

The future of work: insights for Australian businesses

 citationgroup.com.au

 hello@citationgroup.com.au

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Navigate the world of Australian business in 2024

This year, at Citation Group, we've taken a deep dive into the concerns and strategies of senior workplace decision-makers across Australia, and the results are enlightening for all of us as we navigate the world of Australian business in 2024.

Employee retention emerges as a top priority in our research. It's evident that flexible and hybrid work arrangements are not just trends but expectations from the modern workforce. This shift towards flexibility signals a broader change in what attracts and retains talent, with implications for how we think about team cohesion and productivity.

While awareness of workplace regulations, especially those concerning sexual harassment, is high, our research indicates that actual policy implementation is lagging. This gap between knowledge and action highlights an area of critical importance and underscores our role in supporting your organisation in developing robust, actionable policies that safeguard your team and organisation.

In the realm of AI, while enthusiasm for its potential is high, so is caution. The conversation around AI is multifaceted, touching on data security, intellectual property, and the reliability of AI-generated information. As AI becomes a staple in our operational toolkit, it is clear that developing comprehensive AI usage policies is an emerging priority.

Legislative awareness is another area our survey has brought into focus. Recent changes in workplace laws are reshaping the employment landscape, yet a substantial proportion of leaders are yet to catch up. As your advisors, we are here to ensure that you are not only aware of these changes but also fully prepared to adapt to them.

Our research paints a picture of a business environment at the crossroads of traditional practices and emerging expectations. It's a time of reflection and action, where the readiness to adapt will define the successful workplaces of tomorrow.

Our workplace professionals at Citation Group look forward to helping you navigate these developments with a blend of strategic foresight and practical advice. As always, our commitment is to partner with you to turn these insights into strategies that enhance and protect your business.



Campbell Fisher
Managing Director
of Citation Group



Citation Group — The future of work: insights for Australian businesses

In February 2024, Citation Group surveyed 300 senior workplace decision-makers, including C-level managers, owners, directors and chairpersons. The survey covered all Australian states across a range of business sizes and types and asked granular questions about significant workplace issues. The issues covered practical management items, including sexual harassment, casual and migrant employment, the use of AI and new federal workplace legislation. The survey also allowed decision-makers to name their broader concerns when it comes to managing their workforces.

This discussion paper builds on the results of the survey and attempts to reveal what worries decision-makers, where their weaknesses lie in both daily management and business-planning, and the role of regulation in the emerging issues. Importantly, Citation Group sought to poll workplace decision-makers in such a way that their real concerns and practical levels of knowledge are captured.





Findings

The strongest overall conclusion of Citation Group's *The future of work: insights for Australian businesses* is that in an era of low unemployment, workplace decision-makers are most-worried about and focused on **retention** of their employees. At the same time, their employees are pushing for greater flexibility in their work arrangements and more opportunities for work-from-home (WFH). The extent to which the decision-makers can balance their need for cohesion and productivity, with the individual requirements of employees, is likely to become a meta-narrative for Australian workplace relations over the next few years. The good news is that both sides of this discussion are open to flexible work arrangements, and employers report that flexibility is a higher priority than remuneration for retaining and attracting employees.

Australian employers expressed confidence in understanding laws covering **sexual harassment** in the workplace, however a smaller proportion of workplace decision-makers have implemented measures to guard against sexual harassment or have protocols to manage complaints and situations centred on sexual harassment. The gap between self-identifying as informed about sexual harassment – and having systems implemented to address it – is reasonably wide and this discrepancy might explain why sexual harassment and misconduct continue to make the headlines and often in large organisations. Particularly noticeable in the results is the reluctance of Australian organisations to treat sexual harassment as a workplace health and safety risk.

The constant cycle of technology upgrades and efficiency gains in Australian workplaces translated to reasonably high levels of **Artificial Intelligence (AI)** use in organisations. However, we found that while interested in what AI can do, the decision-makers are concerned about its use, predominantly around copyright infringement, data security and factual accuracy. There is also low incidence of written policies to guide the use of AI in the Australian workplace, reflecting that either the technology is

Key points

- 58% of respondents plan to grow their employee numbers in 2024;
- The greatest concern among Australian senior managers is 'employee retention';
- Almost half of employers will employ fewer casuals because of the 'Closing Loopholes' legislation;
- Flexible and hybrid work arrangements are the most popular employment offers;
- Only 11% of workplaces feature 100% on-site hours;
- Only 60% of organisations have implemented clear policies on workplace sexual harassment;
- Half of respondents are concerned that AI tools generate 'factual inaccuracies presented as fact'.

still in its infancy, or that decision-makers are not fully informed of AI's hidden challenges and what can be done to head them off.

The research demonstrates high use of **casual** employees in the Australian workforce – 83% of respondents use casuals – with the highest reliance on them concentrated in the smaller business sizes. However, what might be convenient for employers and employees is not necessarily supported by government. With the advent of "Closing Loopholes" federal legislation – which includes the right of relevant casual employees to apply to convert to fulltime status – our survey reflects that around a half of employers will employ fewer casuals because of the legislation.

Our survey found that a significant proportion of Australian businesses use skilled **migrants** in their workforce, and those employers using skilled migrant employees regard them as 'vital' or 'important' to their business. The demand is not so high for working students or working holiday makers, however there is little awareness of legislative changes affecting all classes of migrant or visiting worker.



Discussion paper

People management

Citation Group’s *The future of work: insights for Australian businesses* reflects that aside from many of the workplace issues generated in media and political discourse, by far the greatest concern among Australian senior managers is ‘employee retention’ (51%).

This concern comes ahead of second-placed ‘wage growth affordability’ (39%), which is followed by ‘local skills shortages’ (38%). The concern about employee retention rises to 67% among senior managers of businesses with more than \$100 million turnover.

“It is unsurprising that the survey revealed that employee retention is the major management concern for more than half of the senior business leaders surveyed. For the past two years, it has been an employee’s job market and while we are seeing early signs that this may shift in 2024, while unemployment remains relatively low businesses

can’t afford to lose their employees.

