National Tertiary Education Union

Submission

to

National Inquiry into Sexual Harassment in the Workplace

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Introduction

The National Tertiary Education Union (NTEU) represents the industrial and professional interests of some 28,000 staff working in higher education and research. We welcome the opportunity to make a submission to the Australian Human Rights Commission's (AHRC) national inquiry into sexual harassment in Australian workplaces.

The NTEU notes that the rates of sexual harassment reported in the AHRC's fourth national survey on sexual harassment in Australian workplaces appear to have increased significantly when compared to the findings of the AHRC's previous sexual harassment survey in 2012. We also note the 2017 report by the AHRC on sexual harassment and assault reported by university students (*Change The Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities (2017))* which found "… *that sexual assault and sexual harassment are occurring to varying degrees across most areas of university life*".[1]

The NTEU has long argued that sexism, sexual harassment and assault, gender based discrimination and gendered violence, have had a persistent, although largely undeclared, presence on university campuses throughout the country. Until recently, there had been a reluctance by university managements to acknowledge the issue of sexual harassment and assault on campuses, and serious complaints were seen as being in the jurisdiction of law enforcement.

However, the public campaign to shine a light on sexism, sexual harassment and assault that has been led by activists, students, trade unions, community groups and the feminist movement more broadly, has helped to focus attention on the prevalence of these issues on university campuses, and universities were finally forced to act.

The NTEU supports the findings and recommendations of the *Change the Course Report*, but we have always had concerns that the research excluded university staff, who were working in the same environment as students, and could be exposed to the same risks – for example, in an NTEU survey in 2018 on student evaluations, a number of open responses indicated harassment by students based on gender, sexual orientation and/or appearance. While this focuses on a very distinct area, the fact that there are instances reported illustrates what we know to be a much more widespread problem – that universities are not immune to not only instances of sexual harassment and assault, but that everyday sexism is deeply imbedded in many aspects of the academy.

We have previously spoken with the AHRC on extending its investigation on sexual harassment and assault in universities to include staff, although this has not eventuated. While we understand that university staff may have been contacted for the AHRC's fourth national survey, the data has not been accessible other than at the macro 'education and training' level within the public report.

[1] Australian Human Rights Commission (2017). *Change the course: National report on sexual assault and sexual harassment at Australian universities*. [online] Australian Human Rights Commission, p.4. Available at: https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_2017_ChangeTheCourse_UniversityReport.pdf [Accessed 19 Feb. 2019].

Therefore, in order to explore the issues of sexism, sexual harassment and assault, gender based discrimination and gendered violence in the context of this inquiry, the NTEU undertook a national survey of its members in all universities. We have attached a preliminary report to this submission, but also will draw upon the survey's findings in relation to the following terms of reference:

Terms of Reference

The National Inquiry will review and report on:

- *a national survey of the prevalence, nature and reporting of sexual harassment in Australian workplaces, by sector*
- *online workplace-related sexual and sex-based harassment and the use of technology and social media to perpetrate workplace-related sexual and sex-based harassment*
- *the use of technology and social media to identify both alleged victims and perpetrators of workplace-related sexual harassment*
- *the drivers of workplace sexual harassment, including whether:*
    - *some individuals are more likely to experience sexual harassment due to particular characteristics including gender, age, sexual orientation, culturally or linguistically diverse background, Aboriginal and/or Torres Strait Islander status or disability*
    - *some workplace characteristics and practices are more likely to increase the risk of sexual harassment*
- *the current legal framework with respect to sexual harassment*
- *existing measures and good practice being undertaken by employers in preventing and responding to workplace sexual harassment, both domestically and internationally the impacts on individuals and business of sexual harassment, such as mental health, and the economic impacts such as workers compensation claims, employee turnover and absenteeism, and*
- *recommendations to address sexual harassment in Australian workplaces.*

Executive Summary and Recommendations

The NTEU notes that the focus of the AHRC's inquiry is to examine the systematic nature and prevalence of sexual harassment in Australian workplaces, to determine the drivers of this harassment and to propose measures to address sexual harassment in Australian workplaces.

We agree that there is an urgent need for the AHRC and government to address sexism and sexual harassment in the workplace. The NTEU's survey which received completed responses from 1,353 members found that just under one in five respondents had personally experienced sexual harassment in the workplace, with almost twice as many women (23.97%) as men (12.01%) reporting personal incidents. Alarmingly, just under 40% of all respondents (men and women) indicated that they were aware of others who had been sexually harassed in their workplaces.

When asked about experiences of sexual harassment in the last 12 months, again almost twice as many women than men responding positively - 118 women respondents (8.46% of all female respondents) and 34 men (4.42% of all male respondents) indicated that they had

experienced inappropriate physical contact and 105 (7.54%) women and 27 men (3.50%) reported being subjected to unwelcome sexual gestures, comments, jokes or being stared or leered at.

The NTEU's findings correlate with that of the AHRC's report *Everyone's business: Fourth national survey on sexual harassment in Australian workplaces,* and that clearly, sexism, sexual harassment and assault, gender based discrimination and bias is both widespread and prevalent. This is despite there being a raft of legislation, regulatory frameworks and workplace policies that are intended to prohibit this type of harassment and discrimination. Indeed, universities have a plethora of policy and process around harassment and discrimination – yet both staff and students continue to report sexism, sexual harassment and even assaults. Clearly, the current approaches are not effective.

The strong view of the NTEU is that the problem lies in the fact that our current laws focus almost completely upon the individual, rather than the employer. The Sex Discrimination Act 1984 (SDA) establishes a complaints process that relies upon the individual reporting and pursing a claim of harassment; it does nothing to address systematic sexism or harassment, nor does it require the employer to provide a safe workplace free from harassment and discrimination. There is no regulation for enforcement or compliance by employers, and the SDA essentially treats the harassment as an isolated matter between individuals – it is not seen as a workplace issue. While there are provisions in the Fair Work Act 2009 that are related to bullying, sexual harassment is not specifically addressed. Similarly, other legislation instruments that deal with discrimination do not cover sexual harassment either.

There are also considerable disincentives should an individual attempt to pursue a claim of sexual harassment. The costs can be considerable – financially, emotionally and professionally – with no guarantee of a satisfactory outcome. Research has shown, and was echoed in the survey undertaken by the NTEU, that many victims do not pursue a complaint, be it through their employer or externally, as they have little faith in the process and fear reprisal. Of those respondents to the NTEU survey which said they had experienced sexual harassment but had not reported it, just under 38% said they did not trust the complaints process, with around 36% stating that they thought a complaint may impact negatively on their careers. Alarmingly, just over 18% said they thought they might lose their jobs if they did complain.

One female respondent to the NTEU survey stated:

> *"Senior management do not call out each other on sexist behaviour, if they turn a blind eye why would I, at a much lower level, feel confident to say anything? My career would be harmed and my job less secure if I am seen as a troublemaker."*

Clearly, the current framework which requires the individual, who may have experienced intimidation and be undergoing emotional and psychological stress, to engage in a lengthy and complex complaints process as a means to remedy the situation (but only for that individual), does nothing to deal with the structural issues, and is in fact more likely to act as a disincentive for any action to be taken at all. Instead, we agree that an integrated approach, as put forward by the International Labour Organisation (ILO) and supported by the trade union movement (including the Australian Council of Trade Unions (ACTU)), is what is needed (see Section 1.1.2.1, Sexual violence and harassment in the ILO's *Report Ending violence and harassment against women and men in the world of work, October 2018*). To summarise, the

ILO convention is aimed at creating a new global standard to combat violence and harassment in the workplace. In June 2018, the International Labour Conference meeting in Geneva approved a resolution for a second discussion in 2019 with a view to adopting a Convention supplemented by a Recommendation.

It is the strong view of the NTEU that the ILO convention and recommendation would help to direct both state and employer responses to violence and harassment at work, including sexual harassment, through an integrated approach that recognises the relationships between anti-discrimination laws, labour laws, occupational safety and health laws, and other civil laws to provide essential protections for workers. It is envisioned that these approaches would complement the penalties under criminal provisions, which often focus solely on the most extreme forms of violence and harassment. We also believe that ILO convention could assist civil laws in strengthening measures aimed at prevention and monitoring, as well as remedies for a broader range of acts of violence and harassment. Finally, we hope that these changes would allow victims greater access to and participation in the justice process and improve outcomes.

While the draft ILO convention on sexual harassment provides us with an excellent starting base and noting that Australia should certainly be a signatory to it, the NTEU's position is that we also require stronger provisions around anti-discrimination, industrial and work, health and safety (WHS) laws, and improvements to gender equality. On that last point, it is worth reviewing the role and powers of the Workplace Gender Equality Agency (WGEA) with a view to strengthening these. While WGEA's education campaigns have been helpful, they should be able to regulate employer policies, not just educate.

The NTEU believes that the current definitions and mechanisms relating to sexism, sexual harassment and gender based discrimination need to be reviewed and contextualised (as has been done with family and partner violence) as an industrial as well as a social issue. As such, we fully support the recommendations made by the ACTU in its submission to this Inquiry, and highlight the following ACTU recommendations in particular:

1. ***Changes to the Fair Work Act and the Fair Work Commission***

- Sexual harassment and other forms of sex/gender based discrimination should be explicitly prohibited by the Fair Work Act and the Fair Work Commission should have significantly strengthened powers to deal with sexual harassment and sex/gender discrimination disputes, by conciliation or arbitration if necessary.
- Employees bringing a claim of sexual harassment and/or sex/gender discrimination should have a clear right of action in the Commission, based on the merits of the cases and not narrow legal technicalities.
- Unions and other interested parties should be able to bring cases to the Commission on behalf of groups of workers, not just an individual. Time limits should be as broad as possible, and former employees should be able to make a complaint of sexual harassment or sex/gender discrimination against a former employer or workplace.
- Remedies and penalties need to be effective and enforceable. They also need to be able to be enacted quickly (particularly if there is a concern over worker safety), and be less technical/legally complicated. Remedies could include directions to cease and

desist and compensation. Employers should also be able to be directed to take positive, proactive steps to prevent sexual harassment and discrimination.

- There should also be effective enforcement mechanisms that reflect unions' roles as employee representatives, and where it is demonstrated that sexual harassment is widespread in an organisation, there should be proactive orders that are as open as possible.
- There needs to be recognition within this regulatory framework of non-traditional employer-employee relationships (e.g. workers in the so called "gig economy", labour hire, intern and volunteer workers etc), so that claims of sexual harassment and/or gender/sex discrimination can still be actioned.
- We support the recommendation made by the ACTU and others for the establishment of a gender equality panel within the FWC, with union representatives to be included on the expert panel.

2. Changes to Work, Health and Safety Regulations and Codes of Practice.

- We strongly support sexual harassment and gender/sex discrimination being treated as a hazard in the Work, Health and Safety (WHS) Act. We note that currently 'health' in the WHS Act is defined as both physical and psychological health, and that a poorly designed or managed work environment, a traumatic event, workplace violence, fatigue, bullying or harassment and excessive or prolonged work pressures can increase the likelihood of workers experiencing a stress response. However, the WHS Act and Regulations do not explicitly address sexual harassment, sexual or gender based discrimination and sexism in the workplace.

- To this end, new OH&S regulations and codes of practice should be developed, in consultation with unions and experts (including those experienced on all forms of psychosocial hazards[2] in the workplace). We note that the current risk management process (under the Code of Practice: How to manage work health and safety risks) provides a basis from which to work, where hazards are identified and the risk is assessed. However there are a number of problematic areas that need to be reviewed:

    - A new WHS Regulation and Code must address the problematic definition of 'bullying' in workplace legislation as well as the WHS Act. It must also clarify the relationships between harassment, discrimination, violence and bullying in the workplace. This is particularly important for WHS guidance materials.
    - The definitions of what is a 'notifiable incident', 'serious injury or illness' and 'dangerous incident' need revision and redrafting to incorporate psychosocial hazards.
    - As with the recommendation for the FWA, unions should have the right to prosecute for breaches of WHS laws.

[2] Psychosocial hazards are defined as psychosocial risks that arise from poor work design, organisation and management, as well as a poor social context of work, and they may result in negative psychological, physical and social outcomes such as work-related stress, burnout or depression. The European Agency for Safety and Health at Work have listed psychological and sexual harassment and third party violence as examples of working conditions leading to psychosocial risks. (see https://osha.europa.eu/en/themes/psychosocial-risks-and-stress).

