



**GOVERNMENT OF
WESTERN AUSTRALIA**

Western Australian Government response to the
Community Development and Justice Standing Committee Report 2:
'Enough is Enough'
Sexual harassment against women in the FIFO mining industry

September 2022

Table of Contents

Acronyms	3
Support available – sexual harassment and sexual assault	4
Introduction	5
Government Response.....	6
Recommendations for Government	6
Recommendation 1.....	6
Recommendation 10.....	6
Recommendation 11.....	7
Recommendation 12.....	8
Recommendation 13.....	8
Recommendation 14.....	9
Recommendation 15.....	10
Recommendation 17.....	10
Recommendation 18.....	11
Recommendation 19.....	12
Recommendation 20.....	12
Recommendation 21.....	13
Recommendation 22.....	13
Recommendation 23.....	14
Recommendation 24.....	15
Recommendations for Industry	16
Recommendation 2.....	16
Recommendation 3.....	16
Recommendation 4.....	17
Recommendation 5.....	17
Recommendation 6.....	18
Recommendation 7.....	18
Recommendation 8.....	19
Recommendation 9.....	19
Recommendation 16.....	20

Acronyms

AHRC	Australian Human Rights Commission
CCTV	Closed circuit television
DMIRS	Department of Mines, Industry Regulation and Safety
DoC	Department of Communities
EOC	Equal Opportunity Commission
FIFO	Fly-in fly-out
LRCWA	Law Reform Commission of Western Australia
MAPAC	Mining and Petroleum Advisory Committee
MARS	Mental Awareness, Respect and Safety
MOU	Memorandum of Understanding
PCBU	Person conducting a business or undertaking
PwC	PricewaterhouseCoopers
SARC	Sexual Assault Resource Centre
TAFE	Technical and further education
WA	Western Australia
WAPOL	Western Australia Police
WHS	Work Health and Safety
WHSC	Work Health and Safety Commission

Support available – sexual harassment and sexual assault

The Government acknowledges the subject of the Inquiry and the content contained within the response may be distressing for those who have or are experiencing workplace sexual harassment or sexual assault. If reading or hearing any of this content is distressing, please contact the support services listed below.

- [1800RESPECT National Sexual Assault, Domestic Family Violence Counselling Service: a national telephone and online counselling and referral service](#) Phone: 1800 737 732.
- [Sexual Assault Resource Centre \(SARC\)](#) provides a range of free services to people affected by sexual violence. Phone: (08) 6458 1828 or free call 1800 199 888.
- [Beyond Blue - Anxiety, depression and suicide prevention support](#) 1300 22 4636
- [Lifeline Australia - Crisis Support](#) 13 11 14
- [Circle Green Community Legal](#) is a community legal centre in WA providing state-wide specialist legal services in workplace and employment law. Phone: (08) 6148 3636. Circle Green has provided advice on “What to do if you are being sexually harassed at work”, available at [Sexual-Harassment.pdf](#)

Introduction

The McGowan Government acknowledges the bravery and resilience of the women who shared their stories with the Community Development and Justice Standing Committee. We know there are likely many other women who were not able to tell their stories but are carrying the trauma and ongoing impact of their experience with them every day.

We believe you. We support you. Enough is enough.

Sexual harassment and sexual violence in the workplace are pervasive in many industries but particularly in male dominated industries. Power imbalances between men and women often perpetuate manifestations of gender inequality, such as strongly held beliefs about gender roles, or attitudes and behaviours towards people based on their gender. This can create a culture and social conditions that enable violence and harassment towards women.

We are strongly committed to providing safe, healthy and inclusive workplaces for all workers across WA, regardless of industry or size.

Our Government is committed to adopting proactive measures to prevent sexual harassment and violence before it occurs. However, a cultural change within the mining industry cannot happen in isolation. Perpetrators must be held to account. Employers must demonstrate their commitment to creating a culture of inclusivity, respect and safety for all employees.

Addressing and preventing sexual harassment in the workplace ensures women's safety and their future economic security. We know that supporting women to fully participate in the workplace is better for the community and the economy.

