



Australian Women Against Violence Alliance

Australian Human Rights Commission
National Inquiry into Sexual Harassment in Australian Workplaces
Submitted via online form
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Submission to the National Inquiry into Sexual Harassment in Australian Workplaces

Thank you for an opportunity to make a submission to the National Inquiry into Sexual Harassment in Australian Workplaces.

About Australian Women Against Violence Alliance

Australian Women Against Violence Alliance (AWAVA) is one of the six National Women's Alliances funded by the Australian Government to bring together women's organisations and individuals across Australia to share information, identify issues and contribute to solutions. AWAVA's focus is on responding to and preventing violence against women and their children. AWAVA's role is to ensure that women's voices and particularly marginalised women's voices are heard by Government, and to amplify the work of its member organisations and Friends and Supporters. AWAVA's members include organisations from every State and Territory in Australia, representing domestic and family violence services, sexual assault services, and women's legal services, as well as organisations representing Aboriginal and Torres Strait Islander women, young women, women educators, women in the sex industry and other groups. AWAVA's contract manager is the Women's Services Network (WESNET).

Summary of recommendations

1. That the Australian Government ensure ongoing sufficient funding for specialist women's services providing community education and training on the intersection between technology and violence and include it in the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children and as an ongoing feature of any subsequent National Plan (beyond 2022).
2. That prevention and service responses to workplace sexual harassment include and specifically address online spaces.
3. That the Australian government establish an independent, expert led taskforce to track, assess and publicly report on university and residences' measures to prevent, and improve responses to sexual violence.
4. That the National Inquiry into Sexual Harassment in Australian Workplaces expands its understanding of a workplace to encompass universities as workplaces for postgraduate students.
5. That universities develop clearer procedures and better support systems for postgraduate students who have experienced sexual harassment in their workplaces (i.e. in the course of their postgraduate studies at university) including by senior academics from other institutions.
6. That the Australian Government expand secure funding both for prevention and for response services, within a commitment to a comprehensive society-wide effort to end violence against women.
7. That the Australian Government commit to comprehensive, secure and ongoing funding for prevention across jurisdictions as well as (not taken from) response service funding.
8. That the Australian Government allocate adequate additional funding to build upon and extend the 'Stop it at the Start' campaign, including bystander capacity-building, and to build in representations of diversity.
9. That the Fourth Action Plan and any other future National Plan include sexual harassment within its scope and resource initiatives appropriately, both in terms of prevention and in terms of justice and service responses.

Introduction

In this submission we draw on several conceptualisations of the drivers of sexual harassment, elaborate on what those drivers mean in practice for diverse groups and make recommendations in relation to intersectional and culturally sensitive primary prevention and responses to sexual harassment. In doing so, we propose expanding the notion of workplaces to encompass other areas of life where sexual harassment may occur.

While we acknowledge that a range of workplace-level and legal/systems reforms are needed to address workplace sexual harassment, our submission focuses on the diverse experiences and settings in which sexual harassment occurs, and makes recommendations in relation to these. We commend to the inquiry's attention the many submissions and contributions being made by victims/survivors, specialist women's services, women's legal services and advocates, and organisations representing marginalised groups including (but not limited to) Aboriginal and Torres Strait Islander people, young people, students, people in precarious employment, LGBTIQ+ people, people with disability, and people from culturally and linguistically diverse backgrounds.

AWAVA endorses Our Watch's submission to this inquiry, as well as the joint statement 'Urgent Actions Needed to Stop Sexual Harassment at Work'.

Conceptualising sexual harassment

From a feminist perspective, sexual harassment is driven by and is a result of gender inequality where attitudes and harmful stereotypes persist that see women as inferior to men. It occurs in the environment where male privilege is normalised and sexism and sexual objectification of women are tolerated. Sexual harassment not only arises from but “reinforces the existing gender hierarchy where heterosexual men have more power and privilege”.¹

Drawing on the work of Our Watch, in particular *Change the Story: a shared framework for the primary prevention of violence against women*, sexual harassment needs to be seen as another manifestation of violence against women, which has its roots in gender inequality. It is gender inequality that allows for the condoning violence against women, normalises men’s control over the various areas of women’s lives, sustains rigid and harmful gender stereotypes and notions of femininity and masculinity and tolerates aggression, sexism and sexual objectification of women.

