

Australian Human Rights Commission Inquiry into Sexual Harassment in Australian workplaces

Submission by Women's Health Victoria

Women's Health Victoria (WHV) welcomes the opportunity to have input into the Australian Human Rights Commission's National Workplace Sexual Harassment Inquiry. In addition to preparing this submission, WHV also supports 'Power to Prevent: Urgent Actions Needed to Stop Sexual Harassment at Work', a joint statement prepared by a group of diverse organisations, unions, researchers, peak bodies, health professionals and lawyers who have come together to say we need to do more to stop sexual harassment in workplaces.

As the Commission is aware, sexual harassment is a longstanding social issue with significant health and wellbeing impacts for those affected, who are disproportionately women and girls. The impacts of sexual harassment on victims include harm to physical and mental health, isolation and exclusion within the workplace, financial consequences and reduced opportunities for professional advancement.¹

Overview of our submission

WHV recognises that the AHRC holds considerable expertise and evidence relating to sexual harassment, including the publication of *Everyone's Business: Fourth national survey on sexual harassment in Australia workplaces*, in 2018. Instead of re-visiting the evidence showing that sexual harassment is prevalent, gendered and under-reported, this submission focuses on putting forward what WHV considers to be 6 evidence-based key principles for effectively addressing and, in particular, preventing sexual harassment in the workplace.

Summary of key principles

1. Sexual harassment is a whole-of-community issue

Sexual harassment is a community-wide issue and is prevalent online, at schools and universities and in public spaces. The prevalence of sexual harassment both inside and outside workplaces, and the fact that sexual harassment shares the same drivers as other forms of violence against women, mean that effective primary prevention of sexual harassment in the workplace requires whole-of-community action to promote gender equity.

¹ Sojo, VE, Wood RE, Genat, AE (2015). Harmful workplace experiences and women's occupational wellbeing : a meta-analysis. *Psychology of Women Quarterly* 23. Available [here](#).

2. Sexual harassment is gendered

The prevalence and impacts of sexual harassment are highly gendered, with women experiencing higher rates of sexual harassment in workplaces and public spaces than men. Regardless of the sex or gender of the victim, men are most often the perpetrators of sexual harassment. This dynamic is consistent with other forms of violence against women such as family violence.

3. An intersectional approach is critical

An intersectional approach to addressing sexual harassment (and other forms of violence against women) is necessary in order to be responsive to the ways in which the experience of disability, cultural or racial minority status, migration status, sexuality and gender identity, rurality, and socio-economic status intersect with gender to intensify gender-based inequality and experiences of harassment and violence.

4. Sexual harassment occurs in a context of – and is reinforced by – everyday sexism, sex discrimination and sex-based harassment

Sexual harassment and other forms of violence occur in, and are enabled by, the broader context of gender inequality which disadvantages women in compounding ways.

For example, women typically receive less pay and superannuation than men, experience high rates of pregnancy and sex discrimination and have more care responsibilities requiring them to take time out of the workforce. These gendered factors can mean that women experience more barriers to reporting sexual harassment, holding perpetrators to account or changing jobs to escape harassment.

5. Efforts to prevent sexual harassment must be integrated with existing efforts to prevent all forms of violence against women across multiple settings

Sexual harassment is a form of violence against women and shares the same drivers. Australia already has a well-established, well-evidenced national framework for the prevention of violence against women – *Change the Story*. Efforts to prevent sexual harassment should be consistent with *Change the Story*, which provides a framework for a whole-of-community approach to preventing violence against women that involves mutually-reinforcing activities across multiple settings.

6. Reforms will need to consider factors and dynamics specific to sexual harassment at work

There are certain dynamics and factors specific to sexual harassment that the Commission will need to give special consideration to, in making its findings and recommendations. These include:

- The different ways that sexual harassment can be conceptualised.
- The perception in the community that sexual harassment is less serious than other forms of violence against women, despite its significant health and economic impacts.
- Power dynamics and formal hierarchies in workplaces and the reality that workers are dependent on employers for their incomes.
- The changing nature of work and the workplace.

The submission is structured under the following headings:

- A. Key principles
- B. Primary prevention of sexual harassment in the workplace
- C. Strengthening legal obligations to prevent sexual harassment in the workplace
- D. Legal responses to sexual harassment
- E. Support for victim-survivors
- F. Evidence and Data
- G. Conclusion

Women's Health Victoria's expertise

Women's Health Victoria (WHV) is a Victorian statewide women's health promotion, advocacy and support service. We collaborate with health professionals, researchers, policy makers, service providers and community organisations to influence and inform health policy and service delivery for women.

WHV has developed significant expertise in relation to prevention of violence against women in the workplace setting, including sexual harassment. *Take a Stand against Domestic Violence: It's Everyone's Business* is WHV's award-winning workplace-based program for the prevention of violence against women. Developed by WHV and piloted between 2007 and 2011, *Take a Stand* has been delivered to more than 4500 employees in over 25 workplaces across Victoria. *Take a Stand* has been delivered in a diverse range of workplaces, including large corporations such as Linfox and Aurizon, not-for-profits such as Oxfam Australia, and government agencies, including local councils and Victoria Police. In 2016-17, WHV developed a tailored version of *Take a Stand* focused on sexual harassment, which is now available.

In 2018, WHV initiated and convened a Victorian Sexual Harassment Working Group bringing together representatives from Centres Against Sexual Assault (CASAs), the Victorian Equal Opportunity and Human Rights Commission, the Victorian Trades Hall Council, Women's Legal Service and Job Watch. This cross-sector group has been established to support a more integrated approach to addressing sexual harassment in the workplace in Victoria. Our aim is to ensure all Victorians are free from sexual harassment. We work towards ensuring that those who experience sexual harassment are appropriately supported, those who perpetrate it and their employers are held accountable, and that workplaces do not tolerate it and actively work to prevent it. WHV has also been actively involved as a member of the cross-sector roundtable convened by Victoria Legal Aid in 2018-19.

WHV CEO Rita Butera is also a founding member of Not in My Workplace, a collective of CEOs, senior Executives, Chairs and Board Directors from across private, not-for-profit and public sectors committed to ending sexual harassment at work. On 21 February 2019, Not in My Workplace will be officially launched with a Summit at the Melbourne Convention and Exhibition Centre.

Further information about our work and expertise is included in **Appendix A**.

A. Key principles

1. Sexual harassment is a whole-of-community issue

While we understand that the scope of the inquiry specifically relates to workplaces, it is critical to note that sexual harassment is a community-wide issue and is prevalent online, at schools and universities and in public spaces. Beyond this, sexual harassment is also represented in TV, films and advertising. These representations have tended to normalise sexual harassment and minimise its impacts.

It is also important to recognise that **sexual harassment is a form of violence against women. International evidence shows that all forms of violence against women, including sexual harassment, share the same gendered 'drivers' and that gender inequality provides the necessary social context for violence against women to occur.**²

The prevalence of sexual harassment both inside and outside workplaces, and the fact that sexual harassment shares the same underlying causes as other forms of violence against women, mean that effective primary prevention of sexual harassment in the workplace requires whole-of-community action to promote gender equity. While there are certainly opportunities to take action within the workplace to better prevent and respond to sexual harassment specifically, overall **sexual harassment must be seen as a whole-of-community issue requiring a whole-of-community approach to prevent it.** This is explored further under Principles 4-5 and Section B. It also suggests that **sexual harassment should be made illegal, regardless of where it occurs.** We note, for example, that some international jurisdictions (such as France) have passed laws explicitly outlawing street harassment. Similarly, **protection from sexual harassment under anti-discrimination laws should be extended to all areas of public life** (not just workplaces).

