Practice note: administering an employee experience survey under the *Gender Equality Act 2020*

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| **Disclaimer: This document contains guidance relating to privacy, confidentiality, and safety of employees. This guidance is general in nature and does not constitute legal advice. Defined entities are responsible for their own compliance with the privacy laws, including the *Privacy and Data Protection Act 2014* (Vic) (PDP Act). The Information Principles (IPPs) that are contained in Schedule 1 of the PDP Act set out the minimum standards for how Victorian public sector bodies should manage personal information.** |

Introduction

Under the *Gender Equality Act 2020* (Act), defined entities are required to collect and report key employee experience data for their workplace gender audits. The required employee experience survey questions can be found on [our website](https://www.genderequalitycommission.vic.gov.au/workplace-gender-auditing).

Employee experience data is critical because it complements workforce data to help defined entities better understand their employees’ experience of workplace gender inequality. However, employee experience data can be very sensitive. If its collection and reporting is mishandled it has the potential to cause unintended harm.

For this reason, we strongly recommend you engage a third-party survey provider to administer your survey. This practice note is designed to ensure third-party survey providers and defined entities are aware of important standards for administering and handling employee experience survey data.

We will shortly provide additional guidance relating to ensuring privacy when reporting and publishing workforce data as part of workplace gender audits.

Using the People Matter Survey 2021 for data collection

Public sector organisations[[1]](#footnote-2) will be able to use their 2021 People Matter Survey results (which will include the employee experience survey data required under the Act) to inform their workplace gender audits. The Victorian Public Sector Commission (VPSC) applies strict rules to protect the privacy and anonymity of survey participants.

Other defined entities under the Act, such as local councils, can either opt to use the 2021 People Matter Survey for a nominal fee or engage a third-party provider to administer an employee experience survey for this purpose. CGEPS recommends using the VPSC’s 2021 People Matter Survey service as it will provide your defined entity with the most complete data set, with minimal financial and administrative burden.

Please contact CGEPS at [enquiries@genderequalitycommission.vic.gov.au](mailto:enquiries@genderequalitycommission.vic.gov.au) if your organisation wishes to participate in the People Matter Survey 2021. You will need to register your interest before 31 March 2021.

Engaging another third-party provider for data collection

Your defined entity may choose to select another third-party provider for employee experience data collection. The survey questions can either be run as a specific gender equality survey or be integrated into an existing employee experience survey.

For defined entities that choose to engage another third-party provider, this note includes guidance on:

1. Privacy and confidentiality
2. Distress protocol to protect the wellbeing of respondents
3. Survey methodology – question wording, order and response options
4. Maximising response rates
5. Quality assurance and compliance
6. Timing for data collection
7. Privacy and confidentiality

We strongly recommend you engage an external third-party provider to administer your survey.

This is because some of the demographic information requested is considered sensitive information under the PDP Act and *Privacy Act 1988* (Cth), including cultural identity and sexual orientation, and most other information would be considered personal information. Information about a disability of a person is also considered health information under the *Health Records Act 2001* (Vic) and therefore the Health Privacy Principles will apply to that information. In addition, other collected information, such as reports of sexual harassment and bullying, is extremely sensitive.

Employee participation in the employee survey should be voluntary and all employees should be invited to the survey on an anonymous basis.

##### **What sort of privacy protocols should be in place?**

It is essential that your third-party provider is familiar with laws affecting data collection and has robust data security systems in place, including:

