

Power to Prevent Statement to Safe Work Australia

Best Practice Review of Model Work Health & Safety Laws & Regulations

The Power to Prevent Coalition represents a wide range of organisations and individuals with expert knowledge on the impact of unsafe workplaces and the high incidence of gender-based harassment in workplaces.

Context

All workers have the right to a healthy and safe working environment, with equal protection from risks to psychological health as to their physical health.

Women are more than twice as likely to sustain a serious psychological injury at work compared to men.¹ Aboriginal and Torres Strait Islander, culturally and linguistically diverse women, and women with disabilities, are known to face additional barriers to safety and increased exposure to harm at work.

Exposure to violence and sexual harassment is pervasive and experienced across all industries, with healthcare, education, retail, hospitality, and social services reporting high rates of exposure to these hazards. Exposure to these hazards threatens the realisation of the right to a healthy and safe work environment.

Historically, workplace health and safety (WHS) regulations have concentrated on physical hazards in traditionally male-dominated industries, with specific regulations for individual physical hazards.

While the model WHS regulations contain an overarching psychosocial hazard regulation, it does not provide the specific guidance that employers need to effectively manage hazards such as workplace violence and aggression, including gendered violence, sexual and sex or gender-based harassment.

To close this gap, the law must evolve to establish clear and specific regulations for work-related violence, including gendered violence, harassment and discrimination. This regulation would apply a risk management approach and require the employer to take proactive steps to prevent harm, in consultation with workers, Health and Safety Representatives and their unions.

¹ Safe Work Australia. *Key Work Health and Safety Statistics Australia 2024*. Released 2 September 2024.

Recommendations

The Power to Prevent Coalition recommends that Safe Work Australia amend model work health and safety laws and regulations to:

1. Expressly regulate work-related violence, including gendered violence, sexual harassment and sex or gender-based harassment, discrimination, victimization and bullying, as a workplace hazard, consistent with employers' primary duty of care.
2. If it is not reasonably practicable to eliminate a risk associated with these hazards, PCBU's must be required to reduce the risk so far as is reasonably practicable by altering:
 - i. the gender and diversity composition in management roles;
 - ii. the gender and diversity balance of the workforce;
 - iii. the plant;
 - iv. the systems of work;
 - v. the work design; and
 - vi. the workplace environment.

Information, training, and instruction must not be the predominant control used.

3. Discrimination on the basis of attributes protected under State, Territory and Federal Laws (including on the basis of sex, gender, gender identity, race, disability, and age) should be expressly recognized as a psychosocial hazard.
4. Require the employer to apply a risk management approach (including applying the hierarchy of control), under part 3.1 of the WHS Regulations, to manage these hazards (like other WHS hazards).
5. Requiring the PCBU to have regard to all relevant matters in relation to the management of the specific hazard, including, but not limited to:
 - Gender
 - Insecure work
 - Lack of diversity in the workplace
 - The workforce profile and presence of workers who are more likely to be impacted by the hazards (for example due to their sex, sexuality, gender identity, race, migration status, age and disability)
 - Power imbalances
 - Work design and systems of work (such as risks inherent in physical spaces, rostering practices, requirements to work in isolation, etc)

6. Require employers to prepare written prevention plans, developed in consultation with workers and their unions.

Strengthening work health and safety laws and regulations to prevent work-related gendered violence is consistent with Australia's evidence-based and national approach to primary prevention of gender-based violence, as first outlined in *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia*, developed by Our Watch and Australia's National Research Organisation for Women's Safety².

It is also consistent with Australia's international obligations and the National Plan to End Violence Against Women and Children.

Australia has an opportunity to be a world leader in the prevention of work-related gendered violence, with various previous reports recommending that Respect@Work reforms and workplace bullying prevention be embedded in work health and safety regulations.³

² ANROWS. (2015). World first framework launches to Change the story of violence against women and their children in Australia. <https://www.anrows.org.au/media-releases/world-first-framework-launches-change-the-story-violence-against-women-and-children/>.

³ Campbell, E., Fernando, T., Gassner, L., Hill, Jess., Seidler, Z., Summers, A. (2024). Report of the Rapid Review of Prevention Approaches, Unlocking the Prevention Potential, Accelerating action to end domestic, family and sexual violence. Department of Prime Minister and Cabinet. <https://www.pmc.gov.au/sites/default/files/resource/download/unlocking-the-prevention-potential-4.pdf> - see Recommendation 7(f); Workplace Bullying "We Just Want It To Stop" - Chapter 2. (2012). Parliament of Australia. https://www.apf.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=ee/bullying/report/frontpagesfinal.pdf - see Recommendation 5.

Endorsements and Logos

Australian Council of Trade Unions

Australian Women Lawyers

Basic Rights Queensland

Carol Andrades, Senior Fellow,
University of Melbourne

Caxton Community Legal Centre

Circle Green Community Legal

First Nations Advocates Against Family
Violence

Full Stop Australia

Inner City Legal Centre

Kingsford Legal Centre (UNSW)

National Legal Aid

Redfern Legal Centre

South-East Monash Legal Service

Victoria Legal Aid

Villamanta Disability Rights Service

WestJustice

Women in Defence Association

Women with Disabilities Australia

Women's Electoral Lobby Australia

Women's Legal Centre ACT

Working Women Queensland

Working Women's Centre ACT

Working Women's Centre Australia

Working Women's Centre Victoria