Additionally, in an environment where the cost of living, it is again unsurprising that wage growth affordability is also keeping senior people managers up at night. For most businesses, there is not an unlimited pot of money to pay people more and this means employers need to be creative to win the “employee value proposition” war to retain and attract good people.

“Working flexibly does not just include hybrid working arrangements – although this is very popular amongst employees – but also includes flexibility in the way work is completed. For example, an employee may request to work outside of core business hours to suit their lifestyle and personal needs.”

– **Bianca Seeto:** Executive Manager, Partner and Accredited Specialist (Workplace Relations)

Thinking of the people management aspects of your organisation, which of these areas do you have the most concerns?



51%

of Australian senior managers see ‘employee retention’ as their greatest concern.



The second-greatest concern, 'wage growth affordability', reflects that this business-cost remains a challenge in balancing the needs of employees and business owners or shareholders.

"This year, wages remain an acute challenge, with our survey responses establishing that wage growth affordability in 2024 is, after employee retention, the most important concern for Australian employers.

"The stagnation of wage rises in the decade leading into COVID-19 has been well reported. Since 2020, wages have grown largely driven by inflation, which peaked at 7.8% in the December 2022 quarter and led to outcomes such as the 2023 National Wage decision by the Fair Work Commission to lift minimum rates of pay by 5.75%. This is not real wages growth.

"Inflation is currently in a steady decline, at 5.4% in September 2023, and 4.1% for the December 2023 quarter, and wage increases in newly bargained enterprise agreements are now on par, at an average of 4.1% per year. Inflation, while moderating in its impact will continue to place upward pressure on wages alongside other factors like bank interest rates and a tight labour market in some segments as businesses plan for, or respond to wages demands from their staff."

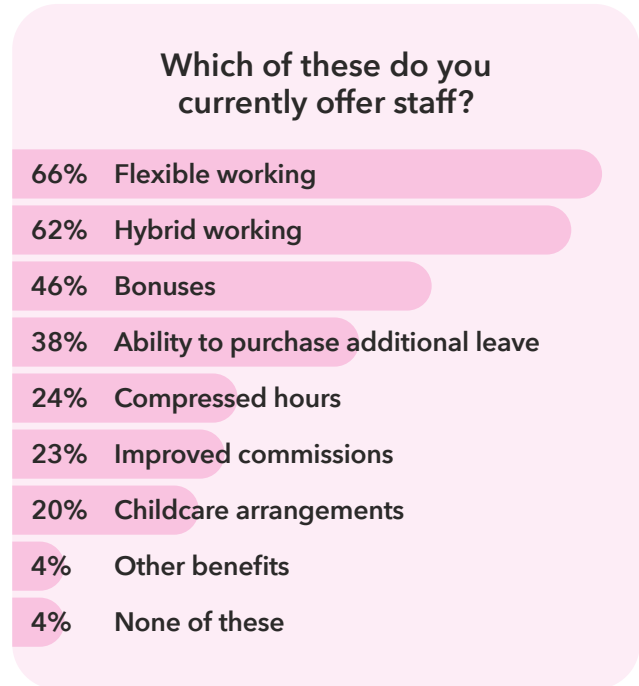
– **Benjamin Gee:** Partner, Solicitor and Director – Accredited Specialist (Employment & Industrial Law)

The question of people management among Australia's senior managers and owners, is book-ended by what they are not so worried about. Our survey showed that the least concerning to decision-makers was 'wage compliance' (21%), 'enterprise bargaining' (18%) and 'union engagement' (15%). This stands in contrast to news reports of workplace disharmony, which is not reflected in the concerns of senior managers.

The concern about retention is a challenge produced by economic success and business growth – not by failure – and the survey reflects that 58% of respondents plan to grow their employee numbers in 2024, and only 17% plan to contract. Certain sectors are quite bullish on payroll growth this year, the stand-outs being Retail (83%),

Healthcare (80%) and Construction (59%) which all intend to increase their employee numbers.

The question of how an organisation attracts and retains employees in this environment is answered partly by our survey question about inducements and incentives, phrased as, 'which of these do you currently offer staff?'



The fact that the top two offerings – by a large margin – are 'flexible working' (66%) and 'hybrid working' (62%) is a sign that one of the prime drivers of employment in 2024 is time-and-place flexibility. Under an employment culture that includes flexible hours and hybrid working arrangements, employees who can achieve their employment goals, maintain productivity and benefit the organisation, are rewarded with a certain amount of agency as to how, when and where they work. There is a clear preference for these flexibility and hybrid work measures, suggesting this is becoming an employer value proposition (EVP) for organisations, even more so than bonuses, improved commissions or childcare, which rank lower on the list of inducements offered by respondents. An EVP is a major part of an employer's brand and is essential for attracting and retaining the right people. This requires an employer to know their ideal employee and understand the types of benefits and rewards that will attract and keep top talent.



“Obviously, ensuring your employees are compensated fairly and in line with market is a good starting point when tackling your EVP but there are many other factors which are just as important as remuneration. Many employers have looked to benefits which appeal to a more sustainable work life balance such as offering more generous leave entitlements (including paid parental leave/birthday leave) but without doubt, the most valued initiative offered by employers is workplace flexibility. It is at the top of the checklist for candidates and if you get it wrong you will lose good people.”

– **Bianca Seeto:** Executive Manager, Partner and Accredited Specialist (Workplace Relations)

It is important to note that another flexibility measure – ‘ability to purchase additional leave’ (38%) – is a more common employment offer than ‘compressed hours’ (24%) and ‘improved commissions’ (23%).

Not all employers are happy with the way the COVID pandemic revolutionised work or changed the definition of ‘workplace’, but even the most traditional of employers know it’s a trend that is likely to develop rather than disappear. The survey revealed that 75% of businesses already have hybrid working models which massively outnumbers the mere 11% of workplaces where employees work in the office 100% of the time. And while a third (34%) of employers want to escalate a ‘return to work’, two-thirds (66%) of the respondents are happy with the current hybrid and remote working arrangements, or they want more of it.

