



TOP END WOMEN'S LEGAL SERVICE INC.

T | (08) 8982 3000 or 1800 234 441 F | (08) 8941 9935 E | admin@tewls.org.au
A | 2/17 Lindsay Street, Darwin NT 0801 P | GPO Box 1901, Darwin NT 0801 ABN | 42 830 944 178

28 February 2019

National Inquiry Project team
National Inquiry into Sexual Harassment in Australian Workplaces
Australian Human Rights Commission

Dear Madam or Sir,

Submission of the Top End Women's Legal Service Inc. – Australian Human Rights Commission: National Inquiry into Sexual Harassment in Australian Workplaces

The Top End Women's Legal Service (**TEWLS**) welcomes the opportunity to make a submission to the Australian Human Rights Commission's National Inquiry into Sexual Harassment in Australian Workplaces (**the Inquiry**).

Our submission will be focused on our experience of assisting women in the Northern Territory (**NT**), including Aboriginal and Torres Strait Islander women, and women from culturally and linguistically diverse backgrounds. We note that we have had the opportunity to review the submission of the National Working Women's Centres, to which we draw your particular attention, and noting the capacity of our service, make this submission on only salient issues relevant to the Inquiry.

About TEWLS

TEWLS is a community legal centre focused on the advancement of women's rights. Founded in 1996, we are funded by the Commonwealth Departments of the Attorney-General and Prime Minister and Cabinet. TEWLS' small team of six provide high quality, responsive, and culturally appropriate free legal advice, casework, community legal education and advocacy in civil and family law to women living in the Greater Darwin region. Our service area includes the provision of services and outreach services to women in Darwin, Palmerston, at the Royal Darwin Hospital, at the Dawn House Women's Shelter, on six Indigenous communities in the Greater Darwin region, at the Top End's Adult Migrant English Programs, and to women incarcerated at the Darwin Correctional Centre.

TEWLS provides advice and assistance across a number of areas of civil and family law, where the most frequently requested areas of assistance are family law (including parenting, property and divorce matters), domestic and family violence, housing and tenancy, consumer law, credit and debt, fines, sexual assault, discrimination, employment law, compensation for victims of crime, and complaints.

Our submission

A Support for holistic changes in the workplace

TEWLS supports the AHRC's work in the development and implementation of the Inquiry, where discussions in respect of sexual harassment in the workplace have discernably increased, particularly in the post #metoo era. TEWLS supports the broad-scope of the Inquiry, where it is our submission that holistic changes to Australian workplaces are required in order

to effect requisite changes; that is, structured responses, including legislative and procedural change, are required in order to address the systemic issue that is workplace sexual harassment.

B Salient issues for the Inquiry

I Amendments to the Fair Work Act 2009 (Cth)

TEWLS advocates for amendments to the *Fair Work Act 2009 (Cth)*, specifically in respect of sexual harassment being included as an adverse action in the general protections provisions. Currently, discrimination on the basis of sex and/or sexual orientation is primarily prohibited under the category of "Discrimination",¹ and can otherwise be classed as "Undue influence or pressure".² In our experience, protections explicitly provided for in legislation are typically more "powerful" in situations of employees raising concern with employers, as well as providing a swifter, more streamlined recourse processes for the respective employee. Further, TEWLS endorses the comments made the National Working Women's Centres in respect of perceptions by employers when raising issues of discrimination within workplaces – that some employers treat the relevant anti-discrimination complaints process exercise as a "tick and flick".

II Improve access to specialist support services

In the Northern Territory and acknowledging the gendered reality of sexual harassment, the three Women's Legal Services (TEWLS, Katherine Women's Information Legal Service and Central Australia Women's Legal Service) and the Northern Territory Working Women's Centre are the primary points of reference for employees seeking advice and/or support in respect of sexual harassment in the workplace. Currently, all services are operating outside of capacity to try and meet community need, with turn-aways due to a lack of resources remaining an ever-present reality.

In order to support women seeking advice and/or support in respect of sexual harassment in the workplace, TEWLS advocates for improved access to specialist support services. We call for increased and adequate funding to specialist Women's Legal Services, including TEWLS, as well as the expansion of the Working Women's Centres. In our experience, Women's Legal Services and Working Women's Centres provide essential independent and combined services that maximises expertise and output, while providing high-quality, timely, and culturally appropriate legal and industrial relation services.

Conclusion

We appreciate the opportunity to make this submission and to support ongoing policy and legal development for women in the Top End of the NT, and nationally. We thank you for your consideration of the above and would be pleased to be contacted by phone on (08) 8982 3000 or email to admin@tewls.org.au should you wish to discuss this submission further.

Yours faithfully,
TOP END WOMEN'S LEGAL SERVICE INC.


Vanessa Lethlean
Managing Solicitor

¹ *Fair Work Act (2009)* s 351.

² As above n 2, s 344.