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Experiences of Sexual Harassment amongst Young Women Workers: An Exploration of Power and Opportunity

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The Young Workers Legal Service (YWLS), an initiative of SA Unions, is a free service for young people under the age of 30. It offers young workers with education, advice and representation in the areas of industrial, discrimination and equal opportunity law. The authors, who are employed as the industrial officers for the service, offer a practitioner's perspective on the prevalence of sexual harassment amongst young women workers. This paper explores a range of examples which demonstrate how a young woman's age can make her more susceptible to sexual harassment at work. It also explores examples of how such harassment can impact on a woman's physical and emotional safety. This paper highlights the fact that perpetrators - often employers or those in senior management - are well placed to orchestrate situations in which young women are physically vulnerable at work or outside of work. Perpetrators often have access to a worker's personal details, such as their address and whereabouts at any given time. This paper recommends policy reform in regard to preventative measures, such as ongoing education programs for small businesses and those registering an Australian Business Number.

INTRODUCTION

The Young Workers Legal Service (YWLS) was established by South Australia's peak trade union body, SA Unions in 2003. Since its inception the YWLS has provided thousands of South Australian workers under the age of 30 with education, advice and representation in the areas of industrial, discrimination and equal opportunity law. The YWLS is staffed predominantly by volunteer law students who work under the supervision of industrial officers. The authors of this paper are employed as industrial officers at the YWLS; they have both represented and assisted young women who have been subjected to sexual harassment at work. This paper does not purport to be academic, nor does it purport to make pronouncements about women's experiences at large. Rather, it offers a practitioner's perspective, one based on the authors' experiences and observations of the law and client stories.

This paper seeks to give voice to the young women who have sought assistance from the YWLS on account of workplace sexual harassment. It argues that sexual harassment is largely linked to the misuse of power in employment relationships. Many of the young women who approached the YWLS were engaged in precarious employment arrangements and worked for small businesses. These women reported having less protection against sexual harassment: they were often surrounded by fewer employees; their employers rarely had a HR department, a formal complaints procedure or an anti-discrimination policy; and many times they were directed to work in small spaces away from the public eye. Most clients, who were subjected to unwanted sexual advances, were harassed by their bosses, managers or supervisors. Others, who were harassed by co-workers, were not taken seriously by their superiors. Harassers were typically older than their targets and have used their power in ways to trap, demean and violate our clients. Another concerning trend relates the fact that a number harassers have used our clients' personal details, such as their address and whereabouts, to further intimidate and silence our clients. Sexual harassment was often accompanied with other forms of mistreatment, such as bullying, the underpayment of wages or victimisation. Often by the time these women had reached the YWLS they felt so disempowered, aggrieved and exhausted that they were unwilling or unable to go through the complaints process. Concomitantly, many clients feared that their credibility would be attacked and that as a result they would be further traumatised by the legal system.

LITERATURE

In Australia workplace sexual harassment is a proscribed form of legal discrimination. The *Sex Discrimination Act 1984* [the Act] defines sexual harassment as conduct of a sexual nature; that it was unwelcome; and that would offend, humiliate or intimidate a reasonable person in similar circumstances.¹ The conduct complained of may be either physical or verbal in its nature. The Act provides that employers are vicariously liable for acts of sexual harassment perpetrated by their employees, contractors and patrons if they cannot show they have taken all reasonable steps to prevent the harassment from occurring.²

In South Australia, targets of sexual harassment may complain to the South Australian Equal Opportunities Commission (EOC) or the Australian Human Rights Commission (AHRC). In general, the first stage in the complaints process in both jurisdictions is conciliation. Generally, this involves bringing the parties together to discuss the issues in dispute and, more importantly, the potential for resolution. If a matter is not resolved at the conciliation stage, the complainant has the option of initiating proceedings in a court or tribunal.³ In our experience,

¹ See the *Sex Discrimination Act 1984* (Cth) [SDA], s28A.

² SDA, s106.

³ In South Australia the Equal Opportunity Commissioner may refer a complaint to the Tribunal if conciliation was unsuccessful: *Equal Opportunity Act 1984*, s95B. In the federal jurisdiction a complainant can initiate proceedings in the Federal Court or Federal Magistrates Court: *Australian Human Rights Commission Act 1986*, s46PO.

the majority of sexual harassment complaints we assist with resolve at the conciliation stage, however a significant minority do not. Where a complaint has not been resolved, a complainant must choose whether to pursue or abandon her claim. In most cases, our clients do not have the money to engage a legal representative or to risk having costs awarded against them should their claim is dismissed.

