



**Australian
Human Rights
Commission**

24 September 2021

Senate Select Committee on Job Security

Department of the Senate

Via email: jobsecurity.sen@aph.gov.au

To whom it may concern

Thank you for the invitation to present an oral submission to the Senate Select Committee on Job Security (the Committee) on 16 September.

As promised, please see enclosed a copy of my oral statement (Enclosure A), a set of Questions and Answers (Enclosure B), and a list of resources (Enclosure C) that provide an overview of the gender related risks of the matters outlined in the Terms of Reference.

I have also enclosed a copy of the World Economic Forum's Global Gender Gap Report (Enclosure D) that I referred to during my discussion with the Committee.

I trust this information will be useful for the Committee. Please don't hesitate to contact me if you have any further questions.

Kind regards

A handwritten signature in blue ink that reads "Kate Jenkins".

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Enclosure A: Opening statement

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Enclosure D: World Economic Forum, Global Gender Gap Report

Enclosure A: Opening statement

Senate Select Committee on Job Security
Delivered by video conference

Thank you for the invitation to give evidence today.

I would like to acknowledge that I am presenting from the lands of the Wurundjeri and the Boonwurrung people of the Kulin nation, and I pay my respects to their elders - past, present and emerging.

I welcome the Committee's important and timely Inquiry. The current moment presents a unique opportunity for the Commonwealth Government to build a fair and equitable workforce, economy, and society.

The nature and level of women's employment is the most significant factor influencing Australia's position on gender equality, which harms women, families, communities, and the economy. According to KPMG modelling, halving the gap between men's and women's workforce participation in Australia would produce an additional \$60 billion in GDP by 2038, and cumulative living standards would increase by \$140 billion.¹

My three priorities as Sex Discrimination Commissioner are the prevention of violence against women and girls, women's economic security and empowerment, and diversity in leadership. All three priorities are interconnected, and women's job security is central to their full realisation.

In Australia today:

- As of August 2021, the gender pay gap in Australia is 14.2%²
- At retirement age (60-64 years), 23% of women have no superannuation compared to 13% of men³
- There are 18 women CEOs across all ASX300 companies⁴

¹ KPMG, *Ending Workforce Discrimination against Women*, April 2018.

² Workplace Gender Equality Agency, *Australia's Gender Pay Gap Statistics*, August 2021.

³ Workplace Gender Equality Agency, *Women's economic security in retirement*, February 2020.

⁴ Chief Executive Women, *Senior Executive Census*, 2021.

- Majority of Australian industries are gender segregated, with women dominating in the lower paid industries of healthcare and social assistance (79%) and education and training (73%)⁵
- 1 in 3 workers in the previous 5 years had been sexually harassed⁶
- One woman a week is killed at the hands of current or former intimate partner.⁷

In relation to employment, ABS data released in December 2020 found that:

- For those aged 20-74 years, employed women (43.0%) are more likely than men (16.0%) to be **working part-time** across all age groups.
- For parents whose youngest child was under six, three in five employed mothers (59.1%) worked part-time compared to less than one in ten employed fathers (7.9%).
- When considering all employees aged 15 years and over, women (26.4%) are more likely to work in **casual jobs** than men (22.5%) based upon access to paid leave entitlements.
- For those aged 20-74 years, the **underemployment** rate for women was 10.3% and for men was 7.2%.⁸

In addition:

- young workers are more likely to be contracted on a casual basis compared to those in middle or older age groups⁹
- women with disabilities are more concentrated than other women and men in precarious and vulnerable employment¹⁰
- migrant women and women with culturally and linguistically diverse backgrounds are among the groups that are likely to be subject to exploitation in insecure work.¹¹

I acknowledge that the changing nature of work can create significant opportunities for both business and women, including the flexibility offered by part time and casual work, self-employment, gig economy, remote and flexible working arrangements. The world of work is constantly evolving, particularly over the last 18 months.

⁵ Workplace Gender Equality Agency, *Gender Segregation in Australia's workforce*, April 2019.

⁶ Australian Human Rights Commission, *National Inquiry into Sexual Harassment in Australian Workplaces*, March 2020.

⁷ Australian Domestic and Family Violence Review Network, Data report 2018, *Domestic Violence Death Review Team*, Sydney.

⁸ Australian Bureau of Statistics, 'Gender Indicators, Australia' (15 December 2020) accessed at <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>

⁹ Ibid.

