



Submission to the Community Development and Justice Standing Committee Inquiry into Sexual Harassment Against Women in the FIFO Mining Industry

Background

In June 2018, Sex Discrimination Commissioner, Kate Jenkins and then Commonwealth Minister for Women, the Hon Kelly O'Dwyer announced the National Inquiry into Sexual Harassment in Australian Workplaces (the Inquiry) to be undertaken by the Australian Human Rights Commission (the Commission) and led by Kate Jenkins, Sex Discrimination Commissioner.

The Respect@Work Report (the Report) details the Commission's work into the nature and prevalence of sexual harassment, as well as measures to address and prevent it in Australian workplaces. The Inquiry included extensive consultations around Australia, as well as meetings and roundtables. The Commission engaged with key stakeholders to facilitate targeted consultations with diverse groups, including employers and workers from specific industries such as mining. One of the consultations held in Perth specifically targeted women in male-dominated industries. A total of 460 submissions to the Inquiry were received from individuals and groups, including the Australian Mines and Metals Association.

The Inquiry examined available data from employers and regulatory bodies to understand the prevalence of sexual harassment in the workplace, including differences across industries. The prevalence of sexual harassment in the mining industry at 40 per cent was found to be higher than the average across all industries at 31 per cent. For women in mining, the rate of sexual harassment was 74 per cent, compared with 32 per cent for men. The survey found that the prevalence of sexual harassment in the information, media and telecommunications industry was highest at 81 per cent and that three other industries (arts and recreation services, electricity, gas, water and waste services, and the retail trade) had higher rates than mining.

The Inquiry found evidence of a higher prevalence of sexual harassment in workplaces that are male-dominated, that is those that have a higher proportion of men than women in the workplace, where the senior leadership is predominantly male or where women perform jobs that have traditionally been performed by men. It also found that the prevalence of sexual harassment may be increased in workplaces that have a dominant culture of gendered practices and behavioural expectations, even if the gender ratio is not

male-dominated. In fact, the survey found that sexual harassment of both men and women was more likely to occur in workplaces with roughly equal numbers of men and women, than in workplaces with more men than women. However, women are substantially more likely to be sexually harassed in industries where the workforce is predominantly male.

The Inquiry heard significant evidence of sexual harassment in the mining industry, including that the average number of harassers involved in each incident was the highest of any industry. Compared with other industries, sexual harassment in the mining sector was more likely to occur in a social environment, with witnesses and the harasser was more likely to be a co-worker at the same level.

The Report outlined the ineffective and inconsistent regulatory models that are inadequate to respond to the issue of sexual harassment in Australian workplaces. The current frameworks vary across jurisdictions, causing confusion and a lack of confidence that an effective response will be delivered. Current frameworks are complex and place a burden on individuals to make a formal complaint, which was found to discourage victims from reporting or pursuing complaints of sexual harassment. The Report recommends a new regulatory model to support consistent data collection, to enable coordination and clarity in responding to workplace sexual harassment, and to drive actions aimed at prevention. At the centre of the recommendations is the establishment of a Workplace Sexual Harassment Council, with membership across regulatory authorities and expert advice from a wide range of associate members.

The report includes 55 recommendations in total and was provided to the Commonwealth Government in March 2020. In response, the Commonwealth Government released A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces. The Government committed to adopting all recommendations, either in full or in part, including a commitment for the Commonwealth and states and territories to jointly fund the implementation of the Report's recommendations.

On 9 April 2021, National Cabinet considered the Respect@Work Report and agreed that all Australian governments will progress action on the recommendations, including sharing data, to ensure a nationally consistent and cohesive response to sexual harassment in Australian workplaces. Each jurisdiction provided its response to the Respect@Work recommendations for discussion at the 6 August 2021 National Cabinet meeting. In recognition of the intrinsic link between women's safety and economic security, National Cabinet also discussed the stocktake of measures to support women's economic security that has recently been undertaken by jurisdictions.

Respect@Work comprehensively demonstrates the extent and nature of sexual harassment and sexual assault in Australian workplaces. It also provides a clear framework to respond to sexual harassment, as well as ways to address its cultural and systemic drivers, including in the FIFO mining industry. It is essential that the Respect@Work report continues to provide the evidence base and framework to inform all future work to address sexual harassment of women in workplaces, including in the FIFO

mining industry. In particular, the case studies included throughout the Report are relevant and important for the industry to note.

