



Address to the Launch of *A Bad Business*

Delivered by Nareen Young, Director – NSW Working Women's Centre

Sex Discrimination Commissioner Pru Goward, ladies and gentlemen.

I feel greatly honoured to have been asked to speak to the launch of **A Bad Business**, HREOC's review of sexual harassment in employment complaints 2002.

The NSW Working Women's Centre is very proud of our close working relationship with HREOC, the Sex Discrimination Unit in particular. We have developed a great respect for both the quantity and quality of the Unit's output, and are grateful for the support that the Unit, and specifically Pru has provided to our service.

I might add that our close working relationship has also enabled me to observe the skill and energy with which Pru has demonstrated her commitment to working women, and to their human rights in employment.

Bad for Business is yet another example of the way in which the Sex Discrimination Unit is strategically highlighting the key concerns of women at work.

It confirms something that we at the Working Women's Centre have suspected for some time - because of what our clients are telling us about their experiences of sexual harassment at work:

- that it's still going on despite the existence for almost 20 years of legislative provisions making it unlawful in Australia;
- that it seems to be on the rise;
- that women are generally the targets of harassment, and it is men who are the principal perpetrators;
- that many incidents go unreported;
- that many businesses still don't have a sexual harassment policy or procedure;
- that where there is a policy, it's not always implemented, or isn't implemented properly;
- and finally, that many women who do report sexual harassment are being let down within the workplace, and must resort to external procedures available through HREOC and other tribunals.

On this final point, we know the importance for women who have experienced harassment at work of the existence of legislative protection such as the Sex Discrimination Act, and remedies available for redress.

We commend HREOC on the speed and professionalism with which they conciliate and deal with complaints.

Our experience at the Centre is that in matters notified to HREOC, our clients receive personalised attention from conciliators in a manner that is not always received in other areas of the legal system.

The conciliators are fair and impartial. Clients are kept well-informed about the progress of their case. Their lives are not left hanging in the balance with uncertainty. HREOC's approach also does not give them unrealistic expectations about potential outcomes of their case.

We also note that businesses are not treated like pariahs in this process. Instead they are assisted to formulate practical policies and procedures that will assist them to comply with the law and avoid future litigation.

So again, and for many reasons I thank HREOC for the opportunity to speak today.

I would like to address two key points in this talk, and these are both issues raised by HREOC in the review.

1. The issue of unreported harassment.

1. The impact of sexual harassment on the lives of the women who experience it.

These two issues are, of course, connected.

In order to outline how the NSW Working Women's Centre is able to provide some insight into these two key questions, I need first to outline the service that we provide to the women of NSW.

Firstly, our InfoLine.

The Working Women's InfoLine receives approximately 1,600 calls a year from women who receive advice, information and assistance about work-related issues ranging from pay and conditions to dismissal, redundancy, maternity entitlements, discrimination and, of course, sexual harassment.

The Centre also provides additional representation, advocacy and assistance to individual clients with specific needs in relation to a problem or dispute at work, including in relation to sexual harassment.

We also undertake a outreach, education and training work with a range of different organisations, groups and women. For instance, since its inception, the Centre has worked closely with education providers and community organisations in NSW to conduct workshops for women who are seeking to enter the workforce, providing them with a better understanding of their rights at work. These workshops are targeted to women from non-English speaking backgrounds entering the Australian labour market for the first time, and to women from the mainstream Australian white community and the black community who have spent considerable time outside of paid work. We have also more recently been working with a number of agencies to deliver training in effective management, compliance and good work practices for Aboriginal community organisations, most of which are run by volunteers, and women.

In preparing our response to this paper, we actually had a look at the calls to the InfoLine service during the period roughly corresponding to the complaints reviewed by HREOC in **A Bad Business** - (that is, from the period of July 2001 to June 2002). We also took into account the casework relating to sexual harassment undertaken by the service, and feedback from our education and training programs in discussions with women about sexual harassment at work.

The statistics from the InfoLine are instructive because although they are raw data, and have yet to be subject to close analysis, they do back up the findings of the HREOC review.

For instance, during the identified period (from July 2001 to June 2002), the Centre fielded 70 calls from women seeking advice and information in relation to an incident or incidents of sexual harassment in the workplace.

Bearing this in mind, I can tell you that of the calls relating to sexual harassment from women contacting our InfoLine between the period of June 2001 and July 2003:

- **40% of clients worked as clerical or administrative workers, and another 26% in the area of sales** - representing a substantial over-representation of these occupational groups in relation to the Australian workforce in general.

This is perhaps reflective of not only the gender segregated nature of the Australian workforce, but also a reflection that the overwhelming majority of women who contact our service work in non-unionised areas of work. I

- **Likewise, the industry of the employer is instructive.** The calls over this period can be broken down with the key industries being wholesale/retail (20%), property and business (12%) and hospitality (ie hotels/accommodation/restaurants) (12%), manufacturing (13%).

