



Australian Women's and
Gender Studies Association

FEMINIST RESPONSES TO *CHANGE THE COURSE*

Dr Suzanne Egan

May 2018

PREFACE

Subsequent to the release of the *Change the Course Report* (AHRC 2017), universities around Australia made moves to address the systemic and prevalent sexual discrimination and abuse issues that were uncovered. As the recent ***Audit of university responses to the Change the course report Snapshot of progress: August 2018*** (AHRC 2018) makes clear, all universities have made some changes.

Yet, as a feminist organisation with most members located in these universities, we felt that our on campus experiences was not reflecting extensive change. In addition we felt there was a need to examine changes occurring with a specific emphasis on feminist principles and best practice. We were keen to ensure the centrality of gendered analysis of university institutions and examination of how the gender structures were obstructing change as well as underpinning the prevalence of discrimination and harassment on campuses and in university contexts. Mindful of Sara Ahmed's (*Living a Feminist Life* 2017) axiom that a policy responding to a problem is not evidence that the problem has been solved, but rather is evidence it exists, we were keen to provide a support for AWGSA members, in circumstances where they face discrimination or harassment or seek to assist others who may be facing such incidents.

We are grateful to Dr Suzanne Egan for her detailed work here and the protocol she has developed to assist members to work actively towards safer and more equitable university environments.

Dr Sharon Bickle (AWGSA Vice President) and the AWGSA Executive

AWGSA report

This report has been produced as part of AWGSA's response to the *Change the Course* (2017) report on sexual abuse and harassment in Australian Universities, with the aim of establishing feminist best practice in responding to a complaint of sexual harassment or discrimination. The report begins by providing an over view of the legal definition of sexual harassment in Australia, before moving to a brief discussion of the relationship between sexual harassment, sexual discrimination and between and sexual abuse. The second part of the report outlines key findings from the Change the Course report and using the follow up audit conducted by AHRC evaluates the adequacy of changes implemented by Australian universities. The third section outlines the internal and external reporting and complaints processes available to victims of sexual harassment and discrimination in Australia. The final section of the report focuses on establishing feminist best practice in reporting and complaints processes. A draft AWGSA protocol for feminist best practice on reporting and complaints procedures is attached as an appendix.

Defining sexual harassment: The Australian legislative context

Under the Commonwealth Sex Discrimination Act 1984¹ Act sexual harassment is defined as 'an unwelcome sexual advance', 'an unwelcome request for sexual favours' or 'other unwelcome

¹ At the time the Commonwealth Sex Discrimination Act (1984) was passed its key purpose was as a mechanism to implement Australia's obligations as a party to the United Nations Convention on the Elimination of all forms of Discrimination Against Women (AHRC website Australia's implementation of CEDAW). However, a series of amendments since that time appears to have substantially widened the terms of the Act. For example, an amendment in 2013 made discrimination on the basis of gender identity illegal in schools (Jones, Smith, Dixon, Hillier, & Mitchell, 2016) while another amendment in 2011 made to make sexual harassment in schools unlawful AHRC Sexual harassment in Education (<https://www.humanrights.gov.au/sexual-harassment-education>). According to the AHRC (2018) the purpose of the Act in its current form is to 'protect people from unfair treatment on the basis of their sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy and

conduct of a sexual nature' (Australian Human Rights Commission, 2017b). Examples of sexual harassment include but are not limited to:

- Intrusive questions about one's personal life or appearance
- Leering and staring inappropriately
- Hugging, kissing or inappropriate touching
- Sexually suggestive comments or jokes
- Requests for sex or other sexual acts
- Sexual gestures
- Indecent exposure
- Sexually explicit posters, texts or emails
- Stalking, attempted or actual sexual assault ²

(Australian Human Rights Commission, 2017b)

Whether conduct is considered unwelcome is considered from the perspective of the recipient, which means that the intention of the individual or individuals engaging in the behaviour is not relevant. If the conduct is not solicited or invited and is considered offensive by the recipient, it is considered unwelcome. Sexual harassment may be a single incident or an ongoing pattern of behavior.

