**Kate Jenkins, Sex Discrimination Commissioner – Speech on Sexual Harassment**

**Change takes time**

In my role as Sex Discrimination Commissioner, many people tell me to be patient. They tell me that change takes time and generational change will eliminate sexual harassment. The next generation will not tolerate the sexism of the past.

Our survey results tell us exactly what the next generation is tolerating under our watch and why we have to act.

Change does not take time, it takes *action*.

And there is no doubt, based on the survey results I plan to share with you today, and based on the stories I hear on a regular basis, that we all should be impatient, and motivated to act.

**Sexual harassment experiences**

Let me share just a few of the experiences I have already heard through the National Inquiry launched in June:

* Julie was 16 and working in her first job at a supermarket when she was locked in a storeroom by her manager, who then groped and kissed her against her will.
* Tina's colleague told her there was a rumour going around that Tina had only been hired because she had slept with their manager.
* Mark was repeatedly harassed by a colleague on his workplace's online messaging system. This escalated to physical harassment, but he was too afraid to report it in case he lost his job, and thought he wouldn't be believed anyway.
* After being forced into a room and groped by a colleague, Antoinette sought help from human resources, who asked her what she was wearing at the time.
* Linh worked in a law firm where the senior partner forced young female employees to watch pornography and, along with other male staff, would 'rate' their female colleagues on their looks.

Like many of you I also hear these stories from family and friends.

I recently spoke to a family friend Sky, a University student working part-time as a waitress. I asked her if she ever experienced sexual harassment at work: she said yes - from diners and other waiters. She said it's a regular occurrence and all part of the job. And unless she feels in physical danger she has learnt to brush it off.

The results of our national sexual harassment survey confirm that these stories are not isolated. Sexual harassment in the workplace is widespread and pervasive.

**Generational change**

It can be easy to assume things are getting better with time. When we were young sexual harassment was common - but surely not today.

This is why it is so critical that Government funds important research work to help us understand the current facts and where to focus our energy. Our 2018 sexual harassment survey was funded by the Commonwealth Department of Social Services, as part of its focus on preventing violence against women. This survey is the 4th workplace sexual harassment survey undertaken by the Commission since 2003, and therefore gives us important trend information about workplace sexual harassment.

And I expect the results I share today might shock some of you, particularly those of you who subscribe to that generational theory of change.

Roy Morgan Research, on behalf of the Commission, surveyed 10,000 participants in a sample that represented the Australian workforce based on age, gender and location. I strongly encourage you to read the report, which shares a vast amount of useful information for Government and employers.

Today I will highlight some key insights: focusing on 2 areas:

* What sexual harassment looks like and who is affected by it; and
* What happens when sexual harassment occurs at work?

**The definition of sexual harassment**

Before I get into our survey results, let me start with the fundamentals.

The legal definition of sexual harassment has remained substantially the same over the years. It is, in short - *unwelcome conduct of a sexual nature where it is reasonable the person receiving the conduct would be offended, humiliated or intimidated*.

This is a fairly straight forward definition and it is aimed at eliminating workplace conduct that affects people's ability to earn a living.

At its simplest, sexual harassment is conduct that is unwelcome, sexual and offensive.

Yet over my long career as a corporate lawyer handling sexual harassment cases, I noticed that many workers could not accurately identify sexual harassment. There seemed to be a community perception that sexual harassment was only unlawful if it was malicious and involved more serious conduct, like sexual or physical assault. This perhaps explains why so many people say they are confused by what constitutes sexual harassment, and also why people are so often reluctant to complain about it.

I am on a mission to help clear up this confusion. And I think the global #MeToo conversation has started the shift, and the survey results and National Inquiry will continue to build awareness in Australia.

**What did the survey tell us about sexual harassment?**

So what did the people who were surveyed tell us about their experience of sexual harassment in the workplace in 2018?

These are the headlines:

* One in three workers in Australia said they were sexually harassed at work in the last 5 years, which is a significant increase from 2012.
* Sexual harassment was reported at increased rates by both women and men and young workers are at the greatest risk.
* The vast majority of harassers were men.
* And this conduct continues with impunity - only one in five people harassed complained about it and of that half said nothing changed as a result.
* Two thirds of people who told us they had witnessed sexual harassment, also took no action.

Let me give you more detail now of the survey results, under six key areas of our research:

* Prevalence;
* Nature of sexual harassment;
* Industries where harassment occurs;
* Reporting;
* Bystanders' responses; and
* Impact.

1. **Prevalence**

Our survey findings indicate that sexual harassment is endemic in Australian society, across all areas of daily life. When we look at the experience of Australians over the course of a lifetime: 85% of women and 57% of men have reported being sexually harassed on at least one occasion.

Sexual harassment in the workplace is a common experience which has increased since our last survey in 2012. One in three workers in Australia reported being sexually harassed at work over the last 5 years, compared with one in five from our 2012 survey and one in ten in 2003. Half of us have experienced it or witnessed it.

To an increasing degree this is a young person's problem. What is clear is that this conduct begins the moment people enter the workplace, and that harassers prey on those less powerful than them. One in five 15-17 year olds said they had been sexually harassed at work in the past five years. Young people between the ages of 18 and 29 were the **most** likely to be sexually harassed at work.

