



Respect@work Legislation

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What are some insights on the key lessons for senior managers, CEOs and directors from the passing of these new laws?

Key Lesson One: Know the new legislation & its implications

Since the release of the Respect@Work report in March 2020, best practice employers have been focussed on improving systems and processes to improve physical and psychological safety for employees in the workplace. Such actions are also increasingly being seen as crucial to discharging an employer's ESG obligations. With the introduction of a Federal positive duty for employers to take reasonable and proportionate measures to eliminate workplace sexual harassment, victimisation and sex discrimination as far as possible, it is now more urgent for those organisations who have not been proactive in reviewing their governance systems and frameworks or taken a deep dive into the culture and behaviour of their organisation to do so.

Tip - Know what constitutes sex-based discrimination and harassment. WGEA provides a great summary - <https://www.wgea.gov.au/take-action/sex-based-discrimination-and-harassment>

Key Lesson Two: Create a compliance culture

At its core, compliance culture is a process that is guided and supported by many people to create an environment in which everyone feels empowered and respected to say and do the right thing. Having a culture of compliance means that every employee knows and understands the rules and, more importantly, embraces their part in ensuring that they are followed. In other words, don't see the positive duty as a further impost or a 'compliance' or legal matter but as a way of providing a safe workplace with a positive and productive culture to employees and others who work in their workplaces.

Tip - Know how to consult effectively. Again, WGEA has some great resources. <https://www.wgea.gov.au/resources/guide-to-consulting/consulting-effectively>

Key Lesson Three: This is not 'just an HR issue'

The responsibility for ensuring a workplace safe from sexual harassment, victimisation and sex discrimination is everyone's responsibility. It is not 'just another job' for the already over-burdened HR team. Leaders across the organisation must assume responsibility for developing team mindsets where everyone is seen as playing a part in ensuring others are treated appropriately. Where behaviour breaches are addressed immediately and not let drag on for months or be shunted off to someone else to deal with. The HR team is there to support and assist but cannot do the work for the whole organisation in creating a positive culture where the rights of individuals to a workplace free of harassment and violence.

Respect@work invites organisational leaders to focus on the four areas for prevention - **leadership, risk assessment and transparency, culture and knowledge**, ahead of the three areas for response - support, reporting and measuring.

Tip - Be familiar with the respect@work framework in which workplaces can address sexual harassment. See <https://www.respectatwork.gov.au/organisation>

Key Lesson Four: 'It's the way things are done around here' is not an acceptable culture

Of the four domains for prevention, culture is the most difficult to shift as the ideology of 'this is the way things are done around here' can be deeply embedded in the psyche of an organisation and its people. Culture drives how employees act in critical situations, how they manage pressure and respond to situations and challenges, and how they treat suppliers, customers, business partners and each other. It also sits at the heart of how passionate they are about organisational purpose and vision.

"Culture eats strategy for breakfast" is a famous quote from legendary management consultant and writer Peter Drucker. No matter how robust your strategic plan is, it can only succeed if the habitat in which it operates (the culture) is vibrant, healthy and respectful. Arguments that 'a bit of friendly workforce banter' has always been part of how we do things around here, does not make it an acceptable cultural practice.

Well-known strategies for starting to implement a healthy culture in your team include asking questions, developing a solid and shared vision and celebrating small wins.

Tip: Learn how other managers and leaders have changed culture. Here are a few starter articles:

- <https://hbr.org/2018/01/the-leaders-guide-to-corporate-culture>
- https://championsofchangecoalition.org/wp-content/uploads/2021/05/Disrupting-the-System_Sexual-Harassment-Practical-resources-and-tools.pdf
- <https://www.thealternativeboard.com/blog/culture-eats-strategy>

Advice for Boards to ensure they are proactively promoting an anti-bullying culture?