The McGowan Government has considered in detail the recommendations of the *Enough is Enough* Report and the response is provided in this report. The Government supports in total or in principle all of the recommendations that are directed towards it. While significant efforts have and continue to be made to address workplace cultures that enable and tolerate violence and discrimination against women, we cannot be complacent. As a community, we expect and deserve more.

We are calling on industry to work alongside Government to hold perpetrators to account, improve reporting processes, strengthen supports to victims and survivors and work collaboratively to share information and training to create a future mining industry that is accountable and responsive to community standards.

We will continue to advocate for change.

Government Response

Recommendations for Government

Recommendation 1

The Government consider establishing a forum to hear, document and acknowledge the experiences of victims of historical workplace sexual harassment. Part of this process could include exploring opportunities for redress, such as formal apologies from companies and/or perpetrators and appropriate compensation.

Government Response

Supported in principle

The Government recognises the importance of providing victims of historical workplace sexual harassment with the opportunity to share their experiences, be heard and promote healing.

The Government notes there are existing, well-established avenues to seek redress and compensation, and will support victim's access to these pathways by funding a community legal and advocacy service to provide guidance, information and referrals to affected Western Australians. This service will be available for free to victims with the view to empowering them with information around psychological support and potential legal options available. Sexual harassment is of course not exclusive to the mining sector, therefore the Government will give consideration to other similar services.

The Government also notes the establishment of a dedicated business outreach and support team within the AHRC. The AHRC will support workplaces to respond to people who wish to come forward with historical complaints of sexual harassment as part of implementation of Recommendation 27 of the Respect@Work Report. This dedicated business and outreach and support will be supplemented by ensuring employers have access to guidance materials to assist in supporting victims of workplace sexual harassment.

Recommendation 10

The Minister for Mines to instruct DMIRS to work with WorkSafe WA and mining bodies to prepare regular, anonymous, independently administered surveys and/or audits to gauge the extent, impacts, reporting of, and responses to, sexual harassment and assault in the workplace (including in accommodation camps). The Minister should then ensure that regular updates on industry trends are made public.

Government Response

Supported in principle

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The Government notes the processes for capturing information on sexual harassment and sexual assault are fundamentally different; sexual assault is criminal behaviour. As such, WorkSafe limits the surveys and audits which it conducts to sexual harassment only.

Through the MARS Program, the Centre for Transformative Work Design, part of the Future of Work Institute at Curtin University, has been engaged to design and implement a research and evaluation project focused on the mining industry to obtain baseline data on mental health, sexual harassment, and assault, emerging mine safety issues and related workplace initiatives, including the use of surveys and audits. This landmark study will be completed over a four-year period with preliminary findings, to be delivered in October 2022, to be used to further develop mental health, sexual harassment and workplace culture initiatives to improve safety outcomes for the mining sector.

Initiatives and safety outcomes produced as a result of the surveys of the landmark study will be communicated to industry and published.

Recommendation 11

The Minister for Mines, the Minister for Industrial Relations, and the Minister for Women's interests should work with relevant agencies and stakeholders to determine the best-placed entity to become the central coordinator and record-keeper for reports of sexual harassment in the workplace.

Government Response

Supported

The Government notes the response to sexual harassment used to be managed as a human resource or equal opportunity issue; sexual harassment is now acknowledged as a work, health and safety issue.

Accordingly, the Government acknowledges WorkSafe as the central coordinator and record keeper for reports of sexual harassment *in the workplace*. Supporting this recommendation, WorkSafe has increased and will continue to evolve the data collection and reporting capacity and information sharing capability with relevant agencies. Collaborative arrangements exist with WAPOL, EOC and the Labour Relations Division of DMIRS. Development of the MOU with WAPOL, DMIRS and WorkSafe will ensure effective ongoing communication and coordination.

In acknowledgment of the extensive issues identified by the Inquiry, DMIRS appointed an independent expert, Elizabeth Shaw from PwC, to provide recommendations on improving its enforcement model and processes for responding to incidents of sexual harassment and sexual assault in the mining industry. To be completed in October 2022, PwC will provide a set of robust recommendations on how to improve processes, procedures, skill sets, systems and training to ensure DMIRS delivers a world-class regulatory response. As part of the Regulatory Capability Review, PwC will consider this recommendation and provide advice on actions to be taken by DMIRS. The Minister for Industrial Relations has committed to publishing the results of the PwC review.

