



Health Services Union

Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024

SUBMISSION:

*Senate Finance and Public
Administration Legislative Committee
Inquiry*

December 2024

About the HSU

The Health Services Union (HSU) is one of Australia's fastest growing unions with over 111,000 members working in the health and community services sector across the country.

Our members work in aged care, disability services, community health, mental health, alcohol and other drugs services, private practices and hospitals. Members are health professionals, paramedics, scientists, disability support workers, aged care workers, nurses, technicians, doctors, medical librarians, clerical and administrative staff, managers and other support staff.

You can find us at hsu.net.au

Introduction

With over 111,000 members nationally, approximately seventy per cent of whom are women working in essential, frontline roles in female dominated health and social assistance sectors, the HSU is expertly placed to work with you on these matters of national importance.

The HSU has spoken to many Federal Members of Parliament over recent years regarding our National Women's Plan (attached), which sets out a comprehensive agenda to ensure that women in Australia can fully and meaningfully participate in work, and in turn are afforded the social and economic security they rightfully deserve.

We welcome the commitments already made by the Albanese Labor Government to achieving gender equality in Australia and we celebrate the gains already made, such as legislating paid family and domestic violence leave as a matter of priority, as well as meaningful changes in Superannuation which will assist many working women.

This inquiry allows Australia a chance to stand out as one of the most progressive countries in the world and require certain employers who have 500 or more employees to select and meet gender equality targets and report on their progress to the Workplace Gender Equality Agency.

This is Australia's chance to stand up and really make a difference in the lives of working women – to have a pathway for women to ensure that they are able to return from parental leave into meaningful work, and a pathway through to leadership positions that allow women to show their full potential.

However, it is important to note, that setting targets for companies to meet is not going to be enough. Workplaces need to be fit for purpose for women and gender diverse people– that encourage them to stay in the workforce and to become leaders amongst their peers.

The HSU believes the policy initiatives set out in our Women's Plan, as well as outlined in this submission, provide further tangible steps that complement the work of the Government and further advance our shared goal of equality.

We recognise the essential nature of policy and legislative reform that is required to address gender-driven inequities. We believe that much of this change can begin in our working lives.

HSU members are looking to this Government to help us deliver better policies and procedures for all working women and gender diverse people, and to remove barriers to that prevent them from entering and remaining in full and gainful employment.

The Health Services Union welcomes the opportunity to provide the Committee with a submission regarding the **Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024**.

Attract and Retain Women and Gender Diverse People in the Workforce – Setting a Target is Not Enough

The HSU has long campaigned for gender equality to improve the lives of gender diverse people and women. As an organisation we recognise that we are uniquely placed to lead the way in achieving progressive change as the industries we cover are primarily dominated by women.

Retaining women in the workforce is an issue many workplaces across Australia are currently facing. The juggle of work/family life balance is a struggle, especially for those women who are single parents, in low-paid jobs, and having to work across several employers to make ends meet.

It is worth noting that people who work in the public health care system are subject, on average, to higher levels of insecure employment than those who work in the private health care system, yet the private system has a far more rigid approach to flexible workplace agreements, which can prevent women from entering, or staying in, the workforce.

What this demonstrates, is neither the public nor private health care systems are encourage women to stay within the workforce long term. We are seeing firsthand that it can be tough to attract and retain workers for reasons of lack of flexibility, increasing violence and aggression within the system, as well as long hours, understaffing, and lack of empathy when it comes to women juggling health issues, many of which are biological.

For example, in the mental health workforce, over 83% of members in a Victorian survey report exposure to at least one form of violence in the last 12 months including physical violence, verbal abuse, bullying, and mobbing with over 54% reporting severe psychological distress. Retention continues to be of grave concern with a direct correlation to graduates and early-career clinicians being forced to fill roles within the system once reserved for clinicians with far more experience, due to workforce retention issues.

A significant proportion of the disability care workforce also experience violence and aggression in the workplace. Concerningly 53% of Disability members had experienced physical violence and 67% have experienced psychological harm in the past 12 months. Like the mental health sector, retention and training of the frontline workforce continue to be a critical issue particularly as there are no minimum qualification standards and training and supervision are not funded by the National Disability Insurance Scheme. This means that the only way to gain critical training and supervision for early career disability professionals is on the shopfloor with older, more experienced disability support workers who are overwhelmingly women.

Considering the statistics above, it is not surprising that many women leave the health workforce early due to facing incidents such as the above as they struggle with symptoms that arise as a result of menopause or other reproductive health challenges, as well as the pressure of caring responsibilities.

This then has flow-on effects meaning these women will then retire with even less super than what is predicted for women, making the Super Pay Gap even larger. This in turn may lead to an increase in homelessness and poverty. Whereas if allowances are made to work with, rather than against (or ignore), women's reproductive systems and caring responsibilities, we can move closer to gender equity at work, within pay, and in superannuation accounts.

Unsurprisingly, due to the lack of workplace flexibility within the health and community services sectors, many older workers have opted to retire earlier than expected.

With the dire state of healthcare throughout the country, it has never been more urgent to implement strategies, policies, and industrial interventions to ensure that organisations can retain critical corporate knowledge with sectors of need, ensuring that women can stay, or can become, employed in a way that is not detrimental to their health and wellbeing.

It is our firm belief that by implementing such policies and industrial interventions, we will see higher rates of retention across key sectors of concern including mental health, disability, aged care, drug and alcohol, housing, and childcare. Due to the complex emotional labour required within the caring industries, older workers mentor younger colleagues, passing down their knowledge and skills, particularly learning de-escalation and occupational health and safety.

Mentorship is crucial in the healthcare sector for maintaining high standards of care and ensuring that younger professionals are properly trained.

We are also acutely aware that for far too long, people working in caring industry sectors have been undervalued and underpaid, with the average woman working in health care, social assistance, and education earning approximately \$30,000 less per year than the average man working in the most male-dominated industries of construction and manufacturing.

The caring sectors are riddled with instances of labour hire, an emerging gig economy, and industries that have not been allowed to bargain effectively for better working conditions. This results in weakened industrial rights, burnout, unsafe working conditions, and mass job insecurity. Furthermore, women over the age of 55 years old are the fastest-growing demographic of women facing homelessness.

Every woman must be afforded the industrial right to continue with their employment with appropriate reasonable adjustments. This would ensure that women could continue to build their superannuation, earn a wage, and contribute invaluable knowledge to the next generation of health and community service workers.

The HSU welcome the proposed Bill that will require certain employers who have 500 or more employees to select and meet gender equality targets and report on their progress to the Workplace Gender Equality Agency, and also provide the Minister for

Women with a new power to set targets and specify the rules in relation to the selection of the gender equality targets, however it is the HSU's submission that setting targets is not enough – you need the environment and the structure within workplaces that allow for those requirements to be effective.

