

## Senate Education and Employment Legislation Committee

### SEX DISCRIMINATION AND FAIR WORK (RESPECT AT WORK) AMENDMENT BILL 2021

#### Attorney-General's Department

Hearing date: 20 July 2021

Hansard page: 48

Question type: Spoken

Larissa Waters asked the following question:

**Senator WATERS:** Thanks very much, Chair; and thanks very much to Senator Pratt too. I suspect we have similar events—mostly, collecting our children.

Thanks to the department for being here. What resources will be provided to support the implementation of the bill? We took some evidence from community legal centres and from the Fair Work Commission that there had not been a commitment to increase funding to meet the demand on those legal entities that would flow from this bill. Will that be revisited? Will there be any extra money to help community legal centres help workers use these new rights?

**Ms Virtue:** In terms of any flow-on effect from the bill resulting in a need for increased funding, that would be a matter for government through normal budget cycles. We'll be monitoring closely the impact of the amendments. As I mentioned earlier, the government provided additional funding in the budget for the implementation of A Roadmap for Respect. That also includes funding for legal support.

**Senator WATERS:** Perhaps on notice you could remind us of the relevant provisions and what subsection of that could be available to community legal centres versus other practitioners.

**Ms Virtue:** Certainly.

**The response to the Senator's question is as follows:**

The Government committed over \$20.5 million in funding from 1 July 2021 to progress implementation of the Government's *Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces* (Roadmap for Respect) in response to the Respect@Work Report. This is in addition to \$2.1 million in funding committed in the 2020-21 Budget.

The following table sets out funding provided to the Attorney-General's portfolio and other relevant portfolios (Prime Minister and Cabinet and Social Services).

	<i>Portfolio funding measure</i>	<i>Amount</i>	<i>Description of funding</i>
<b>2021-22 Budget</b>	<b>Attorney-General's</b> Respect@Work Council Secretariat and Implementation	\$7.3 million over four years	To support the Respect@Work Council and implementation of the Government's Roadmap for Respect.

	<b><i>Portfolio funding measure</i></b>	<b><i>Amount</i></b>	<b><i>Description of funding</i></b>
	Funding		
	Interim funding to continue targeted delivery of support for women on work-related matters including sexual harassment	\$0.2 million in 2021-22	To continue the targeted delivery of support for women on work-related matters, including workplace sexual harassment.
	<b>Attorney-General's</b> Comcare National Forums and training	\$1.7 million over two years  <i>This funding has already been provided for by the Government.</i>	To the Commonwealth work health and safety (WHS) regulator, Comcare, to deliver National Forums for Commonwealth, state and territory WHS Inspectors on sexual harassment, and training for employers and managers covered by Commonwealth WHS laws to better understand and meet their obligations.
	<b>Attorney-General's</b> Frontline Support to Address Sexual Harassment in the Workplace	Due to ongoing negotiations with the states and territories, the Government has not yet announced the funding amounts associated with this funding measure.	To provide additional legal assistance for specialist lawyers with workplace and discrimination law expertise, consistent with recommendation 53 of Respect@Work report. Services are expected to be delivered through legal assistance providers across the country to ensure that all individuals, particularly women, can get help to address workplace sexual harassment.
	<b>Prime Minister and Cabinet</b> Strengthen reporting against gender equality indicators in the public sector	\$6.0 million over four years	To the Workplace Gender Equality Agency and the Australian Public Service Commission to strengthen reporting against gender equality indicators in the public sector.
	<b>Social Services</b> Research into sexual harassment	\$1 million over three years	To Australia's National Research Organisation for Women's Safety (ANROWS) to deliver a series of research projects into sexual harassment.
	<b>Social Services</b> Prevention initiative and media engagement	\$3.7 million over three years	To Our Watch to expand its National Media Engagement initiative with a focus on sexual harassment and to develop and deliver primary prevention initiatives to

	<i>Portfolio funding measure</i>	<i>Amount</i>	<i>Description of funding</i>
			prevent sexual harassment.
	<b>Social Services</b> Promotion of 1800RESPECT	\$0.5 million in 2021-22	To promote the 1800RESPECT service's confidential information, counselling and support services, with a focus on sexual violence.
<b>2020-21 Budget</b>	<b>Attorney-General's</b> Women's Economic Security Statement 2020-21	\$2.1 million over three years	To establish the Respect@Work Council, develop an online platform, develop a package of training and education materials and conduct the next national prevalence survey in 2022.

