



November 2018

To all employers

Urgent assistance requested for the National Inquiry into Sexual Harassment in Australian Workplaces – limited waiver of confidentiality obligations

As the leader of your organisation, I am writing to ask you to join me to find solutions for all employers in preventing and responding to sexual harassment.

I am currently leading the National Inquiry into Sexual Harassment in Australian Workplaces (National Inquiry) on behalf of the Australian Human Rights Commission.

The National Inquiry, supported by Government, is examining the experiences of workplace sexual harassment, its causes, impacts, the effectiveness of the legal framework, and best practice responses. Information about the National Inquiry and the full Terms of Reference are available on our [website](#).

We are not investigating or making findings about allegations of sexual harassment, but we are interested in hearing about individual experiences to inform our understanding of the systemic issues.

In conducting the National Inquiry we are also keen to understand both organisational and individual experiences of the use of non-disclosure agreements (NDAs) in workplace sexual harassment matters.

In particular, we want to learn about (1) the operation of NDAs in practice, including general terms and conditions and (2) whether the use of NDAs in specific cases has been advantageous or otherwise from the perspective of all parties to the agreement. It is important that we hear from both employers and employees about the positives and negatives of this practice.

To do this, I am seeking your **urgent** assistance to issue **a limited waiver of confidentiality obligations** in NDAs or other agreements **for the purpose of allowing people to make a confidential submission** to the National Inquiry.

To support individuals who wish to engage with the National Inquiry, I am asking all employers to make a public statement along the following lines:

[Name of organisation] will not enforce confidentiality obligations in non-disclosure or other agreements, which would otherwise prevent people from making a submission to the National Inquiry into Sexual Harassment in Australian Workplaces. This waiver only extends to submissions made to this National Inquiry conducted by the Australian Human Rights Commission. Individuals making a submission on matters covered by a relevant agreement may also need to seek the consent of others who may be named as part of their submission.

This step has previously been taken in response to public inquiries of national importance. For example, several banks and other financial institutions waived relevant NDAs for the purposes of the Financial Services Royal Commission. Organisations issuing a limited waiver will also be listed on the Commission's website.

The National Inquiry commenced in June and is open for submissions until 31 January 2019. To enable people to have adequate time to contribute, we seek your public support for a waiver as soon as possible, and at least before 30 November 2018.

Submissions to the National Inquiry will be treated as confidential and generally not be published on our website. If a person making a submission asks for it to be made public, any identifiable information will be redacted prior to publication. People can also choose to make a submission anonymously or by using a pseudonym. The Commission will only release information provided in submissions in a de-identified manner, unless required by law.

We ask you and your members to contact us by **30 November 2018** with your decision, by emailing Tanaya Roy, Director – National Inquiry, at tanaya.roy@humanrights.gov.au.

I am confident that this National Inquiry, by bringing together evidence, expertise and a range of views, will achieve the positive change that is clearly needed. I look forward to working together with you to develop solutions which will help ensure safer and more inclusive Australian workplaces.

Yours sincerely



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