



Australian
Human Rights
Commission

Inquiry into the Operation and Management of the Department of Parliamentary Services

Australian Human Rights Commission Submission to the
Senate Finance and Public Administration Legislation Committee

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1 Introduction

1. The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the Senate Finance and Public Administration Legislation Committee in its Inquiry into the Operation and Management of the Department of Parliamentary Services.
2. The Commission is an independent statutory agency with the role of promoting and protecting human rights under the *Australian Human Rights Commission Act 1986* (Cth). The Commission's operations are determined independently of the government and are carried out by its President and Commissioners. The Commission is Australia's National Human Rights Institution (NHRI) and is accredited as an 'A Status' NHRI under the United Nations' Paris Principles.¹ 'A Status' NHRIs are considered to have legitimacy and credibility within their country and on the international stage.
3. The Commission is responsible for administering the *Sex Discrimination Act 1984* (Cth) and the *Disability Discrimination Act 1992* (Cth), which give effect to Australia's obligations under the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. These international instruments are vital mechanisms for the advancement of gender equality, the promotion and protection of disability rights, and work to eliminate discrimination on the basis of sex and disability in public life.
4. Through its Investigation and Conciliation Service, the Commission also investigates and conciliates complaints alleging discrimination on the basis of sex and disability, as well as human rights breaches by Commonwealth government bodies. Individual complaints can highlight the need for systemic changes in a particular organisation, and data collected through the complaints function also identifies broader trends that point to systemic issues.

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2 Summary

5. In this submission, the Commission makes recommendations designed to ensure the fair and accessible operation and management of the Department of Parliamentary Services.
6. The Commission's submission focuses on the following areas of focus for the Inquiry: recruitment; workplace culture; building and asset management; security arrangements; and the Parliamentary Library.

3 Recommendations

7. The Australian Human Rights Commission makes the following recommendations:
8. **Recommendation One:** The Department of Parliamentary Services take steps to ensure that its internal policies protect all workers from sexual harassment, including volunteers and other unpaid workers such as interns.

Recommendation Two: The Department of Parliamentary Services implement the workplace prevention and response framework proposed in *Respect@Work* to ensure it is adequately preventing and responding to sexual harassment in the workplace and promoting gender equality.

Recommendation Three: The Department of Parliamentary Services submit its Accessibility and Inclusion Action Plan to the Commission for inclusion in the Commission's Register of Disability Discrimination Act Action Plans, and develop robust monitoring and evaluation processes for its implementation.

Recommendation Four: The Department of Parliamentary Services commission an independent accessibility audit of its premises and services.

Recommendation Five: The Department of Parliamentary Services conduct further education and training for its staff on accessibility, inclusion and diversity.

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4 Preventing and Responding to Sexual Harassment

4.1 *Respect@Work* context

9. The Commission recently concluded a world-first, 18-month National Inquiry into Sexual Harassment in Australian Workplaces. The Inquiry's final report, *Respect@Work*, was tabled in Parliament on 5 March 2020.² *Respect@Work* drew on the responses of 10,000 workers to the Commission's 2018 national survey of workplace sexual harassment, 60 public consultations with 600 participants, 460 written submissions, and comprehensive modelling of the economic costs of workplace sexual harassment by Deloitte Access Economics.
10. *Respect@Work* examined the nature, prevalence and drivers of sexual harassment in Australian workplaces, and measures to address and prevent it. The report concluded that sexual harassment is widespread and pervasive in Australian workplaces. In 2018, one in three Australian workers had experienced workplace sexual harassment in the last five years, up from one in five workers in 2012.³ Deloitte Access Economics estimated that workplace sexual harassment cost the Australian economy \$3.8 billion in 2018, as a result of its heavy productivity consequences for workplaces, among other factors.⁴
11. *Respect@Work* revealed an urgent need to shift from Australia's current reactive, complaints-based approach to one that requires positive action from employers and which focuses on prevention. *Respect@Work* proposed a new approach which builds upon Australia's existing policies and initiatives, through 55 recommendations that fall under five key areas of focus:
 - Improved data and research to deliver useful, industry-based information about the nature of sexual harassment and effective responses.
 - Primary prevention of sexual harassment through education, media and community wide initiatives.

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- A refocused legal and regulatory framework which recognises the mutually reinforcing roles of discrimination, workplace and safety laws.
 - Better workplace prevention and responses which are leader driven, practical and adaptable.
 - Better support, advice and advocacy for people who experience sexual harassment.
12. The following sections of this submission outline how the Department of Parliamentary Services can and should draw on the findings and recommendations of *Respect@Work* to improve its prevention and response of sexual harassment in its workplace.