Recognising that sexual harassment is a social and systemic problem also has implications for how we respond to it. Despite its prevalence and gendered nature (explored in more detail under Principle 2), the reporting and response systems for sexual harassment are structured in a way that places responsibility for addressing the issue on individual complainants. This means that the burden of taking action to stop sexual harassment falls to individual victim-survivors in isolation from one another, often with limited access to support, advocacy and legal representation.

There is a need to shift responsibility for stopping sexual harassment in the workplace from individuals to employers. As outlined further in Sections C and D, an enforceable positive duty should be created and existing positive duties strengthened. In addition, the ability of relevant agencies to undertake own motion investigations and systemic inquiries and enabling representative claims should be enhanced.

2. Sexual harassment is gendered

Sexual harassment is highly gendered. As identified in the Australian Human Rights Commission's fourth national survey on sexual harassment in Australian workplaces, *Everyone's Business*, women are substantially more likely than men to have experienced sexual harassment in their lifetime (85% and 56% respectively).³

² Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) [Change the story](#): A shared framework for the primary prevention of violence against women and their children in Australia.

³ AHRC (2018) [Everyone's business: Fourth national survey on sexual harassment in Australian workplaces](#).

Regardless of the sex or gender of the victim, men are most often the perpetrators of sexual harassment. For example, *Everyone's Business* found that 79% of harassment (of men and women) was perpetrated by a male.⁴ This dynamic is consistent with other forms of violence against women such as family violence.

According to *Everyone's Business*, women also experience the most common forms of sexual harassment (offensive sexually suggestive comments or jokes, inappropriate physical contact and unwelcome touching, hugging, cornering or kissing) more than twice as much as men.⁵

Sexual harassment is more likely to occur in male-dominated workplaces.⁶ Younger women and those in precarious employment⁷ (respectively) are frequently the targets of sexual harassment. However, studies also find that in some workplace contexts, women in positions of authority may be more likely to be targeted than those in junior roles.⁸ This is consistent with the understanding that sexual harassment is driven by gender inequality, rather than by power discrepancies alone.

Importantly, prevalence is not sufficient to explain the gendered dynamics of sexual harassment. WHV acknowledges that men also experience sexual harassment and that the impacts can be devastating. However, it is important to highlight the ways in which women's and men's experiences of sexual harassment are different.

For example, *Everyone's Business* found that women were more likely than men to experience negative consequences as a result of workplace sexual harassment and that women reported higher levels of offence and intimidation.⁹

Another difference is the broader context of gender inequality in which the harassment or violence occurs, and women's greater likelihood of having experienced sexual harassment or other forms of gendered abuse or violence in the past, whether at work, in public spaces or in the home. Women are significantly more likely than men to experience sexual assault, intimate partner violence, family violence, stalking and sexual harassment outside of the workplace.¹⁰

3. An intersectional approach is critical

People who experience compounding forms of discrimination and inequality may also experience multiple, overlapping forms of workplace bullying and harassment. Sexism and gender inequality can reinforce and intersect with other forms of social inequality such as racism, ableism, homophobia and geographic isolation.

This interaction, in which one experience impacts on another, is termed 'intersectionality'. An intersectional lens is necessary in order to ensure that sexual harassment interventions (whether in relation to prevention or response) are targeted and tailored for workforces at higher risk of sexual harassment.

An intersectional approach to addressing sexual harassment (and other forms of violence against women) will recognise and be responsive to the ways in which the experience of disability, cultural or racial minority status, migration status, sexuality and gender diversity, rurality, and socio-economic status intersect with gender to intensify gender-based inequality and experiences of harassment and violence. For example, Aboriginal and Torres

⁴ AHRC (2018) [Everyone's business: Fourth national survey on sexual harassment in Australian workplaces](#).

⁵ Ibid.

⁶ Saunders S, Easteal P (2013). The nature, pervasiveness and manifestations of sexual harassment in rural Australia : does 'masculinity' of workplace make a difference? *Women's Studies International Forum*, 40 : 121–131.

⁷ Montagne, A., Smith, P., Louie, A., et. al. (2009) Unwanted sexual advances at work : variations by employment arrangement in a sample of working Australians. *Australian and New Zealand Journal of Public Health*.

⁸ Wynen, J (2016). Sexual harassment : the nexus between gender and workplace authority : evidence from the Australian public service. *Australian Journal of Public Administration*, 75(3), 345-358.

⁹ AHRC (2018) [Everyone's business: Fourth national survey on sexual harassment in Australian workplaces](#).

¹⁰ Australian Bureau of Statistics (2016) Personal Safety Survey. Available [here](#).

Strait Islander women, and migrant and refugee women, may experience sexual harassment that is racialised. Tailored supports, resources and information should be developed to ensure groups of women who experience intersecting forms of inequality and discrimination are able to access appropriate support. Supports and information should be developed by/in partnership with specialist organisations (for example, Aboriginal Community Controlled Organisations and specialist disability agencies such as Women with Disabilities Victoria and the Multicultural Centre for Women's Health). Anonymous reporting mechanisms in a range of languages may also be particularly important for these groups. Anonymous reporting is explored further in Section E.

An intersectional approach to preventing sexual harassment would include consideration of which industries, workplaces or forms of work may be particularly likely to enable the perpetration of sexual harassment, and which population groups may be at higher risk. For example, workers on migrant/tourist/student visas (with work restrictions or obligations) and refugees without formal working rights are highly vulnerable to abuse because they may feel unable to report to authorities or may be working in rural or otherwise isolated areas or conditions (e.g. farms). More research and attention should also be given to preventing and responding to harassment of people, particularly women, with disabilities in supported employment (see Women with Disabilities Victoria's submission to this Inquiry for further information).

It is essential that interventions be guided by an intersectional gender equity approach and targeted at and tailored to workforces where the risk of sexual harassment is likely to be high. This will ensure that these workforces are effectively reached by and engaged in prevention activities which are responsive to the particular dynamics at play, and that workers are able to access appropriate reporting and support options. While the key messages may be universal (e.g. that sexual harassment is against the law, that employers have a responsibility to prevent it, and employees have a right to report it and access supports), the way these messages are delivered should be informed by an intersectional approach which factors in accessibility, inclusion, gender diversity and cultural sensitivity.

4. Sexual harassment occurs in a context of – and is reinforced by – everyday sexism, sex discrimination and sex-based harassment

In addition to recognising the specific impacts and harms associated with workplace sexual harassment, it is important for the Inquiry to consider the broader context in which sexual harassment occurs in women's lives, including experiences of everyday sexism and other forms of gendered disrespect, sex discrimination and bullying. Evidence indicates that women are much more likely than men to become targets of workplace harassment, sexual harassment, sexual assault, gender-based discrimination, and negative attitudes towards their gender. Furthermore, research shows that more frequent though less intense harmful workplace experiences can impair women's occupational wellbeing as much as less frequent yet more intense experiences.¹¹

Sexual harassment and other forms of violence occur in, and are enabled by, the broader context of gender inequality.¹² Women's experiences of sexual harassment at work are impacted by the fact that women typically receive less pay and superannuation than men, experience high rates of pregnancy and sex discrimination and have more care responsibilities requiring them to take time out of the workforce. To effectively prevent sexual harassment, employers must take a holistic approach to promoting gender equity across the organisation. These gendered factors can also mean that women experience additional barriers to reporting sexual harassment, holding perpetrators to account or finding alternative employment options.

