

**November 2020**

## Implementing the Gender Equality Act

The [Victorian Gender Equality Act 2020](#) (The Act) is a significant reform which aims to improve gender equality outcomes in workplaces and in the community. The Act is applicable to all defined entities including councils, the Victorian Public Service and public entities with 50 or more employees.

The Act requires all defined entities to engage in ongoing positive action to achieve gender equality by undertaking workplace gender audits, gender impact assessments, developing Gender Equality Action Plans and publishing progress reports.

The Act has also established the office of the Commissioner for Gender Equality in the Public Sector (CGEPS) which has the responsibility to promote, support and oversee compliance with the Act. The newly appointed Commissioner for Gender Equality in the Public Sector is Dr Nikki Vincent.

The Gender Equality Obligations under the Act come into effect in March 2021 and the first Gender Equality Action Plans are required by October 2021. Councils are now in the process considering how they can best prepare for the implementation of the Act.

The MAV has coordinated a recent Local Government Gender Equality Act Pilot Project in partnership with ten councils and the State Government. Learnings from this pilot are being used by the State Government to inform the development of guidance resources and other support systems for local government, and the learnings have also informed this document.

The Victorian local government sector has an extensive track record of working to advance gender equality through a wide range of strategies, programs and services to meet the needs and aspirations of local communities. This work provides a strong foundation for councils to implement the Gender Equality Act. However, it is also understood that councils vary in the extent to which they have progressed gender equality work and in their capacity for implementing obligations of the Act.

This brief paper aims support councils to prepare to implement the requirements of the Act by providing:

- a brief overview of the key requirements the Act and general implementation processes underway; and
- responses to common queries being raised by councils with the MAV.

It has been prepared as of late October and councils are advised to keep up to date with developments by keeping in contact with the CGEPS - [genderequalityact@dpc.vic.gov.au](mailto:genderequalityact@dpc.vic.gov.au) and the MAV - [genderequality@mav.asn.au](mailto:genderequality@mav.asn.au)

## Q 1. What are the key requirements of the Gender Equality Act?

Under the Gender Equality Act all entities have a duty to promote gender equality and this duty involves a number of specific requirements. All entities are required to:

- Undertake **Gender Impact Assessments (GIAs)** ‘when developing or reviewing a policy of, or program or service provided by, the entity that has a direct and significant impact on the workplace and on the public.’ (The Act Section 9)
- Develop a **Gender Equality Action Plan (GEAP)** and submit to the CGEPS by 31 October 2021 and then every four years thereafter. The GEAP must take into account results of the Workplace Gender Audit (The Act Section 10)
- Complete a **Workplace Gender Audit (WGA)** which assesses the organisation’s state of gender equality as at 30 June 2021, with regard to specific workplace gender equality indicators, and then for the biennial GEAP reporting years thereafter (The Act Section 11)
- Provide their GEAP to the CGEPS by 31 October 2021 and publish it on the entity’s website (The Act Section 12)
- ‘Make reasonable and material progress in relation to the workplace gender equality indicators’ (The Act Section 16-1)
- Submit a progress report on the GEAP to the CGEPS in every second year after submitting a GEAP. Progress reports should also include reference to any GIAs undertaken over that period (The Act Section 19)

The legislation requires all entities to consider the **gender equality principles** specified in the Act, including how gender inequality may be compounded by other forms of disadvantage or discrimination including Aboriginality, age, disability, ethnicity, gender identity, race, religion and sexual orientation. These are referred to as ‘intersectional’ factors.

See: The Gender Equality Act 2020 - <https://www.legislation.vic.gov.au/made/acts/gender-equality-act-2020>

## Q 2. What are the timeframes for the Gender Equality Act in 2021 the link with the other key reporting timeframes for Victorian councils?