The circumstances in which the conduct occurred also affect whether it is considered unwelcome. Amendments made to the Act in 2011 introduced a (non-exhaustive) list of circumstances that need to be considered when determining if sexual harassment has occurred. These include the relationship between the person harassed and the person who engaged in the conduct, age, sex, gender identity, relationship status, race, ethnicity and religious belief of the person subject to the harassment (Australian Human Rights Commission, 2014). Whether or not a 'reasonable' person would anticipate the possibility that their action would be unwelcome is

breastfeeding. It also protects workers with family responsibilities and makes sexual harassment against the law.'

considered an objective question and the above list was introduced to ensure that all relevant circumstances are taken into account when determining the objective element of the definition of sexual harassment (Australian Human Rights Commission, 2014, pp. 11-13). In summary sexual harassment is defined under The Act has three elements. It is unwelcome, it is of a sexual nature and is an action that a 'reasonable person' aware of the circumstances would anticipate the possibility that the person subject to the conduct would feel offended, humiliated or intimidated (Australian Human Rights Commission, 2014, p. 7). Case scenarios and examples of what these behaviours 'look like' can be found in the AHRC 2017 *Change the Course* report which includes examples based on submissions made by individuals and organisations [See for example chapters 3, 5 and 6.](#)

The Australian Human Rights 2014 document [Ending workplace sexual harassment: A resource for small, medium and large employers](#) also provides useful case scenarios demonstrating different types of sexual harassment, the legal and other outcomes of these scenarios as well as how aspects of the legislation such as the concept of the 'the reasonable person' are determined

The relationship between sexual harassment and sex discrimination

While sexual harassment in its own right is against the law, it is also recognized as a form of sex discrimination against women. This is because women are harassed in significantly greater numbers than men. Indeed harassment that does not meet the definition of sexual harassment may still be considered sex based harassment if the person is treated less favorably because of their sex (Australian Human Rights Commission, 2014). Case scenarios, and case law exemplars can be found in the Australian Human Rights 2014 document [Ending workplace sexual harassment: A resource for small, medium and large employers.](#)

The relationship between sexual harassment, sexual assault, and sexual violence

One perhaps simplistic, way of differentiating sexual assault and sexual harassment is that in legal terms the former is a criminal offence while the latter is (or is typically prosecuted as) a civil offence. As indicated above however some forms of sexual harassment such as indecent exposure are also criminal offences. Some organisations such as the National Sexual Assault, Family and Domestic Violence Counselling Line (2018) use the term sexual violence to encompass both sexual assault and sexual harassment. Feminist scholars Cook, [Cortina and Koss](#) (2018) discuss the nuanced differences and relationships between sexual assault and sexual harassment in a recent piece published online in the Conversation

Change the Course report

The Australian Human Rights Commission (AHRC), at the request of Universities Australia, produced the National report on sexual assault and sexual harassment at Australian Universities (2017). Universities Australia providing funding for the National Survey and submissions process while Hunting Ground Australia, provided initial seed funding for the National Survey (AHRC 2017). The data reported on was gathered via an online survey conducted in the second half of 2016, which was distributed to a stratified sample of 319,252 students and had a response rate of 9.7% (30,930 students). The survey was designed to elicit data about the nature, prevalence and consequences of sexual abuse and sexual harassment in university settings as well as about the effectiveness of university responses and policies. Questions asked included where the abuse had occurred, characteristics of the victim and of the perpetrator, whether a report was made about the incident, and the satisfaction with the response of the institution. Additional qualitative information in the form of submissions was received by the Commission from 1,846 individuals and three organisations (Australian Human Rights Commission, 2017b).

