# Graphical user interface, text Description automatically generatedTake on Board Podcast – Episode 320

Transcript – Respect at Work law - compliance and accurate reporting tips with Natasha de Silva

**Helga Svendsen:** Today on the Take on Board podcast, I'm speaking with Natasha de Silva about the Respect@Work report, the Respect@Work, and the seven standards that need to be complied with. Before we start today, as always, I would like to acknowledge the traditional custodians of the land on which we record.

For me. I am on the unseated lands of the Wurundjeri people of the Kulin Nation, and I pay my respects to elders past and present, and also to any First Nations people who may be listening to today. I acknowledge their continuing connections to land, waters, skies, culture, and country. As I know I've said before, I support Voice Treaty and truth for Aboriginal and Torres Strait Islander peoples in Australia, and I encourage others in the Take on Board community to do the same.

Now, let me tell you about Natasha. Natasha is on the Boards of Plan International Australia, impact Pathways, James C Financial Services, and Eyeplant. She's formally been on the boards of Full Stop Australia and Monte Sant' Angelo Mercy College, if I'm saying that right, and is also on the Nominations Committee of Basketball Australia, which is where we first cross paths.

Natasha is the founder and principal of Intersection and is recognised nationally and internationally as a human rights and equality expert. She's a sought-after advisor on workplace culture across the public and private sectors, working with leaders to create safe. Respectful and inclusive workplaces.

Examples of this work include the independent review of workplace culture of the Productivity Commission among others prior to established intersection. She led significant national policy reforms including. Set the standard, the independent review into Commonwealth parliamentary workplaces. Oh goodness.

I'm sure you've got some stories that you can't share with us about that. Obviously, the Respect@Work report the National Inquiry into sexual harassment in Australian workplaces with former sex discrimination Commissioner Kate Jenkins, and in January this year she was appointed a sessional commissioner at the Victorian Parliamentary Workplace Standards and Integrity Commission for a five-year term.

Oh, Natasha, finally, I'm so pleased to have you here. Welcome to the Take on Board podcast.

**Natasha de Silva:** Thank you so much Helga. It's such a delight to be doing this with you and I'm joining from the Sacred Lands of the Gadigal people, of the Your nation. It's a great privilege to be joining from here.

**Helga Svendsen:** Thank you. We have been talking about getting you on the podcast for so long, so anyway, I'm very excited to have you here.

And it's also, I think, just a bit of a testament to some of those committees like you and I were on the nominations committee together. There's others I've met through the Greenpeace nominations committee. I just love those. Anyway, the connections that you get to make through some of this board work or committee work or whatever it may be.

**Natasha de Silva:** Absolutely.

**Helga Svendsen:** So we will dig into the Respect@Work compliance, I guess, in a moment. But as always, before we do that, I love to dig in a little bit more about the guest I have in front of me. So tell me, is there something from the last month or so that you're proud of that you'd like to share with us?

**Natasha de Silva:** I guess one thing that I'm particularly proud of is that in the last month, so having started my own business.

Three years ago, three and a half years ago, we've actually in the last month officially launched a new arm of that business, which is a training and education arm called the I Academy, and we had an incredibly successful, we've had two launches, one in Melbourne and one in Sydney. And the one in Sydney was just last week, and it was a fabulous.

Event. And so it's really delightful to have. I'm really proud to have this new part of the business out in the world, and when I first started my own business, I didn't anticipate. That I would be doing things like this three and a half years down the track, but it's fantastic.

**Helga Svendsen:** That event you had in Melbourne a couple of years ago, was that the launch of your business?

Is that what that was?

**Natasha de Silva:** So the business had already been launched then, but that was recognising that the positive duty laws were becoming enforceable that December in 2023.

**Helga Svendsen:** I love it. I love you how you have these events kind of signifying, I guess, you know, the launch of a new product or the launch or new laws coming into effect.

I actually love it. Like I loved that you were the only person I knew at that gathering, and of course as one of the co-hosts of it, you were rather busy. But I got to chat to so many interesting people. So yeah, like I say, I was really sorry I missed. The launch of the academy.

**Natasha de Silva:** Those events, I think we do like to tie to major kind of moments or landmarks in time.

I mean, the launch of the academy is slightly different 'cause it's ours, but recognising because these, I guess, changes are really hard fought and they've decades in the making. So while I might have had the privilege of working on a piece of work that. Was then it made recommendations that were implemented.

This is on the back of years of years of advocacy of people wanting change, asking for change, recognising the need for change. So celebrating those wins is incredibly important. And what I love about that is that you get leaders in the room who understand the change or who wanna know more about the change.