The Government supports the Commonwealth's commitment to implementing the recommendations of the Respect@Work Report. As such, WorkSafe will work with the Workplace Sexual Harassment Council to improve coordination, consistency and clarity across key legal and regulatory frameworks to improve prevention and response to sexual harassment, in line with Recommendation 14 of the Respect@Work Report.

Recommendation 12

The Minister for Mines should direct DMIRS to further explore options such as audits and surveys to conduct investigations which do not compromise any complainant's anonymity.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The Government notes WorkSafe has a team of specialist psychosocial inspectors trained to respond to incidents of sexual harassment and sexual assault in the workplace.

There are existing surveys and audits, such as the mentally healthy workplaces audit tool and technical guide, and People at Work psychosocial risk assessment survey, which take a holistic view of an organisation's systems related to psychosocial hazards without compromising anonymity. In addition, the new triaging area at WorkSafe provides for better gathering of information which will be further supported with the development of guidance material to be provided to complainants which describes the investigation process and protections in place around anonymity.

Furthermore, section 155 of the *Work Health and Safety Act 2020* gives power to the regulator to compel an organisation to conduct a workplace audit or investigation. Such powers may be used where WorkSafe receives multiple anonymous reports.

Recommendation 13

WorkSafe WA use its industry influence to inform workplace investigation and training requirements. It should also utilise anonymised reports from other agencies such as Crime Stoppers for this purpose.

To enable this, the Minister for Mines should ensure appropriate information sharing arrangements are included in any new Memorandum of Understanding between DMIRS/WorkSafe WA and the WA Police Force.

Government Response

Supported in principle

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

WorkSafe in conjunction with industry will develop contemporary guidance on workplace investigation and training requirements, recognising consideration needs to be given to first responders in the industry, to ensure the investigations conducted by industry have a victim centric approach and are consistent with natural justice.

Government is committed to improving the quality of investigations and is exploring options to partner with industry to develop and deliver specialist investigations training on this subject, including a focus on technology-facilitated sexual harassment, such as intimate image abuse.

The use of anonymised reports, for investigations, from an agency such as Crime Stoppers will be addressed in the proposed MOU between WAPOL, DMIRS and WorkSafe. The MOU will outline parties' jurisdictional responsibilities and establish protocols to resolve matters where there is ambiguity. DMIRS will publicise the sharing of information when appropriate and where permitted by law.

Recommendation 14

The Minister for Mines instruct DMIRS to work with industry bodies to explore options for industry-funded widespread rollout of consistent, all-hours, third-party anonymous reporting platforms to complement existing company systems. In doing so, consideration must be given to promoting and building trust in potential users, including education sessions, culturally-sensitive reporting options and evidence-driven wraparound support services.

Government Response

Supported in principle

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The Government supports a full assessment being made of existing platforms by MAPAC, with consideration being given to utilise those with expertise in responding to reports of sexual assault and sexual harassment.

The Government notes WorkSafe has a 24 hour, seven-day per week reporting line for anyone to report an incident.

Promotion of WorkSafe's 24/7 reporting line will be developed and advanced through the MARS Program. Work is being undertaken to ensure the reporting line is appropriately resourced and fit for purpose.

The impending MOU between WAPOL, DMIRS and WorkSafe will outline parties' jurisdictional responsibilities and establishment of protocols to resolve matters where there is ambiguity, including the use of anonymous platforms.

The Government acknowledges difficulties with using anonymous data, e.g. a system level investigation for one anonymous report may not be able to address a complainant's specific matter. However, WorkSafe psychosocial inspectors have existing surveys and audits, such as the People at Work psychosocial survey, which take a holistic view of an organisation's systems related to psychosocial hazards without compromising anonymity. Additional funding has allowed for the development of a new WorkSafe triaging area which provides for better gathering of data with the possibility for de-identified information being made public.

