



MINERALS COUNCIL OF AUSTRALIA

SUBMISSION TO WESTERN AUSTRALIAN PARLIAMENTARY COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE – INQUIRY INTO SEXUAL HARASSMENT AGAINST WOMEN IN THE FIFO MINING INDUSTRY

10 AUGUST 2021

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1. EXECUTIVE SUMMARY

The minerals industry acknowledges that sexual harassment causes profound physical, emotional and psychological impacts to those affected. It is unacceptable, against the law and must be eliminated from our industry's culture and workplaces.

Sexual harassment can affect anyone – not just women – and prevention and response measures must be applicable to all workers in all workplaces.

The Australian mining industry's core value and commitment is the safety, health and psychological wellbeing of its workforce, where everyone who goes to work returns home safe and healthy.

The industry is committed to eliminating fatalities, injuries and occupational illnesses, with a strong focus on building and sustaining respectful workplaces.

The Australian Human Rights Commission's ground-breaking *Respect@Work Report* represented a significant turning point for the minerals industry. Workplace sexual harassment in the mining industry was notably higher (40 per cent) than the national prevalence rate (33 per cent). Seventy-four per cent of women and thirty-two per cent of men in the mining industry reported experiencing sexual harassment. The mining industry was the 2nd worst performing industry for sexual harassment against women (behind the information, media and telecommunications industry).

Through committed leadership, the MCA is developing an industry response that recognises and prevents sexual harassment, empowers people to speak up and take action where behaviours do not meet expected standards, and that ensures appropriate responses to sexual harassment incidents, including support for impacted persons.

The industry is using its successful approach to managing safety and health and engaging with a broad range of stakeholders to encourage this essential cultural change across its business partners and within the communities in which the industry operates.

To date, the mining industry has broadened its safety and health policy to specifically reference the risks of psychological harm and disrespectful behaviours in the workplace. The policy also makes it clear that psychological harm and disrespectful behaviours in the workplace are preventable just like all fatalities, injuries and occupational illnesses in the workplace are preventable. Industry has also released a statement explicitly committing to the elimination of sexual harassment in its workplaces and a national industry code that provides clear expectations on members to establish both preventative and response measures to address sexual harassment, underpinned by a culture of respect that empowers individuals to raise concerns in a supportive and protected way.

The industry acknowledges that it is only part way on the journey to eliminate sexual harassment and an extensive range of tools is being developed to assist industry meet its commitment.

Recommendations

The MCA supports the *Respect@Work* recommendations that the Australian Government work with the states and territories to:

- Ensure there is no overlap or duplication between national and state laws
 - Following successful passage of the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, ensure that relevant state/territory laws replicate the amendments
- Develop and implement a National Sexual Harassment Research Agenda (Recommendation 4)
- Implement consistent regulator education and training (as per Recommendations 34-37) on the nature, drivers and impacts of sexual harassment

- This should be trauma-informed inspection and compliance training in line with the principles of *Change the Story* so as not to further harm victims
- Implement judicial education and training (Recommendation 40)
 - That relevant bodies responsible for developing training, programs and resources for judges, magistrates and tribunal members make available education on the nature, drivers and impacts of sexual harassment
 - This should be trauma-informed and in line with the principles of *Change the Story*
 - Support and encourage judicial officers and tribunal members across civil and criminal jurisdictions who may come into contact with victims of sexual harassment to undertake this education and training
- Adopt guidance material (Recommendations 32-33) relating to unfair dismissal, which includes dismissal relating to sexual harassment, for employers and workers in workplaces that sit outside the national Fair Work system.

About the Minerals Council of Australia

The MCA is the leading advocate for Australia's minerals industry, a strong and effective voice at the national and international level as well as through its divisions in the Northern Territory and Victoria.

The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, environmentally and socially responsible and attuned to community needs and expectations.

MCA member companies are signatories to Enduring Value – the Australian Minerals Industry Framework for Sustainable Development – and have a longstanding commitment to the effective and responsible management of Australia's water resources.

MCA member companies have also adopted Towards Sustainable Mining (TSM), an award-winning accountability framework which helps minerals companies evaluate, manage and communicate their sustainability performance.