Who, the change, which is not the case. That's why I, you had, you know, you met lots of great people because. One of the comments about the I Academy launch last week was I was in a room full of people who wanted to make a difference, who wanted to lead, who were talking about it in a way that's exciting.

**Helga Svendsen:** Yeah. And as you say, like, oh God, it can be such draining work, quite frankly, that if we don't celebrate, like celebrating the winds of anything is a good thing to do. But yeah, really celebrating the wins it's needed just to keep the energy going, to continue doing the work. So thank, thank you for doing the work, and thank you for consciously celebrating the wins and using that as an opportunity to bring people together.

And also, congratulations on the academy because that will be an amazing resource. For all sorts of people, including board directors. So the Take on Board community, we'll make sure we put a link in the show notes. It might be something that is of great value to them in working through what their obligations are, which segues us nicely, doesn't it?

To the topic for today. So we are talking about the Respect@Work reforms and compliance requirements, and what directors need to know. Where should we start the conversation? Natasha?

**Natasha de Silva:** I guess I would start the conversation around the fact that there has been a significant change. So I think when we talk about Respect@Work, which was largely about, well, which the inquiry was about sexual harassment, but I suppose the take I have on it is Respect@Work and that framework can actually help organisations.

Meet their obligations under the other regulatory frameworks in this space. So fair work where you've got bullying and sexual harassment, that jurisdiction, but also the work health and safety jurisdiction where you've got psychosocial hazards. And so, we speak to board members who would say, well, we've known for years it's not okay to commit sexual harassment at work.

What has changed? Like, why are we talking about it now? We know it's been unlawful for decades. Well, what's different is that actually it's a pretty significant shift, and that is because of the laws. We've been in the reaction space. We've waited for an incident to occur, and then we've responded. And actually, what we're saying now is it's the same as the physical safety framework employers are required to prevent.

**Helga Svendsen:** what does that look like in practice for organisations and for boards? Like what should boards be doing differently with this active duty to prevent?

**Natasha de Silva:** Yeah, so I think one of the things that has changed is around board awareness. So by having the positive duty to prevent, in the same way that boards, when they deal with work health and safety issues, that's a non-financial re it comes to the board.

On a regular basi. So whether that's every year or, or more frequently than that, but it's a standing item. This should be a standing item for boards as well. Now, what are we doing to proactively prevent and key to that is making sure that the organisation is doing the risk identification work and is mitigating those risks.

So that is where I think boards need to be confident that that's what's happening at the organisational level. And so risk identification is one of the seven standards of the Respect@Work framework. And they need to be confident that there is action actually taken across all seven standards that that's coming to them on a regular basis so they can understand that the systems exist in place that, that are actively preventing.

So that's the kind of governance element or the institutional level. And then I would. Say for board directors in particular, there's absolutely an individual leadership element that they need to be aware of, and leadership is the first standard of the seven standards, and that is intentional because we know how important leadership is in prevention space and creating positive culture.

And so individually leaders need to understand their obligations. They need to be confident that the organisation. Is, as I say, meeting all the seven standards and that they're seeing that and they're comfortable that the governance is in place for that. And then as individual leaders, they need to be walking the talk.

They need to be behaving in a way that sets that standard.

**Helga Svendsen:** Can you walk us through what the seven standards are? It starts with individual leadership, and then we might circle back to that one actually, because I'd love to hear some examples of where that's working well. But maybe just walk us through what the seven standards are.

**Natasha de Silva:** The first four standards are in the prevention space, leadership, culture knowledge and risk identification. And then the next three are in the response space. And that's support reporting and response monitoring, evaluation and transparency. And so I would just say to board directors, they wanna be in that prevention first four standards, aware they're spending all of their time.

**Helga Svendsen:** What have you seen from boards in organisations where that leadership, where that culture is working really well, is there any examples you can share that might inspire board directors that are listening to this around what's working well?

**Natasha de Silva:** Yeah, look, I think there are pockets of really positive practice.

And I might start maybe at a more universal level. So when the Respect@Work Report came out around the same time or around 2020 I think it was, there was a CEO who'd been appointed of a major organisation who had actually been found to have. Perpetrated sexual harassment and there was kind of, there was just a revolt right within the organisation from staff, but also from shareholders.

And it was kind of, we're in that turning point in 2020 where there was a rolling number of pub, very public sexual harassment incidences that came out and the tide was kind of turning around this and a couple of the board members went, including the chair. And at that time, given that high profile, the Australian Council of Superannuation Industries.