Sexual harassment at work remains an issue of considerable concern for Australian women. In March 2002 TMP Worldwide carried out a study of 5000 working Australians and found that 33 percent of female respondents had been subjected to sexual harassment at some stage in their working lives.⁴ Comparably, in 2004 the Australian Human Rights Commission [AHRC] (formerly known as the HREOC) commissioned a survey of over 1000 working women and men and found that 28 percent of all respondents had personally experienced sexual harassment, and of this 28 percent, 65 percent had experienced this mistreatment at work.⁵ These respondents reported being subject to sexual advances of a non-physical and physical kind, including, but not limited to, unwanted touching, kissing, hugging, sexually explicit physical conduct, attempted rape and rape.⁶

There is no doubt that workplace sexual harassment is a gendered issue: for the most part, reports of sexual harassment at work involve men harassing women.⁷ Moreover it is our view that sexual harassment is rooted in patriarchy.⁸ Much like the crimes of rape and stalking, sexual harassment serves to maintain and perpetuate the structural and systematic oppression of women. It attacks targets' physical and non-physical selves and in doing so reproduces existing power relations between the genders. As discussed below, women who have experienced sexual harassment report feeling threatened, trapped and violated.

Scholarly works have shown that age is a significant factor in the incidence of sexual harassment. A cross-sectional population study of Victorians found that individuals under the age of 30 and those between the ages of 30 and 40 were more likely to experience unwanted sexual advances at work.⁹ This is hardly surprising, given that in our experience young people are generally more inexperienced and vulnerable at work. There is also evidence to suggest that individuals' employment arrangement, that is whether someone is employed on a permanent, casual, or fixed term basis, can make them more susceptible to workplace sexual harassment. One study found that employees in precarious employment, "... work arrangements characterized by instability, lack of protections, insecurity and social and economic vulnerability" were more likely to be subjected to unwanted sexual advances at work.¹⁰ Put another way, casual full-time, fixed-term contact and self-employed arrangements were closely associated with the incidence of workplace sexual harassment.¹¹

Targets of workplace sexual harassment work in a range of occupations. The AHRC's study clearly demonstrates this point: for the most part, targets of workplace sexual harassment worked as clerical workers (24 percent), professionals (22 percent) and sales workers (15 percent).¹² The AHRC also found that workplace sexual harassment is particularly prevalent in

⁴ HREOC *20 Years On: The Challenges Continue... Sexual Harassment in the Australian Workplace* (2004),17, citing TMP Worldwide, Updated Media Release "Sexual Harassment on the Rise", March 2002.

⁵ Ibid.

⁶ Ibid 19-20.

⁷ Ibid 30: in the AHRC study 70 percent of sexual harassment instances involved men harassing women.

⁸ See Catharine Mackinnon's book *Sexual Harassment of Working Women* (1979).

⁹ Anthony D LaMontagne, Deborah Vallance and Tessa Keegel, 'Occupational Skill Level and Hazardous Exposures among Working Victorians' (2008) 11 *Australian Journal of Labour Economics* 47, 58.

¹⁰ Anthony D LaMontagne, Peter M Smith, Amber M Louie, Michael Quinlan, Jean Shoveller and Aleck S Ostry, 'Unwanted Sexual Advances at Work: Variations by Employment Arrangement in a Sample of Working Australians' (2009) 33 *Australian and New Zealand Journal of Public Health* 173.

¹¹ Ibid 176.

¹² HREOC *20 Years On: The Challenges Continue... Sexual Harassment in the Australian Workplace* (2004).

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the retail trades, health and community services and education sector.¹³ LaMontagne et al argue that contrary to the widely-held view that individuals with lower skill levels are more susceptible to workplace sexual harassment, the incidence of sexual harassment has, in fact, no correlation with skill level: it occurs across all skill levels and is therefore an issue for all working females.¹⁴

Sexual harassment is predicated on power. As discussed below, more often than not perpetrators of sexual harassment exploit the power imbalance present in their relationship with the target. As explained above, a significant proportion of those who report experiencing sexual harassment are younger women. Moreover, the results of the AHRC study reveal that 30 percent of the perpetrators were aged between the ages of 41 and 50.¹⁵ Taken together these results suggest that workplace sexual harassment commonly takes place between older men and younger women. Another related trend is that perpetrators are often in positions of power: the AHRC study found that “over a third of cases involve managers, supervisors, bosses or employers, that is, those in positions of power relative to the target.”¹⁶ It was further found that those who worked for a small business were more likely to be harassed by their boss or employer.¹⁷ This misuse of authority makes it much more difficult for targets to complain about their mistreatment and as a result may feel there is no other action to take other than leaving their job.¹⁸ And as Eastel and Judd put it, “the shame, self-doubt and disempowerment a victim of violence experiences are consequently coupled with employment-based inequity.”¹⁹