¹¹ Sojo, VE, Wood RE, Genat, AE (2015). Harmful workplace experiences and women's occupational wellbeing : a meta-analysis. *Psychology of Women Quarterly* 23. Available [here](#).

¹² Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) [Change the story](#): A shared framework for the primary prevention of violence against women and their children in Australia

Some forms of gender-based discrimination or violence in the workplace are not sexualised but clearly reflect a profound lack of respect for women and male peer cultures of aggression. This includes forms of gendered bullying and harassment (as was experienced by Brodie Panlock, for whom Brodie's Law is named). Other forms of gendered bullying include not allowing workers access to adequate toilet breaks, sanitary supplies or facilities; shaming women in relation to menstruation; and pregnancy discrimination. **This speaks to the need for the Commission to take a broad approach to how it conceptualises sexual harassment and to include sex-based harassment¹³ within its scope.** Interestingly, the Workplace Gender Equality Agency uses the term 'sex-based harassment and discrimination' rather than sexual harassment.¹⁴

5. Efforts to prevent sexual harassment must be integrated with existing efforts to prevent all forms of violence against women across multiple settings

As noted above, sexual harassment is a form of violence against women and shares the same drivers. Gender inequality provides the necessary context for all forms of violence against women, including sexual harassment, to occur. Specifically, the evidence shows that violence against women is driven by four gendered drivers:

- Condoning of violence against women
- Men's control of decision making and limits to women's independence
- Stereotyped constructions of masculinity and femininity
- Disrespect toward women and male peer relationships that emphasise aggression.¹⁵

As demonstrated in more detail by Our Watch in their submission to this Inquiry, Australia already has a well-established, well-evidenced national framework for the prevention of violence against women – *Change the Story*. *Change the Story* provides a framework for a whole-of-community approach to preventing violence against women, which involves mutually-reinforcing activities across multiple settings where people live, learn, work and play, including workplaces, but also schools, sporting clubs, arts and media. This is explored further in Section B which focusses on primary prevention of sexual harassment in the workplace.

Efforts to prevent sexual harassment at work should be aligned with *Change the Story*, and integrated with existing efforts and strategies for the prevention of violence against women at both the state and national level. Specifically, WHV recommends that sexual harassment be included as a national priority under the 4th Action Plan under the National Plan to Address Violence Against Women and their Children (2010-2022) and that it be recognised as a key part of the second National Plan.

6. Reforms will need to consider factors and dynamics specific to sexual harassment at work

While the evidence base is still emerging, it is clear that a number of factors contribute to increased risk of workplace sexual harassment occurring, for example, workplaces where the four drivers of violence against women are particularly evident.¹⁶ Other workplace characteristics are also likely to increase the risk of sexual harassment, including:

¹³ McLaughlin, H., Uggin, C., and Blackstone, A. (2012) Sexual harassment, workplace authority and the Paradox of Power. *American Sociological Review*, 77.

¹⁴ Workplace Gender Equality Agency (2018) Reference Guide 2019 ; A guide to reporting under the Workplace Gender Equality Act 2012 . Available [here](#).

¹⁵ Our Watch, (2015) [Change the story](#).

¹⁶ Ibid. Condoning of violence against women; men's control of decision making and limits to women's independence; stereotyped constructions of masculinity and femininity; disrespect toward women; and male peer relationships that emphasise aggression.

- Male dominated workplaces and/or management structures¹⁷
- Workforces dominated by young women such as retail and service industries. Young women experience higher rates of sexual harassment and other forms of violence against women than any other age group.¹⁸ Women in these industries may experience sexual harassment from customers/clients (third party harassment) as well as co-workers/employers. Younger workers also experience higher levels of intimidation felt about workplace sexual harassment than older workers.¹⁹

There are certain dynamics and factors specific to sexual harassment at work that the Commission will need to give special consideration to, in making its findings and recommendations. These include:

- **The different ways that sexual harassment can be conceptualised:** Sexual harassment is a form of sex discrimination and a violation of human rights (with parallels to other types of sex discrimination, such as pregnancy discrimination). It is also a type of occupational violence (with parallels to other forms of workplace violence, such as bullying), and a form of violence against women (linked to other forms of gendered violence, including sexual assault and family violence). The way sexual harassment is conceptualised has implications for victims' rights and remedies, employers' and regulators' obligations, and the integration and resourcing of support services. Consistent with a victim-centred and 'no wrong door' approach (explored further in Sections D and E), **victims should be able to pursue the pathway or mechanism that best suits their needs and experiences, and the relevant regulators, agencies and support services should be strengthened and resourced to respond appropriately.** However, if the Commission chooses to focus on one particular pathway, then detailed consideration will need to be given to any unintended consequences.
- **The perception in the community that sexual harassment is less serious** than other forms of violence against women, despite its significant health and economic impacts: This attitude is often internalised by victims as well as perpetrators, making women less likely to come forward with a complaint, and making employers less likely to take it seriously. It also has other practical implications. For example, specialist support services for sexual assault are often overwhelmed by demand and have long waiting lists. These services are not designed or resourced to be able to provide support to all victims of sexual harassment. As explored further in Section E, the Commission will need to consider how best to ensure victim-survivors receive appropriate support. There is also an important role for the Commission in raising awareness within the community of the serious impacts of sexual harassment.
- **Workplace power dynamics and formal hierarchies, and the reality that workers are dependent on employers for their incomes:** This creates a profound barrier to reporting which is felt most acutely by those in precarious forms of employment, or who experience additional barriers to finding employment. This includes Australian Disability Enterprises²⁰, people in casual and freelance work (in which women tend to be overrepresented), and those in rural and regional areas where there are fewer job opportunities. The Commission should consider reforms that will support these workers to come forward and receive support and enable their employers to be held to account, such as anonymous reporting tools, proactive investigations and inquiries into industries or workplaces where a pattern is identified, and representative claims by groups of affected workers.

¹⁷ Saunders S, Easteal P (2013). The nature, pervasiveness and manifestations of sexual harassment in rural Australia : does 'masculinity' of workplace make a difference? *Women's Studies International Forum*, 40 : 121–131.

¹⁸ AHRC (2018) [Everyone's business: Fourth national survey on sexual harassment in Australian workplaces](#)

¹⁹ AHRC (2018) [Everyone's business: Fourth national survey on sexual harassment in Australian workplaces](#), p 61.

²⁰ Also known as 'sheltered workshops' by Disabled Peoples Organisations to denote that they are segregated or congregate workplaces only for people with disability, see Women with Disabilities Victoria's submission to this inquiry for more information.