3. Changes to the Sex Discrimination Act1984 (SDA)

- The NTEU agrees with the ACTU and other unions that the SDA requires urgent revision, and should be significantly strengthened to enhance both the authority and resources of the Sex Discrimination Commissioner. In particular, the Commission should be able to conduct its own motion inquiries into high risk sectors (noting that tertiary education was listed as an industry area in the AHRC's recent forth national report with higher than average reporting of sexual harassment). The SDA changes should also allow for Courts to award exemplary and punitive damages for breaches of the SDA and extend the time limit for complaints of sexual harassment to be made.
- As with the FWA, the definition of sexual harassment, sex and/or gender based discrimination within the SDA must also be reviewed and broadened so as to include work linked to, arising out of and related to the workplace. In the NTEU survey, many respondents reported incidents of sexual harassment that occurred in social settings linked to the workplace (e.g. conference dinners), or in work environments outside the university but directly related (e.g. field excursions, conferences, external meetings).
- The NTEU strongly supports the establishment within the SDA of a requirement for employers to have a 'positive duty'.
- We also support consideration be given to the creation of a new gender equality act, with scope for involvement by both the Commission as well as the Workplace Gender Equality Agency (WGEA).

4. The Workplace Gender Equality Agency

- The employer reporting obligations to WGEA should be reviewed and the incidents of sexual harassment complaints, actions taken and outcomes, should be reported on. Notwithstanding issues around confidentiality, the macro data for each employer should be publically released.
- Other reporting obligations relating to the employer's policy and processes to deal with sexual harassment, gender and sex based discrimination and sexism in the workplace should be reviewed. This should include the employer reporting on the establishment and success of proactive policies designed to educate and support better awareness of sexual harassment, gender and sex based discrimination and sexism in the workplace.

5. ILO Convention on Violence and Harassment in the World of Work

- The NTEU supports the work of the international trade union movement in the discussions to establish the new ILO Convention on Violence and Harassment in the World of Work. We believe that the convention provides a strong foundation for further work by the international community, and that many of the principles of the Conventions should be adopted within our own legislative and regulatory frameworks. To that end, the NTEU supports calls for the Australian Government to become a signatory to the Convention.

6. Measures to support legislative reform and create commitment to gender equality

- The experience of the NTEU is that numerous other factors have a bearing on workplace cultures that allow sexual harassment and sex/gender discrimination to

grow and spread. These cannot be dealt with through legislative reforms alone, but instead must be tackled through political commitment, community education and improvements to gender equality.

- Factors such as insecure and under employment (which creates innate power inequities and inhibits reporting of incidents out of fear of losing one's job), low wage growth and the gender pay gap, under representation of women in leadership and senior positions, persistent career blockages and segregated workforces/feminised industries, can very often result in workplace cultures that see the devaluing of workers and sexism, sexual harassment, gender/sex discrimination and violence, become established.
- Therefore, the NTEU recommends that a whole of government approach be adopted in finding working solutions to sexism, sexual harassment, gender/sex discrimination and violence not only in the workplace but more broadly, with oversight by the Prime Minister's office and the Office of Women, and with reference to the Office of the Sex Discrimination Commissioner.

The ACTU and other unions have provided detailed analysis supporting these recommendations, and it is therefore not the intention of the NTEU to reiterate these well researched arguments in our submission. The NTEU will instead provide analysis relevant to the Terms of Reference in relation to university staff.

Addressing the Terms of Reference

1. *The prevalence, nature and reporting of sexual harassment in Australian workplaces, by sector*.

Defining sexual harassment

The NTEU's survey of members in all universities nationally defined sexual harassment as "*an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which, in those circumstances, a reasonable person would anticipate the possibility that the person would feel offended, humiliated or intimidated*". This definition was referenced as that used by the AHRC in its fourth national survey, and to ensure consistency, was adopted by the NTEU for use our survey.

However, we note that there is no internationally agreed definition of 'sexual harassment', although there is a general consensus on the kind of behaviour that is seen as sexual harassment and it's causes; that is, that sexual harassment is part of a continuum of attitudes and behaviours arising from sexism in the workplace, and that it does not reflect sexuality or desire but is instead a way to reinforce existing sexual or gender prejudices and entrench an idealised masculine status and identity. It intersects with gender inequity and discrimination more broadly, and instances of sexual harassment manifests on a continuum which goes from relatively minor instances through to extreme and even physical threats.

The AHRC gives examples of sexually harassing behaviour to include:

- unwelcome touching;
- staring or leering;
- suggestive comments or jokes;

- sexually explicit pictures or posters;
- unwanted invitations to go out on dates;
- requests for sex;
- intrusive questions about a person's private life or body;
- unnecessary familiarity, such as deliberately brushing up against a person;
- insults or taunts based on sex;
- sexually explicit physical contact; and
- sexually explicit emails or SMS text messages.

These behaviours were referred to by the NTEU's survey in order to ascertain levels of sexual harassment in the workplace. However, the Union also focused on the intersectional nature of harassment, discrimination and bias based on sex and gender, and how sexism plays a role in workplace cultures.

Sexual harassment in universities

We note in the AHRC's report on the fourth *National Enquiry into Sexual Harassment in Australian Workplaces 2018* that education and training (which combined preschool and school education, tertiary education and adult, community and other education) had a national prevalence rate of 39%, which was above the national rate of 33% (measured over a 5 year period). In the NTEU's survey of members working in universities this rate was closer 25% (so one in four NTEU respondents). While this appears to be less than the national average, caution should be taken in attributing this figure to universities overall, as it does not include non-NTEU members and may be an underestimation of the actual levels. This caution is further reinforced by the fact that, when asked if respondents knew of sexual harassment occurring in their workplace, 40% answered positively, which mirrors the findings of the AHRC's report.

Table 1 Respondents who have personally experienced sexual harassment in their workplace

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
yes	343	23.97	95	12.01	452	19.80
No	1073	74.98	87.10	68.9	1806	79.11
Prefer to not say	15	1.05	7	0.88	25	1.10
total	1431	100	791	100	2,283	100

Table 2 Respondents awareness of others who have been sexually harassed in your workplace

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
yes	549	38.42	279	35.27	850	37.25
No	866	60.60	505	63.84	1407	61.66
Prefer to not say	14	0.98	7	0.88	25	1.10
total	1429	100	791	100	2,282	100

One major point of difference is that the AHRC's report found that in education and training, men were more likely to experience higher rates of sexual harassment than women (an estimated 46% of men compared with 35% of women). However, the NTEU's survey found

that women respondents reported significantly higher rates of sexual harassment, with almost twice as many women (23.97%) as men (12.01%) indicating that they had personally experienced sexual harassment in their workplace. Most respondents to the NTEU's survey - both men and women - said that sexual harassment occurred occasionally or had been a single incident, but there were comments that indicated perpetrators would often go from one victim to the next in the workplace, or have multiple victims at the same time.

While the AHRC's report on the types of harassment did not go into industry groups, the NTEU's survey did ask respondents about forms of sexual harassment they experienced (drawing from the AHRC examples). For both men and women the most common form of sexual harassment was sexually suggestive comments or jokes that made the person feel offended (women 36.69%, men 22.83%). Many respondents gave examples of the kind of comments that they had received:

> (female respondent): "*My boss told me at an awards night, where I was receiving an award, that the event would have been better if I didn't have any clothes on."*
>
> (male respondent): *"Although I am straight there have been comments about me being "gay" for not thinking the same way as someone else."*
>
> (female respondent): "*Saying something to this effect: 'Don't worry about making your clients happy; make me happy."*
>
> (female respondent): *"Male co-workers complaining about the #MeToo movement and then laughing it off when I gave feedback that their comments were not appropriate*."

While some of these comments may be seen as inappropriate 'jokes', some respondents gave examples of sexually orientated comments that were purposefully designed to intimidate or undermine:

> (female respondent) "*One of the difficulties for me was in defining what was gender based or sexual harassment versus simply inappropriate behaviour. For example, in my performance management session (he) spoke at length about clitoral piercing which was clearly inappropriate and unrelated to the topic of my performance. But whilst this made me uncomfortable (which was possibly his intention) none of this was directly linked to me, it was a 'general' conversation about someone else. So I just ignored it and changed the topic but I'm sure it made me more uncertain and to lose confidence in the process. On another occasion he made sexually suggestive remarks (about us exchanging bodily fluids) directly to me and then I thought if I had been more direct on the first occasion perhaps this would not have happened.*"
>
> (female respondent): (Experienced) *"Rumours about a supposed pregnancy, with the implication that I wasn't serious about my academic career."*

For women, the next most common form was inappropriate staring or leering that made them feel intimidated (29.84%):

> (female respondent): "*I was in a work meeting attended by 3 other people. One was the manager, one a female co-worker and one a male co-worker. Throughout the meeting the male co-worker spent a lot of time staring at me, seemingly without*

embarrassment, and making a particular point of staring at my legs and breasts. It was humiliating and intimidating. Following the meeting the female co-worker spoke to me about it as she had noticed it too. She expressed serious concern about this man's behaviour. I did speak to my supervisor about it and another senior colleague. I decided that it was not going to be a positive step to report this person as the leaders in my workplace were notorious bullies and the culture was one of fear and intimidation. It was a workplace where people did not express concerns for fear of being targeted as a result of such communications. I feared I would be the one who was punished and that I would possibly lose my job if I complained. As I write this Trump has just publicly humiliated the woman who accused Kavanaugh of sexual assault-how ironic."

(female respondent): (Experienced) *"Staring, leering, following, loitering suggestively or threateningly but not sexual gestures, comments or jokes."*

Women also reported on intrusive questions about their private life or physical appearance (27.13%):

(female respondent): (received) "*Lewd comments about body parts i.e. breasts. This was intensely embarrassing at the time but I knew there was no point doing anything about it as it escalates the situation and I would then get a reputation and be looked at strangely making it ten times worse."*

(female respondent): *"Constant transphobic remarks; being told to "dress more conservatively" in respect to wearing a dress rather than more masculine clothing"*

Over a quarter of women also reported unwelcome touching, hugging, kissing or cornering (25.41%), while 16.17% experienced inappropriate physical contact. A number of comments reported incidents that were a threat to their personal safety and/or criminal actions:

(female respondent): "*Having my drink spiked by a colleague, who then bragged about it in the office."*

(female respondent): (Experienced) "*Upskirting, Being photographed / videoed, personal information being taken and shared."*

For men, the second most common forms were equally unwelcome touching, hugging, kissing or cornering and intrusive questions about their private life or physical appearance (13.52%). Just under one in ten (9.34%) reported inappropriate contact and slightly fewer experienced intimidating staring or leering (8.05%).

(male respondent): "*A student made 'accidental' contact with her breasts a number of times by leaning in while I was explaining something to her on the computer. I was unsure that it was accidental simply because it happened a few times."*

(male respondent): "*My bum was pinched."*

Respondents in the NTEU survey were also asked if they had experienced sexual harassment in the last 12 months. Although smaller numbers, the ratios roughly reflected the survey's findings on sexual harassment overall, with proportionally almost twice as many women than men responding positively - 118 women respondents (8.46% of all female respondents) and 34 men (4.42% of all male respondents) indicated that they had experienced inappropriate

physical contact and 105 (7.54%) women and 27 men (3.50%) reported being subjected to unwelcome sexual gestures, comments, jokes or being stared or leered at.

Bystander Behaviour in the NTEU survey

Respondents were asked, if they had been the subject of sexual harassment in the workplace, whether that behaviour had been observed by someone else. A significant number (33.17%) indicated that this behaviour had been seen by another person/persons. However, when this question is looked at through the lens of gender there are remarkable differences between women and men respondents. While this may be a reflection on the nature of work spaces in universities, significantly more women (40.45%) indicated that the incident/s of sexual harassment they were subjected to were observed by others, compared to men (18.75%).

Table 3 Respondents who had an experience of sexual harassment been observed by others

Answer choices–	Responses–
Yes	33.17% 208
No	42.58% 267
Not sure	18.98% 119
Prefer not to say	5.26% 33
TOTAL	627

Table 4 Respondents who had an experience of sexual harassment been observed by others, by gender

	Yes	No	Not sure	Prefer not to say	Total
Male	18.75% 21	51.79% 58	21.43% 24	8.04% 9	26.29% 112
Female	40.45% 127	39.17% 123	16.24% 51	4.14% 13	73.71% 314
Total Respondents	148	181	75	22	426

Respondents were asked who the observer/s were, and again, there are some significant differences (see Table 5 below). More women than men reported the behaviour was observed by co-workers at the same, or higher level, and in front of students. Significantly less men completed this question, however, so may require further research.