Unfortunately, workplace sexual harassment goes unreported more often than not. In the AHRC study, only one in three targets reported complaining about their mistreatment to their employer or an external organisation.²⁰ It was also found that targets of sexual harassment rarely use the legal mechanisms found in equal opportunity legislation: only 1.5 percent of all respondents to the AHRC study reported the sexual harassment to the Australian Human Rights Commission or a state equivalent.²¹ Respondents cited the following reasons for not complaining: a lack of faith in the process (42 percent), a belief that the behaviour was not serious enough (31 percent) and an attempt to “take care of the problem [themselves]” (26 percent).²²

This low rate of reporting has been linked to the adversarial system’s principles and processes. Eastel and Judd argue that certain legal processes do not sit well with women’s lived experiences.²³ The authors explore how Federal Magistrates have assessed complainants’ credibility by reference to considerations like consistency, corroboration, particularization, presentation and demeanour. Indeed, these considerations can pose significant barriers for those who wish to complain about workplace sexual harassment. This has certainly been our experience. On the point of corroboration, we have found that our clients rarely have supporting witnesses because perpetrators are careful to orchestrate their attacks in a way that ensures they remain unexposed. In regards to presentation and demeanour, it can be presumed that each client responds differently to the complaints process: some are angry or upset, while

¹³ Ibid 39.

¹⁴ Anthony D LaMontagne, Deborah Vallance and Tessa Keegel, ‘Occupational Skill Level and Hazardous Exposures among Working Victorians’ (2008) 11 *Australian Journal of Labour Economics* 47, 57.

¹⁵ Ibid.

¹⁶ HREOC *20 Years On: The Challenges Continue... Sexual Harassment in the Australian Workplace* (2004) 55.

¹⁷ Ibid 37.

¹⁸ Office of Women’s Policy *Safe at Work? Women’s Experience of Violence in the Workplace: Summary Report of Research September 2005* (2005), 9.

¹⁹ Patricia Eastel and Keziah Judd “‘She Said, He Said’: Credibility and Sexual Harassment Cases in Australia’ (2008) 31 *Womens Studies International Forum* 336, 343.

²⁰ HREOC *20 Years On: The Challenges Continue... Sexual Harassment in the Australian Workplace* (2004), 41.

²¹ Ibid 46.

²² Ibid 52.

²³ Patricia Eastel and Keziah Judd “‘She Said, He Said’: Credibility and Sexual Harassment Cases in Australia’ (2008) 31 *Womens Studies International Forum* 336, 337.

others are numb and disconnected. It is our view that such responses should not have any bearing on the determination of a client's credibility. Lastly we agree with Eastel and Judd that "a narrative of situational abuse: ongoing inappropriate comments, questions and/or other behaviours... make particularization problematic."²⁴ Often our clients are confused or have difficulty recollecting their experiences because of the pain and suffering it invokes.

METHOD

Files involving complaints of sexual harassment were located using the service's electronic database. This database is used to record the type of legal industrial dispute discussed or initiated by the client and the YWLS. It contains the option to include a primary and a secondary dispute. Of a total of 963 client files created since the inception of the YWLS five years ago, 44 were found to involve complaints of sexual harassment. Forty-three of the clients represented by these files were women; one was male.

Due to the nature of the service provided by the YWLS, members of the sample population were all aged 30 or under. This was viewed by the researchers as a valuable opportunity to look particularly at young people's experiences of sexual harassment, rather than as a limitation of the study. Young peoples' experiences are considered particularly pertinent, taken in the context of studies which show that people under the age of 30 are amongst the most likely to suffer sexual harassment, and against the wider background of young worker exploitation.

The 44 client files drawn out for this study were read and analysed. The mode of analysis applied was mostly qualitative, although simple quantitative assessments were made in relation to some specific issues, such as the rate of early complaint cessation. The files were read with a view to identifying and describing recurring themes found in clients' sexual harassment narratives. These themes were then considered in the context of existing literature on the topic of sexual harassment in the workplace.

Client files kept by the YWLS contain all documents relating to a client's case, from initial interview notes generated by YWLS advisors to copies of formal complaints. The documentation most heavily relied upon in this study was client statements, which are required to be prepared for the purpose of initiating a formal complaint to the South Australian EOC or federal AHRC. At the YWLS, such statements are generally written by YWLS advisors, after seeking detailed information from clients. Clients are encouraged to make amendments and additions to their statements, as they see fit, and an endorsement that the statement reflects the client's own view of events is sought.