Taking into account the occupational breakdown, and HREOC's finding of the age and power discrepancy between perpetrator and the subject of the harassment, the industry breakdown is instructive. When we have a picture of the workplace situation, it is much easier to develop a closer understanding of the circumstances in which harassment is taking place.

- **33% of inquiries from the period were from women under 25 years of age, more than half (51%) were in the 26-44 age group.**

Whilst our age-collection data is not as specific and does not exactly match that of HREOC's categories, it is nevertheless indicative of our experience that women who are subject to sexual harassment are generally younger than the perpetrator, who is generally in a more senior position within the company, often in direct relation to and with power over their employment - such as a supervisor, manager, business owner but also co-worker.

- **Almost one third of inquiries (30%) were received from regional and rural areas,** reflecting the HREOC finding that sexual harassment is not an issue limited to any one area. It is happening everywhere.
- **6% of these callers had also been dismissed from employment.**

Of course without further study, it is not possible provide details about the outcomes of any disputes in relation to the termination of employment, or whether these women are still employed in the workplace where the harassment occurred.

I can tell you, however, that in all of the sexual harassment cases that we have picked up as intensive casework matters arising out of any of these calls, our staff advise that they are not aware of any clients who have continued their employment at the place of business.

This brings me to one of the key issues I wanted to raise today, which is the under-reporting of sexual harassment.

The Working Women's Centre welcomes HREOC's announcement that it has commissioned a telephone survey of the general incidence of sexual harassment in Australia. It is our expectation that provided the survey is anonymous and conducted in a culturally sensitive manner, and when I say culturally sensitive I mean to all Australian women and taking into account the cultures of workplaces and communities, we will be overwhelmed by what comes out.

The Centre is certainly willing to offer whatever appropriate support we can to assist HREOC in conducting this critically important research.

It is our experience that there are many, complex and varied reasons as to why so many instances of sexual harassment do go unreported, and why it is that the calls to our agency, and complaints to HREOC and other agencies are, as the review itself notes, "the tip of the iceberg."

I believe that the Working Women's Centre can shed some light on this because in our direct conversations with women about their concerns at work we deal with the micro level, the individual experience of the harassment and its impact on the life of the women who have experienced it.

Many express fears about speaking out or making formal complaints about their harassment, often based on fears of the ramifications of doing so:

- fear of not being believed
- fear of the reactions of co-workers
- fears about the perpetrator's response if they pursue a formal complaint, particularly being subject to further and even intensified harassment
- fear of the reaction of their partners, husbands, boyfriends, family, friends - that their experience is somehow shameful and will not be understood
- fear of losing their job.

These fears are not unfounded. They are borne out by the data of the HREOC review - with the vast majority of complainants no longer employed in the workplace where the harassment occurred - and by what our own clients are telling us. Also, as the HREOC review indicates, the perpetrator is often older and in a position of relative power within the organisation. Most of the women who contact our service understand this very well.

It is also important to note that sexual harassment frequently happens in secret. There is some irony in the reality that a much higher public awareness of the illegal nature of sexual harassment - and the existence of policies and legal remedies - has perhaps meant that sexual harassers are being more clever about not being seen.

It's our experience that where workplace policies are not in place or are badly implemented, women have a hard time being believed - and workplaces can respond punitively towards the complainant rather than seeking to develop appropriate responses to prevent its continuation.

Cultural issues are also a very important in relation to the under-reporting of harassment.

- **Over one quarter (26%) of the calls to the InfoLine in the identified period were received from women who spoke a language other than English as their first language.**

We note that the HREOC review found that Australian-born complainants were over-represented in the complaints data.

It is our experience in working with culturally diverse communities that women from non-English speaking backgrounds are less likely to be aware of legal protections, or their rights in relation to work in general.

Our outreach and education work provides further insight into cultural factors that might impact on a woman's capacity to make a complaint. Where employment options are limited by language and skill-recognition barriers, it's simply not realistic to 'vote with your feet'.

Women from non English speaking backgrounds are also far less likely to be aware of legislative and other protections available in the workplace or externally, and while this is more true of certain community groups than others, we are able to make this statement authoratively, especially as it pertains to more recently arrived groups. Additional ramifications within their communities and families may also impact on their capacity to pursue a formal complaint, particularly if the perpetrator is well-known or powerful.

We have found that this is also the case with Aboriginal and Torres Strait Islander women, who are, of course, two distinct groups. The HREOC data notes two complaints from Indigenous women in its review. I can advise that the Centre received no inquiries to the InfoLine during the identified period about sexual harassment from Indigenous Women.

I can say, though, that in the series of workshops that we have run with Aboriginal women's organisations and communities in NSW over the last 18 months, the issue of sexual harassment has consistently been raised and discussed frequently in the safe environments created as being a major issue of concern - particularly for younger workers.

It is widely recognised that Aboriginal women experience prejudice and, I think we need to name, deep racism that impacts on their capacity to access mainstream employment.

Their experiences at work are very much tied to issues experienced by their communities more generally.

