

# Human Rights Commission Anti-Discrimination Act 1991 Review

CCIQ MEMBER AND  
SUBSCRIBER FEEDBACK  
SUMMARY



# CONTENTS

**03**

ABOUT THIS REVIEW

**04**

Q1. DO YOU SUPPORT SEX-BASED HARASSMENT BEING ADDED AS A CONTRAVENTION OF THE ACT?

**05**

Q2. DO YOU SUPPORT 'HOSTILE ENVIRONMENT' BEING ADDED AS A CONTRAVENTION OF THE ACT?

**06**

Q3. DO YOU THINK THE TIME LIMIT SHOULD REMAIN THE SAME, OR CHANGE? WHY / WHY NOT?

**09**

Q4. IF THE LAW WERE TO CHANGE TO INTRODUCE A POSITIVE DUTY, WHAT WOULD BE THE KEY CONSIDERATIONS FOR YOU?

**10**

Q5. IF A REGULATORY COMPLIANCE SYSTEM FOR THE ACT WAS INTRODUCED, WHAT WOULD BE THE KEY CONSIDERATIONS FOR YOU?

**11**

Q6. DO YOU SUPPORT THIS DEFENCE? WHAT ARE THE KEY CONSIDERATIONS FOR YOU WHEN ACCOMMODATING YOUR STAFF OR CUSTOMERS WITH DISABILITY?

# ABOUT THIS REVIEW

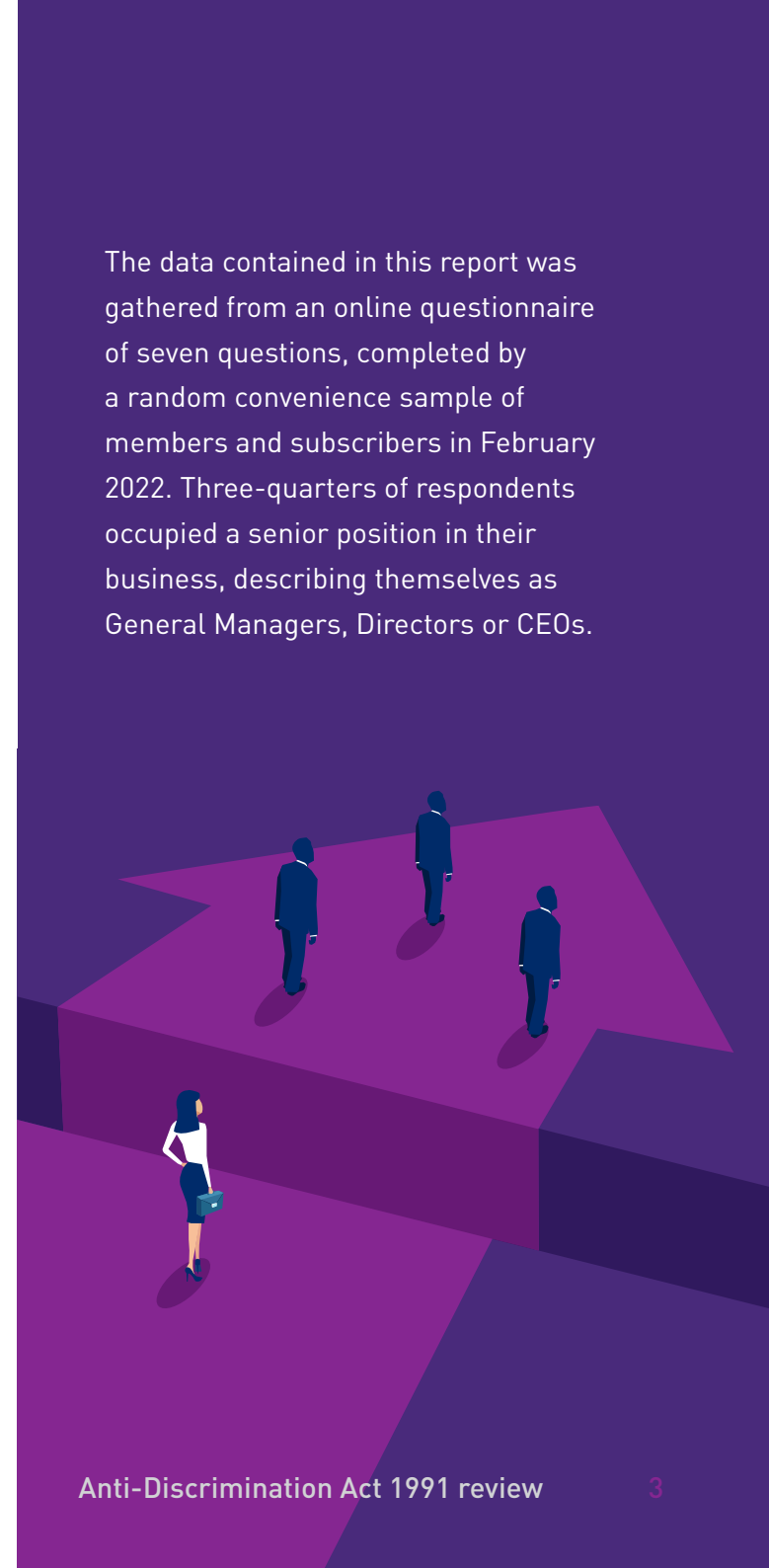
The Anti-Discrimination Act 1991 plays an important role in preventing discrimination and promoting social inclusion in Queensland – but a lot can change in 30 years.

