



**WORKING WOMEN
QUEENSLAND**

**GENDER
DISCRIMINATION AND
SEXUAL HARASSMENT
IN THE WORKPLACE**

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**Basic Rights
Queensland** Inc.

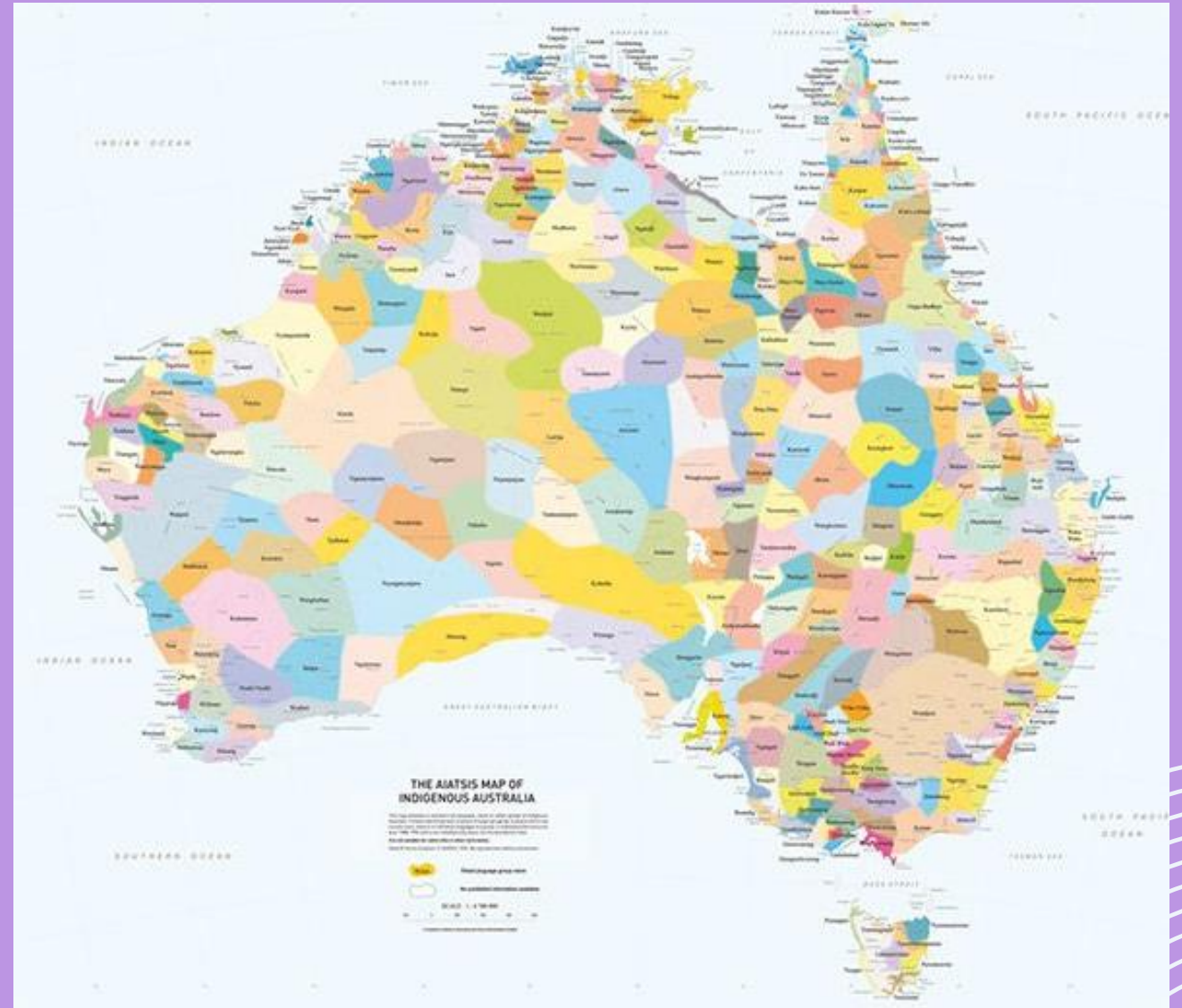


**WORKING WOMEN
QUEENSLAND**

Acknowledgement of Country

**We acknowledge and respect
the traditional custodians of
the land where this training
takes place.**

**We pay respect to their
spiritual relationship with
country and acknowledge that
sovereignty was never ceded**



TRIGGER WARNING

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Today's session will discuss generally sexual harassment and discrimination.

