

Submission to: Review of the *Workplace Gender Equality Act 2012*

Department of Prime Minister and Cabinet

Dr Mihajla Gavin

Management Department
UTS Business School
University of Technology Sydney

Dr Ruth Weatherall

Management Department
UTS Business School
University of Technology Sydney

Introduction

This submission is made by two academics, Dr Mihajla Gavin and Dr Ruth Weatherall, of the University of Technology Sydney. We write this submission in response to the review of the *Workplace Gender Equality Act 2012* being led by the Department of the Prime Minister and Cabinet.

Our research is focused on improving gender equality through educating employers about their role in supporting victims of domestic violence and the effective implementation of workplace domestic violence policies.

The United Nations recognises domestic violence as one of the most widespread, persistent and devastating human rights violations against women in our world today and a major barrier to achieving gender equality (UN, 2020). Workplaces are increasingly recognised as having an important role to play in ending domestic violence by offering victims economic security, physical and emotional safety, and social support (Weatherall et al. 2021).

This submission highlights that while governments and workplaces are improving protections to safeguard and support victims of violence, these policies still fall short and fail to address the root cause of domestic violence – gender equality (Gavin and Weatherall, 2021). Our recommendations point to the need for improved reporting, policies and practices to enhance workplace gender equality while minimising the harms of violence.

Nature and prevalence of domestic violence in Australia

Domestic violence is a gendered issue. Patterns of violence in Australia are distinctly gendered. According to the Australian Institute of Health and Welfare (2019), 1 in 6 women have been subjected to physical violence by an intimate partner since the aged of 15. Women and gender minorities are disproportionately at risk of violence and that violence has more severe consequences (UN, 2020).

Domestic violence significantly impacts on women's health, safety, and economic security (AIHW, 2019).

Additionally, domestic violence is an intersectional issue which impacts different groups (such as women, particularly indigenous women and women of colour, LGBT+ community, and those of lower socio-economic status) more and in different ways (AIWH, 2019). Generic responses to experiences of violence are therefore unsuitable.

Domestic violence as a workplace gender equality issue

Domestic violence is a workplace gender equality issue. Perhaps most importantly, however, workplace gender inequality is also a dimension of the gender inequality which causes domestic violence in the first place (Weatherall et al. 2021). A crucial part of combatting domestic violence is promoting gender equality in the workplace.

A mounting body of evidence has underscored that workplaces have an important role to play in responding to and reducing the harms of domestic violence (Jonge, 2018; Macgregor et al., 2019; Wibberley et al., 2018). Critically, in Australia, 62% of women who have experienced or are currently experiencing domestic and family violence are in the paid workforce (Khadem, 2021).

Employers have grappled with workplace responses to domestic violence amid a national debate on Australia's treatment of women. Workplaces play a key role in this debate. Workplaces are an important setting for Australia to advance gender equality, which is vital to reducing violence against women and ensuring that women's economic security and opportunities for leadership in workplaces can be maintained (Weatherall et al. 2021). For victims of violence, employment is critical, providing an important source of economic and physical safety (Aeberhard-Hodges & McFerran, 2018).

Domestic violence is a workplace health and safety issue that can lead to staff absenteeism and lower productivity. Domestic violence is estimated to cost Australia \$22 billion annually, of which \$1.9 billion is attributed directly to businesses and productivity (Champions of Change Coalition, 2021). Abuser's violence can impact victim's performance at work, abusers can use workplace resources to continue abuse, abusers can force victims to stop working entirely, or force them to work extra hours and take their incomes.

For victims, domestic violence culminates in interrupted work histories, lower incomes, fewer promotion opportunities, and concentration in low-skilled, insecure work. Those impacted by violence can have reduced capacity to perform, which, in turn, can have lasting impacts on their career (Tolentino et al., 2016). Workplaces, when supportive, are a potential pathway to safety for victims (Swanberg et al., 2007).

Research demonstrates that perpetrators use workplace time and resources for abuse (MacGregor et al., 2019). Abusers use workplace time and resources: they might ask colleagues to report on victim's activities or call victims excessively during work hours. Victims carry the exhaustion, fear, and pain of abuse into the workplace. Victims may become economically dependent on abusers or face consequences from their community if they leave.

Domestic violence also sits alongside other gendered workplace issues, such as the gender pay gap and the uneven distribution of care work (Weatherall et al. 2021). It is only really in the last decade, however, that domestic violence has been recognised on the workplace gender equality agenda. There is much more work to be done understanding the impacts of domestic

violence on women's working lives and for improving reporting, policies and practices to help us better support victims and address perpetration through the workplace.

Domestic violence is not 'domestic'

Contemporary domestic violence workplace policies are often designed and implemented around myths about who violence can impact, and when and where violence occurs. However, this can stifle goals towards gender equality in workplaces.

The 'domestic' of domestic violence is misleading. Violence spills into all areas of a victim's life, including their work life (Weatherall et al. 2021). There needs to be greater understanding of the multiple spaces in which violence takes place and how these spaces spill into each other.

The domains of the 'home' and 'work' are not separate. We work from home, check our emails on the train, and connect with colleagues online, among other activities.

Our research shows how domestic violence is not confined to the 'domestic', but is part of the fabric of a victim's work life. In a survey of 518 New Zealand participants and interviews with 18 survivors of domestic violence affected by intimate partner stalking, we show how domestic violence is part of a victim's work life (Weatherall et al. 2021).