That is why the HSU submit the following recommendations:

Recommendation 1 – A Workplace Fit for Purpose

The HSU support a requirement that certain employers who have engaged 500 or more employees must meet gender equality targets and report on their progress to the Workplace Gender Equality Agency. We are also supportive of the Minister for Women having a new power to set targets and specify the rules in relation to the selection of the gender equality targets. However, targets as proposed will not be enough.

The Bill needs to support workplaces being fit for purpose so that employers can comply with the proposed legislative changes. We know that many employers try to comply with their own gender targets, however, cannot attract the labour required. By leaving positions vacant because they cannot attract people to meet gender diverse targets, will result in shortages in areas where further staff shortages are not acceptable or feasible, for example, in the health sector. We currently see this, as under the Act, relevant employers must promote and improve gender equality in the workplace, including through the lodgement of annual reports containing information relating to the six gender quality indicators. We hear that employer, although trying to improve their gender equality by trying to employ women or gender diverse people, cannot attract and retain staff.

Although, the HSU do agree with targets for large employers, we believe that the targets will not work, and that employers will be set up for failure, without the introduction of provisions that make the workplace fit for purpose and allow women to stay within the workforce and provide them with a safe workplace that is fit for purpose and works with them and not against them.

The following recommendations are based on what HSU members believe would attract and retain female and gender diverse employees with the workplace.

Recommendation 2 – The Introduction of Reproductive Health Leave

While not exclusively experienced by women, reproductive issues impact significantly on women in the workforce. Women are often forced out of the workforce, or are not considered

for leadership positions, because of reproductive health issues. Access to paid reproductive health leave for all employees experiencing reproductive health issues increases workforce participation, reduces the gender pay gap, and reduces the superannuation gender pay gap at retirement.

For many women, small adjustments to working arrangements that assist in accessing treatment or alleviating symptoms associated with reproductive issues can improve women's working lives without the need for employees to take extra leave.

'Reproductive health matters' could include symptoms related to menopause and perimenopause, In Vitro Fertilisation (IVF) and other forms of assisted reproductive health services (for example, IUD or hormone injections/replacements), pregnancy loss, or specialty treatment/appointments for conditions that cause excessive pain or excessive bleeding.

It is the experience of the HSU, that more private health care providers have committed to introduce Reproductive Health Leave for their employees in their enterprise agreements or contracts of employment (for example, Scope Disability Services who has introduced 12 days for their employees), and yet there has been little to no buy in from public health care providers. For example, the Victorian Government has had no appetite to introduce Reproductive Health Leave in their Victorian Public Mental Health Agreement, which they are currently negotiating with the Victorian No 2 Branch of the HSU, despite the proven outcomes that such leave will both attract and retain employees and ensure that gender targets are met. This is unacceptable.

It is noted that the *HSU Women's Plan*, (published in 2021 and attached to this submission) refers to a recommendation of five days of Reproductive Leave. Since then, upon advice from medical professionals who specialise in women's health at Melbourne IVF, academics at the University of Sydney, and to better align with a woman's regular cycle, as evidenced by the AFLW, the recommendation is now a minimum of 12 days Reproductive Leave per year. This leave will allow women to manage any symptoms as they arise, such as excess bleeding, pain, cysts, endometriosis that have come about as a result of hormonal change due to menstruating. It also allows those who are suffering the symptoms of menopause to alleviate sleeplessness, break through bleeds, anxiety and hot flushes by seeking medical assistance, or time to recover before returning to productive work.

Recently reported in Circle In's report 'Driving the Change', when asked to define what was most challenging about their experience while working in menopause, almost half of the women surveyed reported a drop in confidence, and 83 per cent said that the stress of juggling work during menopause harmed their work.

Almost half of the respondents considered retiring due to severe menopausal symptoms, with 28 per cent surveyed going through with it. 42 per cent did not retire due to financial reasons.

One in 8 women surveyed left the workforce due to their symptoms and 2 in 8 would if financial reasons did not hamper them.

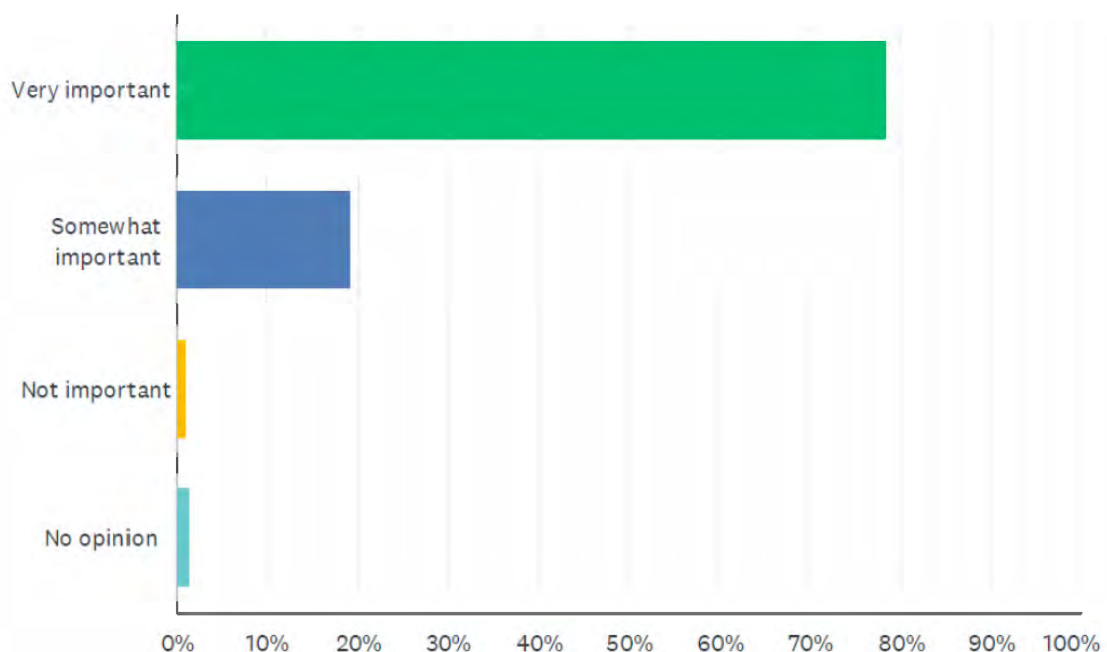
Our Claim:

Minimum 12 days paid leave for employees experiencing reproductive health matters for the purpose of attending and recovering from specialty appointments and treatments.

