

A roadmap for Respect: The Key Legislative Changes and the Respect@Work Report

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Overview

What is sexual harassment?

Statistics

Key recommendations for employers

Legislative changes including the FW Act and SDA

The impact for employers and the workplace



What is sexual harassment – Sex Discrimination Act 1984 (Cth)

A person sexually harasses another person (the *person harassed*) if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Sexual harassment – What does it look like?

Sexual harassment can be physical, verbal or written. Examples include:

- comments about someone's private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive images or objects
- repeated requests to go out
- requests for sex
- sexually explicit emails, text messages or posts on social media
- sexual assault
- suggestive behaviour.

Some numbers



of Australians have been sexually harassed at some point in their lives – which includes 85% of women and 57% of men.



or one in three people, have experienced sexual harassment at work in the last five years.

Key recommendations for employers

Positive duty on employers to take “reasonable and proportionate” measures to eliminate sex discrimination, sex harassment and victimisation

Timeframe as a ground on which the AHRC President can terminate and accepted complaint

Stop sexual harassment order

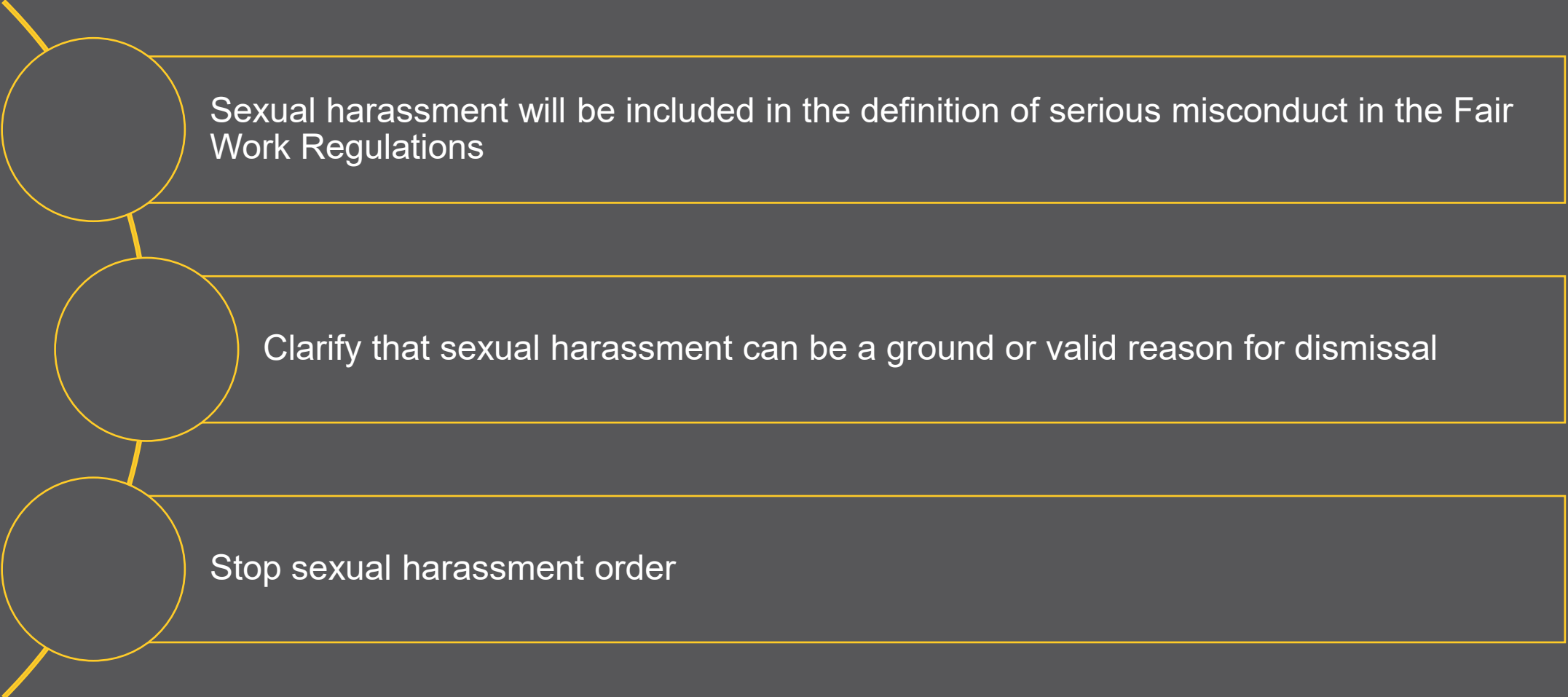
AHRC be given the function of assessing compliance with the positive duty and for enforcement