Sometimes, you may be unexpectedly 'triggered' by a past event / situation / current circumstance

We will be discussing a case study towards the end of the session and the opening up for questions to everyone online.

Please take care of yourself.

- 'Tap Out' and watch a recording when you can skip / parts of the presentation, at your own pace.
- Take a moment and reflect / sit for a bit before getting back into work
- Remember to contact your EAP or call 1800RESPECT





ACKNOWLEDGEMENT

Our focus today will be on our work with people identifying as women

We'd like to acknowledge the community of LGBTIQ+ community and the relentless sexual harassment and discrimination they continue to experience too.

We also acknowledge that some men have experienced sexual harassment at work

AGENDA

- The drivers and the effect of gender discrimination and workplace sexual harassment
- A brief overview of the Respect@Work report 2020, three years on
- Outline the implications as a result of the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022*
- Suggest what we can all do to improve safety at work
- Provide an understanding of 'positive duty obligations' for employers in providing safe workplaces for all.



DISCLAIMER



**This session should in no way be
interpreted as legal advice.**

This session is information only

WHO ARE WE?

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WORKING WOMEN QUEENSLAND

Is a statewide free, practical, confidential & supportive service to help disadvantage women seeking help with work matters. Our service is a feminist service focussed on trauma informed practice.

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also provides:

- **Help with Centrelink**
- **Disability Discrimination**
- **Mental Health Legal Hub**

WHO ARE WE?

WE'RE A MULTI-DISCIPLINARY TEAM OF WOMEN
SOLICITORS, INDUSTRIAL OFFICERS
AND SOCIAL WORKERS

- Domestic and Family Violence & work
- Underpayment of wage / wage theft
- General Protections
- Discrimination including Gender Discrimination
- Sexual Harassment
- Parental Leave
- Terms & conditions of employment
- Gender Equity
- Gendered Workplace Discrimination
- Workplace Bullying





OUR 'HER'STORY

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Working Women Centres have been in existence for 30 years in Australia.

There are three Working Women Centres remaining in Australia – South Australia, Queensland and Northern Territory.

Previously Queensland Working Women's Service, was established in 1994 in Queensland.

Funding has been intermittent with successive governments and other have moved in and out of favour and priority

Regardless, WWC's have survived as holistic trauma informed entry points for women as well as lobbying and campaigning on issues affecting women at work.

Significantly this includes flexible work arrangements, the impact of domestic and family violence leave, and sexual harassment and gendered discrimination



WHY WORKPLACE EQUALITY MATTERS

While progress has been made, we must recognise that women's economic security is inextricably linked to workplace gender equality.

When women face barriers, discrimination, and harassment in the workplace, their opportunities for advancement, fair compensation, and financial independence are compromised.

This affects full participation in civil society and reduces choice and opportunity for all women.



WHY WORKPLACE EQUALITY MATTERS

SIMPLY:

- HARASSMENT IS NO LONGER ACCEPTABLE AT WORK
- EMPLOYERS MUST PROVIDE WORKERS WITH DFV LEAVE AND SUPPORT
- HARASSMENT IS NOT ACCEPTABLE IN OUR COMMUNITY
- VIOLENCE IS NOT ACCEPTABLE IN OUR HOMES

AUSTRALIA'S GENDER EQUALITY SCORECARD 2022



A closer look at Australian workplaces

More than half

of all Australians work in an industry dominated by one gender. This has not changed since 2018



42% of women

work full time, compared to 67% of men

Women comprise

41% of managers

and 46% of managerial appointments

1 in 4

employees in WGEA's Census resigned in 2021-2022

Only 1 in 5

boards have gender balance

22.3%

of CEOs are women – a 2.9 percentage point increase from last year

Men are significantly **more likely to hold managerial positions**, even in female dominated industries

WHAT IS SEXUAL HARASSMENT?

means any **unwelcome sexual behaviour** that a reasonable person could anticipate may make another person feel offended, intimidated or humiliated in that situation.

Unwelcome behaviour means unwanted or uninvited behaviour that makes a person feel offended, embarrassed or frightened.

Whether behaviour is unwelcome is a **question for the person harassed**.

A '**reasonable person**' can be taken to mean a neutral and unbiased observer.

SEXUAL HARASSMENT CONT.

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Sexual harassment is not always obvious.