Overview of key findings

A fifth of (21%) of students who responded to the survey had been sexually harassed in a university setting during 2016. Women were twice as likely as men were to have experienced sexual harassment (32% compared to 17%³). However, transgender and gender diverse students were significantly more likely (45%) than either women or men to have been sexually harassed. Similarly students identifying as bisexual were significantly more likely to have experienced sexual harassment (44%)) compared to those identified as heterosexual (23%), as were those who identified as gay, lesbian, homosexual (38%).⁴ The majority of (71%) of harassers were male and just under half (45%) of participants reported that they knew some or all of those responsible for the harassment.⁵ Where the participant was an undergraduate student the harasser was typically (68%) another student (or students) from their university. An important point to note is that this trend of peer based harassment did not extend to post graduate students where the student's supervisor who were most likely to be the offender.⁶

Overall, the broad trends found in this research correspond to many of those from the telephone survey on work based sexual harassment conducted in 2012 by the Australian Human Rights Commission which also found that one fifth (21%) of employees had experienced sexual

³ In the methodology section of the report it suggests treating the numbers of male victims with caution as the researchers found some evidence of response bias. They explain that this means that men who disclosed sexual harassment in the survey came from universities with high rates of sexual harassment – based on analysis of the survey. They state that there was no response bias for women who reported experiences of sexual harassment.

⁴ Other student categories recorded were CALD background, ATSI, students with disabilities and international students. The report authors suggest that due to very small numbers of ATSI students and students with disabilities participating that the findings of this survey are not reliable enough to be generalised beyond the survey. International students were found to be slightly less likely to be harassed than domestic students as were CALD students. CALD status was ascertained by language spoken at home which while fairly standard does potentially exclude members of this category.

⁵ This still means that almost 30% of harassers are female. While the report authors do not discuss or analyse this finding, it is significantly more than for sexual assault, both as recorded in this survey and in other studies which would suggest that it does warrant attention. Similarly the percentage that did not know the person who harassed them was higher than with sexual assault.

⁶ However it is important to note that a significant number of participants (whether undergraduate or postgraduate) elected not to identify the category to which the harasser belonged.

harassment; with women (25%) more likely than men (16%) to experience harassment. Similarly the majority of harassers were male (79%) and peer-to-peer harassment was the most commonly (52% by a co-worker) experienced form of sexual harassment (Australian Human Rights Commission, 2012).⁷

However, there were differences. While both reports note the low rates of reporting this was markedly lower in universities. A mere 6% of university students had made a formal report or complaint compared to 22% of women and 17% of men who had experienced sexual harassment in the workplaces.⁸ Indeed many students (60%) who took part in the survey reported that they had little or no knowledge on where to go or how to make a report of complaint about sexual harassment. Very few (only 6%) considered their university was doing enough to make available clear and accessible information on sexual harassment, policies, procedures and support services (Australian Human Rights Commission, 2012, 2017b).⁹

Recommendations

The *Change the Course* (2017) report made nine key recommendations, which broadly cover five areas. In November 2017 Kate Jenkins, the Australian Human Rights Commission Sex Discrimination Commissioner wrote to all 39 Australian Universities requesting an update on their respective progress on implementing the recommendations. All universities complied with

⁷ This comparison is limited of course by the different methodology (telephone versus online survey), time frame (harassment over the last 5 years compared to 1 to 2 years for the Change the Subject report) and institutional setting (work place versus higher education is different).

⁸ The most commonly cited reasons students gave for not making a report or complaint was they did not think it was serious enough to warrant doing so (68%) followed by 58% who said they did not consider that they needed assistance.

⁹ It is interesting to note that where employees had made a report or complain almost three quarters (74%), said they were satisfied with the outcome of the report. However, the report also does also state that almost a third (29%) of participants said that reporting had had a negative effect (demotion or victimization). No explanation is given that accounts for these two sets of figures.

this request (Australian Human Rights Commission, 2017a). The table below provides an outline of each recommendation together with a synopsis of overall progress to date.

Recommendation 1.	Vice chancellors take direct responsibility for implementing recommendations assisted by an advisory body that will assess and publically report on universities progress.
Response	Most (32/39) have established or are committed to establishing an advisory body or working group.
Recommendation 2.	Provide education programmes that target students and staff at all levels of the institution.
Response	All universities reported implementing or a commitment to implementing training and education to some or all of their students.
Recommendation 3.	Ensure that staff and students are aware of the avenues for making reports of sexual harassment and those internal and external avenues for making reports and/or seeking support is displayed clearly and logically on websites and is accessible to all students and staff.
Response	All universities reported that they had taken steps to increase the visibility of their support services.
Recommendation 4.	Each university to commission an independent review of existing policies and pathways in relation to sexual assault and harassment

