



SUBMISSION TO

**Australian Government Boards (Gender
Balanced Representation) Bill 2015**

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Contact

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Introduction

Women on Boards is pleased to make a submission in support of the Australian Government Boards (Gender Balanced Representation) Bill 2015 (the bill), requiring Government boards to comprise of at least 40 per cent men and 40 per cent women.

Our experience working with Government boards ensures Women on Boards is well placed to support this bill, having been at the forefront of the push to improve gender balance on Australian boards across all sectors for a decade. We now number more than 20,000 members across Australia and 15,000 in the United Kingdom and run substantive programs and initiatives in both countries and across Asia.

Women on Boards (alongside the Australian Institute of Company Directors, Australian Rural Leadership Foundation, Australian Securities Exchange, Chief Executive Women and Women's Leadership Institute of Australia) is an affiliate of Boardlinks, launched by the Government in 2012 to identify board ready women and provide a springboard for them to secure board experience through public sector appointments. We referred a significant number of suitably qualified and experienced women to Boardlinks in 2012-2013 when the program was actively promoted. A number achieved board roles through this process, however the initiative appears to have stalled under the current Government.

This bill provides the Government the opportunity to make a statement that its boards and committees should be gender balanced, thereby committing it and future Governments to mainstreaming gender equality and increasing awareness that gender balance builds social, economic and political cohesion.

As Chris Eccles, the Victorian Department of Premier and Cabinet secretary and member of the Victorian Human Rights and Equal Opportunity Commission's Male Champions of Change program, noted recently:

“My view is that you can never be fully effective as a public service in developing policy solutions, while you are not yourself representative of the community who you are seeking to serve and develop policy solutions in response to.” (Chris Eccles)

The bill also reinforces the importance of broad representation across boards in the corporate sector, where significant gains have been made since Principles 2 and 3 in the Australian Corporate Governance Council's Corporate Governance Principles and Recommendations (2nd ed, with 2010 amendments) included requirements for ASX listed companies to report on gender balance. This and many other initiatives in the corporate sector have seen growing understanding and awareness of the need for gender balance at management, executive and board level in Australia.

In support of the bill

Women on Boards, in its long association with, and consultation to, a number of Federal Governments on gender on boards, believes the bill will **create a legislative framework to a policy of gender balance on Australian Government boards and committees** formally put in place by the previous Labor Government and endorsed by the current Coalition Government. It is sound practice to ensure future Governments remain committed to a process of equity in the composition of the many hundreds of boards, committees and advisory bodies that portfolios and departments depend on for advice and public accountability.

The bill requires **both genders to be represented proportionally** on all Government boards and committees and will put an onus on departments whose boards and committees are not gender diverse, to address the balance. For example the Department of Human Services has 67 per cent of positions held by women, while the Department of Employment has 67 per cent of positions held by men.

The presence of a mandated target should force **greater transparency and consistency in the selection and recruitment of board and committee members**. Those responsible for appointments are likely to find it necessary to develop more centralised and rigorous processes to find candidates with the right skills and experience to fill vacancies. This could include, but is not limited to, the recommendations outlined by Women on Boards following our work with Federal Government portfolios and departments in 2012 to assist them meet the 40:40:20 targets set by the Gillard Labor Government (Appendix 1).

The **success of Gender Balance Target for Government Boards** (which included Boardlinks) is evident in the numbers; as at 30 June 2011 women held 35.3 per cent of the 460 Government boards and bodies, rising to 41.7 per cent in the two years to June 2013. Significant gains were made in traditionally male dominated portfolio areas including finance, treasury, employment & workplace relations and industry & innovation. By contrast, the number of positions held by women fell by two per cent as at June 2014, spectacularly so in the case of Prime Minister & Cabinet and the areas of Employment and Education. (Appendix 2).

Perhaps the most problematic figure from the 2014 report, and a concerning indicator of where gender balance on Government Boards is tracking, is that 36.5 per cent of the 639 appointments in 2013-14 were awarded to women. In some portfolio areas this number was significantly lower and not even close to the number of female appointments required to continuously meet the 40 per cent target currently in place. The proposed Bill will mandate **measurement, accountability and compliance at individual portfolio and ministerial level for the 40:40:20 target**, thereby guaranteeing attention to implementation at the highest level.