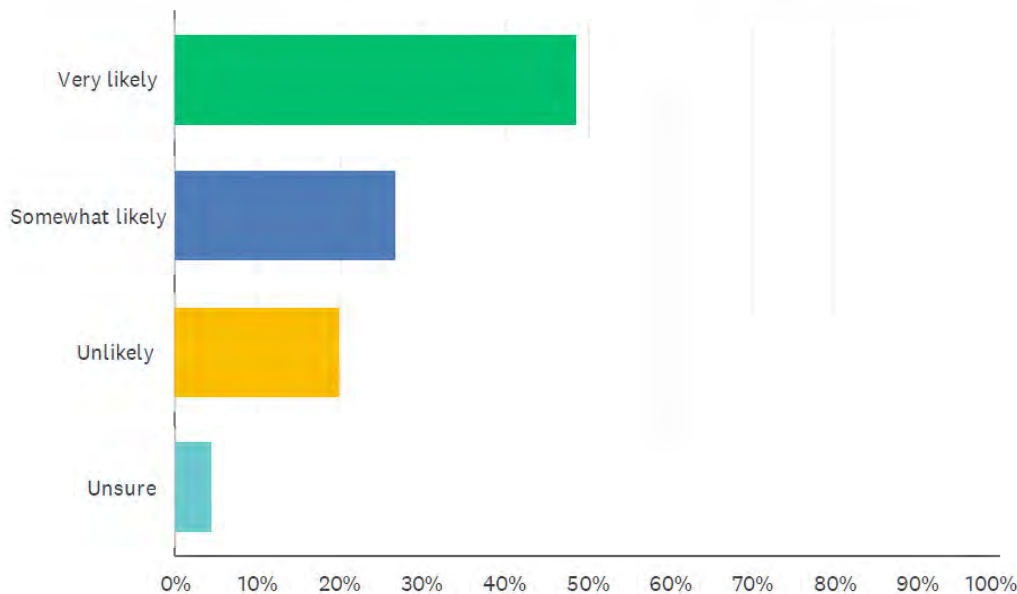
The availability of flexible work arrangements and reasonable adjustments for those experiencing reproductive health matters.

“The discomfort can be constant at times and it's as if people don't believe me. When you suggest completing work a different way as it causes you less discomfort, they would think you were trying to get out of work.” - Kim, Disability Support Worker and Delegate

Based on data obtained from HSU NSW/QLD/ACT members, we found that Reproductive leave was important to them to be offered within the workplace.



Further, when asked how likely it would be that they would use the entitlement to stay within the workforce, this was the response:



Based on our research and data, HSU members across NSW, Queensland, Act, Victoria and Tasmania would find such an entitlement attractive and it is our submission that it would assist employers in meeting their targets.

Recommendation 3 – Introduction of Gendered Equal and Safe Workplace Compliance Code

Health and Safety Representatives provide an important function within all workplaces to ensure that workers, employers, and patients' physical and psychological occupational health and safety is seen too. This obligation extends to OHS departments and People and Culture Managers within organisations.

At present there is no universal compliance code in force about safe workplaces with a gendered lens.

The compliance code should guide the implementation of gender-safe principles in all workplace policies. Duties should include making recommendations on workplace design and amenities, flexible working arrangements and reasonable adjustments, workplace health and safety issues, issues relating to menstruation and menopause, and investigating instances of bullying and harassment about menopause.

This code should include an obligation to provide training and education for workplaces to assist working women of all ages in continuing to thrive within the workplace.

Recommendation 4 – Funding for Reasonable Working Adjustments in the Healthcare System

Keeping women employed, and attracting women into the health care workforce, means industrial mechanisms must be established that keep older women employed longer to retain invaluable experience.

These reasonable adjustments, particularly for healthcare must take the unique challenges that face workers about the physical risk and emotional labour required to effectively do the job.

It is commonplace for older female workers to retire before they are financial able, due to requirements to continue to work full-time hours with little leeway in terms of reducing the workload, altering their duties or other flexible arrangements. When they do leave, this results in losses of corporate knowledge on the floor, with graduate health care workers left to navigate the care of patients and consumers in hospitals or the community without enough support from experienced mentors.

To better equip graduates and to keep older workers in the sector longer, the HSU is proposing the introduction of an employee application-based 9-day-fortnight roster for older workers to stay within the workforce longer. We believe that the extra day off within the fortnight will help our most experienced workers to feel able to continue to work in the sector for longer.

We believe interventions like this could and should be implemented within all caring industries including disability, aged care, housing, and childcare to ensure that women and gender diverse people can stay employed and foster the next generation of workers.

Recommendation 5 - ACTU Submission

The HSU is supportive of the ACTU submission, and submit to the Committee that their recommendations should be implemented, which include:

Recommendation 1: Define a Designated Relevant Employer (DRE) as having 100 or more employees.

Recommendation 2: Require all DREs to make progress under the equal remuneration target, as well as choosing three other gender equality targets.

Recommendation 3: Include a job security target under GEI1 as a gender equality target.

Recommendation 4: Put in place a system of civil penalties for non-compliance and additionally bar any non-compliant employer from being eligible to receive Commonwealth Government grants, as well as procurement.

Recommendation 5: Form an intergovernmental taskforce that also includes unions and other stakeholders, with the goal of bringing state and territory government and related

entities under either the WGEA system of reporting and target setting, or states schemes that achieve the same or better outcomes.

Recommendation 6: Require an employer to consult unions on the gender equality targets to select and on the plans and implementation to achieve them.

Recommendation 7: Amend proposed GEI 5 to require that employers to agree workplace consultation measures with workplace delegates and their unions as a first step.

Conclusion

The HSU entirely supports the Bill before the Committee. However, we fear that the Government's intended approach could fail if workplaces are not set up adequately for the needs of attract and, importantly, retain women in the workplace.

Our members, again, call on the Government to make workplaces a safer and more accepting place for women by introducing the measures as outlined in this submission.



HSU National WOMEN'S PLAN

About HSU

The Health Services Union (HSU) is a specialist union with branches in every State and Territory, with over 95,000 members working in the healthcare and social assistance industries across Australia.

Membership includes doctors, allied health professionals such as social workers, occupational therapists, physiotherapists, radiographers and mental health workers, ambulance officers, disability support and aged care workers, lived experience and addiction workers, clerical and administrative staff, managers and support staff.

HSU members are often over-worked and undervalued, which is why the HSU stands for continuous improvements for all workplaces, wages, and rights.

The HSU is a strong advocate for better, fairer and high-quality health and community services.

Learn more at hsu.net.au

*HSU National Women's Plan
Published May 2022*

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Our Plan for Women

The Health Services Union (HSU) is a specialist union with branches in every State and Territory, with over 95,000 members working in the healthcare and social assistance industries across Australia. We are uniquely placed to lead the way with achieving progressive change, as the industries we cover are largely dominated by women. It is also our members that provide care and assistance to women from all other workforces.

In today's workplace it is still primarily women who take leave to care for loved ones. There are still workplaces that make women feel like they are a problem when they request flexibility for child-caring responsibilities. Women are still earning and retiring with less and worryingly, the demographic who is now most likely to become homeless are women over 55.

This is not good enough.

In 2022, the women of Australia demand more.