Table 5 Respondents who had observed experience of sexual harassment

Response	Female	Male
Coworker more senior	39.56% 61	30.56% 11
Co-worker same or lower level	64.10% 100	52.78% 19
Student/s	13.36% 21	5.56% 2
Friend or Acquaintance	5.13%	2.78%

	8	1
Direct Manager or Supervisor	9.62% 15	11.11% 4
Senior Management	5.77% 9	0% 0
Human Resources	2.56% 4	0% 0
Stranger	1.92% 3	2.78% 1
Prefer not to say	6.41% 10	13.89% 5
Other	7.69% 12	22.22% 8
Total	243	51

Respondents were asked if they had observed another member of staff being sexually harassed. While just under 16% of staff answered positively (16.20% women respondents. 15.44% men respondents) another 10% of staff said they were not sure if what they had seen occur was sexual harassment. Just over 75% men, and 72% women, said they had not observed sexual harassment in the workplace – so roughly one quarter of respondents said they had observed, or may have seen something but were not sure if was sexual harassment, of another staff member.

The NTEU survey then asked what action the respondent took if they had answered that they had observed sexual harassment in the workplace. There were 249 respondents who answered this question, with the majority of both women and men offering emotional support to the victim following the behaviour and counselling them on possible courses of action. Very few said that they ignored the behaviour, but interestingly, men were more likely than women to speak to the harasser about the incident, while women were might likely to report it to the employer. Slightly more women than men said they would be inclined to intervene at the time to stop the behaviour.

Table 6 What bystander action was taken by respondents when sexual harassment was observed

	Attempted to directly intervene at the time to stop it–	Talked to the harasser about the incident	Reported the harassment to your employer	Talked to person you observed being targeted about the incident about possible solutions/ course of action–	Offered emotional support following the behaviour	Agree to declare that you witnessed the behaviour	Ignored the behaviour	Prefer not to say–	Other (please specify)	Total
Male	22.99% 20	21.84% 19	14.94% 13	50.57% 44	50.57% 44	32.18% 28	2.30% 2	9.20 % 8	20.69% 18 Responses	78.71 % 196
Female	25.93% 42	11.11% 18	17.90% 29	59.26% 96	59.88% 97	26.54% 43	2.47% 4	6.79 % 11	20.37% 33 Responses	149.8 0% 373
Total	62	37	42	140	141	71	6	19	51	249

Perpetrators in universities

The NTEU survey also asked about perpetrators of sexual harassment that had been committed in the last 12 months. As with the AHRC's findings, the most common offenders reported by women and men were co-workers (women 40.15%, men 33.11%). However, women reported the next most prevalent offenders as being non-supervisory management or senior staff (women 23.94%, compared to 15.23% for men), while men reported students (men 23.84%, compared to 15.96% for women).

When asked about the gender of the perpetrators of sexual harassment in the last 12 months, respondents reported that harassment by a person of opposite gender was the most usual, although there is a difference in the ratios. Just under half of men who responded (46.62%) said their harassment was by a woman but over a quarter (27.70%) reported harassment by a man, and 8.78% said it was by both men and women. For women, the portion of male perpetrators was much higher at over three quarters (78.23%), and very few reported harassment by a woman (4.81%) or by both a man and woman (4.05%).

2. *Online workplace-related sexual and sex-based harassment and the use of technology and social media to perpetrate workplace-related sexual and sex-based harassment*

While in the NTEU's survey there were less respondents who reported online harassment in the workplace than other forms, those who did said the most prevalent form were sexually explicit comments made in emails, texts, other messages or social media (women 6.57%, men 5.24%). Examples included:

> (female respondent) "*Sharing of information / images (not intimate) and offensive comments on social media*."
>
> (female respondent) "*Requests for me to send nudes, I did not comply."*
>
> (female respondent) "*Pictures of me derived from work renamed as other women and they renamed as me on line.*"
>
> (female respondent) "*Inappropriate images on email. Reported and no action taken or feedback given.*"
>
> (female respondent) "*The person who harassed me actually created an email account in the name of my (then) husband and started sending me suggestive emails. Luckily I knew that my (then) husband was not that type of person and did not respond to the emails in a way that would lead him on. I received about 4 - 5 emails. I did some background checks with IT to find out if we could trace the ip address. It turned out it was an employee within the University*."
>
> (male respondent) "*Brief harassment issue from a student, but I found my institution very supportive and helpful on the issue.*"

However, as seen in both this survey and other research undertaken by the NTEU, one area of considerable concern for members is the feedback received through, usually online, student

evaluation surveys conducted by universities. The results of these are often used by university managements to performance manage staff and in promotion applications, although their value as a mechanism to assess teaching quality is highly debatable and as such their use for this purpose has generally been opposed by the NTEU. Our concerns have more recently been further reinforced through growing evidence of these self-selecting and anonymous surveys being used to 'troll' and sexually harass staff members, with little interest by university managements in preventing or dealing with cases of abuse. Respondents to the NTEU survey gave numerous examples of incidents:

> (female respondent) "*Sexually explicit comments by UG students in (paper-based) teacher feedback surveys - all included in batches handed to me by the* [redacted] *University T&L team! I have worked for 4 Universities and* [redacted] *Uni students are easily the worst when it comes to this behaviour."*
>
> (female respondent) *"Anonymous student surveys and evaluations of teaching are mandatory in most university workplaces. Through such surveys I have received written comments of sexualised nature about my physical appearance. In other instances I have had abusive comments and lies reported that threaten my reputation and feeling of personal safety. I must also add that I have received such written comments on surveys despite receiving outstanding positive evaluations of my teaching with consistent scores of over 4 out 5 on all indicators. I write this report to indicate that some university practices expose staff to such abuses and are never acknowledged and no form of counselling or support is in place if staff receive such unwanted comments and harassment."*
>
> (female respondent) "*I received sexually suggestive comments from students on teaching evaluations (which are anonymous). They weren't threatening, so I was essentially told to laugh them off.*"

The NTEU has conducted considerable research into the impacts of student evaluation of teaching survey instruments and their negative impacts. The Union's most recent report, *Staff Experience of Student Evaluation of Teaching and Subjects/Units* found that, while comments regarding gender were frequent and ranged from observations about personal appearance and dress to direct misogynistic abuse (with remarks such as "bitch" or "femonazi"), and women were more likely than men to raise a formal complaint with management, universities were very reluctant to follow up on formal complaints, with data showing that only in 13.4% of cases where a formal complaint was raised did the university investigate.[3]

[3] National Tertiary Education Union *Staff experience of Student Evaluation of Teaching and Subjects/Units* June 2018 (pg 35) Source: https://www.nteu.org.au/library/view/id/9058 [Accessed 22.02.2019].

3. The drivers of workplace sexual harassment, including whether:

- **some individuals are more likely to experience sexual harassment due to particular characteristics including gender, age, sexual orientation, culturally or linguistically diverse background, Aboriginal and/or Torres Strait Islander status or disability**

The NTEU survey explored experiences of sexual harassment and sexism that intersected with attitudes towards characteristics such as age, gender, sexual orientation and ethnicity/culture. Both men and women who said they had been harassed in the last 12 months believed it was on the basis of gender, although the proportion of women was considerably higher (men 45.93%, women 68.57%). Male respondents cited sexual orientation as the next significant fact in their harassment (27.41%), followed by race or ethnicity (16.30%) – however, for women this was reversed, with race and ethnicity the next highest indicator (16.29%) followed by sexual orientation (12.57%). It's notable for male respondents that sexual orientation as a factor was proportionally higher and may indicate that this is also significant issue for men in the sector in particular.

Table 9 Basis for intersectional sexual harassment respondents reported in the last 12 months

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
Gender	240	68.57	62	45.93	317	62.40
Sexual Orientation	44	12.57	37	27.41	91	17.91
Gender Identity	12	3.43	5	3.70	30	5.91
Race or Ethnicity	57	16.29	22	16.30	87	17.13
Religion	13	3.71	11	8.15	27	5.31
Disability	9	2.57	5	3.70	16	3.15
Other	87	24.86	33	24.44	122	24.02

Under "other", age was clearly the most dominant factor impacting on sexism and sexual harassment, particularly for female respondents:

> (female respondent): "*Age "You're young, you're employable" while being told I was redundant.*"
>
> (female respondent): "*Age- being younger than those perpetrating the harassment and viewed as an easy target.*"
>
> (female respondent): "*When I was younger I was subjected to ongoing comments about my appearance by men including those who considered themselves to be good men. As I've aged this has stopped. However the overwork around teaching for me while men so often get sweetheart deals that involve them doing half of the grind that us women do, continues unabated.*"

But there were also comments by respondents that related to carer responsibilities (and age):

(female respondent): (Harassment is related to) "*Being a mother/having child-minding responsibilities.*"

(female respondent): (Harassment is related to) "*parental status.*"

(female respondent): "*The number of times I have been asked about my plans for retirement. I find this so insulting as during my working life I first endured discrimination because I was too young, and also because of female gender. I have encountered discrimination because I was a mother of young children and took maternity leave, and then as a carer for my father. Now I have to deal with ageism.*"

One comment noted that her harassment in the workplace was a manifestation of intimate partner violence perpetrated by her former partner, who was also in that workplace:

(female respondent): "*A former intimate relationship with the perpetrator (e.g. it was harassment and intimate partner violence at the same time).*"

The survey also asked respondents if they had concerns for their personal safety as a separate issue to sexual harassment, sexism or gender/sexual bias. This was because attacks on personal safety can be underpinned by a culture that has negative views on sex, gender, ethnicity, disability or any other form of obvious 'difference'. As noted above, it can also intersect with intimate partner or domestic violence, particularly when the perpetrator is working alongside their victim. A small but significant number of respondents indicated that they had been subjected to actions within the last 12 months that made them afraid for their personal safety. These actions (noted in Table 10) are towards the more extreme end of the sexual harassment spectrum, and become highly individualised, stalking events. Of these, proportionally the majority who were affected were overwhelmingly women – for example, just under 7% of all female respondents reported feeling as though they had been watched or followed (either in person or electronically) and/or had someone show up and wait for them, a much higher rate than reported by male respondents (at 3.3% and 1.2% respectively).

Table 10 Harassment that made the respondent fearful for their personal safety

Response	Female (+ total female respondents)		Male (+total male respondents)		total	
	number	percentage	number	percentage	number	percentage
Unwanted phone calls	69 (1301)	5.3	23 (714)	3.2	95 (2064)	4.6%
Sent personal emails, voice, text or instant messages	77 (1310)	5.8	30 (716)	4.1	118 (2076)	5.6%
Received posted messages, videos or images on social media	30 (1308)	2.2	13 (719)	1.8	44 (2076)	2.1%
Had someone show up or wait for you	89 (1313)	6.7	9 (718)	1.2	112 (2081)	5.3%
Felt you were being watched, followed, either in person or through the use of devices or software.	92 (1311)	6.9	24 (718)	3.3	120 (2077)	5.7%

Despite the differences, both men and women respondents identified similar sources for harassment that made them fearful for their safety – for both, the most common source was a co-worker (women 22.93%, men 20.73%). Women then cited a current or former student (19.89%), a stranger (14.66%) and a supervisor/manager (11.65%), while men responded with supervisor/manager at 17.07%, a stranger at 13.41% or a student (6.25%).