So they saw what happened, and they're like, how do we actually understand from the organisations that we're investing in what they're doing in this space? And so they did a piece of work with the Australian Human Rights Commission, actually looked at some interviews with key organisations in the ASX 300.

That basically said, what is your board doing around these issues? Does the board see this as an issue for them? That study found that 19% of boards actually thought the prevention of sexual harassment was an issue for them 19%. Most of them thought it was an issue for people in culture or HR. Oh my God.

So that was 2021. That study was undertaken. ACSI repeated the study in 2023, asked the same question, who in your organisation is responsible for the prevention of sexual harassment? And the result was 83 or 84% of boards said it's us. And that is a massive shift in a two year period. Of course, during that two year period.

The respect work laws came in, they were then enforceable 12 months after that. So a lot of focus around it, but fantastic result. That's what we see is that growing awareness about the obligation and the recognition of the role that boards play. So I think that's, that was an incredibly positive result.

I think then if we come down from that level, where have I seen good practice? I would also say at the sector level, so where an industry or a sector comes together and says, we recognise that employees in our sector are moving in and out of the different organisations that are largely operating in the same fields.

And if we can have some consistency around expectations. And how we set those expectations around behaviours and the kinds of messages that we give people when they're inducted into the sector or into our organisation, that there is a similar message then that's gonna be really powerful in basically ensuring there are no gaps in understanding.

And that has been incredibly useful. And I think the, the sector where we've seen the most work has been in the mining sector. In 2018, so the Australian Human Rights Commission every around every four years does a national prevalence survey on sexual harassment. And in 2018, for the first time, the commission was able to obtain industry data and.

It's the 21 industries that, that the A BS uses, and a number of them are grouped together, but mining is its own sector. And so when that data came out, they could see that they were well above the national average and they actually. Said, well, we've got this. Now there's a problem that we have to own collectively.

And I would also say WA government has done a lot of work in this space as well in terms of their expectations of the mining sector. But since that time, the mining sector has come together and addressed this issue as a collective one. And I think that's incredibly powerful because it does. Create a consistency that is very effective.

And then at the organisational level. So if we keep dropping down, there are two things that I see. One is we're on the front page of the age, or the Australian or the Sydney Morning Herald because something's happened. What do we do now? Like how do we lean into this now? And then the other is. We understand the landscape has changed, we have understand the obligations have changed.

How do we get ready for this? What do we do to be front leaning and on the front foot? You wanna be in that second category, no question. And you know, we say that the prevention we leaders should absolutely be in that prevention space, and that is no question. But inevitably we know that these incidents will happen.

They do. And so what we say to boards is you don't want it to be the first time you think about it when you're on the front page of the Australian or the age. You wanna have thought about this prior and you wanna be squarely in that prevention space. So that ideally you're not, but if you are, if something does happen that you've actually put a whole, it's an outlier because you've addressed it at a systemic level.

**Helga Svendsen:** Partly it's that boards knowing and asking the questions about what are we actually doing? Partly, presumably it's about the data that they're receiving as well. I was thinking about front page of the. Whatever, newspaper or online, you want it to be an outlier. You wanna be looking at the data because as you say, these issues happen in almost every workplace.

So I don't think organisation, oh, it doesn't happen here, or our data shows, it doesn't happen here. So I'm just wondering about the data and looking through it because I think. It's also sometimes a bit of a trap for directors saying, oh look, we've looked at the data and look, there's no bullying and harassment in our workplace.

It's like, well, to me that's a bit of a red flag as well. What are your thoughts around what directors should be asking for, and then in the data that they're receiving, what they should be looking for?

**Natasha de Silva:** Yeah, absolutely. It's a great question. So we know that of course. Sexual harassment and other harmful behaviours at work are incredibly under-reported.

So there's a whole lot of reasons why people don't report. They fear that they won't be believed. They didn't think it was serious enough. They think nothing will happen as a result of a report. They think the reporting process will be brutal, often is, but also really key. When I go into organisations, what I.

Most frequently here is, well, I won't report because there'll, there'll be a price for it. There will retaliation, victimization. I'm putting my line, my job on the line. I can't afford to do that. So there are pretty significant barriers to reporting 18%, as I say, of people report sexual harassment. So if that's the case, we know that you can't trust your reporting data because people are using your reporting mechanisms.

So if you can't trust. How do you under actually understand what's happening at the coalface? Because when you're a board member, it's often been a very long time since you held the least powerful role in an organisation. And so there's a tendency of senior leaders to think it's the thing that happened a long time ago in the eighties and nineties when workplaces were a bit more loose.