Adopting the independently verified system will reinforce the sector's commitment to continuous improvement in safety, environmental and social governance.

Australia's minerals industry is a global leader in providing the essential elements of modern life while growing the nation's economy and sustaining regional communities. Combined with its social contribution and responsible environmental management, the minerals industry plays a critical role in the modern world.

2. INDUSTRY ACTION TO DATE

Responding to the alarming findings of the Australian Human Rights Commission *Respect@Work Report*

The results in the AHRC's *Respect@Work Report* in relation to the mining industry were alarming, unacceptable and profoundly disappointing. While some companies were active in identifying and addressing sexual harassment risks, and reviewing their approach to managing sexual harassment, this was not achieving the desired results.

While the report showed that overall sexual harassment in Australian workplaces is widespread and pervasive – with one in three people experiencing sexual harassment at work in the past five years – the specific findings in relation to mining were even more disturbing:

- Workplace sexual harassment in the mining industry was notably higher (40 per cent) than the national prevalence rate (33 per cent)
- The proportion of male perpetrators (83 per cent) was higher than the national rate (79 per cent)
- The likelihood of being sexually harassed by more than one person was higher:
 - Overall, the mean number of perpetrators of sexual harassment in the mining industry was 3.0 compared to 1.7 overall.
- Almost half of those who experienced sexual harassment in the mining industry reported that the perpetrator was a co-worker at the same level as them, compared with 30 per cent of people who were sexually harassed in the workplace overall
- Close to half of all sexual harassment in the mining industry occurred in a social area for employees such as a break or lunch room, compared to one-quarter of all workplace sexual harassment

Most people who experience sexual harassment never report it. One encouraging finding for mining is that one-quarter of people in the industry were more likely to make a formal report or complaint about sexual harassment, compared to 17 per cent across all industries.

Following the release of the *Respect@Work Report*, the MCA quickly and publicly acknowledged the extent of sexual harassment in the minerals industry.

Shortly after this acknowledgment, Sexual Discrimination Commissioner Kate Jenkins was invited to present to the MCA's Board of Directors, which established a dedicated multidisciplinary *Respect@Work* taskforce chaired by Michael Wright (Board Director and Chief Executive Officer, Thiess) to develop concrete actions to eliminate this behaviour.

This approach was based on using the industry's strong safety culture and safety systems to drive a change focused on care for the whole person – physical health, mental wellbeing and psychological safety.

The taskforce is a multidisciplinary team drawn from across the membership, with expertise in safety and health, operational and technical excellence, human resources, change management and contractor management.

The taskforce has met at least monthly for the past year and has undertaken an extensive work program to date.

However, the industry acknowledges that we are only part-way on the journey to eliminate sexual harassment.

Expanding the industry's safety and health policy

In early 2020 the MCA Board determined that the industry would make significant updates to the industry's health and safety policy to specifically incorporate psychological harm and respectful behaviours.

The expanded safety and health policy *Safe, healthy and respectful workplaces* released on 20 January 2021 provides the platform for a range of initiatives focused on the whole person.¹

The policy emphasised that everyone has a personal responsibility for the safety, health and wellbeing of themselves and their work mates and to contribute to positive and respectful workplaces. This includes speaking up when unsafe work practices and unacceptable behaviours occur and employers providing training, communications, emergency response and investigation processes to facilitate speaking out.

The industry has long acknowledged that all fatalities, injuries and occupational illnesses in the workplace are preventable. The policy now makes it clear that psychological harm and disrespectful behaviours in the workplace are also preventable.

Industry commitment to eliminating sexual harassment

To specifically acknowledge and commit to address the alarming, unacceptable and profoundly disappointing prevalence of sexual harassment in the minerals industry, an explicit statement on the minerals industry's commitment to eliminating sexual harassment was also released on 20 January 2021.²

The commitment acknowledges the scale of the problem in mining workplaces, recognises the profound physical, emotional and psychological impacts that arise and describes what industry intends to do to prevent this behaviour.

Through a safety and health perspective and committed leadership, industry will create a culture that respects all people, eliminates sexual harassment, and stands up, supports and cares for all those affected and empowers people to speak up and take action where behaviours do not meet expected standards.

