



# Implementing Respect@Work

WA State Government Progress Report 2023

## About the Report

This report has been developed by the Department of Communities and is part of the State Government commitment to address and respond to workplace sexual harassment by implementing the recommendations from the Australian Human Rights Commission’s, Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces Report 2020.



## Completed recommendations

Table Key: Completed In Progress

Recommendation	Update 2023	Status
<b>Recommendation 5</b> The Council of Australian Governments agrees to incorporate sexual harassment as a key area for action and investment under any national framework to address violence against women.	The National Plan to End Violence Against Women and Children 2022–2032 was launched and \$1.3 billion is allocated through the Federal Budget 2022–23.	

<b>Recommendation 10</b> All Australian governments ensure children and young people receive school-based respectful relationships education that is age appropriate, evidence-based and addresses the drivers of gender-based violence, including sexual harassment.	The State Government committed to mandate consent education in the WA school curriculum for pre-primary to Year 10 students. These changes to the curriculum will take effect in WA schools from 2024.	
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**WA CASE STUDY**

In addition to the Respectful Relationships Teaching Support Program in schools, the program has been adopted to the mining sector as the [Respect in Mining Program](#), with a pilot to commence in 2024.

Recommendation	Update 2023	Status
<p><b>Recommendation 16</b> Amend the <i>Sex Discrimination Act 1984</i> (Cth) to ensure:</p> <ul style="list-style-type: none"> <li>a. The objects include ‘to achieve substantive equality between women and men’.</li> <li>b. Sex-based harassment is expressly prohibited.</li> <li>c. Creating or facilitating an intimidating, hostile, humiliating or offensive environment on the basis of sex is expressly prohibited.</li> <li>d. The definition of ‘workplace participant’ and ‘workplace’ covers all persons in the world of work, including paid and unpaid workers, and those who are self-employed.</li> <li>e. The current exemption of state public servants is removed.</li> </ul>	<p>The <i>Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022</i> (Cth) came to full effect in December 2022.</p> <div style="border: 1px dashed #00A6C9; border-radius: 10px; padding: 10px; margin-top: 10px;"> <p><b>WA CASE STUDY</b> <b>Project 113: Sexual Offences.</b> The Law Reform Commission of Western Australia (the Commission) was tasked with examining issues including the definition of consent, the defence of mistaken belief in consent, the directions given to juries in sexual offence trials, our substantive sexual offences and maximum penalties.</p> </div>	
<p><b>Recommendation 35</b> WHS ministers agree to amend the model WHS Regulation to deal with psychological health, as recommended by the Boland Review, and develop guidelines on sexual harassment with a view to informing the development of a Code of Practice on sexual harassment. Sexual harassment should be defined in accordance with the <i>Sex Discrimination Act 1984</i> (Cth).</p>	<p>On 22 December 2022, the work health and safety regulations (General and Mines) in WA were updated to include specific information for persons conducting a business or undertaking (PCBU) to eliminate or reduce the risk of harm associated with psychosocial hazards in the workplace, including sexual harassment.</p> <p>To assist with control and management of psychosocial hazards, the Department of Mines, Industry Regulation and Safety released an information sheet on <a href="#">Gendered violence: sexual harassment</a>.</p>	
<p><b>Recommendation 40</b> All Australian governments should:</p> <ul style="list-style-type: none"> <li>a. Ensure that relevant bodies responsible for developing training, programs and resources for judges, magistrates and tribunal members make available education on the nature, drivers and impacts of sexual harassment. This should be trauma-informed and in line with the principles of Change the Story.</li> <li>b. Support and encourage judicial officers and tribunal members across civil and criminal jurisdictions who may come into contact with victims of sexual harassment to undertake this education and training.</li> </ul>	<p>The Australian Human Rights Commission’s released its Understanding workplace sexual harassment eLearning course, which is informed by <i>Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces</i> report.</p> <p>Training and education on sexual harassment, open to all workers including judicial and parliamentary staff, continues to be delivered by the WA Equal Opportunity Commission.</p>	



# In-progress recommendations

Recommendation	Update 2023	Status
<p><b>Recommendation 11</b> Building on work already underway in response to the recommendations in Change the Course, all tertiary and higher education providers deliver evidence-based information and training on sexual harassment for staff and students that addresses the drivers of gender-based violence and includes content on workplace rights.</p>	<p>Draft revised Standards for Registered Training Organisations (Standards for RTOs) with indicators relevant to harassment and discrimination have been released by the Commonwealth Government for consultation and piloting with stakeholders. The Western Australian Training Accreditation Council (TAC) is working closely with the Commonwealth and vocational education and training regulators on the review and piloting of the revised Standards for RTOs.</p>	
<div style="border: 1px dashed #00A0C0; padding: 10px;"><p><b>WA CASE STUDY</b></p><p>As part of the Mental Awareness, Respect and Safety (MARS) Program, North Metropolitan TAFE will trial a workplace psychosocial safety program course for the mining sector.</p></div>		
<p><b>Recommendation 26</b> The Australian Government work with state and territory governments, through the Council of Australian Governments or another appropriate forum, to amend state and territory human rights and anti-discrimination legislation with the objective of achieving consistency, where possible, with the Sex Discrimination Act 1984 (Cth), without limiting or reducing protections.</p>	<p>The Western Australian Law Reform Commission (the Commission) undertook a Review of the <i>Equal Opportunity Act 1984 (WA)</i> (the Act). A new Equal Opportunity Act is currently being drafted.</p> <p>The Commission's Final Report was tabled in Parliament on 16 August 2022 with Recommendation One calling for "the Act be redrafted in a clear, concise and accessible manner". Drafting this complex legislation is underway. The Act will align, where possible, with the <i>Sex Discrimination Act 1984 (Cth)</i>.</p>	

**Recommendation 39**

The Council of Attorneys-General consider how best to protect alleged victims of sexual harassment who are witnesses in civil proceedings, including but not limited to defamation proceedings. Measures could include amending state and territory legislation governing defamation proceedings to introduce a standard direction or presumption in favour of confidentiality and suppression or non-publication of witness details in any defamation court proceeding, where the defamatory material includes allegations of sexual harassment.

Consideration should also be given to additional witness safeguards and protections including:

- a. Having the proceedings conducted in a closed courtroom.
- b. Giving evidence from a remote room.
- c. Having their evidence in chief be audio-visually recorded prior to the hearing.
- d. Having an audio-visual recording of their evidence during the hearing to be re-used in any subsequent proceedings.
- e. Being protected from direct cross-examination by a self-represented party.
- f. Having a support person present while giving evidence.

The Model Defamation Amendment Provisions 2020 are a set of proposed changes to the defamation laws in Australia, which aim to provide more protection for freedom of expression and public interest journalism, as well as to streamline the litigation process and discourage trivial claims. The provisions were approved by the Council of Attorneys-General on 27 July 2020.

**Recommendation 49**

Australian governments provide increased and recurrent funding to working women's centres to provide information, advice and assistance to vulnerable workers who experience sexual harassment, taking into account particular needs of workers facing intersectional discrimination. Australian governments should consider establishing or re-establishing working women's centres in jurisdictions where they do not currently exist.

Western Australia is working with the Commonwealth and other states and territory governments to identify a working model that best meets the State's needs.



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