Available research both on sexual harassment and more broadly violence against women confirms the gendered nature of sexual harassment, showing that “the majority of sexual harassment targets are girls and women, and the majority of perpetrators are boys and men.”²

Australian Human Rights Commission also reports that 1 in 5 women have experienced sexual harassment in the workplace at some time.³ In addition to this, the reports states that:

- People who identify as non-binary or as a gender other than male or female are very likely (89%) to have experienced sexual harassment in their lifetimes;
- 70% of people who identify as straight or heterosexual have experienced sexual harassment over the course of their lifetimes, compared with 83% of people who identify as gay or lesbian and 90% of people who identify as bisexual;
- Nine out of ten (89%) women with disability and almost seven out of ten (68%) men with disability have been sexually harassed in their lifetimes;
- Aboriginal and Torres Strait Islander people were more likely to have experienced workplace sexual harassment than people who are not Aboriginal or Torres Strait Islander (53% and 32% respectively).⁴

As indicated by the statistics cited above, the drivers of sexual harassment also have “sexist, classist, heterosexist, transphobic, and racist elements.”⁵ A number of researchers argue that experiences of sexual harassment for migrant and refugee populations are implicated by racism⁶ and for LGBTIQ+

¹ Holland, K.J., & Cortina, L.M. (2016) Sexual harassment: Intermingling the wellbeing of working women. In M.L. Connerly & J. Wu (Eds.), *Handbook on well-being of working women* (pp.83-101). Dordrecht, the Netherlands: Springer

² Espelage, D.L. et al (2016) Understanding types, locations, & perpetrators of peer-to-peer sexual harassment in US middle schools: A focus on sex, racial and grade differences. *Children and Youth Services Review*, 71, 174-183. Gruber, J., & Fineran, S. (2016). Sexual harassment, bullying, and school outcomes for high school girls and boys. *Violence Against Women*, 22, 112–133. doi:10.1177/1077801215599079

³ Australian Human Rights Commission (2008) *Sexual harassment: Serious business. Results of the 2008 Sexual Harassment National Telephone Survey*. Available at https://www.humanrights.gov.au/sites/default/files/content/sexualharassment/serious_business/SHSB_Report_2008.pdf

⁴ Australian Human Rights Commission (2018) *Everyone’s business: Fourth national survey on sexual harassment in Australian workplaces*.

⁵ Burn, S.M., (2019) *The Psychology of Sexual Harassment in Teaching of Psychology*. Vol. 46 (1) pp.96-103

⁶ Buchanan, N. T., Settles, I. H., & Woods, K. C. (2008). Comparing sexual harassment subtypes among Black and White women by military rank. *Psychology of Women Quarterly*, 32, 347–361. Clancy, K. B., Lee, K., Rodgers, E.

people by homophobia, transphobia and heterosexism.⁷ The higher representation of people from diverse backgrounds in the statistics on sexual harassment is explained by their often already marginal status. Burn writes that “minorities may experience higher rates of sexual harassment from majority group members because minority group status denotes marginality and lack of power, conditions associated with higher sexual harassment prevalence.”⁸

The feminist perspective on sexual harassment is further complicated by sociocultural perspectives on gender. From this point of view, sexual harassment is “motivated by hostility toward individuals who violate gender ideals”.⁹ There has been evidence to suggest that at the core of drivers of sexual harassment is not sexual desire but rather exercise of control and intimidation over a person because of their “gender, gender expression or sexual orientation”.¹⁰ Burn suggests that “sexual harassment is sometimes used to police appropriate ways of ‘doing gender’ by punishing those who stray from traditional gender roles and norms.”¹¹

Lastly, a ‘power threat’ model is used to explain that like any other manifestation of violence against women, sexual harassment is motivated by the exercise of power and control. Often in the workplaces this power is highly gendered. From a power model of understanding of sexual harassment, “sexual harassment assures heterosexual male dominance”¹² by intimidating and punishing those who either threaten what is seen as traditional hierarchy of power or deviates from assigned (stereotypical) gender or other roles. Such a view on sexual harassment helps to explain attacks on women who identify as feminists online (this includes online both as a workplace and a place of activism), people who identify as LGBTIQ+, women in leadership positions, women in male dominated occupations etc. This model also helps to explain the particular vulnerabilities of women in precarious types of employment (such as women on temporary visas, women in domestic labour) or other relations where power imbalances are pertinent.

