



20 January 2023

Submission to the Late-Night Code Review

The Working Women's Centre SA

Introduction

The South Australian Working Women's Centre (WWC) is a gender focused, dynamic place for women to easily access timely and accurate workplace information, legal and industrial advice in their community.

As a non-threatening front door, WWC also operate for women as a catalyst for change in all Australian workplaces, industries, and communities.

The unique community-based model means WWC are focused solely on delivery and ensuring all women's voices can be heard, regardless of age, race, class, affiliation, or political conviction. WWCs are well placed to partner, broker, or foster relationships with philanthropic organisations, pro-bono law services, business, and a broad range of movements relevant to working women in Australia.

For their fortitude and achievements, WWCs were recognised as national finalists for the 2021 Australian Human Rights Award. These achievements include leading and contributing to campaigns relating, but not limited to, sexual harassment, workplace bullying, 10 days paid family violence leave, repetitive strain injury, parental leave, and universal accessible childcare.

The WWCs worked closely with Commissioner Kate Jenkins during the National Inquiry into Sexual Harassment in Australian Workplaces, resulting in the WWCs model being recognised as a holistic and intersectional service that supports women, their families, and the broader community. The effectiveness of the current WWCs model directly resulted in the inclusion of Recommendation 49 in the Respect@Work Report. Natural collaborators with extensive networks, the WWCs connect and partner with government, business, the unions, and the community to achieve the best outcomes for women across Australia.

The Working Women's Centre SA has three core arms of the service model, which includes:

- **Legal/Industrial:** Free legal/industrial service for non-unionised people (predominately women) who are low paid workers, vulnerable workers or women experiencing workplace issues including discrimination and harassment.
- **Advocacy:** Identifying trends and emerging issues advocating to influence change at the systemic level.



- **Education/Workplace training:** Free and fee for service training to employers, within the remits of funding that includes:
 - Employers in high-risk industries and workplaces;
 - Small businesses; and
 - Universities, TAFE, and schools to inform young women entering the workplace of their rights.

We predominately provide advice and advocacy services to women and we are experts in gender-based workplace issues.

The core practices of the WWC include:

- The advocacy and training work is informed by the issues experienced by the clients. Patterns are identified in the legal and industrial work and the advocacy and education arms are used to address these issues at a systemic level.
- Working Women's Centres consistently and unreservedly work in a women's centred approach, applying a gendered lens to work issues. WWC's are a safe place for women to gain support on issues such as domestic and family violence, sexual harassment, and assault. WWC's understand the gendered impact of family commitments, poverty, cultural background, and location on women's workplace choices.
- Women are supported and empowered through the legal and industrial work. Women are listened to and supported to make decisions that are right for them.
- Connection to grassroots movements. Communities are supported to address issues they are experiencing such as wage theft and exploitation. Connection is maintained with the community / women's service sector, unions, and campaigns to improve women's working lives.

Our submission to the Late-Night Code focuses primarily on:

- The role of alcohol in perpetuating gendered violence;
- Opportunity to make systemic change;
- Bystander intervention awareness and training; and
- Hospitality as a high-risk industry for gendered violence.

The Role of Alcohol in Gendered Violence

It is widely accepted that alcohol does not cause violence against women but is a contributing factor and increases the severity of the violence. Violence against women includes sexual violence and it is not limited to the home. Violence also occurs in the workplace. In the Commissioner for Sex Discrimination, Kate Jenkins' report entitled '*Time for respect: Fifth national survey on sexual harassment in Australian Workplaces*', it was reported that 89% of women have experienced



sexual harassment in their lifetime, with 41% of women reporting sexual harassment at work in the past five years.¹

Venues that supply alcohol are high risk of facilitating gendered and sexual violence. Our liquor licencing legislation should implement a positive duty for venue owners to prevent sexual harassment and violence in their establishments, and this should extend to both staff and the patrons attending these venues.

Alcohol is estimated to be involved in between 23 percent and 65 percent of all family violence incidents.² **Research shows a solid and persistent connection between alcohol use and violence against women.** This is reflecting in numerous studies which show the link between an increase of alcohol consumption at sporting events and violence against women.

From 13 December 2022, employers now have a **positive duty on employers** to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation, as far as possible.

