



Kate Jenkins
Sex Discrimination Commissioner
GPO Box 5218
SYDNEY NSW 2001

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National Inquiry into Sexual Harassment in Australian Workplaces

Dear Commissioner

Screen Australia and the Gender Matters Taskforce welcome the opportunity to provide a submission to the National Inquiry into Sexual Harassment in Australian Workplaces.

Screen Australia is the Australian Government's direct funding and administrative body for the Australian screen production industry. Screen Australia is an independent Government agency that funds drama and documentary content on all screens, for all Australians, and also provides strategic support for screen storytellers and businesses.¹

The Gender Matters Taskforce is an independent group of female screen industry professionals involved in the production of film, television and online content, and film distribution, television broadcasting, and sector research. The Taskforce consists of emerging talent and prominent industry figures. The Taskforce advises and consults with Screen Australia, other government bodies and the industry on gender equity issues, and advocates for cultural change.

Screen Australia and the Gender Matters Taskforce welcome the opportunity to contribute to the Inquiry, as sexual harassment and gender inequalities have specific impacts on screen stories, and the screen industry:

- Well-told and engaging stories inform our sense of who we are, shape our view of the world, and can resonate for generations. Screens - from cinema screens to televisions and mobile phones - are increasingly the dominant way that we share stories, and

¹ Further information on Screen Australia's role can be found in our Corporate Plan, available here: <https://www.screenaustralia.gov.au/about-us/corporate-documents>

Screen Australia research² demonstrates that dramas and documentaries can create lasting cultural impacts.

- While sexual harassment and gender inequality affect all industries, they have particular effects on the screen industry, due to its social prominence and the cultural impact of the stories it creates. We also note with concern that the Australian Human Rights Commission's fourth national survey on sexual harassment in Australian workplaces reported that rates of harassment are particularly high in the information, media and telecommunications industry, with 81 per cent of employees experiencing workplace sexual harassment in the last five years.

To combat sexual harassment and lead constructive, inclusive and sustained cultural change, Screen Australia has introduced a number of programs and policies that are relevant to the Inquiry:

- 1) Gender Matters
- 2) Screen Australia's Code of Conduct to Assist the Prevention of Sexual Harassment

These programs and policies are explored below.

Gender Matters

A large body of research has demonstrated that screen content has historically been overwhelmingly created by men. For example, Screen Australia's 2015 report *Gender Matters: Women in the Australian Screen Industry* found that women directed 16 per cent of Australian feature films.³ This inequality is not unique to Australia, with men generally dominating key creative roles in the United States⁴, United Kingdom⁵ and other countries.

In 2015, Screen Australia responded to the *Gender Matters* report by introducing a Gender Matters program, which includes a \$5 million suite of initiatives designed to address the gender imbalance within the Australian screen industry, and drive cultural change. Gender Matters includes measures that:

- support the production of stories that are led by women in key creative roles
- develop new stories that are female-led
- support emerging and experienced female talent
- promote films that are led by women
- fund the best ideas from industry that address gender inequality

To inform discussions on gender equality in the industry, and to further empower cultural change, the Gender Matters Taskforce was established in 2015. The Taskforce is independent of Screen Australia and Screen Australia's initiatives. It includes key figures from the entire industry, spanning all stages of screen production as well as film distribution, television

² *Screen Currency: Valuing Our Screen Industry* <<https://www.screenaustralia.gov.au/fact-finders/reports-and-key-issues/reports-and-discussion-papers/screen-currency>>

³ *Gender Matters: Women in the Australian Screen Industry* <<https://www.screenaustralia.gov.au/getmedia/f20beab8-81cc-4499-92e9-02afba18c438/Gender-Matters-Women-in-the-Australian-Screen-Industry.pdf>>

⁴ <<https://womenandhollywood.com/resources/statistics/>>

⁵ <<https://stephenfollows.com/gender-inequality-in-the-uk-film-industry/>>

broadcasting, and research. The Taskforce advocates for cultural change and provides advice to Screen Australia and the wider industry.

More information on Gender Matters research and initiatives can be found on Screen Australia's website.⁶

Screen stories influence how we see ourselves, and others. Screen Australia works to ensure that all Australians have the opportunity to enjoy screen stories that engage, inspire, entertain, and resonate. It is vital that stories made by women, and stories made about women, are available across Australian screens.

Code of Conduct to Assist the Prevention of Sexual Harassment

2017 and 2018 have seen a surge in public concern regarding sexual harassment. The global #MeToo and #TimesUp movements, championed in part by high-profile screen industry figures, have energised a cultural shift which has inspired a number of actions in Australia. Around the world, women and men are speaking up about experiences of sexual violence and harassment, and calling for fairness and safety in the workplace.