We have begun working with Aboriginal organisations and a number of agencies involved in this project to develop more culturally appropriate procedures and more effective management strategies to address their needs and concerns. These discussions are ongoing - and part of the NSW Working Women's Centre commitment to our Indigenous clients is to develop as directed by them culturally appropriate strategies to address this issue. We will certainly be consulting with HREOC as we progress with this.

This brings me to the second issue I want to raise here today, which is how women experience sexual harassment and its impact on their lives.

In relation to issues of sexual harassment, we are like a rape crisis centre, assisting the individual to deal with the impact of the assault. We can also be likened to a hospital who treats someone who has been severely burned. Society is sympathetic towards the injured, and has come a long way in extending sympathies and support to the victims of rape in the last twenty years. Fortunately, and rightly, it is now rare that the victim is blamed.

Unfortunately this does not appear to be the case with sexual harassment at work.

So what do women who have been sexually harassed feel? How do they respond to this harassment?

Our clients often tell us that they feel invaded.

If we understand sexual harassment as a form of sexual assault, coming from the same motivation and abuse of power for inappropriate ends, then this makes sense.

When describing the experience of sexual harassment to our **InfoLine**, women often become very upset. They often report feeling confused and uncertain. Many are traumatised and express uncertainty about what exactly happened, and experience self-doubt, and uncertainty about why they have been targeted.

The experience can also take its toll on health, well-being and other areas of their lives - including their relationships ... with families, partners, husbands, boyfriends, parents and children, with their co-workers and their friends.

In talking to these women, it is particularly important that others validate their experience. It should also be noted that uncertainty and disbelief is often a factor that impacts on the resolution of the situation, and also on the recovery of the woman and her ability to move beyond the experience once the situation is resolved.

"The hardest thing is the feeling that they didn't believe me," a client said recently to one of our advisors. She was at the time on anti-depressants, which she had been prescribed for the depression that she had experienced after she had lodged the complaint about a supervisor with her employer, who had failed to address her complaint appropriately and she had continued to be subject to harassment until she left her employment.

The likelihood of her return to work for this woman in the near future is doubtful. This is someone without any previous history of depression or any other kind of mental health problem. She has not worked since leaving her employment and was receiving sickness benefits.

A Bad Business provides us with a clear message that women who are subjected to sexual harassment *are* being let down by procedures and protections at the workplace level.

As the HREOC review and our own clients advise, some are even dismissed when they make a complaint. The lack of procedures means that the harassment can be allowed to continue, or if handled badly, escalate into other forms of harassment and victimisation.

With over one in four complainants no longer working at the place of employment where the harassment occurred, we return to the fact that women who have been sexually harassed have genuine and well-founded fears about what will happen if they do report the harassment: that *they* rather than the perpetrators, will be the ones who will be blamed for what has happened.

The message that this sends to the perpetrators is critical. Poor implementation, or inaction, and discipline of the complainant rather than the perpetrator, effectively sanctions the inappropriate behaviour. It may also be a factor in encouraging repeat offences.

This is not healthy for any of the parties involved, and will only ensure that the situation gets worse.

When I was first approached to speak today and we held some discussions at the NSW Working Women's Centre about the information provided by our clients, we tried to think of ways in which I could bring some kind of humorous relief to such a serious subject.

We had a discussion about jokes and cultural references on the topic.

Most of what we came up with was basically not funny.

The old jokes and television shows that make light of office groping or innuendo are dated and offensive. And they're just not funny when you've talked to someone who's experienced it first hand.

The only reference we could come up with that made light of it in a positive way was the film *9 to 5*. Of course, Dolly Parton and Lily Tomlin's actions shouldn't be taken literally. Fortunately there are now legislative and other protections and remedies in place, *such as* the Sex Discrimination Act. So there's no longer a need to encourage women to go out and restrain the boss in bondage gear for inappropriate behaviour - even in jest.

That said, it is hard to make light of this subject precisely because it is serious business. We know that sexual harassment impacts negatively on workplaces, on women's capacity to work, on broader health issues, and on society more generally.

It is, as HREOC rightly points out, **A Bad Business** indeed.

Prevention and good management through effective procedures and proper implementation is the socially responsible and - as Pru has pointed out - most cost-effective way to address this problem.

I thank HREOC, the Sex Discrimination Unit and Pru for asking me to speak today. The NSW Working Women's Centre has very much a micro-level understanding of the impact of this issue. We are about dealing with real people in real situations, and are concerned that the issue is not demeaned by sensationalism or political pointscoreing - and it is helpful to our service, and for the collaborative work we do with agencies such as HREOC - to have this recognised.

I also take this opportunity to mention that the Centre is certainly in an effective position to deliver training and other consultancy services to business organisations who are committed to developing practical workplace solutions on the question of workplace sexual harassment, and other forms of harassment.

It is our belief that effective workplace solutions can be achieved - through collaboration between employers, employees, governments and agencies such as HREOC and the Working Women's Centre - for the benefit of all concerned.

Again I commend the work of HREOC in highlighting the issue and laying foundations to enable effective solutions to emerge.