Together these models of conceptualising sexual harassment point out several important considerations.

- When understood from a feminist perspective, the gendered nature of sexual harassment highlights long lasting and traumatic impacts of sexual harassment on victims/survivors. Anecdotal evidence from AWAVA’s members working in the area of responding to sexual assaults testify to the same traumatic impacts of sexual harassment.
- Compounded with other forms of violence against women and in an environment of gender inequality, sexual harassment causes severe negative impacts for women. This includes

M., & Richey, C. (2017). Double jeopardy in astronomy and planetary science: Women of color face greater risks of gendered and racial harassment. *Journal of Geophysical Research: Planets*, 122, 1610–1623.

⁷ Grant, J. M., Mottet, L. A., & Tanis, J. (2011). *Injustice at every turn: A report of the National Transgender Discrimination Survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force. Hill, C., & Silva, S. (2005). *Drawing the line: Sexual harassment on campus*. Washington, DC: AAUW. Kearl, H. (2014). *Unsafe and harassed in public spaces: A national street harassment report*. Retrieved from <http://www.stopstreetharassment.org/wp-content/uploads/2012/08/National-Street-Harassment-Report-November-29-20151.pdf>

⁸ Burn, S.M., (2019) *The Psychology of Sexual Harassment in Teaching of Psychology*. Vol. 46 (1) pp.96-103

⁹ Berdahl, J.L. (2007) *The Sexual Harassment of Uppity Women*. *Journal of Applied Psychology*, Vol 92, No 2, pp. 425-437.

¹⁰ Burn, S.M., (2019) *The Psychology of Sexual Harassment in Teaching of Psychology*. Vol. 46 (1) pp.96-103

¹¹ Cleveland, J. N., & McNamara, K. (1996). Understanding sexual harassment: Contributions from research on domestic violence and organizational change. In M. S. Stockdale (Ed.), *Sexual harassment in the workplace: Perspectives, frontiers, and response strategies* (pp. 217–240). Thousand Oaks, CA: Sage. Galdi, S., Maass, A., & Cadinu, M. (2014). Objectifying media: Their effect on gender role norms and sexual harassment of women. *Psychology of Women Quarterly*, 38, 398–413. doi:10.1177/0361684313515185

¹² Ibid.

worsened mental and physical health including low self-esteem¹³, threats of retaliation, loss of employment, career progression and/or other career opportunities. Regardless of whether a woman is in a high or low paid employment, the impact of sexual harassment is severe.¹⁴

- Sexual harassment occurs not only in traditional workplaces but also “on public transportation and in other public places, in educational and athletic settings, in homes, at social gatherings, and in online groups”.¹⁵
- Efforts to reduce violence against women need to encompass efforts to reduce sexual harassment. For this, intersectional approaches to primary prevention are required (we attend to this point further in this submission).

Expanding an understanding where sexual harassment occurs

We appreciate the focus of the Inquiry on the Australian workplaces and welcome an inclusion of online spaces as workplaces. However, drawing on above summarised models of conceptualising sexual harassment, we would like to expand an understanding of where sexual harassment can occur.

Technology-facilitated sexual harassment

We support a greater attention to the link between technology-facilitated abuse and sexual harassment. There has been much evidence to suggest the high prevalence of both against women for whom online spaces constitute a workplace, such as journalists or women in politics. In addition, as a power threat model discussed above suggests, some women may be targeted online simply for their active positions on women rights and feminism.