The following summarises just some of the planning and reporting timeframes for 2021:

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| <b>Gender Equality Act</b><br>takes effect March 2021  | <b>Revenue and Rating Plan (4 Years)</b><br>30 June 2021                   | <b>Annual Budget</b><br>30 June 2021   | <b>Workplace Gender Audit</b><br>Data assessed as of 30 June 2021 to inform the GEAP<br>Biennial WGA undertaken at a minimum |
| <b>Gender Equality Action Plan (4 Years)</b><br>Due 31 October 2021<br>Biennial progress reports | <b>Community Vision (10 Years)</b><br>Due 31 October 2021                  | <b>Municipal Public Health and Wellbeing Plan (4 Years)</b><br>Due 31 October 2021 | <b>Council Plan (4 Years)</b><br>Due 31 October 2021   |
| <b>Annual Report</b><br>31 October 2021  | <b>Financial Plan and the Asset Plan (10 Years)</b><br>Due 31 October 2021 | <b>Workforce Plan (4 Years minimum)</b><br>Due 31 December 2021                    | <b>Gender Impact Assessments</b><br>undertaken as appropriate  |

### **Q 3. What support and other guidance will be provided to councils to undertake requirements of the Act?**

The office of the Commissioner for Gender Equality in the Public Sector (CGEPS) has the lead role in providing information, support and guidance material to assist entities to implement the requirements of the Act. Councils can contact the CGEPS at [genderequalityact@dpc.vic.gov.au](mailto:genderequalityact@dpc.vic.gov.au) for any questions, and can register for regular updates via the CGEPS website at [www.genderequalitycommission.vic.gov.au](http://www.genderequalitycommission.vic.gov.au).

The CGEPS website provides key information on the Gender Equality Act as well as guidance to assist organisations to understand and meet their obligations. CGEPS is developing tailored guidance material taking into account feedback gathered from the various Gender Equality Act pilot processes involving the MAV, councils and other entities. These materials will be published on their website over the next three months, with a second tranche to be available before obligations commence on 31 March 2021.

Based on the pilot project, the MAV has proposed that the State Government support include guidance, including templates, tailored specifically for local government. Proposals include developing a library of resources to support local government focused GIAs, WGAs and GEAPs. This could include coordinating access to good examples of GIAs, WGAs and GEAPs.

The CGEPS is also establishing a 'Panel of Providers' to support defined entities to meet their obligations under the Act. The panel will include provision of support services in the following areas:

- Workplace Gender Auditing
- Gender Impact Assessments
- Strategies to improve gender equality
- Evaluation
- Mediation and Conciliation, and
- IT services.

Discussion between the MAV and the State Government is continuing to progress support systems for councils. At this stage the MAV can assist councils with general queries and by creating opportunities for discussions between councils through MAV forums and through the MS Teams group connected to the MAV Gender Equality, Prevention of Violence Against Women and Gender Based Violence Network. To receive an invitation to join the Teams group, please email MAV PVAW Project Officer, Rachel Close, via [rclose@mav.asn.au](mailto:rclose@mav.asn.au).

The CGEPS have also launched their social media channels – you can follow them on [Twitter](#) and on [LinkedIn](#) for all the latest news.

### **Q 4. What is a Gender Impact Assessment (GIA)?**

A Gender Impact Assessment is a structured process to assess the effects a policy, program or service may have on people of different genders. This includes assessing the extent to which the initiatives are meeting their needs, as well as identifying opportunities to address gender inequality and/or to promote gender equality. GIAs include consideration of infrastructure.

Key elements of a GIA include:

- using a structured process to examine issues, options and identify recommendations
- identifying and challenging 'gender blind' and hidden assumptions
- considering the impact of other factors of discrimination - intersectionality issues
- using quantitative and qualitative evidence and data to inform the assessment
- Informing decision making to advance gender equality

The time and resources to undertake a GIA should be tailored to suit the scope, impact and priority of the area to be examined. The scope may be very in-depth or have a lighter touch depending on the issue and the council's capacity.