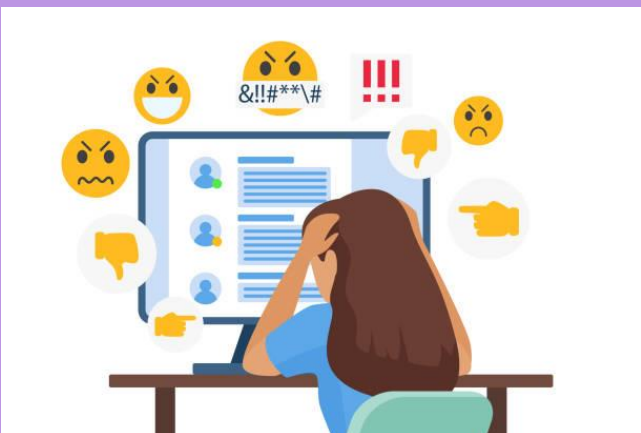
It includes a wide range of behaviours.

The most common behaviours are:

- sexually **suggestive comments or jokes** that offend or intimidate
- **intrusive questions** about a person's private life or physical appearance
- inappropriate **staring or leering**
- inappropriate **physical** contact
- **unwelcome** touching, hugging, cornering or kissing.



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- sharing or threatening to share intimate images or video without consent
- repeated or inappropriate invitations to go out on dates
- requests or pressure for sex or other sexual acts
- sexually explicit gifts, images, videos, cartoons, drawings, photographs, or jokes
- actual or attempted rape or sexual assault
- sexually explicit comments made in person or in writing, or indecent messages, phone calls or emails—including the use of emojis with sexual connotations
- sexual gestures, indecent exposure or inappropriate display of the body.

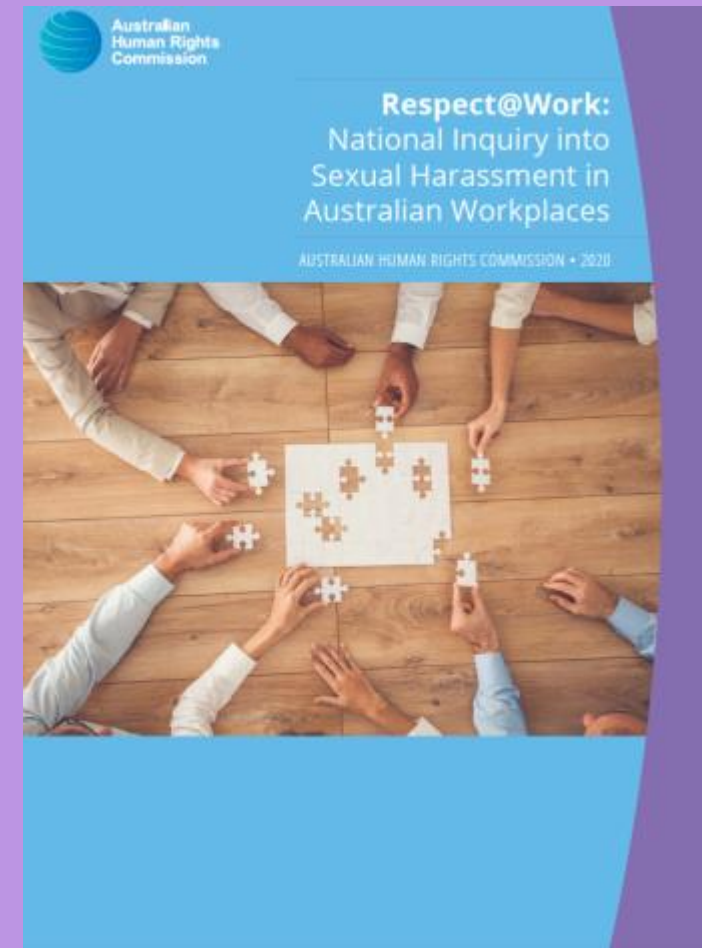
Sexual harassment happens in person, over the phone and online, including via social media.

SEXUAL HARASSMENT CONT. 2

RESPECT@WORK 2020

Kate Jenkins, the Sex Discrimination Commissioner at the Australian Human Rights Commission (AHRC), played a pivotal role in the creation of the Respect@Work report.

- she led the development of the report in response to growing concerns about sexual harassment in Australian workplaces.
- Jenkins initiated the national inquiry into sexual harassment in the workplace in 2018, which aimed to examine the prevalence and nature of sexual harassment, the effectiveness of current legal and regulatory frameworks, and the adequacy of workplace policies and practices in addressing the issue.
- The inquiry involved extensive consultations with various stakeholders, including individuals, organizations, experts, and advocacy groups.



