

s34(3), s47C, s47E(d)



Background

On 20 June 2018, Australia's Sex Discrimination Commissioner, Kate Jenkins, announced a National Inquiry into sexual harassment in Australian workplaces. The AHRC accepted public submissions on the Inquiry between July 2018 and February 2019.

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The Inquiry is expected to finalise the report by the end of 2019. The report will be tabled in Parliament but there is no requirement for Government to table a formal Government response to AHRC reports. The AHRC is a statutory body funded by, but operating independently of, the Australian Government.

Non-Disclosure Agreements in the APS

On 23 January 2019, PM&C received a media inquiry from the Canberra Times regarding the APS process for waiving NDAs, and gave this response on 24 January 2019:

- In response to the Sex Discrimination Commissioner's request, Secretaries agreed to adopt a consistent approach intended to empower and enable individuals to seek a limited waiver of non-disclosure agreements in support of the National Inquiry.
- The approach adopted by the Secretaries Board provides an avenue for APS employees and former APS employees to contribute confidentially in support of the National Inquiry.
- The agreed approach ensures affected employees do not have to deal directly with the Agency they entered into a non-disclosure agreement with, and allows the APSC to act as a conduit between the employee and the Agency.
- This approach balances the obligation on APS agencies to manage legal risks to all parties in individual cases, whilst facilitating participation in the Inquiry.

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- As stated on the APSC website, the APSC will conduct the process sympathetically and in strict confidence.

Supporting information

Questions on Notice

Additional Estimates February 2019 – QoNs

PM079 Research Projects

Question:

- What research projects is the Office for Women currently working on?

Answer:

- Through the Women's Leadership and Development Program, the Office for Women has funded the Department of the Treasury to commission economic modelling research, to support the National Inquiry into Sexual Harassment in Australian Workplaces.

Freedom of Information (FOI) Requests

- None

Recent Ministerial Comments

- No recent reporting

Relevant Media Reporting

- 25 January 2019, (Canberra Times) - Public Servants face extra hurdle to give evidence'. This article is critical of the process agreed by the Secretaries Board on issuing a limited waiver on NDAs.

Division: Office for Women	
Prepared by: s22 Date: 4 October 2019	Cleared by Catherine Hawkins Office for Women Mob: s22 Ext: 6271 5652 Date: 14 October 2019
Consultation: AGD, AHRC, DSS Date: 14 October 2019	

s47C, s47E(d)

Background

New South Wales (NSW) Abortion Law Reform Act 2019

On 25 September 2019, the Abortion Law Reform Act 2019 (formerly the Reproductive Healthcare Reform Bill) was passed by the NSW Upper House 26 votes to 14. The Abortion Law Reform Act 2019 was passed by the Lower House on 27 September 2019 and now awaits Royal Assent. The Act removes abortion from the Crimes Act and make termination available up to 22 weeks, after which two doctors' approval is required. Amendments passed during debate include guidelines for when a person lacks the capacity to give consent, the prevention of sex-selection, protection for doctors who conscientiously object, and tightening restrictions around late-term abortions.

National Women's Health Strategy

On 9 March 2019, the Minister for Health, the Hon Greg Hunt MP, launched the National Women's Health Strategy 2020-2030. It aims to work towards universal access to sexual and reproductive health information, treatment and services. This includes access to family planning services and options for addressing unplanned pregnancies. One of the key measures of success for the National Women's Health Strategy is equitable access to pregnancy termination services.

Commonwealth Government legislative powers and levers

The Commonwealth Government has not legislated on access to abortion. The Government currently supports access to abortion services by providing Medicare Benefits Schedule (MBS) rebates for some medical treatments, and subsidies for the cost of medicines under the Pharmaceutical Benefits Scheme (PBS). This includes providing Medicare rebates for privately rendered services listed on the MBS and free hospital services for public patients in public hospitals.