¹⁰ Disabled People's Organisations Australia, *Factsheet: Employment of Persons with Disability*, March 2018.

¹¹ Australian Human Rights Commission, *National Inquiry into Sexual Harassment in Australian Workplaces*, March 2020.

However, there are also risks with insecure working arrangements that I encourage the Committee to consider in its Inquiry.

For many women, insecure employment is not a choice. Rather, it's a consequence of a lack of opportunities in the formal economy, the absence of another means of livelihood, or the only means for women to keep a foot in the workforce while managing their disproportionate share of care and domestic responsibilities.

Women's overrepresentation in insecure employment is one of the causes and consequences of gender inequality in the workplace, and in society more broadly. Insecure employment is associated with low pay and lack of protection. It limits women's ability to earn a decent income and accrue superannuation, which in turn increases their likelihood of poverty and homelessness, reduces their standard and quality of living, limits their financial independence and undermines their capacity to leave abusive relationships. It disempowers women from reporting inappropriate behaviours and advocating for decent work conditions. More broadly, women's overrepresentation in insecure employment contributes to the gender pay gap and undermines women's economic security. Further, mainstream child care availability is inconsistent with irregular and insecure employment patterns.

COVID-19 has exacerbated these pre-existing gender and intersectional inequalities that exist in the workforce. Research conducted by the Grattan Institute in March 2021 found that during the pandemic, women were more likely to lose their jobs, more likely to take on the additional unpaid care responsibilities, and less likely to be eligible for government support given their overrepresentation in casualised work.¹²

I also would like to draw the Committee's attention to the risks of workplace sexual harassment associated with insecure employment. As you may be aware, I released the National Inquiry into Sexual Harassment in Australian Workplaces in March 2020, that examined the nature, prevalence and drivers of sexual harassment in Australian workplaces, and measures to address and prevent it. Respect@Work revealed that one in three Australian workers had experienced workplace sexual harassment in the last five years.

In addition to gender, Respect@Work identified that other factors increased the likelihood that a person may experience workplace sexual harassment, including people in working arrangements that are precarious or insecure. Respect@Work found the *Sex Discrimination Act 1984* (Cth.) needed to modernise to ensure it covers modern working arrangements and I

¹² Grattan Institute, *Women's Work: the Impact of the COVID crisis on Australian Women*, March 2021.



welcome the recent amendments to the Act to broaden the understanding of working arrangements. Respect@Work also found that victims of sexual harassment in insecure employment were less likely to understand or use available supports and reporting avenues. This was particularly serious for migrants and visa holders.

Recommendations

In addition to addressing workplace sexual harassment, I encourage the Committee to consider how it can improve the quality and decency of insecure employment by:

- Strengthening data collection about the nature, drivers, risks and impacts of insecure work, including data about gender and other characteristics.
- Improving access to information for insecure workers with respect to, for example, support services, workplace rights, and reporting avenues
- Ensuring better pay and protections for workers in insecure employment (including superannuation, paid parental leave, and domestic and family violence leave).

In relation to sexual harassment of workers in insecure and precarious work, I welcome the response by Governments and Business to Respect@Work. I particularly welcome broadening of the coverage of sexual harassment to align with work health and safety law coverage of workers, and including volunteers. I recommend the Committee to consider similar expansion in the *Racial Discrimination Act 1975 (Cth)*, *Disability Discrimination Act 1992 (Cth)* and the *Age Discrimination Act 2004 (Cth)* to enable those protections to be extended to all workers irrespective of the nature of the working arrangements.

As recommended in Respect@Work I also encourage the Committee to closely consider the role that industry bodies can have in promoting safe workplace cultures for all types of work. Industry action is particularly valuable and effective for workers in insecure employment who may have multiple employers over a short time. Industry based initiatives support workers in insecure employment as they can encourage consistency across an industry and can provide better clarity for workers about the policies that apply to them and the support services that are available. Industry action can better account for the changing nature of work, the trend towards increased mobility of workers and non-standard work arrangements.



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I encourage the Committee to consider measures more broadly to remove barriers that prevent women from accessing and participating in the workplace on an equal basis to men and that leave them more likely than men to work in insecure or precarious work, including strategies to:

- Eliminate discrimination in hiring and promotional practices in the formal economy
- Implement measures that increase women's representation in male dominated industries and occupations, and vice versa, and
- Improve women's representation in decision making and leadership roles
- Dismantle gender-based stereotypes that confine women to the home and characterise men as breadwinners, and that contribute to occupational and industrial segregation
- Recognise, reduce, and redistribute care work, including improving access to affordable and flexible early childhood education and care

This concludes my opening statement. I welcome questions from the Committee.