As the #MeToo movement grew, members of the Gender Matters Taskforce were contacted about sexual harassment and assault in the screen industry. To assist anyone with questions and concerns, Screen Australia and the Taskforce published an online factsheet⁷ that provided general information on:

- what may constitute sexual harassment and assault
- protections offered by Australian law
- options for victims
- responsibilities held by employers and businesses
- links to the Human Rights Commission, police and counselling services, and further information.

The screen industry depends heavily on irregular freelance and contract work. Cast and crew shift from one production to the next, generally moving to productions operated by different producers or production companies. Many drama and documentary productions are directly supported by Screen Australia funding. To address sexual harassment in the industry and to further drive necessary cultural change, in early 2018 Screen Australia created a *Code of Conduct to Assist the Prevention of Sexual Harassment* that is mandatory for all directly-funded productions.⁸

The Code does not introduce new legal requirements beyond what is already set out in Australian law. It was modelled on guidelines issued by the Human Rights Commission, and designed to accomplish very clear objectives:

⁶ <<https://www.screenaustralia.gov.au/sa/new-directions/gender-matters>>

⁷ *Gender Matters Taskforce Statement on Sexual Harassment*: <<https://www.screenaustralia.gov.au/sa/screen-news/2017/10-30-gender-matters-statement-sexual-harassment>>

⁸ <<https://www.screenaustralia.gov.au/sa/screen-news/2018/04-03-code-of-conduct-to-prevent-sexual-harassment>>

- to make Australian law clear, visible and accessible
- to clearly establish how to raise concerns and how to resolve issues
- to shield people, businesses and funding from unsafe and illegal practices
- to lead cultural change within the industry.

The Code process requires that producers must, as far as reasonably practicable:

- make it clear to every participant in a production that there is zero tolerance for sexual harassment
- provide a copy of the Code of Conduct to all participants, and place abridged versions of the Code in poster form in prominent places in the workplace.

The Code also requires producers to:

- designate a suitably qualified and experienced Sexual Harassment Prevention Contact to deal with sexual harassment complaints, who is available to everyone participating in the production
- deal with any complaints in a way that is fair, timely and confidential, and in accordance with their obligations under Australian law.

This process raises awareness of sexual harassment and abuse, and sets clear expectations of everyone involved in a production.

When a project is completed, the producer must provide Screen Australia with a Code Compliance Report in the form of a statutory declaration. If a producer fails to submit a Code Compliance Report, this failure is considered a breach of contract and the final Screen Australia payment on a production may be withheld.

A failure to comply with the Code will also be considered a contract breach, and as a result a producer may be deemed ineligible for further funding from Screen Australia under our Terms of Trade. It is important to note that if a producer does everything in their power to activate the Code on their production, and there is an incidence of sexual harassment or abuse, this incidence will not constitute a failure to comply with the Code if the producer addresses the situation in a fair and timely manner that is consistent with the Code and Australian law.

High profile instances of sexual harassment across all industries indicate that harassment and abuse may be witnessed and sometimes widely known, but 'swept under the carpet' for various reasons. The Code Compliance Report requires that producers truthfully report that they have properly addressed any instances of harassment or abuse. If serious and credible evidence emerged of an unreported failure to comply with the Code, producers may face the consequences of breaching Screen Australia's Terms of Trade, as well as potential civil or criminal consequences for submitting a false statutory declaration.

Industry code of practice

In September 2018 Screen Producers Australia (SPA), the Media, Entertainment and Arts Alliance (MEAA) and Live Performance Australia (LPA) released two voluntary joint industry codes to prevent sexual harassment and other misconduct in the workplace - the *Australian*

*Screen Industry Code of Practice*⁹ and the *Live Performance Industry Code*. Producers can apply these codes to cultural productions across Australia, including screen productions that are not directly funded by Screen Australia.

While it was appropriate for Screen Australia to display leadership by developing and implementing our mandatory Code of Conduct, Screen Australia recognises and supports that the industry has now developed a robust approach. To support effective self-regulation, avoid confusion, reduce administrative burden and promote a unified approach, Screen Australia will withdraw its Code of Conduct in the new financial year and instead require mandatory compliance with the *Australian Screen Industry Code of Practice*. Screen Australia is working with industry to ensure a smooth transition towards the new arrangements.

Thank you for the opportunity to submit to this Inquiry. Please do not hesitate to contact Patrick May, Screen Australia Manager of Policy and Insights via 02 8113 1087 / patrick.may@screenaustralia.gov.au should the Commission wish to discuss our submission in further detail.

Yours Sincerely



Michael Brealey
Chief Operating Officer
Screen Australia



Joanna Werner
Chair
Gender Matters Taskforce

⁹ *Australian Screen Industry Code of Practice: Discrimination, Harassment, Sexual Harassment and Bullying*: <<https://www.screenproducers.org.au/assets/PR/1.-Screen-Industry-Code-of-Practice.pdf>>