It is also a problem that affects women and men. We found that 39% of Australian women and 26% of Australian men told us they have been sexually harassed at work in the past five years, both a significant increase on 2012.

The risk of sexual harassment was much higher for people who already experience higher rates of disadvantage and discrimination: sexual harassment was reported by:

* 52% of workers who identify as lesbian, gay, bisexual, transgender or intersex;
* 53% of Aboriginal or Torres Strait Islander workers; and
* 44% of workers with disability.

People earning lower incomes were more likely to be sexually harassed in the workplace than those earning more than them.

These results confirm what we all suspected, sexual harassment is less about sex than about the abuse of power, where young and more vulnerable workers were at greatest risk.

1. **Nature of workplace sexual harassment**

The survey gave us helpful information about the nature of sexual harassment experienced by workers.

Women were more likely than men to experience all forms of sexual harassment in the workplace. One in ten women told us they had experienced inappropriate physical contact at work in the past five years. One in twenty said they have been stalked in a work-related context.

The most commonly experienced forms of sexual harassment in the workplace were:

* unwelcome sexually suggestive comments or jokes;
* intrusive questions about a person's private life or physical appearance;
* inappropriate staring or leering; and
* unwelcome touching, hugging, cornering or kissing.

And sexual harassment was most likely to occur at your work station, or where you work, in a social area or at a work social event.

These behaviours may seem easy to dismiss: it's just a joke, he was only looking at her, it was meant as a compliment, what's a friendly hug between colleagues?

But consider how it feels to be treated this way - day in, day out. This ongoing humiliation of people who are just trying to do their job is the reality for too many Australians.

Because our survey showed that, rather than being one-off incidents, unwelcome sexual conduct in the workplace often occurred repeatedly over weeks and months.

We were told that the same person often harassed multiple people in the same workplace, which speaks to the impunity of people who sexually harass others in the workplace.

We were also told you were likely to be sexually harassed by a co-worker at your same level, however clients, customers and more senior co-workers and managers were also commonly named as harassers.

We were told that four out of every five harassers in the workplace were men. When broken down by gender, 93% of female victims were harassed by one or more men; while 58% of men were harassed by one or more men. This result suggests that engagement with men will be critical to preventing sexual harassment.

Men said they were more likely than women to be sexually harassed by a group of harassers, suggesting workplace cultures that tolerate this behaviour towards male employees. In contrast, women were more likely to be harassed by one harasser.

1. **Industries**

This year, for the first time, we have been able to report in detail on the experiences of workers within particular industries.

Our survey showed that unwelcome sexual conduct was experienced across the full range of industries, occupations and employment status.

The majority of workplace sexual harassment occurred within our four largest industries, which is to be expected as they employ the most workers. Those industries are:

* health care and social assistance;
* retail trade,
* education and training; and
* accommodation and food services.

However, rates of sexual harassment were notably high within some particular industries.

Nationally, one in three people told us they have been sexually harassed at work in the past five years. However, this figure rises to:

* Four out of five people working in information, media and telecommunications; and
* Approximately one in two people working in arts and recreation and in electricity, gas, water and waste services.

When broken down by gender, it appears women were more at risk in male-dominated industries and men in female-dominated industries:

* Women were much more likely than men to report being harassed in:
  + mining;
  + transport, postal and warehousing; and
  + construction.
* In contrast, men were more likely than women to report sexual harassment while working in
  + education and training or
  + health care and social assistance.

1. **Reporting.**

So what happens if sexual harassment happens to you?

Our survey tells us that you are unlikely to report the harassment to anyone.

In line with our findings from previous surveys, the vast majority of people who said they were sexually harassed at work did not formally report their experiences. Despite a global conversation about sexual harassment, not much has changed in reporting in Australia.

Fewer than one in five people who experienced sexual harassment in the workplace in the last five years said they made a formal report or complaint.

It is clear that stigma and shame around reporting these incidents continue to exist, as well as a belief that sexual harassment is a 'normal' part of everyday life. More than half of those who were sexually harassed said that this behaviour was common or occurred sometimes in their workplace.

The most common reasons people said they didn't report their experiences were:

* that they thought others would think they were overreacting;
* that the incident wasn't serious enough; or
* that they thought nothing would change.

When people did report, these fears were often borne out in reality. Almost one in five people who made a formal report or complaint said they were labelled as a trouble-maker, were ostracised, victimised or ignored by colleagues or resigned.

Our survey shows that even if you did report, there was a good chance nothing changed.

* One in five also said that the person who harassed them experienced no consequences as a result of a sexual harassment complaint being made.
* In addition, almost half of those who made complaints said that it did not result in any changes being made in their workplace.

If you are a man you were less likely to report sexual harassment, but we were told that employers were more likely to take action in response to a man's complaint.

1. **Bystanders**

People reported that they are increasingly *noticing* sexual harassment - and this is positive progress.

Almost two in five people told us they had witnessed or heard about the sexual harassment of another person at work in the past five years, more than double the number reported in previous years.