Enclosure B: Questions and Answers

1. What are the characteristics of insecure work?

Precarious or insecure work is most often associated with contractual arrangements of non-permanent or non-regular work such as casual work, seasonal work, fixed-term contracts, independent contracting and labour hire. The duration of the contract and the nature of the employment relationship are generally used to distinguish insecure work.¹³

2. What data is available to support women are overrepresented in the insecure employment?

In Australia, women are overrepresented in insecure employment. Data released by the ABS in December 2020 found that:

- for those aged 20-74 years, employed women (43.0%) are more likely than men (16.0%) to be **working part-time** across all age groups.
- for parents whose youngest child was under six, three in five employed mothers (59.1%) worked part-time compared to less than one in ten employed fathers (7.9%).
- when considering all employees aged 15 years and over, women (26.4%) are more likely to work in **casual jobs** than men (22.5%) based upon access to paid leave entitlements.
- for those aged 20-74 years, the **underemployment** rate for women was 10.3% and for men was 7.2%.¹⁴

In 2021, ABS found that the **workforce participation rate** among those aged 15-64 years is 75.4% for women and 83.5% for men.¹⁵

Women who experience multiple forms of discrimination are overrepresented in insecure employment. For example:

¹³ Respect@Work, page 192, referencing the definition used in the Independent Inquiry into Insecure Work in Australia, Lives on Hold: Unlocking the Potential of Australia's Workforce (Report commissioned by the Australian Council of Trade Unions, 2012).

¹⁴ Australian Bureau of Statistics, 'Gender Indicators, Australia' (15 December 2020) accessed at <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>

¹⁵ Australian Bureau of Statistics (2021), Labour Force, Australia, July 2021, cat. no. 6202.0, viewed 19 August 2021, <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/latest-release#data-downloads>

- When considering all employees aged 15 years and over, women (26.4%) are more likely to work in casual jobs than men (22.5%) based upon access to paid leave entitlements.
- Women aged 15-34 years are the most likely to be employed casually (36.3%)¹⁶
- Refugee and CALD women are at high risk of experiencing violence and harassment in insecure employment.¹⁷

3. What are some of the drivers that cause women to enter insecure work arrangements?

Firstly, we need to look at the barriers women face entering formal work arrangements, including:

- Gender based discrimination in hiring and promotional practices
- Traditional gender stereotyping that contributes to occupational and industrial segregation. Women are overrepresented in feminised industries that have high levels of insecure work.
- Women shoulder the brunt of unpaid care and domestic responsibilities, meaning they may take breaks throughout their career, or work on a part time basis for periods of their career. This makes it difficult for women to access and participate in the formal sector on a full-time and equal basis to men.
- Insecure working arrangements are generally incompatible with traditional child care services, creating another barrier to women in accepting irregular working hours.

It is often the case that women do not enter insecure employment by choice. Rather, they enter insecure work arrangements because it is the only option available. The factors driving women to enter into insecure work include:

- lack of opportunities in the formal economy
- the absence of another means of livelihood
- the only means for women to keep a foot in the workforce while managing their disproportionate share of care and domestic responsibilities.

4. Can you elaborate on the linkage between insecure employment and gender inequality in society more broadly?

¹⁶ Australian Bureau of Statistics, 'Gender Indicators, Australia', (15 December 2020) accessed at <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>

¹⁷ Respect@Work.



Insecure work contributes to persistent gender-based inequalities that exist in the workforce, economy, and society more generally. Insecure work is associated with:

- **low pay.** This contributes to trends we have seen for decades, including:
 - gender pay gap
 - higher rates of women living in poverty or homelessness
 - reduced capacity to leave an abusive relationship
 - lack of financial independence
 - women's economic insecurity
- **limited protections,** including superannuation accrual or paid leave. This undermines women's economic security throughout her entire life
- **limited bargaining power,** which makes it difficult for women to negotiate work/life balance and pay, and disempowers women from speaking up or asking for help when they experience or witness discrimination or harassment
- **limited entitlements,** meaning women cannot fully enjoy rights enshrined in labour and human rights standards

5. Can you elaborate on the nature and prevalence of sexual harassment in insecure employment?

Respect@Work revealed that **one in three** Australian workers had experienced workplace sexual harassment in the last five years. Women were substantially more likely than men to have experienced sexual harassment in their lifetime.