- **The changing nature of work and the workplace:** This has implications for how we understand, prevent and respond to sexual harassment 'at work'. Social media and online communication between colleagues during or outside of work hours, flexible work arrangements, working from home and the rise of the freelance or gig economy are changing how we conceptualise work and delineate between work and private life, with gendered implications. Sexual harassment laws will need to accommodate scenarios where, for example: the victim or perpetrator is an independent contractor rather than an employee; an employee who is working flexibly from home is harassed by a colleague online; or the harassment occurs outside of the workplace or outside of working hours (for instance, at a work-related social event). For the purposes of triggering employer obligations and victims' access to legal remedies and supports, **WHV supports a definition of 'workplace sexual harassment' that includes any harassment that occurs 'in the world of work'**, that is, where the people involved have come into contact with each other as a result of their employment. This would include, for example, interactions on social media and at social events. At the same time, the ambiguity of contemporary understandings of 'work' and 'workplaces' underlines the importance of taking a whole-of-community approach to prevention – which will reach all community members, regardless of their employment status – rather than focusing solely on the 'workplace'.
- **Some types of work/workplaces are more likely to enable sexual harassment and other forms of violence against women, and some groups of workers are at higher risk:** As noted under Principles 2 and 3, gender-based discrimination and harassment can intersect with other forms of social inequality such as racism, ableism and geographic isolation. **An intersectional lens is necessary in order to ensure that sexual harassment interventions are targeted and tailored for workforces at higher risk of sexual harassment.**

While all workforces should be equally engaged in prevention efforts, there is a need to develop tailored information and supports to assist women at higher risk (because of the industry they are in, conditions of work, or their exclusion from the mainstream workforce) to report sexual harassment, be aware of the full suite of options for recourse, and access legal representation.

There is also a need for strategies that focus on young people, both as victims and potential perpetrators. Young women (18-24) are the most likely to experience sexual harassment. For example, the Victorian Trades Hall Council sends young delegates into schools to speak to young people about OH&S and workplace rights, and sexual harassment is the issue that young people most commonly raise.

- **Sexual harassment at work can involve harassment by third parties**, such as customers, clients and patients. Third party sexual harassment can be particularly evident in feminised industries such as nursing and/or in sexualised industries/professions, and is also experienced at high rates in the retail and customer service industries. Third party sexual harassment can be enabled by the focus on keeping the customer happy and can also be driven by reliance on tips or commissions.

Anecdotal evidence suggests reporting of third party harassment is relatively low, pointing to a need for increased education and awareness-raising among employers and employees that this form of harassment is covered by existing sexual harassment laws. It also highlights the importance of an enforceable positive duty on employers to prevent all types of sexual harassment in the workplace (as a victim will not necessarily be able to take action against the perpetrator).

B. Primary prevention of sexual harassment in the workplace

Primary prevention of sexual harassment and other forms of violence against women is about stopping violence before it starts by addressing the underlying causes or 'drivers'. As outlined in Section A, international and Australian evidence shows that gender inequality in public and private life increases the likelihood of violence against women occurring. That is, sexual harassment in workplaces – like other forms of violence against women – occurs within a broader context of sexism and gender inequality in the general community.

Primary prevention seeks to change the social norms, practices and structures that allow violence to take place. It involves working with individuals, communities and social structures – like schools and workplaces – to promote a safe, respectful and equitable society. Primary prevention targets the whole population using a range of different strategies, in a similar way to public health efforts to reduce smoking rates or the road toll.

In the workplace context, primary prevention of violence against women involves addressing sexism and gender inequality in the workplace. However, as noted under Principle 5, **to be effective, primary prevention efforts need to be delivered not just in workplaces, but across all settings** (for example, schools, media, public spaces) in a mutually reinforcing way. Interventions should also take an intersectional approach that recognises the compounding impact of intersecting forms of inequality and discrimination, and that some employees are at greater risk than others of sexual harassment (and other forms of violence) due to factors such as geographic isolation, insecure work, language barriers, etc.

Australia, and Victoria in particular, is leading the way internationally in the primary prevention of violence against women. Victoria's network of women's health services has been leading these efforts for more than a decade, and this work has been supported more recently by the establishment of Our Watch as the national body for the primary prevention of violence against women and its development of the national framework, *Change the Story*, followed by the Victorian Government's dedicated prevention strategy, *Free from Violence*. A wide range of organisations in Victoria, including local governments, community health services and others, are now engaged in primary prevention efforts at the local level.

A large body of evidence is emerging on best practice approaches to primary prevention of violence against women. While we have used the particular example of WHV's *Take a Stand* program below, we would be happy to direct the Commission to further information, resources and evidence on primary prevention upon request.

Challenging the condoning of violence against women

Low reporting rates by both victims and bystanders strongly indicate a lack of confidence from employees in how workplaces will respond to and manage complaints. The *Everyone's Business* report also highlights the negative repercussions often associated with reporting including victims being ostracised, victimised or ignored, and a lack of action by employers.

Failure to respond adequately to sexual harassment contributes to an environment in which it is condoned, which is itself one of the drivers of sexual harassment and other forms of violence against women. It is therefore critically important that workplaces respond effectively to complaints/reports of sexual harassment, not only to ensure victim-survivors receive an appropriate response, but also as *a core component of their primary prevention strategies*.

However, it is not enough for workplaces to establish policies and procedures that indicate a zero tolerance approach to sexual harassment. This alone will not be sufficient to eliminate sexual harassment in the workplace, as it only addresses one of the four gendered drivers of violence against women (condoning of violence against

women). **Primary prevention of sexual harassment and other forms of violence against women must also address the other gendered drivers.** WHV endorses the *Workplace Equality & Respect Standards*, developed by Our Watch, which outline a whole of organisation approach to the prevention of violence against women. Preventing violence against women in the workplace setting begins with creating gender equitable workplaces.

Workplace Equality & Respect standards

The five Workplace Equality & Respect (WER) Standards guide workplaces to promote and embed gender equality and respect in the workplace through a comprehensive organisational change process:

1. Commitment – secure the commitment of leaders and staff
2. Conditions – ensure conditions support gender equality
3. Culture – reject sexist and discriminatory culture
4. Support – support staff and stakeholder who experience violence
5. Our business – integrate gender equality into your core business

A range of tools and resources are available to support workplaces to implement the WER Standards, which can be accessed via the Our Watch website. Organisations with specialist expertise in prevention of gender-based violence and discrimination also deliver organisational change and capacity-building programs that can support workplaces to implement the Standards and promote gender equity, such as WHV's *Take a Stand* program.

As large employers, governments should play a leading role in taking action and modelling good practice in the prevention of violence against women (including sexual harassment) to other employers.

Women's Health Victoria's *Take a Stand* program for workplaces

WHV has been delivering the *Take a Stand* program for more than a decade to a wide variety of workplaces. *Take a Stand* was the first program in Australia to take a whole of workplace approach to the prevention of violence against women. It aims to engage all levels of the organisation, assist the organisation to support employees who may be experiencing violence, and train staff in active bystander approaches to prevent violence against women before it occurs. The program recognises that we all have a role in addressing the culture that allows violence to occur and confront the attitudes and beliefs that justify, excuse and minimise violence against women.

Take a Stand has three components, which align with the WER Standards:

- **LEAD:** Workplaces are supported to establish the infrastructure, supports, policies and procedures needed to encourage bystander action and assist staff affected by violence.
- **TRAIN:** Staff across the workplace gain an understanding of violence against women, and the skills and confidence to speak up against sexism as **positive bystanders**, and to support colleagues affected by violence.
- **PROMOTE:** Key program messages are promoted across the workplace, and staff are encouraged to actively participate in violence prevention activities and campaigns for gender equality.

