

Time's up for Sexual Harassment in the Workplace



On 12 September 2018, Mrs Kate Jenkins, Sex Discrimination Commissioner, launched the Australian Human Rights Commission's fourth national workplace sexual harassment survey, which outlined the findings of the Commission's latest survey on the prevalence, nature and reporting of sexual harassment in Australia, with a focus on workplaces. The Commissioner recently spoke with Omesh Jethwani, Government Projects & Programs Manager.

What is the Australian Human Rights Commission (AHRC) and what do they do?

The AHRC was established in 1986 by an Act of the Federal Parliament. It is an independent statutory organisation and reports to the Federal Parliament through the Attorney-General. It is the Commission's role to promote and protect human rights in Australia by:

- Resolving complaints of discrimination or breaches of human rights under federal laws
- holding public inquiries into human rights issues of national importance

- developing human rights education programs and resources
- providing independent legal advice to assist courts in cases that involve human rights principles
- providing advice and submissions to parliaments and governments to develop laws, policies and programs.

How did you come to take on the role of Sex Discrimination Commissioner?

I became Australia's Sex Discrimination Commissioner in 2016. Before joining the Commission, I spent three years

as the Victorian Equal Opportunity and Human Rights Commissioner. In that role I conducted an Independent Review into Sex Discrimination and Sexual Harassment, including Predatory Behaviour, in Victoria Police. Before that, I spent 20 years as lead equal opportunity partner with Herbert Smith Freehills.

What do you think are the central challenges regarding gender-related issues, both in the workplace and in the home? Ideally, how might they be overcome?

As the Federal Sex Discrimination Commissioner, I am committed

to advancing gender equality and promoting and protecting the human rights of women and girls, as well as combatting discrimination based on sexual orientation, gender identity and intersex status. I do this work as part of Australia's commitment to elimination of discrimination against women, and also because gender equality delivers better outcomes to individuals, families, community, business and the economy.

When I started this role in 2016, I undertook conversations across the country to understand what the current key barriers were to gender equality and where I should focus my energy to advance change. I describe my approach in my priorities document *Unleashing the Power of Gender Equality*. I have chosen to prioritise the prevention of violence against women and girls, women's economic security and empowerment, and diversity in leadership in the high-impact settings of workplaces, education and sport.

For gender equality to be achieved, I believe we need to advance more than formal equality: we need to understand the deeply-embedded, systemic and attitudinal barriers that prevent gender equality. It will take multiple initiatives and a whole of community engagement. In particular, we need to question the unhelpful gender stereotypes about the roles men and women play at home and at work; we need to recognise incorrect assumptions about their skills and attributes and change violence supportive attitudes that justify, excuse, minimise or trivialise violence that place women at unacceptable risk.

These stereotypes, assumptions and attitudes still make it more difficult for men to take on caring roles and for women to be the primary breadwinner or be selected for leadership roles in male-dominated industries. Right now, I'm leading the Australian Human Rights Commission's National Inquiry into sexual harassment in Australian workplaces. It's the first inquiry of its kind in the world to respond to the issue of workplace sexual harassment.

I'm also leading a number of other projects including working with Australian Universities to better respond to and prevent sexual harassment and sexual assault in our universities and continuing the Commission's collaborative project on cultural reform with the Australian Defence Force. I am the Co-Chair of Play by the Rules, a collaboration between sport and recreation agencies and human rights commissions across the country working together to make grass roots sport safer, fairer and inclusive for all.

What constitutes sexual harassment and how should one deal with it?

The ability to work in a safe environment, free

from sexual harassment, is a basic human right. The definition of sexual harassment has largely remained the same since the introduction of the Sex Discrimination Act in 1984. Quite simply, it's unwelcome conduct of a sexual nature that is likely to offend, humiliate or intimidate.

A person who has experienced sexual harassment may want to deal with the situation themselves by raising it directly with the person or people involved. Alternatively, they can raise it with their manager or employer.

If this does not resolve the situation, or the person does not feel comfortable doing this, you can make a complaint to the Australian Human Rights Commission. You can also have someone such as a solicitor, advocate or trade union make a complaint on your behalf.

The AHRC will investigate the complaint. It will try to resolve the complaint through a process of conciliation.

In terms of changes, we need to continue working towards creating a society where sexual harassment is unthinkable.

Many people want to learn more about their rights and responsibilities before they take action. The Commission provides several ways that employees, managers and employers can learn more on how to prevent sexual harassment and how to address it. You can call the Commission's National Information Service on 1300 656 419 or look at useful resources on our website at www.humanrights.gov.au/our-work/employers

The prevalence of sexual harassment in Australia is debatable, with many arguing the statistics exaggerated by media. What are the actual figures and the changes that you believe will best address the problem?

There is no doubt that sexual harassment in Australia is a significant problem. Australia holds some of the most comprehensive and useful data in the world on our experience of workplace sexual harassment. It is a problem that is across a broad spectrum of occupations, workplaces and industries.