In 2018 AWAVA’s submission to the UN Special Rapporteur on Violence Against Women we drew attention to an emerging trend of technology-facilitated abuse of women human rights defenders.¹⁶ Women working on the issues of sexual and reproductive rights, gender equality, family and domestic violence are more vulnerable to threats including technology-facilitated abuse. For women in regional and rural areas, threats are increasing due to the fact that they are normally known to both victims/survivors and perpetrators. Women also become targets of trolling and cyberbullying online for promoting gender equality and rights of women and girls. The nature of technology means that this issue is not going to go away but may in fact become more prevalent and increasingly complex.

We acknowledge the work of the Safety Net Australia program delivered by WESNET (Women’s Services Network) in educating the sector and community on the intersection between technology and violence and call on the Australian Government to ensure their ongoing sufficient funding. We also acknowledge the work of the eSafety Commissioner in this area. However, in the context of this Inquiry it is evident that further primary prevention and effective responses to sexual harassment are required that are able to address harassment in online spaces as well as traditional formal workplaces.

Recommendations:

1. That the Australian Government ensure ongoing sufficient funding for specialist women’s services providing community education and training on the intersection between technology

¹³ Fitzgerald, Louise F., and Lilia M. Cortina. 2017. “Sexual Harassment in Work Organizations: A View from the 21st Century.” In *Handbook of the Psychology of Women*, edited by Cheryl B. Travis and Jacquelyn W. White. Washington, DC: American Psychological Association. <http://www.apa.org/pubs/books/4311534.aspx?tab=2>

¹⁴ Institute for Women’s Policy Research (2018) Briefing Paper. Sexual Harassment and Assault at Work: Understanding the Costs.

¹⁵ Ibid

¹⁶ AWAVA (2018) Submission to the UN Special Rapporteur on Violence Against Women: Online Violence. Available at https://awava.org.au/2018/02/06/submissions/submission-un-special-rapporteur-violence-women-online-vaw?doing_wp_cron=1551043962.2691440582275390625000

and violence and include it in the Fourth Action Plan of the National Plan to Reduce Violence Against Women and Their Children and as an ongoing feature of any subsequent National Plan (beyond 2022).

2. That prevention and service responses to workplace sexual harassment include and specifically address online spaces.

Sexual harassment at universities

In 2017 a survey was conducted by the Australian Human Rights Commission to identify the extent of sexual harassment and assault at Australian universities. The *Change the Course* report, produced as a result, shows that in 2015/16, 51% of students reported that they had been sexually harassed at university and 9% of students surveyed reported that they had been sexually assaulted at university.¹⁷ The report also found that female students, LGBTIQ+ students, Aboriginal and Torres Strait Islander students, students from culturally and linguistically diverse backgrounds and students with disabilities are more likely to be sexually harassed or assaulted than other students. The majority of students did not report the harassment or assault to the university out of fear they would not be taken seriously. Many recommendations from this report have not yet been implemented.

We believe that it is essential that this sexual harassment inquiry includes university settings in the scope of the review for several reasons. Firstly, as the *Change the Course* report highlighted there is a need for the uniform approaches to preventing and responding to sexual harassment in the university settings. Secondly, postgraduate students completing a range of research degrees are often allocated with office spaces and work under the supervision of others in relations of unequal power analogous to manager/staff relationships. This makes their process of studying similar to other work environments. Following from conceptualisations of sexual harassment discussed above this particular type of student – supervisor relationships creates similar power dynamics and thus, a risk of sexual harassment. Similarly, sexual harassment can be inflicted by other students working in the same spaces.

While university settings have many similarities with other workplaces, there are some features that present additional risks and considerations for efforts to prevent and respond to sexual harassment. For example, postgraduate students are often required to interact with more senior academics at other institutions. Anecdotal evidence provided to AWAVA shows that in some cases postgraduate students are sexually harassed by these academics, who may hold power over the student's academic and professional progress even though they are not in a conventional employment relationship with them. Universities need to develop clearer procedures and better support systems for postgraduate students who have experienced this form of harassment.

While we understand that responses to sexual harassment may fall under universities' mandates, we strongly encourage the Inquiry to investigate how those responses can be made effective and consistent across the board.