Response	Approximately 2/3 (23/39) had either implemented or said they were committed to implementing a review (does not say if this will be independent).
Recommendation 5.	Conduct an audit of staff and students most likely to receive a disclosure and ensure they are given appropriate training.
Response	Most (36/39) reported that they had identified staff and student representatives most likely to receive disclosures and had either ensured they received appropriate training or were in the process of doing so.
Recommendation 6.	Information about disclosures and reports should be collected and stored confidentially so it used for continuous improvement.
Response	Approximately 2/3(23/39) reported they were working to improve collection and confidential storage of information about disclosures and reports of sexual assault and harassment.
Recommendation 7.	Within 6 months of the report, universities were required to conduct an audit of counselling services to determine if additional services are needed to meet the needs of students. If they do, these need to be provided as soon as possible.
Response	Less than half (16/39) reported that they were planning to conduct an audit of university counselling services
Recommendation 8.	Engage an independent body to repeat the survey at 3 yearly intervals

Response	All universities (through their peak body Universities Australia) had committed to conducting the national survey every 3 years.
Recommendation 9.	University colleges and residences to engage an independent review of factors that lead to sexual harassment and sexual abuse in these settings.
Response	A minority (9/39) of universities had taken any steps to review factors that lead to sexual abuse and harassment in colleges and residences.

Summary

In summary all Australian universities had committed to repeating the survey at three yearly intervals (Rec. 8) and most had committed to establishing an advisory body (Rec. 1¹⁰) and had identified and committed to providing training to staff and students representatives most likely to receive disclosures of sexual abuse or sexual harassment (Rec. 5). The responses to the remaining seven recommendations are of concern as they indicate only partial or selective uptake of commitment to the recommendations. For example, the audit highlights that all universities reported implementing or a commitment to implanting training and education for students (Rec. 2). However, the other half of this recommendation, which is that this training and education be provided to staff, has a much lower rate of commitment to or implementation. Similarly, while all universities reported taking steps to improve the visibility of their *support* services this neglects the other part of this recommendation (Rec. 3), which focuses on *reporting* processes. Specifically the report recommends both staff and students be aware of internal and

¹⁰ It is of concern that there are any universities that have decided not to appoint an advisory body given that this is the body charged with evaluating and making their respective institution’s progress on the recommendations publicly available.

external reporting avenues and that this information be displayed on websites in a logical and accessible manner. In addition, less than half had or were intending to conduct an audit of their counselling services to ascertain if they required additional resourcing (Rec. 7). One third indicated that they did not intend to review their existing policies and processes in relation to sexual harassment and assault (Rec. 4) or improve their collection of information about disclosures of sexual assault and harassment (Rec. 6).¹¹ Finally, less than a quarter had taken any steps in relation to their colleges and residences (Rec.9).¹²

Processes for making a report or complaint about sexual harassment

The legal context

The Federal Sex Discrimination Act (1984) does not proscribe specific mechanisms employers need to use to address sexual harassment. However, it does make clear that employers can be liable if they are found to have known, sexual harassment was occurring and did not act or if they have not implemented policies and processes (Australian Human Rights Commission, 2014).¹³ In addition, the Australian Human Rights Commission provides quite detailed advice on what it considers adequate processes [for employers](#).

¹¹ Typical responses involved providing training to staff identified as likely to be 'first respondents', courses on consent for students and involving of local sexual assault services to train university staff. Some universities had employed external consultants to review their policies and/or appointed specific staff to be the point of contact for this issue of sexual assault and harassment. A notable trend was the incorporation of resources and responses to sexual assault and harassment into vaguely defined existing categories and responses such as 'critical incidents', 'emergencies and disasters', 'well being and safety' and 'responding to students in distress'. This is problematic on a number of levels. At a practical level it is quite difficult to find information unless you understand the 'mindset' of the particular university. An added complication is when different categories are used for students as opposed to staff. For example, at the University of Sydney staff members need to go to 'Supporting students in distress', <https://intranet.sydney.edu.au/services/student-support/students-in-distress.html> whereas students need to look under 'Health, well-being and success' <https://sydney.edu.au/campus-life/health-wellbeing-success.html>.

