



**AUSTRALIAN
HUMAN RIGHTS COMMISSION
NATIONAL INQUIRY INTO
SEXUAL HARASSMENT IN
AUSTRALIAN WORKPLACES**

Project Respect Submission

Contact: Rachel Reilly
Executive Director



About Project Respect

Project Respect is a specialised women's service working with women in the sex industry and women trafficked for sexual exploitation. We work from a feminist and intersectional framework, which positions women at the centre of our work and recognises the structural systems which underpin and perpetuate gender inequality, and are the only service of this kind in Victoria.

We are a support and referral service for women in the sex industry and women trafficked for sexual exploitation. We undertake outreach to licensed brothels across the Greater Melbourne Region to provide information to women should they require it, provide case-coordination for women in the sex industry, and intensive case-management for women trafficked for sexual exploitation. We also support women who indicate they would like to reduce their hours or make a sustainable transition out of the sex industry. We deliver capacity-building workshops to a broad range of social, community and welfare services, which includes sections on human trafficking indicators, support and referral pathways. We run a peer-led Women's Advisory Group consisting of women with experience of the sex industry who provide information, guidance and input on strategic direction for the organisation. We also create a safe space for women, including a monthly peer-led community lunch.

Acknowledgements

Project Respect would like to acknowledge the following: Lisa Ashton who is the author of this submission, Amy Evison and Rachel Reilly for their knowledge and contribution to the content, the Project Respect Women's Advisory Group for their insight on sexual harassment in and outside the sex industry, and the women who Project Respect supports, whose first hand experiences we are able to draw on.

Introduction

Project Respect welcomes the opportunity to make this submission to the National Inquiry into Sexual Harassment in Australian Workplaces. Project Respect's submission is informed by its work as a direct service provider in the community sector. This submission is particularly important as the sex industry does not appear to have been included as an occupation group in any previous surveys on sexual harassment in Australian workplaces. It is important that the experiences of this vulnerable cohort are recognised and heard.

The nature of the sex industry is unique in relation to sexual harassment, as few - if any - other industries exist of an intimate sexual nature, however this does not - and should not - mean that sexual harassment is 'part of the job'. Project Respect recognises that not all women in the sex industry experience sexual harassment, discrimination or violence in the industry, or outside of it. However, based on our work with women in the sex industry, we believe that sexual harassment, discrimination and violence within the sex industry is significant, widespread and harmful. Project Respect recognises that male sex workers are also impacted by sexual harassment, however our work supports only women, and therefore this submission will focus only on women in the sex industry.

Terms of Reference

2) Online workplace-related sexual and sex-based harassment and the use of technology and social media to perpetrate workplace-related sexual and sex-based harassment

Project Respect recognises the use of technology as a mechanism for perpetrating violence and harassment against women in the sex industry. For the most part, women supported by Project Respect keep their experiences of the sex industry private, largely due to stigma and the risk of discrimination from friends, families, other employers, or other service providers. However, technology facilitated abuse is being used as a mechanism to 'out' women, coerce them into staying with a partner or continue seeing a client. One client recently advised that she was 'outed' by a client on social media, identifying her to her family and friends as a sex worker. She had not previously disclosed her industry experience to anyone outside of this space, and the outing had a significant impact on her mental health due to relationship breakdowns within her family and social support networks. Another woman, with experience in the online sex industry, had sexually explicit photos and videos sent to her employer outside of the sex industry, the day before she was due to start a new job. The photos and videos were allegedly sent by her ex-partner after a recent separation.

Technology facilitated sexual harassment and abuse directed towards sex workers is also prevalent in online forums and 'reviews'. Men who purchase sex often leave degrading and humiliating remarks about sex workers, rating the sexual service they have received. One woman informed Project Respect that when a client leaves a negative review about workers on the brothel website, management inform the woman and will not remove it until they are sure she has read it. She advised that reviews are left online as a means of humiliating the workers and to try and change their behaviour in a booking.

Brothel outreach data obtained by Project Respect in the 2017-2018 financial year¹ suggests that the prevalence of technology used to harass women in the sex industry is increasing. Outreach teams observed signage stating, "no mobiles", "no phone filming", "no photos" and "no videos" on 31 brothel visits. This suggests that clients are attempting to use their phones to take photos or film women, without their consent, within the booking. Furthermore, we have been informed by women we support that they often receive harassing, unwelcome phone calls and text messages from their clients. Project Respect has also been informed that clients have waited for women to finish their shift and have then attempted to follow them home.

