RESEARCH TEAM

RMIT University and University of Wollongong – Alternative Reporting Project

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OVERVIEW

This submission draws on current research analysing pathways for **reporting sexual violence**, which includes sexual harassment, sexual assault and rape. Sexual violence is our preferred term in order to capture the broad continuum of sexual harms that individuals may be subjected to in the workplace. These can range from sexual harassment, stalking, voyeurism (spying), threats of rape and sexual harm, and technology facilitated sexual violence including image-based abuse and digital harassment. Decades of research illustrates that survivors may not draw clear distinctions around incidents, which in the context of a legal system would be considered different classes of offence, or otherwise relegated as not sexual assault, sexual harassment or even sexual violence at all. We acknowledge there are legal differences between these forms of sexual harm, which requires workplaces to offer flexible reporting avenues for a range of experiences and to know the different care pathways available to survivors.

Questions 3 and 4 in the Taskforce's consultation paper are addressed in this submission with reference to reporting sexual harassment, with additional context provided relating to research into sexual violence as required. These two questions fall within the scope of the recommendations about reporting made by the Australian Human Rights Commission Respect @ Work report released in March 2020 (https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020).

 Specifically, these include:

- **Support** – prioritising worker wellbeing and provision of support to workers, including before they make a report, as well as after they report and during any formal process.

- **Reporting** – increasing the options available to workers to make a report workplace sexual harassment and address barriers to reporting, and creating new ways for business owners and employers to intervene to address sexual harassment, other than launching a formal investigation. Adopting a victim-centred approach to the way investigations are conducted with a report is made can minimise unnecessary harm to workers.

- **Measuring** – the collection of data at a workplace-level and industry-level, to help improve understanding of the scope and nature of the problem posed by sexual harassment. This include understanding the prevalence, nature and impacts of workplace sexual harassment as well as the effectiveness of workplace initiatives designed to address it.

QUESTION 3: HOW CAN WE MAKE IT EASIER FOR PEOPLE TO REPORT SEXUAL HARRASSMENT IN THE WORKPLACE?

As the Taskforce is aware, survivors reporting sexual harassment in the workplace face several barriers. These include fear of reprisal, career consequences and distrust of complaint pathways. Workplaces may also not be resourced appropriately to address complaints of sexual harassment. Survivors may also fear they will not be believed or taken seriously if they choose to come forward. There are also concerns that the use of non-disclosure agreements in workplace sexual harassment cases can contribute to a culture of silence and disempower workers who experience sexual harassment. Supporting people who make complaints (including bystanders) is critical for effective enforcement and promoting cultural change within organisations.

Research indicates that survivors need to be presented with information about what their reporting options are, as well as knowledge about the processes, policies and procedures associated with the reporting process – whether these reporting options be formal or informal (Clark 2010). Our research findings support **informal reporting options** for people experiencing sexual violence in the workplace in addition to formal reporting systems.

Our analysis of informal reporting of sexual assault has found that the preferred model for an informal reporting option:
  a. Links reporters directly with support services.
  b. Provides de-identified data from the reports to law enforcement or other oversight bodies.
  c. Includes only questions that will support the justice needs of the reporter and maintain the integrity and reliability of the information being collected.

Our research suggests that people are already seeking alternative pathways to reporting sexual harassment. For instance, in a database of 2188 anonymous sexual assault reports in Victoria, 14% of reports involved sexual harassment. Our analysis of an early data set from the same database indicated that 19% of reports were for sexual harassment, which also included various forms of stalking. Many of these incidents of sexual harassment occurred in the workplace. Optional anonymity, accessibility, connection with support services and contributing to improved prevention and response to the offending are key features of a reporting system for sexual violence, according to our early findings.

Anonymity

Allowing reporters to remain anonymous if they so choose is critical to improving rates of reporting and data gathering. Shame and embarrassment as well as fear of repercussions within the workplace have prevented victims of sexual harassment from reporting offences in a timely fashion or at all. However, anonymous reports of sexual violence have been shown to convert to formal complaints at a rate of around 15%, without decreasing the existing rate of formal reporting (Markham 2015). As such, the provision of anonymous informal reporting options for sexual harassment survivors may lead to an increase in formal complaints. In order to facilitate this, cultural change within the workplace is required to validate and support survivors when they come forward as well as fostering a culture of zero tolerance for sexual harassment. Gathering anonymous reports of sexual violence in the workplace may also assist in documenting its prevalence in order to understand more fully the true extent and impact of these harmful, unlawful and potentially criminal behaviours.

Increased desire for reporting sexual violence

Recent research highlights an array of alternative options for speaking out and having experiences of sexual violence heard, with many facilitated through digital platforms. Online support communities have long-existed as informal, peer-led spaces of informal reporting (Burrow 2011, O'Niell 2018, Noak-Lundberd et al. 2019). Survivors increasingly turn to alternative avenues for speaking out, such as digital spaces and social media, spurred on (in part) by the #MeToo movement (Fileborn & Loney-Howes 2020). Digital mapping tools and apps have also been developed to enable survivors to report locations where sexual harassment or violence has occurred (Fileborn 2014, Fileborn 2017).

In some cases, disclosing experiences of sexual violence, including sexual harassment, online or through other informal means may expose survivors to allegations of defamation (which can result in survivors or journalists being sued for damages) (Jane 2016, Salter 2013, Fileborn 2014). Yet the significant uptake of digital platforms by survivors for speaking out about sexual violence is nonetheless indicative of the desire expressed by survivors to be *heard*, have their experiences *validated*, and seek out a

supportive community (Fileborn 2017, Fileborn & Loney-Howes 2020). Moreover, the technosocial nature of digital technologies now embedded in our every-day lives illuminates the potential for support services and policing to engage with and develop effective digital tools to facilitate opportunities for the informal, confidential and (if desired) anonymous reporting of sexual violence.