## **Q 5. When should councils undertake a GIA?**

The legislation states that GIA should be undertaken '*when developing or reviewing any policy of, or program or service provided by, the entity that has a direct and significant impact on the public.*'

As most of council business has a significant impact on the public, guidance is being sought from CGEPS on how councils can identify the priority areas for undertaking GIAs over time. At this stage it is understood by CGEPS that it will take time to build the skills and capacity to undertake GIAs comprehensively across relevant community facing policies, programs or services.

With this in mind, the MAV suggests that it makes practical sense for councils to identify some key priorities for attention over the coming 1-2 years where undertaking a GIA would have a particularly valuable community benefit, and where the council can use the process to build capacity for future GIAs. Councils can also build their capacity by undertaking GIAs which have a relatively small scope.

## **Q 6. What should be included in the GEAP?**

The GEAP must include the results of the Workplace Gender Audit and use this information to develop strategies and measures for promoting gender equality in the workplace. The GEAP must also include other matters which may be prescribed (The Act Section 10). The GEAP does not need to include GIAs. However, the progress reports against the GEAP must include any information on the GIAs undertaken over that period including actions taken to promote gender equality. (The Act Section 19)

## **Q 7. How do councils link the WGA and GEAPs with their Workforce Plans as required under the Local Government Act?**

The Local Government Act requires that a Workforce Plan is developed within six months must describe the organisational structure of the council, specify projected staffing requirements for at least 4 years and set out measures to seek to ensure gender equality, diversity and inclusion.

The GEAP can be referenced in the Workforce Plan as the council's actions to progress gender equality, diversity and inclusiveness in the workplace. The WGA is used to inform the development of the GEAP and to establish progress measures which can be reported on over time. It may be that the WGA can also be used to inform other aspects of the Workforce Plan.

Further guidance on the alignment between the GEAP and the Workforce Plan will be provided by the CGEPS in partnership with Local Government Victoria.

## Q 8. Does the GEAP need to be a new and separate plan?

The Gender Equality Act has a provision that an entity can seek permission from the Commissioner that a plan prepared for another purpose may be taken to be a Gender Equality Action Plan if the Commissioner is satisfied that it includes specific matters identified in the Act for a GEAP (The Act Section 13). Clear guidance on this issue is to be provided by the CGEPS as part of the forthcoming guidance material.

The Municipal Health and Wellbeing Plan is unlikely to satisfy the requirements of a GEAP as the internally focused WGA is a key element of the GEAP.

## Q 9. What can councils be doing now to prepare for the Gender Equality Act?

The Guidance material to be provided by the CGEPS in late 2020 will aim to support all entities to prepare for implementation of the Act.

In the meantime, it is suggested that councils can prepare for the implementing the Act by focusing on the following.

### Building organisational readiness

- Build internal awareness of the important aims of the Act, its obligations and requirements and that this will be forming part of the organisation's corporate accountabilities
- Ensure that the CEO and senior leadership team are identifying this as an important element of corporate planning, action and reporting for 2021 and beyond
- Undertake an analysis of the existing policies, plans and systems in place which will support compliance with the Act, and areas where there may be any critical gaps or challenges which need to be addressed
- Implement staff development programs to raise awareness, and build commitment to promoting gender equality and addressing associated intersectionality issues
- Include information on Gender Equality Act obligations in such processes as Councillor and staff induction
- Identify an internal leadership and coordination structure which will most effectively support the council's implementation of the Gender Equality Act

### Preparing for GIAs

- Identify the key policies, plans or services which your council will be developing or reviewing over the next few years which have *'direct and significant impact on the public'*
- Consider criteria to identify which initiatives would be prioritised for a GIA process, including the ones which would benefit from a more in-depth GIA process and areas which could have a simpler GIA process
- Draft a forward schedule for GIAs based on your agreed priority criteria
- Undertake an analysis of your council's current capacity to access community focused gender disaggregated and intersectional data (quantitative and qualitative) which could be used to undertake GIAs.

