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workplace sexual harassment in the Australian mining sector

HESTA Engagement & Insight Report

December 2022





introduction

In February 2022, Rio Tinto released the *Everyday Respect* report, following an external review of its workplace culture. The report identified distressing findings of sexual harassment, racism, and other forms of discrimination widespread throughout the company and HESTA was shocked to read the staggering range and high rate of incidents occurring. Importantly, we believe the experiences shared in the *Everyday Respect* report were unlikely to be unique to Rio Tinto, but rather indicative of broader cultural issues within the Australian mining sector, and particularly prevalent within the Fly-In-Fly-Out (FIFO) workforce.

Our concerns regarding the systemic nature of these risks were validated by the release of the July 2022 *Enough is Enough* report, summarising the findings of the Western Australian enquiry into Sexual Harassment in FIFO workplaces. The *Enough is Enough* report produced 79 findings and 24 recommendations based on the evidence given during public hearings and through written submissions. Many of the companies HESTA engaged through this series participated in the enquiry.

The impact on women

We know that workplace sexual harassment and discrimination occur in almost all sectors and occupations in Australia and around the world¹. However, harassment can disproportionately impact women in particular sectors and roles due to various heightened risk factors. The Australian Human Rights Commission *Respect@Work: Sexual Harassment National Enquiry Report*² highlighted a number of these risk factors and shone a light on the mining sector due to its isolated environments, male-dominated workforce, and hierarchical structures. Survey data from the Western Mine Workers Alliance shows 1 in 5 women working in the Western Australian mining sector have experienced physical acts of sexual assault³.

A systemic issue

Both the *Everyday Respect* report and *Enough is Enough* report have been released against a backdrop of shifting social expectations, demonstrated by movements such as #MeToo and #LetHerSpeak and the ground-breaking *Respect@Work* report. What is evident from reviewing these reports and through our 2022 engagement series, is that sexual harassment has long been and continues to be prevalent across the mining industry. The high rates of sexual harassment point to a systemic issue within one of Australia's largest industries, and a failure to keep up with societal and investor expectations for appropriate workplace conduct and gender equality. It's clear, that the issues being reported are not isolated incidents of misconduct, but rather whole-of-organisation matters which have various cultural and systemic drivers, including gender inequality.

Financial impacts

Workplace sexual harassment has significant health, employment and financial impacts on individuals and their families, as well as impacts on workplace productivity and culture, and on the broader economy. In 2018, Deloitte Access Economics analysed the costs of workplace sexual harassment. They looked at the business costs, health and justice system impacts, and the impacts of reduced tax revenue and lost wellbeing to estimate an annual economic cost of \$2.6 billion AUD in lost productivity and \$0.9 billion AUD in other financial costs. They also estimated employers bore 70% of the financial costs, government 23% and individuals 7%⁴.

80% of HESTA's members are women, so championing gender equality and diversity are important to help our members achieve a better retirement. Gender-based violence in any form, including workplace sexual harassment, is a violation of human rights and a barrier to women achieving equal opportunity and access to safe and secure work.

¹ https://humanrights.gov.au/sites/default/files/2020-10/sexual_harassment_in_australian_workplaces_-_australias_third_upr_2021.pdf

² <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

³ <https://www.awu.net.au/national/news/2022/03/16510/wmwa-member-shares-story-of-sexual-harassment-on-60-minutes/>

⁴ <https://www2.deloitte.com/au/en/pages/economics/articles/economic-costs-sexual-harassment-workplace.html>



engagement series – overview

Sexual harassment can create legal and financial risks, impact employee wellbeing and productivity, and significantly damage a company's reputation and social licence to operate⁵. Company, sector, and system level risks are present when culture is not prioritised, having the potential to negatively impact investment returns and the retirement savings of HESTA members. This is significant for HESTA and our members given HESTA's AUD\$3 billion investment in the Australian mining sector.