4.2 Obligation to prevent and respond to sexual harassment

13. During the National Inquiry, the Commission found that certain workplace characteristics heightened specific risk factors for sexual harassment. For instance, the Department of Parliamentary Services combines a range of different roles within the same workplace — including elected officials, ministerial staff, public servants, contract workers and unpaid workers such as interns and volunteers. In addition, the Department of Parliamentary Services's own staff, or people with whom its staff are in contact, sometimes work irregular hours, travel for work, and operate in a hierarchical structure — all additional risk factors identified during the National Inquiry.
14. Federal work health and safety legislation already imposes a duty on employers to prevent sexual harassment in the context of the broad duty to eliminate or manage hazards or risks to a worker's health — which includes psychological health and therefore sexual harassment. This creates obligations on the Department of Parliamentary Services to protect its workers from sexual harassment, and to respond to sexual harassment appropriately when it does occur, in relation to all of its workers.
15. In addition, the Department of Parliamentary Services should be aware of its obligations under the *Sex Discrimination Act 1984* (Cth). Section 28B(1)–

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(5) of that Act prohibits sexual harassment in various employment relationships, regardless of where the harassment occurs geographically—inside or outside the workplace. What is relevant is that the particular employment relationship be established. Section 28B(6) on the other hand prohibits sexual harassment between ‘workplace participants’ occurring at ‘a workplace’ of ‘either or both’ of these persons.

16. These definitions leave gaps which mean that not all workers are adequately protected from sexual harassment under that Act — including in particular volunteers, unpaid workers, self-employed persons and persons working in shared workspaces, as well as workers engaged in non-traditional work arrangements and relationships.
17. The Commission is of the view that every worker, whether paid, unpaid or self-employed, should have access to legal protections from workplace sexual harassment, no matter who sexually harasses them in the course of their work, as well as access to adequate remedies.
18. As a result, *Respect@Work* recommended that the Sex Discrimination Act be amended to ensure that the definition of ‘workplace participant’ and ‘workplace’ covers all persons in the world of work, including paid and unpaid workers, and those who are self-employed.
19. The Department of Parliamentary Services should be aware of this issue, particularly when taking on volunteers and other unpaid workers such as interns. To comply with its work, health and safety obligations, it should take steps through its internal policies to ensure that those workers are protected from sexual harassment.
20. **Recommendation One:** The Department of Parliamentary Services take steps to ensure that its internal policies protect all workers from sexual harassment, including volunteers and other unpaid workers such as interns.

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4.3 Implementing a new workplace prevention and response framework

21. *Respect@Work* found that sexual harassment occurs in all industries, at every level, throughout Australia. We now know that all workplaces face challenges promoting a safe and respectful working environment. The Department of Parliamentary Services is no different, and will require proactive, holistic action to respond to those challenges.
22. Chapter 6 of *Respect@Work* outlines a new framework for workplaces of all sizes and in all industries to prevent and respond to workplace sexual harassment. The new framework provides a holistic approach that looks beyond policies, training and complaint handling procedures. The new framework has seven areas of focus — four to prevent sexual harassment, and three to respond to sexual harassment [see Figure 1].
23. To better prevent sexual harassment, the new framework requires:
 - strong leadership which is committed to creating a safe workplace environment;
 - an organisational culture of trust and respect, founded on gender equality;
 - a greater focus on risk assessment, drawing on a commitment to transparency, a willingness to learn from past experience and a philosophy of continuous improvement within the workplace; and
 - the use of workplace policies, education and training to improve knowledge and develop a collective understanding of expected workplace behaviours and processes.
24. To improve responsiveness to sexual harassment, the framework recommends three areas where employers should focus their efforts:
 - providing support to workers throughout the reporting process, and prioritising worker wellbeing;

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- increasing reporting options for workers and addressing barriers to reporting, including creating new ways for sexual harassment to be addressed other than launching a formal investigation; and
- improved collection of data at a workplace level and an industry level, to increase understanding of the prevalence, nature and impacts of workplace sexual harassment and evaluate the effectiveness of initiatives designed to address it.