The comments reveal a significant difference in concerns over personal safety between male and female respondents – women were considerably more aware of the potential for personal harm and voiced these fears openly, while men did not make any comments regarding personal concerns for their own safety:

> (female respondent): (Experienced a) "*very aggressive student complaining about me to my colleague and then to my supervisor. The student was brought in to have their behaviour discussed and he stormed out. It worries me that I don't know if he's still a student on campus or not. I carry a small self-defense torch in case I'm accosted after dark when going to the car park."*
>
> (female respondent): *"A supervisor openly said the student was not a concern, however I was incredibly threatened and scared by them. The supervisor dismissed my feelings and made me feel stupid."*
>
> (female respondent): "*I witnessed a male student intimidate a female colleague (not sexual but I believe he would not have intimidated a male colleague) and I intervened by calling security. HR have rewarded the student's behaviour and let him have what he wanted with no consequence. HR have ignored the concerns of the other staff member and me. I no longer feel safe on campus knowing that students can treat staff badly and there are no consequences. This was recent and I am intending to attempt to follow it up. Otherwise I have to get in the classroom with that student possibly in my class."*
>
> (female respondent): "*Another incident was with a very tall male student who used his height to stare me down while coming into my personal space. He was not happy he didn't get the grade he wanted. I dealt with the incident there and there and told him to back off. He never came to class again after that though still handed in work. Anyway, a few years later I related the incident to a HOS who then covered her ears and said she didn't want to know anything about it since the young man in question was the son of a friend of hers who also worked in the same dept."*

Other women noted that they had cars scratched or property damaged following altercations with a student, or that students had contacted them in messages or via social media and left comments. These examples can also intersect with the previously noted issue of student evaluation of teaching, which is unique to the tertiary education sector. However, there are other characteristics of higher education workplaces that present increased risk of sexual harassment.

- **Some workplace characteristics and practices are more likely to increase the risk of sexual harassment.**

Universities are unique in that while the harassment would typically take place in the workplace on campus, there is events outside the workplace but associated with their working life (such as conferences or social gatherings) provided perpetrators with excellent opportunities for sexual harassment. Comments from respondents to the NTEU survey illustrate this well:

> (female respondent): "*When I was a postgraduate student and a tutor I attended a conference in* [redacted] *with other tutors/overseas postgraduate students. At the end of one day I returned to my hotel. About 30 minutes later an overseas male tutor asked to be let into my room. At first he quietly asked and then this escalated when I refused. He began thumping and kicking my door, demanding to be let in. He persisted for nearly 20 minutes, I was very young and scared and had not experienced this type of behaviour before. I stayed in my room and said nothing to the perpetrator. I rang my boyfriend who asked if I was over reacting. The next day the perpetrator carried on as if nothing had happened. I was completely unprepared and ill equipped to handle this harassment."*

> (female respondent): "*I experienced sexual harassment including physical contact at an international conference and had a great deal of trouble filing a complaint because of jurisdictional problems - I work for one uni, the harassment took place at a second uni and the respondent worked for a third.. Australian universities are generally consistent in their policies but US campuses have different procedures that don't even match each other, let alone our system. My experience is that travel for work has been the most dangerous environment because people are outside their 'normal' responsibilities and are often drinking. I'd like to see the University better regulate conference behaviour.*"

> (female respondent): "*The male professor told me that he hadn't had sex with his partner for 8 years, and that he's in a dysfunctional relationship. He tried to convince me to sleep and go out with him. This happened three times during our three work trips*."

The survey responses indicated that while universities may have in place policies and processes to deal with harassment that occurs in the workplace on campuses (noting that the effectiveness of these policies is another matter), what occurs off-campus (but still related to the workplace) is seemingly ignored. This is an ongoing and serious concern for the NTEU – while this impacts on staff more broadly, it's also a concern reported relatively frequently by post graduate students, who are often employed in vulnerable, insecure positions as research assistants or tutors and who may feel that they do not have the authority or power to confront their harassers. This becomes particularly problematic should the harasser be a supervisor for that student (noting too, that supervisory staff have also reported harassment by research students). One respondent to the NTEU survey stated why she never complained about her harassment:

> (female respondent) *(I) "feared future career repercussions i.e. I'm a phd candidate, the person I would be making the complaint about is relatively well liked, good enough reputation, part of the boys club, likes to be liked. Who knows what lies would have been spread about me. Seen it done to others in the past. I already*

lost friends and colleagues when I distanced myself from this person and they were friends. I also feared word getting round (i.e. negative comments about me) and thought that that might prevent me from getting other RA/casual work in future."

In recognition of this issue, the NTEU in 2018 worked with Universities Australia (UA), the Council of Australian Postgraduate Associations (CAPA), and the Australian Council of Graduate Research (ACGR) to establish principles to guide supervisor-postgraduate interactions (entitled *Principles for Respectful Supervisory Relationships, 2018*), but we consider this to only be a first step in what must be a longer process to address the broader problems of sexual harassment, sexism, gender and sex based bias, in universities. In short, while we can put in place the best workplace policies and practices, without a strong legal and regulatory framework that reinforces these at a higher level, it will be at best tokenistic.

One other factor which isn't unique to higher education but is a defining characteristic that impacts on sexual harassment is the precarious nature of employment in universities, where 1 in 4 staff are employed as either casual or contract staff. This is a major driving factor in a workplace culture where staff are afraid to report or even reject harassment. A number of respondents to the NTEU survey noted this in their comments, with one respondent saying it prevented her from making a formal complaint of harassment:

(female respondent): *"I did not go higher than the Head of Dept because I was on a short term contract at the time."*

The fear of job lose if an incident was reported was evidenced in the survey, where around 18% of respondents listed that as a reason for non reporting (and is explored further in section 5 of this submission). Noting the level of insecure employment in universities, it is not unreasonable to assume that many, if not most of these respondents will have been insecurely employed at the time of their incident of harassment.

4. the current legal framework with respect to sexual harassment

The NTEU adopts ACTU's submissions on the legal framework that is currently in place and supports the recommendations that have been proposed to better address the issue of sexual harassment in the workplace. In the NTEU's experience in representing members who have been the subject of sexual harassment, it is common for higher education institutions to, rather than have adequate processes in place to prevent the occurrence of sexual harassment, offer settlements payments in return for the parties entering into a non-disclosure agreements (NDAs). The effect of this is that, given that higher education institutions are well-resourced and therefore in a position to make such offer, it is rare for a sexual harassment complaint to escalate beyond the local level.

Employers offering settlement payments on the condition that the complainant enter into a NDA is by no means a strategy that is exclusively adopted by employers in the tertiary sector, as evidenced by the request made by the Australia Sex Discrimination Commissioner in November 2018 that employers issue a limited waiver of confidentiality obligations in NDAs in order to allow individuals to make confidential submissions to this inquiry. However, it reflects a culture within the universities that is highly legalistic and even aggressively defensive, with

institutions more concerned about reputational risk rather than in dealing with the actual issue of sexual harassment and discrimination and the cultures that underpin these in the workplace.

This protectionist culture is evidenced through the highly disappointing, but not surprising, low level of response by universities to the request by the Commission to issue limited waivers on NDAs. Based on the information available to the NTEU, the limited waiver has only been issued by the following institutions within the higher education sector:

- Australian National University;
- Federation University Australia;
- NSW TAFE (NSW Public Sector);
- University of Newcastle; and
- University of Sunshine Coast

The NTEU commends the abovementioned institutions for their response to the request of the Australian Sexual Discrimination Commissioner, leaving aside that it is for a limited waiver and thus statements are confidential (and the reputational risk to the institutions is low). However, we view the failure of the overwhelming majority of institutions in the tertiary sector to take such a step as being indicative of a culture that lacks transparency and accountability in relation to sexual harassment complaints. It is therefore not surprising that the processes to address sexual harassment and discrimination are largely ineffectual and distrusted by staff, evidence of which was revealed in the NTEU's survey.

5. **existing measures and good practice being undertaken by employers in preventing and responding to workplace sexual harassment, both domestically and internationally the impacts on individuals and business of sexual harassment, such as mental health, and the economic impacts such as workers compensation claims, employee turnover and absenteeism.**

Universities have a plethora of policy and process relating to 'respectful relationships', education around sexual harassment and complaints processes. Much of this was reviewed and amended following the release of the AHRC *Change the Course* report on sexual assault and sexual harassment of university students, with all universities committing to the adopting the recommendations of the report in principle. The AHRC's report on progress towards these principles can be found at https://www.humanrights.gov.au/audit-2018.

However, a separate internal audit by the NTEU in 2018 found significant differences between what many institutions were reporting publically and what staff and students were observing on the ground in those institutions. Online modules around consent training for students were widespread, but the effectiveness of these as education tools was questionable. Internal communication with staff was often lacking, and aside from the public release of the report findings, further internal reporting was virtually non-existent. This is despite the fact that for the overwhelming majority of universities, existing staff have been asked, or required, to take on new/additional roles – either as first responders, support staff or on working parties or committees that deal with sexual misconduct. One institution did claim to employ new staff where in reality replacing staff made redundant in the 12 months prior, and a decreased level of servicing than what had previously been available. We also found that many universities

outsourced first responder/support programs with varying degrees of effectiveness – while some service providers did appear to have specialised staff and programs, others were clearly not fit for purpose, and it was reported that one student union had taken the extreme steps of refusing to refer students to one external service provided appointed by the institution due to the poor quality of care and advice. The NTEU continues to monitor the roll out of university responses to the recommendations of the *Change the Course* report, but we have a number of ongoing and not yet addressed concerns as to the effectiveness of the responses by both individual institutions and the sector more generally.

It's also important to note that the response of the universities to the *Change the Course* report and recommendations has been entirely focused on students, and that policies and processes for staff impacted by sexual harassment, sexism, gender and sexual bias have remained unchanged in many institutions. The NTEU's survey asked respondents if they were aware of current policies around sexual harassment and reporting and how effective these existing processes are in addressing complaints of harassment.

The overwhelming majority of respondents (91.7% men and 88.38% women) said they were aware of or had some familiarity with their institution's policy and complaints processes around sexual harassment. Just over 66% of respondents said they have never had an incident regarding sexual harassment or personal safety in the workplace, although less women (61.5%) than men (76.6%) stated this. Of those who had, however, very few stated that they made a formal complaint, at only 3.25% of men and 5.64% of women respondents. What can be taken from this is that staff are very well educated on university processes and policy, but there is a massive reluctance to formally report instances.

Interestingly, the numbers who make an informal report are also low, although there is a considerable difference between male and female respondents – only slightly more men (4.43%) said that they had made an informal complaint, but around twice as many women indicated they had made an informal complaint (11.43%).

Table 11 Responders who have made a complaint

	Yes, I made a formal complaint	Yes, I have made an informal complaint	No, although I have experienced sexual harassment or a threat to personal safety	Have never had an incident regarding sexual harassment or personal safety	Prefer not to say	Total
Male	3.25% 22	4.43% 30	12.70% 86	76.66% 519	2.95% 20	35.28% 677
Female	5.64% 70	11.43% 142	18.28% 227	61.51% 764	3.14% 39	64.72% 1,242
Total	92	172	313	1,283	59	

Respondents who did make a complaint (official or unofficial) were asked who this was made to, with over half of respondents indicating either their supervisors/managers/departmental heads (33.51%), Human Resources (23.42%)/ specific staff responsible for dealing with complaints (14.43%) or Executive management (12.89%). With only around 20% of respondents indicating that they approached their Union (17.27%) or another external body (e.g. police, Human Rights Commission) (2.58%), it is clear that most complaints are lodged through the employer.

Noting this, respondents were also asked who they felt most comfortable discussing a behaviour or experience that made them feel uncomfortable. Not surprisingly, the survey found that both women and men felt most uncomfortable confronting the person involved, but that they were also uncomfortable in confiding to university management (men 51.79%, women 62.53%) and/or the institution's human resources department (men 44.12%, women 47.18%).

Table 12 Respondents reporting/confiding a negative experience to another party

	Very uncomfortable		Uncomfortable		Neither Comfortable or uncomfortable		Comfortable		Very Comfortable	
	male	female	male	female	male	female	male	female	male	female
The person involved	18.34% 86	34.55% 284	37.10% 174	40.75% 335	18.98% 89	10.46 86%	21.11% 99	10.471% 88	4.48% 21	3.53% 29
A non-supervisory co-worker	2.34% 11	6.08% 50	18.09% 85	18.10% 149	21.91% 103	14.34% 118	46.81% 220	47.51% 391	10.85% 51	13.97% 115
A supervisor	10.73% 50	17.20% 141	19.96% 93	21.95% 180	16.52% 77	15.12% 124	42.92% 200	36.59% 300	9.87% 46	9.15% 75
Human resources	18.34% 86	21.86% 179	24.09% 113	24.66% 202	21.11% 99	21.37% 175	27.08% 127	25.40% 208	9.38% 44	6.72% 55
University management	25.05% 117	31.34% 257	25.27% 118	29.76% 244	23.13% 108	19.39% 159	21.63% 101	15.73% 129	54.93% 23	3.78% 31
The Union	2.13% 10	2.07% 17	8.72% 41	9.98% 82	16.17% 76	1837% 15	46.81% 220	47.69% 392	26.17% 123	21.90% 180
An external authority (eg Human Rights Commission)	4.47% 21	7.16% 59	14.68% 69	18.69% 154	24.47% 115	27.31% 225	41.91% 197	34.59% 285	14.47% 68	12.26% 101

This was reflected in a number of comments from respondents regarding their dissatisfaction with university processes and distrust of HR/management:

> (female respondent): "*A significant number of women in my workplace have disclosed experiences of sexual harassment and assault at work to me. I have*

been made aware of my incidents of harassment in which reporting has been highly inadequate and reports have disappeared entirely. I feel that the university seeks to conceal the high number of sexual harassment reports from staff."

