

Thursday 24 June 2021

Government's Respect@Work reforms fall short

After years of campaigning by unions and gender equality advocates, the Federal Government has introduced a Bill to the Senate with a limited set of reforms which fall short of protecting workers from sexual harassment and gendered violence at work. The Bill has been referred to the Senate Employment and Education committee to report by the 6th of August.

A proposed 'stop sexual harassment' process is a positive step, but the Fair Work Commission cannot award compensation or penalties under these provisions and workers who have already been forced out of a workplace due to sexual harassment cannot access this process. Many workplaces are excluded. The ACTU also welcomes the inclusion of miscarriage as a reason for which compassionate leave can be taken.

This Bill is a missed opportunity that will continue to place the burden on the shoulders of individual women to enter complex and lengthy complaints processes at their own cost and risk. The central theme of the Respect@Work Report Recommendations was to better integrate and align the anti-discrimination, workplace and WHS systems and put in place a proactive, preventative approach to sexual harassment.

The Morrison Government has completely failed to act on the following recommendations of the report:

- Recommendation 28 – Amend the FW Act to expressly prohibit sexual harassment and introduce a new quick and easy complaints process
- 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.
- 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 such as unions.
- 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.
- Recommendation 15 – Ratify the International Labour Organization's Convention on the Elimination of Violence and Harassment at Work 2019 (C.190)

Quotes attributable to ACTU President Michele O'Neil:

“The Bill introduced today falls far short of the changes needed to protect women in the workplace from sexual harassment and violence which we know is a systemic problem.

“The Respect@Work report was commissioned by this Government and lays out a comprehensive set of reforms which would ensure a safer workplace for women in Australia – many of them have been completely ignored. The Bill require significant amendments to meet that standard.

“This Government was dragged to action on this issue by Brittany Higgins making public her alleged rape. Delayed action led to many women leaving work. It is critical that the Government fully implements Respect@Work’s recommendation for support and compensation for previously impacted workers.

“This report’s recommendations represent the bare minimum that the Federal Government should be doing to support women in the workplace. They should also grant 10 days paid Family and Domestic Violence leave to all workers.

“We know that only 17 per cent of those sexually harassed at work report it, for reasons including fear of losing your job and backlash from the perpetrator. There must be more preventative measures and the Federal Government must give the Sex Discrimination Commissioner greater powers to commence investigations into problematic workplaces – all of which was recommended by the report and ignored by the Government.”

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