



# Best Practice Review

*Submission to Safe Work Australia*

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## **Submitted by**

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## Acknowledgement of Country

We acknowledge the Traditional Owners of the land on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present and future. We value Aboriginal and Torres Strait Islander histories, cultures, and knowledge. We extend our respect to Aboriginal and Torres Strait Islander women who for thousands of years have preserved the culture and practices of their communities on country. This land was never surrendered, and we acknowledge that it always was and always will be Aboriginal land. We acknowledge the strength of Aboriginal and Torres Strait Islander people and communities. We acknowledge that Australian governments have been complicit in the entrenched disadvantage, intergenerational trauma and ongoing institutional racism faced by Aboriginal and Torres Strait Islander people. We recognise that Aboriginal and Torres Strait Islander people must lead the design and delivery of services that affect them for better life outcomes to be achieved.

## About WwWA

The Working with Women Alliance (WwWA) represents two key portfolios: National Women's Safety (NWS) and National Women's Equality (NWE). The WwWA connects the critical areas of gender-based violence prevention and the advancement of women's economic equality and leadership, bridging these important policy fields for greater impact. We work with members and stakeholders, including the Australian Government, to provide expertise and advice on gender equality and women's safety.

## Executive Summary

Recent reports have identified that despite the gender pay gap narrowing and women's participation in paid employment growing, the Australian workforce remains stubbornly segregated<sup>1</sup> and women's safety at work is declining.<sup>2</sup> Gender inequality is a significantly contributing factor to women's lack of safety at work.

The implementation of the Positive Duty under the Sex Discrimination Act marks a critical shift in workplace safety, requiring employers to proactively prevent gender-based violence and harassment. Similarly, the Respect@Work report makes specific recommendations – many of which have been or are being implemented – in relation to preventing and responding to sexual harassment in the workplace.<sup>3</sup> Safe Work Australia has also established a Model Code of Practice on Sexual and Gender-Based Harassment.

However, it's not clear that these legislative and policy reforms have yet translated to meaningful action to address the structural causes of sexual and gender-based harassment in the workplace. For this, we need to develop industry specific guidelines and risk frameworks that acknowledge the role that gender inequality plays in perpetuating harassment and bullying in workplaces. We must also strengthen compliance and regulatory powers to proactively respond to gender-based and sexual harassment hazards.

Queensland's WHS amendments offer a model for national replication. These reforms mandate that employers consider worker characteristics—such as gender, disability, and ethnicity—when assessing and mitigating risks, and require the development of prevention plans through active, systems-based approaches.

A coordinated national approach is needed to ensure the safety and wellbeing of women at work. It is time to formally acknowledge, through Work Health and Safety regulations, that women work in high-risk and dangerous jobs, and that this risk is driven by gender segregation and the undervaluing of women's work. Without this explicit acknowledgment and accompanying evidence and monitoring, we cannot address the violence, harassment and psychosocial harm that prevents women from participating fully at work.

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<sup>1</sup> Jobs and Skills Australia, 2025, *New Perspectives on Old Problems: Gendered Jobs, Work and Pay*, Australian Government, <https://www.jobsandskills.gov.au/publications/new-perspectives-old-problems-gendered-jobs-work-and-pay>

<sup>2</sup> Hill, E., Cooper, R., Seetahul, S., Bedl, A., 2025, *Gender Equality @ Work Index*, The Australian Centre for Gender Equality and Inclusion @ Work

<sup>3</sup> Australian Human Rights Commission, 2020, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces*, <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

## Summary of Recommendations

1. Develop industry specific guidelines for Healthcare and Social Assistance sectors.
2. Develop a risk framework for gender-based violence and harassment.
3. Regularly report on gender-based violence and harassment, separate from broader psychosocial harms or mental health conditions.
4. Replicate Queensland amendments that further embed a positive duty to prevent gender-based violence and harassment.
5. Strengthen WHS compliance powers.
6. Develop a risk framework and register for the risks associated with emerging technologies such as generative AI.

## Industry specific guidelines for healthcare and social assistance

As the Best Practice Review discussion paper notes, there are no sector specific guidelines for healthcare and social assistance, despite an elevated risk profile. The sector is growing rapidly, and many of its workers are women, with a high proportion of Aboriginal and Torres Strait Islander and culturally and linguistically diverse workers, as well as workers with disabilities who may face specific structural hazards, including in relation to harassment and discrimination.<sup>4</sup>

Indeed, the healthcare and social assistance sector has an especially high number of serious claims for work-related mental health conditions, and community and personal service workers are among the workers with the highest proportion of serious workers' compensation claims for mental health conditions.<sup>5</sup> It is not a coincidence that the majority of these workers are women, given that the hazards women face at work are not taken seriously.

Safe Work Australia has already begin collecting data on the risks and hazards present in the nursing, care and support workforce. This data should be used, in consultation with the sector, to develop industry specific guidelines for healthcare and social assistance. These guidelines should acknowledge and respond to the significant risk of psychosocial harm in the sector, including gendered violence and harassment, alongside physical hazards.