Release of a national industry code

Building on the expanded safety and health policy and the statement, a national industry code was released on 7 July 2021 following extensive member engagement.³ The code provides clear expectations on members to establish both preventative and response measures to address sexual harassment, underpinned by a culture of respect that empowers individuals to raise concerns in a supportive and protected way.

Both prevention and response measures allow a comprehensive and systematic approach managing the risks of sexual harassment. A framework to raise awareness of the significant prevalence of sexual harassment in the industry, emphasise the potential for harm, document the risks of sexual harassment and put in place strategies to eliminate these risks, is essential.

How the minerals industry responds to reports of sexual harassment is also crucial. Fostering an environment where raising concerns and reporting incidents is welcomed and encouraged, and can embolden individuals to speak up.

Furthermore, a compassionate risk-based culture enables organisations to provide appropriate support and protection to affected persons, undertake an investigation into an incident and trigger a review of how and why the measures in place to prevent sexual harassment were not effective and how they may be strengthened.

¹ Minerals Council of Australia, [Safe, healthy and respectful workplaces](#), MCA policy, 20 January 2021.

² Minerals Council of Australia, [Minerals industry's commitment to eliminating sexual harassment](#), 20 January 2021.

³ Minerals Council of Australia, [Industry Code on Eliminating Sexual Harassment](#), 7 July 2021.

Industry Code on Eliminating Sexual Harassment

Sexual harassment causes profound physical, emotional and psychological impacts to those affected. It is unacceptable, against the law and must be eliminated from our industry's culture and workplaces.

To implement the [mining industry's commitment to eliminating sexual harassment](#), MCA has developed an Industry Code that establishes clear expectations on companies in developing a culture of respect that empowers individuals to raise concerns in a supportive and protected way. Honest, respectful and open communication is the key to eliminating sexual harassment.

PREVENTION MEASURES

Awareness and education

- Emphasise the serious risk to safety, health and wellbeing that can arise from sexual harassment
- Visual promotion and regular education demonstrating commitment to eliminating sexual harassment
- Expectations embedded through training, inductions, supplier engagements and business relationships.

Cultural and governance frameworks

- Organisational values that support safety, health and psychological wellbeing
- Systems and procedures that enable and empower our people to recognise, prevent and act
- Supportive and confidential avenues for informal and formal reports.

Leadership

- Clear, consistent and authentic messaging across the business on organisational values
- All sexual harassment reports treated seriously, confidentially and sensitively
- Immediate action to investigate, when the reporter consents, and resolve any issues
- Shape a respectful culture that supports speaking up and active bystander behaviours.

Work environment

- Identify specific risks arising in offices, operations, workshops, camps and travel
- Design workplaces that are accessible, private, safe and secure
- Procure equipment and supplies that are suitable for use by all workers.

RESPONSE MEASURES

Support and protect

- Ensure people feel cared for and respected when exercising their right to report an incident
- Provide alternate working arrangements as required to support the reporter
- Encourage use of company support services and facilitate access to external services for current and previous employees
- Take reasonable steps to protect individuals from victimisation or reprisals.

Investigating concerns and/or incidents

- Ensure the investigation process is managed sensitively, confidentially and as efficiently as practicable
- Clearly document and communicate the process and expectations for investigations
- Provide counselling and support to all affected persons following conclusion of an investigation.

Consequences

- Fair and proportionate application of consequences
- Clearly outline the actions that may result if an individual is found to have engaged in sexual harassment
- Refer criminal behaviour, conduct or activity to relevant authorities.

Communication

- Communicate outcomes of completed investigations in a sensitive and timely manner
- enable reporters to speak openly about experiences in a manner and at a time of their choosing
- Avoid the use of non-disclosure clauses in any agreements with persons impacted by sexual harassment.

Measuring and monitoring compliance

MCA members will be required to confirm their commitment to eliminating sexual harassment and adopt the national industry code. MCA will write to members seeking their written confirmation in the coming weeks.

They are also encouraged to include the commitment and code on their websites and intranet sites.