Unfair dismissal and serious misconduct

Changes to the AHRC Act

Extend the President's discretion from 6 months to 24 months (since the alleged acts) in respect of termination of a complaint under the Australian Human Rights Commission Act

Changes to the FWA



Sexual harassment will be included in the definition of serious misconduct in the Fair Work Regulations

Clarify that sexual harassment can be a ground or valid reason for dismissal

Stop sexual harassment order

Changes to the SDA



Sex-based harassment is expressly prohibited

Extend the SDA scope to encompass public servants

Aiding or permitting an unlawful act – harassment on the grounds of sex

Make explicit that any conduct that is an offence under section 94 of the Sex Discrimination Act (victimisation) can form the basis of a civil action for unlawful discrimination

Proposed new approach to addressing sexual harassment in the workplace



Safe Work Australia national guidance material



Impact for employers and the workplace



Lost productivity



Staff turnover



Negative impact on workplace culture

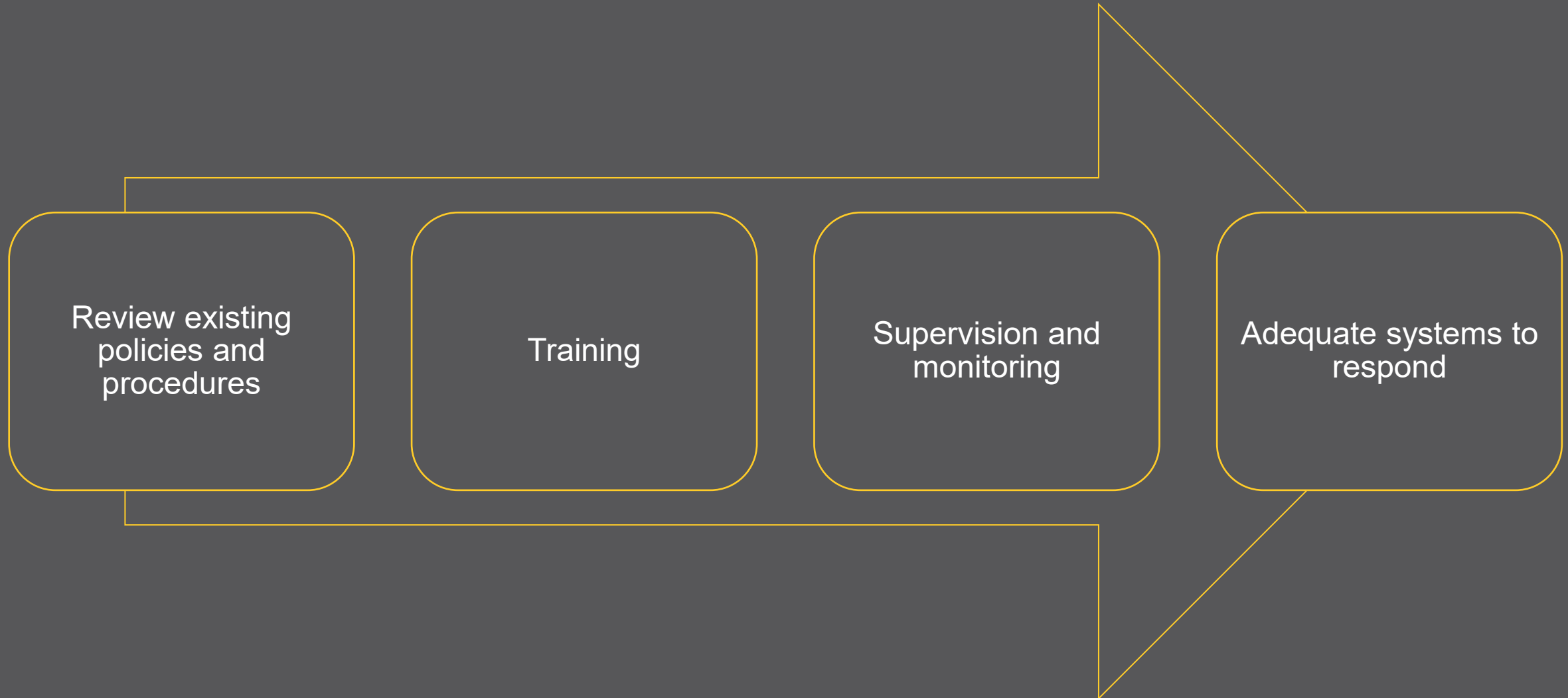


Resources associated with responding to complaints, litigation
and workers' compensation



Reputational damage

Impact for employers and the workplace



Questions



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