Evaluations show that *Take a Stand*:

- Assists workplaces to show leadership through executive commitment, and having the right policies and procedures in place to prevent and respond to violence against women;
- Equips managers and human resources staff to support employees affected by violence;

- Increases employees' understandings and confidence to discuss family violence and other forms of violence against women with their colleagues and managers; and
- Provides employees with the skills to act as positive bystanders so they can take a stand against sexist jokes, comments and other actions that support violence against women.²¹

Although the original focus of *Take a Stand* was on family violence, in 2016-17 a tailored version of the program was developed to focus on sexual harassment, recognising that they share the same drivers. We delivered the tailored training to more than 300 members at Victoria Police in 2017:

- 80% of participants reported that the training increased their understanding of sexual harassment
- 75% of participants felt more confident discussing sexual harassment with colleagues or managers
- 85% of participants agreed that the training provided realistic ways to take a stand against sexual harassment

Practice learnings

In 2018, WHV published [Working with Workplaces: Challenges and opportunities for workplace violence prevention and bystander programs](#). This paper explores some of the challenges, tensions and opportunities in workplace-based programs for the primary prevention of violence against women, including the delivery of bystander programs focused on sexual harassment. In particular, the paper reflects on WHV's recent experience in delivering *Take a Stand* in two very different workplace settings: Victoria Police, a highly structured organisation with a male-dominated workforce; and Oxfam Australia (Oxfam), which has a predominantly female workforce and a focus on social justice and community development.

The key learnings explored in the paper are consistent with the foundational principles underpinning the WER Standards, and are relevant to the delivery of workplace-based programs focused on sexual harassment.

Whole of workplace approach

Training is not a 'quick fix' and must be accompanied by structural and cultural change. Relying on standalone bystander training to change workplace culture places responsibility for change on individuals and ignores the broader structural barriers and enablers that influence workplace attitudes and practices. The importance of change at the organisational level (including the need for policies supporting prosocial behaviour and accountability, and for senior staff to model respectful behaviour and prosocial norms) has been highlighted in a recent review of research on bystander program effectiveness.²²

Structural changes to promote a gender equitable workplace (for example, flexible work options and gender equitable recruitment practices) need to be embedded within the organisation (in both policy and practice), modelled by leaders and managers and promoted by workplace 'champions'.

Delivering bystander programs focused on sexual harassment

The original focus of *Take a Stand* was preventing family violence. In 2016-17, a version of the program was developed to focus on preventing sexual harassment. Both forms of violence against women share the same gendered drivers, and therefore much of the *Take a Stand* program content is similar. Both programs explore the

²¹ McKenzie M, Varley C, Barr M (2018) Working with workplaces: challenges and opportunities for workplace violence prevention and bystander programs. Women's Health Victoria. Available [here](#). See also: Women's Health Loddon Mallee (2015) Loddon Mallee takes a stand: final report. Women's Health Loddon Mallee, Bendigo, Vic. Available [here](#).

²² Taket A and Crisp B.R (2017) Bystanders for primary prevention: a rapid review. Knowledge Paper produced for VicHealth, Melbourne Australia. Available [here](#)

links between sexual harassment, family violence, and other forms of violence against women, and provide training for bystanders to challenge the attitudes, behaviours and practices that cause them, including sexism, gender stereotypes and inequality.

However, our practice learnings suggest that bystander training on sexual harassment can sometimes be more uncomfortable or challenging for participants than training on family violence. Facilitators observed that because participants perceive that family violence mostly occurs between couples in private or at home, they appeared more comfortable discussing it as they were able to distance themselves from the content. On the other hand, discussion of sexual harassment was more challenging as the focal point was incidents within the workplace itself. Discussion of sexual harassment may be particularly sensitive where a workplace has been publicly criticised for having a culture that supports sexual harassment.²³

WHV's *Working with Workplaces* suggests that programs designed to prevent family violence cannot simply be 're-purposed' to focus on sexual harassment.²⁴ While the fundamental elements of programs to address all forms of violence against women should be consistent (for example, addressing the four gendered drivers), existing programs may need to be adapted and tailored to include a specific focus on workplace sexual harassment and to take into account the particular dynamics of the workplace as a setting.

Focusing on specific forms of violence against women, such as sexual harassment – which are of current concern to the community – encourages workplaces to engage with programs like *Take a Stand*. However, a broader focus on violence against women makes clear the links between different forms of violence against women, including those that occur within the workplace and outside of it, and encourages participants to think more broadly about the impact of gender inequality.

Our experiences in this area show that there is still much work to be done on how to design and implement sexual harassment bystander programs in workplaces. Few studies have explored bystander responses to workplace sexual harassment in particular,²⁵ and further research is needed to examine the differences and challenges for program delivery.

Beyond the workplace

As noted above and in the Key Principles, to be effective, efforts to prevent sexual harassment must not be confined to workplaces.

For example, sexual harassment is prevalent and normalised on high school and higher education campuses. Some high school students and many university and higher education students will also already be employees. *Everyone's Business* found that women aged between 18 and 29 were more likely than those in other age groups to have experienced workplace sexual harassment in the past five years. At the same time, the attitudes, behaviours and structures that drive sexual harassment (such as rigid gender norms, limits to girls' and women's independence, and disrespect towards women and girls) are established and reinforced from a young age, including at school and in higher education.

²³ McKenzie M, Varley C, Barr M (2018) Working with workplaces: challenges and opportunities for workplace violence prevention and bystander programs. Women's Health Victoria. Melbourne. Available [here](#).

²⁴ McKenzie M, Varley C, Barr M (2018) Working with workplaces: challenges and opportunities for workplace violence prevention and bystander programs. Women's Health Victoria. Melbourne. Available [here](#).

²⁵ McDonald P, Flood M (2012) Encourage. Support. Act! Bystander approaches to sexual harassment in the workplace. Australian Human Rights Commission. Sydney. Available [here](#).

Together, the prevalence of sexual harassment in education settings, the overrepresentation of young workers as victims of workplace sexual harassment, and the importance of shifting the attitudes and behaviours that drive sexual harassment from a young age demonstrate the importance of ensuring that efforts to prevent sexual harassment at work include primary prevention programs in schools and higher education settings as well. There are well-established primary prevention programs in the school setting, such as Respectful Relationships Education, which could be adapted to include more specific content on sexual harassment.

This is just one example of an important setting for primary prevention beyond the workplace. There are a range of programs under way in early childhood education, sporting organisations and media, as well as the ground-breaking work being undertaken by WHV in the advertising setting, which is briefly outlined in **Appendix A**.

C. Strengthening legal obligations to prevent sexual harassment at work

Under both the federal *Sex Discrimination Act 1984* and the *Victorian Equal Opportunity Act 2010*, employers are legally responsible for acts of sexual harassment by their employees unless they can show they have taken reasonable precautions to prevent such acts. Under the Victorian law, employers also have a 'positive duty' to be proactive and take steps to prevent sexual harassment from occurring in the first place. However, there is no regulator at state (or federal) level with power to enforce this duty.

The *Workplace Gender Equality Act 2012* (Cth) creates certain gender equity reporting obligations for employers with 100 or more staff. However, the minimum standards with which employers are required to comply are low (employers are required to have certain policies in place, but there are no targets for implementation/take-up) and the sanctions for non-compliance are weak ('naming and shaming' and possible ineligibility for Government grants and contracts). The WGEA requirements are also focused on structural change, and do not address gendered norms and practices within workplaces that enable and reinforce gender inequitable workplace cultures.