(female respondent): "*As a female, I did not feel empowered to report or raise issues of sexual harassment as the majority of people in senior leadership are men and/or had longstanding relationships with the perpetrator. Those women who are in leadership seem to have a 'suck it up' attitude rather than a 'this needs to change' attitude."*

(female respondent): "*it was quite clear that HR was only interested in protecting the reputation of the university and thus the offender. It was also clear that HR's personal relationship with other staff clouded their ability to support complaints*."

(female respondent): "[redacted] *does not care about harassment. At all. If you make a complaint, you get fucked."*

However, respondents felt most comfortable speaking to their union (men 70.54%, women 69.33%) followed by their co-workers (men 58.31, women 61.32%) or an external authority (men 54.22%, women 47.66%). A number of comments noted that involved of the NTEU assisted in having their case progressed:

(male respondent) *(Had) "Greater than 10 meetings with human resources, 5 management, 2 equal opportunities. Only when NTEU became involved did matters start to be taken seriously*."

(female respondent): "*The union were supportive, senior academic staff were not supportive or transparent*."

(female respondent): "*My immediate supervisors and the union were great. HR have made a decision and never spoken to me about it. They spoke to a colleague who was involved but have not addressed her concerns. It was not sexual harassment or assault but was intimidating behaviour by a male student who I strongly suspect would not have acted that way to a male*."

Although one respondent noted that she advised by the university that union involvement would not help her case:

(female respondent*): "This was not at my current workplace, but at* [redacted] *University. I was threatened by HR: "Don't expect that you'll get a different result if you bring the union in". I was in my early 30s, I didn't even know there was a union."*

The survey asked respondents about their level of satisfaction with the complaints process, and in doing revealing considerable unhappiness and negativity. In general, fewer staff were satisfied or very satisfied with the processes than those who were not, and when asked about the outcome, close to 60% were either very unsatisfied (38.71%) or unsatisfied (18.77%.). Respondents were very damning regarding their experiences with the complaints process:

(male respondent): "*I did not feel supported and the process took too long. I was made to feel like I was in the wrong. It felt like the Uni was all about saving its name and status rather than the well being of its employees."*

(male respondent): "*I expected immediate action to be taken against a violent sexual predator. There were multiple witnesses and victims. The Dean excused his behaviour and he was allowed to continue for weeks. HR said they might look into it when they got back from their holidays. The response was disgusting."*

(female respondent): *"My formal complaint was not formally recorded as there seemed to be a "don't record first offence" policy. So... as there was no record I can assume the next complaint would also be deemed the first offence? Instead I was told by HR that I could have a facilitated mediation with the perpetrator. I agreed and turned up to the mediation venue to find that the facilitator was busy and didn't show up. The perpetrator did, however. So... I was alone in a room with the six foot something alpha male many rungs up the hierarchy to me... who I was actively reporting for sexual assault. I felt abandoned, professionally at risk and physically vulnerable. I thought "fuck them all" and I recounted to his face what he had done and how inappropriate it was. I told him he should treat me with the same respect that he showed his own line manager, the Deputy VC and the VC, [redacted] He negated my recollection of the encounter and told me it was just a "karate chop" that accidentally slapped me on the butt cheek (after following me into the storage room and commenting on how the staff biscuits might affect the size of my arse.... a likely story). Woefully inadequate and highly unsafe handling of sexual harassment and assault. This happened 6 years ago. [redacted] shame on you."*

The deep dissatisfaction with outcome of the complaint was explored further in the survey, with respondents asked what these outcomes were. The majority (39.67%) indicated that no action was taken, with 37.60% stating that they were encouraged to drop the issue. A significant number of respondents (34.55%) said that, as a result of the process they were subjected to, they were labelled as a troublemaker, ostracized, victimised or ignored by colleagues as a result of their complaint, and 30.24% said there were negative consequences for them professionally (e.g. denial of promotion or training, transfer, reassignment to a less favourable work site or duties or scheduling changes). One respondent stated:

(male respondent):"*The person concerned left the institution suddenly but I never received any information from management. I suspect she may have resigned when confronted. I later was told by a colleague to "watch out" because she had been telling lies about me to other staff members. I had already decided to leave the institution for other reasons prior to this. When I applied for a position there again years later I did not get an interview and was told by a colleague that I was on a blacklist."*

Far fewer reported proactive behaviour by management, with only 21.20% reporting that the offending person was counselled on their behaviour, and/or adverse action was taken against that person (10.93%). Indeed, more respondents reported that the person stopped their own behaviour (22.58%) than management taking some form of action against the respondent.

Looking at the same data by gender, it is worth noting that there are some differences between men and women respondents. Significantly more women (40.88%) than men (31.15%) said that the offending person was not counselled on their behaviour, and again, more women (68.72%) than men (46.47%) reported that there was no adverse action taken against the offending person, (although both genders did report this as an issue).

This data was reflected in the comments made by respondents:

(female respondent): "*Perpetrator received a very large payout to leave the university."*

(female respondent): "*The dude got a promotion"*

(female respondent): "*I resigned."*

(male respondent): *"Some months after submitting a complaint about being verbally abused and physically threatened by a student, I was directed to work with the student again. No safety plan was put in place for me, nor was I approached to find out if I felt safe working with the student again. Following my formal complaint, a remediation strategy was developed for the student. The strategy was never implemented by the university and the student did not have to account for their behaviour nor did the student have to demonstrate that they had changed their behaviour, i.e. there was no consequence for the student at all."*

Respondents who had experienced sexual harassment and/or a threat to their personal safety but did not report the experience were asked why they did not contact anyone at their university. Noting that respondents could give multiple answers, the results are revealing. Disturbingly, 44.04% of these respondents stated that they thought people would think they were over reacting, and 39.39% did not believe anything would be done. While 36.77% of people did not think it was serious enough to make a complaint, 37.98% said that they did not trust the complaint and resolution process. Most concerning was that 36.16% of respondents thought that making a complaint might hurt their career and 18.59% were fearful of losing their job altogether if they did complain.

Table 14 Reasons why respondents did not lodge a complaint

Answer choices–	Responses–
I thought people would think I was over-reacting.	44.04% 218
I did not think anything would be done.	39.39% 195
I did not trust the complaint and resolution process.	37.98% 188
I did not think it was serious enough.	36.77% 182
I thought it might hurt my career.	36.16% 179
I thought that the person who did it would get away with it.	28.48% 141
I wanted to forget about it and move on.	26.46% 131
I was ashamed or embarrassed.	19.19% 95
I feared losing my job.	18.59% 92
The behaviour or misconduct stopped on its own.	16.77% 83
I did not think I would be believed.	16.77% 83
I confronted the person myself.	16.16% 80
I did not want anyone else to know.	13.33% 66
I thought others might say I was 'inviting' sexual harassment through my appearance or actions.	8.69% 43
I did not know how to file a complaint.	7.27% 36
I was concerned for my physical safety.	4.85% 24
Other (please specify)	21.21% 105
Total Respondents: 495	

When these responses are broken down by gender, more women respondents (46.01%) than men (37.61%) didn't report due to thinking that people would see them as over reacting, and/or felt shame or embarrassment (20.11% women, 15.38% men). Significantly more women (32.51%) than men (17.95%) assumed that the offender would get away with their actions, and were more concerned at the impact it would have on their career if they did complain (39.39% women, compared to 25.64% men). More women also feared losing their job (20.66%) then men (12.82%). Interestingly, more men (21.37%) than women (15.43%) reported that the behaviour or misconduct of the offender stopped on its own.

One respondent summed up the issue with sexual harassment and sexism in her workplace, the attitudes that underpin the workplace culture and the reluctance to act upon it by staff as follows:

> *Academia involves a lot of out of hours work, including networking and conferences etc etc. It is often at events like 'leadership retreats' or conference dinners etc. that, in my experience, sexual harassment - particularly of younger and more junior female colleagues occurs (not that it does not occur elsewhere, but these seem to be a particular issue). I have certainly experienced this myself and feel as though it would not be worth reporting as, when these senior colleagues are in your particular field of expertise, you are risking your career prospects. They are likely to, at some point, be a reviewer for your journal article, book manuscript, grant application etc etc. Or, more subtlety, they might simply decide to never cite your work. Women in the academy do warn each other about predatory behaviour from known harassers, but it is generally felt that, short of a sexual assault, there is little point in pursuing a formal claim. The sense is that nothing will come of it, and you will have just really pissed off an important person in your field.*

Another noted that her reluctance to report was due to her negative past experience with reporting:

> (female respondent): "*In a previous job, I complained of more serious sexual harassment through the formal procedures and was then put through 2 years of hell as they tried to pummel me into submission to shut up and go away. The aftermath was worse than the original harassment. I couldn't risk going through that again, so I tried to forget about it and move on (though I did informally talk to the union & police so there'd be a record if it was ever needed)."*

Others acknowledged that because they didn't report, the conduct of the harasser continued unchanged:

> (female respondent): "*I thought it better to manage the person as I have to interact at university with this person rather than make a big deal of it. Perhaps this is not the most effective approach but I couldn't stand the fallout from a formal process. It means I continue to suffer because the offender doesn't get the message and reverts to inappropriate behaviour, but as I had a relationship with this person, I feel it is a complicated and deeply emotional personal matter."*

A couple of male respondents said they did not report as they didn't think they would be taken seriously or that they perceived the process was biased against men:

> *(male respondent): "I do not believe there is support (or interest in supporting) males who are sexually harassed by females."*
>
> *(male respondent): "As a male experiencing unwanted behaviour from a female supervisor (and in a female dominated workplace) I felt I would be seen as anti-feminist."*

Others felt that they could deal with the issue themselves more effectively:

(male respondent): "I have to continue to work with these people [Powerball results notwithstanding], it's not particularly serious, just annoying flirty behaviour. Also, I can deal with these events personally FAR more effectively than any policy or procedure at the institution. Anyway I'm leaving this crappy industry ASAP [not because of this]."

6. Recommendations to address sexual harassment in Australian workplaces.

The NTEU strongly believes that current policies and processes are not adequately dealing with sexual harassment, sexism, gender and sexual bias in universities. While there is a recognition of the need to address these issues, the current approach of institutional policy and process is not adequately reinforced by our current legislative and political framework.

Our recommendations, as outlined in the introduction, go to improving this framework, with the emphasis on unions having a more active role and employers having accountability for workplace cultures that see sexual harassment, sexism, gender and sexual bias go unaddressed.

Changes to the Fair Work Act and the Fair Work Commission

- Sexual harassment and other forms of sex/gender based discrimination should be explicitly prohibited by the Fair Work Act and the Fair Work Commission should have significantly strengthened powers to deal with sexual harassment and sex/gender discrimination disputes, by conciliation or arbitration if necessary.
- Employees bringing a claim of sexual harassment and/or sex/gender discrimination should have a clear right of action in the Commission, based on the merits of the cases and not narrow legal technicalities.
- Unions and other interested parties should be able to bring cases to the Commission on behalf of groups of workers, not just an individual. Time limits should be as broad as possible, and former employees should be able to make a complaint of sexual harassment or sex/gender discrimination against a former employer or workplace.
- Remedies and penalties need to be effective and enforceable. They also need to be able to be enacted quickly (particularly if there is a concern over worker safety), and be less technical/legally complicated. Remedies could include directions to cease and desist and compensation. Employers should also be able to be directed to take positive, proactive steps to prevent sexual harassment and discrimination.
- There should also be effective enforcement mechanisms that reflect unions' roles as employee representatives, and where it is demonstrated that sexual harassment is widespread in an organisation, there should be proactive orders that are as open as possible.
- There needs to be recognition within this regulatory framework of non-traditional employer-employee relationships (e.g. workers in the so called "gig economy", labour hire, intern and volunteer workers etc), so that claims of sexual harassment and/or gender/sex discrimination can still be actioned.
- We support the recommendation made by the ACTU and others for the establishment of a gender equality panel within the FWC, with union representatives to be included on the expert panel.

