

National Working Women's Centres

**Submission to 2018 Review of Model
Work Health and Safety Laws**

April 2018



NT Working Women's Centre

The National Working Women's Centres

The National Working Women's Centres (NWWCs) in the Northern Territory, Queensland, and South Australia are community based, not for profit organisations that provide free and confidential advice and support services on work-related matters to female employees. The Northern Territory and Queensland centres have been open since 1994 and the South Australian centre since 1979.

The NWWCs work primarily with women who are not represented by a union, lawyer, or other advocate. Women who contact our centres are often economically disadvantaged and work in precarious areas of employment. Many women who access our services are pregnant or have children. We also conduct research and project work on a range of issues that women experience in relation to work. These have included access to child care, family friendly practices, the needs of First Nations working women, pregnancy and parental status discrimination, work/life balance, pay equity, and the impact of domestic violence on women workers and their workplaces.

Our centres have particular experience in assisting workplaces to minimise risks posed by domestic and family violence that intersects with work. We provide consultancy and training to organisations on this topic in conjunction with domestic and family violence specialist organisations.

Our Submission to the Review

The NWWCs have read and support the submissions made to the 2018 Review of the Model Work Health and Safety Laws (the Review) by the Australian Council of Trade Unions (ACTU). Our centres particularly support those comments made by the ACTU in relation to:

- the need for an urgent and comprehensive review of Work Health and Safety (WHS) regulators' compliance and enforcement strategies,
- the need for updates to the Act, Codes, and Regulations to effectively address challenges posed by labour hire, outsourcing, and franchising practices as well as by the new 'gig economy',
- the need to develop new codes and regulations that cover the changing or emerging issues of risks to psychological health, adequate staffing levels, heat related illnesses, and violence at work,
- the need to explicitly include the top of a supply chain within the definition of a PCBU,

- the need to extend Health and Safety Representative (HSR) powers to union Entry Permit Holders to ensure the safety of workers in non-standard workplaces, and
- the need to clarify inclusion of workers or their representative as parties to a dispute under s 80(1)(c).

Our particular support for these submissions arises from concern that WHS prosecutions by WHS regulators have dropped in recent times, our observation of the growth in alternative management structures like use of labour hire and contracting arrangements, the growth in complex supply chains in a range of industries, high levels of psychological harm and injury arising from work, and the absence of HSRs in non-standard, small, and isolated workplaces.

While the NWWCs generally perceive that the structure of the model laws is sufficient and proper in workplaces where HSRs are present, our day to day experience leads us to be concerned about those workplaces without HSRs. We support workers who are often unable to speak with a HSR, because there is not one present, about work health and safety issues. This leaves workers reliant on their ability to address concerns personally with their employer. In many cases the workers we assist are prevented from doing so by concerns for their own employment security, communication difficulties, or other power imbalances.

We find that workers on visas face particularly high barriers to raising work, health, and safety issues with their employers. It is well known that workers on visas are vulnerable to exploitation, particularly if their visa contains conditions which attach them to their employer. In such cases workers become dependent on their employer for the ability to stay in Australia and support their families. In many cases, this leaves workers unable to discuss or complain about work health and safety risks, no matter how serious those risks may be.

We further raise the need for the development of codes and regulations in relation to sexual harassment, bullying, and domestic and family violence. These issues pose serious WHS risks but are often perceived as being beyond the remit of WHS laws.

Sexual harassment poses a serious risk to psychological and physical health. We observe that, in most cases, sexual harassment at work arises in a degree of psychological harm or injury ranging from temporary adjustment disorders to chronic ill mental health. We have also seen sexual harassment pose physical WHS safety risks. In workplaces without a HSR, workers who experience sexual harassment may lack a way in which to raise the issue with their employer except through a direct conversation with management.

Sexual harassment case study 1

Megan worked in a warehouse performing manual lifting tasks and working alongside machinery. She was repeatedly sexually harassed at work through unwanted compliments on her appearance and uninvited touching by a male colleague. On one occasion, Megan was sexually harassed by being touched

while she was performing a manual lifting task. This placed her at physical risk as she was distracted while performing the task. Megan avoided physical injury on this occasion but complained to her employer about the conduct. Soon after she did so, her work shifts were cut. Megan felt humiliated by the sexual harassment she had experienced and found it difficult to look for new work. She was afraid she would be treated the same way by another employer.

Sexual harassment case study 2

Etienne was employed in a small family workplace. The male owner of the business sexually harassed her by making unwelcome comments about her appearance and asking her to go out with him to dinner. Etienne complained to others within the business, who were also relatives of the perpetrator and part owners of the business. They were generally dismissive of her complaint, and allowed Etienne to continue to work alone with the perpetrator. After repeated instances of sexual harassment, Etienne resigned from her role. She experienced panic attacks at work and is now continuing to receive medical treatment for anxiety.

Bullying also poses well known risks to work health and safety. These risks are difficult to address, particularly in the absence of a HSR, and particularly if the worker is employed in alternative management structures like labour hire arrangements, or insecure employment.

Bullying case study

Javinder was employed in manufacturing through a labour hire arrangement. She complained to her host employer about bullying at work, and the host responded by asking the labour hire agency to discontinue her engagement there. Javinder was left without hours of work and without the confidence to continue working in manufacturing. She feared that future engagements in male-dominated workplaces would leave her susceptible to the same treatment in future. Javinder now suffers anxiety and depression as a result of the treatment she experienced.

Likewise, domestic and family violence, when it intersects with the workplace, poses a serious risk to health and safety. Perpetrators of domestic and family violence frequently use the workplace as a place where they can contact and intimidate the person against whom their behaviour is targeted. This may place the health and safety of both the worker experiencing domestic and family violence and their colleagues at risk.

Domestic and family violence case study 1

Margarite's husband found a text message on her phone which had been sent to her by a colleague, advising he had borrowed her work computer for the day. Margarite's husband was infuriated that a male colleague would contact his wife, and rang Margarite's workplace to make physical threats against the colleague. Margarite left her husband and took their children with her. Her husband continued to monitor Margarite's workplace, trying to identify the colleague who had sent the text to her. He threatened other workers at the workplace. In response, Margarite's employer dismissed her from her role. Margarite tried to explain that she had just left an abusive relationship, and that she particularly needed to support of her workplace now that she was on her own with her children. Her employer was unsympathetic and told her, 'I can't believe you think you could have your job back here.'

Domestic and family violence case study 2

Mary had worked for two months and in that time had been promoted to Manager. Her husband had come in to the workplace one day and caused problems by threatening Mary at her workplace. After another incident at home she rang her boss to say she would be in a bit late as she was at the police station reporting a domestic violence incident and had been delayed. He sacked her as he said she was just 'too difficult'.

The National Working Women's Centres would welcome measures that make it possible for vulnerable workers without access to HSRs to raise and discuss work health and safety issues with their employers. While we consider that the model work health and safety laws are generally adequate, we are concerned that they are not presently enforced to an appropriate standard. We also see the need for greater clarity on addressing bullying, sexual harassment, and domestic and family violence as work health and safety issues and call for the development of codes and regulations which deal with these matters.

Our centres would welcome the opportunity to discuss our submission further and invite you to contact Ms Sandra Dann, Director of the South Australian Working Women's Centre, if we can provide more information and evidence that would be of assistance to the review. Ms Dann can be reached by phoning (08) 8410 6499 or emailing sandra@wwc.org.au.

* Please note that all names used in the case studies in this submission are pseudonyms and that the case studies have been de-identified to preserve the anonymity of the workers involved and their employers.