

2021

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO THE ASSEMBLY RESOLUTION
30 MARCH 2021 – IMPROVING THE SAFETY OF WORKERS IN
RELATION TO PSYCHOSOCIAL HAZARDS SIX-MONTH UPDATE**

PAPER FOR TABLING

**Presented by
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Minister for Industrial Relations and Workplace Safety
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On 30 March 2021 the ACT Legislative Assembly passed a motion calling for improvements to workers safety in relation to psychosocial hazards in the workplace.

In the last three years, mental injuries have constituted around five per cent of all lost-time workers' compensation injury claims in the ACT private sector. Each year around 7,200 Australians are compensated for work-related mental health conditions, making up approximately six per cent of all workers' compensation claims. Approximately \$543 million is paid in workers' compensation for work-related mental health conditions annually.

The impacts of psychological injuries go beyond the cost of a workers' compensation claim. These costs include lost productivity; staff turnover; negative impacts on workplace culture; resources to manage and respond to complaints and litigation; reputational damage; negative impacts on workers' health and wellbeing; negative impacts on employment and career progression; and significant financial consequences to individuals and families.

Activities underway to support and protect Canberra's workers

On 3 August 2021, the ACT Government's Response to the Australian Human Rights Commission's, *'Respect at Work: National Inquiry into Sexual Harassment in Australian Workplaces'* was tabled. The Respect@Work report provides a clear, evidence-based and importantly survivor-centred approach to preventing and responding to workplace sexual harassment. At the core of this approach, is that everyone has responsibility for preventing and responding to sexual harassment.

The ACT Government's response to the Respect@Work report sets out our vision to understand, prevent and respond to sexual harassment at work, based on the principles of respect, equity, diversity and human rights. As whole, these responses will guide the achievement of workplaces for all Canberrans where everyone is safe, respected, and free from gender-based violence and harassment.

In 2018, an independent review of the national model work health and safety laws was undertaken, known as the Boland review. Following this review, Work Health and Safety (WHS) Ministers in May 2021 decided to implement the recommendation made to amend the nationally agreed model work health and safety regulations to make work safety duties in relation to psychosocial hazards clear within the WHS framework.

Work is already underway at the national level to develop these amendments, which include the development of associated supporting materials such as a model code of practice and guidance material. Some guidance material is already in place, given the existing primary duty under WHS laws to protect the health and safety of workers, including from psychological harms as well as physical harms. This material is published on the Safe Work Australia website and includes guidance on managing the health and safety risks of workplace sexual harassment.

The ACT Government continues to advocate for changes to the model regulations as recommended in the Boland review to improve the focus on psychosocial hazards in the workplace. The Government is also consulting with members of the tripartite ACT Work Health and Safety Council in the consideration of these issues and any proposed changes to the model WHS laws.

Activities of the ACT's work safety regulator, WorkSafe ACT

WorkSafe ACT has increased its capacity and capability to address psychosocial hazards, having established a dedicated psychosocial inspectorate team with specific resources and specialised training. WorkSafe ACT's psychosocial team has recently undertaken an audit of universities and vocational training providers, focussing on ensuring safe systems of work and complaint management processes are in place.

WorkSafe ACT's activities also extend beyond its compliance program, with the engagement of Dr Peta Miller, a WHS specialist with over 35 years' experience. Dr Miller will be

delivering a report to the WHS Commissioner on the issues and challenges with managing psychosocial hazards in the workplace, informed by government, employee and industry stakeholders, to gauge their lived experiences and insights. Dr Miller will continue this work with WorkSafe ACT into the 2021-22 reporting year.

ILO convention 190 – Violence and Harassment Convention, 2019 (No. 190)

Ratification of the ILO Convention 190, which recognises the right of everyone to a world of work free from violence and harassment, is within the Federal Government's responsibility.

The ACT Government continues to advocate for ratification of the ILO Convention 190. Recently, the ACT Government took the opportunity to publicly encourage the Commonwealth to take this important step as part of our submission to the Senate Education and Employment Committee Inquiry into the Sex Discrimination and Fair Work Amendment Bill 2021.