Member companies have also adopted Towards Sustainable Mining (TSM), an award winning accountability framework which helps minerals companies evaluate, manage and communicate their sustainability performance.

Adopting the independently verified system will reinforce the sector's commitment to continuous improvement in safety, environmental and social governance. TSM strengthens Enduring Value – the Australian minerals industry's sustainable development framework – by providing a consistent approach to assess and communicate site level performance in a transparent and accountable way.

TSM covers three core areas – communities and people, environmental stewardship, and climate change. There are eight protocols within the core areas including a safety and health protocol which is part of the communities and people area.

Companies will be required to evaluate their safety and health performance against TSM indicators that support implementation of the TSM Safety and Health Protocol, which will incorporate sexual harassment measures.

TSM will be rolled out over five years and adoption will be an expectation of MCA membership. Companies will publicly report against TSM indicators every year and results are externally verified every three years.

Providing an industry-specific resource tool kit

There is a significant amount of information available on preventing sexual harassment from federal and state human rights commissions, safety and health authorities, and sexual harassment action groups. However, this information can be complex, dispersed across many organisations and websites making it difficult to know where to look, and often hidden within very large documents. The information available from different bodies may also be inconsistent or not aligned to the strong safety and health approach of the mining industry.

Companies are at various stages on their journey to eliminate sexual harassment, and not all have the capacity to develop their own resources.

The minerals industry is therefore developing a toolkit of resources in a readily accessible and digestible form that includes fact sheets, guidance and templates to support members' implementation of the industry code.

Existing information is being collated and adapted for industry and new products will be developed which are more specific to the minerals industry.

Fact sheets include clear, direct and useful information. Examples include:

- What is sexual harassment?
- Does sexual harassment occur in the mining industry?
- Where does sexual harassment occur?
- Who is vulnerable to sexual harassment?
- What are the workplace risk factors?
- What is casual or everyday sexism?
- What laws apply?

- What are non-disclosure agreements?
- Where can I find external support and advisory services?

Guidance is being developed on how to develop relevant workplace policies and procedures.

Examples include:

- Developing a workplace respectful behaviours policy
- Developing a relationship policy
- How to support and empower each other in the workplace
- Addressing casual sexism
- Reporting sexual harassment
- Responding to a report of sexual harassment
- Identifying possible outcomes of an investigation
- Board reporting framework
- Demonstrating leadership
- Empowering bystander action
- Ways to support affected persons
- Establishing a grievance process
- How to conduct a gendered risk assessment.

Templates are underway for companies to adapt. Examples include:

- Company commitment to eliminating sexual harassment
- Hazard ID checklist
- Investigation report template
- Sexual harassment culture survey
- Sexual harassment safety share
- Pro-forma grievance process.

This toolkit is not exhaustive and MCA expects to develop further resources to support industry.

Future work includes the development of specific training on preventing and responding to sexual harassment in the mining industry. This will complement established training in companies across the industry on workplace culture expectations, grievance procedures, investigations, codes of conduct, etc.

Exploring new industry-wide policies

The MCA is consulting with members on establishing industry wide policies related to alcohol consumption, pre-employment background checks (including police checks), promotion or re-hire suitability checks and communication across companies to ensure that workers dismissed from one site cannot continue their unacceptable behaviour on another site. These are discussed in further detail throughout the submission.

3. COMMONWEALTH LEGAL FRAMEWORK

The MCA recently submitted to and gave evidence to the Senate Education and Employment Legislation Committee about its support for the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021.

The amendments proposed in the Bill remove the competing and inconsistent obligations across anti-discrimination laws, workplace laws and Work Health and Safety (WHS) laws.

The MCA supports the Bill, and also provided its support for further amendments to the *Sex Discrimination Act 1984* to include a positive duty on all employers to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation as far as possible, as recommended in the *Respect@Work Report*.

While a positive duty already exists in WHS law, it is evidently not working for sexual harassment. It has not been the focus of safety and health laws or those that regulate the laws. Therefore, given the significance of the challenge we all face to eliminate sexual harassment, MCA supports the inclusion of a positive duty in the Sex Discrimination Act.