In addition to gender, Respect@Work revealed that other factors increase the likelihood that a person may experience workplace sexual harassment, including, people in working arrangements that are precarious or insecure.

During the National Inquiry, we received submissions from individuals and organisations from across the country. We heard that insecure workers are more likely to experience sexual harassment at work for a range of reasons, including inadequate training and induction, fear of reprisals for speaking out about safety concerns, lack of regulatory oversight, poor supervision and inadequate access to effective safety systems.

Workers employed in precarious arrangements often experience intersectional discrimination, including based on age, migrant status, disability or culturally and linguistically diversity. Respect@Work found that people in insecure work were more likely to experience sexual harassment when compared with those in permanent and full-time roles, and that

people with insecure work status are less likely to understand or use available support and reporting avenues.

6. What are some of the impacts of sexual harassment for women in insecure employment?

Workplace sexual harassment has long term consequences on a woman's return to work, her career, her wellbeing and her finances. Repeated voluntary and involuntary career interruptions, and the need to retrain following a change in industry or sector, can impact on a woman's long-term earning capacity and superannuation accrual. The National Inquiry identified that 10% of people who reported they had been sexually harassed in the workplace in the last five years suffered negative financial consequences.

7. What needs to happen to address harassment and violence in insecure employment?

The National Inquiry developed a new approach for governments, employers, and the community to ensure workplaces are safe and respectful. The report outlined 55 recommendations under five key areas:

1. Data and research – to deliver useful, industry-based information about the nature of sexual harassment and effective responses.
2. Primary prevention – of sexual harassment through education, media and community wide initiatives.
3. A refocused legal and regulatory framework – which recognises the mutually reinforcing roles of discrimination, workplace and safety laws.
4. Better workplace prevention and responses - which are leader driven, practical and adaptable.
5. Better support, advice and advocacy

The measures adopted by the Commonwealth Government in accordance with its *Roadmap to Respect* go some way to strengthening protections for workers from sexual harassment. I've been pleased to follow the passing of the Respect@Work Bill in recent weeks, which is an important step forward towards strengthening protection against sexual harassment in the workplace, particularly as it aligns the meaning of worker with the work health and safety

laws. Similar coverage should be extended under the other discrimination laws (Racial Discrimination Act, Disability Discrimination Act and Age Discrimination Act).

Notwithstanding recent progress, there is still much more work to be done to fully implement the Respect@Work recommendations, and particularly so for those most vulnerable in the workforce.

In particular, I encourage the Committee to closely consider the role that industry bodies can have in promoting safe workplace cultures. Industry action is particularly valuable and effective for workers in insecure employment who may have multiple employers over a short time. Industry based initiatives support workers in insecure employment as they can encourage consistency across an industry and can provide better clarity for workers about the policies that apply to them and the support services that are available. Industry action can account for the changing nature of work, the trend towards increased mobility of workers and non-standard work arrangements.

Support services like the Working Women's Centres provide a valuable holistic service to the most vulnerable workers. We recommended strengthened funding for these and other legal, support and advisory services in Respect@Work (recommendations 49 to 55).

8. In what ways has COVID-19 posed additional challenges for women with respect to insecure employment?

COVID is adversely impacting women's economic security:

- According to the Grattan Institute, women were more likely than men to lose jobs and hours during the lockdowns. This was because women were more likely to:
 - work in the hardest-hit industries
 - work in the hardest-hit occupations
 - work part-time, and part-timers were more likely to lose jobs; and
 - work in a short-term casual jobs, and so be ineligible for the JobKeeper scheme.
- This is especially true for young women aged between 18 to 24, who are likely to report COVID-19 as their reason for unemployment. This may be due to young women's representation in specific sectors affected by the pandemic and their caring responsibilities.