The *Work Health and Safety Act 2020* also provides new powers to the regulator under section 155 to compel an organisation to conduct a workplace audit or investigation. These new powers provide for the regulator to investigate work health and safety issues without an individual complaint. It would allow investigations where multiple anonymous reports are made.

Recommendation 15

The Minister for Mines instruct DMIRS to work with mining peak bodies to develop appropriate education and training across the industry for bystanders on when and how to report incidents of sexual harassment, and make this a key component of cultural change in the industry.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The Government is working with industry on several fronts to develop and deliver education and training on sexual harassment, sexual assault, sex-based bullying, empowering bystanders and general gender-based violence and reporting processes.

Through the Work Health and Safety Implementation Peak Body Grants Program, Government is supporting industry to transition to the new work health and safety laws that came into effect in March 2022, including the psychosocial requirements and reporting obligations.

In addition, the MARS Program is a whole-of-government initiative that aims to improve the health, safety and wellbeing of workers and others in the mining industry. This will be achieved with organisational and systemic change in three focus areas:

- Creating mentally healthy workplaces.
- Building a culture of safety and respect.
- Preparing for workplace safety in the future mine.

DMIRS is working with the MHC, the EOC, and the DoC to develop and deliver the program.

Respect in Mining, implemented by the DoC is a pilot initiative in a number of small-to-medium mining companies to engage workers about gendered drivers of violence, implement a whole-of-organisation approach to violence prevention including bystander training, and work to embed respectful relationships across the organisation.

Recommendation 17

The Minister for Mines instruct DMIRS to work with industry bodies to investigate and monitor recent and current use of non-disclosure agreements and private settlements relating to allegations of sexual harassment and assault, and explore options for issuing formal guidance to the industry to inhibit their future use.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

As recommended, the Minister will instruct DMIRS to work with industry bodies to investigate and monitor recent and current use of non-disclosure agreements and private settlements relating to allegations of sexual harassment and assault and explore options for issuing formal guidance to the industry to inhibit their future use.

The Government notes the parallel with Recommendation 38 of the Respect@Work Report and the work currently underway by the Commonwealth.

The Attorney-General's department with the support of the Fair Work Commission, and in consultation with the Respect@Work Council, developed draft guidance materials with best practice principles for the use of non-disclosure agreements in sexual harassment matters. The Government notes this guidance may be released by Safe Work Australia.

Once the guidance materials are released, they will be closely considered when exploring options for issuing any formal guidance to industry.

Recommendation 18

The Minister for Mines ensure that DMIRS has an effective and comprehensive data management system that is adequate to the needs of monitoring and reporting on sexual harassment.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The Government has funded DMIRS to develop a comprehensive data management system to unify the functional WorkSafe inspectorates under the new WHS framework.

The DMIRS' safety management system modernisation program will provide a contemporary, fit-for-purpose technology, assisting to simplify and standardise the way DMIRS regulates health and safety, making no distinction between the primary employer and contractors; a good practice regulator with efficient and effective business processes.

The process for developing the new technology solution will drive the transformation, streamlining, simplification and standardisation of process, reduction in effort and non-value-added activity and reduced lead times for investigations. It will form an important part in the process of moving to a single regulator, under a single WHS Act, with consistent processes across all streams of work.

The Government recognises the parallel with Recommendations 3 and 46 of the Respect@Work Report. It is noted that the collection and monitoring of data could be shared with the national Workplace Sexual Harassment Council to further the understanding of sexual harassment in the workplace.

Recommendation 19

The Minister for Mines provide public status updates of the formal information sharing arrangement between the WA Police Force and DMIRS/WorkSafe WA, including how it will cover incidents relating to workplace sexual harassment and assault, and how and when it will be reviewed.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

The impending MOU between WAPOL, DMIRS and WorkSafe, will outline parties' jurisdictional responsibilities and establishment of protocols to resolve matters where there is ambiguity.

DMIRS will provide public status updates on the cooperation and sharing of information in relation to the operations of the parties, where appropriate and where permitted by law.

