

## Submission to the New South Wales Law Reform Commission on the Review of the Anti-Discrimination Act 1977 (NSW)

### About the Women's and Girls' Emergency Centre

Women's and Girls' Emergency Centre (WAGEC) is a Specialist Homelessness Service (SHS) and feminist not-for-profit organisation that has been supporting women and children in crisis since 1977. Every night, WAGEC supports over 200 women and children escaping domestic violence, homelessness and systemic disadvantage. We do this by providing material aid, case management, wrap-around support, accommodation and crisis response.

WAGEC operates a drop-in centre, four crisis refuge accommodation sites and 45 transitional properties. We also deliver:

- **Crisis response and accommodation:** We provide immediate solutions to women and families in crisis including crisis response, shelter, material aid and case management
- **Tailored programs:** Our targeted programs work to break the cycle of violence and social disadvantage by providing tailored support that restores safety and addresses the specific needs of women and children escaping violence.
- **Primary Prevention initiatives:** We seek to stop violence before it starts by addressing the underlying drivers of gender-based violence through advocacy, workplace training and community education.

Our vision is to end gender-based violence in a generation.

WAGEC is based in Sydney and operates refuge sites on the unceded lands of the Gadigal, Wangal and Dharawal people of the Eora Nation. We acknowledge the Traditional Custodians of country and pay our respect to Elders past and present.

WAGEC acknowledges our responsibility as a non-Indigenous organisation to ensure the culturally responsive delivery of services to Aboriginal and Torres Strait Islander clients and to use our voice and spaces of privilege to amplify the advocacy of generations of First Nations women who have come before us and continue to do this work to make communities safer.

### About this submission

WAGEC operates primarily as a Specialist Homelessness Service, however, in the provision of family, domestic and sexual violence services, we work closely with clients who are victim-survivors navigating the legal structures under review by the NSW Law Reform Commission. As such, we have elected to contribute to this Review but in doing so acknowledge our place as domestic violence specialists rather than legislative experts.

## **Should any protected attributes be added to the prohibition on discrimination in the Anti-Discrimination Act? If so, which should be added and why?**

WAGEC support the inclusion of the following as protected attributes under the *Anti-Discrimination Act 1977* (NSW) (the Act):

### **Domestic and family violence**

In April 2024, gender-based violence was declared a national crisis in Australia. One in four women have experienced physical and/or sexual assault perpetrated by an intimate partner since the age of 15.<sup>1</sup> New research reveals that 1 in 3 Australian men self-reported using violence in an intimate relationship, with an additional 120,000 men estimated to use violence for the first time each year.<sup>2</sup>

Experiences of violence have a profound impact on the health and wellbeing of victim-survivors. Discrimination in the context of employment and housing further compound this trauma and prevent women from accessing safety, economic independence and long-term stable accommodation.

To provide more equitable pathways to housing and employment, WAGEC support the inclusion of victim-survivors of domestic violence as a protected attribute under the Act.

### **Discrimination in the context of employment**

Employment and financial independence are safeguards for women experiencing domestic violence. However, abusive partners can employ tactics of economic abuse, physical abuse, coercive control, stalking, and intimidation to jeopardise a victim-survivors employment.<sup>3</sup>

The 2021-2023 Personal Safety Survey found that 323,800 women reported that an intimate partner had 'loitered or hung around outside their workplace, school, or education facility'.<sup>4</sup> A study from Monash University found over 30% of respondents had their perpetrators physically attend their workplaces.<sup>5</sup>

Workplace discrimination for victim-survivors of domestic violence can manifest as employment termination for reasons relating to the violence (such as the perpetrator

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<sup>1</sup> Intimate partner violence, *Australian Institute of Health and Welfare* (15 Feb 2024), accessed via <<https://www.aihw.gov.au/family-domestic-and-sexual-violence/types-of-violence/intimate-partner-violence>>.

<sup>2</sup> The use of intimate partner violence among young men, *Australian Institute of Family Studies* (June 2025), accessed via <<https://aifs.gov.au/media/one-three-men-report-using-intimate-partner-violence>>.