- These are some of the factors that have caused the gender pay gap to widen 0.8 percentage points between November 2020 to August 2021 to 14.2%.¹⁸

9. What needs to happen to address overrepresentation of women in insecure employment?

The current moment presents an opportunity to break down pervasive and systemic barriers that prevent women from accessing and participating in the workforce on an equal footing to men. To ensure a more equitable world of work, and reduce women's overrepresentation in insecure employment, we need to:

- Recognise, reduce, and redistribute care work
- Improve access to affordable and flexible child care (recognising different needs for those working irregular hours or in unpredictable or insecure work)
- Dismantle gender-based stereotypes that contribute to occupational and industrial segregation
- Eliminate discrimination in hiring and promotional practices in the formal economy
- Implement measures that increase women's representation in male dominated industries and occupations, and vice versa, and
- Improve women's representation in decision making and leadership roles

10. Relevant international human and labour standards

- Convention on Elimination of Discrimination Against Women requires Member States to "take all appropriate measures to eliminate discrimination against women in the field of employment" in order to ensure, amongst other things "the right to the same employment opportunities" and "the right to free choice of profession and employment, the right to promotion [and] job security". Australia is a signatory.
- International Labour Organisation's Discrimination (Employment and Occupation) Convention, requires States to work towards "equality of opportunity and treatment in respect of employment and occupation". Australia is a signatory.
- ILO Convention on Violence and Harassment in the Workplace acknowledges that gender-based violence and harassment disproportionately affects women and girls, and recognises that an inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations, is essential to ending violence and harassment in the world of work. It also requires Members to "adopt laws, regulations and policies ensuring the right to equality and

¹⁸ Grattan Institute, *Women's Work*, March 2021.



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non-discrimination in employment and occupation, including for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work.” Australia is not yet a signatory.

- Transition from the Informal to the Formal Economy Recommendation – recognises the need to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous and tribal peoples, persons living with HIV or affected by HIV or AIDS, persons with disabilities, domestic workers and subsistence farmers.
- UN Guiding Principles on Business and Human Rights – recognises the obligation of businesses to respect human rights standards.

Enclosure C: List of resources

Australian Bureau of Statistics, 'Gender Indicators, Australia' (15 December 2020) accessed at <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release>

Australian Human Rights Commission, 'Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces' https://humanrights.gov.au/sites/default/files/document/publication/AHRC_WORKPLACE_SH_2018.pdf

Australian Human Rights Commission, 'Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces' <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

Australian Human Rights Commission, 'What's age got to do with it?', 2021 <https://humanrights.gov.au/our-work/age-discrimination/publications/whats-age-got-do-it-2021>

Better Decisions, Better Futures, (June 2020) <https://humanrights.gov.au/about/news/better-decisions-better-futures>

Chief Executive Women, *Senior Executive Census*, 2021 <https://cew.org.au/topics/cew-senior-executive-census/>

Diversity Council Australia, 'Older Women Matter' <https://www.dca.org.au/research/project/older%20women-matter>

Grattan Institute, 'Women's Work: The Impact of the COVID crisis on Australian Women' https://apo.org.au/sites/default/files/resource-files/2021-03/apo-nid311282_0.pdf

International Labour Organisation, 'Australian Women's Working Futures: Are we Ready?' https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_616211.pdf

International Labour Organisation, 'Building Forward Fairer: Women's rights to work and at work at the core of the COVID-19 recovery' https://www.ilo.org/wcmsp5/groups/public/@dgreports/@gender/documents/publication/wcms_814499.pdf

International Labour Organisation, 'How Women are Being Left Behind in all the Quest for Decent Work for All' <https://ilostat.ilo.org/how-women-are-being-left-behind-in-the-quest-for-decent-work-for-all/>

International Labour Organisation, 'Women at Work in G20 countries: Progress and policy action since 2019' https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_756334.pdf

Workplace Gender Equality Agency, 'Gendered Impact of COVID-19' <https://www.wgea.gov.au/publications/gendered-impact-of-covid-19>

Workplace Gender Equality Agency, *Gender Segregation in Australia's workforce*, April 2019 <https://www.wgea.gov.au/publications/gender-segregation-in-australias-workforce>.

Workplace Gender Equality Agency, 'Gender workplace statistics at a glance 2021' <https://www.wgea.gov.au/publications/gender-workplace-statistics-at-a-glance-2021>

Workplace Gender Equality Agency, 'The Gender Pay Gap' <https://www.wgea.gov.au/the-gender-pay-gap>

World Economic Forum, 'Global Gender Gap Report', March 2021 <https://www.weforum.org/reports/ab6795a1-960c-42b2-b3d5-587eccda6023>



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Enclosure D: World Economic Forum, Global Gender Gap Report

See report here: <https://www.weforum.org/reports/ab6795a1-960c-42b2-b3d5-587eccda6023>