Recommendation 20

The relevant Government agencies coordinate to ensure timely implementation of the recommendations of the Law Reform Commission review into the *Equal Opportunity Act 1984*, with a focus on reversing the onus of proof on victims of sexual harassment, to remove the 'disadvantage' test, and make it consistent with recent anti-discrimination law from other jurisdictions, including the Victorian *Equal Opportunity Act 2010*.

Government Response

Supported

The Government notes the recent LRCWA review of the *Equal Opportunity Act 1984*. The Final Report was tabled in Parliament on 16 August 2022 and makes 163 recommendations to update the State's anti-discrimination laws and ensure it is fair and effective.

The Government has broadly accepted most of the recommendations and several key reforms will be included in the Amendment Bill including removing the "disadvantage test" for sexual harassment complainants (Recommendation 98 of the Final Report). Recommendation 99 is that the Act should adopt the definition of sexual harassment contained in the *Sex Discrimination Act 1984* (Cth) which will make WA broadly consistent with other Australian jurisdictions, including Victoria.

Recommendation 21

The Minister for Mines, in cooperation with the Minister for Industrial Relations and the Minister for Women's Interests, review the WA regulatory framework to ensure that there is a consistent and comprehensive definition of 'sexual harassment' across all the relevant components of the system.

Government Response

Supported

The Government notes Recommendation 99 of the LRCWA's review of the *Equal Opportunity Act 1984* states the Act should adopt the definition of sexual harassment contained in section 28A of the *Sex Discrimination Act 1984* (Cth).

In addition, the Government notes the upcoming amendment to the model regulations to include a definition of sexual harassment. Following this, an amendment will be made to harmonise the Western Australian regulations.

Once completed, DMIRS will update its publications to ensure there is a consistent and comprehensive definition of sexual harassment.

Recommendation 22

The Minister for Mines provide regular updates on the progress and outcomes of:

- the DMIRS review of historical assault cases;
- the delivery of the Mental Awareness, Respect and Safety program, including the progress of the four-year research project to gather and evaluate data on sexual assault, harassment, mental health, drug and alcohol use, and emerging mine safety issues; and
- the review of DMIRS' enforcement model.

Government Response

Supported

It is noted the Minister for Industrial Relations has the primary responsibility relevant to this recommendation, not the Minister for Mines.

A specialist WorkSafe team is reviewing historical assault cases with progress of the review to be reported in DMIRS' Annual Report. Subject to the terms of the MOU between WAPOL, DMIRS and WorkSafe, agencies will share information on historical assault cases to allow further investigation of matters by WAPOL.

Through the MARS Program, the Centre for Transformative Work Design, part of the Future of Work Institute at Curtin University, has been engaged to design and implement a research and evaluation project focused on the mining industry to obtain baseline data on mental health, sexual harassment, and assault, emerging mine safety issues and related workplace initiatives. This landmark study will be completed over a four-year period with preliminary findings, to be delivered in October 2022, to be used to further develop mental health and workplace culture initiatives and improve safety outcomes for the mining sector.

The Regulatory Capability Review will be made public when it is completed in October 2022. It will provide DMIRS with a set of robust recommendations on how to improve processes, procedures, skill sets, systems and training to ensure it delivers a world class regulatory response.

The Minister will provide a report on the MARS Program and the Regulatory Capability Review by the end of the 2022 Parliamentary sitting period and thereafter in DMIRS' Annual Report.

Recommendation 23

The Minister for Mines and the Minister for Industrial Relations work with relevant stakeholders, including the WorkSafe Commissioner, to develop comprehensive standards and guidelines to lead the integration of sexual harassment into work health and safety practice. This should include:

- clear guides to what constitutes sexual harassment, gender harassment and other dangerous behaviours;
- guidelines for dealing with identified incidents;
- definitions of thresholds for various types of identified behaviour/incidents, recognising that 'days off work' is not a reasonable measure for these matters; and
- expectations for reporting to the regulator and by the regulator of the prevalence and progress in dealing with incidents.

This material and these processes should so far as possible remove all ambiguity for mining and other companies, and include allowance for anonymous reporting by individuals.

Acknowledging that this will involve a substantial body of work, the relevant Minister/s should report by the end of 2022 and six-monthly thereafter on progress to achieving these outcomes.

