



Chief Executive Women

Women leaders enabling women leaders

9 July 2021

Committee Secretary
Senate Education and Employment Committees
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Parliament House
Canberra ACT 2600
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Senate Education and Employment Legislation Committee inquiry into the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021

Dear Senators,

Chief Executive Women is pleased to make a submission to the Senate Inquiry into the *Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021* (the Bill).

Founded in 1985, Chief Executive Women (CEW) represents over 640 of Australia's most senior and distinguished women leaders across business, academia, government, the arts and not-for-profit sectors. Our shared mission is 'women leaders enabling other women leaders'. We strive to educate and influence all levels of Australian business and Government on the importance of gender balance. Through advocacy, targeted programs and scholarships, CEW works to remove the barriers to women's progression and ensure equal opportunity for prosperity. CEW's members work actively to realise our vision of a community where women and men have equal economic and social choices and responsibilities.

CEW's members have leading roles within Australia's largest private and public organisations overseeing more than \$749 billion in revenue, 1.3 million employees, \$1.144 trillion combined market capitalisation and making a greater than \$249 billion contribution to Australia's GDP. Healthcare and social assistance, as well as retail are among the female dominated industries represented amongst CEW members.

The Sex Discrimination Commissioner's *Respect@Work* report demonstrated sexual harassment plagues every sector of our economy and is prevalent in far too many workplaces. The report highlighted the negative impacts of sexual harassment on individuals, as well as on business and the economy.

CEW advocates for greater representation of women in senior leadership, which leads to women and men having equal economic and social choices. We believe women should be equally represented at all decision tables so that outcomes for the whole community are better considered.

Taking serious and committed action to prevent and remove sexual harassment from workplaces, is a critical priority for CEW. As a barrier to workforce participation it negatively

impacts women's economic security as well as personal health and well-being. We all deserve to have workplaces that are safe, respectful and inclusive; more women in senior roles contributes to culturally safer workplaces.

The Workplace Gender Equality Agency and Bankwest Curtin Economics Centre report *Gender Insights 2020: Delivering the Business Outcomes* demonstrates the strong and convincing *causal relationship* between an increase in the number of women in key decision-making positions and improvements in company performance. It found that more women in senior leadership delivers the needed cultural change.

CEW welcomed the Respect@Work report as well as the Government's 'Roadmap for Respect' outlining the plan to implement the recommendations which have been accepted wholly, in part or in principle, or noted.

To ensure rigorous and comprehensive measures are put in place to prevent and redress sexual harassment, CEW supports the implementation of all 55 recommendations of the Respect@Work report.

While CEW welcomes the *Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021* (the Bill) that gives effect to the Respect@Work recommendations, there are some key recommendations that remain unaddressed. To give full effect to the Respect@Work Report CEW recommends:

Recommendation: The Bill be amended to implement the following recommendations of the Respect@Work Report:

- *Recommendation 17 – Amend the Sex Discrimination Act to include a positive duty on employers to take reasonable measures to eliminate sex discrimination, sexual harassment and victimisation.*
- *Recommendation 28 – Amend the FW Act to expressly prohibit sexual harassment*
- *Recommendation 16(c) - amend the Sex Discrimination Act to ensure that creating or facilitating an intimidating, hostile, humiliating or offensive environment on the basis of sex is expressly prohibited.*
- *Recommendations 18 and 19 – Amend the Sex Discrimination Act to give the Sex Discrimination Commissioner the power to undertake systemic investigations (eg where there is a pattern of sexual harassment in a sector or workplace) and undertake compliance monitoring to ensure that industries, organisations or sectors are complying with a new positive duty.*
- *Recommendation 23 – Amend the Australian Human Rights Commission Act to allow public interest actions to be brought to court by representative bodies.*

- *Recommendation 25 – Amend the Australian Human Rights Commission Act to ensure costs may only be ordered against a party if the proceedings are vexatious or unreasonable.*

Positive Duty

We urge the Federal Government to particularly consider the inclusion of a positive duty on employers under the Sex Discrimination Act, in addition to existing Work Health and Safety duties.

The widespread sexual harassment in workplaces identified in the Respect@Work report highlighted the need to shift from the current reactive, complaints-based approach, to one which requires positive actions from employers and a focus on prevention.

Positive duties under the Sex Discrimination Act would require an employer to take reasonable and proportionate measures to (as far as possible) eliminate sex discrimination, sexual harassment and victimisation in the workplace – such measures could include training for managers on gender inequity and the causes of sexual harassment; and how to respond to and support staff impacted by sexual harassment.

A positive duty reflects best practice approaches that are already being taken up by employers to prevent sexual harassment in the workplace.

Many employers are leading the way in taking proactive steps and putting in place policies and practices to prevent sexual harassment, over and above the existing legislative obligations. Drawn from CEW's membership we have identified examples of measures currently being undertaken workplaces to address sexual harassment, which are consistent with a positive duty for prevention (See Annex A).

The inclusion of a positive duty under the Sex Discrimination Act is consistent with the appetite from business and workplaces to proactively prevent and address sexual harassment.

Should you require further information, CEW would be happy to provide it.

Yours sincerely



Susan Metcalf
CEO
Chief Executive Women

Annex A: Examples of measures taken by employers, investors and public sector workplaces to prevent and address sexual harassment

Action by Business

Businesses are taking proactive action to prevent and respond to sexual harassment in the workplace, including through the governance systems to manage the risk of sexual harassment and minimise risk of further harm. Examples of measures businesses are implementing include:

- Undertaking workplace conduct reviews
- Strengthening Codes of Conduct and Consequence Management Policies
- Providing training on behaviours, values and conduct
- Providing a range of channels for people to raise concerns or seek advice on a confidential basis.
- Improving data integrity for reporting, and increasing transparency in reporting

Action by Investors

In light of the risk assessment that sexual harassment poses to workplaces, investors are increasingly looking for employers that focus on taking active steps to prevent sexual harassment. This would include:

- being clear on expectations of behaviour and a code of conduct that supports this
- providing diversity training
- Consistent application of processes for addressing sexual harassment.

See also [Hesta's 40:40 Vision](#) – an investor led initiative, supported by industry partners, to promote the progression of women into senior leadership positions in ASX 200 companies. Supporting partners include Chief Executive Women, the Australian Council of Superannuation Investors (ACSI), Workplace Gender Equality Agency (WGEA), and the 30% Club.

Action by public sector workplaces

- Inclusion of material on sexual harassment in workplace training about appropriate behaviour
- Inclusion of material on sexual harassment in management training about how to respond to instances of alleged sexual harassment, rules and expectations about the management of alcohol and social events at work
- Targeted staff messaging on appropriate behaviours at times of likely risk, such as Christmas and New Year when workplace socialising is more frequent and alcohol more likely to be consumed.