recommendations

- Regulate ambitious targets for women in both senior leadership and middle management
- Consult on setting targets and developing indicators

The Bill allows the Minister to set targets for women's leadership by regulation. We understand the targets will be specified for each sector or entity. Improving women's representation in leadership and managerial positions changes the underlying power imbalance. Including women's voices leads to improved decision-making, with more diverse perspectives.

In June 2017, 67 per cent of the public sector workers were women and 33 per cent were male. This has not translated to leadership roles. The majority of executives are men.

**Table 1: Gender of public sector executives<sup>11</sup>**

Executives	Female	Male
Public service	48.9	51.1
Public entities	39.8	60.2
Total public sector	43.5	56.5

The Victorian Government is improving gender equality in traditionally male and female industries; for example, by setting 'targets to increase the number of female firefighters from 100 to 400 over the next four years.' The Victorian Government has committed 'that women will make up 50 per cent of all new appointments to courts and paid government boards in Victoria,' producing a rise in women's representation to 53 per cent.<sup>12</sup>

<sup>11</sup> Victorian Public Sector Commission, The State of the Public Sector, 2016-2017

<sup>12</sup> Safe and Strong: A Victorian Gender Equality Strategy Achievements Report Year One, accessed at [https://www.vic.gov.au/system/user\\_files/Documents/women/1801009\\_Safe\\_and\\_strong\\_first\\_year\\_report\\_summary\\_10\\_%C6%92\\_web.pdf](https://www.vic.gov.au/system/user_files/Documents/women/1801009_Safe_and_strong_first_year_report_summary_10_%C6%92_web.pdf)

Setting leadership targets in the public sector helps create organisational cultures that support, nurture and attract women, generates more employment and leadership opportunities, and, by modelling best practice, helps drive private sector performance.

Targets are a tool for change. They allow entities flexibility to adopt changes helping promote women in leadership positions. They cement a strong gender equality commitment, and measure whether gender equality action plans are effective.

We recommend adopting an equal representation target, reflecting the Victorian population. A low target risks stalling advancement. VCOSS members support targets being set for both senior leadership and middle management, creating a pipeline of talent.

Only ambitious targets will succeed. VCOSS members would welcome the opportunity to be consulted on the regulations, including setting targets and selecting appropriate gender equality indicators.

## Create a back-up quota option

### Recommendation

- Legislate a minimum quota option

Distinguishing targets and quotas can be fraught. Targets are often considered voluntary and are set by discretion. They may be aspirational, with no consequences if not met. Quotas are imposed externally, and are enforced.<sup>13</sup>

VCOSS supports including an option to set quotas for gender representation in public sector leadership and middle management. They can be used if targets fail to achieve change.

The Victorian Government already sets quotas for women in Victorian courts and boards. This increased women's representation from 39 per cent to 53 per cent in three years.

Overseas, Norway imposed a 40 per cent minimum quota for each gender on public companies in 2006, and achieved it by 2008.<sup>14</sup> Iceland requires 40 per cent of each gender on boards and in senior management in public corporations. France and Italy also compel quotas on company boards.<sup>15</sup>

<sup>13</sup> Australian Government, Workplace Gender Equality Agency, Targets and quotas Perspective Paper, accessed at [https://www.wgea.gov.au/sites/default/files/2014-03-04\\_PP\\_targetsquotas.pdf](https://www.wgea.gov.au/sites/default/files/2014-03-04_PP_targetsquotas.pdf)

<sup>14</sup> <https://womensagenda.com.au/latest/women-in-parliament-a-look-at-the-numbers-following-recent-change/>

<sup>15</sup> Australian Government, Workplace Gender Equality Agency, Targets and quotas Perspective Paper, accessed at [https://www.wgea.gov.au/sites/default/files/2014-03-04\\_PP\\_targetsquotas.pdf](https://www.wgea.gov.au/sites/default/files/2014-03-04_PP_targetsquotas.pdf)

The NSW Government currently has a Premier's Priority to increase the proportion of women in senior leadership roles from 33 to 50 per cent by 2025.<sup>16</sup> The Victorian Government's own gender equality strategy, *Safe and Strong*, states:

***Quota systems have been viewed as one of the most effective special measures or affirmative actions for increasing gender equality in participation.***

The Bill exposure draft does not currently contain any mechanism to set quotas. By introducing one, the Victorian Government holds more tools to secure change.

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<sup>16</sup> NSW Auditor-Generals Report, Progress and measurement of the Premier's Priorities, 13 September 2018, accessed at <https://www.audit.nsw.gov.au/ArticleDocuments/1207/Progress%20and%20measurement%20of%20the%20Premier%20s%20Priorities%20-%20website%20version.pdf.aspx>

# Enhance transparency

## Recommendations

- Name non-complying entities in Parliament and consider further penalties
- Make Action Plan progress reports public
- Introduce a searchable agency database

The Bill requires public entities to report annually, potentially through existing reporting mechanisms. The Office of Women monitors these reports. The Minister can list the names of entities not complying with their obligations in an annual gender equality report tabled in Parliament. VCOSS members encourage the Government to consider additional penalties for non-compliance, drawing on international best practice.

VCOSS members strongly support the Gender Equality Action Plans and their accompanying reports being made publicly available to help promote accountability, transparency and scrutiny. This allows better monitoring to deliver on targets and commitments, and comparisons between agencies.

VCOSS supports developing a searchable database of agencies, similar to the Workplace Gender Equality Agency Data Explorer.<sup>17</sup> This helps promote greater accountability by agency comparison. It also helps promote employers of choice.

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<sup>17</sup> WGEA Data Explore, see <http://data.wgea.gov.au/>

# Leverage public purchasing power

## Recommendations

- Consult with the community sector and business to develop procurement guidelines embedding gender equality

Social procurement means organisations using their buying power to generate social value above and beyond the value of the goods, services, or construction being procured.<sup>18</sup>

Victoria's Social Procurement Framework is the first whole-of-government commitment to social procurement in Australia.<sup>19</sup> It sets a clear expectation that social procurement is standard practice for the Victorian Government.

The Bill proposes the Finance Minister may issue guidelines to promote and advance gender equality, building on the existing Social Procurement Framework.

The Social Procurement Framework can include several assessment criteria that government buyers must consider when granting contracts. This includes demonstrating gender equitable employment practices, family violence leave and targets for labour hours to be performed by women. VCOS supports the Government's proposal to issue procurement guidelines, and would like to work with its members and the Victorian Government to further develop criteria used in the Guidelines.

The health and community services sector is Victoria's fastest growing industry. Consultation can help navigate the implications of gender quality on a highly feminised, low paid industry, and improving pay parity between male- and female- dominated workforces.

Consideration should also be given for organisations holding exemptions in the employment of women under existing state equal opportunity laws. Procurement guidelines should not adversely affect them (e.g. women's health organisations). In addition, consideration should be given to organisations operating in 'thin markets'.

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<sup>18</sup> The State of Victoria [Victoria's social procurement framework](#) 2018, accessed 11 October 2018

<sup>19</sup> Social Traders Australia [Victoria continues to lead the way with Social Procurement Framework](#) 2018, accessed 11 October 2018

### ***Case Study: West Gate Women in Construction***

West Gate Women in Construction provides a great example of how social procurement can be used to promote gender equality. Six months in, they have exceeded their target of 400 women being involved in the delivery of the West Gate Tunnel Project. They formed a leadership committee to identify and implement strategies and activities to attract women to roles on the project. The committee actively promotes women's achievements and educates the project team on gender equality issues.



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