Changes to Work, Health and Safety Regulations and Codes of Practice.

- We strongly support sexual harassment and gender/sex discrimination being treated as a hazard in the Work, Health and Safety (WHS) Act. We note that currently 'health' in the WHS Act is defined as both physical and psychological health, and that a poorly designed or managed work environment, a traumatic event, workplace violence, fatigue, bullying or harassment and excessive or prolonged work pressures can increase the likelihood of workers experiencing a stress response. However, the WHS Act and Regulations do not explicitly address sexual harassment, sexual or gender based discrimination and sexism in the workplace.

- To this end, new OH&S regulations and codes of practice should be developed, in consultation with unions and experts (including those experienced on all forms of psychosocial hazards[4] in the workplace). We note that the current risk management process (under the *Code of Practice: How to manage work health and safety risks*) provides a basis from which to work where hazards are identified and the risk is assessed. However there are a number of problematic areas that need to be reviewed:

    - A new WHS Regulation and Code must address the problematic definition of 'bullying' in workplace legislation as well as the WHS Act. It must also clarify the relationships between harassment, discrimination, violence and bullying in the workplace. This is particularly important for WHS guidance materials.

    - The definitions of what is a 'notifiable incident', 'serious injury or illness' and 'dangerous incident' need revision and redrafting to incorporate psychosocial hazards.

    - As with the recommendation for the FWA, unions should have the right to prosecute for breaches of WHS laws.

Changes to the Sex Discrimination Act1984 (SDA)

- The NTEU agrees with the ACTU and other unions that the SDA requires urgent revision, and should be significantly strengthened to enhance both the authority and resources of the Sex Discrimination Commissioner. In particular, the Commission should be able to conduct its own motion inquiries into high risk sectors (noting that tertiary education was listed as an industry area in the AHRC's recent forth national report with higher than average reporting of sexual harassment). The SDA changes should also allow for Courts to award exemplary and punitive damages for breaches of the SDA and extend the time limit for complaints of sexual harassment to be made.

- As with the FWA, the definition of sexual harassment, sex and/or gender based discrimination within the SDA must also be reviewed and broadened so as to include work linked to, arising out of and related to the workplace. In the NTEU survey, many

[4] Psychosocial hazards are defined as psychosocial risks that arise from poor work design, organisation and management, as well as a poor social context of work, and they may result in negative psychological, physical and social outcomes such as work-related stress, burnout or depression. The European Agency for Safety and Health at Work have listed psychological and sexual harassment and third party violence as examples of working conditions leading to psychosocial risks. (see https://osha.europa.eu/en/themes/psychosocial-risks-and-stress).

respondents reported incidents of sexual harassment that occurred in social settings linked to the workplace (e.g. conference dinners), or in work environments outside the university but directly related (e.g. field excursions, conferences, external meetings).

- The NTEU strongly supports the establishment within the SDA of a requirement for employers to have a 'positive duty'.

- We also support consideration be given to the creation of a new gender equality act, with scope for involvement by both the Commission as well as the Workplace Gender Equality Agency (WGEA).

The Workplace Gender Equality Agency

- The employer reporting obligations to WGEA should be reviewed and the incidents of sexual harassment complaints, actions taken and outcomes, should be reported on. Notwithstanding issues around confidentiality, the macro data for each employer should be publically released.

- Other reporting obligations relating to the employer's policy and processes to deal with sexual harassment, gender and sex based discrimination and sexism in the workplace should be reviewed. This should include the employer reporting on the establishment and success of proactive policies designed to educate and support better awareness of sexual harassment, gender and sex based discrimination and sexism in the workplace.

ILO Convention on Violence and Harassment in the World of Work

- The NTEU supports the work of the international trade union movement in the discussions to establish the new ILO Convention on Violence and Harassment in the World of Work. We believe that the convention provides a strong foundation for further work by the international community, and that many of the principles of the Conventions should be adopted within our own legislative and regulatory frameworks. To that end, the NTEU supports calls for the Australian Government to become a signatory to the Convention.

Measures to support legislative reform and create commitment to gender equality

- The experience of the NTEU is that numerous other factors have a bearing on workplace cultures that allow sexual harassment and sex/gender discrimination to grow and spread. These cannot be dealt with through legislative reforms alone, but instead must be tackled through political commitment, community education and improvements to gender equality.

- Factors such as insecure and under employment (which creates innate power inequities and inhibits reporting of incidents out of fear of losing one's job), low wage growth and the gender pay gap, under representation of women in leadership and senior positions, persistent career blockages and segregated workforces/feminised industries, can very often result in workplace cultures that see the devaluing of workers and sexism, sexual harassment, gender/sex discrimination and violence, become established.

- Therefore, the NTEU recommends that a whole of government approach be adopted in finding working solutions to sexism, sexual harassment, gender/sex discrimination and violence not only in the workplace but more broadly, with oversight by the Prime Minister's office and the Office of Women, and with reference to the Office of the Sex Discrimination Commissioner.

Conclusion:

Of the 1353 respondents to the NTEU survey, 157 indicated that they would like the AHRC to be aware of their experiences of sexual harassment in the workplace. Many of these accounts are graphic and detailed, some intersected with allegations of bullying, aggression and even violence, and there is a consistent impression that the respondents had little faith in the complaints process. Other repeated areas of concern related to the supervisor-postgraduate student relationship, with women respondents detailing incidents of sexual harassment with supervisors and even fellow postgraduate students.

We have included a number of de-identified comments within this submission which support our evidence and can supply further comments to the Inquiry if so wished. However, the overall impression of the comments is that the current approaches by universities in managing sexual harassment, sexism, gender and sex-based bias in the workplace is ineffectual and does nothing to address the core problems driving these issues.

For the women respondents who commented, there was a consistent sense of fear – of the perpetrator, the potential impact on their careers, and the likelihood of other women being targeted.

For the male respondents, many comments focus on observed incidents and their support for the victims, although a portion also state that they have never witnessed or experienced any sexual harassment in the workplace at all.

There are also a number which detail bullying rather than sexual harassment per se. A small number do report personal incidents of sexual harassment; of these, both men and women are stated as the perpetrators. However, by far, the most common response is one where the male respondents feel that there isn't enough attention being paid to their concerns, or that that the focus on gender equality has gone too far.

The fact that there is such a marked difference between men and women respondents in the open comments reflects the variation in attitudes towards sexual harassment in the workplace, which in turn underpin workplace cultures. It is therefore vital that political commentary and leadership, backed with regulatory and legislative changes, are made, and that employers are clear in their understanding that sexual harassment, sexism, gender/sex based bias is not just a 'social' issue that can dealt with through HR's policy guidelines, but a serious industrial issue that must involve unions in resolving.

Attachment A

NTEU Survey on Sexual Harassment in the Workplace – Preliminary Findings

The following survey on sexual harassment in the workplace was sent to NTEU members in October 2018 in order to gather information to support the Union's submission to the Australian Human Rights Commission's National Inquiry into Sexual Harassment in Australian Workplaces. The online survey was launched during NTEU National Council, and was open for a period of 4 weeks.

The survey received 2,438 responses, of which 1,353 were complete responses. It consisted of a number of multiple choice and open questions, and participants were encouraged to provide accounts of any experiences relating to sexual harassment in their workplace.

The survey questions were patterned after:

- AHRC CAR survey questionnaire on Fourth national survey on sexual harassment in Australian workplaces (Appendix A)(2018)
- ACTU survey on Sexual harassment in Australian workplaces (2018)*
- NTEU Survey on Student Assessment of Teaching Surveys (2018)
- National Park Service Work Environment Survey featured in Technical Report, National Park Service (NPS) Work Environment Survey, January-March 2017, CFI Group (September 29, 2017), available at https://www.nps.gov/aboutus/upload/NPS-WES-Technical-Report-20170929-Accessible.pdf.

Preliminary results

Survey participants:

Respondents to the survey were predominantly women at 62.3%, with men at 36.21% and non-binary/third gender/not disclosed at 1.5%. Respondents were generally older (majority of women at 33.11% were in 45-54 age group, for men it was the 55-64 age group at 29.26%).

For men, the largest cohort was academic (44.78%), with general staff the next largest group at 36.01%. For women, more general/professional staff responded (43.43%), followed by academics (38.70%). Full time permanent staff were the majority of respondents for both women and men, with just a quarter of women respondents (and slightly less for men) employed insecurely (21.36% men and 24.04% women). This does loosely reflect our membership profile, however.

Table 1 Survey participants by gender and work designation

Designation	female		male	
	number	*%*	*number*	*%*
Academic teaching and research	589	38.70	373	44.78%
Teaching only	157	10.32	101	12.12%
Research only	102	6.70	47	5.64%
General/Professional staff (including Administration and Technical	661	43.43	300	36.01%
Other	59	3.88	34	4.08%
Total	**1,518**	**100**	**833**	**100**

Table 2 Respondents by gender, work designation and level

Academic level	female		male	
	number	percentage	number	percentage
A	121	7.99	74	8.97
B	252	16.64	118	14.30
C	224	14.80	142	17.21
D	97	6.41	60	7.27
E	71	4.69	87	10.55
HEW Level				
1	2	0.13	2	0.24
2	5	0.33	1	0.12
3	16	1.06	6	0.73
4	55	3.63	21	2.55
5	126	8.32	64	7.76
6	145	9.58	59	7.15
7	134	8.85	62	7.52
8	93	6.14	47	5.70
9	37	2.44	27	3.27
10+	20	1.32	6	0.73
Other	116	7.66	49	5.94

Table 3 Respondents by gender and mode of employment

Mode of employment	female		male	
	number	percentage	number	percentage
Permanent full time	952	62.71	600	72.03
Permanent part time	179	11.79	33	3.96
Contract full time	145	9.55	76	9.12
Contract part time	82	5.40	33	3.96
Casual/Sessional	138	9.09	69	8.28
Labour hire	1	0.07	0	0
Other	21	1.38	22	2.64
Total	**1,518**	**100**	**833**	**100**

Gender and the workplace

The survey asked respondents about their workplace culture and their own job satisfaction. This is because workers who are satisfied with their jobs and opportunities, and who feel supported in the workplace, are more likely to report incidents, support co-workers and engage in positive initiatives that deal with sexual harassment and sexism.

The data found little difference between male and female respondents on their levels of general job satisfaction. The majority of respondents were either satisfied or very satisfied with the work they did and their relationship with their colleagues. The highest levels of dissatisfaction was with workload management (40.68% were either very dissatisfied or dissatisfied) and job security (29.62%), which is consistent with these questions on other surveys the NTEU has undertaken.

Table 4 Workplace culture and job satisfaction

Response	Very dissatisfied	dissatisfied	Neither satisfied nor dissatisfied	satisfied	Very satisfied	total
The kind of work I do	2.31% 31	7.38% 99	10.21% 137	47.62% 639	32.49% 436	1342
My job security	13.28% 178	16.34% 219	13.21% 177	39.25% 526	17.91% 240	1340
The direction/supervision I receive	11.70% 157	15.13% 203	18.78% 252	35.02% 470	19.37% 260	1342
Workload management	16.62% 223	24.07% 323	19.00% 255	31.67% 425	8.64% 116	1342
My work environment	9.55% 128	15.90% 213	15.00% 201	39.93% 535	19.63% 263	1340
My co-workers	2.38% 32	6.63% 89	13.79% 185	41.95% 563	35.25% 473	1342

Respondents were asked about their opportunities for career advancement, noting that who is awarded leadership positions and promotions can reflect workplace cultures. This question was intended to identify responders who had experienced 'road blocks' in their career, and to subsequently determine if there was a gendered nature to these roadblocks. Of those who completed the survey, some 528 responded to this question (with 825 skipping the question).