COVID-19 has also highlighted the blurred lines of work/life and that working from home can actually place victims at increased risk (Kennedy, 2020). This was illustrated in a 2020 ruling by the NSW Supreme Court which held workplaces responsible for employees subjected to domestic violence when working from home (Diemar and Dorney, 2020).

When the home *is* the workplace, employers have additional health and safety responsibilities for employees who are victims of domestic violence. As with other gender equality issues – such as the uneven distribution of childcare – we will only effectively respond to the issue when we recognise the ways in which traditionally defined 'workplaces' are only the surface of our complex contemporary working lives.

Stories we collected from victims of violence highlight the many ways domestic violence can impact women's experiences at work (Weatherall et al. 2021). These stories are important because they challenge common myths around domestic violence.

One survivor told how her life after leaving a violence relationship "became a nightmare". Years after the violent relationship ended, her abuser would turn up to her house and monitor her whereabouts. The continuing abuse meant she depleted her savings for a lawyer and struggled to go to work because of the stress.

Another survivor who had also left an abusive relationship felt compelled to disclose her circumstances to her employer after feeling scared when her abuser left a note on her car in a public car park where she caught the train to work. Although the abuser called and messaged her constantly during work hours, her manager did not see it as a work-related matter.

And in another case, a survivor experienced abuse from her partner only when the relationship ended. On one occasion, her abuser showed up to her workplace posing as a courier, an experience which left her feeling scared.

What these stories show is that domestic violence can occur anywhere and at any time – at work, in public place and online. Violence does not only occur at home or during a relationship.

As with other gender equality issues, policies that fail to recognise how the home and the workplace are intertwined can disproportionately impact on women's lives and careers.

Improving workplace policy and practice in responding to domestic violence

Increasingly, workplaces in Australia are codifying (mostly unpaid) leave provisions to support victims of violence in their workplace agreements and policies and offering other provisions like flexible work arrangements.

Workplace responses to domestic violence can vary depending on the employer. Responses can include paid or unpaid leave, staffing training, and policies and procedures, or none of these. Where provisions are present, this has mainly focused on giving victims the right to access paid or unpaid leave, counselling support, or flexible working arrangements, and protections for victims from adverse action.

There is currently no comprehensive and consistent protections across Australian jurisdictions for employees who experience domestic violence. While all workers can currently access five days of unpaid violence leave under the National Employment Standards, there is growing advocacy to change this to 10 days of paid leave. This deliberation is currently before the Fair Work Commission.

While domestic violence workplace policies are often framed around offering paid leave or flexible work arrangements to allow victims to leave their abusers, violence can continue to impact women long after a relationship ends (Weatherall et al. 2021).

For workplaces to effectively support victims of violence, they must promote gender equality within their organisation and see domestic violence policies as part of that objective. A whole-of-organisation approach needs to be advanced through a set of standards that aims to prevent violence and promote a supportive workplace culture. Organisations can look at workplace domestic violence policy as part of a broader and longer term strategy to enhance gender equality.

Part of this is also recognising the blurred boundaries between home and the workplace, which COVID-19 has drawn attention to. Greater awareness needs to be brought to domestic violence as a workplace health and safety issue, as well as understanding the challenges that employers face around effectively supporting those impacted by violence when working remotely. Similarly, it needs to be recognised that domestic violence is not a one-off incident, but has long-term impacts, affecting victims' capacity to gain and maintain access to housing, healthcare, and employment (Abrahams, 2010).

Practically, organisations need further support to manage this complex issue and further drive gender equality at work. This is not limited to:

- Reviewing existing organisational policy and providing training to staff, particularly line managers, to avoid seeing domestic violence as a 'private' issue that only occurs within the household;
- Recognising that violence happens at work too. Organisations need to have policies that deal with abusive behaviour that happens at work;
- Understanding that supporting victims of violence, including the provision of paid leave or flexible work arrangements may be required years after a relationship has ended;

- Recognising in organisational policy that harm experienced may not only be physical, but can take many forms, including emotional and psychological abuse;
- Recognising that domestic violence can affect work performance. Support is needed for victims of violence to remain engaged in the workforce to avoid organisation's losing talent;
- Developing policies for responding to perpetrators and facilitating perpetrators access to 'say no to violence' programs. For every victim there is a perpetrator, but workplace policies have almost exclusively focused on responses to victims.

It is important that organisations are supported to create a framework of safety, linking victims of violence to appropriate support, and support victims even after a violent relationship may end. This framework of safety must include responses to perpetrators and the role of workplaces in maintaining workplace health and safety by addressing the perpetration of domestic violence which can occur in and through the workplace.

Pathways to enhancing gender equality

Measures such as organisation's reporting on their provisions for supporting victims of violence, including leave, flexible work arrangements, workplace safety planning and other support mechanisms are vital as part of the Workplace Gender Equality Agency's reporting activities, although limited.

- Further reporting is needed on:
 - Demographics of access to leave or flexible work arrangements to ensure there are no additional barriers for women from minority communities
 - How domestic violence policies are considered alongside other gender equality issues, including issues that underpin domestic violence such as a gender pay gap
 - The uptake of workplace support by perpetrators of domestic violence
 - Outcomes from these measures (e.g., economic security, health & wellbeing etc)
- Further cases studies and resources for workplaces are required on:
 - Role and responsibilities of workplaces for the workplace health and safety of victims who are working from home
 - The implementation of provisions (including leave and FWA) for women from diverse communities, including indigenous women, women from LGBT+ community, and refugee women
 - Guidance on the provision of support over the long term, as most domestic violence cases stretch over a number of years
 - Role and responsibilities of workplaces when responding to employees who are perpetrators of violence

Our selected publications and related materials

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