¹² The Australian organisation End Rape on Campus has recently released a research report *The red zone* (2018) which focuses specifically on the ongoing problems of sexual violence in Australian university residential colleges.

¹³ This document has been cited as the issue did not appear to be addressed in the *Change the Course* report. Where the complainant is a student would the university need to demonstrate duty of care? (i.e. a fiduciary relationship in place of employer type responsibility)

As well as the federal legislation all states and territories have anti-discrimination laws that prohibit sex discrimination, which are administered by equal opportunity or anti-discrimination bodies.¹⁴ Employer obligations set out in state based occupational health and safety legislation can also have relevance in cases of sexual harassment.

University reporting and complaints procedures

Based on the research thus far it is probably not unreasonable to conclude that if a student (though not necessarily staff member) wanted to make a report about sexual harassment that they would probably be able to find an online form to complete. Here they would also find information such as whether they can report anonymously, how they will be contacted once the form is received and university obligations if the harassment constitutes criminal behaviour. Beyond this there appears variability, both in the processes that have been implemented and most importantly the ease (if at all) with which these can be found. Some universities for example have appointed a person with a specific title to be the first point of contact and source of information¹⁵. To date Victoria University,¹⁵ the University of Southern Queensland and the University of Western Australia stand out as having produced clear, logical and easy to locate information about sexual harassment, including policies and/or procedures. The University of New South Wales has also produced a useful FAQ document.

The University of Sydney has implemented a centralised case management approach about which it does provide considerable web based information – once it is located. Unfortunately, it does not include details such as the purpose of the complaints process. For example, is it a conciliatory process such as that undertaken by the AHRC or is it an investigative process such as is undertaken in the USA by their Department of Education’s Office for Civil Rights under their Title IX legislation (National Women’s Law Centre 2018) or is it an internal disciplinary procedure?

¹⁴ I have focused on the federal legislation as this appears most relevant for universities.

¹⁵ Victoria University <https://www.vu.edu.au/about-vu/facilities-services/safer-community/concerning-threatening-or-inappropriate-behaviour/sexual-assault-harassment>

Does the complainant have any input into the outcomes of the complaint? What process is in place if they are unhappy with how the complaint is being handled? Are they able to have someone advocate on their behalf or lodge the complaint for them? Indeed, I have yet to find out this information about any university. It is vital that the person making the complaint have access to this type of information *before* rather than after they do so. Equally important is that this type of information be available and easily accessible to those who are undecided about making a complaint. This does not need to be unduly lengthy or burdensome to read but it does need to be available. For example, there is an excellent example of a sexual assault booklet produced by the Education Centre Against Violence (ECAV) that provides a plain English explanation of criminal proceedings from police report through to end of court proceedings in three pages. [Please see pages 16 to 19](#)

A similar type of booklet may be able to be produced on the issue of sexual harassment and discrimination in Australian Universities. Perhaps AWGSA (or another suitable organisation) could approach Universities Australia for funding to produce such a resource. It would be an excellent project for students professionally orientated degrees, for example social welfare, social work, law, graphic design to be involved as part of their practicum or internship.

External complaints processes

1. The Australian Human Rights Commission

Complaints made to the Australian Human Rights Commission need to be in writing. They can be lodged on behalf of another person as long as that person completes and Authority to Act form. The Commission does not have authority to determine whether or not sexual harassment has occurred (it is not a court) but rather through a conciliation process works to assist the complainant and the respondent (the individual or organization against whom the complaint has been made) to come to a resolution. Conciliation may take the form of a face-to-face meeting, via telephone or through emails and written exchanges. In situations where a resolution cannot be reached the complaint will be terminated by the Commission. While details of the complaint are provided to the respondent prior to conciliation details of proceedings are not be provided if further legal action is taken in relation to the complaint. This is because conciliation is a confidential process (Australian Human Rights Commission, 2014). Additional, clear and concise information about the complaints process can be found here.