The most recent Diversity in the Western Australian Resources Sector report indicates that women comprise 20.3 per cent of the industry workforce.¹ Of women working in the sector, approximately 50 per cent are based in Perth, compared with 25 per cent of men. In each regional area of WA the percentage of men is higher than the percentage of women working in the industry. Therefore, although women comprise 20 per cent of the industry workforce, the percentage of women working FIFO is much lower. Limited childcare options in regional areas is attributed by CMEWA as a significant barrier to women's workforce participation in mining in regional areas.²

During consultations to inform development of *Stronger Together: WA's Plan for Gender Equality* (Stronger Together) in 2019-20, the Department of Communities (Communities) received feedback and submissions outlining community concern about harassment in the mining industry. Individual comments included, "Women are not respected in some areas of mining; attitudes are that they should be working in an office and not out in the field" and "(there is a) lack of respect towards women, mainly in mining towns".

The Committee for Perth undertook landmark gender equality research, released as the Filling the Pool report in 2015.³ The report found that Western Australia has a highly masculinised corporate and social culture, with the term 'boys club' used frequently by interviewees. This culture serves to perpetuate stereotypical gender roles and contributes to heightened levels of direct and indirect discrimination, including in recruitment, selection, performance and progression decisions. While Filling the Pool found that this masculinised culture is due in part to the historical importance of the mining, energy and construction sectors, it was noted that stereotypically male attributes and ways of working tend to be highly valued throughout the corporate culture of the state. Significant cultural differences were reported between Western Australia and the eastern states in many sectors, including construction, banking, finance and property, as well as mining. When considering the impact of dominant masculine cultures on Western Australian workplaces in relation to the prevalence of sexual harassment, it will be important to examine broader workplace culture rather than viewing the FIFO mining industry in isolation. In recent years, the mining sector has made important inroads into improving gender equality but the findings of the Filling the Pool report remain significant and relevant in 2021. The Committee for Perth noted that the highly masculinised corporate culture in Western Australia can be considered a strength if senior and influential men commit to adopting and implementing initiatives and measures that support gender equality. Respect@Work also noted the impact of workplace leaders in either enabling or inhibiting sexual harassment through their role in creating workplace culture.

¹ Chamber of Minerals and Energy WA, 2019, Diversity in the Western Australian Resources Sector 2019 Report. CMEWA, Perth.

² Ibid

³ [Filling the Pool | Committee for Perth \(en-AU\)](#)

The Women's Safety Taskforce agreed at its meeting on 18 June 2021 that addressing sexual harassment in the workplace contributes to promoting both women's safety and women's economic security, and that responding to sexual violence and sexual harassment must continue to be a national priority and focus area in the next National Plan to Reduce Violence Against Women and their Children. Ministers agreed that consideration of the specific recommendations from the Respect@Work report that are within the remit of the Women's Safety Taskforce will occur in the context of the development of the next National Plan. Responding to sexual violence and sexual harassment is a proposed priority in the framework for Australia's next National plan and the framework outlined in Respect@Work report is a good foundation for this work.

Key Issues

Department of Communities

The WA Government is committed to advancing gender equality in the community, including in workplaces, and in 2020 launched *Stronger Together: WA's Plan for Gender Equality* (Stronger Together). In addition to supporting women's safety, there is clear evidence that gender equality is good for business and benefits the economy.⁴ Gender inequality, or the unequal distribution of power, resources, opportunity and value afforded to men and women, has consistently been shown to be a key driver of violence towards women.⁵

Women's safety is a focus area of Stronger Together and has strong links to women being empowered to reach their full potential. Sexual harassment and sexual violence in the workplace are pervasive in many industries but particularly in those that are male dominated.⁶ In workplaces and industries that are significantly male dominated, particularly at leadership levels, an imbalance of power can exist. Manifestation of gender inequality, such as strongly held beliefs about gender roles, or attitudes and behaviours towards people based on their gender, create a culture or social conditions that enable violence and harassment towards women. Leveraging opportunities to change workplace culture therefore plays an important role in ending sexual harassment and sexual violence towards women in the mining sector.

Women's economic security is fundamentally related to their safety in the workplace. Considering the relatively high level of remuneration, and the relatively low gender pay gap, in the mining sector, women's participation rate in WA has remained low at around 20.3 per cent and is in fact currently slightly lower than the 2011 rate of 21.6 per cent.⁷ The

⁴ McKinsey Quarterly: Is there a payoff from top-team diversity, McKinsey & Company, April 2012. <https://www.mckinsey.com/business-functions/organization/our-insights/is-there-a-payoff-from-top-team-diversity>

⁵ [Change the story: A shared framework for the primary prevention of violence against women and their children in Australia \(ourwatch.org.au\)](https://www.ourwatch.org.au)

⁶ Women, Work and Leadership Research Group, Submission 260, Sexual Harassment Inquiry, 1. [submission 260 - women work and leadership research group.pdf \(humanrights.gov.au\)](https://www.humanrights.gov.au/submission-260-women-work-and-leadership-research-group.pdf)

⁷ Chamber of Minerals and Energy WA, 2019, Diversity in the Western Australian Resources Sector 2019 Report. CMEWA, Perth.

gender pay gap in Western Australia is the highest of all states and territories in Australia at 22.9 per cent, compared with the national average of 13.4 per cent. At managerial levels in the mining sector, the national gender pay gap is as low as 4.4 per cent, compared to the average managerial gender pay gap across all sectors of 23.2 per cent.⁸ While the opportunity exists for women to benefit from high incomes in the mining sector, barriers to participation include the lack of gender diversity and perceptions of a highly masculinised culture that highlights safety concerns for women.