RELEVANT RECENT HISTORY



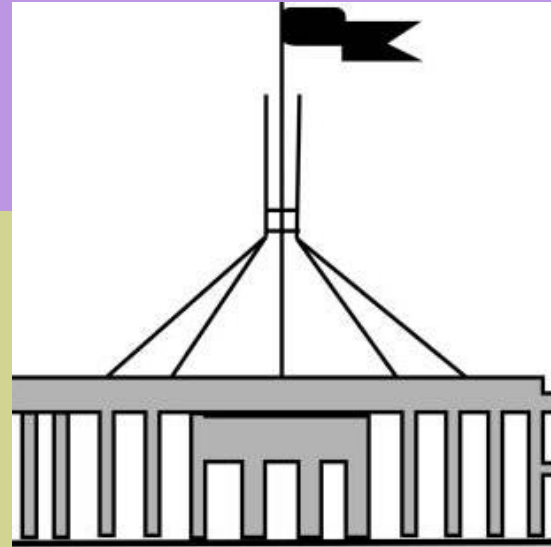
ME TOO

2006



WOMEN'S MARCHES

2017



BRITTANY HIGGINS

2021



MARCH 4 JUSTICE

2021

A BRIEF OVERVIEW

Workers who were even more likely to have experienced harassment at work include:



Young workers
aged 18-29 (45%)



Workers with
disability (44%)



Aboriginal
and Torres
Strait Islander
workers (53%)



Lesbian, gay,
bisexual,
transgender, queer
or intersex (LGBTI)
workers (52%)



Workers from culturally and linguistically diverse
backgrounds and migrant workers, workers
holding temporary visas and those in workplace
arrangements described as precarious or insecure
also experience high levels of sexual harassment

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SEXUAL HARASSMENT AT GLANCE ¹⁹



1 in 3 people had experienced workplace sexual harassment in the previous five years

Women were sexually harassed at higher rates than men:



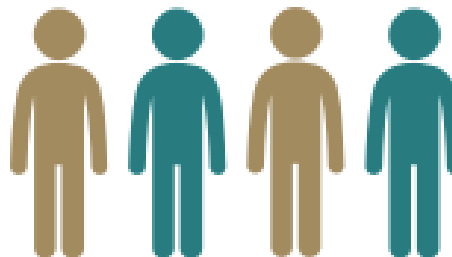
2 in 5 women



1 in 4 men



In 79% of incidents the harasser was a man.



The harasser was most commonly a co-worker employed at the same level.

Workplace settings with a higher risk of sexual harassment include those that:

- Are in male-dominated industries
- Involve a high-level of contact with third parties, including customers, clients or patients
- Are organised according to a hierarchical structure
- Have a masculine workplace culture
- Are isolated and remote



INDUSTRIES AT RISK

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Some industries have very high rates of workplace sexual harassment including:



Information, media
and telecommunications (81%)



Arts and
recreation services (49%)



Electricity, gas, water
and waste services (47%)



Retail (42%)



Mining (40%)



40% of workplace sexual harassment incidents were witnessed by at least one other person



In the majority of cases (69%), the witness did not intervene



Fewer than 1 in 5 people who experienced workplace sexual harassment made a formal report or complaint about it

Of those who did report it:



were labelled a trouble maker



were ostracised, victimised or ignored by colleagues



resigned

THE BRIEFEST SUMMARY

**RESPECT@
WORK
REPORT
2022**

Key Findings:

- Workplace sexual harassment is prevalent and has severe impacts on individuals and organisations.
- The need for cultural change, prevention strategies, and better support for victims.
- The importance of holding employers accountable for addressing and preventing sexual harassment.

Recommendations:

- The RESPECT@WORK report has 55 recommendations including introducing a positive duty on employers to prevent sexual harassment.
- It proposed strengthening legal frameworks, including defining sexual harassment and removing certain legal barriers.
- It called for improved education and training, as well as increased awareness campaigns.

WE HAVE OUR VERY OWN RECOMMENDATIONS



Recommendation 53:

All Australian governments provide increased and recurrent funding to community legal centres, Aboriginal and Torres Strait Islander Legal Services, and legal aid commissions to provide legal advice and assistance to vulnerable workers who experience sexual harassment, taking into account the particular needs of workers facing intersectional discrimination.

WE HAVE OUR VERY OWN RECOMMENDATIONS



Recommendation 49:

Australian governments provide increased and recurrent funding to working women's centres to provide information, advice and assistance to vulnerable workers who experience sexual harassment, taking into account particular needs of workers facing intersectional discrimination. Australian governments should consider establishing or re-establishing working women's centres in jurisdictions where they do not currently exist.