The limitations of these three laws (and of relevant work health and safety and industrial laws) mean that it is largely up to individual complainants to take action to stop sexual harassment in their workplaces. Any action taken by employers to address sexual harassment (at a systemic level) remains largely a question of good will, particularly for smaller employers. The lack of progress in tackling sexual harassment and addressing workplace-based discrimination and inequality to date demonstrates that it is unrealistic to expect that all workplaces will be self-motivated to improve their practice. **An enforceable legal obligation is required to underpin best practice primary prevention efforts to eliminate sexual harassment.** This obligation should mandate a whole-of-organisation approach (drawing on a framework such as the WER Standards) that addresses both the structural and 'cultural' (gendered norms and practices) elements of gender inequality in the workplace. It should cover 'third party' harassment of employees (by customers/clients) and capture the breadth of contemporary understandings of 'work' and 'workplaces'.

There are a number of existing laws (administered or enforced by different regulators and agencies) that could be strengthened to include an enforceable positive duty to prevent sexual harassment, including:

- Anti-discrimination laws, administered by state and federal human rights commissions
- Workplace health and safety laws, administered by state-based work health and safety agencies
- Industrial laws, administered by the Fair Work Commission

- Gender equality laws, including the *Workplace Gender Equality Act 2012* (Cth) and the draft Victorian Gender Equality Bill

WHV endorses the detailed analysis of the advantages and disadvantages of the various legal frameworks included in the submission from Victoria Legal Aid to this inquiry. In our view, **all relevant legal frameworks should be strengthened to better prevent sexual harassment, respond to the needs of victims, and hold perpetrators and employers to account.** Each of these legal frameworks provides distinct and complementary tools for preventing and responding to sexual harassment, and makes available different options and remedies for victims in different circumstances. Reforms should include creating an **enforceable positive duty for employers to prevent sexual harassment under anti-discrimination laws** and **enforcing the existing positive duty under national Work Health and Safety laws.** (Victoria and Western Australia should also incorporate amendments to their Workplace Health and Safety Laws to support equity and consistency across jurisdictions.) Should the Commission form the view that it is preferable to strengthen one particular framework, it is imperative that any unintended consequences are explored.

Most workplaces will also need some degree of support to implement primary prevention/ gender equity initiatives or strategies, and this will be essential if an enforceable legal duty is created. As noted in Section B, this might include tools and resources, such as the Our Watch WER Standards and the Victorian Equal Opportunity & Human Rights Commission's *Raise It* toolkits, (discussed in their submission to this Inquiry), as well as advice, support and capacity-building from specialist primary prevention organisations, such as Victoria's women's health services. **Additional resourcing should be provided to specialist organisations to enable them to provide this support at scale.**

D. Legal responses to sexual harassment

In addition to strengthening the legal obligation to prevent sexual harassment at work, there are also opportunities to streamline options available to victim-survivors to report and seek a remedy for sexual harassment.

There is a clear need to **clarify and streamline external reporting options** for sexual harassment. Currently there are multiple legal avenues through which someone might report sexual harassment (including under employment law, anti-discrimination law at both federal and state levels, workplace health and safety laws, and potentially criminal law), and reporting options are not always integrated with support options (such as counselling). It is unrealistic for individual workers to be familiar with and able to navigate through the different processes, requirements and remedies available under each set of laws unassisted. This is explored further in Section E: Support for victim - survivors.

WHV supports the **extension of time limits** for victim-survivors to bring a claim under anti-discrimination laws, recognising that it may take time for victim/survivors to be ready to make a claim due to the impact of the harassment and/or concerns about potential repercussions.

In addition, WHV supports empowering anti-discrimination and human rights agencies to **initiate own-motion investigations and systemic inquiries.** **Workplace health and safety regulators should also immediately prioritise addressing sexual harassment** as a risk to workplace health and safety under existing work health and safety laws. These reforms would reduce the burden on individuals to make complaints, and recognise sexual harassment as a social/systemic problem rather than an individual one, and may be particularly valuable for women who experience additional barriers to reporting such as a lack of other employment options.

The fact that many individual settlements are subject to non-disclosure agreements contributes to a lack of transparency, makes it harder for complainants to connect and validate one another's experience, and provides a distorted picture of average compensation amounts. By limiting our understanding of incidence and outcomes, confidentiality clauses also make it harder to identify repeat offenders (workplaces or individuals) and address systemic issues. **Employers should be required to formally report sexual harassment incidents and complaints to an external agency on a regular basis.** To balance the need for greater transparency to progress systemic change with the fact that some victim-survivors also value confidentiality, we suggest that settlements should only be made confidential at the request of the victim-survivor (not the perpetrator/employer) and de-identified data should still be made available to relevant agencies. The need for better data on sexual harassment is explored further in Section F.

Australia's tough anti-defamation laws mean that those who report sexual harassment often do so at great personal risk of being sued by their perpetrators for defamation. **Defamation laws should be amended to avoid deterring victim-survivors coming forward and protecting perpetrators.** Enabling representative claims and systemic inquiries lessens the need for individual victims to bear the risks associated with reporting.

E. Support for victim-survivors

Despite greater attention being given to sexual harassment in the workplace in recent years (with the advent of #MeToo social media campaign and a number of high profile national and international examples), very little has changed 'on the ground' in terms of the information, supports and services available to victim-survivors. Support services for victim-survivors remain underdeveloped, under-resourced and difficult to navigate.

In Victoria as elsewhere reports of sexual harassment are rising, but there is still a lot to do to ensure that victim-survivors are able to:

- Access clear information about the various reporting and support options available to them
- Access specialist social support (e.g. counselling) in a timely manner
- (As a result of a genuine whole-of-organisation commitment to the elimination of sexual harassment and promotion of gender equity), feel confident and supported to make reports directly to their employer

Victim-survivor experiences of internal reporting

The way that perpetrators are (or are not) held to account for their actions by employers can also have a huge impact on the wellbeing and experience of the victim-survivor and can signal to other employees how seriously the organisation takes the issue. As noted in Section B, failure to take appropriate action to stop sexual harassment indicates that the employer condones the behaviour and can create a further disincentive to reporting.

Holding perpetrators to account while adhering to due process can be challenging for employers and can be further complicated by certain workplace dynamics (e.g. in small businesses, family businesses, organisations where alleged perpetrators hold senior positions, or where the same union represents both the perpetrator and victim/s, etc). The fact that sexual harassment complaints are often subject to conciliation behind closed doors makes it hard for co-workers to know whether perpetrators have been held to account or not.

Tools and resources are needed to support employers to embed appropriate policies and procedures, navigate complaints processes, have challenging conversations and hold perpetrators to account, and in so doing build employees' confidence that the workplace will take any complaints seriously and respond appropriately.

Further research is required into how victim-survivors who do report sexual harassment in the workplace experience the process of coming forward, and their satisfaction with the process and its outcomes. This research could identify new opportunities to improve victims' experiences and confidence in reporting.

Access to information

Providing victim-survivors with clear information about the various reporting options available to them and how to access specialist psychosocial support (e.g. counselling) in a timely manner are urgent priorities. This could be facilitated by the establishment and resourcing of a dedicated, specialist national sexual harassment helpline and information service. (This could be an adjunct to an existing service.)

This victim-centred service should be informed by a feminist lens and could offer information and tools online, as well as over-the-phone information and advice to victim-survivors to help them understand their rights and the options available to them in terms of psychosocial support and legal remedies.

This service could refer users to support providers such as Victoria's Centres Against Sexual Assault (CASAs) and the national hotline 1800 RESPECT for counselling and psychosocial support. Clear information should be made available about the different remedies (including compensation) to which victims may be entitled using different legal avenues (e.g. victims of crime and/or worker's compensation).