This is what happened. Actually. What we know is one in three people have experienced sexual harassment in the workplace in the last five years, but the more senior you become, the less likely you are to see it. So that disconnect, I think is one thing. So being aware that you as a director now are not at the coalface, might not see these things, doesn't mean they're not happening.

They are happening and they're happening today. So that your data, your internal complaint data isn't telling you the full picture. So if one, if only one in five people report, then you can be pretty sure that your data is an underrepresentation of what's actually happening. So how do you find out? What you don't know what is happening.

And to that end, I would say that in this context now, where we have an obligation to prevent finding out what you don't know is really important because it means your prevention efforts are better targeted. So I would say that actually work engaging with your workforce. In this work is incredibly important.

Now, given that there's a lot of mistrust in systems, I find, which can then translate to mistrust in leadership, including in boards, you have to be really careful about how you obtain that information because if there's mistrust and people are worried about victimization, then they're not gonna tell you just because asked often hear from employees.

In organisations, we get the annual engagement survey. We're told it's anonymous, but there's no way that it's anonymous. Now, whether it is or isn't, kind of doesn't matter because people's perceptions are, their perception is the reality. It's not anonymous, so I'm not gonna give my true statement or true view of what's happening to me.

So I do think, particularly at this moment in time, because of the erosion of trust in systems over years, there's a couple things that organisations can do that can help. One is the introduction of anonymous reporting. Well, I know that, you know Kate Jenkins says that's not something as an employment lawyer, she would've recommended.

20 years ago, but it absolutely is now. And so that element is incredibly important. And second, having some kind of, so the independence bit is key. So anonymous reporting mechanism are independent. So having some kind of independent engagement with your workforce can be incredibly beneficial. Depending on the size of your workforce, you may wanna do a prevalence survey, particularly if you have a large workforce.

I think that's something that's worth capturing, measuring over time. It's not something you're gonna do every year, but at points in time to see that you're actually tracking and getting better results and mitigating some of those risks. But also then maybe if you can't have, if you're a small organisation and you can't have independent consultation, having conversations with your workforce around the risks.

That they might see. So we are not asking people to tell us about their personal experience in the workplace, but you work here. What do you think might be some of the risks that occur that you might observe or where you felt potentially unsafe? I don't wanna. Make people tell you about the things that happened to them necessarily, but at that kind of company level, what are you seeing that you think we should know about?

**Helga Svendsen:** I wonder with those engagement surveys that are often done in a range of ways in different organisations, a conversation I'm hearing from board directors is about basically whether boards see all of the free text comments versus a summary of the data Now. I think I'm a fan of boards, seeing all of the free text comments.

Even though in doing that, there is a risk in boards going down into the weeds and boards shouldn't be going into the weeds, but I just feel like the free text comments sometimes give a flavor that the data doesn't give. And I think it's good for boards to have that oversight, not for it to just live in with PNC or people in culture or human resources or whatever it's called in whatever company.

Have you got any thoughts around that?

**Natasha de Silva:** Absolutely agree. I think those free text responses do provide the colour and movement that you don't get with the data. There is no question. The only thing I would say about that is that as long as it's not identifying, 'cause some people will, might identify themselves or someone else in the workplace.

Being mindful of that, when you're sharing that data is key. But beyond that. Absolutely. That is where if people feel comfortable saying what they don't like or what they think needs to change, or what the risks might be, that's where you'll find it. Because I think when we're doing surveys where you've gotta drop down and select, are we asking the right question?

Is the tool sufficiently tailored to our context? Quite often they're not. So you're asking questions that can actually be interpreted different ways or slightly vague, and people are kind of stabbing in the dark as opposed to being really clear about what it is they think is good about leadership or who is leadership, who are we talking about?

**Helga Svendsen:** Yeah, and it allows, like the question you posed before about what are the risks you see? I mean, that's not a click. Well, I guess you could prompt some of it, but the idea is it's not a click yes no, or click the list. It's like, what are you observing? So it's that more qualitative data. Interesting.

**Natasha de Silva:** Absolutely. That's where the richness is. Yeah.

**Helga Svendsen:** And again, what I'm hearing and what I observe is that sometimes in the free text, a, not everybody does the free text comments. Of course. Often people definitely don't, and if they don't trust the system, they might not. So sometimes in the free text comments, it's only one or two, and I guess.

For boards. Some of the conversations I hear, oh, it's just one or two. Don't worry about that. It's like, hmm. I would just encourage board directors not to dismiss, because if somebody has had the courage, quite frankly, to write that in, that takes effort to do. And probably, I mean, yes, every now and again, there are people that will put stuff in there for no good reason, but it's more likely that people won't put stuff in there for good reason as opposed to the opposite.