In May 2021, the Attorney-General asked the Queensland Human Rights Commission to undertake a review of the Anti-Discrimination Act.

Workplaces actively addressing discrimination and sexual harassment benefit from lower staff turnover and absenteeism, better productivity and morale, and enhanced business reputation.

The Queensland Human Rights Commission approached CCIQ to seek input from members and subscribers on the needs and views of the business community about their responsibilities under the Anti-Discrimination Act, and whether respondents thought the law should change.

The data contained in this report was gathered from an online questionnaire of seven questions, completed by a random convenience sample of members and subscribers in February 2022. Three-quarters of respondents occupied a senior position in their business, describing themselves as General Managers, Directors or CEOs.

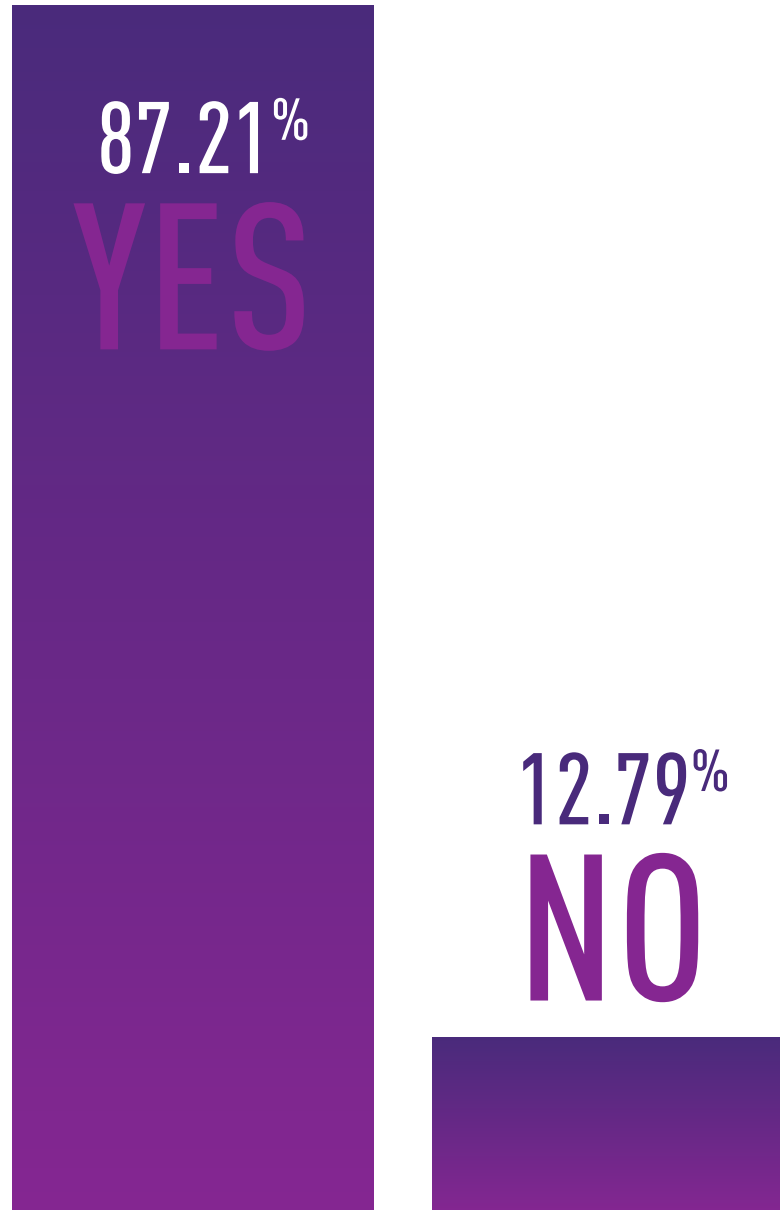


## DO YOU SUPPORT SEX-BASED HARASSMENT BEING ADDED AS A CONTRAVENTION OF THE ACT?

Sex-based harassment is unwelcome conduct of a seriously demeaning nature because of a person's sex.

Close to 90% of respondents are in support of sex based harassment being added as a contravention of the Anti-Discrimination Act 1991, and 12.79% did not support it being added.

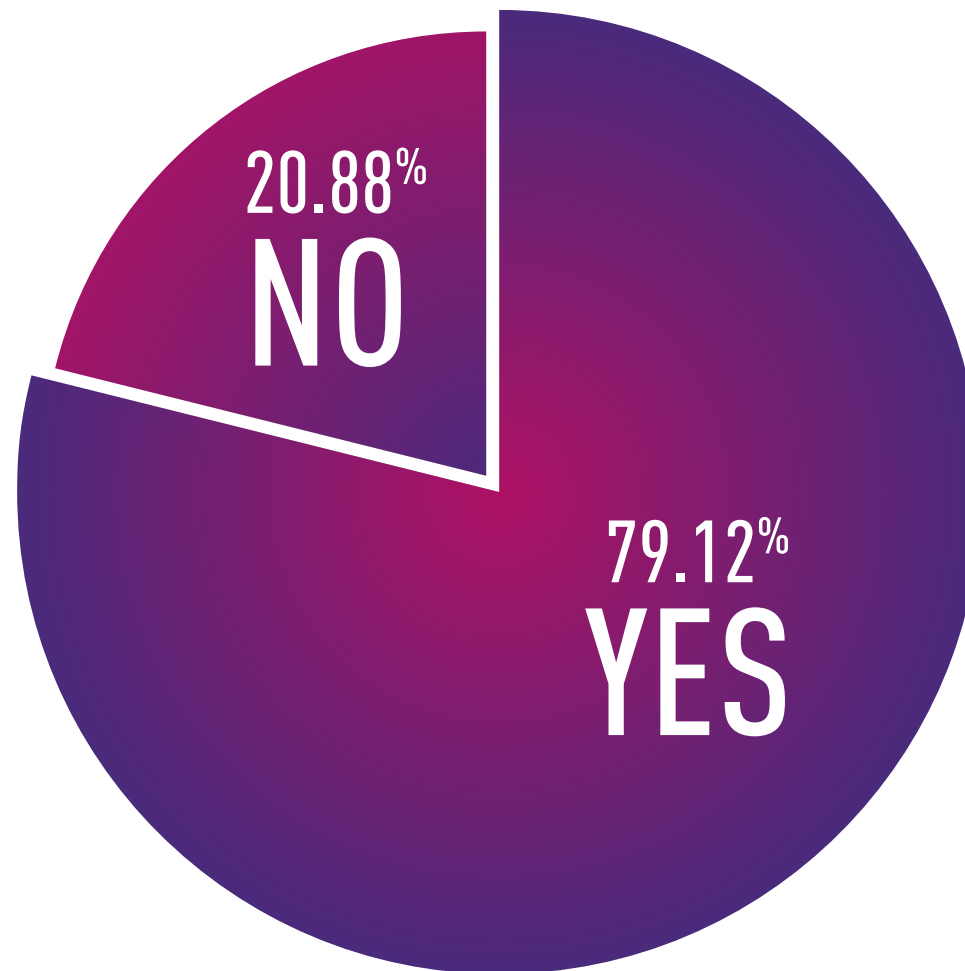
Yes	87.21%	375
No	12.79%	55
<b>TOTAL</b>	<b>100%</b>	<b>430</b>



## DO YOU SUPPORT 'HOSTILE ENVIRONMENT' BEING ADDED AS A CONTRAVENTION OF THE ACT?

A hostile environment can be intimidating, humiliating, or offensive by reason of a person's sex.