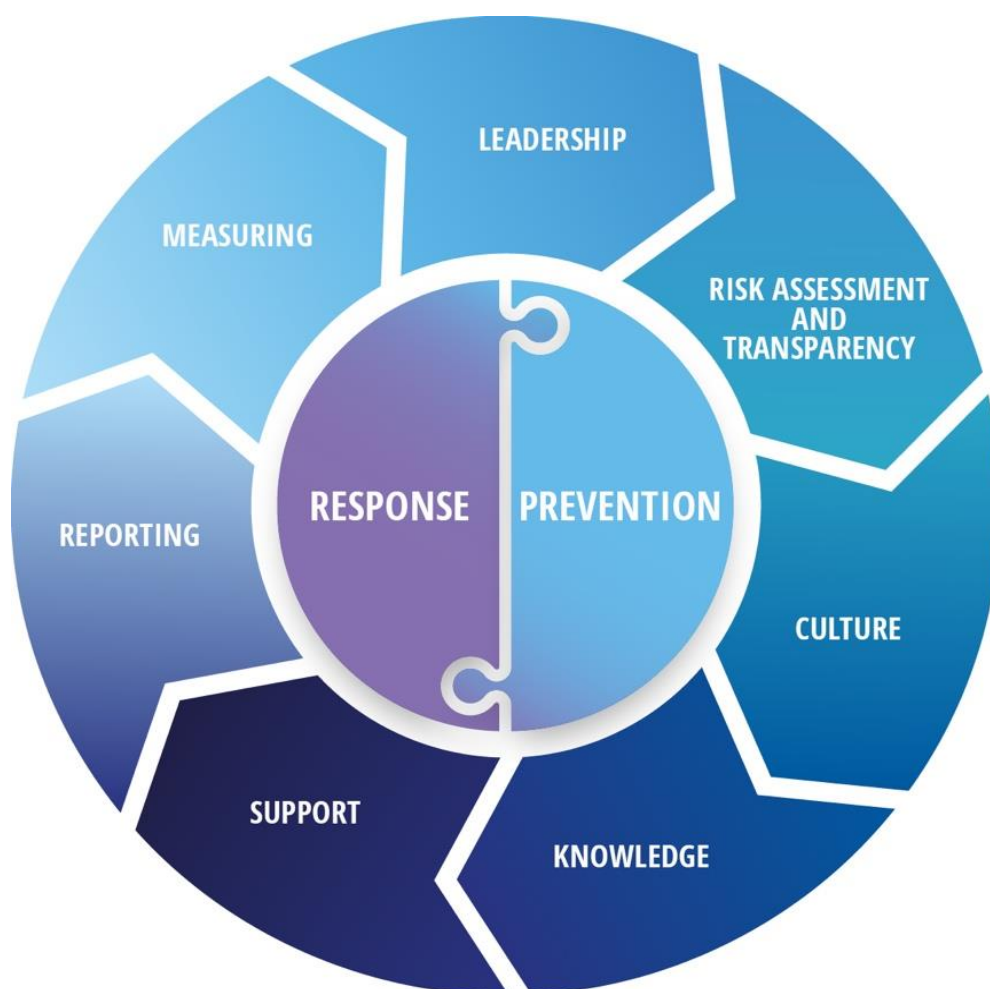


Figure 1: Workplace prevention and response framework

25. The Commission recommends that the Department of Parliamentary Services prioritise the implementation of this new framework, in order to ensure that it has a best-practice approach to preventing and responding to sexual harassment in the workplace.

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The Commission's experience

26. The Commission has significant experience working with organisations to assist them to improve organisational culture and the promotion of gender equality, including current or past partnerships with the Australian Defence Force, the Australian Federal Police, and the Fair Work Commission, as well as with universities and sporting codes. As the drafters of *Respect@Work* workplace prevention and response framework, the Commission would be well placed to assist the Department of Parliamentary Services to best implement the framework.
27. **Recommendation Two:** The Department of Parliamentary Services implement the workplace prevention and response framework proposed in *Respect@Work* to ensure it is adequately preventing and responding to sexual harassment in the workplace and promoting gender equality.