“The survey shows us that most businesses wish to continue operating a hybrid flexible working model into the future. This way of working has opened several options for employees that previously did not exist. For some, it has meant the ability to live in a regional location, for others it means saving money not commuting to the office as often and for others with young children, it means the difference between being able to work full time instead of part time. It means that we can better juggle “life” with all its competing priorities. In turn, this often leads to more engaged and productive employees.”

– **Bianca Seeto:** Executive Manager, Partner and Accredited Specialist (Workplace Relations)

The survey shows us that most businesses use a hybrid flexible working model to attract and retain employees, and they intend to maintain or expand these offerings into the future. Flexible working arrangements have opened several options for employees, including the ability to live in a regional location, saving money not commuting to the office and the opportunity to work full-time even with young children. It seems evident from our survey that flexibility of work arrangements is welcomed by both employers and employees.

We note that the recent workplace legislation, Fair Work Act Amendments (Closing Loopholes No. 2) Act, contains provisions ensuring employees have the ‘right to disconnect’ from work, allowing them to insist they are not contacted after their contracted hours. These provisions might challenge the very flexibility that is being negotiated between employees and employers:

“Since these laws now add a further layer of complexity around flexible work, that didn’t exist before, employers who were sitting on the fence about flexible working arrangements may want to revert to a more traditional model where employees are expected to work during their core business hours and time away from the office will need to be covered by leave. The Greens thought that implementing the right to disconnect would help employees achieve work life balance, but time will tell whether the opposite effect will result.”

– **Bianca Seeto:** Executive Manager, Partner and Accredited Specialist (Workplace Relations)



Artificial Intelligence

The arrival of widely available AI tools and applications in the past two years has highlighted consumer-facing AI tools such as GPT and Gemini. However, businesses are using a range of in-house AI tools to generate reports, run demographic segmentation, arrange mailing lists, create financial statements and design web pages. The age of AI in business is here, but not every business is racing to embrace machine-generated content, and along with the uptake of AI in organisations is also a fair amount of caution.

Of the survey respondents, 75% are using AI in some way for staff management, which is made up of: 55% 'seeking opportunities to improve operational efficiencies', 13% 'seeking out opportunities to reduce external legal/consultant spend', and 7% 'aggressively using AI to reframe our people management practices'.

AI is still young and so 20% say they will 'let it play out more before we act', and 5% are 'not aware of AI use in the employee management'.

Clearly, the majority of respondents see AI as making existing operations more efficient (55%) and those who are using it for people-management are doing so for speed of delivery (61%), lower costs (60%) and consistency of communication (56%). In other words, for efficiency of existing workflows rather than creating new ones.

AI usage varies according to the size of the organisation: seeking opportunities to improve operational efficiencies was greatest in organisations with more than \$100 million turnover (67%), just as employees in this cohort were more likely to use AI tools such as GPT (57%), as opposed to employees in less than \$5 million turnover businesses (38%). It might be the case that in the early days of AI, it is best suited to larger organisations where established internal systems are already digital and automated.

Regardless of size, our survey shows a general attitude of caution in how AI is used, with 89% of

the respondents having at least one concern about using AI in their organisation. The concerns are not trivial; they include 'data security' (54%), 'copyright/IP' (51%) and 'professional liability' (45%). However, the standout concern is the 51% of respondents who balked at the risk that AI tools would generate 'factual inaccuracies presented as fact'.

Do you have any of these concerns about AI assistance tools like ChatGPT?



89%

of respondents have at least one concern about using AI in their organisation.

"The emergence of new technologies and productivity advances runs parallel to the emergence of new threats to business. Prior to the introduction of AI into a business there needs to be a risk mitigation evaluation framework and due diligence on the nature of the AI tools.

– **Matthew Robinson**: Partner and Solicitor, Accredited Specialist (Employment & Industrial Law)



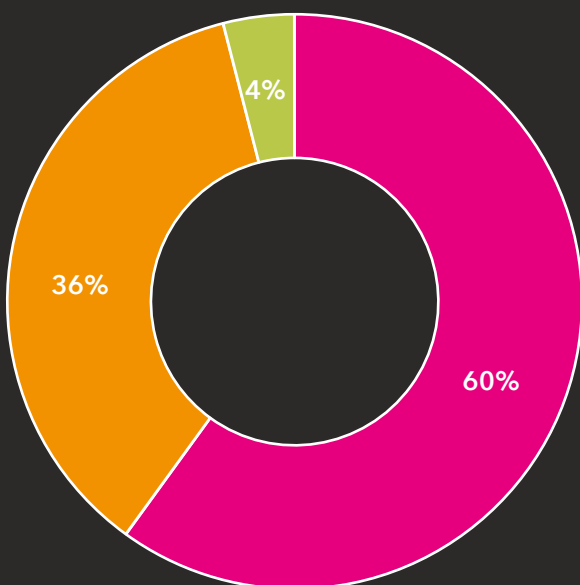
That so many senior managers have at least one concern about AI assistance tools is not unsurprising given that new technologies bring new threats along with their promised productivity gains. As noted above, staff are using AI tools to create shortcuts in their existing work, such as drafting correspondence, preparing reports or undertaking analysis, and it is the view of Citation Group that due diligence and staff protocols should be established before using these new tools, especially as it is relevant to staff management.

“With the development and introduction of AI tools into the workplace it is important that businesses have developed clear policies around their usage and understand the interconnection that these AI tools have to their workforce. While 1/3 of business do not have a policy on the internal use of AI – these are gaps that need to be bridged.”

– **Matthew Robinson:** Partner and Solicitor, Accredited Specialist (Employment & Industrial Law)

Yet even given the caution and the perceived risks, our survey shows only 60% of organisations have a documented policy for the use of AI tools, with 36% having no policy and 4% ‘don’t know.’ In the 50-99 employee sector, only 45% have a documented policy for using AI tools. These are alarming figures for a new technology being used for existing and important workflows, either internally, customer-facing, B2B relationships or in regulatory engagement such as content shared with the ATO or ASX. The risks include the introduction of cyber security risk via malware or inadvertently divulging personal information that assists social engineering attacks; risk of misappropriating copyright, and intellectual property because an AI tool has “borrowed” a third party’s content; potential for inaccuracy and results-bias in the output; and the risk of fake content, where an AI tool fills in its data gaps with nonsense, but presents it as fact. Along with legal and commercial concerns around the use of AI, we strongly suggest employers consider the ethical risks.