<https://www.humanrights.gov.au/complaints/complaint-guides/complaint-process>

2. Civil legal proceedings

Sexual harassment matters can be heard by to the Federal Court of Australia or the Federal Circuit Court of Australia. If, based on the balance of probabilities, the claim is proved the Court can make a range of orders form no further action through to payment of damages or another form of redress(Australian Human Rights Commission, 2014, p. 17).

3. State based Education Ombudsman

Information on the website of the state Education Ombudsmen make it clear that they do not consider themselves the appropriate body (at least initially) to handle complaints of sexual harassment. For example see the NSW Ombudsman's website:

<https://www.ombo.nsw.gov.au/what-we-do/our-work/universities>

This information is repeated in some University policies. For example, Victoria Universities complaints resolution process states that the Victorian Ombudsman will encourage the complainant to use the universities complaints processes first. See link:

<https://www.vu.edu.au/current-students/campus-life/advice-support/student-matters/complaint-resolution>

4. Criminal legal proceedings

As discussed some forms of sexual harassment constitute an indecent assault which is a form of sexual assault and therefore can be prosecuted as a criminal offence.

Feminist best practice on complaints procedures in relation to sexual harassment and discrimination

Over the last twelve months, we have witnessed a ground swell of grass roots feminist activism against sexual harassment and sexual violence. Perhaps best epitomised by the *#Me Too* movement women are adeptly using social media platforms to speak out about their experiences, to expose the often high profile and serial, offenders and to demand structural changes to the culture and institutions that enable gendered abuse to continue. Indeed the Australian Human Rights Commission research into sexual abuse and sexual harassment in Australian universities prompted in part by the *Hunting Ground Project* a project initiated by feminist activists working to highlight the problem of sexual violence in universities (AHRC 2017).

AWGSA, as Australia's peak body for feminist academics applauds, and supports and indeed has members involved in such activism. However, we also believe that it is equally important that feminists work from within to change institutions, including the higher education system. Specifically, through undertaking this project we aim to ensure that reporting and complaints processes in Australian universities are both informed by feminist best practice.

Current feminist scholarship on sexual violence appears engaged primarily in what has been referred to as the 'perils' of institutionalisation (Beres, Crow, & Gottell, 2009). While there are a number of strands to this position, a dominant theme is that feminism has been co-opted into the neo-liberal agenda of the state (see for example Bumiller, 2008; Maier, 2008). A particular concern is an overreliance on legal solutions and the entry of feminist organisations into collaborative relationships state institutions such as police, medical, health and legal systems (see for example Campbell, Baker, & Mazurek, 1998; Corrigan, 2013a; Corrigan, 2013b; Whalley & Hackett, 2017).

Consequently, to establish feminist best practice for processes that do require working with state and other institutions we have drawn on literature produced by Australian feminist organisations who have a long history and therefore are a source of considerable knowledge about supporting

and advocating for victims/survivors who pursue police and legal action. The following is taken from three key documents. The National Standards for Australian Sexual Assault services,(NASASV, 2015), the information booklet Recovering From Adult Sexual Assault. Navigating the Journey produced by the NSW Education Centre Against Violence (ECAV) and a publication on best practice in trauma informed care produced by Australia's National Research Organisation on Women's safety (Quadara, 2015).

Using a feminist framework means understanding that sexual violence (which includes sexual harassment and discrimination) as arising from and reinforcing about gendered power inequalities. A number of key principles flow from this analysis. Firstly, responsibility lies with the offender not the victim. Secondly given that sexual violence is an abuse of power it is imperative this dynamic not be replicated during the reporting and legal process. Rather the processes interpersonal communications need to be designed to restore the loss of power and control experienced through sexual violence. For example, implementing the principle of informed consent is an important way of restoring a sense of power over decision making.

Thirdly any processes and procedures (whether medical, legal processes or simply organisational intake procedures) must prioritise the safety (physical, emotional and psychological) of the victim/survivor over any organisational or administrative requirements. Combining trauma informed approach with a feminist analysis of sexual violence is used in all three documents to underscore the importance of taking a women or client centred approach. This is used to underscore, for example, of not retraumatising the victim/survivor by replicating the power dynamics that lay at the heart of experiences of sexual violence. Finally to be effective the principles that flow from a feminist analysis and trauma informed approach need to be implemented at an organisational level. It is not simply enough to ensure that relevant individuals are provided with training.