* Ensuring that your data collection complies with IPPs found in the PDP Act and Australian Privacy Principles (APP) found in the *Privacy Act 1988* (Cth). For more on the IPPs, see [https://ovic.vic.gov.au/‌privacy/‌for-agencies/information-privacy-principles/](https://ovic.vic.gov.au/privacy/for-agencies/information-privacy-principles/). For more on the APPs, see [www.oaic.gov.au/privacy/australian-privacy-principles-guidelines/](http://www.oaic.gov.au/privacy/australian-privacy-principles-guidelines/). When choosing data collection and storage systems, you should either ensure that your data remain in Australia at all times or that you make appropriate disclosures (see APP 8 and IPP 9).
* Ensuring that access to survey systems and identifiable data are restricted to authorised staff, where the minimum number of staff possible are provided access
* If your third-party provider offers a paper-based survey completion method, ensuring that completed surveys are handled extremely carefully, e.g. deposited by respondents into a secure box that is only accessed by the third-party provider
* De-identifying data and deleting identifiable data as soon as feasible, including on back-up systems. Note that de-identification is not as simple as removing direct identifiers as it may be possible to identify staff based on indirect identifiers, such as a combination of responses to questions

We recommend that the agreement between you and your third-party provider includes contractual obligations for the provider to comply with the PDP Act and to maintain secure systems.

##### **Privacy collection statement**

You must include a privacy collection statement in the survey. IPP 1.3 states that when collecting personal information about an individual from the individual, an organisation must take reasonable steps to ensure the individual is aware of matters including:

* the identity of the organisation and how to contact it
* the fact that the individual is able to gain access to the information
* the purposes for which the information is collected
* to whom (or the types of individuals or organisations to which) the organisation usually discloses information of that kind
* any law that requires the particular information to be collected
* the main consequences (if any) for the individual if all or part of the information is not provided.

**Protecting confidentiality by de-identifying survey results**

Because individuals can be identified from tables of data[[2]](#footnote-3), to protect the confidentiality of staff it is essential that your third-party provider applies strong privacy controls during the survey and in reporting on the survey data.

***Aggregated results for demographic groups***

Your third-party provider should only provide aggregated employee experience results for demographic groups (e.g. women, or men who have a disability) if the following conditions are met:

* the survey has a total of 30 or more respondents
* the demographic group has 10 or more respondents
* no more than 2 demographic variables are used to create a demographic group. For example, combining gender and age is acceptable, but combining gender, age and disability is not
* results for a demographic group should not be provided if they can be simply used to reveal the results of a suppressed group (i.e. that has fewer than 10 respondents). For example, the aggregated results of non-Aboriginal respondents should not be provided if there are fewer than 10 Aboriginal respondents
* all demographic group results must be viewed at an organisation level only. For example, not provided for work groups within an organisation (I.e. for divisions, teams, units) and not provided for other workplace identifiers such as questions on occupation.

***Particularly sensitive questions***

Results for questions asked only of those who experienced bullying, discrimination or sexual harassment should be:

* excluded from all demographic group reporting
* only provided to the defined entity if 10 or more people experienced the behaviour

Voluntary free-text comments should be provided to defined entities in a separate report, with no other identifying information. We strongly recommend that you require your third-party provider to check the free-text comments for potentially identifying details (for example, names or dates) and remove them before providing you with the results. We also strongly recommend that you securely store free-text comments to prevent unauthorised access (for example, in a restricted access folder and/or password protecting the file).

***Raw/individual participant response data***

Raw participant response data (e.g. the responses that each survey participant gives in the survey) should only be provided to or reviewed by the defined entity if the following has been **removed**:

* demographic responses
* the questions asked only of those that experienced bullying, discrimination or sexual harassment
* free text responses

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| **Privacy obligations under the Gender Equality Act**  Under the Act (section 51), defined entities have important privacy obligations:   1. to remove any personal information from their GEAPs or progress reports 2. when submitting any material that is likely to be published, to advise the Commissioner whether the material contains any personal information   Personal information is defined in the PDP Act. It means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. |

#### Distress protocol to protect the wellbeing of respondents

Some of the questions being asked in the survey (for example, questions about sexual harassment or bullying) may be upsetting to the employees responding.

The survey introduction should note that, although it is desirable for employees to complete the survey, they can stop responding to the survey at any time.