Table 5 Opportunities for career advancement

Answer choices–	Responses–
I have been passed over for a promotion.	27.46% 145
I was discouraged for applying for promotion	33.90% 179
I was forced to withdraw my promotion application	2.27% 12
I was denied other opportunities for career advancement (such as training, secondment, mentoring)	50.19% 265
Responses Other (please specify)	29.36% 155
Total Respondents: 528	

Both female and male respondents who indicated "other" in the open field response cited lack of career paths (particularly for professional staff), problems with management/supervisors and insecure employment as other example of blockages in career progression. A number of men also indicated they were retiring (both forced and voluntarily), or that promotion was not applicable or wanted. Women respondents however, cited many other reasons, including lack of support, new and higher positions being offered to others (often men) without advertisement or transparency of process, workload pressure including extreme teaching loads and pastoral care roles, undervaluing of work (reflected in reports), toxic work environments and pregnancy. A number of women also reported that they were already acting in 'higher duties' and leadership roles, but these were not

recognised/paid. A few also noted that when they applied for the higher level roles they had been acting in, they were unsuccessful.

Respondents who had answered that they had been passed over for promotion or career advancement in the last 12 months were asked what they believed the basis was for their exclusion. Both women (34.93%) and men (18.06%) felt the issues they identified were based on gender, followed by race or ethnicity (women 8.66%, men 7.10%). However, a significant number of respondents selected 'other', where 'insecure work position' was most common. Under 'other', men also identified tight university staffing budgets as restricting advancement and if they have been outspoken or a unionist. Women, however, identified issues such as pregnancy or parental status (either potential or current), including being on parental leave, (interestingly, no men identified family/carer obligations as an issue). Women also identified bullying and workplace conflict along with being outspoken and/or a union member as having a negative impact on their career advancement.

The survey asked respondents if they felt they would be heard, believed, and safe from retaliation if they were to report inappropriate conduct when it enters the workplace. While perceptions of respect and support from co-workers were generally positive for both men and women (80.3% of men and 72.0% women said they agreed/strongly agreed that *co-workers treated each other with dignity and respect*), there was less support on whether respondents felt that *supervisors cared about their well being* (men 64.1% and women 59.4% agreed or strongly agreed) and that *staff were encouraged to speak out frankly, even with critical of well-established ideas and approaches* (men 46.2%, women 39.4% agreed or strongly agreed). Least support was given to the statement that *agreeing with management was the best approach in dealing with issues* (men 37.4%, women 41.7% agree or strongly agreed with this statement).

Sexual harassment in the workplace

Women respondents reported significantly higher rates of sexual harassment, with almost twice as many women (23.97%) as men (12.01%) indicating that they had personally experienced sexual harassment in their workplace. Most respondents who reported sexual harassment - both men and women - said that sexual harassment occurred occasionally or had been a single incident.

Alarmingly, just under 40% of all respondents (men and women) indicated that they were aware of others who had been sexually harassed in their workplaces.

Table 6 Respondents who have personally experienced sexual harassment in their workplace

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
yes	343	23.97	95	12.01	452	19.80
No	1073	74.98	87.10	689	1806	79.11
Prefer to not say	15	1.05	7	0.88	25	1.10
total	1431		791		2,283	

Table 7 Are you aware of others who have been sexually harassed in your workplace?

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
yes	549	38.42	279	35.27	850	37.25
No	866	60.60	505	63.84	1407	61.66
Prefer to not say	14	0.98	7	0.88	25	1.10
total	1429		791		2,282	

Table 8 Frequency of sexual harassment in the workplace

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
Occurred once only	132	19.30	72	21.11	207	19.70
Occurs occasionally	480	70.18	234	68.62	732	69.65
Occurs regularly	63	9.21	31	9.09	96	9.13
Occurs constantly	9	1.32	4	1.17	16	1.52
total	684		341		1,051	

For both men and women the most common form of sexual harassment was sexually suggestive comments or jokes that made the person feel offended (women 36.69%, men 22.83%).

For women, the next most common form was inappropriate staring or leering that made them feel intimidated (29.84%) and intrusive questions about their private life or physical appearance (27.13%). Over a quarter of women also reported unwelcome touching, hugging, kissing or cornering (25.41%), while 16.17% experienced inappropriate physical contact.

For men, the second most common forms were equally unwelcome touching, hugging, kissing or cornering and intrusive questions about their private life or physical appearance (13.52%). Just under 1 in 10 (9.34%) reported inappropriate contact, and slightly fewer experienced intimidating staring or leering (8.05%).

Relatively few men and women reported online harassment in the workplace, but those who did said the most prevalent form were sexually explicit comments made in emails, texts, other messages or social media (women 6.57%, men 5.24%). Comments made by respondents indicate that events outside the workplace but associated with their working life (such as conferences or social gatherings) far more likely environments for sexual harassment.

Sexual harassment in workplace over the last 12 months

Respondents were also asked if they had experienced sexual harassment in the last 12 months, (similar to the question asked by the Australian Human Rights Commission 2017 survey). Although smaller numbers, the ratios roughly reflected the survey's findings on sexual harassment overall, with proportionally almost twice as many women than men responding positively - 118 women respondents (8.46% of all female respondents) and 34 men (4.42% of all male respondents) indicated that they had experienced inappropriate physical contact and 105 (7.54%) women and 27 men (3.50%)

reported being subjected to unwelcome sexual gestures, comments, jokes or being stared or leered at.

Perpetrators of sexual harassment over the last 12 month

Most common offenders in the workplace for sexual harassment in the last 12 months reported by women and men were co-workers (women 40.15%, men 33.11%). However, women reported the next most prevalent offenders as being non-supervisory management or senior staff (women 23.94%, compared to 15.23% for men), while men reported students (men 23.84%, compared to 15.96% for women).

When asked about the gender of the perpetrators of sexual harassment in the last 12 months, respondents reported that harassment by a person of opposite gender was the most usual, although there is a difference in the ratios. Just under half of men who responded (46.62%) said their harassment was by a woman but over a quarter (27.70%) reported harassment by a man, and 8.78% said it was by both men and women. For women, the portion of male perpetrators was much higher at over three quarters (78.23%), and very few reported harassment by a woman (4.81%) or by both a man and woman (4.05%).

Frequency of sexual harassment over the last 12 months

Both men and women who said they had been harassed in the last 12 months believed it was on the basis of gender, although the proportion of women was considerably higher (men 45.93%, women 68.57%). Male respondents cited sexual orientation as the next significant fact in their harassment (27.41%), followed by race or ethnicity (16.30%) – however, for women this was reversed, with race and ethnicity the next highest indicator (16.29%) followed by sexual orientation (12.57%). It's notable for male respondents that sexual orientation as a factor was proportionally higher and may indicate that this is also significant issue for men in the sector in particular.

Table 9 Basis for intersectional sexual harassment respondents reported in the last 12 months

Response	female		male		total	
	number	percentage	number	percentage	number	percentage
Gender	240	68.57	62	45.93	317	62.40
Sexual Orientation	44	12.57	37	27.41	91	17.91
Gender Identity	12	3.43	5	3.70	30	5.91
Race or Ethnicity	57	16.29	22	16.30	87	17.13
Religion	13	3.71	11	8.15	27	5.31
Disability	9	2.57	5	3.70	16	3.15
Other	87	24.86	33	24.44	122	24.02

Fears for personal safety over last 12 months

In relation to personal safety, a small but significant number of respondents indicated that they had been subjected to actions within the last 12 months that made them afraid for their personal safety. These actions (noted in Table 8) are towards the more extreme end of the sexual harassment spectrum, and become highly individualised, stalking events. Of these, proportionally the majority who were affected were overwhelmingly women – for example, just under 7% of all female respondents reported feeling as though they had been watched or followed (either in person or

electronically) and/or had someone show up and wait for them, a much higher rate than reported by male respondents (at 3.3% and 1.2% respectively).

Table 10 Harassment that made the respondent fearful for their personal safety

Response	Female (+ total female respondents)		Male (+total male respondents)		total	
	number	percentage	number	percentage	number	percentage
Unwanted phone calls	69 (1301)	5.3	23 (714)	3.2	95 (2064)	4.6%
Sent personal emails, voice, text or instant messages	77 (1310)	5.8	30 (716)	4.1	118 (2076)	5.6%
Received posted messages, videos or images on social media	30 (1308)	2.2	13 (719)	1.8	44 (2076)	2.1%
Had someone show up or wait for you	89 (1313)	6.7	9 (718)	1.2	112 (2081)	5.3%
Felt you were being watched, followed, either in person or through the use of devices or software.	92 (1311)	6.9	24 (718)	3.3	120 (2077)	5.7%

Despite the differences, both men and women respondents identified similar sources for harassment that made them fearful for their safety – for both, the most common source was a co-worker (women 22.93%, men 20.73%). Women then cited a stranger (14.66%) and a supervisor/manager (11.65%), while for men this was reversed (with supervisor/manager at 17.07% and a stranger at 13.41%).

Making complaints regarding sexual harassment and sexism in the workplace

Respondents were asked who they felt most comfortable discussing a behaviour or experience that made them feel uncomfortable. Not surprisingly, the table below shows that respondents (both women and men) felt most uncomfortable confronting the person involved, but that they were also uncomfortable in confiding to university management (men 51.79%, women 62.53%) and HR (men 44.12%, women 47.18%) was also a concern. However, respondents felt most comfortable speaking to their Union (men 70.54%, women 69.33%) followed by their co-workers (men 58.31, women 61.32%) or an external authority (men 54.22%, women 47.66%).

Table 11 Reporting/confiding a negative experience to another party

	Very uncomfortable		Uncomfortable		Neither Comfortable or uncomfortable		Comfortable		Very Comfortable	
	male	female	male	female	male	female	male	female	male	female
The person involved	18.34 % 86	34.55% 284	37.10 % 174	40.75% 335	18.98 % 89	10.46 86%	21.11 % 99	10.471% 88	4.48% 21	3.53% 29
A non-supervisory co-worker	2.34% 11	6.08% 50	18.09 % 85	18.10% 149	21.91 % 103	14.34% 118	46.81 % 220	47.51% 391	10.85 % 51	13.97% 115
A supervisor	10.73 % 50	17.20% 141	19.96 % 93	21.95% 180	16.52 % 77	15.12% 124	42.92 % 200	36.59% 300	9.87 % 46	9.15% 75
Human resources	18.34 % 86	21.86% 179	24.09 % 113	24.66% 202	21.11 % 99	21.37% 175	27.08 % 127	25.40% 208	9.38 % 44	6.72% 55
University management	25.05 % 117	31.34% 257	25.27 % 118	29.76% 244	23.13 % 108	19.39% 159	21.63 % 101	15.73% 129	54.93 % 23	3.78% 31
The Union	2.13 % 10	2.07% 17	8.72 % 41	9.98% 82	16.17 % 76	1837% 15	46.81 % 220	47.69% 392	26.17 % 123	21.90% 180
An external authority (eg Human Rights Commission)	4.47% 21	7.16% 59	14.68 % 69	18.69% 154	24.47 % 115	27.31% 225	41.91 % 197	34.59% 285	14.47 % 68	12.26% 101

Complaints over sexual harassment

Awareness of complaints policy

The overwhelming majority of respondents (91.7% men and 88.38% women) said they were aware of or had some familiarity with their institution's policy and complaints processes around sexual harassment.

Table 12 Awareness of Institutional policy and complaints processes

	Yes, I am aware of the policy and complaints process–	I have some familiarity with some or parts of the policy/complaints process–	No, I am unaware of the policy/complaints process–	My institution does not have a policy/complaints process–	Prefer not to say–	Total–
Male	59.12% 402	32.06% 218	7.79% 53	0.74% 5	0.29% 2	35.27% 680
Female	56.41% 704	31.97% 399	10.58% 132	0.56% 7	0.48% 6	64.73% 1,248
Total	1,106	617	185	12	8	1,928

Rates of formal and informal complaints, and decisions to not complain

Just over 66% of respondents said they have never had an incident regarding sexual harassment or personal safety in the workplace, although less women (61.5%) than men (76.6%) stated this. Of those

who had, however, very few stated that they made a *formal* complaint, at only 3.25% of men and 5.64% of women respondents. However, when asked about making an *informal* complaint, there is considerable difference between male and female respondents – only slightly more men (4.43%) said that they had made an informal complaint, but around twice as many women indicated they had made an informal complaint (11.43%).

However, almost a quarter (24.39%) of those who responded to this question (excluding those who chose not to say) indicated that while they had experienced sexual harassment or a threat to their personal safety, they did not report the incident/s at all. Again, this was higher for women (18.26%) than for men (12.70%).