References

- Australian Human Rights Commission (2018) Sex discrimination- international activities. Accessed 9.5.18
<https://www.humanrights.gov.au/our-work/sex-discrimination/sex-discrimination-international-activities>
- Australian Human Rights Commission (2018) Sexual harassment in education. Accessed 10.3.18
<https://www.humanrights.gov.au/sexual-harassment-education>
- Australian Human Rights Commission (2018) Sexual harassment- information for employers . Accessed 10.3.18
<https://www.humanrights.gov.au/sexual-harassment-information-employers>
- Australian Human Rights Commission. (2012). *Working without fear: Results of the 2012 sexual harassment national telephone survey*. Retrieved from
<https://www.humanrights.gov.au/working-without-fear-results-sexual-harassment-national-telephone-survey-2012>
- Australian Human Rights Commission. (2014). *Ending workplace sexual harassment: A resource for small, medium and large employers* Retrieved from <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/ending-workplace-sexual-harassment-resource-small-medium>
- Australian Human Rights Commission. (2017a). Audit of university responses to the Change the course report. Snapshot of progress. <https://www.humanrights.gov.au/news/media-releases/report-card-australian-universities-response-change-course-report>
- Australian Human Rights Commission. (2017b). *Change the course: National report on sexual assault and sexual harassment at Australian universities*. Retrieved from
<https://www.humanrights.gov.au/our-work/sex-discrimination/publications/change-course-national-report-sexual-assault-and-sexual>
- Beres, M. A., Crow, B., & Gottell, L. (2009). The perils of Institutionalization in neoliberal times: Results of a national survey on Canadian sexual assault and rape crisis centres *Canadian Journal of Sociology*, 34(1), 135-163.
- Bumiller, K. (2008). *In an Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence*. Durham: Duke University Press.
- Campbell, R., Baker, C. K., & Mazurek, T. L. (1998). Remaining radical? organizational predictors of rape crisis centers' social change initiatives. *American Journal of Community Psychology*, 26(3), 457.
- Corrigan, R. (2013a). The New Trial by Ordeal: Rape Kits and Police Practices. *Law & Social Inquiry*, 24(4), 920-949.
- Corrigan, R. (2013b). *Up Against a Wall: Rape Law Reform and the Failure of Success*: NYU Press.

- ECAV. (2013). Recovering From Adult Sexual Assault. Navigating the Journey Sydney Education Centre Against Violence
- EROC (2018) The red zone report. An investigation to sexual violence and hazing in Australian university residential colleges. End Rape on campus
- Jones, T., Smith, E., Dixon, R. W. J., Hillier, L., & Mitchell, A. (2016). School experiences of transgender and gender diverse students in Australia. *Sex Education, 16*(2), , 156–171.
- Maier, S. L. (2008). Are Rape Crisis Centers Feminist Organizations? *Feminist Criminology, 3*(2), 82-100. doi:10.1177/1557085107310623
- NASASV. (2015). Standards of Practice Manual for Services Against Sexual Violence: National Association of Services Against Sexual Violence
- National Organization for Women (2017) Take Action. Title IX tool kit. Accessed 9.5.18
<https://now.org/wp-content/uploads/2017/12/Title-IX-Toolkit-2.pdf>
- National Sexual Assault, Family & Domestic Violence Counselling Line (2018) What forms can sexual violence take? accessed 22.9.18 <https://www.1800respect.org.au/violence-and-abuse/sexual-assault-and-violence/about>.
- National Women’s Law Centre (2018) ‘How to File a Title IX Sexual Harassment or Assault Complaint with the U.S. Department of Education’. Accessed 14.4.18<https://nwlc.org/resources/how-to-file-a-title-ix-sexual-harassment-or-assault-complaint-with-the-u-s-department-of-education/>
- Quadara, A. (2015). Implementing trauma-informed systems of care in health settings : The WITH study. State of knowledge paper. Sydney Australia’s National Research Organisation for Women’s Safety Limited (ANROWS).
- Whalley, E., & Hackett, C. (2017). Carceral feminisms: the abolitionist project and undoing dominant feminisms, . *Contemporary Justice Review, 20*(4), 456-473.