ACT Public Service – State of the Service reporting

Each year the State of the Service Report is released for the ACT Public Service. I expect that the 2020/21 State of the Service Report to be presented to the Assembly later in 2021, in accordance with the *Annual Reports (Government Agencies) Act 2004*. This report provides an account of operations in the ACT Public Service, including workforce profile data, for the 2020-21 reporting year (1 July 2020 to 30 June 2021).

The 2020-21 report will include data sourced from the pilot whole-of-government staff engagement survey, which was open from 26 July to 13 August 2021. In addition to seeking a better understanding of ACTPS employees' views about leadership, performance and workplace culture, the pilot engagement survey asked specific questions about personal experiences or observance of sexual harassment in the workplace. This set of questions invited respondents to consider and identify responses relating to a range of nominated behaviours as unwelcome or inappropriate due to a connection with sexual harassment or

sexual conduct. Responses to this component of the pilot survey will assist in understanding the experiences of our employees, and give a further depth of data for analysis when considering responses to questions specifically targeting any experiences or observations relating to discrimination or discriminatory behaviours in the workplace.

The pilot engagement survey also posed a set of questions seeking feedback on staff experiences relating to violence or aggression in the workplace.

Refinement of the pilot engagement survey will be undertaken following the survey's close, and work is underway to accommodate reporting against the number of bullying and harassment, sexual harassment and gender-based violence incidences in the ACTPS in the 2021/22 State of the Service Report.

This important activity will also be complimented by the ACT Government's response the Respect@Work report in which the Government provided in-principle agreement to collect an agreed de-identified data set relating to workplace sexual harassment enquiries, complaints, claims and settlement outcomes. This is intended to contribute to a coordinated system of annual reporting on workplace sexual harassment metrics.

By collecting better data, we will be better able to monitor how we are tracking and where we need to continue to improve. The ACT Public Service will also undertake work to evaluate the effectiveness of the various reporting channels in place, along with the cultural factors that may prevent someone from reporting an incident, so that we can further strengthen our responses.

Review of the ACT's discrimination laws

The Government is currently exploring possible reforms to the *Discrimination Act 1991* in response to the Respect@Work report recommendations.

Activities underway in relation to the ACT Government's procurement processes and practices

Work is also occurring in the area of government procurement, building on the changes made in 2019 to ACT Government procurement practices brought about by the Secure Local Jobs Code.

Existing measures within the ACT's Procurement Framework require the ACT Public Sector to consider diversity, equality and inclusion of suppliers and potential suppliers under the *Government Procurement (Charter of Procurement Values) Direction 2020*. Currently, application of the Procurement Values is dependent on the category, size, risk and scope of the activity being undertaken. However, consideration is being given to how these values could be expanded to ensure that all procurements demonstrate inclusive practice in employment decisions, career development, business operation and engagement with customers and clients.

In addition to the Procurement Values, most procurements require suppliers to provide an Ethical Suppliers Declaration at the point of tender. The Ethical Suppliers Declaration seeks to confirm that in the preceding 36 months prior, the supplier was not subject to a conviction, or finding of breach or non-compliance or adverse ruling, and is not subject to a current prosecution under relevant legislation including the *Human Rights Act 2004* and WHS laws. However, incorporating reporting requirements relevant to the Motion to identify incidences of harassment, sexual harassment, and gender-based violence will be complex.

The holding of a secure local jobs certificate together with the obligations of the Ethical Suppliers Declaration help to verify that a business meets the high ethical and labour standards required by the ACT Government in order to work with us. The Secure Local Jobs Code certificate also certifies that a business is treating their workers with respect, paying

them fairly and in accordance with their entitlements, and providing access to representation in the workplace should they choose.

Careful consideration is being given to assess the appropriate local mechanisms that may be available to positively require businesses contracted with the Government to publicly report sexual harassment and gender-based violence incidences. A full assessment of the complex legal and privacy frameworks is required before establishing a regulatory framework targeting the commercial sector. Amending the procurement framework, and our engagement strategies gives rise to a number of complex issues, that will likely take some time to resolve.

Through this collective action, the ACT Government is working to improve the ACT's regulatory frameworks, business and policy practices, and data sharing and analysis to ensure the safety of all workers in the ACT and eliminate sexual harassment from workplaces.