Other documentation relied upon included YWLS advisors' interview notes, which are taken contemporaneously when speaking with clients as a matter of YWLS policy. As well, sometimes clients were found to have come to the YWLS with pre-prepared notes of their issue or complaint. When such notes were available, they proved highly useful and were valued above other documentation as representing the client's own voice.

The method employed in this study meant that not all young workers who came into contact with the YWLS, carrying complaints of sexual harassment, were included. The YWLS receives a great number of phone enquiries and not all such enquiries result in the formation of a client relationship with the YWLS.

In interpreting the results of this study, it must be remembered that YWLS client files represent young workers who have been driven to seek the assistance of a legal industrial service. It can

²⁴ Ibid.

be expected, therefore, that the present cohort may be more likely to have become dissatisfied with their employers' responses to their complaints or to carry other workplace complaints.²⁵

A relatively small number of files were analysed by this study and the results can not, therefore, be considered to be widely representative of young workers' experiences of sexual harassment. Nonetheless, the themes and ideas which emerge from this study are consistent with larger scale research and theoretical literature.

All information that could lead to the identification of clients referred to in this study has been removed. Client names, where they appear, are pseudonyms.

FINDINGS

Harasser Characteristics

Almost exclusively, harassers were found to be male and, again, overwhelmingly, clients' harassers tended to hold positions of authority in their workplace. Harassers were bosses, managers, company directors, and business owners. Those clients who were harassed by colleagues in equal positions were exceptions, rather than representatives of the general trend.

Harassers were generally older than their targets. In some cases, the age gap between harasser and client was profound. A 19 year old receptionist and secretary was sexually harassed by her male senior colleague who, as the client herself pointed out, was twice her own age. Another receptionist was harassed between the ages of 22 and 26 by the owner of the business she worked for, who was 36 years her senior. A 16 year old waitress was sexually harassed by her boss, who himself had a 16 year old son.

Harassers' Use of Power

Clare was a receptionist who often worked alone in the office with the director of the company she was employed by. Since the beginning of her employment, the director would make inappropriate comments to her such as, 'You look sexy with your hair down'. He would also touch her inappropriately and grabbed her waist on several occasions. Five months after she began working for the company, Clare was called into a disciplinary meeting by the director. He was initially angry at Clare and told her that she had made a mistake at work. However, the nature of his conversation with Clare soon turned sexual. The director laughed at Clare's discomfort with this course of discussion. Clare was alone and felt threatened. On another occasion, the director asked Claire to retrieve a file from a cabinet and then squeezed and smacked her bottom as she did so. The director knew that Claire had recently turned 21 and told her, 'It's okay, you're old enough now'.

It has already been noted that harassers tended to hold positions of authority within their workplaces. In many cases, this fact was more than incidental; authority was often seen to contribute significantly to the nature and characteristics of the sexual harassment itself.

Often, a harasser's access to information about an employee formed an important part of the sexual harassment narrative. A receptionist, for example, was stalked by her harasser who had access to her home address details. A retail worker of 17 years old was stalked by her boss after she had reported him to the police for sexual assault. Another administrative worker was sexually harassed after being asked intrusive questions about her responses to a pre-

²⁵ Although, in regard to this second point, 39 of the files used in this study listed sexual harassment as the main dispute or issue and other disputes found to exist were generally regarded as ancillary by clients and recorded as such by YWLS advisors.

employment medical check that she had been required to undertake. Her employer continued to use the information he had garnered from her medical check throughout the period of her employment, in order to tailor inappropriate personal questions and sexual invitations. The information he used included the facts that the client had experienced relationship problems in the past, and suffered anxiety.

Accessing a worker's personal details was not the only way in which harassers in senior positions were seen to be willing to use their authority in the workplace to sexually harass a worker. Bosses and managers are also able to direct workers to undertake specific tasks, and this was frequently used to facilitate sexual advances and other inappropriate behaviours. A kitchenhand who was paid in cash was asked by her boss one day to wait until all other staff in her workplace had left to receive her pay. Her boss used this opportunity to physically corner the client and ask her to speak with him as a 'friend', rather than as a 'boss'. Another worker, a bookkeeper and clerk, was instructed by the owner of her workplace to come into work on a Sunday. When she arrived at work, she realised that there was no work to be done and she attempted to leave. Her boss used the opportunity, while they were alone at the workplace, to sexually assault the client. The client feared that she would be raped, but eventually managed to flee. Another client, who originally worked as an administrative assistant, was promoted by her harasser to the role of his personal assistant. This required her to go on business trips with her harasser, and he used these opportunities to pressure her to have sex with him.