To further understand the nature and prevalence of these risks, HESTA engaged with Australian mining companies in which we have a significant investment. Through these engagements, we sought to:

- further understand the nature and prevalence of workplace sexual harassment within the Australian mining sector
- understand how company boards and management teams are managing workplace culture issues and the steps they are taking to preserve company value and investor returns
- understand the ways in which companies are mitigating risk by preventing and responding to workplace sexual harassment and other forms of harmful behaviour
- understand how companies are fostering diverse and inclusive workplace cultures, including supporting women's employment and leadership opportunities
- communicate HESTA's expectations that companies within our portfolio operate in a manner that meets societal standards of acceptable behaviour, gender equality and protects the wellbeing of all workers.

To facilitate this engagement HESTA wrote to mining companies within our portfolio signaling our concerns and seeking company responses to these concerns. Depending on the size of our investment we (a) requested a meeting with key personnel, or (b) requested a written response. Since the release of the Rio Tinto *Everyday Respect* report in February 2022, HESTA has engaged with 19 mining companies on this issue.

While we acknowledge that the Rio Tinto *Everyday Respect* report covers a range of important workplace issues, our engagement predominantly focussed on issues of workplace sexual harassment. We acknowledge that the presence of discrimination based on factors such as race, disability, sexual orientation, and gender identity may influence the ways in which a person experiences workplace harassment. Data from the Australian Human Rights Commission shows that workers with disability, LGBTIQ+ workers, Aboriginal and Torres Strait Islander workers and younger workers are likely to experience higher rates of workplace sexual harassment⁶. In recognition of this, we strongly encourage mining companies to integrate their sexual harassment prevention strategies with considered efforts to create and maintain inclusive workplaces.

This engagement series predominantly focused on the role and responsibility of the company, and the insights provided in this document relate to action at the company level. However, we acknowledge that industry bodies, governments, civil society and investors all have a role to play in eliminating workplace sexual harassment.

⁵ <https://www2.deloitte.com/au/en/pages/economics/articles/economic-costs-sexual-harassment-workplace.html>

⁶ <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>



insights and key actions

This document reflects the insights HESTA has gathered to date and we thank all companies who participated in these conversations for the diverse and candid views that were shared. We acknowledge that all companies HESTA engaged were cognisant of the seriousness of these issues, and many had been engaged in prevention activities over several years.

The following six key insights have been synthesised from the broad range of information gathered from company engagements and have been further shaped by external resources. We acknowledge this is not a complete list of potential actions, but we hope that by sharing these insights we encourage further conversation, collaboration, and action on workplace sexual harassment. While we have provided some high-level examples of good practice, we have not referenced any specific companies in this document outside of the shared case studies.

HESTA aims for our engagement to be of value for all stakeholders involved, and hope that by sharing these insights, we can support companies' aspirations for continuous improvement. We look forward to continuing our long-term engagement on these issues and seeing progress occur across the sector.

Finally, we acknowledge the diversity among companies in the Australian mining sector and encourage companies to further explore resources from expert bodies including the Australian Human Rights Commission, UN Women, Our Watch and others.

Key Insight #1: Boards can signal intention from the top and have a responsibility to embed comprehensive oversight

We heard from all companies engaged that the *Everyday Respect* report had been discussed around Executive and Board tables, and if it has not already occurred, we encourage a gap analysis against the report's recommendations to identify company-specific opportunities for action.

Boards have a responsibility to manage risk, including risks stemming from workplace safety and culture. Alarming, the 2021 *Equality Across the Board* research report found that less than one fifth of ASX200 companies acknowledged that the board has primary responsibility and accountability for workplace sexual harassment, and fewer than half said workplace sexual harassment was a regular board agenda item⁷.

The *Equality Across the Board* report made a series of recommendations, including for boards to demonstrate visible leadership and provide appropriate oversight and governance of culture and sexual harassment⁷. Some of the ways this could be achieved include by elevating culture discussions to a standing agenda item for each board meeting, as well as dedicating resources for regular deep dives.

Through our engagement series we heard examples of companies embedding oversight of workplace sexual harassment and culture into at least one governance sub-committee, and explicitly referencing this in the Terms of Reference. Discussions at the board level could be further supported by bringing in external subject matter expertise. We encourage governance committees responsible for performance and remuneration measures to consider how action on sexual harassment and workplace gender equality can be incorporated in short and long-term incentives.