All women and girls are entitled to respect, dignity and bodily autonomy. We have made some progress in seeking that recognition through parental leave (primary carer), sick and carers leave. However, these entitlements still imply that a woman's primary role is looking after children, ageing parents or both - that a woman's role is predominantly caring. Whilst that may be true to a certain extent, there is more to women. Women have enormous potential to change the workplace, legislation, and the way people live. We can contribute more to the workplace, lead organisations and corporations, and inspire change.

People work primarily during the day as that is when the human body functions best. We have lunch breaks to refuel because that's what the body requires. We have toilets available because they are essential to how the body works. The workplace is modelled around the human body. But today's workplace does not consider the unique needs of the female body and the participation of women in the workforce. Women have worked the best we can with the system we have, but now is the time for change.

Attempting to rectify structural, generational change for working women is multifaceted, arduous and often contradictory. Gender equality must begin in the workplace to ensure that women are afforded full financial equity, support to report bullying and harassment and are granted the flexibility to take care of their children and their reproductive health and wellbeing.

We believe that such changes will encourage women to not only remain in the workforce but to reach higher levels of leadership and to engender a more profound sense of solidarity between working women.

Meaningful change for working women begins in the workplace and is amplified by courageous policy makers.

These changes are more critical than ever, particularly as we as a community grapple with challenges from the COVID-19 pandemic.

We are leaning on healthcare workers and the caring industries more than ever.

Given that these sectors are primarily dominated by women, it is imperative that industrial change and economic equity is encouraged, celebrated and implemented.

Kate Marshall
Junior Vice President
Health Services Union



HSU's Industrial Wins & Campaigns

To date, the HSU has campaigned hard to include progressive clauses in our enterprise agreements to assist with achieving gender equity in the health and community services sector. We believe that employers should adopt these clauses in all enterprise agreements, and state and federal governments should implement them as policy.

Higher Wages and Better Working Conditions

The last two years have been some of the most testing years on record for HSU members and the people they support. Every step of the way, HSU members have risen to the challenges facing the Australian healthcare system, showing grit, determination, and compassion. HSU members have continued to look after our most vulnerable — often in full PPE, working overtime, spending time away from friends and family, and risking their own health and safety.

Over the pandemic, many have labelled HSU members “healthcare heroes” and “essential workers” — titles that, they’ve always held in our view. While we welcome this newfound appreciation for this critical work, our priority is ensuring that appreciation translates into better wages and conditions for the sector. We believe that this must also be extended to those working in the childcare and community services settings such as public and social housing services.

To achieve this the HSU is calling on the Fair Work Commission to order pay increases for these workers in female dominated industries. As called for by the new Federal Labor Government, the Fair Work Act must be changed to force the Commission to consider pay equity as central to targeting the gender pay gap. A Pay Equity Panel must enshrine equal remuneration principles and policies with a unit dedicated to research and rollout.

For far too long, HSU members and other caring industry sectors have been undervalued and underpaid, with the average woman working in health care, social assistance and education earning approximately \$30,000 less than the average man working in the most male-dominated industries of construction and manufacturing.

The caring sectors are riddled with instances of labour hire, an emerging gig economy and industries that have not been afforded the opportunity to bargain effectively for better working conditions. This results in weakened industrial rights, burnout, unsafe working conditions and mass job insecurity. The childcare, AOD, aged care, disability, social and public housing and mental health workforces must be afforded the opportunity to bargain effectively. Short, fixed-term funding for community services must be halted to address the gender pay gap.

The dismissal of the work of HSU members as “caring” and “women’s work” has led to a historical, gendered and systemic underfunding of the sector. This has led to the undervaluation of these roles.

Our health and community services heroes deserve more.

Reproductive Health and Wellbeing

Our claim:

- Five days paid leave for employees experiencing reproductive health matters for the purpose of attending and recovering from specialty appointments and treatments.
- The availability of flexible work arrangements for those experiencing reproductive health matters.

In this clause, reproductive health matters include In Vitro Fertilisation (IVF) and other forms of assisted reproductive health services (for example, IUI or hormone injections/replacements), or speciality treatment for conditions that cause excessive pain or excessive bleeding.

While not exclusively experienced by women, reproductive issues impact significantly on women in the workforce. Women are often forced to utilise paid and unpaid personal leave because of reproductive health issues. Access to paid reproductive health leave for all employees experiencing reproductive health issues increases workforce participation, reduces the gender pay gap and reduces the superannuation gender pay gap at retirement.

For many women, small adjustments to working arrangements that assist in accessing treatment or alleviating symptoms associated with reproductive issues can improve the working lives of women without the need for employees to take extra leave. For example, a reasonable and flexible start time could allow persons undertaking hormone or IVF treatment to manage nausea/vomiting without losing an entire day to personal leave.

These measures enhance gender equality by removing the stigma associated with reproductive health issues while also increasing female participation in the workplace.

“I endorse this plan and it is extraordinary that in 2021 we are still campaigning for women’s reproductive health to be recognised in the workplace. I can’t help thinking if men got pregnant we would not be having this conversation.”

**- Fiona Patten MP
Leader of the Reason Party**

Pregnancy Loss Leave

Our claim:

- Employees who experience pregnancy loss after 20 weeks are entitled to access paid parental leave entitlements under their applicable enterprise agreement.
- Employees are entitled to a period of paid pregnancy loss leave if the pregnancy comes to an end before 20 weeks' gestation.
- An employee, and their partner, are entitled to five days of paid pregnancy loss leave if the pregnancy ends between one and 10 weeks.
- An employee, and their partner, are entitled to 10 days of paid pregnancy loss leave if the pregnancy ends between 10 weeks and 19 weeks and six days.

Currently, most women in the public sector have access to the full provision of parental leave when they lose a pregnancy after 20 weeks. We are grateful that such provisions are in place. However, an estimated one in five women lose a pregnancy in the first 20 weeks of their pregnancy, and the trauma and impact of such a loss can have debilitating effects.

Losing a pregnancy before 10 weeks can have a massive effect on a person's mental health, compounding the physical trauma of the loss. Accordingly, our claim is five days of paid leave to ensure that both the person who has lost the pregnancy, and their partner, can support each other through that trauma.

Losing a pregnancy after 10 weeks also has effects on mental health, however the physical trauma may be more significant as a worker may require surgeries, meaning more recovery time and potentially more financially stressful for the person/s experiencing the loss.

Pregnancy loss leave, like reproductive leave, prevents employees from going to work without having the proper time to grieve and process their loss. It is also allows women to attend any medical appointments and procedures following the miscarriage. Without these leave entitlements, individuals are forced to inappropriately use up their personal leave entitlements in instances that should not be considered as "illness or injury".

Parental and Birthing Leave

Our claim:

- More parental leave for both primary and secondary caregivers and the introduction of birthing leave.