Recommendations:

¹⁷ Australian Human Rights Commission 2017. *Change the course: National report on sexual assault and sexual harassment at Australian universities* https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_2017_ChangeTheCourse_UniversityReport.pdf; Australian Human Rights Centre (2017) *On Safe Ground: Strengthening Australian university responses to sexual assault and harassment: A good practice guide for Australian universities*. University of New South Wales (Sydney) https://humanrights.unsw.edu.au/sites/default/files/inline-files/AHR0002_On_Safe_Ground_Good_Practice_Guide_online.pdf; End Rape Australia (2018) *The Red Zone. An investigation into sexual violence in Australian university residential colleges*, <https://static1.squarespace.com/static/5762fc04f5e231826f09afae/t/5a95cf99e4966ba2c2a64ca5/1519767581881/The+Red+Zone+Report+2018>

3. That the Australian government establish an independent, expert led taskforce to track, assess and publicly report on university and residences' measures to prevent, and improve responses to sexual violence.¹⁸
4. That the National Inquiry into Sexual Harassment in Australian Workplaces expands its understanding of a workplace to encompass universities as workplaces for postgraduate students.
5. That universities develop clearer procedures and better support systems for postgraduate students who have experienced sexual harassment in their workplaces (i.e. in the course of their postgraduate studies at university) including by senior academics from other institutions.

Addressing the precarity of employment for women

We draw your attention to the submission by YWCA Canberra in response to this Inquiry. They document barriers for women to report their experiences of sexual harassment out of fear that they may lose employment benefits or employment itself. Effective responses to sexual harassment cannot be done in isolation. They require ensuring fair access to employment benefits such as parental leave.

In addition, for women on temporary visas precarity of employment may be a barrier to report sexual harassment. As explained by a power threat model, migration status places women in an unequal position where more often women will prioritise financial need over personal safety, thus not report their experiences. The situation is similar for women engaged in domestic work. Additionally, forms of labour such as domestic work, freelance work or work in the gig economy (such as car share or food delivery) lack legislative protections and/or access to well-equipped HR departments.

Addressing employment precarity and improving legislative protections and responses needs to go hand in hand with broader cultural change delivered through primary prevention. Judith Levine writes in her article *Beyond #MeToo* that a cultural transformation is required that will see the change of sexual ethics in relation to women.¹⁹ The author makes a poignant example that lawsuits alone will not improve the everyday life of an immigrant nanny who is working in a household "at his mercy".²⁰ She concludes that collective action by workers against inequalities should go hand in hand with destabilising male privilege, as only pursuing legislative approaches without cultural changes is unlikely to result in the redistribution of power.

Sexual harassment outside workplaces

As stated above sexual harassment can occur outside of workplaces but in a range of public spaces that includes their routes of travel to work or study. Plan International reports that almost 1 in 4 young women experience street harassment at least once a month or more.²¹ This impacts not only on their mental health and physical safety but also their ability to pursue educational and employment opportunities.²² In addition, people of colour, non-binary people and people who identify as LGBTIQ+ experience street sexual harassment at higher rates, according to a survey from the US.²³

¹⁸ Fair Agenda, End Rape on Campus, National Union of Students, The Hunting Ground Australia Project, Joint Statement https://melbourne-systems.s3.amazonaws.com/asset/file/5ae9184869702d3013861600/Joint_statement_Taskforce_final.pdf

¹⁹ Levine, J., (2018) *Beyond #MeToo*. New Labour Forum, 27(3), 20-25.

²⁰ Ibid.

²¹ Plan International Australia and Monash University. (2018). *Unsafe in the city: Sydney*. Retrieved from: <https://www.plan.org.au/-/media/plan/documents/reports/unsafe-in-the-citysydney.pdf?la=en&hash=7425571E312DC6C2ADF03F4EF358E7AF61AF9FBE>

²² Ibid.