However, the propensity of these "bystanders" to take action has decreased significantly since the last survey was conducted in 2012, when half of bystanders to workplace sexual harassment said they intervened, compared with just a third of bystanders in 2018. This means that two in three did nothing.

We heard that the most common reasons for not taking action were:

* not wanting to make things worse for the victim;
* not wanting to intervene; or
* not thinking the harassment was serious enough to warrant intervention.

This is important information as we consider how to change workplace cultures which tolerate unwelcome sexual conduct.

As with people who reported their own experiences of sexual harassment, bystanders who did intervene in the harassment of others also experienced negative consequences as a result.

One in ten said they were ostracised or ignored by colleagues, and another one in ten were labelled a troublemaker.

1. **Impacts**

The impacts of workplace sexual harassment can also be devastating. We heard that sexual harassment affects health, causes stress, affects self-esteem and confidence and impacts on employment.

For women in particular, who, as a group experience multiple factors that impact upon their lifetime economic security, an experience which affects health or the ability to go to work can further entrench insecurity and disadvantage.

**National Inquiry on Sexual Harassment in Australian Workplaces**

I think you will agree that these results are depressing.

But there is good news. As someone who has worked on workplace sexual harassment for 25 years, I feel that we are closer than ever before to positive action to eliminate sexual harassment.

Without doubt attitudes are beginning to change. The #MeToo movement has given victims a voice and opened our eyes to the current and ongoing experiences of harassment. The public has rightly demanded more information on the pervasiveness and impact of sexual harassment. It can see that sexual harassment not only causes distress to victims, it impedes productivity and is a barrier to career progression. Employers are demanding more than information; they are asking for solutions. There is a community wide appetite for change.

The survey is a rich source of data describing the reality of the problem. While it answers important questions about the current experience of sexual harassment, and trends over time, it also raises questions about what is driving this experience and more importantly what we need to do to change these results.

This is why it is critical that in June we announced a National Inquiry into Workplace Sexual Harassment, which has had wide political, union, business and community support. I will be leading this work over the next twelve months.

While the Commission has previously examined sexual harassment within particular industries and institutions, such as our defence forces and universities, this will be the first time we have conducted such a wide-ranging examination of all workplaces in the country.

Over the coming months, we are calling for submissions from individuals and organisations who want to contribute their views, stories and expertise. We will speak to people all around Australia about their experiences and ideas for change, travelling to capital cities and regional centres to speak to people.

We are interested to hear from individuals on their experiences, from employers and unions on the challenges they face, and from policy and advocacy organisations about what they see as the barriers to stopping this behaviour from occurring.

I am confident that this wide-ranging, extensive National Inquiry will come up with solutions that are practical and evidence-based which we will report in the second half of 2019.

As well as being an Australian first, this national inquiry is a world first. I am incredibly proud that Australia has taken such decisive action on this issue. Our government is to be commended for supporting and part funding the Commission to undertake this work and I particularly acknowledge the strong support of the Minister for Jobs, Industrial Relations and Women, the Hon. Kelly O'Dwyer.

**Hope for change**

Let me close with why I hold hope for change.

Over my professional career I have worked with employers on their programs to prevent sexual harassment. I know that all good employers now have in place policies, complaints procedures and training on the topic of sexual harassment. Programs that are owned by human resource personnel but perhaps not by enough others.

Over the same period I was involved with countless sexual harassment complaints: complaints that always peaked in January after the Christmas party season. Complaints about unwelcome touching, sexual jokes, offensive text messages, propositions for sex, embarrassing gifts. Complaints about conduct that directly breached the policy. Confidential complaints that affected the individuals involved but never prevented future occurrences.

Now let me return to my story about my friend Sky.

She had had a very recent experience of sexual harassment. In fact, in just the previous week her managers had witnessed one of her waiter colleagues come up behind her and pump his pelvis into her back and then slap her on the bottom as he told her about what a good weekend he'd had. She hated it and told him so.

Later in the day she learnt that the waiter had been asked to leave. Sky felt terrible. Sky's managers told her she had no reason to feel bad: she had done nothing wrong and he had been warned twice before. They said to her that no one should feel uncomfortable at work. Sky told me that she felt great about how the managers had handled the situation and also more confident at work.

The survey tells us that there are lots of stories like Sky's. Almost half of 18-29 year old workers reported to us being sexually harassed over the last 5 years. As a young woman in the food services industry our survey results suggest she was at high risk of harassment by a male co-worker who had harassed others.

But Sky's experience does not match the survey results in what happened after the conduct occurred. What happened I believe reflects the start of an important change. The conduct was witnessed by others - managers who took action without waiting for a complaint to be made. They were not confused by what is or is not sexual harassment. They saw the damage to their business this conduct caused and made clear to Sky that they did not expect her to tolerate harassment as a condition of her work.

**Change takes action**

With the huge appetite for change that I see, this is the perfect time for a National Inquiry to find new solutions for Australian workplaces.

I don't deny I am impatient. And I call on you to be impatient too. Because change takes action and together we can act to ensure the next survey reverses the trend and delivers to the future generations more productive, enjoyable workplaces.

Thank you.