The support for a positive duty is consistent with the minerals industry code, which itself is a positive duty on industry.

The MCA will closely watch the passage of this Commonwealth legislation, any future amendments, and its replication in state and territory laws to ensure consistency in law, minimisation of any legal overlap or duplication as well as best regulatory practice (the latter will be discussed later in this submission).

Yet legislative reform only represents one component of the recommendations made by the Sex Discrimination Commissioner in the *Respect@Work Report* and the Australian Government's *Roadmap to Respect* response.

Legislation can provide certainty and clarity on compliance. Many other actions are required to enact enduring positive social change.

4. INQUIRY TERMS OF REFERENCE

i. Is there a clear understanding of the prevalence, nature, outcomes and reporting of sexual harassment in FIFO workplaces?

While there is some understanding through the *Fourth National Survey on Sexual Harassment in Australian Workplaces* (2018) that was incorporated into the *Respect@Work Report*, additional knowledge is always beneficial.

Individual companies often conduct culture surveys but whole-of-industry experiences are only properly detailed and explored through national surveys.

The MCA notes the limitations of data and the need for more research, as discussed in the *Respect@Work Report*. In particular, the MCA supports the following recommendations outlined in the report:

Recommendation 2: The Commission conduct a nationally representative survey every four years, funded by the Australian Government, that:

- a. Provides data on sexual harassment, including the prevalence, nature, reporting, impacts of and responses to sexual harassment in the workplace, and identifies trends over time
- b. Provides detailed industry data which allows analysis across and within industries
- c. Is accessible and adequately captures experiences of sexual harassment across all population groups, including people of culturally and linguistically diverse backgrounds.

Recommendation 3: Agencies that handle workplace sexual harassment matters work with the Workplace Sexual Harassment Council to:

- a. Collect an agreed de-identified dataset relating to workplace sexual harassment enquiries, complaints, claims and settlement outcomes to contribute to a coordinated system of annual reporting on workplace sexual harassment metrics
- b. Establish formal arrangements for information sharing and data exchange on enquiries, complaints and claims relating to workplace sexual harassment matters.

Recommendation 4: The Australian Government supports the development and implementation of a National Sexual Harassment Research Agenda, which will identify priorities for research relating to sexual harassment (in addition to the National Sexual Harassment Survey) and contribute to a national evidence base on sexual harassment that can guide policy and practice. Australia's National Research Organisation for Women's Safety (ANROWS) should lead this work in consultation with the Workplace Sexual Harassment Council.

Recommendation 46: The Commission in consultation with the Workplace Sexual Harassment Council develop a set of good practice indicators and methods for measuring and monitoring sexual harassment prevalence, prevention and response.

The MCA notes that the Australian Government's *Roadmap for Respect* also acknowledged the limitations of data and research and committed to funding additional surveys and studies, and asked the *Respect@Work* Council to develop an agreed data set and establish information sharing arrangements and to lead the development of indicators and methods for measuring and monitoring sexual harassment prevalence, prevention and response.

ii. Do existing workplace characteristics and practices – including but not limited to workplace cultures, rosters, drug and alcohol policies and recruitment practices – adequately protect against sexual harassment?

Given that mining workers continue to report incidents of sexual harassment, there are clearly some deficiencies in workplace culture, regulation and practice.

The key change as a result of the *Respect@Work Report* is that sexual harassment is now clearly a safety and health risk. This change will help companies use their well-developed safety and health policies, systems and procedures to put in place effective prevention and control measures.

Workplace culture has been a focus for companies for many years, and numerous culture surveys have been undertaken with a focus on human resources and safety and health.

Most companies have employee codes of conduct signed upon employment, with some requiring ongoing and annual training based on these expectations. In the future, these initiatives should include provisions designed to eliminate sexual harassment.

Workplace design and security (including in accommodation and hospitality facilities) will benefit from additional safety and health risk assessments, particularly designed to protect female and/or vulnerable workers.

Many physical assets have been designed for specific purposes but may not have considered privacy and/or security risks in shared facilities such as bathrooms. These assessments will identify additional risks.