### Preparing for undertaking a WGA as of the end of June 2021

- Map and benchmark the council's capacity to collect data relevant to the specific workplace gender equality indicators in the Act
- Identify any data system gaps, particularly relating to gender-disaggregated and intersectional data, and any changes that may need to be considered



### **Preparing the first GEAP**

- undertake an analysis of any current and previous research and plans which could provide a foundation for your council's first GEAP
- commence internal discussions to identify how the process to develop the GEAP can best link with the development of the Workforce Plan

In addition to the above, councils are encouraged to continue to use connections with the MAV and other councils to share experiences and ideas, and to explore partnerships which can support implementation of the Act.

### **Q 10. What framework/s can councils use to build capability for the Gender Equality Act?**

At this stage there is no specific organisational development framework related directly to the Victorian Gender Equality Act. However, there are existing gender equality frameworks which can be used by councils to identify their existing level of readiness, their strengths, and areas for further development with regard to progressing gender equality.

These include:

- 'Workplace Equality and Respect Standards', Our Watch (2018), <https://workplace.ourwatch.org.au/what-is-workplace-equality-respect/>; and
- General resources available through the Workplace Gender Equality Agency (WGEA), including a 'Gender Equality Toolkit' - <https://www.wgea.gov.au/>

### **Q 11. What resources will be needed?**

The Act specifies that '*a defined entity must ensure adequate resources are allocated to developing and implementing the Gender Equality Action Plan*'. (The Act Section 10:3)

It is understood that councils vary in the resources they currently apply to gender equality activities and in their capacity to invest in additional staff time and other resources to support compliance with the Act.

The MAV has suggested that the State Government consider some targeted support especially for small councils and/or councils which do not have well established gender equality processes in place. At this stage there is no indication that specific funding from the State Government will be available for individual councils or other entities to support implementation of the Act. However, all entities will be supported with guidance resources and other support systems and networks through the CGEPS.

### **Q 12. How should implementation of the Gender Equality Act be coordinated within a council?**

Councils need to consider a leadership and coordination structure that best suits their organisation so that the Gender Equality Act work can be progressed effectively across the organisation. As the Gender Equality Act has a focus on both internal workforce issues as well as diverse external community impacts, a cross functional approach should be considered.

In deciding on an effective coordination structure, it is important that compliance with the Act is promoted as an important corporate responsibility and is not marginalised as the sole responsibility for one functional area. Councils may consider how they coordinate other

compliance and social equity issues as the Human Rights Charter, Child Safe Standards and Disability Action Plans.

Consideration should also be given to how gender equality actions can be progressively embedded within the organisation's culture, systems and processes. These could include such systems as policy development and program review processes, the community engagement policy, project management tools, business plans, position descriptions, performance plans and professional development programs.

### **Q 13. What are the regulations and where are they up to?**

Regulations associated with the Gender Equality Act will be progressively developed. The first stage of regulations have been gazetted and will come into effect on March 2021. These regulations relate to clarifying the scope of various provisions of the Act.

The key regulation related to local government has been to include councils within the scope of the Public Sector Gender Equality Commissioner's dispute resolution function, allowing councils to access dispute resolution about systemic gender equality issues.

### **Q 14. What are the expectations in relation to targets or quotas?**

The CGEPS has confirmed that it will use data provided through the first round of GEAPs to inform any future regulations on targets and quotas. The CGEPS has also stated that any regulations relating to targets or quotas will involve a rigorous and open consultation process. Within this context, councils can choose to include targets and quotas in their GEAPs prior to any regulations being put in place if they wish to do so.

### **Q 15. Who can you contact for questions/advice?**

For further information and advice councils can contact:

- The Commission for Gender Equality in the Public Sector (CGEPS) [genderequalityact@dpc.vic.gov.au](mailto:genderequalityact@dpc.vic.gov.au) or [www.genderequalitycommission.vic.gov.au](http://www.genderequalitycommission.vic.gov.au)
- The Municipal Association of Victoria, Kellie Nagle, Policy Adviser, Preventing Violence Against Women [knagle@mav.asn.au](mailto:knagle@mav.asn.au)