Close to 80% of respondents supported 'hostile environment' being added as a contravention of the Anti-Discrimination Act, while 21% did not.



Yes	79.12%	341
No	20.88%	90
<b>TOTAL</b>	<b>100%</b>	<b>431</b>

# THREE

## DO YOU THINK THE TIME LIMIT SHOULD REMAIN THE SAME, OR CHANGE? WHY / WHY NOT?

The time limit to complain to the QHRC is within one year of the alleged contravention.

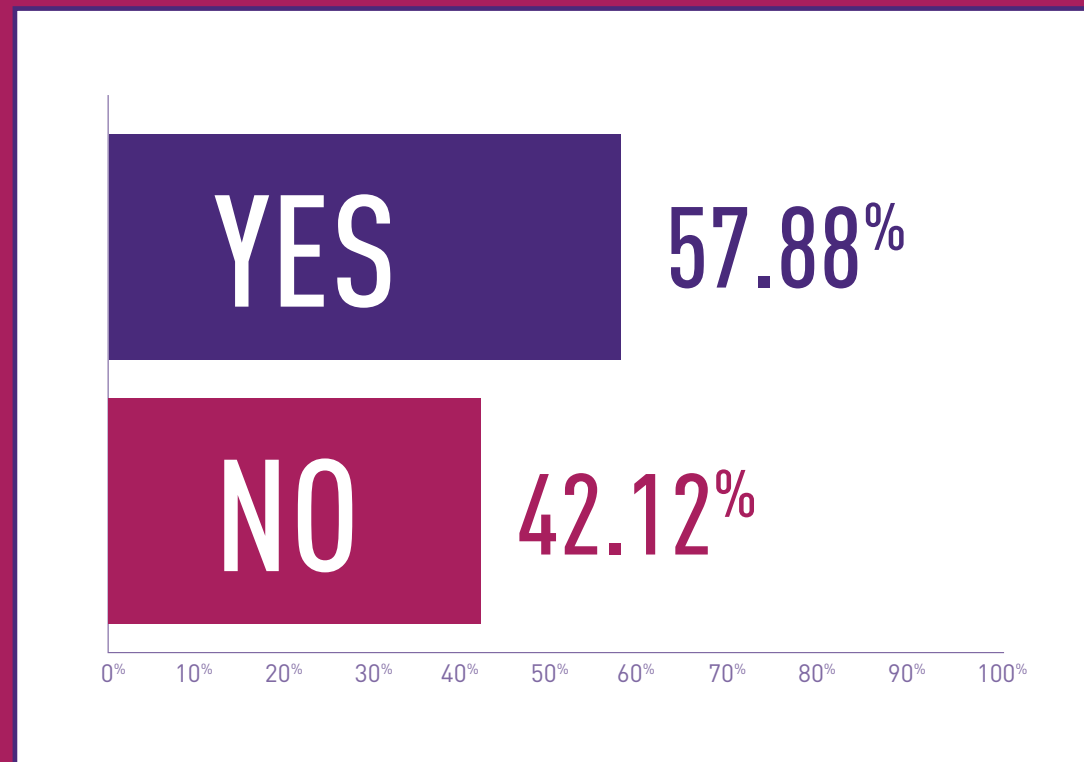
The current time limit for sex discrimination complaints is within one year of the alleged contravention. 58% of respondents agreed the time limit should stay the same, while 42% believed it should change.



Working through trauma takes time, there should be more flexibility.



Yes	57.88%	246
No	42.12%	179
<b>TOTAL</b>	<b>100%</b>	<b>425</b>



## RESPONDENTS WERE ASKED TO PROVIDE MORE INSIGHTS



### MORE TIME

Main respondents that answered yes said the current time period was too short and more time may be needed in order for the person impacted to recover and feel strong enough to complain after their experience, and pressures could prevent a complaint within the current time frame.