Workplace rosters that require workers to remain at operations for a period of time can potentially increase the risk of sexual harassment. This is not unique to mining; many industries require workers to spend time away from home and in employer-provided accommodation.

In the mining industry, companies with camps have worked extremely hard over the years to provide their workforce with accommodation and hospitality facilities replicating as far as possible the 'comforts of home'. This includes supply of a variety of shared facilities including hospitality options, gymnasiums, organised sports, entertainment, social clubs etc.

While the provision of these facilities is important to worker health and wellbeing, it does bring additional risks if workplace expectations are not translated into these social settings. For example, when off shift a worker may not be aware that they are still bound by their employer's expectations on behaviour or may lack understanding of what constitutes inappropriate behaviour outside of a traditional workplace environment. Further education is required.

All mining workers have a duty to take care of their own health and safety and ensure they do not adversely affect other workers. This means they must be fit and well to do their job, not be under the influence of alcohol or drugs, or use alcohol or illegal drugs while at work. When not working, individuals must also not undertake behaviours that are unacceptable or prevent them from being fit for work at their next shift.

For example, a sexual harassment risk arises where workers live at camps and in their down time are able to access alcoholic beverages at bars or wet messes. The Australian Human Rights Commission observed that the use of alcohol was commonly raised during the inquiry through submissions and consultation as a cultural and systemic factor contributing to sexual harassment.

A number of companies have recently adopted the Australian Health Guidelines on alcohol consumption of no more than four standard drinks on any one day.

The MCA has commenced discussions with members on developing an industry standard that not only follows the guidelines but also reduces the risk of unsafe behaviours, including sexual harassment.

Research has suggested that alcohol does not, on its own, cause violence against women; however alcohol misuse may contribute to the occurrence of sexual harassment.

It is dangerous to link alcohol consumption explicitly to sexual harassment, which has led to victim blaming and excusing the behaviour of perpetrators. The *Respect@Work Report* noted that alcohol was frequently used to excuse sexually harassment.

Stopping the spread of sexual harassment across workplaces is essential. The Human Rights Commission heard that some individuals sexually harassed a victim in one workplace, then moved to other workplaces where they continued to sexually harass others.

There are frequent anecdotal examples of an employee being moved on following bad behaviour, only for it to become someone else's problem at that employee's next workplace. Allowing this transfer of risk is unacceptable and industry needs to collaborate in relation to the re-hiring of those with substantiated sexual harassment records.

Recruitment practices must ensure that unacceptable behaviour is not simply transferred to another workplace where the new employer is unaware of the allegations or proven behaviour.

To avoid this transfer of risk, the minerals industry has agreed to avoid the use of non-disclosure agreements with persons affected by sexual harassment.

This will include prohibiting commitments from the employer to provide a positive reference for the harasser or anti-disparagement clauses.

Furthermore, companies are now strengthening recruitment practices to include more extensive background and police checks prior to employment, as well as prior to promotions for existing employees.

iii. Are current legislation, regulations, policies and practices adequate for FIFO workplaces in Western Australia?

Sexual harassment is a national disgrace and its prevention is a challenge for all of society, including workplaces.

It is important that all jurisdictions are consistent in the development and application of legislative and policy settings designed to prevent and respond to sexual harassment. Society-wide cultural change is required, not just for some workplaces in some jurisdictions.

The mining industry workforce is extremely mobile, and many operators have assets in multiple jurisdictions, so regulatory and policy settings must be nationally uniform to ensure everyone is bound by the same expectations as well as protections.

There is little point in one industry's workplaces being regulated a specific way if regulatory settings across jurisdictions and industries fail to adequately govern the behaviour of a mobile workforce.

One of the challenges of preventing sexual harassment is increasing awareness and education of the issue, its prevalence and sending a clear and unequivocal message that it is unacceptable and most importantly illegal.

Differing messaging and requirements between jurisdictions will cause further anguish to victims, expose others to risk and allow perpetrators to get away with it by exploiting inconsistencies.

The current experiences of the COVID-19 pandemic have provided a telling example of the confusion and frustration arising from inconsistent requirements between different jurisdictions – with the notable exception of the messaging on the need for vaccination.