It may also be useful for the new service to assist victim-survivors to navigate the complex complaints system. For example, it could provide or make referrals for case management support for victim-survivors to help them understand their rights, options and timeframes, including the both legal and non-legal (e.g. social support) options available to them.

All information should be provided in the full range of community languages and be fully accessible. Resources and tools should be informed by the experiences of different groups of women, and should be as useful to a migrant farm worker on a restricted visa, as it is to a young woman in a sexualised workplace (e.g. lingerie retail or a strip club) or an executive in a white collar industry.

Regardless of which organisation a victim contacts initially, cross-referrals should be made to other relevant services (for example, agencies that take complaints should make victims aware of support services and vice versa) to ensure there is 'no wrong door' for accessing information and support.

Psychosocial supports

Victoria's CASAs currently provide support to survivors of sexual harassment. However, due to under-resourcing and long waiting lists, CASAs must triage requests for support. They are likely to prioritise victims of recent sexual assault, for example, meaning that victims of sexual harassment may be subject to long wait times, despite the serious mental health impacts they may be experiencing.

Victim-survivors of sexual harassment need access to specialist, skilled support from professionals who understand the gendered nature of sexual assault and sexual harassment and are able to help survivors navigate relevant service systems and access legal redress.

However, the reality is that most people who experience sexual harassment at work may not wish to make a formal complaint. Many victims will prioritise getting access to specialist emotional support and counselling in order to deal

with the significant emotional and physical impacts on health and wellbeing; in some cases the support required will be long term.

WHV supports CASA Forum's recommendation that extra supports for victim-survivors of sexual harassment be linked to specialist sexual assault counselling services, noting that expanded resources are needed to enable specialist services like Victoria's CASAs to provide this support.

Specialist sexual assault counselling service staff will require enhanced training and skill development in responding to survivors of sexual harassment. This includes the need for information and training so they can support their clients to navigate regulatory regimes and to access appropriate legal and other support services.

Employee Assistance Programs also have strong potential to provide advice and support, but staff must be trained to be able to provide a specialist response for victims of sexual harassment.

Anonymous reporting tools

Victims should also be able to make anonymous reports. Anonymous reporting systems have multiple benefits – they can enable a victim-survivor to access support without making a formal report and can also assist government agencies to identify serial perpetrators and patterns of behaviour within specific organisations or industries.

The South Eastern Centre Against Sexual Assault (SECASA) has developed *Sexual Assault Report Anonymously* or SARA. Aware that women were often hesitant to make formal reports to CASA or police because they believed the incident was minor, they wanted to remain anonymous or they did not want police involvement, SARA was developed to provide women with an alternative pathway for reporting.

SARA is an easy-to-use mobile-friendly website that allows users to report a sexual assault anonymously from anywhere in Australia. Data shows it is also being used to report sexual harassment. Information provided by users can include when and where the incident took place and a description of the offender. The de-identified data provided to SARA is then passed on to the relevant police service and is used to help identify trends and repeat offenders. Many users do provide their contact details and SECASA is able to then follow up and provide support when required.

As noted above, anonymous reporting can serve multiple purposes. An anonymous reporting system or systems could be hosted by a support service and/or an agency with powers to initiate systemic inquiries. If the system is hosted by one or other body, it will be important for information to be shared with other relevant organisations (as far as confidentiality allows) for follow up. Given that the more pressing need of victims is likely to be for support, it may be appropriate for the system to be hosted by a support service (with adequate resourcing), with information passed on to police and other relevant agencies.

F. Evidence and data

There is a lack of adequate data to inform our efforts to reform the sexual harassment 'system'. This is due to a range of factors including low reporting rates, the absence of an obligation on employers to (publicly) report cases of sexual harassment, the prevalence of non-disclosure agreements and the fact that relevant agencies have not prioritised the collection and analysis of sexual harassment data as a discrete data set (for example, it has been conflated with general bullying and harassment data).

Data collection and analysis – both by employers and regulatory bodies – should be strengthened to provide a clearer picture of what is happening in workplaces, and to drive and monitor change over time. It is only if we can truly see the problems that we will be able to address them effectively. It should also include hearing, respecting and validating the voices of those affected by sexual harassment, particularly women (who make up the majority of victim-survivors), whose lived experience should guide reforms.

As noted throughout this submission, there is also a need for further research and evidence on what works to prevent and respond to sexual harassment, as a specific manifestation of violence against women. This should incorporate practice evidence developed by specialist organisations with expertise in this area. At the same time, it will be critical to ensure that any reforms or new initiatives to address sexual harassment are evaluated to continue to build the international evidence base on effective strategies to prevent and respond to sexual harassment in the workplace.

G. Conclusion

Sexual harassment is very much in the public eye in 2019. Businesses and the wider community are finally under pressure to work together to prevent and end this prevalent and insidious form of violence against women. Alongside this Inquiry, there are indicators that the public, regulators and other stakeholders now have the appetite to come together to improve the system and outcomes for victim-survivors.

This submission outlines the urgent need to:

- **Invest in integrated strategies for primary prevention**, aligned with the national framework, *Change the Story* – both within workplaces and across the broader community – and build the capacity of employers to prevent sexual harassment by creating gender equitable workplaces;
- **Strengthen legal obligations on employers to take proactive action** to prevent sexual harassment and enhance regulatory powers to enforce these obligations;
- **Strengthen and expand the range of legal and regulatory levers available for addressing sexual harassment**, across anti-discrimination, work health and safety, industrial and gender equality laws;
- **Build the capability of employers** to implement appropriate policies, procedures and supports to empower victims and bystanders to come forward and hold perpetrators to account;
- **Improve access to information and legal and support services for victim-survivors** and resource specialist sexual assault services to provide counselling support.

WHV looks forward to working with the Commission and other stakeholders to progress action to eliminate sexual harassment at work and in our community.

H. Recommendations

1. The Commission, governments and relevant agencies should **raise awareness of the serious impacts of sexual harassment**.
2. Recognising that sexual harassment is not confined to the workplace, and is driven and reinforced by attitudes and behaviours that occur outside the workplace, **sexual harassment should be made illegal, regardless of**

where it occurs, and **protection from sexual harassment under anti-discrimination laws should be extended to all areas of public life** (not just workplaces). Further, the definition of ‘workplace sexual harassment’ should include any harassment that occurs ‘in the world of work’, that is, where the people involved have come into contact with each other as a result of their employment.