Appendix 1. AWGSA response protocol

AWGSA adopts an explicitly feminist framework which means that sexual harassment and discrimination are understood as acts of gendered power and violence. While these acts are committed by individual offenders they are understood as arising from and reinforced by wide spread social and cultural processes and intuitions that produce, enable and maintain gendered power inequalities.

Based on this understanding the AWGSA protocol is underpinned by the following principles.

1. The complainant is not to blame. Responsibility lies with the offender.
2. Given that sexual harassment and discrimination is an abuse of power it is imperative this dynamic not be replicated during the reporting and legal process.
3. Related to this it is imperative that the safety and needs of the complainant take precedence over any administrative processes or organisational requirements.
4. Reporting and complaints processes need to be designed and implemented in a manner that accords the complainant as much control and input into decision making as possible.

Flowing from these four key principles are a number of specific requirements including:

- Clear messages are given that this is not the complainant's fault and that the person who committed the sexual harassment is responsible;
- The complainant needs to know that they can have an interpreter and/or support person with them;
- The advocate/support person needs to be able to liaise with relevant university staff if given permission by the complainant and that is what the complainant wishes;
- Be provided with information about who to contact if they are unhappy about any aspect of the complaints process;

- Be aware that they can request (or have someone request on their behalf) to deal with another staff member if they do not feel comfortable with the appointed person;
- Ensure the complainant has access to the information and support they need to be in a position to make an informed decision about whether they want to make a complaint or a report;
- Be provided with verbal and written information that explains the processes in clear and simple language
- Should be able to change their mind about whether to continue with the complaints process (the concept of evolving consent);
- Should not be penalised for doing so (i.e. arrangements for extensions on assignments etc. should not be dependent on involvement in a formal complaints procedure;
- Processes that require the complainant's involvement (such as meetings or interviews) need to happen at a pace they can manage;
- Any meetings need to take place in an environment in which the complainant feels comfortable rather than where happens to be convenient (or usual) for the staff member dealing with the case
- Be kept fully informed about how the case is proceeding and what is happening;
- Allocation of a key person who can assist the complainant navigate the often complex reporting and complaints processes. This is an important way to minimize the occurrence of systems abuse and retraumatisation.

In order for the above to occur at the interpersonal level there are a number of processes that need to be in place at the institutional level. These include:

- The complaints and reporting process needs be undertaken by staff with specific training in feminist analysis of sexual harassment and discrimination and feminist practices.

- Implementation of policies, procedures and training around informed consent.
- Adequate policies, procedures and training around privacy and confidentiality and the intersection of privacy, confidentiality and duty of care. This includes knowledge of and adherence to federal and state based privacy legislation. Adherence to this will ensure appropriate permission is gained before speaking with other agencies and organisation.
- Clear policy and statement about the institutions responsibility. While the offender is responsible at the individual level the institution can be held liable if they do not provide adequate protection from sexual harassment and discrimination. Universities do not seem to be making this explicit.

Adapted from the following documents

ECAV. (2013). Recovering From Adult Sexual Assault. Navigating the Journey Sydney Education Centre Against Violence

NASASV. (2015). Standards of Practice Manual for Services Against Sexual Violence: National Association of Services Against Sexual Violence

Quadara, A. (2015). Implementing trauma-informed systems of care in health settings : The WITH study. State of knowledge paper. Sydney Australia's National Research Organisation for Women's Safety Limited (ANROWS).

*In addition there are many USA Title IX resources that may be useful to consult, not so much for their content but for how they lay out information about Title IX and on how to make a report in an easy to follow format. Two examples are included:

National Organization for Women (2017) Take Action. Title IX tool kit. Accessed 9.5.18

<https://now.org/wp-content/uploads/2017/12/Title-IX-Toolkit-2.pdf>

National Women's Law Centre (2018) 'How to File a Title IX Sexual Harassment or Assault Complaint with the U.S. Department of Education'. Accessed 14.4.18 <https://nwc.org/resources/how-to-file-a-title-ix-sexual-harassment-or-assault-complaint-with-the-u-s-department-of-education/>