Recent global discussions, including the #MeToo movement, have highlighted the magnitude of the problem in many countries.

The most recent findings by the Australian Bureau of Statistics' Personal Safety Survey found one in two women and one in four men had experienced sexual harassment during their lifetime.

In terms of changes, we need to continue working towards creating a society where sexual harassment is unthinkable.

There are many steps organisations can take. Firstly, they need to better understand the prevalence and nature of sexual harassment in their workplace. They need to tailor prevention initiatives to change culture and attitudes and facilitate effective responses to breaches.

Many employers have created initiatives to combat this serious problem, including developing and implementing policies and procedures on sexual harassment. The Australian Human Rights Commission recommends all workplaces do so, and the Commission has developed resources for employers, which provides practical guidance on how employers can prevent sexual harassment and how to respond effectively when it occurs.

On Wednesday 20 June 2018, Australia woke up to the Federal Sex Discrimination Commissioner's announcing a National Inquiry to Sexual Harassment in Australian Workplaces. Share with our readers what that entails?

The National Inquiry into sexual harassment in Australian workplaces is a world first response to sexual harassment.

The inquiry will use the results from the 2018 National Workplace Sexual Harassment Survey, including information about the prevalence, nature and reporting of sexual harassment. It will consider the economic impact of sexual harassment, the drivers of these behaviours and the adequacy of the existing legal framework. The inquiry will also look at how people are using technology and social media to perpetrate sexual harassment in the workplace.

The inquiry will involve an in-depth examination of sexual harassment in the workplace, a submission process and a series of public consultations held in all Australian capital cities and a number of regional cities later in 2018. We're hoping to speak with individuals and organisations from all over Australia about their experiences relating to workplace sexual harassment and ideas for change.

The National Inquiry will not be investigating individual allegations of sexual harassment. If someone does want to make a complaint they can contact the Australian Human Rights Commission's National Information Service.

You can find out more about the national inquiry or make a submission by visiting www.humanrights.gov.au/our-work/sex-discrimination/projects/national-inquiry-sexual-harassment-australian-workplaces

You have just released the results of the 4th National Survey into Workplace Sexual Harassment, what did you find?

The Australian Human Rights Commission's latest report, "Everyone's Business:

Fourth National Survey on Sexual Harassment in Australian Workplaces” confirms that sexual harassment is widespread and pervasive and has increased significantly since the last survey six years ago. One in three people (33%) surveyed told us they had been sexually harassed at work in the last five years. The survey results highlight that this is an issue that affects both women and men. Almost two in five women (39%) and just over one in four men (26%) told us that they had been sexually harassed at work in the past five years. The findings are more timely and relevant today than ever before, with the massive surge in public concern about sexual harassment generated by the #MeToo movement and the willingness of people to say that, they too, have been affected.

Here is a link to the media release about the survey results: www.humanrights.gov.au/news/media-releases/sexual-harassment-australian-workplaces-widespread-and-pervasive

How does the Commission plan to tackle sexual harassment from collated survey results, public submissions and research?

The Commission will use the findings of the

fourth National Survey on Sexual Harassment to identify the scale and nature of the problem across a range of industry sectors. The survey and analysis of the findings will inform the National Inquiry into sexual harassment in Australian workplaces

The National Inquiry will identify examples of existing good practice, and will make recommendations for change, providing a way forward for preventing sexual harassment in the workplace.

It is my sincere hope that this global conversation about sexual harassment is a catalyst for change, because everyone has the right to work free from sexual harassment.

What steps and actions employers and organisations can take to ensure that Australian workplaces are safe and free of sexual harassment?

Every employer, regardless of size, has an obligation to take steps to prevent sexual harassment from occurring. Businesses must also ensure that employees are able to come forward with complaints of sexual harassment, and that these complaints are acted upon.

To date employers have relied on victims of sexual harassment to complain after the

conduct occurs.

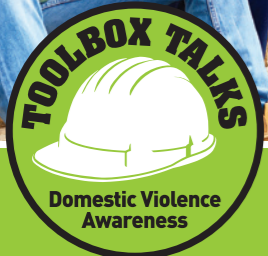
A system that relies on the bravery of individuals to enforce the laws will not work to prevent sexual harassment. Employers need to proactively promote equal workplaces, where sexual harassment and discrimination are not tolerated. Leadership is critical for change.

The Commission has developed resources to assist small, medium and large employers to understand and meet their legal obligations under the Sex Discrimination Act. It also provides practical guidance on how employers can prevent sexual harassment and how to respond effectively when it occurs.

I encourage individuals and organisations to make a submission about their experiences relating to workplace sexual harassment to the AHRC’s National Inquiry. The Inquiry will report in the second half of 2019 and I am confident it will provide new and better ways to reduce sexual harassment. But there is no reason to wait until then for employers to collect data and start conversations to learn more about gender equality and sexual harassment in your workplaces and start changing the culture that tolerates sexual harassment occurring.

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