Further opportunities to deepen director knowledge could include site visits independent of management, holding direct or forum conversations with employees from a variety of levels, and regularly reviewing employee and culture metrics (qualitative and quantitative) tied to strategy.

⁷ <https://humanrights.gov.au/our-work/sex-discrimination/publications/equality-across-board-investing-workplaces-work-everyone>

Case Study #1



South32

At South32, sexual harassment presents a threat to the physical and psychological safety of its people, is inconsistent with its values and is not acceptable.

South32 manages sexual harassment as a material safety risk through the application of an established risk management system and supporting processes. The company assigns ownership for proactive and reactive control measures to mitigate the risk of sexual harassment occurring within its workplace.

These control measures include enhancing physical safety and security across work locations, fostering greater inclusion and diversity, managing the consumption of alcohol in work adjacent settings, and engaging and training its people. By utilising an established assurance and stewardship process, the company is able to assess and verify the effectiveness of these controls on an ongoing basis, adjusting as necessary to continuously improve.

As with all material safety risks, South32 recognises the importance of engaging with its people and involving them in ongoing discussions regarding appropriate and inappropriate workplace conduct. One of the ways this is done is by developing and deploying the 'Living our Code' training and discussion series across the organisation. The series extends upon the Code of Business Conduct training required for employees at South32, and focuses on appropriate workplace behaviours, the critical role bystanders play in establishing a safe and inclusive workplace and the avenues available to its people to speak up if they witness, suspect or are a victim of inappropriate workplace conduct. In FY22, over 5,500 employees participated in a 'Living our Code' discussion, and these conversations will continue and evolve throughout FY23.

South32 also provides the opportunity for dialogue with its people by asking them to share their experiences of bullying, harassment, discrimination and/or sexual harassment in an annual Your Voice employee engagement survey. The results enable the company to better understand the lived experience of its people, enhancing the ability to respond to the risk factors for inappropriate workplace conduct, including sexual harassment.

Key Insight #2: Having a safety strategy that addresses known risk factors can be key to proactive management of workplace sexual harassment

We know that mining workplaces are considered high risk for sexual harassment due to various structural and cultural factors⁸. There is also a range of hazards that can further exacerbate gendered risk including physical camp design, alcohol consumption and flow on effects from the increased use of contracted/outsourced labour across the sector.

For example, alcohol on sites can exacerbate issues of gendered harassment because of the way social norms relating to alcohol and social norms relating to gender intersect. Initiatives to address this risk should be embedded in a best practice alcohol policy. Many employers we spoke with had, or were in the process of, introducing limits on alcohol sales and restricting sales to low alcohol beverages, as well as providing alcohol free social spaces and introducing a range of recreational activities free of alcohol. Importantly, these changes should be introduced within the context of broader cultural change initiatives.

Similarly, the heightened risk of using labour hire companies and contractors on culture and safety are well documented. We see a potential risk of diminishing accountability from increasing contractor use, and this may add additional barriers to reporting including unequal power dynamics. Approaches to address these risks may include increased monitoring, information sharing with contractors and labour hire firms, and to all possible extents including contractors in culture building opportunities, training, and surveys. We also encourage companies to consider the consequences of strategies that have a significant reliance on this form of labour. The *Enough is Enough* report recommends companies integrate into their Safety Management Plans consideration of the appropriate proportion of labour-hire and contracted workforce⁹.

We encourage all companies to complete risk assessments to understand the nature of potential hazards, such as camp site design, recreational facilities or specific policies and procedures. We also encourage transparency with stakeholders around risk, data and strategy in order to build a culture of trust and accountability, as well as contribute to industry-wide awareness and action on issues.

Key Insight #3: Integrating a gender lens into the design of physical spaces may contribute to prevention

During the engagement process we learnt of several crucial safety improvements required at mine and camp sites across the industry, many of them relatively new sites. This indicated that sites were not designed with women's safety in mind. Identified issues included limited CCTV coverage, poor lighting in walkways, limited phone reception coverage in various areas of the site or camp, room doors not providing adequate safety and privacy, and limited recreation spaces that were free of alcohol. Other hazards to be addressed included potentially lax processes by which external personnel access sites, and the lack of training provided to security staff to ensure they can respond to sexual harassment and other forms of inappropriate behaviour.