²³ Stop Street Harassment. (2014). *Unsafe and harassed in public spaces: A national street harassment report*. Retrieved from: <https://www.stopstreetharassment.org/wp-content/uploads/2012/08/2014-National-SSH-Street-Harassment-Report.pdf>

AWAVA believes that it is important to address sexual harassment as a part of general efforts of reducing violence against women. While street sexual harassment may seem outside the scope of this Inquiry, it has direct links and implications in relation to one's employment and educational opportunities. In this regard, we reiterate the need for primary prevention and also active efforts to work towards gender equality and elimination of racism, homophobia, transphobia, ableism.

Finding solutions to prevent and respond to sexual harassment

Intersectional and Culturally Sensitive Primary Prevention

Sexual harassment is preventable. It is essential that effective responses to sexual harassment are complemented by an ongoing primary prevention effort undertaken through intersectional and culturally sensitive lenses. We draw your attention to *Change the Story*, prepared by Our Watch as a key framework for primary prevention.

To undertake primary prevention through intersectional and culturally sensitive lenses means recognising that gender inequality is the key driver of violence against women and that this violence exists and needs to be understood in the context of oppression and privilege arising from the intersection of race, impact of colonisation, class, sexual orientation and gender identity, ethnicity, nationality, religion, dis/ability and age. In this sense, intersectional primary prevention needs to go hand in hand with addressing the precarity of work that some groups in society experience more than others. Examples include eradicating the racial profiling and institutional racism that often intersect with sexism and affect equal employment and educational opportunities for Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse backgrounds; ending the discrimination, heterosexism, homophobia and transphobia that creates barriers for people who identify as LGBTIQ+; and changing the system of ableism that limits the opportunities for people with disability.

It is also essential that primary prevention efforts are well coordinated and sufficiently resources around all states and territories. It is also essential that these efforts are ongoing. In addition, it is important that workplaces are recognised as not only places for response but prevention too.

Recommendations:

6. That the Australian Government expand secure funding both for prevention and for response services, within a commitment to a comprehensive society-wide effort to end violence against women.
7. That the Australian Government commit to comprehensive, secure and ongoing funding for prevention across jurisdictions as well as (not taken from) response service funding.
8. That the Australian Government allocate adequate additional funding to build upon and extend the 'Stop it at the Start' campaign, including bystander capacity-building, and to build in representations of diversity.

Service response to sexual harassment

We acknowledge that changes are required in the ways workplaces respond to sexual harassment, and that reform need to occur. However, when it comes to supporting victims/survivors not only legal responses are essential but other forms of support including counselling and if appropriate case management that can link victims/survivors to other services. The existing specialist women's services sector is well placed to provide this type of support, if sufficient levels of funding are established, and this approach is preferable to setting up wholly new services systems.

One of our priorities is advocating and supporting specialist women's services in Australia which using a feminist and human rights frameworks play a unique role in addressing violence against women. We

refer you to our policy brief for a more detailed discussion.²⁴ In short, we advise against the creation of a new system but argue we should be utilising the expertise and knowledge of the well-established specialist women's sector.

Another resource by Our Watch, *Counting on Change*²⁵, showed that addressing violence against women in all its manifestations is an ongoing process. The more awareness is raised the more service demand occurs. Thus, it is important that the level of funding is meeting service demand.

Recommendation:

9. That the Fourth Action Plan and any other future National Plan include sexual harassment within its scope and resource initiatives appropriately, both in terms of prevention and in terms of justice and service responses.

Once again we thank you for the opportunity to provide input to this consultation. If you would like to discuss the contents of the submission further, please contact Dr Merrindahl Andrew, AWAVA Program Manager, using the details below.

Dr Merrindahl Andrew

Program Manager

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24 AWAVA (2016) Policy Brief. The role of specialist women's services in Australia's response to violence against women and their children. Available at https://awava.org.au/2016/04/07/research-and-reports/role-specialist-womens-services-australias-response-violence-women-children?doing_wp_cron=1551042746.8649449348449707031250

25 See more at https://www.ourwatch.org.au/getmedia/8c6df8f7-5d01-4e32-9e6a-a8bff04f0673/OurWatch_GuideToMonitoring_A3Summary_horizontal.pdf.aspx