**Natasha de Silva:** I think that's absolutely right. One of the things I observe with boards, so you know, obviously on boards and then when I do pieces of work in an organisation, I will not infrequently present to boards. And of course we do, Kate Jenkins and I do the education piece masterclass with boards.

And one of the observations I would make about what you are saying is that when data is positive or it's go, okay, yeah, that's great. There aren't the 18 questions interrogating about how many people does that mean, but they're just like, thank you. But when the data is negative, then the drilling down into, well, who does this actually represent?

Was this one person? Is this the voice of many? Is it, how do you know it is? And then all the questions and the doubt comes with the less than good information. I've heard that in so many boardrooms.

**Helga Svendsen:** That is such a good observation. And quite frankly, that is often the case around feedback generally, whether it's individual feedback or organisational feedback.

So I think it's that conscious mind shift. For all of us, whether it's individually or a board director or whatever, when we hear, shall we say, constructive feedback or things that are difficult to hear, yes. Lean in more closely to listening rather than, and we all, I think, have a natural tendency to, oh.

Hard to hear. Dunno if I wanna hear. So you need to very consciously lean into it.

**Natasha de Silva:** Some of the things that I hear from directors is, well, if we say this, if we release this to our workforce, they're gonna lose motivation. This is the negative ongoing impact. And I'm actually saying, I don't think that's what's gonna happen.

They already know this is happening. Most people are proud of the organisation. Most people want to come here, do their work, believe in the organisation, see the values as aligned, but sometimes things don't always go as they should. So you actually acknowledging that is not gonna make people feel less motivated.

It's gonna make them feel like there's accountability, that there's trust, there's transparency, it's gonna have the opposite impact. So it's not like these are outlined, you know? And where people in the workforce don't see these behaviours. I would argue they also need to know it exists, and I've seen people say to me in a focus group, I had no idea that you've experienced that.

I'm really sorry. There's an educative element to it as well.

**Helga Svendsen:** Oh, Natasha, so much good stuff in here. What are the key things you want people to take away from the conversation that we've had today?

**Natasha de Silva:** I would like people to take away. I guess that leadership element, the prevention element, what can I personally do to demonstrate my leadership in this space?

So there's obviously the institutional obligation, but as an individual, what can I do? And I'd say what you can do is have conversations that normalize expectations around behaviour so that it's not the one thing from the board at the end of the year or one thing from the CEO or the one thing from the head of people and culture.

But that we're just normalizing conversations about our expectations in this workplace. It's really important to me that this is a safe, respectful, inclusive workplace. A reminder that that's important to me. Everything that we can be doing to be pushing in the direction we will be. The second thing, I guess I would say as a takeaway is the link between positive workplace culture and being in the prevention space.

It is the most protective factor to preventing inappropriate behaviour at work. So if you can see that connection, if you are investing resources, time, whatever it is that you can and has to be proportionate to the size of the organisation, and that's why I mean even regular conversations around expectations can be really important and powerful is that if you can see that link and put your efforts there, then you're gonna be in the prevention space.

Even without knowing about it.

**Helga Svendsen:** And is there a resource you would like to share with the Take on Board community?

**Natasha de Silva:** I would love to share. At the I Academy, we have a governance series, which is directed, uh, specifically at board directors and executive leadership teams around governing for Respect@Work, governing for psychosocial hazards at work and governing for gender equality at work.

So again. All your obligations around in this space. And that's an online module. And we also have the RESPECT Work masterclass that Kate Jenkins and I do with boards in person, which is also a really great exercise. So it's about raising awareness and building capacity of leaders in this space.

**Helga Svendsen:** Oh, fantastic.

We will make sure there's links to all of that in the show notes for people to access. In fact, it, it links a little bit to the miniseries about professional development for directors and there is the Inver as the big courses, but there's also not to minimize the excellent work, but there's bite-sized pieces directors can do and should do more regularly.

It's not like you can just do a course and go, that's it. I know all about governance forever. These sorts of things keep us up to date with some of the modern issues. That might be impacting directors as well. So it's great to have some of those options available for people. Excellent. Oh, so good to have you here.

We've been talking about this for years. I'm glad we finally made it happen. Thank you again for all of the work that you do for sharing today and for continuing to celebrate those wins when they happen. It's been an absolute pleasure to have you here today.

**Natasha de Silva:** Me too. Thanks so much, Helga.

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