Table 13 Responders who have made a complaint

	Yes, I made a formal complaint	Yes, I have made an informal complaint	No, although I have experienced sexual harassment or a threat to personal safety	Have never had an incident regarding sexual harassment or personal safety	Prefer not to say	Total
Male	3.25% 22	4.43% 30	12.70% 86	76.66% 519	2.95% 20	35.28% 677
Female	5.64% 70	11.43% 142	18.28% 227	61.51% 764	3.14% 39	64.72% 1,242
Total	92	172	313	1,283	59	1

Respondents who did make a complaint (official or unofficial) were asked who this was made to, with over half of respondents indicating either their supervisors/managers/departmental heads (33.51%), Human Resources (23.42%)/ specific staff responsible for dealing with complaints (14.43%) or Executive management (12.89%). With only around 20% of respondents indicating that they approached their Union (17.27%) or another external body (e.g. police, Human Rights Commission) (2.58%), it is clear that most complaints are lodged through the employer.

Satisfaction with complaints processes

This is highly relevant when looking at the rates of satisfaction that respondents had with the complaints process. In general, fewer staff were satisfied or very satisfied with the processes than those who were not, and when asked about the outcome, close to 60% were either very unsatisfied (38.71%) or unsatisfied (18.77%.)

Table 14 Levels of satisfaction with complaints process

	Very unsatisfied	Unsatisfied	Neither satisfied nor unsatisfied	Satisfied	Very satisfied	Total
The availability of information on how to file a complaint?	20.34% 71	23.50% 82	30.66% 107	17.77% 62	7.74% 27	349
How you were treated by personnel handling the complaint?	26.30% 91	21.97% 76	20.23% 70	17.63% 61	13.87% 48	346
Being informed about the status of the complaint?	29.94% 103	21.51% 74	26.16% 90	14.83% 51	7.56% 26	344
The amount of time it took to address the complaint?	29.33% 100	16.42% 56	30.21% 103	14.66% 50	9.38% 32	341
The outcome of the complaint/investigation?	38.71% 132	18.77% 64	21.41% 73	14.08% 48	7.04% 24	341

Outcomes of complaints processes

The deep dissatisfaction with outcome of the complaint was explored further in the survey, with respondents asked what these outcomes were. The majority (39.67%) indicated that no action was taken, with 37.60% stating that they were encouraged to drop the issue. A significant number of respondents (34.55%) said they were labelled as a troublemaker, ostracized, victimised or ignored by colleagues as a result of their complaint, and 30.24% said there were negative consequences for them professionally (eg denial of promotion or training, transfer, reassignment to a less favourable work site or duties or scheduling changes).

Far fewer reported proactive behaviour by management, with only 21.20% reporting that the offending person was counselled on their behaviour, and/or adverse action was taken against that person (10.93%). Indeed, more respondents reported that the person stopped their own behaviour (22.58%) than management taking some form of action against the respondent.

Looking at the same data by gender, it is worth noting that there are some differences between men and women respondents. Significantly more women (40.88%) than men (31.15%) said that the offending person was not counselled on their behaviour, and again, more women (68.72%) than men (46.47%) reported that there was no adverse action taken against the offending person.

Reasons for not lodging a complaint over sexual harassment/threat to personal safety

Respondents who had experienced sexual harassment and/or a threat to their personal safety but did not report the experience were asked why they did not contact anyone at their university. Noting that respondents could give multiple answers, the results are revealing. Disturbingly, 44.04% of these respondents stated that they thought people would think they were over reacting, and 39.39% did not believe anything would be done. While 36.77% of people did not think it was serious enough to make a complaint, 37.98% said that they did not trust the complaint and resolution process. Most concerning was that 36.16% of respondents thought that making a complaint might hurt their career and 18.59% were fearful of losing their job altogether if they did complain.

Table 15 Reasons why respondents did not lodge a complaint

Answer choices–	Responses–
The behaviour or misconduct stopped on its own.	16.77% 83
I confronted the person myself.	16.16% 80
I did not know how to file a complaint.	7.27% 36
I did not want anyone else to know.	13.33% 66
I did not think it was serious enough.	36.77% 182
I was ashamed or embarrassed.	19.19% 95
I wanted to forget about it and move on.	26.46% 131
I did not think I would be believed.	16.77% 83
I thought people would think I was over-reacting.	44.04% 218
I did not trust the complaint and resolution process.	37.98% 188
I did not think anything would be done.	39.39% 195
I thought others might say I was 'inviting' sexual harassment through my appearance or actions.	8.69% 43
I thought that the person who did it would get away with it.	28.48% 141
I thought it might hurt my career.	36.16% 179
I was concerned for my physical safety.	4.85% 24
I feared losing my job.	18.59% 92
Other (please specify)	21.21% 105
Total Respondents: 495	

When these responses are broken down by gender, more women respondents (46.01%) than men (37.61%) didn't report due to thinking that people would see them as over reacting, and/or felt shame or embarrassment (20.11% women, 15.38% men). Significantly more women (32.51%) than men (17.95%) assumed that the offender would get away with their actions, and were more concerned at the impact it would have on their career if they did complain (39.39% women, compared to 25.64% men). More women also feared losing their job (20.66%) then men (12.82%). Interestingly, more men (21.37%) than women (15.43%) reported that the behaviour or misconduct of the offender stopped on its own.

Bystander Behaviour

Respondents were asked, if they had been the subject of sexual harassment in the workplace, whether that behaviour had been observed by someone else. A significant number (33.17%) indicated that this behaviour had been seen by another person/persons.

Table 16 Had an experience of sexual harassment been observed by others

Answer choices–	Responses–
Yes	33.17% 208
No	42.58% 267
Not sure	18.98% 119
Prefer not to say	5.26% 33
TOTAL	627

When this question is looked at through the lens of gender, however, there are remarkable differences between women and men respondents. While this may be a reflection on the nature of work spaces in universities, significantly more women (40.45%) indicated that the incident/s of sexual harassment they were subjected to were observed by others, compared to men (18.75%).

Table 17 Had an experience of sexual harassment been observed by others, by gender

	Yes	No	Not sure	Prefer not to say	Total
Male	18.75% 21	51.79% 58	21.43% 24	8.04% 9	26.29% 112
Female	40.45% 127	39.17% 123	16.24% 51	4.14% 13	73.71% 314
Total Respondents	148	181	75	22	426

Respondents were asked who the observer/s were, and again, there are some significant differences. More women than men reported the behaviour was observed by co-workers at the same, or higher level, and in front of students. Significantly less men completed this question, however, so may require further research.

Table 18 Who observed experience of sexual harassment

Response	Female	Male
Co worker more senior	39.56% 61	30.56% 11
Co worker same or lower level	64.10% 100	52.78% 19
Student/s	13.36% 21	5.56% 2
Friend or Acquaintance	5.13% 8	2.78% 1
Direct Manager or Supervisor	9.62% 15	11.11% 4
Senior Management	5.77% 9	0% 0
Human Resources	2.56% 4	0% 0
Stranger	1.92% 3	2.78% 1
Prefer not to say	6.41% 10	13.89% 5
Other	7.69% 12	22.22% 8
Total	243 126.56%	51 26.56%

Respondents were asked if they had observed another member of staff being sexually harassed. While just under 16% of staff said that yes, they had (16.20% women respondents. 15.44% men respondents) another 10% of staff said they were not sure if what they had seen occur was sexual harassment. Just over 75% men, and 72% women, said they had not observed sexual harassment in the workplace – so roughly one quarter of respondents said they had observed, or may have seen something but were not sure if was sexual harassment, of another staff member.

The following question then asked what action the respondent took if they had answered that they had observed sexual harassment in the workplace. There were 249 respondents who answered this question, with the majority of both women and men offering emotional support to the victim following the behaviour and counselling them on possible courses of action. Very few said that they ignored the behaviour, but interestingly, men were more likely than women to speak to the harasser about the incident, while women were might likely to report it to the employer. Slightly more women than men said they would be inclined to intervene at the time to stop the behaviour.

Table 19 What bystander action was taken when sexual harassment was observed

	Attempted to directly intervene at the time to stop it–	Talked to the harasser about the incident	Reported the harassment to your employer	Talked to person you observed being targeted about the incident about possible solutions/ course of action–	Offered emotional support following the behavior	Agree to declare that you witnessed the behaviour	Ignored the behavior	Prefer not to say–	Other (please specify)	Total
Male	22.99% 20	21.84% 19	14.94% 13	50.57% 44	50.57% 44	32.18% 28	2.30% 2	9.20 % 8	20.69% 18 Responses	78.71 % 196
Female	25.93% 42	11.11% 18	17.90% 29	59.26% 96	59.88% 97	26.54% 43	2.47% 4	6.79 % 11	20.37% 33 Responses	149.8 0% 373
Total	62	37	42	140	141	71	6	19	51	249

The *other* comments field for this questions revealed that several women also were targeted by the same perpetrator that they observed harassing someone else, and that many said were also fearful or intimidated by the perpetrator. A number also said they tried to redirect attention through jokes or making light of the situation, despite this intimidation. Several also mentioned that the victim of the harassment had asked them not to act or report the incident/s. Men answered quite differently however, mostly from the perspective of being in a role of some authority and most (but not all) taking action to deal with the harassment. Not one man in the *other* comments stated they had also been targeted for harassment, or were fearful of the consequences if they had reported it.

Personal comments – open field answers

There were 157 respondents who indicated that they would like the AHRC to be aware of their experiences of sexual harassment in the workplace. Many of these accounts are very graphic and detailed, some intersected with allegations of bullying, aggression and even violence, and there is a consistent impression that the respondents had little faith in the complaints process. Other repeated areas of concern relate to the supervisor-postgraduate student relationship, with women respondents detailing incidents of sexual harassment with supervisors and even fellow postgraduate students. Quite a few also spoke about the impact on their work and careers, and their reluctance to make a formal complaint about sexual harassment due to the threat to their career – one response summed this up well, stating that:

Academia involves a lot of out of hours work, including networking and conferences etc etc. It is often at events like 'leadership retreats' or conference dinners etc. that, in my experience, sexual harassment - particularly of younger and more junior female colleagues occurs (not that it does not occur elsewhere, but these seem to be a particular issue). I have certainly experienced this myself and feel as though it would not be worth reporting as, when these senior colleagues are in your particular field of expertise, you are risking your career prospects. They are likely to, at some point, be a reviewer for your journal article, book manuscript, grant application etc etc. Or, more subtlety, they might simply decide to never cite your work. Women in the academy do warn each other about predatory behaviour from known harassers, but it is generally felt that, short of a sexual assault, there is little point in

pursuing a formal claim. The sense is that nothing will come of it, and you will have just really pissed off an important person in your field.

For the women respondents who commented, there was a consistent sense of fear – of the perpetrator, the potential impact on their careers, and the likelihood of other women being targeted.

For the male respondents, many comments focus on observed incidents and their support for the victims, although a portion also state that they have never witnessed or experienced any sexual harassment in the workplace at all.

There are also a number which detail bullying rather than sexual harassment per se. A small number do report personal incidents of sexual harassment; of these, both men and women are stated as the perpetrators. However, by far, the most common response is one where the male respondents feel that there isn't enough attention being paid to their concerns, or that that the focus on gender equality has gone too far, with one respondent saying:

There's a slowly growing meme amongst some students about "Cis white men" which I'm sure is mostly done mostly in jest. It seems to be growing though and while it's kind of fair that we take our lumps because historically we straight, cis white males have been terrible (on average, not individually), we just need to ensure that it doesn't go too far. The goal is equality, not turning the tables and getting revenge.

A few also questioned the definitions of what sexual harassment is, with one respondent saying:

I have worked in Academia in Australia for 14 years and have never been involved with or observed any form of sexual harassment. I believe some of the questions in this survey are not clearly defined and will result in an over estimation of sexual harassment at universities (for example, "stared or leaned at in a way that makes you feel uncomfortable" - that is not sexual harassment).

Clearly, the comments show a marked difference in attitudes towards sexual harassment in the workplace. Such variations in perceptions leave open the question of how universities should effectively manage cultural change in the workplace – although the survey does also show that, for both women and men, the view is that the current processes for dealing with complaints around sexual harassment are deemed largely ineffectual.