Government Response

Supported

It is noted the Minister for Industrial Relations has the primary responsibility relevant to this recommendation.

The Government recognises sexual harassment is a work, health and safety issue.

National WHS Ministers agreed to amend the model WHS Regulations to deal with psychosocial risks, including sexual harassment, as recommended by the Boland review. This is currently being progressed through the State jurisdictions following adoption by Safe Work Australia. The Minister for Industrial Relations is committed to adopting the regulations.

To assist with the integration of sexual harassment into work health and safety practices, the WHSC has developed codes of practice tailored to Western Australia which focus on different areas where psychosocial as well physical harms may be experienced in a workplace:

- Violence and aggression at work;
- Workplace behaviour;
- Psychosocial hazards in the workplace; and
- Mentally health workplaces for fly-in-fly-out (FIFO) workplace.

DMIRS will review these codes of practice and other relevant publications, with specific priority given to the Mentally healthy workplaces for FIFO Code of Practice.

DMIRS' review of its publications aligns with Recommendation 46 of the Respect@Work Report, informing the development of good practice indicators and methods for measuring and monitoring sexual harassment prevalence, prevention and response.

Following any amendments to the legislative definition of sexual harassment through the LRCWA's review, DMIRS will update its publications to ensure a consistent and comprehensive definition of sexual harassment.

Government will host an 'Enough is Enough' convention to help drive cultural change across the Western Australian mining industry. To be held in the first part of 2023, the objective for the convention is commitment around cultural change, from companies, mine management, supervisors, health and safety representatives, unions and safety professionals.

The Government notes the recent LRCWA review of the *Equal Opportunity Act 1984*. The Final Report was tabled in Parliament on 16 August 2022 and made 163 recommendations to update the State's anti-discrimination laws and ensure it is fair and effective. In implementing the recommendations of the Final Report, the scope of equal opportunity management plans, including a proposed expansion to include sexual harassment, will be subject to further consultation and review. Recommendation 163 of the Final Report also empowers the EOC to investigate matters within the scope of the Act on its own motion and take action at the conclusion of an investigation.

The Government will provide an update on its response to this recommendation in the progress report to be submitted before the end of the 2022 Parliamentary sitting period.

Recommendation 24

The Minister for Mines instruct DMIRS to work with WorkSafe WA, the mining industry, relevant unions, and other stakeholders to establish a fully resourced, culturally-appropriate expert group within WorkSafe WA with specialist expertise, experience and training to investigate, assess and deal with reports of sexual harassment and assault and related offences in the mining industry. This should include consideration of the approach currently taken by WorkSafe Victoria.

The Minister report progress on this to Parliament by the end of 2022's sitting period.

Government Response

Supported

It is noted this recommendation should refer to the Minister for Industrial Relations, not the Minister for Mines.

Government supports this recommendation and is awaiting the provision of expert advice from the Regulatory Capability Review to fully inform this response, which will include consideration of WorkSafe Victoria's approach.

The Government acknowledges the parallel with Recommendation 47 of the Respect@Work in which key industry and professional groups collaborate to establish industry and profession-wide initiatives to address sexual harassment in the workplace.

The Government will provide an update on its response to this recommendation in the progress report to be submitted before the end of the 2022 Parliamentary sitting period.

Reporting on the progress of implementation of the recommendations in the *Enough is Enough* Report will be made in DMIRS' annual report.

Recommendations for Industry

Recommendation 2

Mining and other resources companies need to ensure that there are serious repercussions, including dismissal, for any person who has attempted to seek sexual favours for advantage and that all proper legal actions will be taken against them.

Government Response

Noted

The Government notes the recent strengthening of Western Australian law relevant to this recommendation with stop bullying and sexual harassment provisions for workers. The Western Australian Industrial Relations Commission now has parallel powers with the Fair Work Commission. Employers should ensure complaints are properly investigated, inclusive of natural justice principles and any employee/worker that "attempts to seek favours for advantage" should be terminated following a proper investigation and process.

The Government also notes the importance of effective investigations in gathering evidence in these matters and is committed to upskilling safety and health professionals. The Government will partner with industry to develop and deliver enhanced investigation training on this subject.