THE LANDMARK LEGISLATION

“ANTI-DISCRIMINATION AND HUMAN
RIGHTS LEGISLATION AMENDMENT
(RESPECT AT WORK)
BILL 2022”

WAS PASSED ON
28TH NOVEMBER 2022

6 OUTSTANDING LEGISLATIVE CHANGES



POSITIVE DUTY ON EMPLOYERS

The Act introduces a positive duty on employers to take reasonable steps to prevent workplace sexual harassment. This means that employers have a legal obligation to proactively address and prevent sexual harassment within their organisations.



EXPANDED DEFINITION OF SEXUAL HARASSMENT

The Act broadens the definition of sexual harassment to include a wider range of behaviors and contexts. It ensures that various forms of unwelcome conduct, both physical and verbal, can be recognized and addressed under the law.



EXTENSION TO TIME LIMITS

The Act extends the time limit for making a complaint of sexual harassment to the Australian Human Rights Commission from 6 months to 24 months. This allows victims more time to come forward and seek redress for incidents of sexual harassment.

6 OUTSTANDING LEGISLATIVE CHANGES



REGULATORY POWERS

The Act enhances the regulatory powers of the Australian Human Rights Commission to handle complaints related to sexual harassment. It grants the Commission the authority to intervene, investigate, conciliate, and enforce compliance with the legislation.



TRAINING AND EDUCATION

The Act emphasises the importance of education and training in preventing sexual harassment. It requires employers to provide training programs to their employees, focusing on promoting respectful behaviour, preventing sexual harassment, and addressing complaints effectively.



PRIVACY AND CONFIDENTIALITY

The Act strengthens privacy and confidentiality protections for individuals involved in sexual harassment complaints. It ensures that information shared during the complaint process is handled securely and confidentially, safeguarding the privacy of victims and witnesses.

ADDITIONAL LEGISLATIVE CHANGES



Amendments to Sex Discrimination Act 1984

Include definitions for 'worker' and 'persons conducting a business or undertaking' ensuring protection from sexual harassment is extended to all paid and unpaid workers, including volunteers, interns and self-employed persons.

FAIR WORK ACT (SECURE JOBS BETTER PAY) AMENDMENT ACT 2022



- Sexual Harassment Specific
- Compassionate leave
- Family and domestic violence leave
- Gender equity
- Equal remuneration
- Pay equity expert panel
- Pay secrecy
- Addition of further protected attributes
- Flexible work arrangements (FWC power to determine disputes)
- Increasing Cap
- Advertising of employment at rate of pay

*Amendments
to the
Fair Work Act:
Sexual
Harassment*

**527D PROHIBITING SEXUAL HARASSMENT IN
CONNECTION WITH WORK**

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(1) A PERSON (THE **FIRST PERSON**) MUST NOT SEXUALLY HARASS ANOTHER PERSON (THE **SECOND PERSON**) WHO IS:

A WORKER IN A BUSINESS OR UNDERTAKING; OR
(B) SEEKING TO BECOME A WORKER IN A PARTICULAR BUSINESS OR UNDERTAKING; OR
(C) A PERSON CONDUCTING A BUSINESS OR UNDERTAKING;

IF THE HARASSMENT OCCURS IN CONNECTION WITH THE SECOND PERSON BEING A PERSON OF THE KIND MENTIONED IN PARAGRAPH (A), (B) OR (C).

***COMMENCES 6 MARCH 2023**

*Amendments
to the
Fair Work Act:
Vicarious
Liability*

**Employers can be vicariously liable for
actions of employees and agents:
s 527E**

**will NOT be vicariously liable if they
prove they took all reasonable steps to
prevent the employee or agent from
sexually harassing another person...:
s 527E(2)**