Our claim seeks to ensure that parents can have more time at home with their child/ren. In Victoria, HACSU Vic have secured four extra weeks for primary caregiver and one additional week for secondary caregivers in Public Sector Mental Health – meaning that primary caregivers have 14 weeks, whilst secondary have two weeks.

Our next campaign will seek to amalgamate the primary and secondary streams of parental leave. This will ensure both men and women have access to the same amount of parental leave and eradicate the notion of the "secondary carer". Such change is important to enhance gender equality by providing opportunities for men to play an equal part in parenting responsibilities. It will also remove any hesitations associated with hiring or promoting women, whilst facilitating greater female workforce participation.

Workplaces such as Maurice Blackburn and KPMG have already successfully adopted these clauses in their agreements. We are eager to see this change adopted in the mental health, disability, AOD, aged care, food, domestic support, allied health, diagnostic services, community services and the private sector in the future.

In addition to the parental leave which can be accessed by both parents, the person who gave birth will be entitled to one month extra leave ("Birthing Leave") in order to recover from the birth.

Birthing leave will also apply to surrogates, giving them one month to recover from the birth of the child.

Superannuation Reform

Our claim:

- Superannuation to be paid into superannuation funds on the day workers are paid.
- Superannuation to be paid on both employer and government parental leave payments, as well as unpaid parental leave.
- Paid on all paid leave entitlements.
- Paid on unpaid NES entitlements.

Women face a greater risk of experiencing poverty in their old age due to low superannuation accumulation during their working life. This is partially attributable to the traditional role of women as carers and the impact of parental leave and part time working arrangements impeding superannuation growth.

Our claim seeks to improve women’s superannuation balance by expanding the categories of leave that attract superannuation, and changing the frequency of superannuation being paid. We estimate that changing the superannuation payments from quarterly to fortnightly could result in individuals having up to \$8,000 more in their accounts come retirement.

Gender Equity

Our claim:

- A commitment that the employer will work collaboratively and consult with employees and relevant HSU branches to identify, support and implement strategies designed to eradicate the gender pay gap, gender inequality, gendered violence and discrimination.
- A commitment that the employer will support a dedicated HR role and elected Health and Safety Representative to deliver workplace health and safety with a gendered lens inclusive of education, training and designing responsive and flexible workplace health and safety arrangements.
- A claim process regarding systemic gender equality issues.

Our claim seeks to enhance gender equality while simultaneously ensuring compliance with the principles espoused in the Workplace Gender Equality Act 2012 (Cth), Gender Equality Act 2020 (Vic) or Workplace Gender Equality Act 2012 (Vic). Including a claims process to address issues of gender inequality provides a direct mechanism for employees and unions to improve the working conditions for women.

Lactation and Express Breaks

Our claim:

- Employees cannot be discriminated against for breastfeeding or chestfeeding, or expressing milk in the workplace.
- An employee who wishes to continue breastfeeding or chestfeeding after returning to work from a period of parental leave or keeping in touch days, may take reasonable time during working hours without loss of pay to express breast milk for a nursing child each time such employee has need to express the milk, or breastfeed the child within the workplace.
- Paid lactation breaks are in addition to normal meal and rest breaks provided for in this Agreement.
- Employers will provide a comfortable place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk or breastfeed a child in privacy.
- Appropriate refrigeration will be available in proximity to the area for breast milk storage. Responsibility for labelling, storage and use is with the employee.

Lactation breaks are critical to ensure women can participate in the workplace following the birth of their child/ren. Workplaces must allow women to express milk during work hours to ensure that babies are fed, and assist with milk supply and avoid breast engorgement.

Therefore, workplaces should ensure that women have a safe, comfortable and private place to breastfeed or express milk, and that this is considered paid time. Such measures ensure that women do not suffer further disadvantage due to their predominant role as carers and are also consistent with the prohibition under the Sex Discrimination Act 1984 (Cth) against discrimination on the grounds of breastfeeding. The Community and Public Sector Union has successfully won this clause in the Victorian Public Service Enterprise Agreement 2020.



Family Violence Leave

Our claim:

- A commitment that the employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work.
- The employer is committed to providing support to those employees and will provide leave to those who are experiencing, or being threatened with violence due to physical and/or psychological injury, as well as to attend counselling appointments, legal appointments or proceedings and all other activities related to, and as consequence of, family violence.
- The employer is not to provide any personal information – including but not limited to – personal address, phone numbers, email address, working hours etc. to anyone unless pivotal to the work engaged in by the employee.

This clause is available to all employees including full-time, part-time and casual and includes a commitment from the employer to implement temporary or ongoing changes to assist in the employees working life including and not limited to:

- I. temporary or ongoing changes to their span of hours or pattern or hours and/or shift patterns;
- II. temporary or ongoing job redesign or changes to duties;
- III. temporary or ongoing relocation to suitable employment at a suitable location;
- IV. a change to their telephone number/s and/or email address to avoid harassing contact;
- V. any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements

Employees are also eligible to utilise this clause in conjunction with existing leave provisions to assist a person experiencing family violence.

An employee experiencing family violence will have access to 20 days per year of paid special leave for medical appointments, legal proceedings and all other activities related to family violence (this leave is not cumulative but if the leave is exhausted reasonable consideration will be given to providing additional leave and will not be unreasonably refused).

This leave will be in addition to all existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.

A report for the Royal Commission into Family Violence in Victoria estimated that the total cost to the community and broader economy was \$918 million, with the cost to individuals and their families being \$2.6 billion and the total cost to the state at \$5.3 billion.

Far too often, women experiencing domestic violence are excluded from the workforce due to the ongoing and associated effects of family violence.

This clause centres on a commitment from the HSU and employers that we will do everything possible to ensure that women can continue to thrive in the workplace, even in the face of family violence. We believe that flexibility, leave and financial status should never preclude a woman from fleeing violence.

Violence and abuse cut across lines of income, class and culture with long-term effects on women’s mental health. Violence is still the leading contributor to death, disability and illness for women.

Family violence is a health issue.

Going forward

Whilst we have successfully achieved the inclusion of some of the above claims (or various iterations of these claims) in enterprise agreements to date, the fight is unfortunately not over.

The HSU will continue to fight for the widespread inclusion of progressive claims in all agreements, covering all workforces.

“Family violence is an entrenched epidemic that we’ve lived with since time began, so we’ve got a long way to go. But I do believe the tide is turned. It’s no longer a subject that only occurs behind closed doors”.

- Rosie Batty
Australian of the Year award speech



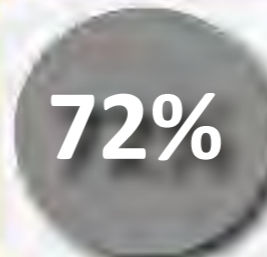
Domestic violence and sexual assault perpetrated against women costs Australia \$13.6 billion each year, and the figure is likely to rise if extra steps are not taken.



