

Budget 2021 - Machineries of Government

Response to the Respect@Work Inquiry overview

The government's response to Respect@Work, [*A Roadmap for Respect: Preventing and Addressing Sexual Harassment in the Australian Workplaces*](#) and applicable Budget 2021 funding allocations constitute a step forward. However, the lack of detail in the government's overall response so far and the lack of a timeline for law reform give a muted signal to the public and private sectors and the Australian community that addressing women's safety and sexual harassment in the workplace is a priority.

We welcome the government's agreement to amend the Workplace Gender Equality Act 2012 (WGE Act) to require public sector organisations to report to WGEA on gender equality initiatives.

It is disappointing that the government has not agreed with the recommendations that it impose a positive duty on employers to take reasonable measures to eliminate sexual harassment, and that it empower the Human Rights Commission to audit their compliance.

It is immensely disappointing that Community Legal Centres received no additional funding from the Budget, and that the amount provided to working women's centres was little short of pathetic.

Respect @ Work

The Budget

The Australian's Government response to Respect@Work, [*A Roadmap for Respect: Preventing and Addressing Sexual Harassment in the Australian Workplaces*](#) (Roadmap for Respect) and applicable Budget 2021 funding allocations constitute a step forward.

In the Roadmap for Respect, the Government pledges to agree to (in full, in-principle, or in-part) or note all 55 recommendations. However, the lack of detail in the government's overall response so far and the lack of a timeline for law reform give a muted signal to the public and private sectors and the Australian community that addressing women's safety and sexual harassment in the workplace is a priority. Some critical legal reforms have been parked as 'noted'. Australians should expect a [*deeper approach*](#) to gender equality and women's workforce participation from their Federal Government.

A Roadmap for Respect — Respect@Work response implementation

Payments (\$m)

	2020-21	2021-22	2022-23	2023-24	2024-25
Attorney-General's Department	-	2.3	2.0	1.7	1.5
Workplace Gender Equality Agency	-	1.0	1.1	1.1	1.1
Australian Public Service Commission	-	0.5	0.5	0.3	0.3
Comcare	-	-	-	-	-
Department of the Treasury	-	nfp	nfp	nfp	nfp
Total — Payments	-	3.8	3.7	3.1	2.9

(Source: 2021-2022 Budget Paper No 2, p. 61)

In the October 2020 Women's Economic Security Statement the Australian Government committed \$2.1 million over three years to fund the establishment of the Respect@Work Council. The Council is chaired by the Sex Discrimination Commissioner and held its inaugural meeting on 19 March 2021. [The Roadmap for Respect](#) reports that since that time the following initiatives have commenced, addressing some of the recommendations:

- Establishment of the Respect@Work website to provide free information and resources for employers and workers
- Completion of training and education resources on the impacts of sexual harassment and the rights and responsibilities of workers and employers
- Implementation of the fifth National Survey on Sexual Harassment in Australian workplaces.

In the 2021-22 budget:

- \$9.3 million over four years has been allocated to the Attorney General's Department to support the Respect@Work Council Secretariat to develop guidance materials for hotlines and similar services provided by other agencies which provide information and referral services
- The Workplace Gender Equality Agency and the Australian Public Service Commission between them have received \$6.0 million over four years from 2021-22 to strengthen reporting on sexual harassment prevalence, prevention and response, particularly in the Australian Public Service
- Unspecified funding has been identified for improving legal service access to workers who experience sexual harassment is subject to ongoing discussions with States and Territories Governments. This includes funding for additional legal assistance for specialist lawyers with workplace and discrimination law expertise.

[Respect@Work](#) recommends that:

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. (Recommendation 49)

NFAW has raised the issue of funding for working women's centres in the budget context before. Working Women's Centres specialise in issues affecting women with neither the means nor the capacity to access assistance elsewhere, particularly women who are Aboriginal or Torres Strait Islander or those from a culturally or linguistically diverse background, or women who have disabilities or live in regional and remote areas, or women who have family responsibilities or are victims of family violence. The Centres offered those women advice and assistance in an environment that was safe and accessible.

Under the government's watch, two of the three remaining state-based centres have lost federal funding. It is extremely disappointing that in response to recommendation 49, only [\\$0.2 million has been allocated](#) to working women's centres to support the continued delivery of free information and advocacy on work related matters.

Similarly, due to a lack of government funding for community legal centres, three established and reputable specialist centres in Western Australia -- the Employment Law Centre of WA, The Humanitarian Group, and Tenancy WA -- were obliged to merge on 1 October 2020 to form [Circle Green](#). We note that the budget includes unspecified funding for improving legal service access to workers who experience sexual harassment, subject to ongoing discussions with States and Territories Governments, and urge government to provide funding sufficient to enable these organisations to do their work effectively.