The size of a client's workplace was also seen to often contribute to the nature of sexual harassment. In small workplaces, opportunities were seen to arise for harassers to behave inappropriately, away from the gaze of witnesses. Harassment in small workplaces tended to be more covert than in larger workplaces. A nurse was sexually harassed by her boss in a small dental practice, whenever they were alone together. He would wait for others to leave the room, and then touch her on the legs, breasts, and bottom.

Clients from larger workplaces were in the minority. Where harassment occurred in a large workplace, it was more likely to be overt, and part of the cultural fabric of the workplace. A client working for a large employer was harassed by six men in her workplace, half of whom were in senior positions, and half in equal roles. It was commonplace for pornographic material depicting women in a depreciative manner to be on public display in the client's workplace, and the sexual harassment that she endured was not hidden or unwitnessed, but was rather perpetuated by groups at a time.

Targets' Relative Powerlessness

Tamara worked as a nurse in a small medical practice. One of the doctors and co-owners of the practice would touch Tamara inappropriately whenever they were alone, or no one was watching. On one occasion, he restrained her arms and forcibly kissed her. Four months after she starting working there, Tamara complained to the second co-owner of the practice about the sexual harassment she had been subjected to. He responded by hitting her face. Tamara asked the doctor who was sexually harassing her to stop his behaviour on numerous occasions. She walked out of the room in response to two incidences, but was disciplined each time. When she came to the YWLS, she was still employed at the practice. The possibility of making a formal, external complaint was discussed with her, but she decided to refrain from pursuing a complaint, as she wanted to keep her job.

Unlike their harassers, it was found that clients themselves tended to be women who were quite often in precarious employment. Over half of the clients were employed on a casual basis and, as such, did not have an entitlement to secure hours or ongoing employment. The industries most frequently represented by clients were administration, hospitality, and retail. A

large proportion of the casual employees included within the study came from within the hospitality sector.

The prevalence of casual employment arrangements found to exist amongst clients is perhaps a continuation of the above noted trend for harassers to utilise their power in the workplace to create opportunities for sexual harassment. The threat of losing shifts or employment is a real threat to casual workers, and places them in a position of powerlessness relative to harassers, who tend to enjoy relative job security in positions of authority. It is possible that casual workers are targeted by harassers for this reason.

As could be expected, for a number of clients, and especially those who endured sexual harassment for a period of six months or more, the threat of dismissal was a strong disincentive to complain about sexual harassment. One client, who worked in administration and sales, explained that she felt no doubt that it would be she, rather than her harasser, who would lose their job if she complained about the extremely grave sexual harassment she had experienced. She felt that, ultimately, she was replaceable within the business, whereas her harasser had been with the company for over 10 years, and was its top salesperson. Fears such as this led some clients to attempt to endure, or 'deal with' sexual harassment for various periods of time.

The duration of sexual harassment experienced by clients varied widely, from one month to five years, but the majority of clients experienced sexual harassment for a period of less than six months. Eventually, sexual harassment tended to be stopped by clients when a kind of critical mass was reached, and their fear of losing their job became outweighed by the effect of the sexual harassment upon their health and wellbeing. At this point, most clients brought their sexual harassment to a stop by resigning from the workplace. Frequently, the decision to resign was made suddenly, in response to an incident of escalated seriousness, or of the same seriousness but that represented 'the final straw'.

Those clients who stayed in their job for a longer period of time, and experienced sexual harassment for a longer duration, tended to be the oldest clients amongst the cohort. In general, clients around or below the age of 20 appeared more likely to respond to experiences of sexual harassment by resigning from work. This perhaps reflects the fact that older clients may have greater financial obligations, such as a mortgage, or the responsibility to care for a family.

A number of clients raised the inequity they felt as a result of being forced to resign by sexual harassment, while their harasser continued working. One client explained that it made her feel as though she had been punished for being sexually harassed.

By the time clients reached the YWLS, very few were actually still employed at the workplaces where they had been sexually harassed. This supports the view that many workers regard formal complaints against sexual harassment as incompatible with continued employment. It suggests that workers are likely to wait until they have left their job before seeking to take formal action against a sexual harasser, rather than addressing the issue formally while they are still employed.