ie. POSITIVE DUTY

POSITIVE DUTY

Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022

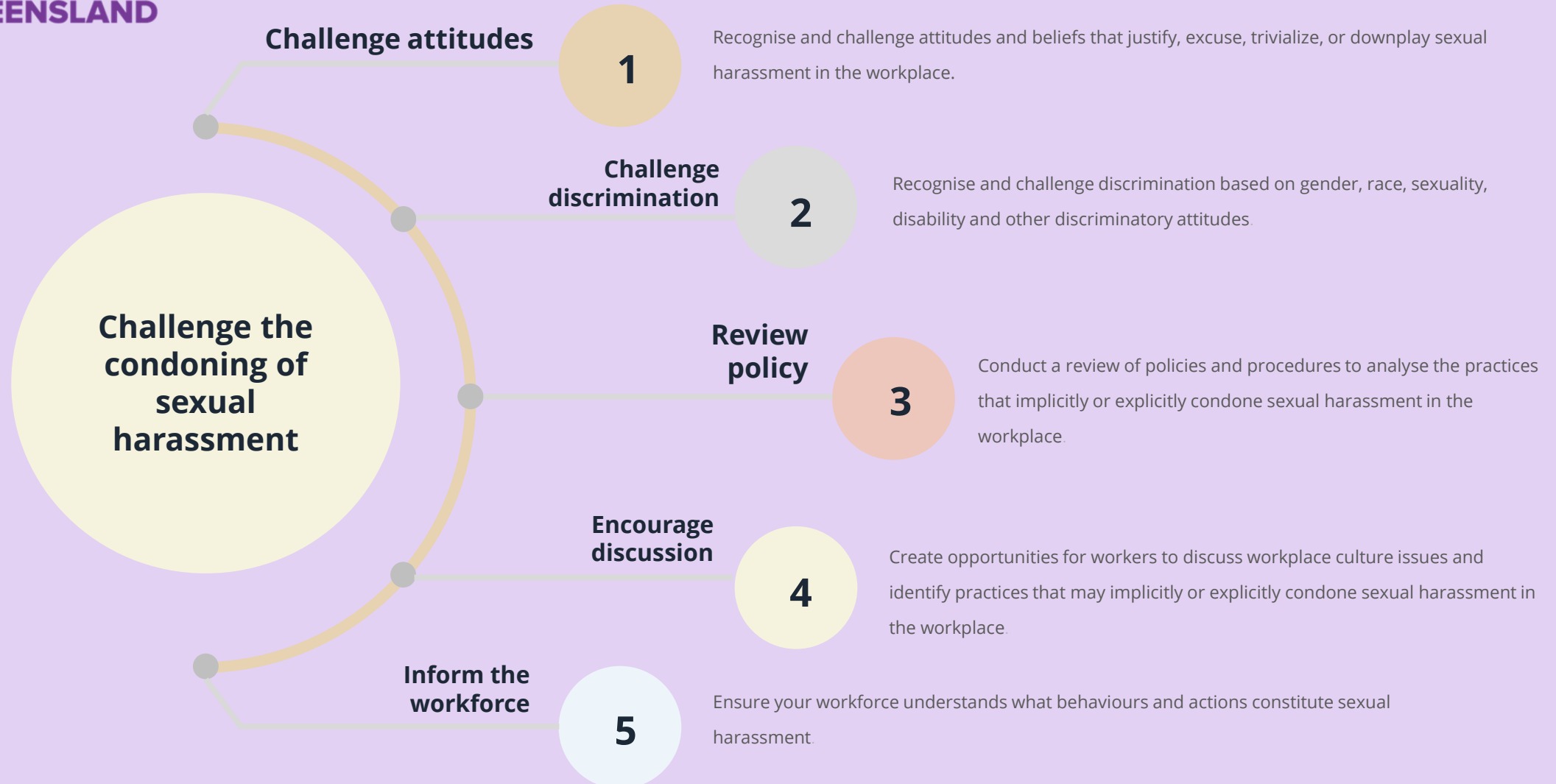
Amends the ***Sex Discrimination Act 1984*** to:

Impose a positive duty on employers to take reasonable and proportionate measures to eliminate unlawful sex discrimination, including sexual harassment.