### LESS TIME

Some respondents felt the time should be less and it could become too drawn out if left too long and the sooner reported the quicker it will be to take action.

## RESPONDENTS WERE ASKED TO PROVIDE MORE INSIGHTS

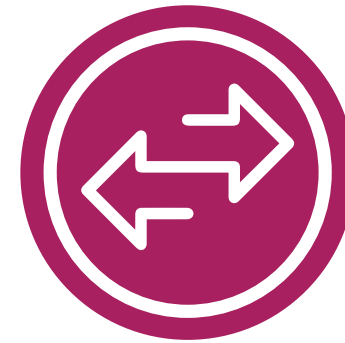


### THOSE WHO AGREED THE TIME LIMIT SHOULD STAY THE SAME SAID:

“A person may need time to recover and feel strong enough to complain after their experience.”

“While lengthening it may assist those who are reticent to make a complaint, it also makes defence against illegitimate claims more difficult, one year strikes a reasonable balance.”

“If you haven’t followed up within a year, details are forgotten or incorrectly remembered.”



### THOSE WHO SAID THE TIME FRAME SHOULD CHANGE SAID:

“A person may not feel they can complain within that time limit (one year).”

“The time limit should be much less, for example 28 days.”

“Trauma can take a long time to process and act on. One year could be seen as being still in the active trauma phase.”

“It can take a victim of harassment years to recover and gain the confidence to speak out.”



# FOUR

## IF THE LAW WERE TO CHANGE TO INTRODUCE A POSITIVE DUTY, WHAT WOULD BE THE KEY CONSIDERATIONS FOR YOU?

A positive duty is a legal obligation that would require businesses to be proactive in addressing discrimination and sexual harassment in order to create safe workplaces.

### Respondents reported:

“Key considerations would be: promotion of the concept of mutual obligation / responsibility of the business in meeting legal obligation standard necessary to maintain the safe workplace, and also each individual employee in maintaining that safe workplace standard personally.”

“A framework to assist employers meet their positive duties.”

“Key would be providing examples of what proactively addressing discrimination looks like, along with sufficient and effective material to train and educate the workforce.”

“Maintaining a work environment where anyone and everyone feels empowered to speak up and educating employees on their rights, responsibilities and obligations to keep themselves and others safe.”

“I don’t believe it needs a positive duty, open to all, everyone treated respectfully is enough. We need to stop bending over backwards.”

“As an employer, it should not be a dominant duty in the operation of our businesses. However, it is a serious matter and protocols should be in place and addressed. Employers are not always aware of discrimination and harassment between staff members. How much responsibility should an employer have in these situations, if they don’t know?”



## IF A REGULATORY COMPLIANCE SYSTEM FOR THE ACT WAS INTRODUCED, WHAT WOULD BE THE KEY CONSIDERATIONS FOR YOU?

Regulatory compliance is a key issue in business risk management, but may impose a burden, especially on smaller businesses.

### Respondents reported:

“Key considerations for small business: regulatory compliance time, cost, level of knowledge; additional skills set required for workplace training and resources in preparation for audit of cultural /gender non discriminatory standards. For overall improvement, suggest actively promoting businesses which are consistently and currently held up as leaders in providing safe workplaces.”

“Provide small businesses opportunities to access appropriate support to deal with the issues.”

“I feel that every individual has a right to their own health choices and if they are a healthy person they should not be discriminated against.”