Integrating a Gender Impact Assessment into the process of designing future sites or while implementing upgrades can help ensure they are fit for purpose and facilitate safety for all people. A gender lens should also be integrated into the establishment of industry-wide standards for mine sites and camps to promote a consistency of experience among workers, and a high standard of both physical and psychological safety for staff of all genders. The need for industry standards is included in recommendation #8 of the *Enough is Enough* report.

⁸ https://www.minerals.org.au/sites/default/files/Respect%40Work_Fact%20Sheet%20-%20Does%20sexual%20harassment%20occur%20in%20the%20mining%20industry.pdf

⁹ [https://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/EF1DF1A3F5DF74A84825886900E6B32/\\$file/20220621%20-Report%20No%202.pdf](https://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/EF1DF1A3F5DF74A84825886900E6B32/$file/20220621%20-Report%20No%202.pdf)

Case Study #2



St Barbara

As a Workplace Gender Equality Agency (WGEA) Employer of Choice committed to diversity and inclusion, St Barbara is transparent in reporting its progress against set diversity objectives. In addition, as part of its citation with WGEA, the Company is required to track and report its data, which supports its focused efforts in progressing its diversity objectives.

Over the last eight years, St Barbara has seen continual improvement in the representation of women in its workforce. The company conducts regular self-auditing gender safety audits, which contributes to its respectful and inclusive workplace and culture.

The Respectful Workplace Safety Audit (previously known as gender safety audits) is a process that identifies specific safety risks, incorporating physical, emotional, and psychological safety, and is based on the premise that women face different safety risks and experience safety in their own unique way. It challenges the assumption that risks faced by women are the same as those faced by men. These audits are best conducted with the assistance of an independent party, which has most recently been St Barbara's approach. In addition, St Barbara has shared its gender safety toolkit with other resources companies for their use with the goal of improving gender safety across the industry.

This audit process provides a clear understanding of the experience for women across its operations and helps inform how St Barbara can continually improve that experience, and therefore female representation in its workforce.

In 2022, St Barbara was recognised by WGEA as an Employer of Choice for Gender Equality (EOCGE) for the eighth consecutive year and is the only Australian mining company to be awarded the citation. The EOCGE citation is a voluntary leading-practice recognition program designed to encourage, recognise and promote organisations' active commitment to achieving gender equality in Australian workplaces.

St Barbara was also included in the 2022 Bloomberg Gender-Equality Index (GEI). St Barbara is one of 413 companies across 45 countries to join the 2022 GEI and received a GEI score of 77.7%, exceeding the required threshold. The Company received 100 per cent on sexual harassment policies compared to the average of 66%, with a score of 94.1% for equal pay and gender pay parity, compared to the average of 60%.

In line with the Company's Diversity and Inclusion Policy, the Board annually reviews the diversity objectives. The Company conducts regular gender pay audits and has a nil gender pay gap for like-for-like roles. As of 30 June 2022, the overall gender pay gap (based on full-time base remuneration of men and women across levels working in Australia) was 7%.

Key Insight #4: Having an inclusive culture is key to preventing workplace sexual harassment

The Respect@Work report emphasises the importance of workplace culture in tackling sexual harassment - *"building of cultures of trust and respect, that minimise the risk of sexual harassment occurring and, if it does occur, ensure it is dealt with in a way that minimises harm to workers."* Transforming culture requires consistent and long-term efforts from all levels of the business, and integrates policy, communications, behaviour, and supported initiatives. The Diversity Council of Australia recommends embedding or strongly connecting sexual harassment prevention activities with broader diversity and inclusion strategies¹⁰.

Frequently, we heard from companies who were seeking to strengthen their policy framework, their training suites their and reporting metrics on a range of inclusion topics. We know from the Respect@Work report and other key resources that comprehensive and regular training in a variety of formats is recognised to build knowledge and equip employees with the tools to challenge behaviour and norms. It can also communicate an organisation's culture, values and expectations around acceptable standards of behaviour. As far as possible, all training and culture building activities should be inclusive of the contractor workforce, acknowledging the heightened risk factor.