The Government has committed \$5.3 million over three years for sexual harassment research and prevention initiatives ([Women's Budget Statement](#), p. 30). The Australian National Research Organisation for Women's Safety (ANROWS) has been funded to build evidence and develop a National Sexual Harassment Research Agenda.

Our Watch has been funded deliver primary prevention initiatives into sexual harassment. It should be noted that Respect@Work initiatives for building evidence and research agenda are included in the overall expenditure for ANROWS. More generally, the Roadmap for Respect is designed to complement existing work under the current National Plan to Reduce Violence Against Women and their Children (2010-22) and ensure alignment with the development of the next National Plan.

Gender implications

Why is this an issue for women?

2021 started with an intense national focus on gender inequality in Australia. The social and political context includes the international #metoo movement, high profile allegations of sexual assault in the workplace, and nationwide activism for women's safety.

This year thousands of Australians from all walks of life condemned violence against women and sexual harassment through the [March4Justice](#), a 90,000-signature petition to the Australian Parliament, and thousands of tweets, posts and comments. One of the demands was full implementation of the Respect@Work recommendations.

Australians expect the Government to implement the measures necessary to embed a culture of respect for women in the workplace.

Respect@Work brought together comprehensive evidence including the Australian Human Rights Commission's national survey on sexual harassment in Australian workplaces, 60 public consultations, 460 submissions, and global research and economic modelling on the cost of sexual harassment. The world first Inquiry brought recognition and scale to this pervasive problem, which in Australia cost the economy approximately \$3.8 billion in 2018 and approximately \$2.6 billion in lost productivity (p. 25). Other implications for victims include loss of income and long term health and wellbeing issues.

Section 3.4(a) of the report identified inequality identified as the key power imbalance driving sexual harassment in the workplace. The 2018 National Survey revealed that almost two in five women (39 per cent) and just over one in four men (26 per cent) have experienced sexual harassment in the workplace in the past five years. Aboriginal and Torres Strait Islander people were more likely to have experienced workplace sexual harassment than people who are non-Indigenous (53 per cent and 32 per cent respectively) (p. 8).

Power imbalance drives workplace sexual harassment; this means that structural reform is necessary to change the cultural and systematic barriers equality that enable it.

What are the 2021 Budget impacts on women?

The Government so far has committed resources and funding for a few of the key areas identified in Respect@Work. This includes addressing data and research gaps to determine the nature of sexual harassment and the effectiveness of program initiatives. Funding should also support the prevention of sexual harassment through education of employees and employers responsible reporting of incidents in the media and private sector initiatives.

However it is the regulatory reforms to the existing legal framework which will have substantive benefit for women.

Respect@Work found that existing systems administered by the Fair Work Commission, the Fair Work Ombudsman, work health and safety and workers' compensation agencies, and individual state and territories industrial relations and human rights commissions were complex for workers and employers to navigate. The report recommended 'a refocused legal and regulatory framework, which recognises the mutually reinforcing roles of workplace, safety and human rights laws'.

The Australian Government has agreed to many of the law reforms recommended in Respect@Work. In the Road Map to Respect, the Government supports the amendment of *the Sex Discrimination Act* to ensure it applies to sexual harassment, and the removal of the exemption for judges and members of parliament and state public servants. The Government also agreed to amend the definition of serious misconduct in the *Fair Work Act* as recommended by Respect@Work.

- The Government has, however, failed to agree to impose a positive duty on employers to take reasonable and proportionate measures to eliminate sexual harassment (recommendation 17). NFAW, together with many other interested organisations, has expressed concern at this critical omission. Federal work health and safety laws impose

such a positive duty, so it is difficult to see why the government would not align the Sex Discrimination Act with them. This is one of the recommendations that the government 'noted', indicating that it would assess whether such amendments would create further complexity, uncertainty or duplication in the overarching legal framework.

- The Government has not agreed to give the Sex Discrimination Commission powers to audit workplaces for compliance with the positive duty, and to initiate inquiries into sexual harassment (recommendation 18). This is another 'noted' response, which is left to hang on the response to recommendation 17.

Recommendations

NFAW recommends that the government:

- Agree to and implement recommendations 17 and 18 of Respect@Work, putting a positive duty on employers to take reasonable measures to eliminate sexual harassment, and empowering the Human Rights Commission to audit employer compliance with this duty
- Reinstate meaningful funding for working women's centres and community legal centres as a matter of urgency
- Ensure that the fifth National Survey on Sexual Harassment in Australian workplaces includes and reports on people living with disability, people from CALD backgrounds, Aboriginal and Torres Strait Islander people, and people living in regional and rural areas
- Publicly announce in 2021 a timeframe for legislative reforms, and
- Report annually to Parliament on its progress in implementing all recommendations of Respect@Work.