Workplace sexual harassment has a high cost. As well as having a devastating and profound impact on individuals, it's estimated that workplace sexual harassment cost the Australian economy \$3.8 billion in 2018.



Domestic and family violence is the number one cause of homelessness in the country, where almost 50% of those experiencing homelessness are women, often accompanied by children.



of Australians over 15 have experienced sexual harassment in their lifetimes.



of women and 16% of men said they had been harassed at work.



of women considered retiring or taking a break from work when their menopausal symptoms were severe.



From May through to November 2021, casual jobs made up over 60% of new jobs and women filled 62% of those jobs.

I didn't need Jenny to tell me to make this sign

IN UNION
WE ARE EQUAL

Urgent Boost to Publicly Funded Women's Health

Australian women may live longer than Australian men, but they are not healthier. Over half of our population are women. Research shows that although they live longer, they're more likely to live in poverty and with a chronic, disabling disease.

In May 2021, former federal health minister Greg Hunt announced a \$353.9 million investment in women's health over four years, including support for mental health, endometriosis, breast and cervical cancer and reproductive health. While we welcome this overdue investment, we know that much more needs to be done to fill the gap after years of chronic underfunding.

During research into HACSU Vic's Reproductive Health and Wellbeing campaign, it was discovered that Victorian women have to wait three years on average to see a publicly funded specialist. That is three years of pain, excessive bleeding and other symptoms without a diagnosis or access to treatment. The widespread inability to access women's health specialists has contributed to the fact that, on average, it takes 6.5 years to diagnose endometriosis.

The South Australian Liberal Government failed at every stage to recognise the importance of the health needs for South Australian women. The 2021-22 SA Budget only offered \$25 million over five years for programs related to women's health and wellbeing. The South Australian Government still uses outdated gendered terminology for parental leave in its public sector enterprise agreement and has repeatedly rejected the HSU's claims for reproductive health leave.

While we acknowledge that Queensland has significantly improved abortion laws including safe access zones, they don't have regional abortion services available and like Tasmania, still have consent laws that are out of step with every other Criminal Act in Australia. Aside from non-health specific grants to various women's organisations, the New South Wales Government hasn't announced any dedicated funding or programs aimed specifically at addressing issues with diagnosis and waiting lists for women and women's reproductive health. In the Northern Territory domestic violence related assaults have increased by nine per cent and the Territory holds the title of the worst homelessness rate in the country.

Major gaps are present all over the country.

Women make up the majority of consumers in the healthcare system but our public and private systems are not designed to cater to women's unique needs. Australia's inherently patriarchal health care system, coupled with chronic underfunding of women's health services, makes the case for urgent and ongoing funding boosts.

Of serious concern to union women is how these complexities further harm marginalized communities. It's estimated that Indigenous women live up to 20 years less than non-Indigenous women. Women with a disability are over-represented in institutional care, experience higher rates of poverty, and higher rates of difficulty in accessing health services. Refugee women have higher instances of co-occurring chronic disease, reproductive health issues and mental health issues, and still experience difficulty in accessing publicly funded health services.

It is estimated that the health care cost of domestic violence for 2020-21 will cost Australians \$445 million, on top of an already underfunded sector. Urgent reform is necessary and well overdue.

The healthcare system in Australia – and therefore healthcare policy – is often written to be blind to gender. However, this narrative further solidifies the concept of masculinity as the 'default' and femininity as 'other'. This is the case, despite evidence confirming that even medical conditions experience by all genders are experienced differently by men and women – from physical conditions like heart attacks to psychological conditions like ADHD. Women and men experience these conditions uniquely and denying policies specific to women's experiences is a blight on our healthcare system.

While we welcome the introduction of policies such as publicly funded IVF access in Victoria, we are concerned that Australia has no national women's sexual and reproductive health strategy to guide research, policy, program development and evaluation appropriately.

Some states in Australia still outlaw abortion and many clinics where abortion is legal, are still attached to denominational organisations. Recently, a national survey of general practitioners conducted by the Australian Women's Health Network found that 40 per cent are not confident in their knowledge of their state and territory's abortion laws. There is no Medicare item number for a rebate on medication abortion. We are thrilled to see progressive investment and reform politically in this space, but we must ensure that women can access these services when and where they need them the most.

Australian women deserve more. By investing in women's health, Australia invests in women in the workplace.

New Reforms and Industrial tools

Sexual Harassment Leave

The Respect@Work Report, authored by Sex Discrimination Commissioner Kate Jenkins, shed light on the prevalent and pervasive nature of workplace sexual harassment. It demonstrated what women have known for decades: that reform is urgent and necessary in every workplace, at every level and in every industry.

Twelve of the 55 recommendations require legislative change. While it is disappointing that the former Morrison Government only enacted six, it is pleasing that we have voted in a new Federal Government that is committed to implementing all the recommendations. It is also pleasing to see The Fair Work Commission has new powers to stop sexual harassment in the workplace. The Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021 amends the Fair Work Act 2009 to include:

- Changes to allow a worker who is sexually harassed at work to apply for a Fair Work Commission order to stop the sexual harassment.
- The ability to give the Fair Work Commission the power to stop sexual harassment following a single instance of harassment.
- Making sexual harassment in connection with an employee's employment a valid reason for dismissal.

These are welcome, long overdue changes – however serious concerns remain about their efficacy, particularly for women working in casual employment, labour hire and the gig economy.

It's unsurprising that sexual harassment is worse in workplaces with low union density and sectors with casualised workforces. For decades, women have been over-represented in these industries, leading to the entrenchment of poor working conditions and an ingrained fear of speaking up.

Economic insecurity should never prevent a person from speaking up about sexual harassment. However, a recent survey by the Australian Council of Trade Unions found that 54.8 per cent of the 9600 respondents had experienced sexual harassment at work – from customers, clients, co-workers and for 38 per cent, a supervisor.

Only 27 per cent of those who experienced sexual harassment made a formal complaint.

Forty per cent told no one.

Gender inequity in the Australia labour market is of grave concern. Some state governments have made bold moves, such as Victoria's introduction of Gender Equity laws. However, unless women are afforded economic equity in the form full or part-time employment with a range of leave provisions and entitlements, the fear of speaking up and reporting will continue. Of the 2.3 million Australia workers reliant on minimum wages, 61.8% are women.

Real change begins with industrial and economic equality.

To address the fears of negative consequences and a lack of faith in the complaint processes, we believe that a special leave entitlement must be enshrined in policy, enterprise agreements and awards for sexual harassment leave. Of course, addressing the high instances of insecure work and stamping out the gig economy is of great importance across our movement. In the meantime, a leave entitlement must be enacted to assist our most marginalised workforces when they have experienced sexual harassment.

Far too often, members tell us that they are unable or unwilling to report harassment because they are casual. As a union, we have had multiple occurrences of casuals forcing themselves to return to a workplace after a sexual harassment incident due to fear or financial pressures.