¹⁰ <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>



Case Study #3



BHP

Having set an aspirational goal in 2016 of a gender balanced workforce by the end of FY2025, BHP set about evolving the culture of its organisation to ensure every single person felt fully respected and included.

In 2018, BHP formally defined sexual harassment as a health and safety risk, and began applying the same level of rigour and focus as it does with any other health and safety issues. Since that time, and alongside conducting internal diversity and inclusion reviews, BHP has been implementing significant measures across its business to enhance safety, security and inclusiveness. These include training across the entire organisation, security enhancements, emergency response and leadership commitment.

As part of its prevention efforts, BHP has provided sexual harassment prevention and behaviours training to all employees, set clear expectations of appropriate conduct and is driving a more consistent set of disciplinary outcomes. In the past year, BHP has also invested more than US\$200 million to improve the security and experience in its accommodation villages.

To enhance their response processes, BHP established a specialist Central Investigations Team within the organisation in 2019, which is separate from other business units.

Within that unit, sexual harassment has been defined as the highest priority category of incidents for investigation. In their investigations, BHP adopt a person-centric approach, and in the first half of 2021 they established a specialised global support service which is available to all employees and contractors to provide impacted persons (regardless of whether an investigation is underway) with practical support (such as changes to shifts), wellbeing support and advice on the investigation process and alternative resolution options. The service also provides advice to line leaders and bystanders on how to respond to reports or incidents.

BHP continues to work with a range of industry peers, and has commissioned external experts to assist in understanding the drivers for why sexual harassment may occur, and best practice for prevention and response. This is an issue BHP is tackling from all angles and at every level of the organisation.

For several years, BHP has had executive leadership and company-wide performance criteria linked to remuneration that includes progress towards greater inclusion, diversity and gender representation. Since FY2022, executive leadership and company-wide performance criteria also include measurements of progress of work to enhance its approach to addressing sexual harassment.

Key Insight #5: Gender diversity in leadership can promote a respectful workplace culture and be a useful tool in tackling inappropriate workplace behaviour

Globally, women are underrepresented in the mining workforce¹¹. Many companies we engaged are publicly stating their intention to improve workforce diversity and are hopeful about the potential for a cultural impact, as having women in leadership can send a strong message about respect. Encouragingly, most companies we engaged explicitly acknowledged the role of gender inequality as a key driver of workplace sexual harassment. A few also held a strong belief that more diverse teams translated to better culture and overall safety performance.

To embrace diversity, companies need to create a culture where women feel safe and respected, so they can thrive in their careers and progress towards leadership roles. To increase the available talent pool and attract women to the industry, we heard examples of companies innovating to embed flexible work in job design; critically considering the skills required for the future and recognising the value of transferable skills; challenging bias in recruitment and promotion practices; and creatively nurturing a diverse internal talent pool.

Gender targets can play a crucial role in sharpening a company's focus to deliver on a gender equality strategy. Targets are repeatedly shown to be effective in accelerating progress towards gender balance in leadership¹². HESTA encourages all companies to consider setting 40:40:20 targets for Executive leadership teams and aligning to the 40:40 Vision initiative.

¹¹ <https://www.mckinsey.com/industries/metals-and-mining/our-insights/why-women-are-leaving-the-mining-industry-and-what-mining-companies-can-do-about-it>

¹² <https://cew.org.au/wp-content/uploads/CEW-Census-2022-3.pdf>

¹³ wgea.gov.au/newsroom/media-releases/more-women-at-the-top-proves-better-for-business

¹⁴ <https://www.asx.com.au/documents/asx-compliance/asx-corp-governance-kpmg-diversity-report.pdf>

Case Study #4



40:40 Vision

40:40 Vision is an investor led initiative that seeks to achieve gender balance – 40% identifying as women, 40% identifying as men, and 20% identifying as any gender – in the executive teams of ASX300 companies by 2030. Investors backing 40:40 Vision understand that gender diversity in leadership enhances company performance and long-term value¹³, and that inclusive workplaces create opportunities for women. The initiative is backed by investors with over AUD\$6.5 trillion in Assets Under Management or Assets Under Advice, as well as leading industry partners like the Workplace Gender Equality Agency, Chief Executive Women and the Australian Council of Superannuation Investors.