The recent introduction of the *Work, Health and Safety Act 2020* and regulations thereunder requires employers to effectively manage contractors and sub-contractors and ensure these hazards are appropriately identified and addressed.

Recommendation 3

The industry must explore ways to prevent perpetrators of serious sexual harassment simply finding reemployment on other sites and in other companies. This should involve:

- thorough exploration of an industry-wide workers' register or other mechanism such as industry-wide accreditation, taking into account natural justice considerations and perhaps modelled on the Working With Children Card; and
- ensuring probity checks across the industry include consideration of harmful sexual behaviours particularly for smaller companies and sub-contractors.

Government Response

Noted

The Government notes that industry is responsible to ensure safe, healthy and respectful workplaces and the prevention of predatory behaviour. This responsibility is held by the PCBU, including contractors, not just the principal employer.

The Government supports steps being taken to stop serial harassers and sexual predators moving between employers or worksites. There are, however, legal complexities, including considerations of natural justice and privacy, with implementing an industry-wide register.

Recommendation 4

Mining companies must as a minimum implement moderate drinking standards for all FIFO accommodation sites.

Government Response

Noted

The Government notes this recommendation aligns with National Health and Medical Research Council Alcohol Guidelines for reducing risk of injury (no more than 4 standard drinks per day) and harm minimisation submissions of the Chief Health Officer under section 69(8a) of the *Liquor Control Act 1988* on applications for liquor licences on mine sites.

Recommendation 5

While merely 'adding more women' to the mix is not enough to remedy cultural problems, mining companies need to improve the gender balance in their workplaces.

Part of this must include greater effort to increase female workforce participation, with specific focus on site-level supervisor and management positions.

Government Response

Noted

The Government supports gender balance and transparency initiatives in the workplace. There are many proven benefits to workplace gender equality such as improved business outcomes, improved organisation's reputation amongst stakeholders and the promotion of innovation.

Female leadership and women's economic independence are key priorities of Stronger Together: WA's Plan for Gender Equality. Government is committed to working with industry bodies to continue to address this issue.

The Federal *Workplace Gender Equality Act 2012* requires non-public sector employers with 100 or more employees to submit a report to the Workplace Gender Equality Agency. The Government notes the ability of companies to seek accreditation (in addition to reporting) to identify gender equality issues and put action plans in place.

Gender equality and transparency initiatives can be advanced through collaboration with industry via existing initiatives such as the Respect in Mining initiative within the MARS Program.

The Government will explore possible regulatory changes to assist in improving transparency of gender participation in the industry.

Recommendation 6

The mining and resources sector actively work to reduce the risks which are exacerbated by high rates of labour-hire and sub-contracting. To ensure sexual harassment is addressed, safety management plans should:

- consider the appropriate proportion of labour-hire and contracted workforce;
- review monitoring and information sharing arrangements with all levels of contract partners; and
- establish clear requirements and guidelines for all contractors, which directly address issues of sexual harassment.

Government Response

Noted

The Government welcomes initiatives to reduce the risks associated with labour hire and sub-contracting including the prevention of sexual harassment across the industry.

To ensure acceptable standards are established, the Minister for Industrial Relations will request the MAPAC to consider amendments to the Mines Safety Management System Code of Practice, specifically in relation to the impact of labour hire and subcontracting.

As part of the transition to the new work, health and safety legislation, DMIRS is reinforcing that the duty of care is a legal obligation of the PCBU, not just the principal employer. Information in respect to this obligation is highlighted through the existing Work Health and Safety Peak Body Grants Program, WorkSafe's educative role and the MARS Program.

The Government notes that an Employment White Paper will be developed following the Commonwealth Government's Jobs Summit in September. The Government anticipates new legislation into the Federal Parliament in November in response to the White Paper including provisions for increased job security.

The Government response to Recommendation 18 provides information on DMIRS' new safety management system modernisation program to standardise the regulation of work health and safety in Western Australia.

Recommendation 7

Acknowledging the wide range of company size and capability, the large mining companies and representative bodies should develop a template/framework to assist all companies to review their workplace culture, processes, and work and living conditions to identify factors which allow sexual harassment to persist.