At the end of the survey, or at specific points in your survey that are higher risk, we recommend providing information about support services, either to all respondents or by asking whether the respondent wishes to receive information about support services.[[3]](#footnote-4)

#### Survey methodology – question wording, order and response options

Please ensure that questions are asked using the exact wording provided in the employee experience survey questionnaire Excel document (available on our website) —including demographics—and in the recommended order indicated in the first column. Response options should also be in the exact order and wording which is outlined by the Commission.

Small differences in question wording can have large effects on survey results. Similarly, the order in which questions are asked can affect results, as respondents can interpret later questions in the light of earlier questions they have answered. This can have impacts on answers to the questions that are difficult to predict in advance.

By following this advice, you will also assist the Commission to compare results across organisations and understand the state of gender inequality across defined entities under the Act.

#### Maximising response rates

Your defined entity should aim to maximise the number of people completing the survey, with a **minimum** of 30 complete responses. This will ensure that any demographic group data can be aggregated in a way that maintains confidentiality and is representative of your workforce.

There are a number of steps your defined entity can take to ensure you receive as many responses from your employees as possible. We recommend, for example:

* Making sure you have confidentiality and privacy protocols throughout the administration of the survey, and communicate this to participants
* Being clear and upfront with your employees about how your third-party provider is going to handle and report on the data
* Promoting the survey and committing to taking action on the results
* Using generic links (not personalised invites) wherever possible
* Providing survey links that are accessible via mobile phones for non-desk-based employees
* Making a dedicated workstation with a computer or iPad available for completing the survey
* Scheduling work time for employees to complete the survey
* Ensuring your third-party provider follows the protections for confidentiality described above.

#### Quality assurance and compliance

We recommend the survey is conducted by a third-party provider who can demonstrate they are a member of the Association of Market and Social Research Organisation (AMSRO) or The Research Society (formerly the Australian Market & Social Research Society AMSRS).

Alternatively, the provider could supply evidence of equivalent accreditation and supply documented evidence of compliance via independent assessment.

The provider should also be able to provide you with evidence of accreditation or pending accreditation (before commencement of the survey), under the International Standard for Market Research (AS ISO 20252).

#### Timing for data collection

The employee experience survey should be administered for a limited time period (for example two weeks) between 1 April and 30 June 2021.

Section 11 of the Act outlines that workplace gender audits must be based on data as at 30 June 2021. For the purposes of workplace gender audits, we will be accepting data that is collected at any time period between 1 April and 30 June 2021.

#### Further information

#### Additional Information about the survey data collection

CGEPS would welcome your reporting of basic information about the survey in order to be able to better understand your organisational responses.

* Which third-party provider did you engage to administer the survey?
* When did data collection take place?
* How many employees were invited and how many completed?
* Were any groups of the workforce not surveyed (e.g. volunteers, board members or contractors)?
* Did any groups of employees respond at particularly low or high rates?

Please do not hesitate to contact CGEPS for further information via the below mailbox:

[enquiries@genderequalitycommission.vic.gov.au](mailto:enquiries@genderequalitycommission.vic.gov.au)

1. As defined by the *Public Administration Act 2004* [↑](#footnote-ref-2)
2. Potential identification could occur if an organisation reports results at a highly disaggregated level, for example, the particular workplace experiences of Aboriginal women employees with disability. [↑](#footnote-ref-3)
3. Support services referred to may include 1800RESPECT (sexual assault, domestic or family violence and abuse), Beyond Blue (anxiety, depression and suicide prevention), Centres Against Sexual Assault (referral to non-profit, government-funded organisations that provide support, counselling and crisis care), your Employee Assistance Program, Lifeline (crisis support and suicide prevention), Relationships Australia (family and relationships services), QLife (LGBTIQ+ peer support and referral), SafeSteps (family violence), Sexual Assault Crisis Line Victoria (sexual assault), the Victorian Civil and Administrative Tribunal (sexual harassment complaints) and the Victorian Equal Opportunity and Human Rights Commission (sexual harassment complaints). [↑](#footnote-ref-4)