## Implementation of positive duty to prevent gender-based violence and harassment

### *Risk framework for gendered harassment*

The recent Gender Equity @ Work Index notes that women's safety at work has declined over the last decade, despite sexual harassment being unlawful, and the positive duty requiring employers to prevent said harassment.<sup>6</sup> Sexual harassment and gender-based violence at work remain underreported, so it is pertinent that Work Safe Australia develop

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<sup>4</sup> Jobs and Skills Australia, 2025, *New Perspectives on Old Problems: Gendered Jobs, Work and Pay*, Australian Government, <https://>

<sup>5</sup> Safe Work Australia, 2024, *Snapshot: Psychological health and safety in the workplace*, [https://data.safeworkaustralia.gov.au/sites/default/files/2024-02/Psychological-health-in-the-workplace\\_Snapshot\\_February2024.pdf](https://data.safeworkaustralia.gov.au/sites/default/files/2024-02/Psychological-health-in-the-workplace_Snapshot_February2024.pdf)

<sup>6</sup> Hill, E., Cooper, R., Seetahul, S., Bedl, A., 2025, *Gender Equality @ Work Index*, The Australian Centre for Gender Equality and Inclusion @ Work

a specific framework of risk in relation to sexual and gender-based harassment and violence.

The risk framework should include:

- Gender segregation of the workforce
- The gender pay gap
- Other measures of workplace diversity, including race, sexuality and disability
- Worker isolation (as per private care work, or working from home)
- Gender undervaluation
- Industry specific rates of psychosocial harm and bullying.

The framework should recognise the structural factors that contribute to gender-based harassment and discrimination at work, rather than framing it as a negative interaction between workers.

### *Monitoring and reporting on gender-based violence and harassment*

The Positive Duty under the Sex Discrimination Act has created a requirement for employers to prevent gender-based violence in the workplace. However, it is not clear how well the positive duty is being implemented or how well it is working to prevent gender-based violence and sexual harassment at work. In order to understand and track its success, Safe Work Australia must monitor and report data pertaining to gender-based violence and harassment as part of their annual Key Work Health and Safety Statistics reports.

At present, psychosocial hazards such as gender-based harassment are tracked as ‘mental health conditions’ or categorised as ‘mental stress’. This terminology centres the victim as the problem requiring treatment, rather than identifying the structural conditions that allow harassment to occur. Specifically, this form of data collection does not identify gender inequality as a risk for serious harm in the workplace. We recommend specific monitoring of harm related to sexual and gender-based harassment that outlines which workers are experiencing this harm and in which occupations and industries.

### *Replicating Queensland amendments*

Queensland is the only jurisdiction to introduce specific amendments regarding gender-based harassment.<sup>7</sup> The amendment states that when employers must have regard for the characteristics of workers and workplaces when managing risks and mitigating risks of

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<sup>7</sup> Workplace Health and Safety Queensland, 2024, *Work Health and Safety (Sexual Harassment) Amendment Regulation 2024*, Queensland Government

gender-based harassment. This means the employer must consider the gender of workers, alongside other characteristics such as disability or age or ethnicity, and the workplace culture and diversity when identifying risks and implementing control measures and prevention plans.

The Queensland amendments also include the need to use ‘an active systems-based prevention measure, rather than relying on individual workers to report that harassment has already occurred’.<sup>8</sup> From this year, the amendments require the implementation of a prevention plan which identifies potential risks, control measures, and reporting procedures for sexual harassment. The plan must be designed in consultation with workers, be available to all workers and reviewed at least every three years.

These amendments should be replicated nationally to ensure the positive duty to prevent gender-based violence and harassment is effective and implementable at a systems level, rather than relying on individual complaints.

### *Strengthen compliance powers*

The current process to report gender-based harassment in the workplace is inaccessible for many workers. In order for the Positive Duty to be successful, there must be oversight of its implementation, which requires increasing the capacity of inspectorial staff and regulators to identify and address psychological hazards and monitor the implementation of prevention plans.

## Digital transformation of workplaces

Workplaces and jobs are increasingly augmented by digital technologies that can increase efficiency and facilitate flexibility. However, these technologies may also facilitate opportunities for gendered harassment and abuse and increase psychosocial harm through enhanced surveillance of workers. There is significant potential for workplace gender-based harassment to bleed into personal lives through the use of social media, despite the recent hard-won right to disconnect. Because harassment is now able to extend beyond the physical workplace, the ethical and legal responsibilities of employers to protect staff from harm must respond accordingly.

ANROWS research suggests that workplace technology facilitated abuse might be more prevalent in some industries than others, such as massage therapy, sex work, media, mining and politics and law, as well as male dominated workplaces more broadly.<sup>9</sup> Men

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<sup>8</sup> *Ibid.*

<sup>9</sup> Flynn, A., Powell, A., & Wheildon, L., 2024, *Workplace technology-facilitated sexual harassment: Perpetration, responses and prevention*, ANROWS.

are twice as likely as women to be perpetrators of technology facilitated abuse in the workplace.<sup>10</sup> The Global Institute for Women's Leadership has also received funding to investigate the gendered dimensions of technology facilitated abuse in the workplace. The findings of these important pieces of research should be used to address the harms that are expedited and automated through the use of digital technologies.

In order to mitigate the workplace risks posed by digital technology, social media and generative AI, these risks must be documented. We recommend that Work Safe Australia work to develop a risk framework and register for the risks associated with the use of digital technologies.

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<sup>10</sup> *Ibid.*