Of the small minority of clients who were still employed in the workplaces where they had been sexually harassed when they contacted the YWLS, none persisted with making a complaint to the EOC or AHRC, despite being advised that they could do so.

Accompanying Mis-treatment

Natasha, who was an 18 year old high school student, resigned from her work in a cafe after only a few months because she felt unsafe. At work, her male employer would tell the female workers to make and bring him coffee. On one occasion, after complaining that the coffee made by one of Natasha's co-workers was too hot, he threw the mug of coffee past the co-worker's head so that it smashed against a wall. On a separate occasion, after complaining that dishes had not been washed properly by Natasha, her employer threw the tray of dishes past Natasha so that they smashed against a wall close to her. After closing, when nobody else was around, Natasha's manager would sometimes say 'hubba hubba' and stare at her when she was bending down or reaching into cupboards. The staff at the cafe were also not given payslips, were paid \$10 per hour cash in hand, and were told not to record hours worked in excess of those rostered.

Frequently, the relative powerlessness of clients was reflected and reinforced by supplementary forms of non-sexual abuse. Such abuse ranged from underpayment of wages, excessive work performance criticism, pressure to take illicit drugs, the spread of fallacious rumours, and derogatory comments about facial acne.

Sometimes, non-sexual abuse replaced sexual harassment after a client made a workplace complaint. A clinical assistant at a dental clinic, who made an internal complaint about the sexual harassment she had been subjected to by her boss, was successful in stopping the sexual harassment, but was then bullied by her harasser and his wife until she felt forced to resign. Another worker, a car detailer, stopped her overseer from sexually harassing her by complaining to her manager, but found that the overseer switched his behaviour to non-sexual bullying, treating her as though she was 'out of a bin'. The same worker was later fired for performance reasons, but felt that the real reason for the termination of her employment was the fact that she had made a complaint.

Perceived Credibility of Targets

Monica worked as an environmental landscaper. Her team-leader often made inappropriate comments and unwelcome sexual advances. Monica made it clear that she did not feel comfortable with his behaviour. He responded by behaving in a threatening and aggressive manner. Monica made a complaint to her Harassment Officer and then the Managing Director of the business. The Managing Director told Monica that her harasser 'has been in the army and has problems. You should stop over-reacting'. The complaint was dismissed by the business without any further investigation. A few months later, Monica suffered a workplace injury and was incapacitated for three months. When she was deemed fit enough to return to work, Monica was placed back in the office on light duties. As soon as she got back, the Office Manager made it clear that people within the business were unhappy about the Workcover claim and sexual harassment complaint she had made. The Office Manager treated Monica differently and would often ostracise her, saying that Monica was 'weak' and 'silly'.

When workers did complain about sexual harassment, they were frequently greeted with challenges to their credibility. Some workers came to the YWLS for help after making an internal workplace complaint independently and becoming dissatisfied with the response they had received. In many cases, the internal complaints of these workers were outright dismissed by their employers. A worker at an orchard was told by her female employer that she 'should not take her personal life to work' when she complained about sexual harassment. A receptionist who made an internal complaint was made to feel as though her male employer believed that she was to blame for the sexual harassment she complained of.

In some instances, clients complained to their harasser personally. Frequently, such complaints were trivialised, ignored, or led to the escalation of their harassment. A nurse explained how her harasser would laugh at her when she asked him to stop touching her inappropriately. Another worker, a kitchenhand, began receiving threatening sms messages from her boss after she asked him to stop sexually harassing her.

A number of clients who made external complaints about sexual harassment also had their credibility challenged. The most usual stance taken by employers in relation to formal external sexual harassment complaints was to completely deny all allegations, except those that were able to be substantiated definitively. Others clients had their credibility attacked more vehemently. A waitress was accused of being a drug user, and attending work under the influence of illicit substances. A barworker was accused of having made unsubstantiated complaints of sexual harassment on separate occasions during her past employment.

Shame, Self-Doubt and Disempowerment

Not surprisingly, many women described and exhibited a lack of surety in deciding whether or not to make a complaint about sexual harassment. A waitress explained that she felt unsure whether or not she was over-reacting to the sexual harassment she had experienced. Frequently, clients would come to the YWLS for advice and express a desire to proceed with making a complaint to the federal AHRC or South Australian EOC, but would then fail to maintain contact with the service.