With greater gender balance on boards across all portfolio areas will come the **improved governance and performance** that results from more diverse and gender balanced bodies. This is well documented in the literature, summarised by Professor Robert Wood of the Centre for Ethical Leadership at the University of Melbourne in his 2014 collection of arguments and evidence from globally recognised and respected sources supporting why having more women in boards, senior management and in general benefits organisations.¹

The Bill is well framed in that **it echoes the “If not, why not” compliance regime of the Australian Corporate Governance Council’s Corporate Governance Principles and Recommendations**, rather than setting penalties for failure to comply such as would be the case should a ‘quota’ be imposed. The wording of the bill clearly indicates 40 per cent is a mandatory target which is desirable for the portfolio to reach in the case of both male and female representation on boards and committees.

Sufficient exclusions apply in Subclause 7(2) of the bill to ensure that where men or women need to be appointed to a board or committee by virtue of a position they hold or if the 40:40 gender balance cannot be mathematically achieved on a board of four or less, then an exception can be made. This will allow flexibility and common sense to prevail and ensure the bill remains workable.

Recommendation

We note that under Subclause 7(2)(e) the Government is not obliged to comply with the target where there are extraordinary circumstances would be open to interpretation. This could result in differing approaches across portfolios. The Explanatory Memorandum outlines ‘reasonable efforts’ that could be taken, including gender balanced candidate shortlists and measurement against a set of objective selection criteria. We recommend ‘reasonable efforts’ be defined in the bill as including, but not exclusively as the list in the Memorandum.

Conclusion

The Australian Government Boards (Gender Balanced Representation) Bill 2015 would take significant steps towards ensuring gender composition of those bodies responsible for the relevance and public accountability of Government policy and legislation was equalised and therefore removed as a point of discussion. It would lead to improved governance, transparency and selection processes and should be supported by all with an interest in better and more effective Government.

¹ Prof, Robert Wood, July 2014, Centre for Ethical Leadership, University of Melbourne, ‘Building a Business Case for Gender Diversity’, <https://cel.edu.au/our-research/building-a-business-case-for-gender-diversity>

Appendix 1: Gender Balance on Government Boards Project

In 2011-12 the Australian Government made a public commitment to achieving a target of at least 40 per cent women and at least 40 per cent men on Australian Government boards by 2015. The three principles for implementation of this target for gender balance were to be²:

1. Ministerial commitment
2. Merit and Transparency
3. Proportionality

The rationale was that by setting, reporting on and meeting the target, the Australian Government would be providing:

- a. leadership to the community, in both the public and private sectors;
- b. the opportunity for women to exercise leadership;
- c. greater economic participation by women;
- d. an increase in the economic value of Government boards by engaging both women and men in decision-making; and
- e. culture change within the professional community to promote gender equality in the decision-making sectors of Government.

At an aggregate level this target was achieved by June 2013, however there were pockets of poor performance in a number of Departments (see Appendix 2). In seeking to ensure responsible government staff were given the best possible opportunity to reach their target, Women on Boards was engaged by the Federal Office for Women in 2012 to assist portfolios and departments to:

- Analyse particular obstacles and identify strategies to overcome obstacles to achieving gender balance on their boards.
- Provide a testing ground for the Information for Government Departments – Gender Balance on Australian Government Boards document.
- Assist the development of the Target Board Gender Balance Plans, and provide portfolios with information on how to produce them.

² Information for Government Departments – Gender Balance on Australian Government Boards

Stage one of the project was a consultation to assess awareness of the government's gender initiative, appointment & recruitment process and problems foreseen in achieving the 2015 gender target.

Stage two of the project involved hosting two forums with officials from portfolios and departments to discuss and identify issues in relation to the appointments and selection processes, identifying solutions and develop portfolio specific actions for the short and longer term.

Stage three brought together representatives from the six portfolios with the lowest number of women on boards and committees who had been identified as requiring specific intervention and assistance.