4) The drivers of workplace sexual harassment, including whether:

- some individuals are more likely to experience sexual harassment due to particular characteristics including gender, age, sexual orientation, culturally or linguistically diverse background, Aboriginal and/or Torres Strait Islander status or disability
- some workplace characteristics and practices are more likely to increase the risk of sexual harassment

A key driver to sexual harassment within the sex industry is gender. Overwhelmingly, it is women who work in the sex industry, and men who purchase sex. Victim/survivors of violence, both inside and outside of the sex industry, are disproportionately female. The sex industry is a space where male behaviour dominates, drives and perpetuates violence against women. Gender inequality

¹ Project Respect 2018, Project Respect Annual Report 2017-2018

creates a sense of entitlement and false expectations where men seemingly believe they have the power to do whatever they like within the booking, as they have paid for it. Women met during outreach in 2017-2018 confided in us:

“When the client gives you a few hundred dollars, they think they can do whatever they like”

“Because the client paid the money (I thought) that he had the right to do whatever he liked”

“(Clients) hassle us to do natural and anal sex”

During brothel outreach, we were informed that male clients have been masturbating when women introduce themselves to discuss their available services. Women stated that men regularly touch or attempt to touch their breasts or buttocks during the intro, without consent. The clients will then not follow through with the booking. Women report clients are repeatedly requesting and attempting unprotected services, despite this being against the law.

Outreach teams observed additional signage in 14 brothels that read “it is illegal to remove a condom”, indicating that there has been an increase in clients who are sexually assaulting women by removing condoms during bookings. We engaged with 16 women during outreach who disclosed various forms of sexual harassment endured during bookings; client’s removing condoms without consent, being harassed to perform natural services or to have anal sex, and clients who had been raped. One trans-gendered woman disclosed that a client had digitally penetrated her and purposely hooked his finger in her anus and pulled, with the intent to tear and inflict injury. Reports of increasing physical abuse – biting, slapping, hitting, hair pulling and rough sex – have been said to be prevalent in nearly every booking².

Violence and sexual harassment experienced by sex workers can also be attributed to the increased use of pornography³. The online sex industry is overwhelmingly produced and consumed by men, and almost always centres themes around male dominance and female subordination and can be broken into specific categories including race, age sexual orientation, and specific sexual acts including rape, violence and humiliation⁴. Outreach teams have been advised that some men have come to them to lose their virginity and have wanted their experiences to reflect what they have seen in pornography. The online sex industry normalises sexual violence, where men believe that when a woman in the sex industry accepts the money for the booking, she consents to everything that occurs within the booking.

Cultural and linguistic diversity is another key driver of workplace sexual harassment within the sex industry. In the 2017 -2018 financial year, outreach teams engaged with 248 women, 134 from CaLD backgrounds. We were unable to engage with a further 189 women due to language barriers⁵. Project Respect estimates that approximately 80% of women working in licensed brothels in Metropolitan Melbourne are women of CaLD backgrounds. A woman who is from a CaLD background is less likely to understand her rights within the booking, due to language barriers, which is likely to increase the risk of sexual harassment and violence within the booking. Language barriers

² Hall, Bianca, 2015, “Sex workers at risk of violence as the internet cuts demand for their services, The Age

³ ibid

⁴ Long, Julia, 2016 “Pornography is more than just sexual fantasy. It’s cultural violence”, Washington Post, 2016

⁵ Project Respect 2018, Project Respect Annual Report 2017-2018

may also prevent a woman from being able to safely negotiate a booking or a refuse a client if she does not want to engage in a particular request. Language barriers further isolate a woman from a CaLD background as she is less likely to report any acts of sexual harassment and violence due to these barriers and cultural differences, including shame. Outreach teams have been asked by women of CaLD backgrounds what men can and cannot do within the booking, because they were unaware. One woman asked if it was normal for a client to physically assault her.

5) The current legal framework with respect to sexual harassment

The current State and Federal legal frameworks are not adequate to specifically deal with the sex industry to prevent or address sexual harassment or violence within sex industry businesses as the nature of the work can, at times, be incompatible with legal frameworks. In addition to this, there is little to no enforcement or oversight of compliance of sex industry owners of the protections afforded workers to prevent workplace sexual harassment and workplace violence. And lastly, despite the high-risk industry, there is no specific training provided to sex industry business operators to increase their knowledge and awareness of mechanisms to keep their workers protected from workplace sexual harassment and/or violence, or training to individual workers about what constitutes workplace sexual harassment or violence in their specific work setting.

The Commonwealth *Sex Discrimination Act (1984)* and the *Work Health and Safety Act (2016)* sets out the frameworks to to keep workers safe from harassment and violence, as well as incidents where they are abused, threatened or assaulted in their work, which can include biting, pushing and any form of indecent physical contact⁶. While these cited incidents may be negotiated as a consensual service to be undertaken within a booking, there is little if any way to protect women from having any or all of these acts undertaken without consent, and no guidance to workers on how to report if a non-consensual act is undertaken or adequate training for sex industry business owners to report if such incidents do occur. The failure of businesses owners, and more importantly the state to mandate better compliance of sex industry business owners against legal frameworks such as the Sex Discrimination Act 1984 highlights the difficulties in applying the “normal” legal frameworks to the sex industry.