In fact, over 25 percent of clients either chose not to proceed with making a formal, external complaint after meeting with YWLS advisors or instructed the YWLS to withdraw their complaint in the EOC or AHRC after it had been made. Often, a client would attend the YWLS for an initial interview, and perhaps begin the process of drafting a formal, external complaint, but then fail to maintain contact with the service. Failure to respond to YWLS communications after engaging the service as an advisor and representative is relatively common amongst YWLS clients, including those with issues and complaints that do not involve sexual harassment. Of these 'lost' clients, it is impossible to ascertain precisely what factors contributed to the failure to persist with a claim. However it is worth noting that many of the clients considered in this study who lost touch with the YWLS had expressed a desire previously to carry through with their complaint, and had discussed the heavy impact that sexual harassment had borne on them. Taking this into account, it seems unlikely that mere apathy drove such clients to ignore the service's attempts to re-connect with them.

Other clients who withdrew from pursuing their claims did so at a later stage, after a EOC or AHRC complaint had been submitted. They did so for a range of reasons. A receptionist withdrew her complaint after a conciliation conference had been set as she feared that she would otherwise suffer an emotional breakdown. A car detailer, who had lodged a complaint in the EOC independently before coming to the YWLS, withdrew her complaint before it was referred to conciliation because she and her harasser lived in a small community where her allegations were apt to be widely known and talked about. It was noted at the time by the advisors in charge of this file that the client appeared 'indecisive' and 'scared'.

The fear and indecision felt by many clients in relation to making a formal complaint about sexual harassment seems likely to be a culmination of their relative powerlessness in the harasser/target and employer/worker relationships and widely held perceptions of the in-credibility of women complainants.

Witnesses and Co-Victims

Sarah was working in administration as a receptionist. During the course of her employment she noticed that a male, from the same company, began lingering around her desk area. She felt uncomfortable about this but she did not say anything at the time. The same male then began to surprise her with gifts, send sexually suggestive emails, and stalk her during and after work hours. Sarah began to feel unsafe and complained to management several times. Management first suggested that Sarah and the offender spend time alone, in a vacant room at the back of the office building, in an attempt to work the situation out. Sarah did as she was instructed and this resulted in her being locked in a room with the offender as he made advances toward her. Sarah again complained to management, however management had a friendship with the offender and failed to take action. Sarah then went above management to the directors of the business. The offender was eventually fired, but Sarah felt that the company had done this far too late. Furthermore, she felt that there should have been a better system in place to protect employees from sexual harassment.

A surprising number of incidences of sexual harassment were witnessed by others within the workplace. In most instances, witnesses were reluctant to either complain about sexual harassment they had seen or to visibly support a co-worker who had been harassed. Once a client had made a formal complaint, some (although few) co-workers offered assurances provide a witness testimony if a matter was to proceed to trial. Generally, such witnesses were no longer in the workplace. These facts suggest that sympathetic witnesses may be themselves be located in precarious employment positions, and share targets' fear of losing their job.

Some witnesses avoided placing their own jobs in jeopardy by quietly encouraging a client to complain. An Office Manager told a receptionist, who was being sexually harassed, that what she was experiencing was not acceptable and that she ought to do something about it. The Office Manager's advice ultimately urged the receptionist to make a formal complaint with the help of the YWLS after she eventually resigned. However, the Office Manager's assumption that her sexually harassed co-worker was more apt to bear the hardship of losing her job and going through the complaints process is objectively questionable.

Impact of Sexual Harassment on Targets

"At [my workplace] I was often treated as a sex object, to be ridiculed, criticised and openly preyed upon without consequence. I found it to be a deeply degrading and humiliating experience and the effects on my self esteem have been enormous. As a direct result of working at [my workplace] I felt the need to defer my university studies due to stress and daily headaches. Prior to working at [my workplace] I never would have imagined that such a work environment could possibly survive in the twenty first century. However, the culture of sexual harassment is alive and thriving in [this prominent business]. Additionally, the inaction on behalf of management and the unsupportive environment made me feel worthless and question how far women really have come in the workforce when [my workplace] accommodates and promotes this barbaric treatment of their female staff. Almost every day I felt some form of violation or humiliation and I know the effect this experience has had on me has been significant."

Sexual harassment was found to have a grave impact upon clients. They reported feeling sad, angry, depressed, uncomfortable, anxious, fearful, stressed, disappointed, hurt, intimidated, exploited, and isolated.

Notably, a large proportion of clients raised issues of changed self-perception as a result of being sexually harassed. Many said that their confidence and self-esteem had been damaged. A sales consultant particularly highlighted the fact that she felt less confident in her abilities as a worker following the harassment she was subjected to. Another worker, who reported having struggled with feelings of low self-worth in the past, said that the sexual harassment she experienced caused her feelings of low self-worth to return.