Draft Religious Discrimination Bill

On 29 August 2019, the Government released exposure drafts of a legislative package on religious freedom. The draft bill mentions conscientious objection that could relate to the provision of health services. The Attorney-General's Department is managing this matter and all questions should be referred to them.

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40th session of the Human Rights Council (HRC40) and International Women's Day (IWD) 2019

At HRC40 in March 2019, Australia declined to join a joint statement on IWD because 'safe abortion' was referenced without a caveat of it being in accordance with national law. Previous references to 'safe abortion' in joint statements and resolutions in multilateral fora had commonly reflected the language (or similar) of the International Conference on Population and Development Program of Action (1994) in which signatories committed to providing 'safe abortion where such services are permitted by national law'. All relevant agencies are consulted on international statements, including Office for Women.

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In May 2019, Australia supported a joint statement at the World Health Assembly, which referenced 'access to safe abortion' (without the same caveat).

41st and 42nd session of the Human Rights Council (HRC41 and HRC42)

A number of HRC41 and HRC42 resolutions included language on sexual and reproductive health and rights.

At HRC41 in July 2019, Australia signed up to a Joint Statement on Accountability for the Rights of Women and Girls in Humanitarian Settings. This statement included language on "universal access" to "sexual and reproductive health information, care and services, including safe access to abortion."

At HRC42 in September 2019, Australia made a General Comment on the Resolution on Marking the twenty-fifth anniversary of the Beijing Declaration and Platform for Action. This stated that "we must ensure that the protection and promotion of human rights of all women and girls – including their sexual and reproductive rights – continues to progress in accordance with the ICPD Program of Action, the Beijing Platform for Action and the outcome documents of their review conferences, and the related Sustainable Development targets."

Supporting information**Questions on Notice****Budget Estimates: (8 April 2019)****Question:**

1. Senator Wong to Roslyn Baxter, First Assistant Secretary Social Policy Division PM&C: Can you just confirm for me [...] that no-one else from PM&C was aware of the government's decision not to join prior to this being made public?
2. Senator Wong to Rachel Livingston, Assistant Secretary Office for Women: When was the discussion with gender equality branch [regarding the government's position not to join the IWD statement]?

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Answer:

1. No areas within the Department of the Prime Minister and Cabinet were aware of the decision not to join the statement prior to it becoming public.
2. Following media reports, the Office for Women received advice, initially from the Gender Equality Branch at the Department of Foreign Affairs and Trade, on 11 March 2019 and subsequently from the Human Rights Branch at the Department of Foreign Affairs and Trade on 13 March 2019.

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Recent Ministerial Comments

ABC *Insiders* program, 25 August 2019

Minister for Women and Minister for Foreign Affairs, Senator Marise Payne

- Regarding NSW Premier Gladys Berejiklian being asked by 2GB host Ben Fordham whether she would ever consider an abortion, Minister for Women and Minister for Foreign Affairs Marise Payne said: “I don’t think it’s appropriate to ask anyone publicly, male or female, about sensitive health questions like that and it’s not OK”.
- Senator Payne further said that the debate over the NSW bill should be left to NSW politicians.
- Senator Payne stated “But I do think it’s appropriate for that matter to be decriminalised in New South Wales, yes”.

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Relevant Media Reporting

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- 27 September 2019 [Canberra Times] – NSW decriminalises abortion after 119 years: Abortion has been decriminalised in NSW after the Abortion Law Reform Act 2019 passed in the Lower House.
- 26 September 2019 [ABC] – Controversial abortion bill passes NSW Upper House after long-haul debate: The bill was passed 26 votes to 14. 102 amendments were debated over the past two weeks.
- 25 September 2019 [The Guardian] – Scott Morrison targeted in anonymous leaflets over NSW abortion bill: Paul Karp article regarding anti-abortion leaflets in Canberra that target Prime Minister Scott Morrison remaining 'silent' over the NSW Parliament debate on decriminalising abortion.

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