



17 October 2024

The Hon Mark Dreyfus KC, MP
Attorney-General
Parliament House
CANBERRA ACT 2600

By email: attorney@ag.gov.au

Dear Attorney-General

Statement of Intent from the Australian Human Rights Commission

Thank you for your letter of 27 September 2024 attaching your Ministerial Statement of Expectations for the Australian Human Rights Commission (**AHRC**). On behalf of the AHRC, I am pleased to provide our Statement of Intent in response. As the accountable authority of the AHRC, I am committed to ensuring that the AHRC delivers the highest level of performance and accountability, consistent with its functions under the *Australian Human Rights Commission Act 1986* (Cth).

Our Statement of Intent addresses your priorities and objectives for the regulatory reform agenda and regulatory best practice. It outlines how the AHRC will build trust and work collaboratively to monitor and ensure compliance with the positive duty in section 47C of the *Sex Discrimination Act 1984* (Cth).

We look forward to continuing to work with you and your department to deliver the objects outlined in this Statement of Intent.

Yours sincerely

A handwritten signature in black ink, appearing to read 'H. de Kretser', with a long horizontal line extending to the right.

Hugh de Kretser
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**Australian
Human Rights
Commission**

**President
Hugh de Kretser**

Ayesha Nawaz, Assistant Secretary, Human Rights Branch, ayesha.nawaz@ag.gov.au



Australian Human Rights Commission

Statement of Intent – October 2024

This statement sets out my intentions as President of the Australian Human Rights Commission (**AHRC**), regarding how the AHRC will meet the expectations outlined by the Attorney-General in his Ministerial Statement of Expectations of 27 September 2024.

Overview

The AHRC is Australia's independent National Human Rights Institution. As of 12 December 2023, the AHRC is responsible for monitoring and ensuring compliance with the positive duty in the *Sex Discrimination Act 1984* (Cth) (**Sex Discrimination Act**).

The positive duty refers to the obligations on 'employers' and 'persons conducting a business or undertaking' under the Sex Discrimination Act to eliminate, as far as possible, the following unlawful behaviour (**relevant unlawful conduct**) from occurring:

- discrimination on the grounds of sex in a work context
- sexual harassment in connection with work
- sex-based harassment in connection with work
- conduct creating a workplace environment that is hostile on the grounds of sex
- related acts of victimisation.

I acknowledge that under the *Australian Human Rights Commission Act 1986* (Cth), the AHRC's regulatory functions are to inquire into and ensure compliance with the positive duty and to assist employers and persons conducting a business or undertaking to achieve compliance. This is enabled through powers to:

- inquire into compliance
- make findings of non-compliance
- make recommendations to address any non-compliance
- issue compliance notices that can be enforced by the federal courts
- enter into enforceable undertakings with duty holders.

The AHRC will exercise its functions and powers in good faith and to the best of its ability.



Principles of regulator best practice

The AHRC is committed to the principles of regulator best practice as articulated in the *Regulator Performance Resource Management Guide* (December 2022). The AHRC will embed and act in accordance with these principles when delivering its services and undertaking its functions and will strive for continuous improvement against these principles, as set out below.

- 1. Continuous improvement and building trust:** The AHRC will strive to adopt a whole-of-system perspective, continuously improving its performance, capability and culture to build trust and confidence. It will:
 - actively build staff capability to ensure staff have leading practice regulatory knowledge and the capacity to identify and implement improved practices
 - develop processes and systems that will allow the AHRC to conduct and finalise regulatory action as promptly as possible
 - exercise regulatory powers according to principles of procedural fairness and natural justice
 - ensure transparency and accountability in relation to the AHRC's use of its regulatory powers including by publishing relevant data
 - regularly review regulatory action, using intelligence and data to provide performance insights and drive continuous improvement
 - engage in strategic consultation and remain receptive to feedback and diverse stakeholder views.
- 2. Risk-based and data-driven:** The AHRC commits to managing risks, maintaining essential safeguards and leveraging data while also minimising regulatory burden. It will:
 - employ an intelligence-led, risk-based approach, based on available data, to prioritise regulatory activities to ensure maximum leverage and impact
 - promote a regulatory approach that facilitates proactive and voluntary compliance with positive duty obligations, focusing compliance and enforcement activities where risks and impacts of harm are greatest
 - weigh the efficiency and cost-effectiveness of the AHRC's regulatory actions, seeking to impose the least burden on those that are regulated (including small businesses and sole traders) while maintaining essential safeguards.