Broad primary prevention measures that promote gender equality will contribute to safer working environments for women. The Respect@Work report inquiry sought to understand the role of gender inequality in driving sexual harassment and noted the intrinsic link between women's safety and their economic security. Consideration of strategies to change systemic barriers that impede women's economic security, including workforce participation, are an essential part of addressing sexual harassment. Enabling workplace practices such as flexible work options support both women and men to have better work/life balance and create more equality in care-giving roles, which opens opportunities for women to progress their careers. Actions and initiatives to create a more inclusive workplace culture can contribute to attracting and retaining more women in traditionally male-dominated sectors such as mining. Examples included in submissions to Respect@Work include quotas and targets for women's leadership and representation, gender responsive budgets, fairer superannuation, and data collection to monitor progress on gender equality. Responding to gender inequalities caused by systemic barriers to women's economic security requires action across Government, business and the community sectors.

The Gender Equity Insights 2021 report notes that the mining sector has made important improvements in gender equality practices reported to the Workplace Gender Equality Agency, increasing by 8.4 percentage points over the last five years. Women's leadership in the mining industry has improved, with the share of women on boards increasing by 10 percentage points over the last seven years, although women still only hold 20 per cent of board positions in the sector. Sustained effort to improve safety for women across the mining sector will depend on a long-term preventative approach that includes commitment from leaders and decision-makers to a multi-faceted approach to cultural change in the sector.

Sexual violence impacts women in greater numbers and the overwhelming number of perpetrators of sexual violence are men. While the inquiry's focus is on sexual harassment against women, it should also be acknowledged that sexual harassment and violence is also directed towards people in the LGBTQIA+ community and people identifying as male or non-binary. According to the Australian Human Rights Commission report, *Everyone's business: Fourth national survey on sexual harassment in Australian workplaces (2018)*, people of diverse sexual orientation are more likely to have experienced workplace sexual

⁸ Cassells R and Duncan A (2021), *Gender Equity Insights 2021: Making it a priority*, BCEC|WGEA Gender Equity Series, Issue #6, March 2021.

harassment compared to heterosexual people (52% compared with 31%). As such, the mining sector's efforts to prevent and respond to sexual harassment should ensure that any form of sexual harassment towards any person is unacceptable.

Communities is the lead agency responsible for preventing and responding to family and domestic violence in Western Australia. Communities leads the implementation of Path to Safety: Western Australia's strategy to reduce family and domestic violence 2020 – 2030.

Intimate partner sexual violence is the most common form of sexual violence.⁹ However, one in three Australians are unaware of this, which can lead to disproportionate emphasis on sexual assault by strangers.¹⁰

In applying a family and domestic violence lens over sexual harassment in the FIFO mining industry, there are two elements to consider.

- Fly in – while on site, workers in intimate partner relationships with co-workers may be subject to sexual harassment and abuse from their partner as well as from other workers. Sexual violence is often minimised when it occurs in an intimate partner relationship and often considered as a private matter. Sexual violence in the context of an intimate partner relationship is still sexual assault.
- Fly out – workplace culture, values and attitudes can affect a worker's mental health, attitudes and behaviours when returning home to partners and families. Research shows that both FIFO workers and their partners are at increased risk of mental ill health and psychological distress¹¹ which may exacerbate any underlying drivers of sexual harassment and abuse.

The Impact of FIFO Work Arrangements on the Mental Health and Wellbeing of FIFO Workers report found that perceived masculinity norms, stigma, loneliness, home-work life conflict, and difficulty with the psychological transitioning to and from work were associated with riskier drinking patterns and negatively impacted family wellbeing and functioning.¹² This report recommended anti-bullying and supportive workplace practices that address masculine norms while delivering targeted initiatives that enhance family wellbeing and alleviate some of the family stress such as family days, site visits, support groups and a family liaison person. The research found that some rosters were associated with worse mental health outcomes, with FIFO workers on more balanced rosters typically

⁹ Australian Bureau of Statistics (ABS) 2017. Personal Safety Survey, Australia, 2016, ABS cat. no. 4906.0. Canberra: ABS

¹⁰ Webster, K., Diemer, K., Honey, N., Mannix, S., Mickle, J., Morgan, J., Parkes, A., Politoff, V., Powell, A., Stubbs, J., & Ward, A. (2018). *Australians' attitudes to violence against women and gender equality. Findings from the 2017 National Community Attitudes towards Violence against Women Survey (NCAS)* (Research report, 03/2018). Sydney, NSW: ANROWS.