5 Facilitating Accessibility

5.1 Context

28. The Commission is aware of concerns related to the Department of Parliamentary Services and the accessibility limitations of its operation and management, particularly in reference to security staff and building access.⁵
29. The Commission understands that the Department has undertaken measures to address these concerns,⁶ including reviews and engagement with specialist disability services.
30. In particular, the Commission understands that the Department, in collaboration with a specialist disability service, has developed an Accessibility and Inclusion Action Plan (the Plan) 2020-23, which aims to:

foster a workplace culture that will improve awareness of, and recognize, the positive contributions that people with disability make to [the Department's] workforce [to] ensure our digital environment is innovative and accessible ... reduce accessibility

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barriers in the physical environment, while respecting the design integrity requirements of the building, including a range of building projects for accessible bathrooms and door automation. It will also reduce barriers to employment and build a workforce that better reflects the diversity of the community.⁷

31. The Commission commends the Department's development of the Plan. However, although action plans are valuable starting points that establish strong foundations for an organisation's accessibility and inclusion initiatives, in the Commission's experience they are not alone sufficient to embed the necessary attitudinal, behavioral and cultural changes needed to facilitate systemic change. This includes having in place robust processes for monitoring and evaluating the Plan's implementation.
32. The Commission also notes that the Plan is not currently listed on the Commission's Register of Disability Discrimination Act Action Plans, and recommends the Department provide the Plan for inclusion on the Register.⁸
33. **Recommendation Three:** The Department of Parliamentary Services submit its Accessibility and Inclusion Action Plan to the Commission for inclusion in the Commission's Register of Disability Discrimination Act Action Plans, and develop robust monitoring and evaluation processes for its implementation.
34. The Commission also submits that, further to the Plan, the Department should (i) commission an independent accessibility audit, and (ii) facilitate further education and training for its staff, as outlined in more detail below.

5.2 Accessibility Audit

The need for an accessibility audit

35. An accessibility audit would assess the Department's accessibility for a wide range of potential users, including people with disability, given that 'Parliament House receives approximately 800,000 visitors annually

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through the public entrance [and that] ... security staff operate in a challenging environment, with large crowds on sitting days, language barriers, school groups and various accessibility requirements.⁹ The Commission recognises that the current COVID-19 protocols add an additional layer of complication to accessibility.

36. An accessibility audit would identify the physical, attitudinal and systemic barriers to access, encompassing:
 - access to the built environment — for staff and members of the public;
 - service and information provision;
 - policies and procedures;
 - attitudinal, and behavioural assessment of staff towards people with disability;
 - experiences of people with disability and staff; and
 - access to technology.
37. An accessibility audit would include physical inspection of the Department's premises and services, and would assess:
 - compliance with the *Disability Discrimination Act 1992* (Cth) and the *Disability (Access to Premises – Buildings) Standards 2010* (Cth);
 - adherence to good practice to provide safe, dignified and equitable access for visitors and staff; and
 - the accessibility of services provided by parliament and the Parliamentary Library for people with disability, including the accessibility of information and guidance about services.
38. An accessibility audit would also help to monitor how effectively the organisation is tracking, identifying gaps and exploring further strategies to expand and improve accessibility.

The Commission's experience

39. The Commission has significant experience conducting organisational audits and reviews to monitor and identify gaps and make recommendations for improvement regarding organisational culture, including accessibility.

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40. From 2011 to 2013, the Commission conducted a review into the Treatment of Women in the Australian Defence Force, including an assessment of the effectiveness of cultural change strategies and initiatives. The Commission's work with the Defence Force has included:
- cultural change and diversity programs
 - leadership and communication
 - recruitment and retention issues, including flexibility, career progression, and workplace culture
 - unacceptable behaviour, including nature, prevalence and reporting.
41. The Commission is also currently leading a project on human rights and technology, including the rights of people with disability to technology. Preliminary work suggests that people with disability encounter increased barriers in accessing technology, especially assistive technology, compared with those who do not have a disability.
42. It is the Commission's understanding that the Parliamentary Library contributes to the work of the Australian Parliament by providing high-quality information, analysis and advice to parliamentarians and to parliamentary committees. An accessibility audit would consider how the Department should promote accessible and innovative technology to ensure inclusion, particularly in connection to library services and access to information.
43. Further to this, the Commission has worked with the Department of Infrastructure, Regional Development and Cities to develop Federal Guidelines for Providers and Operators of Public Transport on the provision of equivalent access for people with disability.¹⁰
44. The Commission is also currently working with Monash University to explore the role of modifications (as opposed to original design) in increasing the accessibility of buildings in a housing context.
45. **Recommendation Four:** The Department of Parliamentary Services commission an independent accessibility audit of its premises and services.

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5.3 Education and Training

The need for education and training

46. Education and training are also crucial to bringing about systemic change. To effectively drive cultural change, the organisation must first have knowledge and understanding of current issues and legislative gaps in relation to accessibility issues for people with disability.
47. Whilst actions plans and policies regarding accessibility and inclusion may be developed and communicated to staff, these plans and policies are 'brought to life' through education and training within the organisation. To ensure a better understanding of accessibility, inclusion and diversity, it is essential that conversational and interactive training is implemented. Education and training should be inclusive and accessible to all staff, and accommodate the particular needs and experiences of the particular workforce.