Do you have a documented policy on internal use of AI assistance tools like ChatGPT?



● Yes ● No ● Don't know

36%

of respondents do not have a documented policy for the use of AI tools, 60% do have a policy and 4% ‘don’t know.’



“Employers should ask ‘is the AI tool generating decisions or outputs in an ethical manner?’ This cannot be understated if a business wants its staff to embrace the use of AI technology and tools. In 2015 a software engineer discovered that the algorithms in Google Pictures had been labelling his African-American friends as “gorillas”. Some may excuse this as a programming mistake, however it demonstrated the inherent bias in the data pools by which Google Pictures had been developed. This is a risk that could manifest in numerous different ways.”

– **Matthew Robinson:** Partner and Solicitor, Accredited Specialist (Employment & Industrial Law)

Citation Group believes the introduction of AI tools into the workplace should be accompanied by clear policies around their usage and a broad understanding among staff as to the interconnection that these AI tools have to their workforce. A third of businesses do not have a policy on the internal use of AI, and this is a gap that needs to be bridged. However, it is important that policy creates a framework that does not overly focus on technology and business possibilities. The policy framework should have a material consideration for the workforce using AI tools, including such questions as whether AI is an efficiency tool or a platform

by which the business will open new lines of research or production; the roles that are threatened by AI tools, and the roles in which employees can be retrained and upskilled; and, guidance in how to train and regulate employees in ethical use of AI, and against its misuse.

“As AI starts to help us transform our business practices, it is important that we think broadly and deeply about how this new generation of software can help and hurt the people that will be using or impacted by these tools. We urge that staff are directly or indirectly incentivised to identify and report any AI ethical and functional risks. While incentive schemes based on productivity and outputs can be important drivers, they also need to be tempered by ensuring that they are not occurring in a manner that it ultimately damaging to the business.”

– **Matthew Robinson:** Partner and Solicitor, Accredited Specialist (Employment & Industrial Law)

The survey shows a business sector cautious about AI, yet only a third of organisations use a written protocol for its use. Senior managers can give form to their caution by putting in place formal protocols for the use of AI by their employees.





Legislative changes

“Compliance with complicated remuneration obligations is one of the single biggest workplace relations challenges in any Australian business.”

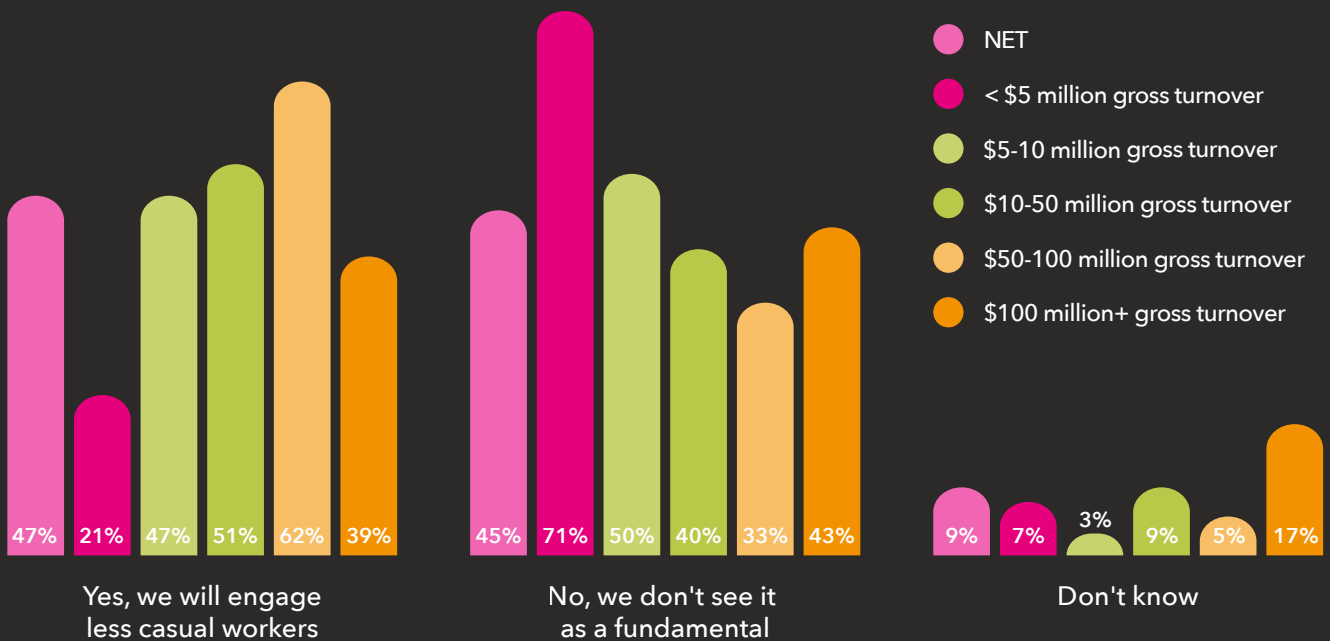
– **Michal Roucek**, Partner and Solicitor

Starting in 2022, two pieces of workplace relations legislation have made their ways through the federal parliament, creating fundamental changes to workplace law. **The Secure Jobs, Better Pay Act** was enacted in December 2022: it makes changes to fixed term contracts, enterprise bargaining and gender equality provisions and it abolished the Australian Building and Construction Commission (ABCC). **The Fair Work Act Amendments (Closing Loopholes No.2)** Act was passed in December 2023 and makes amendments in relation to casual employment, small business redundancy, multi-enterprise agreements, regulated labour hire arrangement orders, sham contracting, increased maximum penalties for underpayments, introduction of a criminal offence for wage theft and regulation of road transport industry contractors. Among the amendments is a new definition of casual employee

which represents a shift away from the contract-based definition to one which looks at the practical reality of the relationship. Under the changes, the employment relationship will be assessed by looking at the “real substance, practical reality and true nature of the employment relationship”, and will not be confined to the provisions of an employment contract.