In our view, the state government has a responsibility as the regulator of alcohol service to provide the framework of which this obligation pertains. The government has an opportunity to expressly legislate to obligate employers to prevent sexual harassment and violence in their venues in order to hold and or maintain a licence.

In our experience, hospitality venues are often small business and spend very little energy and money on professional development and workplace training. By making preventative training mandatory, the regulator and government have an opportunity to set standards within our hospitality and alcohol culture and provide every venue and worker a skillset to recognise, respond and prevent violence.

Hospitality as a high-risk industry

Hospitality is an industry that is well known to be high risk of both perpetrating and/or experiencing sexual harassment, particularly against women.

Research has shown that 70% of Australian hospitality workers have experienced sexual, verbal or racial abuse while at work. It is reported that customers are the main perpetrators within hospitality, however, 42% of participants said their managers or supervisors had abused them.³

¹ Australian Human Rights Commission, *'Time for respect: Fifth national survey on sexual harassment in Australian Workplaces'* (November 2022).

² ANROWS *'Links between alcohol consumption and domestic and sexual violence against work: Key findings and future directions'* (November 2017).

³ The University of Queensland, *'Serving up a Fair Go? Surfacing cultural issues in hospitality employment'* (September 2022).



In the Commissioner for Sex Discrimination's 2022 report, it was found that workers within the industry of "accommodation and food services" (which broadly includes accommodation, cafes, restaurants, takeaway food services, pubs, taverns, bars and clubs) experience a 34% incident rate of sexual harassment in the workplace.⁴

This is higher than the national incidence rate of 33% and places accommodation and food services (or "hospitality") in the top five industries nationwide where workplace sexual harassment incidents occur.

An example of sexual harassment/abuse perpetrated by customers towards hospitality workers is as follows:

*"I've had customers spit on me, pull my hair, grab my breasts and backside, follow me to my car, call me a *****, try to jump the bar and punch me, had a bottle hit me in the head."*⁵

There is a combination of factors as to why hospitality is a high-risk industry for gender inequality. Problematic behaviours have been normalized and created systemic issues within the hospitality industry.

Contributing attributes include:

- The abovementioned role of alcohol in gendered violence, and prevalence of alcohol in the hospitality industry;
- An expectation for workers to be friendly (smiling, engaging meaningfully etc) at customers to come across as hospitable. This can be used to victim blame or justify inappropriate behaviour toward workers;
- The industry often attracting young workers in precarious employment. Precarious work means a worker is less likely to speak up about their workplace rights out of fear of losing their job; and
- A culture of 'fun', binge drinking, 'banter' and late-night shifts.

The above problematic issues that have been normalised in hospitality has created systemic issues in the industry. Women and vulnerable workers working in the hospitality industry are therefore increasingly vulnerable to sexual harassment and/or victimisation.

Bystander Intervention and Awareness Training

To minimise harm to the community, Responsible people/Drink marshals who supply alcohol should be trained in bystander awareness and intervention training to ensure the safety of women and other populations of vulnerable people. When a

⁴Australian Human Rights Commission, *Time for respect: Fifth national survey on sexual harassment in Australian Workplaces* (November 2022).

⁵The University of Queensland, *'Serving up a Fair Go? Surfacing cultural issues in hospitality employment'* (September 2022).



patron is intoxicated, they are impaired, which can both exacerbate a victim's vulnerability to violence and/or provide a scapegoat for perpetrators to perpetrate sexual violence.

Such bystander awareness training should include the following:

- An ability to define sexual harassment and power imbalances;
- The role that alcohol has in exacerbating gendered violence;
- An understanding of bystander awareness and how to avoid bystander apathy;
- How to create a workplace culture that does not welcome anti-social behaviours;
- How to identify inappropriate and antisocial behaviours;
- How to deescalate and intervene safely; and
- Knowledge of the four gendered drivers of violence and unconscious bias.

Responsible People are in a special position to be able to view scenarios that occur in venues through a sober lens and assess where a situation may escalate to sexual violence.

Recommendations

The Working Women's Centre SA recommends the following:

- That the Liquor Licensing Act incorporates an express and hospitality focused positive obligation on venue owners to prevent any risk of sexual harassment/violence in their venues;
- Mandatory training of staff in bystander awareness and intervention (whether through incorporation of this module into Responsible Service of Alcohol training or otherwise);
- Mandatory workplace training on gendered violence and the role alcohol plays in facilitating gender inequality.