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JOINT MEDIA RELEASE

Community Legal Centres welcome the passing of Respect@Work as a huge milestone for Australia

Leading Community Legal Centres (CLCs) have welcomed the passing of the Government's Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Bill 2022.

Positive duty to eliminate unlawful sex discrimination

This Bill gives legislative effect to key *Respect@Work* recommendations, including the creation of a positive duty on employers to take reasonable and proportionate measures to eliminate unlawful sex discrimination. It was also a key election commitment for the Albanese Government.

Emma Golledge, Director of Kingsford Legal Centre reflected on the changes:

"We are thrilled by the creation of a positive duty on employers to eliminate sexual harassment at work. We have been advocating for this for many years. This provision has the potential to have a profound impact on the lives of many workers in Australia. This will mean employers will have a legal obligation to take concrete steps to make workplaces safer and free from sex discrimination. This will have a cultural and systemic impact, with the burden of preventing and addressing sexual harassment being shifted to those in positions of power."

Statutory review provision

CLCs also congratulate the Government for amending the Bill to include a statutory review clause. Under the Bill, the Minister will commence an independent review of the Bill two years after the enforcement provisions for the positive duty come into effect. This will include a review of whether the Australian Human Rights Commission is adequately supported to carry out its enforcement role for the positive duty.

Ms Pip Davis, Principal Solicitor of Women's Legal Service NSW commented:

"This Bill is too important to not be subject to ongoing statutory review. The Bill creates provision for at least one review. Statutory review will be vital to ensure that the provisions on enforcing the positive duty are working in practice, and that the Bill is achieving its key goals of eliminating unlawful sex discrimination and holding employers accountable for failing to provide a workplace that is safe and free from sexual harassment. It will also give us the opportunity to assess whether the Australian Human Rights Commission is being properly funded and supported to undertake its key role of enforcing the positive duty."

Ms Zana Bytheway, Community Legal Centres Australia's representative on the Respect @Work Council, also noted the importance of statutory review of the Bill so that the amended legislation ensures greater consistency and intersectionality in federal anti-discrimination law:

"This Bill is a huge first step, but it is just the beginning in terms of reforming federal anti-discrimination laws to operate more consistently and reflect the intersectional nature of discrimination. For example, our centres will be advocating for a positive duty on employers to not just prevent sexual harassment but to prevent other forms of discrimination at work, including discrimination based on disability, age, and race. This provision will assist us with this work."

Costs review on Federal Anti-discrimination law

While the government originally proposed a 'cost neutral' approach to costs in federal discrimination matters under the Bill, this provision has been removed. The provision sought to create a presumption that parties bear their own costs in federal discrimination matters. Our Centres had raised concerns about how the provision would operate for CLC clients.

CLCs have been advocating for an "equal access" model for costs. This approach would provide people who bring discrimination matters in the federal courts with greater protection against an adverse costs order if they lose their matter, but still enable them to access an order for the other side to pay their legal fees if they win.

The Attorney-General's Department has committed to immediately commencing a review into the approach to costs in discrimination matters. CLCs have supported this in the short-term to provide greater opportunity for consultation on the best costs model for the Bill.

Emma Golledge, Director of Kingsford Legal Centre reflected on the changes:

"The issue of costs in human rights matters is a key access to justice issue for many of our clients. Even the strongest discrimination cases can lose in court on technical points. We look forward to continuing to advocate through this review process for the best costs model. Australia must get this costs issue right so that women who experience sexual harassment at work are not afraid to litigate matters and hold perpetrators to account."

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