Given these sorts of changes, it is not surprising that almost half (47%) of organisations responded that they would employ fewer casuals given the changes. The shift in focus away from a definition of casual which assesses the offer of employment when it was made (the current definition) to one which includes having regard to the practical reality and true nature of the relationship, creates increased uncertainty and means employers can no longer rely exclusively on the terms of the contract of employment when classifying an employee as a casual. Employers will need to carefully assess a wider range of factors in determining if a casual is truly a casual.

Will Closing the Loophole legislation’s proposed changes impact your engagement with casual workers?





“The fact that both Secure Jobs, Better Pay and Closing Loopholes involve changes being implemented in a staggered manner, at times over a 12-month period from the initial commencement, may add to the confusion, lack of awareness and understanding with businesses.”

– **Rod Marshall**, Partner and Solicitor – Accredited Specialist (Employment & Industrial Law)

The Bill also introduces a new pathway to casual conversion, removing the existing conversion provisions and replacing them with a new “Employee Choice” pathway, with the onus of igniting the pathway to permanent employment now squarely lying with the employee.

Taken together, the Secure Jobs, Better Pay Act and Closing Loopholes, represent significant changes to workplaces and the interplay between employer and employee, especially over remuneration, employment status and conditions.

The survey shows that almost half of senior manager respondents (47%) were not aware of the Secure Jobs, Better Pay Act, and two-thirds (65%) were not aware of Closing Loopholes. Conversely, a third (34%) of the senior managers replied, ‘I am not aware of either of these’.

Lack of awareness of these key pieces of legislation is most stark in the largest organisations – those over 5,001 employees – in which more than half (54%) of senior managers said they were not aware of either of these new laws.

Our survey showed that the least concerning to decision-makers was ‘wage compliance’ (21%), ‘enterprise bargaining’ (18%) and ‘union engagement’ (15%)

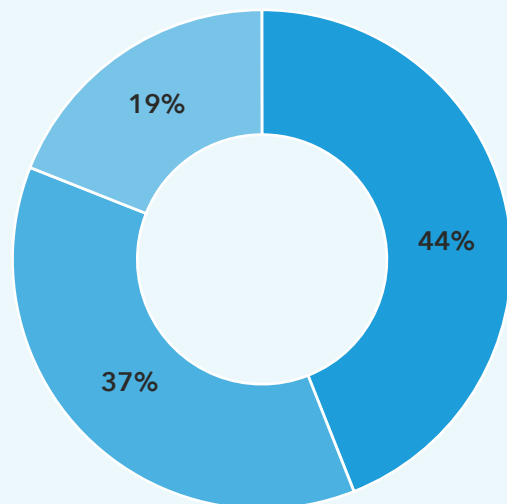
The highest awareness of the new laws was in businesses with 501-1000 employees, where 65% had heard of Secure Jobs, Better Pay, and 50% were aware of Closing Loopholes, while just 15% were not aware of either.

Of interest, knowledge of these two workplace laws was strongest in the managers closest to daily operations. Directors were most likely to be unaware of these new laws (45%), while business owners were the most informed, with only 19% being unaware.

There is a mixed bag of preparedness for the laws: while 61% of the survey have implemented governance measures and strategies concerning the way wages and conditions are treated in the new workplace laws, 26% have not and 13% don’t know. When asked if they had plans to implement governance and strategies in 2024, 44% said yes, 37% said no and one-fifth (19%) didn’t know if they have plans to implement in 2024.

37%

of respondents have no plans to implement governance and strategies in 2024.



● Yes ● No ● Don't Know



Considering that some of the changes in Secure Jobs, Better Pay, and Closing Loopholes, carry large fines or criminal sanction for contraventions, it is surprising that there is such low awareness and engagement by senior managers. When 'no plans' and 'don't know' are taken together, more than half of the respondents – 56% – are not planning to comply with changes to the two workplace laws.

"The lack of awareness, and preventative action taken by a significant number of respondents is surprising given that the first round of amendments from the Secure Jobs, Better Pay legislation were enacted in December 2022. The law involved certain changes that had, and continue to have, widespread application across most Australian businesses, such as prohibition of pay secrecy, restrictions on fixed term contracts, the significant expansion of the right to request flexible working arrangements and the introduction of the new sexual harassment jurisdiction in the Fair Work Commission."

– **Rod Marshall**, Partner and Solicitor – Accredited Specialist (Employment & Industrial Law)

This dovetails with another concerning aspect of the survey showing that decision-makers were concerned about 'wage compliance' (21%), 'enterprise bargaining' (18%) and 'union engagement' (15%). It should be recognised that such low-ranking concerns for employers might have as much to do with lack of awareness, as it does with a sense of wellbeing. Some of the legislative changes mentioned above should be of concern to employers especially since they place new compliance burdens on them, and open their workplace to greater scrutiny from, for instance, union organisations.

"Compliance with complicated remuneration obligations is one of the single biggest workplace relations challenges in any Australian business. In recent times, many trusted and respected household name companies with brands built up patiently over time have been the subject of highly publicised wage theft allegations, the headlines that go along with it and the risk of underpayment claims that can run into the millions of dollars. Now with changes that are set to take effect from 1 January 2025, or an earlier date proclaimed, wage theft will be a criminal offence."

– **Michal Roucek**, Partner and Solicitor

When asked specifically about Closing Loopholes – which introduces prison terms for wage-theft – senior managers are more focused on implementing changes: 69% of the respondents either have implemented additional compliance measures (25%) or believe their current systems will meet the requirements of the new legislation (44%). Further, 17% have plans to increase their compliance, 5% agree they should implement a program but do not have a current program, and 9% don't know.