Such mental and emotional suffering was frequently accompanied by physical manifestations of distress. These included stomach problems, nausea, difficulties sleeping, fatigue, lowered appetite, shaking, headaches, and the exacerbation of pre-existing medical disorders. As well, clients suffered social ill-effects. They frequently reported that their relationships with their partners, family, and friends were damaged as a result of the sexual harassment they went through. These mental, physical, and social sequelae occurred during, between, and after incidences of sexual harassment. In many instances, they continued for months after the sexual harassment had stopped.

RECOMMENDATIONS

As we have seen, young women workers are particularly vulnerable to acts of sexual harassment. For this reason it is paramount that we take steps to prevent this mistreatment. Sexual harassment has a devastating, and often irreversible, impact on a young woman's life: many report feeling unsafe, powerless and unable to take control of their lives as a result of their experience of mistreatment. In our view the law does little to prevent the incidence of sexual harassment. Providing an avenue for redress is no substitute for preventative strategies. Many of the business owners we have dealt with have shown a complete disregard for the equal opportunities law. Obviously, the reasons for this are beyond the scope of this paper. But it is clear that further research is needed in this area so that we can develop and implement a host of effective preventative measures to protect young women workers.

Most of our cohort worked for small business. The size of the businesses was significant in that it provided harassers with opportune circumstances to prey and violate young women workers. Employees of a small business had easier access to targets' personal information, such as their address, phone number and medical records. This, for example, led to a number of our clients being stalked outside of work by the harasser. We also found that perpetrators from a small business often found opportunities to be in a space alone with a young woman. A number of our clients were cornered and assaulted in confined spaces or places away from their home. For those who were being harassed by their boss, manager or superior, their experience was compounded by the fact that they had no way of making an internal complaint or speaking out.

Many of our clients felt isolated and unable to draw on the support of their co-workers while facing sexual harassment at work. Witnesses to sexual harassment were often unwilling to speak out for fear of mistreatment or losing their job. For the large part, the clients we assisted came from unorganised, un-unionised workplaces. We believe that these clients would have benefited greatly from the support of formal workplace structures and the union itself. We also feel that the mistreatment could have been avoided or minimised by the presence of a nominated Sexual Harassment Officer in the workplace. Our clients' experiences of sexual harassment were compounded by the fact that they were often not taken seriously and lacked the support of others in the workplace.

We find it very concerning that individuals seeking to register a business are not screened in any way. Indeed, those who have a criminal record that includes sexual assault can register a business name and hire young women without having to fulfil any different requirements. The law has never required a potential employer to demonstrate they are fit and proper person to hire staff. The fact that employers can yield enormous amounts of power over employees poses significant risks to young women's safety and wellbeing. Employers have access to a female staff member's personal details and person and, as we have shown, often exploit this

knowledge and opportunity. At the very least, we believe all of those intending to hire staff should be educated on equal opportunities laws. They should also be strongly encouraged to implement workplace policies and induct all employees on anti-discrimination and harassment laws. Moreover, we believe that certain requirements should be imposed on employers who have, at some stage in the past, sexually harassed women workers or have not taken reasonable steps to prevent sexual harassment in the workplace. For example, a register of some kind could be developed, which enables a government body to monitor and educate harassing employers on an ongoing basis. We also believe that the law as it stands does not adequately deter workplace sexual harassment. The introduction of fines or criminal sanctions could be effective in sending a clear message that sexual harassment is taken seriously and can no longer be tolerated.

CONCLUSION

The paper explores how harassers exploit power and opportunity. Our research confirms that most instances of sexual harassment involve a clear power imbalance between harasser and target. Most of the women in our cohort worked for a small employer, on a casual basis. Most harassers were in positions of authority vis-à-vis our clients. Many had the power to direct our clients' tasks and duties, and created situations in which our clients were alone and isolated. Also, a number of harassers had access to our clients' personal details and, as a result, continued to harass our clients outside of work. Those who were harassed in the presence of other co-workers could rarely rely on their co-workers to speak out or attest as witnesses. While some witnesses provided our clients with informal support, they found it difficult to offer formal assistance because they feared adverse treatment in the workplace. Most of our clients who did attempt to deal with the harassment in the workplace were not taken seriously or kept safe. By the time the women sought help from the YWLS, many felt disempowered and traumatised, and a significant number chose not to go ahead with a discrimination complaint. Currently, the law does not provide adequate safeguards for young women workers. A very small number of women who have been harassed use the complaint process and in any case we do not believe this process effectively deters sexual harassment. What is needed is further research into preventative measures and interventions that can keep young women safe, protected and supported in their working lives.