When workers are put through this trauma many will not report harassment because:

- There is no confidence that the complaints process would be confidential;
- There is no faith in the complaint process;
- There is a fear of the negative consequences for the complainant.

It is unfair to put workers through this, leaving them in precarious circumstances – financially, physically, and mentally. Fundamental changes to workplace reporting and legislative amendments will take considerable time to filter down to workplaces, so we must start now. We believe that a five-day leave provision must be enshrined in all workplace agreements and awards, in the first instance. This leave will give employees the ability to look after their mental health when reporting harassment, and allows employers time to mitigate any further risks to the complainant and address the incident. Much like the our Reproductive Health and Wellbeing clause and Family Violence clause, these industrial measures will assist working women to be more empowered to report assault without fear of negative consequences or economic disadvantage.

At present, the Victorian State Government is trialling paid sick leave for casual employees in response to the spread of COVID-19 in insecure workplaces. This trial will provide up to five days of sick leave or carer's leave at minimum wage rates. Should this trial be successful, it should be legislated to assist our gig economy, labour hire and casual workforces to be empowered to report sexual harassment.

Women working in these highly casualised workforces have no industrial power to address or report sexual harassment. The Victorian Government Inquiry into the Labour Hire Industry and Insecure Work demonstrated that far too often, workers are routinely denied fundamental employment rights and evidence of abuse, violence, sexual harassment and excessive working hours are rampant. To assist these workers, we need urgent reform to leave provisions to protect women and ensure they are not subjected to economic disadvantage.



Organisational Reform and Confidential Workplace Reporting

Countless reports, submissions to inquiries and surveys have revealed that overall, women are unwilling to report instances of harassment as they have no confidence in the reporting mechanisms. To combat this, the HSU is calling for the following policies to be implemented in all workplaces:

1. A dedicated people and culture manager and health and safety representative who carries the portfolio of workplace safety with a gendered lens

This role should be in all workplaces and should be tasked with implementing all workplace health and safety and workplace policy with a gendered lens. Duties should include making recommendations on workplace design, flexible working arrangements, workplace health and safety issues, issues relating to menstruation and menopause and investigating instances of bullying, harassment and sexual harassment. A key part of this job should be an obligation to report to the CEO and their commitment to reporting the incident, investigation proceedings and outcome to the board. This should also include training and education for workplaces to assist working women of all ages to continue to thrive when experiencing issues relating to menstruation, menopause and reproductive health.

Recently reported in Circle In's report 'Driving the Change', when asked to define what was most challenging about their experience while working during menopause, almost half of the women surveyed reported a drop in confidence, and 83 per cent said that the stress of juggling work during menopause had a negative impact on their work. Almost half of the respondents considered retiring due to severe menopausal symptoms with 28 per cent surveyed going through with it. One in eight women surveyed left the workforce due to their symptoms. Two in eight would if financial reasons did not hamper them.

A recent survey by The Victorian Women's Trust found that 86 per cent of respondents wished they had better access to flexible working arrangements to cope with menopause. Developing a framework of flexibility for all Victorian workplaces and a robust education program for employees is urgent. It would go a long way to ensuring that working women are not isolated, embarrassed, or forced to leave the workforce earlier than they should.

2. The introduction of a disputes panel in all workplaces

HACSU Vic recently won a clause in the Public Area Mental Health Enterprise Agreement to implement an independent disputes panel to investigate workplace disputes. The panel includes an independent chair, a representative from the employer and a representative from the relevant trade union.

Our view is that this would provide working people another mechanism to report sexual harassment, in line with surveys conducted by the Australian Council of Trade Unions which found that unionised workplaces are far safer for women. To have strong union involvement in this space is essential to ensuring all Australian workplaces are safe.

3. A policy commitment to encourage health and safety representatives and the establishment of designated working groups in all Australian workplaces

Workplaces with elected health and safety representatives and designated working groups are safer, more productive and encourage employees to speak up about unsafe work conditions. Recently, occupational health and safety training providers have included a specific gendered violence refresher course for Health and Safety Representatives (HSRs) to combat instances of gendered violence, harassment or bullying in workplaces. This training should be mandated for HSRs and included in all workplaces as a non-negotiable policy to give workers another avenue to report safely.

4. Insertion of a gender equality panel and training for all Fair Work Commissioners

While we acknowledge the positive steps taken by the former Federal Government in expanding the scope of the FWC, we believe it is imperative that a gender equity panel be established within the FWC to tackle complex issues of sexual harassment and gendered bullying in the workplace and that training be given to all commissioners, in line with the Respect@Work Report.

Leave to Receive Treatment for Addiction

A key barrier to women accessing treatment for addiction is a lack of leave entitlements. Women are usually the primary caregivers to children and the elderly, and often have to use sick leave for their reproductive health and wellbeing. Specific leave provisions need to be added to enterprise agreements and awards as standards to assist women in seeking addiction treatment.

Modelled on the CPSU's Leave to Attend Rehabilitation clause in the Victorian Public Sector Enterprise Agreement, we believe that a leave provision must be added and available for all working people after passing probation to attend rehabilitation. This clause should be a 28-day minimum and should accrue further leave with years of service. We see this as a harm-reduction measure that makes economic sense for business, community, and family.

At present, policy settings cost the Australian community approximately \$55 billion annually due to the knock-on effects of addiction. It is economically responsible to invest in addiction leave, equitable rehabilitation and harm reduction measures because every \$1 invested saves the community \$27.



Equitable Access to Addiction Treatment and Rehabilitation

Every year, around 500,000 Australians seek assistance for addiction but are unable to access help. Current policy settings negatively impact working people, with long wait times, long treatment times, and costs that are impossible for the average person. Workers are forced to choose between keeping their job, re-mortgaging their house or withdrawing their superannuation – or simply not getting the healthcare they need.

Of particular concern is the lack of rehabilitation options for mothers. Across the country, there is a shortage of drug rehabilitation beds and few facilities that also accept children. Women are more likely to be the primary caregiver, which leaves mothers sitting on long waiting lists to access help.

Women-only services that can accept children benefit women, by tackling the addiction as a family unit. There is a national shortage of these services – e.g. in Western Australia, of the 16 state-run rehabilitation services, only three can take children.

Overall, women face more difficulties than men in accessing rehab services. According to Professor Nicole Lee, women often have a history of trauma, high prevalence of common mental health issues such as anxiety or depression, and face economic barriers to accessing treatment.

The Victorian union movement is working to open a worker-led rehabilitation, outpatient and outreach service in partnership with publicly-funded rehabilitation services. This program is based on Foundation House, the successful NSW union-initiated rehabilitation service.

Offering a service that has a 28-day inpatient program, with extensive ongoing outpatient support, will ensure that working people can retain their employment and build community, all while receiving life-changing treatment. The NSW service has had great success, expanding into toolbox talks, health and safety training and union delegate training. Funding has been secured via enterprise agreements, and industry donates to the service as they see ongoing benefits.