¹¹ Impact of FIFO work arrangements on the mental health and wellbeing of FIFO workers, Report produced by the Centre for Transformative Work Design, Curtin University, for the WA Mental Health Commission (September 2018), [FIFO Wellbeing & Mental Health – Literature Review \(mhc.wa.gov.au\)](https://www.mhc.wa.gov.au)

¹² Ibid.

experiencing less psychological distress and negative impact on family relationships than those whose rosters included longer periods at work and shorter periods at home.¹³

Workplace sexual harassment can also take the form of technology-facilitated abuse, which is a serious and growing problem in Australia. It can include a range of behaviours and relational contexts in which violence, harassment and abuse occur with the aid of online and digital technologies.¹⁴

Western Australia's response to Respect@Work

The State Government has committed to progressing recommendations of the Respect@Work Report that are relevant to WA. The Department of Communities sought input from relevant agencies to contribute to the State Government's response to Respect@Work, which has been provided to National Cabinet for consideration. Agencies have commenced work to progress recommendations individually and through a whole-of-Government approach. Further discussion and work are required across jurisdictions in relation to implementation of the recommendations, including through the State Government's representation on Ministerial forums – the Meeting of Attorneys-General, the Work Health and Safety Ministers; the Women's Safety Taskforce; and the Skills Ministers

Establishment of a Workplace Sexual Harassment Council (the Council), as recommended in Respect@Work, is supported by the State Government. WorkCover WA is a member of the Heads of Workers' Compensation Authorities and has endorsed representation of that organisation on the Council. WorkCover WA has noted that current data collection does not present a complete picture of the prevalence, nature and outcomes of reporting sexual harassment in FIFO workplaces in WA.

Western Australian Government actions

The WA State Government is strongly committed to ensuring that women are safe and free from violence, discrimination, and harassment in their homes, in the workplace and within the community.

Measures currently being implemented by the WA State Government to promote and contribute to safety, respect and inclusivity in workplaces include:

- Stronger Together: WA's Plan for Gender Equality,
- Path to Safety: Western Australia's strategy to reduce family and domestic violence 2020-2030, and
- The Workforce Diversification and Inclusion Strategy for WA Public Sector Employment 2020-2025.

¹³ Ibid and Inquiry into mental health impacts of FIFO work arrangements (2015), [Committee Details - Inquiry \(parliament.wa.gov.au\)](https://www.parliament.wa.gov.au)

¹⁴ ANROWS, Technology-facilitated abuse: A survey of support services stakeholders, Issue 2, July 2021

These strategies recognise the disproportionate impact on women of workplace inequalities, including sexual harassment and sexual abuse. WA's measures to implement recommendations of the Respect@Work Report will align with these strategies.

Stronger Together: WA's Plan for Gender Equality is a framework to coordinate government, community, and business sector efforts to advance gender equality. The WA State Government is currently developing the second action plan to implement Stronger Together over the next four years. This presents an opportunity to raise awareness and embed practices that ensure women's safety and participation and build in a whole-of-government approach to preventing and addressing sexual harassment in the workplace.

The WA Government has recently provided a submission to the Senate Education and Employment Legislation Committee regarding the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021 (the Bill). The proposed legislative and regulatory amendments in the Bill are supported by the WA Government. However, it is noted that the Bill does not adequately address all recommendations of the Respect@Work Report that relate to national law reform, specifically recommendations 16, 17, 18 and 19. The Bill sets out a pathway to amend the Australian Human Rights Commission Act 1986, the Sex Discrimination Act 1984 and the Fair Work Act 2009 to strengthen, simplify and streamline the legislative frameworks that protect employees from sexual harassment and other forms of discrimination in the workplace. These amendments seek to implement recommendations for national law reform as outlined in the Australian Human Rights Commission's Respect@Work Report.

Attachment

In recognition of its regulatory role in workplace safety and health in the mining industry, a detailed submission by the Department of Mines, Industrial Relations and Safety (DMIRS) has been provided as an attachment.

The WA Government notes that under legislation that DMIRS administers, there is an obligation on employers to provide work environments where workers are not exposed to hazards and this includes minimising the risk of psychosocial hazard, such as sexual harassment and assault.

The mining and resources sector have a good understanding of occupational work health and safety frames and should view the prevention of sexual harassment as part of providing a safe workplace.