<sup>3</sup> The Cost of Domestic Violence, *Anne Summers* (3 March 2025), accessed via <[https://figshare.uts.edu.au/articles/report/The\\_Cost\\_of\\_Domestic\\_Violence\\_to\\_Women\\_s\\_Employment\\_and\\_Education/28489736?file=52738361](https://figshare.uts.edu.au/articles/report/The_Cost_of_Domestic_Violence_to_Women_s_Employment_and_Education/28489736?file=52738361)>

<sup>4</sup> Ibid.

<sup>5</sup> Above n 3.

arriving on the premises), denial of flexible work arrangements and transfers or demotions as a result of the violence.<sup>6</sup>

Women experiencing domestic violence need increased legal protections to safeguard them from direct and indirect workplace discrimination on this basis.

### **Discrimination in the context of housing**

Domestic violence is the leading cause of homelessness for women and children in Australia. In the face of a worsening housing crisis, many women experiencing violence are forced to decide between becoming homeless or remaining in a relationship with their perpetrator.

The Australian Housing and Urban Research Institute reports that women who have experienced domestic violence face direct and indirect discrimination in the private rental market.<sup>7</sup> This discrimination can take the form of being perceived as an unfavourable tenant for fear of damage to property due to ongoing abuse, or negative rental references as a result of previous breaches of 'quiet enjoyment' and nuisance laws.<sup>8</sup>

The current waitlist for social housing in NSW can exceed ten years. Without access to private rentals, this traps women and children in cycles of homelessness, or forces them into unsafe environments for up to a decade.

To safeguard access to private accommodation, WAGEC support the inclusion of domestic and family violence as a protected attribute.

## **Irrelevant criminal record**

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<sup>6</sup> *Domestic and family violence – a workplace issue, a discrimination issue*, Australian Human Rights Commission, accessed via [https://humanrights.gov.au/sites/default/files/13\\_10\\_31\\_DV\\_as\\_a\\_workplace\\_issue\\_factsheet\\_FINAL6.pdf](https://humanrights.gov.au/sites/default/files/13_10_31_DV_as_a_workplace_issue_factsheet_FINAL6.pdf).

<sup>7</sup> *Understanding discrimination effects in private rental housing*, Australian Housing and Urban Research Institute, (September 2021), accessed via <https://www.ahuri.edu.au/sites/default/files/documents/2021-09/AHURI-Final-Report-363-Understanding-discrimination-effects-in-private-rental-housing.pdf>.

<sup>8</sup> Ibid.

The rate of women being incarcerated in Australia is increasing rapidly. In NSW, the number of women in prison increased by 50% between the years of 2011 and 2017.<sup>9</sup> For Aboriginal and Torres Strait Islander women, this increase was closer to 74% in the same period.<sup>10</sup>

In NSW, there are currently approximately 880 women in prison, 40% of whom are Aboriginal or Torres Strait Islander.<sup>11</sup>

Homelessness is often the most significant hurdle that women face when being released from custody. Lack of access to immediate housing can lead women leaving prison to face homelessness or recidivism, with 50% of women becoming homeless with 9 months of release<sup>12</sup> and 47% of women in prison having been previously incarcerated.<sup>13</sup>

In NSW, 40% of women in prison are mothers of children under 18. Without access to housing and employment, these women are also blocked from reunification with their children and families post-release.<sup>14</sup>

The discrimination faced by previously incarcerated women in the context of housing and employment contributes to the cycle of incarceration. To reduce rates of recidivism and promote safe and stable re-entry to the community, WAGEC welcome the inclusion of irrelevant criminal record as a protected attribute under the Act.

### **Discrimination in the context of accommodation**

Approximately one third of women enter prison from homelessness, and over half are released into homelessness.<sup>15</sup> Since a fixed address is a requirement for bail, many women experiencing homelessness are held on remand for extended periods.<sup>16</sup> These women face significant challenges in securing accommodation, including structural discrimination and a chronic shortage of affordable housing.

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<sup>9</sup> *Recent trends in the NSW female prison population*, NSW Bureau of Crime Statistics and Research (21 March 2018), accessed via <<https://bocsar.nsw.gov.au/media/2018/mr-recent-trends-inc2adc2adc2ad-the-nsw-female-prison-population.html#:~:text=Full%20report:%20Recent%20trends%20in,women%20appearing%20before%20the%20courts>>.

<sup>10</sup> Ibid.