Government Response

Noted

The Government notes that resources already exist and are available for industry.

WorkSafe has an existing suite of resources for industry to review workplace culture and identify psychosocial hazards, including survey, audit and self-assessment tools.

WorkSafe will continue to educate, inform and regulate the industry with a view to using its influence to upskill industry to conduct its own investigations, and assist in industry transition to the new work, health and safety legislation.

WorkSafe is also upskilling its own inspectors with specific training on psychosocial hazards and harms to ensure it can educate and inform industry on workplace culture risks. In addition, DMIRS has recently created a training branch within Safety Regulation wholly dedicated to regular and ongoing staff training, which includes a focus on psychosocial hazards.

Cultural change will be advanced through MARS Program initiatives, with a focus on psychosocial factors and embedding respect in the mining industry. The Government supports collaboration and information sharing across the industry and encouraging industry to seek accreditation with the Workplace Gender Equality Agency to identify gender equality issues and put action plans in place.

Recommendation 8

The mining and resources industry must establish acceptable standards for accommodation facilities, including security and other safety measures (including lighting, locks, CCTV, public area layouts).

Government Response

Noted

To ensure acceptable standards are established, the Minister for Industrial Relations will request the WHSC and MAPAC to develop a Code of Practice for mining and construction accommodation.

Consideration will also be given to the subsequent development of Codes for regional and remote workplace accommodation across other industry sectors in collaboration with Safe Work Australia.

Recommendation 9

The industry should ensure that sexual harassment and assault training is accredited, fit for-purpose, and delivered by suitable practitioners. Training should be mandatory and ongoing for all employees. There should be additional specialist training for people who must formally respond to incidents.

Government Response

Noted

The Government welcomes initiatives to support the prevention of and appropriate response to sexual harassment across the industry. The announcement by Rio Tinto, BHP and FMG to collaborate and fund a pilot program for TAFE students which will form core learning requirements is an example of this.

As part of the MARS Program, the DoC is developing a bespoke Respect in Mining training program building on the evidence base of the Respectful Relationships program. Respect in Mining is a primary prevention initiative to prevent gender-based violence against women in the WA mining industry.

The Respect in Mining program seeks to build mining sector organisational capability to prevent and address gendered drivers of sexual harassment and assault against women working in the mining sector.

The Government is committed to:

- Fund, through the MARS Program, a training package for mining first responders, who provide service and support to victims on remote mine sites.
- Mandate psychosocial hazards, highlighting sexual harassment, as a component for training for Health and Safety Representatives.
- Develop and prescribe WHS Risk Management Units on the management of sexual harassment risks in the workplace for statutory supervisors and positions of authority on mine sites.
- Review existing units of competency to include knowledge of the risk factors for sexual harassment for all workers entering a mine site.
- Upskilling safety and health professionals by partnering with industry to develop and deliver enhanced training for investigations of sexual harassment.
- Improve responses for victims of sexual harassment and sexual assault by requiring Health Management Plans in the Mine Safety Management Systems include suitably trained emergency responders to provide an immediate trauma informed response to disclosure, including referral options relevant to the victim e.g. psychological, medical and criminal, along with an understanding of victim and survivor responses.
- Requiring Health Management Plans to include an audit tool for the effectiveness of measures in place around sexual assault, sexual harassment and wellbeing of workers.

The Government also notes the parallels with Recommendation 45 of the Respect@Work Report, where industry educational bodies, in consultation with the Respect@Work Council, develop accredited education and training for individuals in roles that are responsible for advising employers on sexual harassment.

Recommendation 16

Mining companies establish a number of internal and external options for reporting and obtaining support for incidents of sexual harassment and assault. All employees must be informed of these options.

Government Response

Noted

The Government welcomes initiatives from industry to improve reporting and obtaining victim support following incidents of sexual harassment and sexual assault.

WorkSafe notes that reporting obligations fall upon the PCBU and that it will continue to educate, inform, and to ensure reporting obligations are thoroughly understood.

Communication on reporting avenues including promotion of WorkSafe's 24/7 reporting line will be through the MARS Program.