3. **Efforts to prevent sexual harassment must be integrated with existing efforts to prevent all forms of violence against women across multiple settings, in line with the national primary prevention framework, *Change the Story*.**
 - a. In developing a **second National Plan to Reduce Violence against Women and their Children**, the Australian Government should incorporate an emphasis on primary prevention and the need to address sexual harassment in the workplace. This work needs to begin well before the expiry of the current plan (2022).
 - b. **The primary prevention of sexual harassment needs to be undertaken across all settings, not just in workplace settings.** *Change the Story* provides a framework for a whole-of-community approach to preventing violence against women, which involves mutually-reinforcing activities across multiple settings where people live, learn, work and play, including workplaces, but also schools, sporting clubs, arts and media.
 - c. There may be benefits to delivering specific initiatives focused on the prevention of sexual harassment in workplaces, to capitalise on employer motivation and support implementation of any enforceable positive duty imposed on employers (see recommendation 6). However, **any specific initiatives should contextualise sexual harassment by emphasising the links with other forms of violence against women and the shared gendered drivers.** Further research is needed to explore what, if any, adjustments are needed to ensure existing primary prevention programs, including training, deal effectively with sexual harassment.
4. **Organisations that specialise in the primary prevention of violence against women should be resourced to support workplaces to implement the *Our Watch Workplace Equality and Respect Standards* through the provision of specialised advice, training, and tools and resources.**
 - a. In addition, **employers will need training, tools and resources to embed appropriate policies and procedures that support victims of sexual harassment to make complaints and hold perpetrators to account**, and in so doing build employees’ confidence that the workplace will take any complaints seriously and respond appropriately.
 - b. As large employers, **governments should play a leading role in taking action and modelling good practice** on the prevention of and response to violence against women (including sexual harassment) to other employers, including by implementing the *Workplace Equality & Respect Standards* across the public sector.
5. **Interventions for both preventing and responding to sexual harassment should be guided by an intersectional gender equity approach.** This includes developing targeted and tailored strategies for workforces where the risk of sexual harassment is likely to be high because of the nature of the industry, conditions of work, or because employees experience job insecurity, discrimination or exclusion from the mainstream workforce.
 - a. **Supports and information should be developed by/in partnership with specialist organisations** (for example Aboriginal Community Controlled Organisations and specialist disability agencies such as Women with Disabilities Victoria).
 - b. In recognition of higher rates of sexual harassment against younger people, **strategies need to be tailored to industries that employ significant numbers of young people.**

- c. More attention should also be given to **preventing and responding to sexual harassment of people, particularly women, with disabilities** in Australian Disability Enterprises/supported employment.
6. **An enforceable legal obligation is required to underpin best practice primary prevention efforts to eliminate sexual harassment.** This obligation should mandate a whole-of-organisation approach (drawing on a framework such as the *Workplace Equality & Respect Standards*) that addresses both the structural and ‘cultural’ (gendered norms and practices) elements of gender inequality in the workplace. It should cover ‘third party’ harassment of employees (by customers/clients) and capture the breadth of contemporary understandings of ‘work’ and ‘workplaces’.
- a. **The existing positive duty should be enforced under national Work Health and Safety laws.** Victoria and Western Australia should also incorporate amendments to their Workplace Health and Safety Law to support equity and consistency across jurisdictions.
 - b. **An enforceable positive duty** for employers to prevent sexual harassment **should be created under anti-discrimination laws.**
 - c. **Workplace health and safety regulators should immediately prioritise addressing sexual harassment** as a risk to workplace health and safety under existing work health and safety laws.
7. **Victim-survivors should be able to access the legal and psychosocial supports they need when and where they need them.**
- a. **Reporting options** for sexual harassment should be **clarified and streamlined**, and reporting and support pathways should be integrated to ensure a ‘**no wrong door**’ approach, for example through cross-referrals.
 - b. **Time limits for complaints to anti-discrimination agencies should be extended**, providing access to fair and efficient complaints processes.
 - c. **Defamation laws should be amended** to avoid deterring victim-survivors coming forward and protecting perpetrators.
8. **Legal responses for victim-survivors of sexual harassment should be strengthened:**
- d. Anti-discrimination laws should be strengthened to improve protection and redress for people who complain of sexual harassment, and to prevent detrimental outcomes in cases where the employer fails to respond reasonably or handles the investigation poorly.
 - e. The powers of anti-discrimination and human rights commissions should be strengthened, to enable commissions to undertake ‘own motion’ investigations and public inquiries.
9. **Supports available to victim-survivors should be improved and adequately resourced**, in order to provide access to clear information about the various reporting and support options available and access to specialist support services (e.g. counselling).
- a. This would be assisted by the establishment and resourcing of a **dedicated, specialist, victim-centred sexual harassment phonenumber and information service** (potentially as an adjunct to an existing service), which could offer information and tools online, as well as over-the-phone information and advice to victim-survivors about their legal and support options, and referrals to specialist support services (for example, for counselling).
 - b. Specialist support to assist victim-survivors to deal with the social, psychological and physical impacts of sexual harassment should be provided by **professionals who understand the gendered nature of sexual**

assault and sexual harassment. Additional resources would be required to enable specialist services like Victoria's CASAs to provide this level of support.

- a. Victim-survivors should be supported to **navigate relevant service systems and access legal redress**, for example through case management services.
- b. All information and supports should be provided in the full range of **community languages and be fully accessible.**
- c. Victim-survivors should be able to make **anonymous reports** to a support service and/or anti-discrimination agency.

10. Research and data collection efforts should be strengthened in order to build the evidence base on sexual harassment. For example:

- a. Employers should be required to **formally report sexual harassment incidents** and complaints to an external agency on a regular basis, and conciliation outcomes should be made more transparent where appropriate.
- b. **Further research** is required into:
 - i. how victim-survivors who report sexual harassment in the workplace experience the process of coming forward, and their satisfaction with the process and its outcomes.
 - ii. the prevalence and impacts of third-party workplace sexual harassment (for example by clients or customers).
 - iii. works to prevent and respond to sexual harassment, as a specific manifestation of violence against women.
- c. Any reforms or new initiatives to address sexual harassment must be **evaluated** to continue to build the international evidence base.

Appendix A – Women’s Health Victoria’s expertise

In addition to the specific work we do on preventing and addressing sexual harassment, WHV has a strong focus on promoting gender equity and preventing violence against women across much of our work, which is relevant to the Commission’s inquiry.

WHV applies a gender equity lens to all the work we do, including policy and advocacy, research and data collection, training and health promotion, and the health services we provide to women. In addition to being one of the first organisations to develop training and resources in relation to the prevention of violence against women (along with our sister women’s health services across the state), WHV publishes issues papers which explore how gender inequality drives unfair or unequal health impacts for women and girls, and how these inequalities may be addressed, and poor health outcomes prevented. For example, one of our most recent and most popular issues papers, [Growing Up Unequal](#) (2017), explores how sex and gender impacts the health and wellbeing of young women. For example, young women report feeling concern about the presence of males when exercising and worry about being judged, humiliated and harassed.²⁶

We have also partnered with the City of Melbourne and North Melbourne Recreation Centre on a public mural called *Throw Like A Girl* which was designed to address some of the barriers that women and girls encounter in relation not physical activity (including fear or experiences of sexual harassment).

WHV is also leading work to address sexist advertising in recognition that the media plays a key role in shaping community attitudes and expectations about women and men’s roles and value in society. Our most recent issues paper, [Advertising \(In\)equality](#) (2018) provides an overview of significant literature currently published on the nature of gender portrayals in advertising, and the impacts of these representations on women’s health and wellbeing. Gender-stereotyped portrayals limit the aspirations, expectations, interests and participation of women and men in our society. These portrayals are associated with a range of negative attitudinal and health and wellbeing outcomes. Next steps of the project include working the community focus groups and advertisers to improve the representation of women and girls in public spaces.

In addition to our issues papers WHV supports policy makers and the community to understand and demonstrate the impacts of gender inequality, particularly for women’s health and wellbeing. We do this in a range of innovative ways including the Victorian Women’s Health Atlas. [The Victorian Women’s Health Atlas](#) is a tool to assist in the identification of how gender impacts on key health areas including violence against women, avoidable mortality and mental health. The Atlas enables comparison between Local Government Areas, Regions and the State. The purpose of the Atlas is to increase the availability of reliable data for evidence-based decisions about service design, emerging priorities and program planning.

²⁶ Van Bueren, Elliott and Farnam (2016) Physical Activity and Sport Participation Campaign : insights report. Available [here](#).