

Media Release

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Call for legislative changes to protect victim-survivors of workplace sexual harassment and assault

Employment law community legal centre JobWatch is calling for legislative change to address the second shadow pandemic of sexual harassment and assault in workplaces.

This call comes after 100,000 women protested through the #March4Justice against gender-based violence in government and in society more broadly.

Zana Bytheway, Executive Director of JobWatch, says that this movement is not the result of one moment in time, but the collective rage and frustration of many people over many years.

“Between 2016 - 2019, JobWatch saw a 75 per cent increase in calls to our Telephone Information Service from people who had experienced sexual assault or harassment at work,” she says. “The #March4Justice hasn’t happened just because of the events of the past month – this is a problem that has been building for years, decades even.”

This year to date, JobWatch has already received 31 calls from victim-survivors of sexual harassment and assault at work.

“I have no doubt that this ongoing increase in the number of calls relating to sexual harassment and assault is driven by the ongoing public recognition that this behaviour is simply not acceptable,” says Ms. Bytheway.

“From delays in reporting due to fear of professional and personal repercussions, reporting by third parties when the victim-survivor isn’t ready or able to speak up, and truly horrific and graphic accounts of rape by colleagues, it is clear that what is being reported through our Telephone Information Service mirrors the experiences that are being recounted in the media,” she adds.

JobWatch asserts that legislative change is required to prevent sexual harassment and to respond to it more effectively when it occurs.

“Education and cultural change is critical, but it will take time. While this important primary prevention work happens, we need to legislate to take immediate action now,” says Ms. Bytheway.

JobWatch is calling on the government to adopt the following legislative changes and actions to better protect people at work from sexual harassment and assault:

1. Creation of a separate sexual harassment claim within the *Fair Work Act 2009*;
2. More generous time limits allowing people to make sexual harassment claims to the Australian Human Rights Commission under the *Sex Discrimination Act 1984* as well as under state and territory equal opportunity and human rights commissions under the relevant state and territory equal opportunity and anti-discrimination acts;

3. The introduction of a reverse burden of proof for civil sexual harassment claims similar to that which exists in general protections under the *Fair Work Act 2009* and under Commonwealth, state and territory equal opportunity and anti-discrimination acts;
4. The provision of civil penalties for both individuals and organisations that are found to have engaged in, aided or failed to address instances of sexual harassment and/or assault under the *Fair Work Act 2009* and under Commonwealth, state and territory equal opportunity and anti-discrimination acts;
5. Reform wherein those found to have engaged in the conduct cannot rely on bankruptcy under the *Bankruptcy Act 1966* or other means to avoid paying compensation;
6. Adoption of orders similar to domestic violence orders where, if it is breached, it attracts criminal liability;
 - a. This could be facilitated under the *Fair Work Act 2009* and/or through the relevant state and territory equal opportunity and anti-discrimination acts;
 - b. Similar to domestic violence orders, regardless of which forum they are sought, they should be recognised throughout the country
7. Introduction of a streamlined process for the enforcement of orders relating to such claims where a perpetrator may not have been compliant through the federal, state and territory court;
8. Empowering the Sex Discrimination Commissioner or the Australian Human Rights Commission to investigate and prosecute employers, certain individuals as well as other avenues for sexual harassment and related offences: and
9. The introduction of a national register of confidential settlements of sexual harassment claims.

In addition to the above legislative changes, as part of [the 2020 Power to Prevent coalition](#), JobWatch calls on the Australian Government to take this crucial opportunity to join with civil society to make the changes needed to make Australian workplaces safer, healthier and more respectful for all by fully implementing all 55 recommendations of the Respect@Work report of the National Inquiry into Sexual Harassment in Australian Workplaces 2020 by the Australian Human Rights Commission.

Ms Bytheway finishes “The movement gained significant traction this month, and the call must be heeded. The time for change is now. Legislative change must be the first step to create the structures and systems required for cultural and behavioural change.”

Contact

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Available for interview

- Zana Bytheway, Executive Director, JobWatch

Attachments

- JobWatch logo in high-res png
- Profile photo, Zana Bytheway

About JobWatch

JobWatch is an independent, not-for-profit employment rights community legal centre supporting workers in Victoria, Queensland and Tasmania with their rights at work. We are committed to improving the lives of workers, particularly the most vulnerable and disadvantaged.

We believe in workplace justice and equity for all, and tailored legal information and support is a key component to achieving rights for workers. We provide this support to workers through our Telephone Information Service, our legal practice, our law reform work and community legal information.

For more information: www.jobwatch.org.au