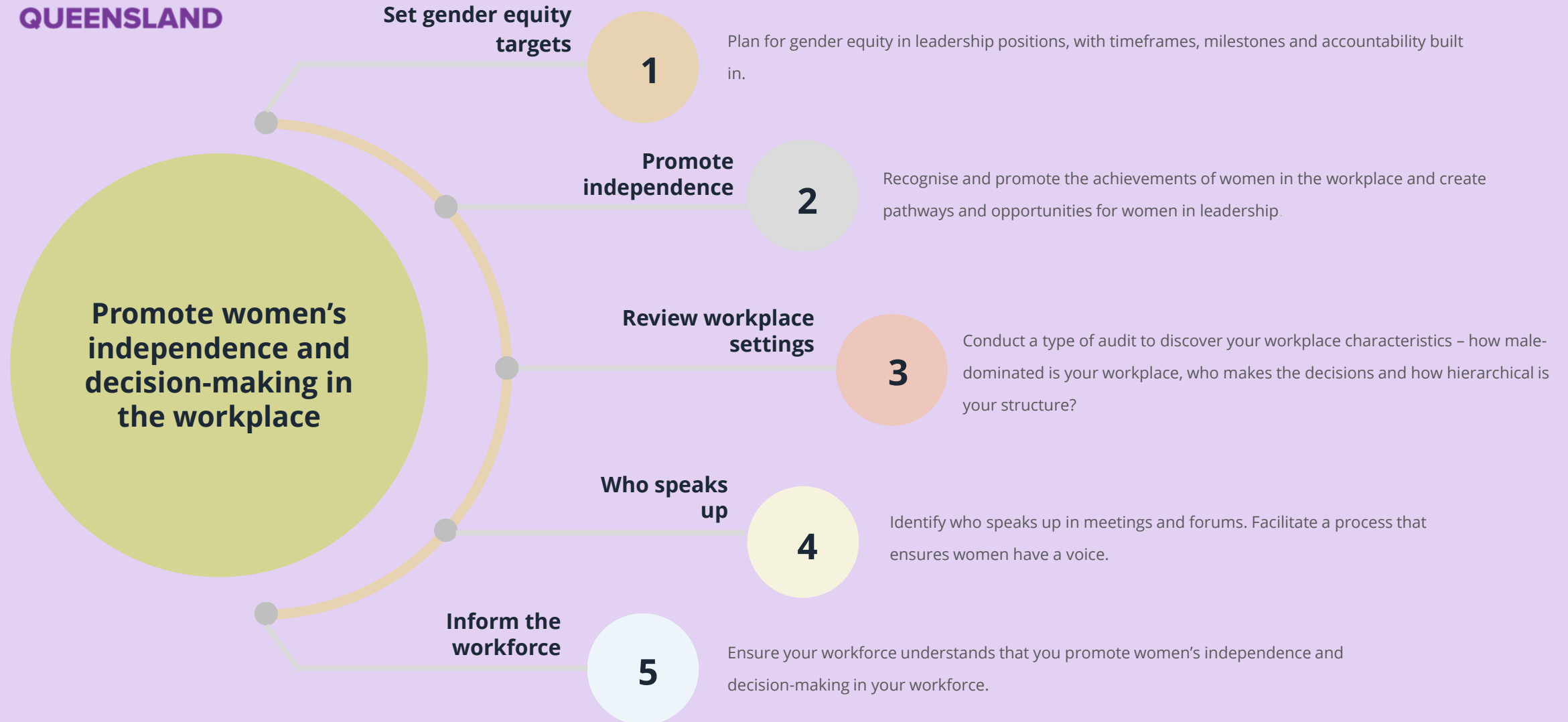
Vicarious liability

| FAIR WORK | ADA - QLD | SDA |
|--|--|---|
| an employee or agent of a person (the principal) does, in connection with the employment of the employee or with the duties of the agent as an agent | a person's workers or agents contravenes the Act in the course of work or while acting as agent | where an employee or agent of a person does, in connection with the employment of the employee or with the duties of the agent as an agent: |
| does not apply if the principal proves that the principal took all reasonable steps to prevent the employee or agent from doing acts | [does not apply] if the respondent proves... [they] took reasonable steps to prevent the worker or agent contravening the Act. | does not apply ... if it is established that the person took all reasonable steps to prevent the employee or agent from doing acts |
| | | Positive duty from late 2022 |