Key Lesson One: First take the plank out of your own eye

If we take the accepted definition of bullying as ‘seeking to harm, intimidate, or coerce someone perceived as vulnerable’, most of us would say we do not behave in this way. Yet it’s a fair bet that nearly all of us have verbally criticised someone, taken credit for another board member’s idea or contribution, excluded someone or belittled their ideas – even if inadvertently. These are all forms of bullying.

Can an organisation really promote an anti-bullying culture unless it has a board that is leading by example? Some board members also think that better governance means tougher policing of each action of the CEO and management. At best this stifles creativity and growth, at worst it leads to lawsuits and loss of valuable staff.

Good boards need to audit their own behaviour before making inroads with the rest of the organisation. If bullying is condoned at board level, then it sends a message that this is ok throughout the organisation. The role of the Chair is critical in addressing bullying. This becomes problematic if the chair is complicit in bullying at board level and / or supporting a CEO whose is also a bully. This usually requires a number of board members to act to address the issue or remove the offender.

Tip: Scan your own behaviour after you have read: Shefaly Yogendra ‘Bully in the Boardroom’ - <https://shefaly-yogendra.com/2021/06/09/bully-in-the-boardroom> and <https://www.aicd.com.au/organisational-culture/business-ethics/change/governing-company-culture-insights-from-australian-directors.html>

Key Lesson Two: Pay attention to psychological safety in the boardroom

The inaugural People + Science Boardroom Psychological Safety Benchmark 2020 -2021 (Australia), found that psychological safety is a lead indicator and precursor of quality decision making in the boardroom. The report found:

- The quality of board/executive-level team decision making is highly correlated team psychological safety.
- Psychological safety is highly correlated to businesses with a sustainable competitive advantage, strong profits and leading innovation.
- Boards that are able to function effectively as a team have 800% greater impact on firm profitability than any one well qualified board director – in other words, the whole is greater than the sum of its parts.

Tip: Read the report <https://www.womenonboards.net/womenonboards-AU/media/AU-Reports/BOARDROOM-PSYCHOLOGICAL-SAFETY-BENCHMARK-REPORT-2020-2021-HIGHLIGHTS-ONLY.pdf>

Key Lesson Three: Walk the factory floor

Many directors will tell you that it was not until they ‘walked the factory floor’ that they really understood the culture of an organisation. While boards are noses in, fingers out, this

is not an excuse for not knowing what is going in the organisation. Greater knowledge and understanding of the business and its people will hone a director's ability to see through an apparently good set of statistics or trigger their internal alarm bell when something just doesn't quite stack up. This includes regular oversight of not just the usual OHS matters, but the number of complaints made via the whistleblowing or related policies.

Tip: If your organisation employs more than 100 people ask to see the annual WGEA gender report before it is submitted. Preferably graphed against previous years. More information at: <https://www.wgea.gov.au/what-we-do/reporting>

Key Lesson Four: Hold the Line

The standard you walk past is the standard you accept. So said the Chief of the Army, Lieutenant-General David Morrison in 2013 in response to a series of emails which were highly demeaning to women, and which became known in the ADF as the 'Jedi Council scandal'. The same applies when you serve on a board. Board members who are prepared to ignore poor or bullying behaviour in a senior executive or CEO because they are favoured by shareholders and the market for keeping share prices high, are accepting that behaviour as the de-facto company standard. Often despite having all the right policies in place.

Boards need to adopt and communicate clearly that the organisation has a zero-tolerance policy towards harassment, bullying and discrimination – and hold the line. Zero tolerance means zero tolerance, with no exceptions.

Tip: View zero tolerance as a glass half full not a glass empty policy. Read: <https://www.easylama.com/blog/zero-tolerance-policy-workplace/>

About the author



Claire Braund is the co-founder and Executive Director of Women on Boards. She is a well known writer and speaker in the area of gender balance on boards and diversity and inclusion more broadly. She is a keen student of politics and known for her compassion, courage and conviction. <https://www.linkedin.com/in/claire-braund-b603b5b>