Informal reporting options may also enable bystanders to report a range of sexually inappropriate behaviours they may witness in the workplace enabling organisations to expand the pathways concerns and complaints can be raised beyond the current overreliance on individual complainants coming forward (MacDermott 2020). Our analysis of the SARA database of anonymous reports of sexual assault and harassment (see Figure 1, right) confirms that bystanders are an important source of reports, with 30% of reports being made by a third party, of which two-thirds are submitted by a friend or acquaintance (Loney-Howes, Heydon & O'Neill, forthcoming).
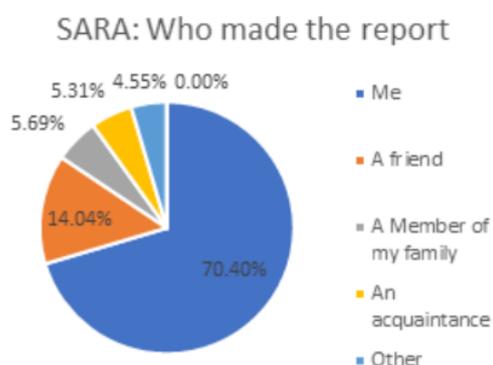

Figure 1. Sexual Assault Reporting Anonymously database analysis of who made the report

QUESTION 4: WHAT CAN WE DO TO MAKE PEOPLE WHO EXPERIENCE WORKPLACE SEXUAL HARRASSMENT FEEL SUPPORTED AND MAKE IT EASIER FOR THEM TO ACCESS SUPPORT?

Providing suitable pathways for **both formal and informal (anonymous) reporting** will allow reporters to access services, employment advice and legal advice. A better informed and supported workforce will be more likely to offer appropriate support and treatment pathways to address trauma related to sexual harassment. Accurate and timely legal advice will support reporters to seek redress, which may have a preventative effect.

What a Best-Practice Informal Reporting Model Might Look Like

Our research shows having informal reporting platforms **administered externally by a support service** (as opposed to an internal reporting option) ensures that survivors of sexual violence – ranging from sexual harassment to rape – are first and foremost connected with **appropriate therapeutic support.** In the context of workplace sexual harassment, which falls under the remit of workplace health and safety legislation, it might be feasible for such a platform to be administered by Work Safe Victoria. This would avoid any potential conflict of interests within internal HR departments – and many HR staff are not specially trained to assist in responding to disclosures of sexual violence (Bainbridge, Perry & Kulik 2018). Any platform would need to be adequately

resourced with appropriately trained staff, data security support, and foster good working relationships with external services including: support services, mediators and police.

We advocate for the development and use of alternative written reporting options (including digital platforms) that are informed by specific interviewing techniques, such as a the "whole story" approach, (Tidmarsh, Powell & Darwinkle 2012, Hope et al. 2013) because it privileges the survivor's own narrative and version of events. Written reporting option incorporating the use of free textboxes as open-ended questions provide individuals with an opportunity to clarify "what really happened" rather than just responding to "yes", "no" or other pre-determined questions (Ellonen, Fagerlund & Pösö 2018). In the context of sexual harassment, this helps to avoid asking questions about definitions of harassment that may be based on stereotypes which survivors may not feel their experiences reflect (Liu 2018). In other words, it offers a victim-centred approach to informally reporting which can be further safe guarded if survivors are connected with appropriate support services.

FUTHER RECCOMENDATIONS:

Based on our research findings examining informal reporting options for survivors of sexual violence, there are three further recommendations for which we advocate that speak to the need for inclusivity, diversity and appropriate care pathways in developing informal workplace-based reporting tools:

1. W**e recommend that alternative reporting tools be anonymous and informal, and linked to support services.** This should include support services tailored to the needs of specific groups, such as LGBTIQ+ communities, Aboriginal and Torres Strait Island peoples, people with disabilities, and those for whom their primary language is not English.

2. **We recommend the design of anonymous and alternative reporting options not contain unnecessarily rigorous or invasive questions, or questions that reinforce victim-blaming and other myths about sexual harassment.** They should be designed according to best-practice interviewing techniques that support and centre the survivors' narrative in their own words.

3. **Reporting options should be flexible in design accounting for a range of abilities with clear information provided to reporters about what happen to the information provided:**

a) Informal reporting options should provide flexibility in how survivors record their experience (e.g., written options, verbal options), and be made available in a range of languages other than English. Reporting tools should be developed in collaboration with disability support groups to ensure they are universally

accessible. Reporting tools should be inclusive of diverse gender, sex and sexuality.

b) Alternative reporting options should contain a clear statement about what is involved in this particular reporting process, what questions they will be asked, how much personal/identifying information they will be asked to give, what will happen to their report, whether they will be able to access the report once it has been filed, to indicate if they would like a follow-up phone call/text/email from police and/or support services.

Thank you for considering our submission.

If you have any questions, please contact:
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EXTRA RESOURCES:

Georgina Heydon & Anastasia Powell (2016): Written-response interview protocols: an innovative approach to confidential reporting and victim interviewing in sexual assault investigations, Policing and Society, DOI: 10.1080/10439463.2016.1187146

https://theconversation.com/sexual-assault-what-can-you-do-if-you-dont-want-to-make-a-formal-report-to-police-155948

https://www.lawreform.vic.gov.au/all-projects/improving-response-justice-system-sexual-offences

https://www.theage.com.au/national/victoria/surge-in-sex-assault-reports-but-hundreds-may-remain-hidden-20210417-p57k1l.html

CASA Forum Annual Report (see pages 25-26 for SARA statistics)

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