<sup>11</sup> *KWOOP Parliamentary Breakfast 2025: Collective Action for Change*, Sydney Community Foundation (2025), accessed via <<https://sydcf.org.au/kwoop-parliamentary-breakfast-2025-collective-action-for-change/>>.

<sup>12</sup> *Exiting Prison with Nowhere to Go: Addressing Housing Insecurity Among Formerly Incarcerated Women*, Australian Housing and Urban Research Institute, access via <<https://www.ahuri.edu.au/research/final-reports/39>>.

<sup>13</sup> *Prisoners in Australia, 2018*, Australian Bureau of Statistics (2018), accessed via <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4517.0Main+Features12018?OpenDocument>>.

<sup>14</sup> *Keeping Women Out of Prison: Women's Justice Network Report*, Sydney Community Foundation, accessed via <<https://www.sydneycommunityfoundation.org.au/keeping-women-out-of-prison/>>.

<sup>15</sup> Above n 10.

<sup>16</sup> Above n 14.

Criminal records can exclude women from public housing waitlists or private rentals. When applying for private rentals, formerly incarcerated women experience significant levels of discrimination.<sup>17</sup> Previously incarcerated women were more likely to report being questioned about their parenting capabilities, relationship status, and mental health during housing interviews.<sup>18</sup>

WAGEC operates a refuge specifically tailored to the needs of mothers and pregnant women leaving incarceration, and have seen how access to secure housing facilitates effective rehabilitation, reunification with family and re-entry into the community after incarceration.

To reduce rates of post-custody homelessness and recidivism, WAGEC support the inclusion of irrelevant criminal record as a protected attribute.

### **Discrimination in the context of employment**

Finding employment post-release is another significant barrier faced by women leaving incarceration. Criminal records, gaps in employment history and limited access to education opportunities can present barriers to women gaining employment after their release.

Many women in prison have limited formal education and work experience, with 33% of women in custody lacking basic literacy and numeracy skills, affecting job readiness.<sup>19</sup>

Stigma also plays a key role, with 75% of employers saying they are hesitant or unwilling to hire someone with a criminal conviction.<sup>20</sup> For Aboriginal and Torres Strait Islander women, who are 21 times more likely to be incarcerated, this stigma compounds with systemically entrenched racial discrimination.<sup>21</sup>

Employment has been proven to be an effective factor in reducing reoffending.<sup>22</sup> Quality employment post-incarceration was shown to increase social ties, develop an identity that is incompatible with criminal activity and provide an avenue for financial stability.<sup>23</sup> For

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<sup>17</sup> Above n 7.

<sup>18</sup> Ibid.

<sup>19</sup> *Vulnerable People and the Criminal Justice System: Report No. 95*, Productivity Commission (2021), accessed via <<https://www.pc.gov.au/inquiries/completed/justice/report>>.

<sup>20</sup> *Faces of Unemployment: Experiences of People Locked Out of the Job Market*, Australian Council of Social Service & UNSW Sydney (2024), accessed via <<https://www.acoss.org.au/faces-of-unemployment-2024/>>

<sup>21</sup> *Prisoners in Australia*, ABS Catalogue No. 4517.0 (2024, accessed via <<https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>>.

<sup>22</sup> *Effectiveness of interventions to improve employment for people released from prison: systemic review and meta-analysis*, Connell C., Birken, M., Carver, H. et al (2023), accessed via <<https://healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-023-00217-w#citeas>>.

<sup>23</sup> Ibid.

mothers who have been incarcerated, access to secure housing and employment can also support a successful reunification with their children, in turn reducing rates of recidivism.<sup>24</sup>

Including irrelevant criminal record as a protected attribute under the Act will support women to secure housing and employment after incarceration, facilitate family reunification and promote a successful re-entry to society.

## Contact

If you have any questions in relation to this submission, please contact CEO Nicole Yade via [nicole.yade@wagec.org.au](mailto:nicole.yade@wagec.org.au).

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<sup>24</sup> *The Lived Experience of Motherhood after Prison: A Qualitative Systemic Review*, Gobena E. Women & Criminal Justice Journal Volume 33 Issue 6 (2023), accessed via <https://www.tandfonline.com/doi/full/10.1080/08974454.2022.2030274#abstract>.