The classification of casual employees, and their conversion pathway to fulltime employment, is also affected by Closing Loopholes. However, while the survey respondents reported that 83% of the survey used casuals, only 13% used them a lot or had a 'large number' in the workforce (2%). Nevertheless, almost half (47%) of employers would engage fewer casuals because of the Closing Loopholes legislation, while 45% said the new law won't change the way they engage with casuals. The size of the organisation has a bearing on this issue, with 62% of employers with \$50-100 million in turnover more likely to engage fewer casuals than the average disinclination of 47%.



We should note that an employer can elect to not accept an employee choice notification to move to fulltime, and the grounds they can rely on to explain this rejection have been expanded under Closing Loopholes. An employer can now rely on the following when not offering an eligible casual employee permanent employment: substantial changes would be required to the way in which work in the employer’s enterprise is organised; there would be significant impacts on the operation of the employer’s enterprise; and substantial changes to the employee’s terms and conditions would be reasonably necessary to ensure the employer does not contravene a term of a fair work instrument that would apply to the employee as a full-time employee or part-time employee (as the case may be).

“Many of the more significant, wide-ranging changes proposed by the initial Closing Loopholes legislative package have been held up in Parliament for further scrutiny and review – such as the introduction of a new jurisdiction in the Fair Work Commission for gig economy workers, road transport minimum rates provisions, redefining casual employment and changing the definition of “employer” and “employee” (for the purpose of regulating independent contractors).”

– **Rod Marshall**, Partner and Solicitor – Accredited Specialist (Employment & Industrial Law)

It remains to be seen if the amendments to the casual-conversion provisions result in fewer casual employees being engaged. The combination of uncertainty of the casual definition and the previous onerous casual conversion provisions, could have acted as a deterrent in the engagement of casual employees. However, in our view, the revised conversion pathway in the form of the Employee Choice process will alleviate some of the concern by reducing a significant amount of administrative burden on employers. Regardless of how employers respond in their hiring of casuals – and they are evenly-split in their hiring intentions – employers of all sizes must still be informed about these law changes and conduct risk-assessments that apply to their current and future workforces.

Moreover, the concerning aspect of this survey is that less than half (44%) of respondents in the survey had plans to implement responses to new workplace legislation in 2024. Given that actions such as ‘wage theft’ have been made criminal offences in the new laws, Citation Group believes employers should be more engaged in what the law now expects of them.

The Federal Government has introduced two new workplace legislations recently. Are you aware of...

53% The Secure Jobs and Better Pay Act

35% Closing the Loopholes Bill

34% I am not aware of either of these

34%

of respondents were unaware of the Closing Loopholes legislation or the Secure Jobs, Better Pay legislation.

“If employers believe that they can avoid taking action now because the regime does not commence until 1 January 2025 (or an earlier date by proclamation), we advise to please think twice. To mitigate risks and ensure compliance, employers must take proactive steps on a regular basis to ensure they can demonstrate that they did not act in a manner that was intentional in avoiding payment of wages. To ensure compliance, employers should annually review their employer obligations with respect to employee entitlements, and seek external legal advice to ensure that an audit remains protected by privilege.”

– **Michal Roucek**, Partner and Solicitor



Sexual harassment and sexual discrimination

“It has never been more important for organisations to sit up, pay attention, and act in respect of its duties relevant to sex discrimination and sexual harassment in the workplace. Officers, such as company directors, must exercise due diligence to ensure the business or undertaking complies with its work health and safety (WHS) duties.”

– **Brittany Byrne**, Partner & Solicitor

There was high awareness among the surveyed senior managers on the subjects of sexual discrimination, sex-based harassment and sexual harassment in the Australian workplace, with 95% rating their understanding of sexual harassment requirements as ‘well’ and ‘very well’. The same confidence – 95% – was expressed by the respondents when they rated their organisations’ sexual harassment policies as ‘good’ and ‘very good’, with only 4% rating their policies as ‘poor’ and 1% ‘very poor’.

“The Sexual and gender-based harassment Code of Practice (Code) provides practical guidance to organisations on how to manage health and safety risks arising from sexual and gender-based harassment at work. This includes identifying hazards, assessing risks, controlling risks, and maintaining and reviewing the control measures put in place.”

– **Brittany Byrne**, Partner & Solicitor

There was a marked difference in response based on the states, with only 42% of Victorian senior managers rating their organisations’ sexual harassment policies as ‘very good’, compared with New South Wales at 63%.

Despite the high confidence and self-rating scores, the implementation of sexual harassment measures in Australian workplaces is low. Less than half (48%) of the organisations represented had sexual harassment awareness taught as part of the onboarding program. Of note, half (49%) have evaluated reasonable steps to minimise sexual harassment in the workplace, and just over a half (52%) have identified sexual harassment risks similar to occupational health and safety risks, meaning

in the other half of Australian workplaces sexual harassment is not treated as a risk to be managed.

Only 58% responded that their organisations had created a ‘reporting culture’ where ‘there are clear pathways and encouragement’. This should be of concern to senior managers because sexual harassment laws have been in place for many years and managers have a responsibility to create safe working environments. The fact that so few Australian organisations have a structured policy for sexual harassment risk is of concern to Citation Group.

Which of these sex discrimination, sex-based harassment and sexual harassment measures do you currently have in place?

- 60% Implemented clear policies on sexual harassment
- 58% Create a ‘reporting culture’ where there are clear pathways and encouragement of reporting sexual harassment
- 53% Carried out awareness training of sexual harassment with existing staff
- 52% Identification of sexual harassment risks in a similar method to occupational health and safety assessment
- 49% Assessment of what reasonable steps can be taken to minimize sexual harassment
- 48% Have sexual harassment awareness as part of new staff onboarding
- 6% None of these

When asked about plans in 2024 to implement policies or measures listed above in Q.30, 20% said ‘no plans’ while 75% of the respondents had no plans to implement any sexual harassment policies or measures in 2024. A stand-out figure was that the highest response of ‘none of these’ (36%) was from the largest organisations, with 5000+ employees.