Key Findings

Some of the key findings from the consultation project were

1. Participants who attended the forums were interested in the topic of gender diversity and well informed about their portfolio circumstances and how to develop Target Board Gender Balance Plans.
2. Lack of continuity and timeliness in the appointments process emerged as a major issue for many portfolios.
3. Portfolio arrangements for appointing members to boards and committees varied widely. Some used a centralised approach while in others line areas were responsible - with or without a standard set of guidelines. This lack of consistency cast doubt over the merit and transparency of appointments in many portfolios.
4. Where portfolios did not have a transparent and rigorous process for appointments, officeholders indicated a lack of standard documentation on best practices and good governance around selection and appointments procedures.
5. There was a general lack of awareness among participants about who to ask about, or where to go to find, women interested in, and suited to, government appointments.
6. Under-estimation of the vigilance required around appointments to meet and maintain the 40:40:20 target. WOB analysis indicated that seven (39%) portfolios need to appoint 43-50 per cent women to all positions in 2013 and 2014 to meet the target. Another seven (39%) of portfolios need to appoint women to 53-63 per cent of all positions.

Key Recommendations

Women on Boards made four key recommendations from the project that all portfolios and departments could easily adopt in the short term at minimal cost and which still apply in current circumstances:

1. Better information and communication processes

- a. Portfolios that have a de-centralised approach to appointments to audit the processes used to improve communication with line areas regarding appointments.

2. Modifying stakeholder behaviour

- a. When invited to nominate candidates for appointment, stakeholder groups, chairs and boards be requested to nominate at least one male and one female candidate.

3. Areas responsible for appointments to develop internal guidelines, including:

- a. Use of selection criteria and a board nominations committee
- b. Advertising through a range of networks and online media in order to communicate to a more diverse candidate pool
- c. Females on all selection panels
- d. Collection of pipeline recruitment data (percentage of females who applied/ recommended, were shortlisted, interviewed and successful)

4. When evaluating potential board/ committee members, consideration should be given to proxies for director experience in place of the usual default of many years of board/ committee experience. These include;

- Reporting to a board
- Briefing a board
- Experience on in house / industry / community based bodies/ committees
- Corporate secretary expertise

In addition, Women on Boards recommended:

1. The momentum established in bringing the portfolios together be supported and maintained through the development of an Appointments Network.
2. **Improve the treatment of candidates** in relation to the communication and information given about the appointment and its progress (or not).
3. Utilise the **development of a centralised reporting system** to provide information and advice for portfolios on a range of issues, including best practice selection criteria/ where to advertise vacancies/ how to make your vacancy attractive to quality applicants/ where to find women. The system should be able to provide real time data on board statistics by portfolio, membership, terms of appointment, renewal dates to ministers, portfolios and the community. The UK Charities Commission website is a good example of what information can be provided.
4. Take advantage of existing programs for preparing board ready women and **focus more on improving transparency around the vacancies** than building lists of women or training them.
5. Use ‘centralised portfolio coordinators’ to better understand line area processes and challenges, build relationships with them and develop a strategy to **up-skill staff in the appointments process**.
6. Involve and harness the networks of chairs by seeking their help in identifying suitable females for board roles.

Appendix 2: Gender Balance on Government Boards 2011-2014

Portfolio Area	June 2014	June 2013	June 2012	June 2011
Agriculture, Fisheries and Forestry	36.8	40.4	39.3	36.0
Attorney-General's	48.1	52.3	52.4	50.7
Broadband, Communications and the Digital Economy	42.5	44.9	37.5	35.6
Climate Change and Energy Efficiency	NA	NA	34.0	33.3
Defence	28.3	25.9	25.3	26.9
Education, Employment and Workplace Relations	33.5	45.6	42.6	36.9
Families, Housing, Community Services & Indigenous Affairs	48.5	60	53.8	50.4
Finance and Deregulation	42.5	43.7	38.8	31.1
Foreign Affairs and Trade	41.8	41	40.4	36.8
Health and Ageing	45.7	46.8	43.9	38.2
Human Services	66.7	42.9	33.3	33.3
Immigration and Citizenship	40.0	41.5	43.2	50.0
Industry, Innovation, Science, Research & Tertiary Education	38.6	37.5	30.5	24.8
Infrastructure and Transport	37.4	34.8	34.5	28.1
Prime Minister and Cabinet	29.4	41.2	50.0	45.4
Regional Australia, Local Government, Arts and Sport	NA	41.4	40.8	37.2
Resources, Energy and Tourism	NA	29.2	26.3	27.3
Sustainability, Environment, Water, Population & Communities	42.0	43.5	34.7	29.5
Treasury	34.2	31.3	28.3	27.9
TOTAL	39.7	41.7	38.4	35.3