3. **Collaboration and engagement:** Consistently with its privacy and secrecy obligations, the AHRC commits to communicating transparently and responsively, implementing regulations in a modern and collaborative way. It will:
- provide up-to-date, clear and accessible guidelines and resources in multiple languages to assist employers and persons conducting a business or undertaking with positive duty compliance
 - engage with employers and persons conducting a business or undertaking to promote best practice compliance and identify and seek to address non-compliance risks as they arise
 - engage with stakeholders including industry, government and the broader community to increase community awareness of the AHRC's regulatory role and decision-making processes
 - engage with other federal and state regulators to adopt best practice, reduce duplication and regulatory burden, and streamline regulatory activities.

Innovation and regulatory change

The AHRC will monitor the environment it operates in to ensure that its regulatory approaches keep pace with changes in technology, industry practices and community expectations.

AHRC will review and, where necessary, adjust policies, protocols and operating procedures, to ensure that it can respond to the changing social, technological and commercial context in which it operates.

Addressing the Australian Government's policy priorities and objectives

The AHRC will remain responsive to government priorities and objectives.

Regulatory reform agenda

The AHRC will contribute to the Australian Government's regulatory reform agenda including its focus on improving regulatory performance, capability and culture through regulatory stewardship.

The AHRC will contribute to the regulatory reform process by:

- seeking opportunities to remove duplication and streamline processes in order to improve efficiency and productivity, including by working with other



regulators (including work health and safety regulators, for example) to ensure a streamlined approach to regulation for the community

- acting in accordance with regulator best practice in its decision-making, policies, processes and communication practices, in order to maximise transparency and minimise compliance costs
- applying the *Regulator Performance Resource Management Guide* (December 2022) to its regulatory functions to assess its performance and engagement with stakeholders
- incorporating regulator performance reporting into its reporting processes, as required by the Regulatory Performance Management Resource Guide under the *Public Governance, Performance and Accountability Act 2013* and *Public Governance, Performance and Accountability Rule 2014*.

Safe, respectful and equitable workplaces

The AHRC is aware of the key role it plays in upholding the rights of Australian people to feel safe and respected at work. In line with Recommendation 18 of the *Respect@Work: Sexual Harassment National Inquiry Report (2020)*, the AHRC will contribute to ongoing efforts to eliminate sexual harassment in Australian workplaces by supporting businesses and organisations to meet their obligations with the positive duty. This includes publishing guidelines and resources for achieving compliance.

The AHRC will also help employers and persons conducting a business or undertaking to take positive steps to eliminate, prevent, and respond to relevant unlawful conduct in their workplace, and by stepping in to assess and enforce compliance where there is insufficient action.

The AHRC is, and will continue to be, mindful of the need to ease the burden on individuals when discharging this regulatory role by proactively initiating action to address relevant unlawful conduct, rather than simply relying on individuals to provide information. The AHRC will do this in addition to its separate function of providing individual redress for complainants through its Investigation and Conciliation Service, noting that this service remains an important source of information for the Commission's regulatory activities. This will improve the safety of Australian workplaces and ensure that all workers have an equal right to safe, respectful and equitable workplaces.



Relationship with Minister and portfolio

I acknowledge the role the AHRC has in assisting you to respond promptly to human rights and anti-discrimination matters. I undertake to continue to provide you with accurate and timely advice on any significant issues that may arise.

The AHRC will continue to work collaboratively with your department to provide regulatory knowledge and accurate and timely policy advice on significant issues relating to strengthening human rights and anti-discrimination protections.