40:40 Vision is based on target setting, as research shows that targets are more effective than disclosure alone when it comes to boosting female representation in company leadership¹⁴. By signing up to 40:40 Vision, companies align to a common 2030 target, and set interim targets to help achieve this goal. 40:40 Vision recognises the diversity among ASX300 companies, and therefore is designed to achieve one common ambitious outcome without being overly prescriptive in its approach to equity and inclusion. Companies are encouraged to adopt approaches that are suitable and achieve progress in their setting.

Several companies within the Australian mining sector have become signatories to the initiative including BHP, IGO, South32 and Perenti Limited. All ASX300 companies are invited to become signatories to 40:40 Vision.

Key Insight #6: Improved measurement and reporting can facilitate transparency and promote a continuous improvement approach

Data is important in understanding the nature and prevalence of workplace sexual harassment, and tracking progress. We know that underreporting of sexual harassment is chronic for a range of reasons, including fear of repercussion and perceived risk to employment¹⁵. The Respect@Work report estimated only 1 in 5 victims report incidences of sexual harassment, and the *Everyday Respect* report estimated only 1 in 8 women at Rio Tinto who experienced sexual harassment in the last five years reported it¹⁶. Cultural change and an increase in trust in process should lead to more fulsome reporting and accurate data over time.

Timely reporting by companies on sexual harassment incidents as well as prevention and response measures are necessary to ensure investors have relevant information to assess company performance and governance. Importantly, across the industry we would like to see workplace sexual harassment elevated from a HR issue to a workplace safety issue.

This includes similar rigour and reporting around psychological safety issues, including workplace sexual harassment, as we see for traditional work, health, and safety matters (e.g., lost time statistics, incident and resolution data, frequency rates). We also encourage enhanced data collection and reporting around a range of gendered workplace metrics including completed risk assessments, workforce engagement survey responses, workforce composition data and pay gap analysis data.

Data collection at the industry level is helpful to identify systemic issues in workplaces with similar conditions and workforce demographics. This is particularly helpful in mining where the workforce is relatively mobile. As investors, we encourage data collection and transparency at multiple levels and support the expansion of industry-wide data collection mechanisms and reporting. This includes enhanced collaboration between government bodies, regulators, police, mining bodies, regulators and other employee groups and stakeholders. We believe enhanced collaboration can accelerate change and improve outcomes for victims.

Ongoing engagement

Workplace sexual harassment can create significant legal and financial risks for companies, sectors, and the economy. Companies can incur significant costs through impacted employee wellbeing, increased turnover, reduced productivity and costly investigations and legal actions. Companies can also face reputational damage and risk to social licence when their actions do not meet societal expectations of acceptable behaviour, fairness, and gender equality. When these risks are not adequately managed, they have the potential to erode company value and negatively impact the investment returns and therefore the retirement savings of HESTA members.

At the economic level, workplace sexual harassment contributes to women's underrepresentation in the workforce and in leadership¹⁷. At HESTA, we want to invest in companies that facilitate the equal participation of women and create cultures that fully harness the value of women, as we know that gender diverse companies perform better across a range of metrics¹⁸.

¹⁷ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/briefingnote/wcms_738115.pdf

¹⁸ <https://www.firstsentierinvestors.com.au/content/dam/web/australia/realindex/realindex-lipservice-report.pdf>

HESTA strongly encourages all mining companies in our portfolio to dedicate further resources and expertise to addressing workplace culture issues, particularly workplace sexual harassment. We also encourage greater transparency and reporting to ensure investors have adequate information to assess risk, controls, and governance oversight.

We look forward to continuing a productive dialogue with companies and stakeholders across the Australian mining sector to further understand the evolution of cultural risk and how this is being managed. We acknowledge that cultural and systemic change can take time but expect to see continued momentum toward meaningful change.

HESTA is also committed to contributing to the required system level change and will seek further engagement with relevant stakeholders.



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¹⁵ <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

¹⁶ <https://www.riotinto.com/-/media/Content/Documents/Sustainability/People/RT-Everyday-respect-report.pdf>

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