We aim to build on what the Foundation House NSW has created. Ideally, we will be looking to open four services in Victoria after a successful trial period, with one specifically for women and children.

Collaborative, community-based services with the support of the trade union movement will reduce addiction-related harms for women, while ensuring that they stay employed and have continuous support via their workplace.

Housing and Employment

Approximately 116,000 Australians will be homeless tonight. In the 2018-19 period, one in 57 Victorians accessed a government funded homeless service. This is a devastating number and also one that is highly likely to underestimate the extent of the issue.

Homelessness affects many demographics; young people, mothers and children escaping domestic violence, older people, people with a disability, and community members grappling with mental health and addiction.

According to the Victorian Inquiry into Homelessness, demand for services has exceeded availability of support, with 112,919 Victorians seeking assistance in the 2018-19 period. Of those who sought assistance for short-, medium-, or long-term accommodation, most could not be assisted by government or not-for-profit services due to overcapacity.

The Victorian Inquiry into Homelessness noted:

- 76 per cent could not be provided long-term housing
- 62 per cent could not be provided transitional accommodation
- 32 per cent could not be provided crisis accommodation.

The trade union movement applaud the Andrews Government's record \$5.3 billion investment to build more than 12,000 public housing dwellings with projected job creation at 43,000. This move will represent a 10 per cent increase in the overall Victorian social housing stock.

However, despite this landmark investment, this will not ensure that the state will meet the national average of social housing as a percentage of total dwellings. For Victoria to reach the social housing average, it is estimated that the state would need to build at least 3,400 dwellings each year until 2036.

As a movement, we know that the housing crisis has become more urgent due to direct and indirect economic impacts of the COVID-19 pandemic. Women are the most disproportionately affected due to insecure work, family violence and a lack of superannuation in retirement.

Worryingly, women over 55 years old are the fastest-growing demographic of homelessness in Australia. We need viable ways forward to ensure that those seeking housing are afforded the opportunities for employment, studies or apprenticeships, while also receiving mental health support.

Our plan provides solutions highlighted in the Victorian Inquiry into Homelessness, specifically in providing housing for women and housing that has employment opportunities attached.

In the year leading up to December 2020, Victorian Police attended 92,521 family violence incidents. Each night, 66 women and 55 children spend the night in motels due to a lack of available housing. In the 2019-2020 period, 51,000 Victorians became homeless due to family violence.



\$3 billion has been committed by the Victorian Government to tackle domestic violence. However, five years after the Royal Commission into Family Violence, 26,000 women and children are being turned away from housing services each year and police reports are at an all time high. There are severe shortages in emergency and long-term housing options for victims of family violence with some waiting times up to eight weeks.

We believe this issue must be addressed collaboratively with government, businesses, NGOs, and trade unions as a matter of urgency.

Collaborative partnerships to provide affordable housing with job training attached are crucial to filling this gap. Women deserve the dignity of housing with employment opportunities connected in a supportive setting.

Implementation of all Recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse

Three years ago, as part of the national apology to victim-survivors of child sexual abuse, former prime minister Scott Morrison pledged to open a National Centre for Sex Abuse Survivors.

We are still waiting.

In May 2021, the former prime minister announced a national strategy to prevent child sexual abuse at a cost of \$146 million. Unfortunately, \$100 million of this investment has gone to law enforcement with no mention of the centre for survivors.

As a matter of urgency, we believe that this centre must be funded and done so in every state.

This would be another mechanism for working women to utilise when facing present or historical sexual abuse. It is imperative that this centre, as promised and in line with recommendation 9.9 of the report, is actioned. While we welcome all programs that include prevention, it is our view that a centre like this needs to be focused on survivors to give another avenue of seeking confidential and wrap-around support.

Furthermore, we are demanding that every State and Territory implement every recommendation of the Royal Commission. We are concerned that loopholes still exist in criminal legislation across the country. For example, in Queensland and Tasmania, the Acts still have not included provisions that make it a crime for those with caring responsibilities such as teachers and priests to groom, coerce or have sexual relations with 16- and 17-year-olds. Loopholes like this are present across the country. Given the evidence of the psychological impact that such cases have on women and children, we must act.

Trauma can be a key indicator that precludes women from employment. Any intervention that can be safe for women to address these harms is an urgent, positive investment. Not doing so further engenders harm and a culture of not speaking up.

Free and Universal Early Childhood Care and Education.

There are approximately 2.6 million families with dependent children under 15-years-old in Australia. For decades, Australian families have struggled with early childhood education and care (ECEC) costs consuming a high proportion of the household income, with it being largely inaccessible for working families. In many instances, it is cheaper for women to not return to their workplace rather than pay for childcare. Our view is that the economic benefits of free ECEC involve much more than encouraging women back to the workforce. This shift also needs to be expanded to include better working wages and conditions for those who provide this care and a recognition that this care fosters incredible educational outcomes for our young people.

We must fund these services across the board. They must include culturally and linguistically diverse learning environments and cater to children who identify as having a disability or a mental health condition.

Childcare reform has been an urgent matter for years, and the COVID pandemic has exacerbated this. Parents are reporting much higher levels of emotional distress and isolation, with Melbourne University finding that in 2020, employed parents with a primary school aged child are four times more likely to be in higher mental distress relative to 2017 statistics. Furthermore, the consequences of 'the pink recession', mean that women are far more negatively impacted due to job losses and reduced hours.

The positive mental health and confidence of parents, particularly women who are still considered the primary caregiver, is an urgent endeavour that should be front of mind for all of Australia. The 'motherhood penalty' narrative has merely been perpetuated by COVID but has always been present when discussing the economic disadvantage of mothers and workplace discrimination. Many international studies have found that mothers are viewed as 'less competent' and 'less committed' due to child-caring responsibilities. The reality is that affordable childcare and early education are significant barriers for working mothers to return to the workplace and to rise within the ranks of a workplace.

We contend that a positive way forward would be to ensure that state and federal governments:

1. Make childcare and early education universal and free to ensure equitable access.
2. Raise the wages and conditions of those working in these sectors to solidify this as a long-term career path.
3. Scrap primary and secondary caregiver provisions to level the playing field.
4. Introduce workplace measures with flexibility, working from home arrangement and on-site childcare

Progressive childcare, early education, parental leave and flexibility are not a luxury. They are a right.



“For generations, women have been expected to remain silent about injustice they have faced. No more.

Sexual harassment must be brought out of the shadows, and it starts with our leadership recognising that enough is enough.

Change needs to support women in their intersectional diversity, across race, class, sexuality, age, and disability.

Gender equality cannot be achieved by handing down crumbs. It requires an unapologetic commitment to reform the systems that build and uphold the barriers to begin with.

This report does just that.”

- Yasmin Poole
Award-winning speaker, writer and youth advocate



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