Which of these do you plan to implement in 2024?

- 25% Identification of sexual harassment risks in a similar method to occupational health and safety assessment
- 25% Assessment of what reasonable steps can be taken to minimise sexual harassment
- 22% Have sexual harassment awareness as part of new staff onboarding
- 20% Implemented clear policies on sexual harassment
- 17% Carried out awareness training of sexual harassment with existing staff
- 17% Create a 'reporting culture' where there are clear pathways and encouragement of reporting sexual harassment
- 20% None of these

When the current plans in relation to sexual harassment are compared to plans to implement in 2024, over one-quarter of the organisations are failing to carry out training in awareness or assessment and identification of risk, among existing employees. One third (33%) will not be doing the bare minimum of policy work in this area by making an 'assessment of what reasonable steps can be taken to minimise sexual harassment'.

To summarise, more than one-third of Australia's largest organisations have no plans to implement awareness, training, reporting pathways or onboarding programs pertaining to sexual harassment in 2024. This is a very high number given the risk to staff and the reputational, legal and productivity risk to organisations posed by workplace sexual harassment.

It has never been more important for organisations to act in respect of its duties relevant to sex

discrimination and sexual harassment in the workplace. The law says company officers must exercise due diligence to ensure the business complies with its work health and safety (WHS) duties, including taking reasonable steps to ensure organisations have and use appropriate resources and processes to eliminate or minimise risks of sexual and gender-based harassment. There are tools available to employers to help them get past the gap between awareness and implementation.

"Controlling risks includes implementing the most effective control measures that are reasonably practicable in the circumstances and ensure they remain effective over time. This means organisations must: eliminate risks (if reasonably practicable to do so), if eliminating risks is not reasonably practicable, minimise the risks so far as is reasonably practicable in the circumstances by assessing the risks, and implementing appropriate control measures, and ensure those control measures remain effective over time."

– **Brittany Byrne**, Partner & Solicitor

The responses in our survey tell us that while organisations are taking notice of laws concerned with sex discrimination, sexual harassment, Respect@ Work, and the implementation of the positive duty, there is something stopping them from putting in place measures when it comes to 'controlling risks' in the workplace. This could be due to a number of different factors, including: while the legislation is understood, how to 'put into practice' is not; they have limited tools and resourcing to implement control measures; and it is all too overwhelming, especially given all other significant legislative changes in the workplace relations landscape.

There is a gender pay-gap in Australian workplaces, and just as obvious, there is a gap between managers' knowledge of sexual harassment laws and duties, and their preparedness to implement programs, especially around 'risk'. Citation Group believes this gap can create at-risk employees and organisations vulnerable to legal action.



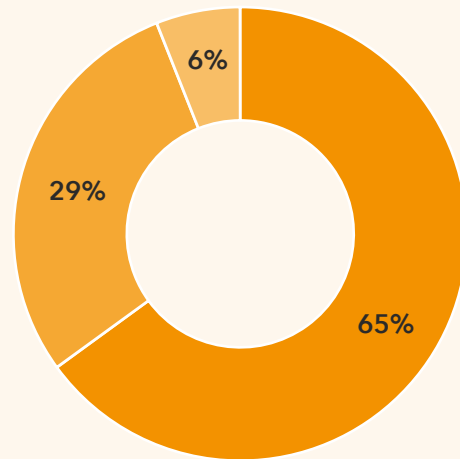
Fixed-term contracts

Around two-thirds (65%) of the respondents operate in organisations that use fixed-term contracts in their workforce, and yet only 67% were aware of the changes to fixed-term contracting contained in the Secure Jobs, Better Pay Act. The highest response of 'not aware' of the law changes were the senior managers in the \$100 million+ turnover cohort, in which 44% of senior managers were not aware.

Specifically, Secure Jobs, Better Pay mandates a Fixed Term Contract Information Sheet (FTCIS) to be drawn up by the employer and given to relevant employees. The survey found that while 65% of employers were aware of the FTCIS requirement and had issued a FTCIS, 21% were yet to issue a FTCIS to relevant employees and a full 13% were unaware of the FTCIS requirement.

The compliance picture is most successful in senior managers who are owners - 83% are aware of FTCISs and have issued them - while the worst performers are in the largest organisations with \$100 million+ turnover, where less than half (46%) are aware of the FTCIS requirement and have issued them to relevant staff.

Does your business utilise fixed-term contracts?



● Yes ● No ● Don't Know

65%

of respondents use fixed-term contracts and 29% do not.





Family and domestic violence

Survey participants were asked if they were aware that as of 2023, employees of both small businesses and non-small businesses could access 10 days of paid family and domestic violence leave in a 12-month period. While 77% of the respondents were aware of the domestic violence leave provisions, one-third (33%) were not aware. Of those who were aware of this leave entitlement, 81% had made staff aware of it, while 11% had not, and 8% did not know.

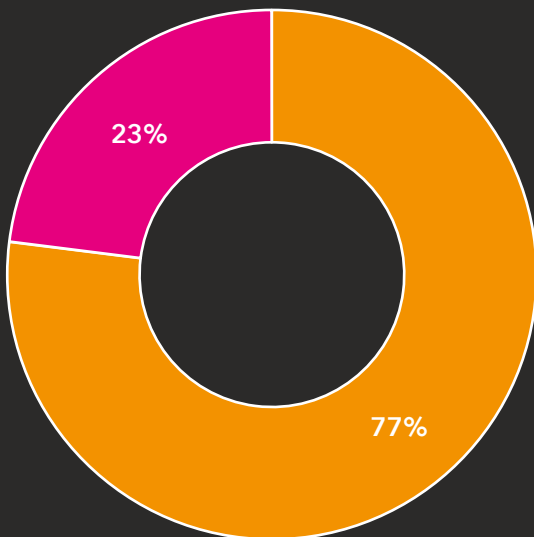
The picture was poor in small businesses of less than \$5 million turnover, where only 63% had made the entitlement known to staff and 31% don't know.