Further, each state legislates the sex industry differently making it difficult to develop a best practice model that the Commonwealth Legislation can be appropriately applied. The Victorian sex industry is legislated by the *Sex Work Act (1994)* and subsequent *Sex Work Regulations 2016*. The *Sex Work Act (1994)* and is considered outdated given the growth of the industry over the past 20 years. Outside of sexual health and hygiene, the Act provides few protections to the safety of workers. Further, many of the specific worker safety features, such as duress alarms in each room outlined in the *Sex Work Regulations (2016)* were repealed in 2017. The reason cited by Consumer Affairs Victoria, the regulatory body, was these specific regulations were covered in other legislation, including *The Occupational Health and Safety Act (2004)* and the *Public Health and Well-Being Act (2008)*. However, the sex industry, and these industry specific safety measures are not mentioned in the *Occupational Health and Safety Act (2004)* or subsequent 2017 Regulations, while the *Public Health and Well-Being Act (2008)* does briefly mention the sex industry, however its inclusion does not adequately address the regulations repealed in the Sex Work Regulations in 2017. Like the *Sex Work Act 1994*, the *Public Health and Well-Being Act* stipulates that a brothel proprietor must

⁶ Safe Work Australia, ‘Workplace Violence’, available at <https://www.safeworkaustralia.gov.au/workplace-violence>

ensure that condoms are used during vaginal, oral or anal penetration between a sex worker and client⁷, which as discussed below, does not happen.

Consumer Affairs Victoria website states that licensees and managers are required to “provide a safe working environment, free from violence and intimidation and without risk to health for employees, sub-contractors and clients”⁸. This includes allowing a sex worker to stop working if they feel unsafe. Furthermore, CAV states that sex workers are at high risk of physical and sexual assault, of sexual behaviours designed to make victims feel “uncomfortable, frightened, (and) threatened⁹” and that there is a high risk of unconsented sexual activities. No other industry comes with such a warning, and, such a warning is unharmonious with Commonwealth legislation.

Further, CAV states that brothel licensees and managers “must call 000 immediately if a sex worker makes a sexual assault complaint”¹⁰ however, our work with women indicates that the response by Victorian brothel management to appropriately respond to sexual assault, let alone sexual harassment allegations is inadequate. Brothel outreach teams were informed of 16 instances where management had failed to appropriately uphold their requirements in providing a safe working environment. We were informed of one occasion of a woman who had informed management that the client had removed the condom during the booking. Management informed her that she needed to call the police herself if she wanted to report it. The woman was from a CaLD background, with limited English language skills, and likely very limited understanding of her rights, and subsequently did not report the assault.

Project Respect was informed during outreach that in some brothels, management allow clients who are known to have perpetrated sexual assault against workers to enter the brothel and see another worker, in the interest of securing the booking. In one instance, a woman who was sexually assaulted by a client was forced by management to ‘intro’ to him the next time he entered the brothel. Outreach teams have been asked by women they engage with, what is acceptable within a booking and what clients can and cannot do, because they have not been informed of their rights by management. Teams were informed in one brothel that women were not made aware by management of the location of panic buttons in the rooms. In this instance, women did not have the opportunity to quickly alert others if they were in fear of or had experienced sexual or physical assault.

Whilst the number of sexual assaults reported by sex workers each year is not known, it is almost certainly under-reported. The current legal framework is not set up to support sex workers who want to report sexual assault. If a sex worker has been working as an unlicensed escort, or is engaged in street work, there is a chance that she will be criminalised for working illegally when she reports an assault. Women in the licensed industry are discouraged from reporting sexual assaults as they are unable to report anonymously. A woman must therefore ‘out’ herself and her involvement

⁷ Public Health and Well-Being Act 2008 – Section 158 – 165, Victorian Current Acts, Available at: http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/phawa2008222/

⁸ Consumer Affairs Victoria (2018) *Occupational health and safety (OHS) and cleaning your sex work premises*. [online] Available at: <https://www.consumer.vic.gov.au/licensing-and-registration/sex-work-service-providers/running-your-business/occupational-health-and-safety-and-cleaning>

⁹ *ibid*

¹⁰ Consumer Affairs Victoria (2018) *Safety of sex workers, clients and brothel employees*. [online] Available at: <https://www.consumer.vic.gov.au/licensing-and-registration/sex-work-service-providers/running-your-business/safety-of-sex-workers-clients-and-brothel-employees>

in the industry, which is something few sex workers are prepared to do. Additional barriers to reporting include the stigma and discrimination associated with their involvement in the industry.

Recommendations

- That the sex industry is recognised as a high-risk environment for sexual harassment and violence;
- That the risk of sexual harassment in the sex industry is appropriately addressed in policy response and legislation;
- That the Australian Human Rights Commission conducts data collection from all States and Territories in Australia to determine the prevalence of sexual harassment and assault within the sex industry;
- That women in the sex industry are provided information on what constitutes sexual harassment and violence in the workplace, what their rights are and how they can report or respond, in a variety of translated resources;
- That men who purchase sex are educated on respecting boundaries and consent;
- That Victorian brothel owners and operators are educated on what constitutes sexual harassment, its high prevalence in the sex industry and how to appropriately respond and report;
- That women providing unlicensed or unregistered sexual services are not criminalised for doing so to increase the likelihood of reporting sexual harassment and violence.