The Commission's experience

48. Through its role administering Australia's federal anti-discrimination legislation and broader expertise in human rights issues, the Commission is well placed to provide expert education and training to the Department as it relates to issues of accessibility and inclusion.
49. This is also clearly articulated in Section 67 of the *Disability Discrimination Act 1992* (Cth) which states the Commission has a statutory function in 'promoting an understanding and acceptance of compliance with this Act' and 'to undertake research and other educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects of the Act'.¹¹
50. The Commission has comprehensive knowledge and understanding of current issues and trends, through extensive stakeholder consultation, active involvement in policy development and systemic analysis of the discrimination complaints it conciliates. As it relates to the Department,

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the Commission has identified the following gaps regarding accessibility for people with disability:

- accessibility of information and methods communications;
- emerging technology and digital accessibility; and
- commercial premises, public spaces and amenities.

51. The Commission also has significant expertise in human rights education and training. This includes the development and delivery of face-to-face, online and blended human rights education and training programs for diverse audiences both domestically and internationally. Examples of this work include the:

- development and delivery of training for the public service, police and military, businesses, and community groups, for example the delivery of disability awareness training and training on upholding the rights of persons with disability in policy and project work to councils and state government employees; and
- development of guidelines, factsheets, and toolkits to assist employers to understand and respect their human rights responsibilities.

52. **Recommendation Five:** The Department of Parliamentary Services conduct further education and training for its staff on accessibility, inclusion and diversity.

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- ¹ Office of the High Commission for Human Rights, *Principles relating to the Status of National Institutions (The Paris Principles)*, GA Res 48/134 (20 December 1993). At <https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>
- ² Australian Human Rights Commission, *Respect@Work: National Inquiry into sexual harassment in Australian Workplaces* (2020). At <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>
- ³ For access to all previous sexual harassment prevalence surveys conducted by the Commission, see <https://humanrights.gov.au/our-work/sex-discrimination/projects/sexual-harassment>
- ⁴ Australian Human Rights Commission, *Respect@Work: National Inquiry into sexual harassment in Australian Workplaces* (2020). At <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>
- ⁵ Evidence to the Senate Finance and Public Administration Legislation Committee, Canberra, 21 October 2019, Official Committee Hansard, p.22 (Senator Hon. Scott Ryan, President of the Senate). For media reporting, see Andrew Brown, 'Disability advocate Christina Ryan forced to strip off clothing in security search at Parliament House' in Canberra Times, September 23, 2019, <https://www.canberratimes.com.au/story/6401314/utterly-demeaned-woman-in-wheelchair-forced-to-remove-clothing-in-parliament-house-security-search/>, and Rosie King, 'Parliament House security accused of 'dehumanising' search of disability advocate Christina Ryan' ABC news, Monday 23 September 2019, <https://www.abc.net.au/news/2019-09-23/parliament-house-security-check-dehumanising/11539712>
- ⁶ Evidence to the Senate Finance and Public Administration Legislation Committee, Canberra, 21 October 2019, Official Committee Hansard, p.21 (Senator Hon. Scott Ryan, President of the Senate)
- ⁷ Evidence to the Senate Finance and Public Administration Legislation Committee, Canberra, 21 October 2019, Answer to Question taken on Number 97 *Department of Parliamentary Services Disability Action Plan - Update, 2019-20*, Supplementary budget estimates, Hansard Reference, pp. 30-21 (Department of Parliamentary Services)
- ⁸ Australian Human Rights Commission, Register of Disability Discrimination Act Action Plans, <https://humanrights.gov.au/our-work/disability-rights/register-disability-discrimination-act-action-plans#commgov>
- ⁹ Evidence to the Senate Finance and Public Administration Legislation Committee, Parliament of Australia, 21 October 2019, Official Committee Hansard, p.21 (Senator Hon. Scott Ryan, President of the Senate)
- ¹⁰ Australian Human Rights Commission, *Guidelines: Equivalent Access under the Disability Standards for Accessible Public Transport 2002* (Cth) <https://humanrights.gov.au/our-work/disability-rights/publications/guidelines-equivalent-access-under-disability-standards>
- ¹¹ *Disability Discrimination Act 1992* (Cth)