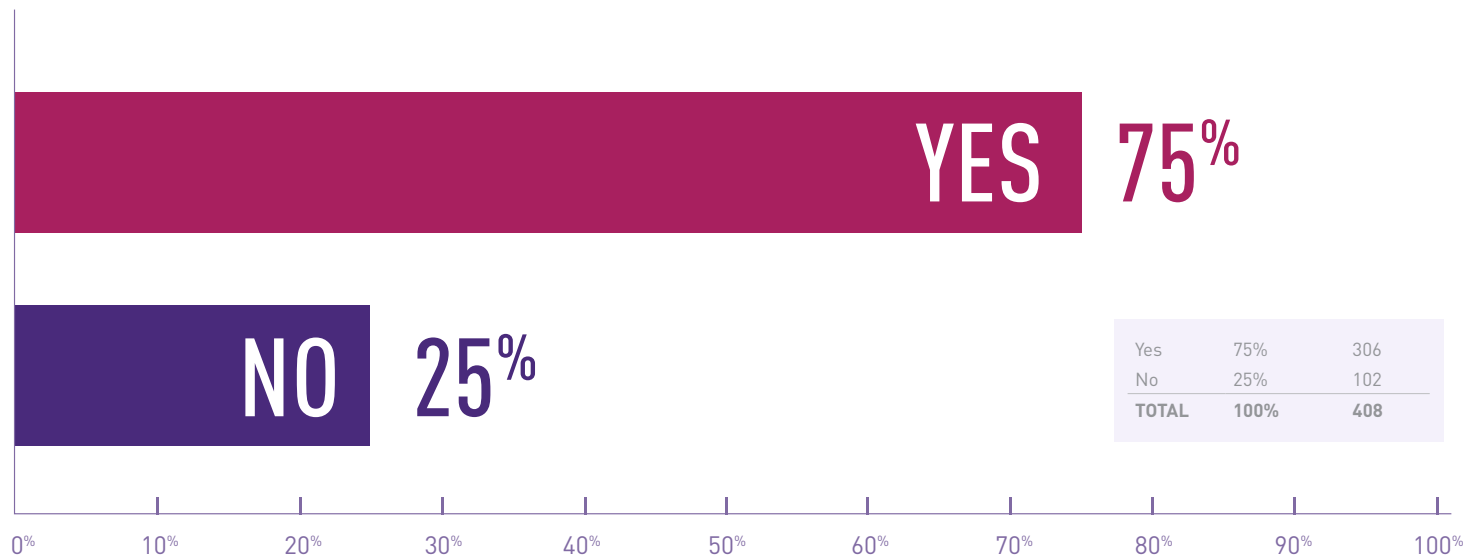
“Simple compliance framework with an allowance for employers to dispute vexatious or contrived claims.”

“We would prefer to deal with it and when it arises and take it from there and update anything accordingly.”

“We have compliance systems in place and so could add a further one.”

Currently, the Act excuses discrimination when providing special services for a person with a disability would cause a business 'unjustifiable hardship'.

## DO YOU SUPPORT THIS DEFENCE? WHAT ARE THE KEY CONSIDERATIONS FOR YOU WHEN ACCOMMODATING YOUR STAFF OR CUSTOMERS WITH DISABILITY?



## RESPONDENTS WHO ANSWERED YES (75%) SAID:

“Would depend on the size of the small business in terms of profitability and number of employees required for the output service provided. In the past, our business has accommodated people with disability requiring special services (mine accident rehabilitation). Customers with a disability who require special services are generally accommodated, depending on the level of physical disability (car hire sector).”

“Nature of our jobs is very physically demanding, requiring independent mobility, strength and physical fitness, ability to drive long distances, lift, bend, squat, work in high risk environments. It may be difficult to accommodate staff with disabilities, depending on the nature of the disability.”

“If a person is unable to perform tasks consistent with the duties required in any workplace, with regard to their own and the safety of others or the overall productivity of a business they should not hold that position. In particular small business cannot afford extra staff under current climates to provide supervision of staff who cannot work to either physical/mental standards within a workplace.”

# YES

## RESPONDENTS WHO ANSWERED NO (25%) SAID:

“Vulnerable people require more safety and assistance. If the perpetrator can be categorised as a vulnerable person then there is the risk they are using their disability to get away with crimes, or the chance they genuinely don’t understand what they are doing is wrong, in which case they need to be removed from their position in the work place to ensure the safety of others.”

“People with disability should have equal rights.”

“Unjustifiable is very vague. Could there be some sort of financial incentive for helping small businesses accommodate a disabled staff or customer?”

# NO



# SUMMARY

Over **400 CCIQ members** and subscribers participated in the survey and respondents were **in favour** of sex based harassment and hostile environment **being added as a contravention** of the Discrimination Act.





Powering  
business  
potential

[CCIQ.COM.AU](http://CCIQ.COM.AU)