Further to the above funding, the Government committed additional funding of approximately \$350 million for legal assistance services in the 2021-22 Budget, including approximately \$129 million for legal assistance to support vulnerable women. The majority of the additional funding will be distributed to the states and territories through the National Legal Assistance Partnership 2020-25, and it will be a matter for states and territories to allocate the funds to individual providers in their jurisdiction.

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Larissa Waters **asked the following question:**

**Senator WATERS:** In regard to the recommendation to introduce cost protection provisions into the Human Rights Commission Act, I've had some correspondence with the department and I understand that the Attorney has written to the federal courts raising this issue. Has there been any response about the possibility of extending those court cost protections to these new powers under the bill? If so, what was that response and is that matter under investigation by government to alleviate the costs barrier from using these new provisions?

**Ms Virtue:** The government indicated in the road map that it would assess the impact of cost orders on these matters, noting that courts already have a broad discretion. That is a matter that remains under consideration. In the meantime, as you've alluded to, the Attorney-General has written to the federal courts to alert them to the issue and encourage them to consider the impact on complainants as a result of making various cost orders.

**Senator WATERS:** Has there been a reply from the courts?

**Ms Virtue:** Not that I'm aware of, but I can take that on notice.

**The response to the Senator's question is as follows:**

On 15 July 2021, the Attorney-General wrote to the heads of jurisdiction for all federal courts to raise their attention to the Respect@Work Report and the discussion contained in the Report on the impact different costs orders can have on complainants. As at 20 July 2021, the Attorney-General had received one response to this letter.

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Larissa Waters **asked the following question:**

**Senator WATERS:** Thank you. Is the department undertaking any work to implement the call from the National Foundation for Women to commit to a reporting date for the remaining Respect@Work recommendations which this bill doesn't yet implement? If so, what time frame do you propose? In short, what about the rest of it and when will we see any progress on that?

**Ms Virtue:** I'm not aware of the specific call you're alluding to; sorry, that must have passed me by. But that's obviously a matter for government. We're working to implement the Roadmap for Respect commitments across all recommendations in the report. We're aware that there's a strong desire to move quickly across the board; beyond that, I don't think I can comment.

**Senator WATERS:** Perhaps you could take it on notice just to check the evidence from the National Foundation for Women, which was yesterday. The report was discussed in their evidence, and I think they have also referenced it in their submission. It would be great if you could on notice respond to that proposal by them. Thanks, Chair.

**The response to the Senator's question is as follows:**

The Government has set out its response to, and proposed pathway forward on, the Respect@Work Report in its Roadmap for Respect released on 8 April 2021.

Recommendation 6 of the National Foundation for Australian Women's submission to the Committee refers to recommendations 15, 26, 28, 35 and 39 of the Respect@Work Report.

With respect to recommendation 15, the Roadmap for Respect states that the Government will consider the ratification of ILO Convention 190 as part of the usual treaty processes. The Attorney-General's Department is undertaking a law and practice assessment, which is a comprehensive examination of relevant legislation and policies that may give effect to the obligations in the Convention, including work health and safety, anti-discrimination and criminal law. Government will consider ratification after this process is complete.

With respect to recommendations 26 and 39, the Roadmap for Respect states that the Government will facilitate discussions in the appropriate fora to progress these recommendations. On 9 June 2021, an extraordinary Meeting of Attorneys-General agreed mechanisms to progress these recommendations (see [communiqué](#) for further detail).

With respect to recommendation 28, the Roadmap for Respect states that the Government will review the Fair Work system once the amendments proposed under Recommendation 16 have been implemented and their impact assessed.

With respect to recommendation 35, the Roadmap for Respect states that the Government will support the work involved through work health and safety (WHS) ministers meetings and other fora with states and territories. On 20 May 2021, WHS Ministers agreed to amend the model WHS regulations to deal with the risk of psychological injury, consistent with the Government's support for recommendation 35 of the Respect@Work Report. Safe Work Australia (SWA) is now progressing amendments to the regulations, which will be supported by a model Code of Practice on managing psychosocial risks, already under development by SWA.

Timing for implementing any additional legislative measures is a matter for Government.

The department observes that legislation typically does not prescribe deadlines for policy consideration of specific issues. As outlined above, a number of the recommendations referred to by the National Foundation for Australian Women require consideration through the treaty making process (recommendation 15), or joint action with state and territory governments and are therefore not within the exclusive remit of federal legislation (recommendations 26 and 39).