WORKPLACE GENDERED DRIVER 1



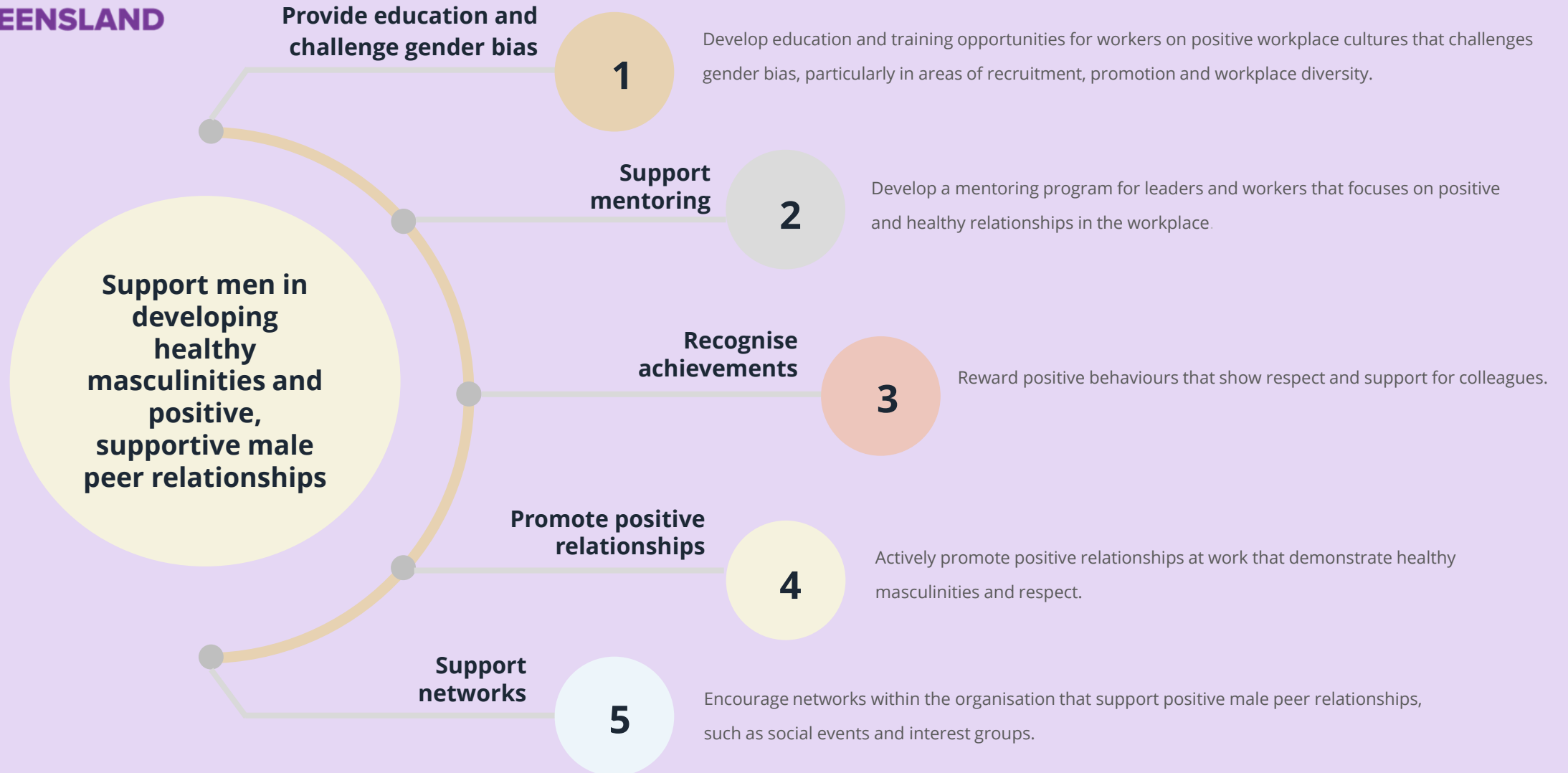
GENDERED DRIVERS 2



GENDERED DRIVER 3



GENDERED DRIVER 4



“ CASE STUDY – FAIR WORK OMBUDSMAN REFERRAL TO WWQ

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During her short period of employment, the client experienced repeated incidences of sexual harassment from her manager and when she complained to her employer about it, her employer was dismissive and disregarded her complaint.

The client:

- was a casual employee of a small business employer.
- she was in Australia on a working holiday visa.
- English is her second language.
- She had little knowledge about her rights and information was not easily accessible to her, given the language barrier.
- She did not have the financial means to obtain private legal advice; and
- She was not a member of a union and didn't have any knowledge of unions.

”

QUESTIONS?



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HELP?

GOVERNMENT

[RESPECTATWORK.GOV.AU](https://respectatwork.gov.au)

[FAIRWORK.GOV.AU](https://fairwork.gov.au)

[HUMANRIGHTS.GOV.AU](https://humanrights.gov.au)

[QHRC.GOV.AU](https://qhrc.gov.au)

COMMUNITY



**WORKING WOMEN
QUEENSLAND**

caxton

legal centre inc



Community
Legal Centres
Queensland

JOIN YOUR UNION



LOOK AFTER YOURSELF

If you end today's session and need to talk with someone

1800RESPECT 1800 797 732

BRISBANE RAPE & SURVIVORS SUPPORT
CENTRE 3391 0004

BRAVEHEARTS 1800 272 831



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THANK YOU

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