Strong, consistent and clear messaging is required as part of a range of actions to eliminate sexual harassment across society.

In addition, only focusing on FIFO workplaces ignores the workplace attributes, incidence and prevalence of sexual harassment across all workplaces across the nation. While FIFO camps have some additional risks, they also have the same risk settings as any workplace.

The MCA will leave further discussion about state-based laws to our colleagues from the Chamber of Minerals and Energy Western Australia.

iv. What actions are being taken by industry and government to improve the situation and are there any examples of good practice?

As outlined above, the MCA on behalf of the Australian mining industry is undertaking the difficult yet necessary actions required to begin the elimination of sexual harassment.

In addition to the mining industry's actions, Australia's entertainment and legal industries have developed sectoral expectations through codes of practice and a range of resources.

Screen Australia prepared an industry code in response to the global #metoo campaign. The Australian live performance industry has a code on discrimination, sexual, harassment and bullying which is a condition of membership.⁴

The Law Council of Australia released a *National Action Plan to Reduce Sexual Harassment in the Australian Legal Profession* on 23 December 2020.⁵ The plan brings together the determination of the Law Council's state and territory Constituent Bodies to address sexual harassment in the legal profession across the nation.

The Champions of Change Coalition (formerly Male Champions of Change) have released an excellent report *Disrupting the System – preventing and responding to sexual harassment in the workplace*. The Coalition is a globally recognised, innovative movement for achieving gender equality, advancing more and diverse women in leadership, and building respectful and inclusive workplaces. Members cover every major sector of the economy and include representatives from business, government, community, academic and not-for-profit organisations.⁶

The report was inspired by the National Inquiry into Sexual Harassment in Australian Workplaces, developed by more than 270 CEO and board-level leaders over two years and complemented by an excellent set of resources from which the MCA has drawn – with permission from the Coalition – in developing its industry toolkit.

The MCA's national industry code sets expectations on what is good practice across the industry. The toolkit of resources will guide companies on implementing this good practice.

It is likely that this inquiry will receive submissions from companies that will include specific examples of good practice.

Broadly speaking, these will include gendered risk assessments, security reviews of accommodation facilities, chaperone services to accommodation, safe rooms, personal safety mobile apps, alcohol limits and increased CCTV. Other specific controls will be applied to sites based on individual risk assessments.

⁴ Screen Australia, [Code of conduct to prevent sexual harassment](#), 3 April 2018; Live Performance Australia, [Australian Live Performance Industry Code of Practice to Prevent Workplace Discrimination, Harassment, Sexual Harassment and Bullying](#), 3 September 2018.

⁵ Law Council of Australia, [National Action Plan to Reduce Sexual Harassment in the Australian Legal Profession](#), 23 December 2020.

⁶ Champions of Change Coalition, [Disrupting the System: Preventing and responding to sexual harassment in the workplace](#), 10 September 2020.

5. CRITICAL GOVERNMENT ACTIONS

The MCA supports the *Respect@Work* recommendations that the Australian Government work with the states and territories to:

- Ensure there is no overlap or duplication between national and state laws
 - Following successful passage of the Sex Discrimination and Fair Work (Respect at Work) Amendment Bill 2021, ensure that relevant state/territory laws replicate the amendments
- Develop and implement a National Sexual Harassment Research Agenda (recommendation 4)
- Implement consistent regulator education and training (as per Recommendations 34-37) on the nature, drivers and impacts of sexual harassment
 - This should involve trauma-informed inspection and compliance training in line with the principles of *Change the Story* so as not to further harm victims
- Implement judicial education and training (Recommendation 40)
 - That relevant bodies responsible for developing training, programs and resources for judges, magistrates and tribunal members make available education on the nature, drivers and impacts of sexual harassment
 - This should be trauma-informed and in line with the principles of *Change the Story*
 - Support and encourage judicial officers and tribunal members across civil and criminal jurisdictions who may come into contact with victims of sexual harassment to undertake this education and training
- Adopt guidance material (Recommendations 32-33) relating to unfair dismissal, which includes dismissal relating to sexual harassment, for employers and workers in workplaces that sit outside the national Fair Work system.