Across all size businesses, only 43% of respondents know that staff are using the entitlement and 40% say the staff are yet to use the entitlement to leave, while 13% don't know. Awareness of the entitlement being used is highest in business of 501-5000 employees (61%) while it is lowest in business with 100-500 (32%).

"Business who have taken steps to get ahead of the changes have through the course of 2023 and into 2024 taken such steps as a detailed review of company policy frameworks to ensure that policies are up-to-date and consistent with new provisions relating to flexible working arrangements, issues relating to domestic violence, heightened responsibilities around sexual harassment and the positive duty to prevent harassment, and the use of fixed term contracts. Businesses are updating employment contract templates and related materials to address pay secrecy provisions and to provide acknowledgments and protections in contracts consistent with recent legislative reforms. And they are revising both current and long-term enterprise bargaining strategies to build protections wherever possible against industry-wide bargaining campaigns, or being dragged into an enterprise agreement framework or bargaining process that is largely out of the company's control."

– **Rod Marshall**, Partner and Solicitor – Accredited Specialist (Employment & Industrial Law)

Are you aware that as of 1 Aug 2023, employees of both small businesses and non-small businesses (from 1 Feb 2023) can access 10-days of paid family and domestic violence leave in a 12-month period?



● Yes ● No

77%

of respondents are aware of domestic and paid family violence requirements

Supplementing the workforce

Not only are skilled migrants of use to Australian organisations, they have become essential and even ‘critical’ to some organisations, especially in terms of the ‘highly skilled’ migrant cohort who take up managerial and professional roles in Australian firms. However, the People Management Research survey detects some concerns about legislative changes to migrant workers.

Over two-thirds (69%) of senior business leaders report using **migrant staff**, 48% occasionally, 15% ‘frequently’ and 6% ‘significantly’. Big companies with \$50 - 100 million turnover rely heavily on migrant workers, with 29% reporting they use migrant workers ‘frequently’ (compared with average of 15%).

Over half of migrant workers in Australia are considered highly skilled (54%) and take up various managerial and professional roles in organisations, while 29% are considered ‘skilled but readily available’. It is not a surprise that four out five (83%) senior managers who use migrant workers believe they are not just helpful but ‘vital’ and ‘important’ for their business’s success, while only 17% find migrants ‘handy but not essential’. The survey indicates the importance of skilled migrant employees across business sizes and types.

Which of these statements best describes the importance of skilled migrants to the workforce of your organisation?

- 54% Important and complements other recruitment options
- 18% Important and helps balance local wage pressure
- 17% Handy but can recruit by other means
- 12% Vital to meet skills gaps not being met by the local market

Although more than 50% of the businesses surveyed employ **international students**, they’re less likely to be considered “critical” to operations, and 49% of respondents don’t use them at all and 12% said they employed them ‘often’. There’s also notable concern among organisations about changes to student

visa programs: 59% have some concerns and 16% are deeply concerned. Moreover, it’s the retail and restaurant industries that are expected to be hit due to the reduction in international students allowed into the country.

Almost half of the managers in the survey say they use **Working Holiday Makers** in their workforce and 54% find the changes to the regional working requirements of the working holiday visas to be disruptive. The most affected cohorts are ‘owners’, 72% of whom found changes to Working Holiday visas to be disruptive to their business, while 79% of the \$50-100 million turnover businesses found the changes disruptive.

Have changes to regional working requirements for the working holiday visa over the past year been disruptive to your organisation?



“In essence, migrant workers are a vital part of Australia’s workforce, bringing in diversity, skills, and contributing significantly to the success of businesses across the country. Over two-thirds (69%) of senior business leaders, particularly in big companies with over 5000 employees and annual turnover of \$50 million, rely heavily on migrant workers, and over half of migrant workers in Australia are considered highly skilled, taking up managerial and professional roles in organisations. Notably, four-fifths of respondents believe that migrant workers are not just helpful but essential for their business’s success.

“For navigating the complexities of immigration compliance, the “Citation Migration Work Rights Check” tool is a valuable resource for businesses to ensure they remain compliant with immigration laws.”

– **Albert Fang**, Head of Citation Migration



Building better businesses

For over 30 years, Citation Group has been working with Aussie and Kiwi businesses, helping them to achieve their workplace compliance objectives for a better tomorrow. From designing and implementing enterprise agreements and certifying ISO management systems to providing outsourced HR solutions and navigating knotty employment-related claims, think of us as an extension of your team – Your Business Pit Crew – a team of experts always at the ready and dedicated to getting your business to where it needs to be.

We’re a one-stop business service hub, helping you take care of the time-consuming, complicated, and challenging components of your business, so you can get on with it.

Real partnerships

Our team genuinely cares about your business and its success. We go above and beyond to learn about your brand, and how we can support and guide you. You’ll always be in control of your business – we’re far from those stuffy and commanding types – we’re genuine, approachable, and friendly, and focus on building real partnerships with our clients.

Set no limits

Whether your business is based at tip of Australia or the bottom Aotearoa, you work in construction or the retail sector, you have one or one thousand employees, with over 30 years of experience,

our team of workplace compliance experts have helped thousands of businesses like yours – we un-complicate the complicated – there isn’t a problem we haven’t found a solution to.

Detailed, unlimited, and untimed advice

The advice Citation provide is always tailored to the needs of your business, industry, and the issue at hand. Trusted by thousands of businesses, you can rest easy knowing the advice you receive is watertight and designed to protect your brand. Whether you need guidance on general protections or unfair dismissal, you can call as many times as you like, and stay on the phone for as long as you like – our advice line is unlimited, untimed, and available on-demand.

A safe pair of hands with ISO certification

Citation is your trusted partner in ISO certification. As a JAS-ANZ Accredited Certification Body, our commitment to excellence in depth understanding of management system standards, and our partnership approach sets us apart from the rest. The friendly team at Citation make sure this journey is smooth and seamless – we’re by your side, at every step of the way. From arming you with the correct resources to taking the time to walk you through the standards, we’re here.



 citationgroup.com.au

 hello@citationgroup.com.au

