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Global
University

Local Perspectives

A case study on responses to
sexual violence in a university setting

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Learn

Accept

Respect

Think

Don't Assume

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Front cover: Celebrate, Learn, Accept, Respect, Think, Don't Assume, Basser Steps, UNSW Sydney. Photo by Kirsten Keith

Local Perspectives

A case study on responses to
sexual violence in a university setting

Elena Cama and Andrea Durbach

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Acknowledgments

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All interviews were conducted on a confidential basis and interviewees were not asked to disclose any confidential information. Permission was granted by all interviewees to publish extracts from their interviews contained in this report without disclosing their identity.

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1. Background and rationale

Local Perspectives: a case study on responses to sexual violence in a university setting forms part of the Australian Human Rights Centre's *Strengthening Australian University Responses to Sexual Assault and Sexual Harassment* project (the AHRCentre project). The project, commissioned by the team responsible for bringing the 2015 documentary *The Hunting Ground* to Australia,¹ is directed at the development of appropriate and effective strategies for preventing and responding to sexual assault and harassment in Australian universities. Underlying this initiative is consideration of the factors that may enable sexual assault and harassment, and the measures and strategies that offer prospects for eroding attitudes and altering practices that may facilitate harmful conduct.

A key outcome of the AHRCentre project is the publication of a report, *On Safe Ground: A Good Practice Guide for Australian Universities* which is informed by three primary sources: the analysis of data from the National Student Survey on Sexual Harassment and Sexual Assault (2016) undertaken by the Australian Human Rights Commission in partnership with Universities Australia; comparative international research on good practice in managing and preventing university sexual assault and harassment; and the findings from this small case study undertaken at UNSW Sydney (UNSW), which draws on interviews with stakeholders who address the range of issues facing a university in responding to campus sexual violence.

A key reason for undertaking the *Local Perspectives* case study was to allow for an internally directed review of the limitations or barriers that frame or influence a university's response to sexual violence, particularly against the backdrop of the public commitment from UNSW leadership to address and prevent sexual assault and harassment at UNSW.² This report of the study, which is a companion report to that of the broader project, is based on an initial review of UNSW's policies that potentially cover the management of sexual assault and harassment, and on qualitative interviews with a small, diverse sample of relevant individuals who are involved in and/or responsible for responding to reports of sexual violence by members of the UNSW community.

¹ The Hunting Ground Australia Project has conducted screenings of *The Hunting Ground* at universities throughout Australia since early 2016, using 'the documentary as a tool to engage the entire Australian university sector, and the broader community, in a collaborative, comprehensive and unified campaign' focusing on sexual violence at Australian universities. See generally The Hunting Ground Australia Project <<http://www.thehuntinggroundaustralia.com.au/>>.

² Ian Jacobs, 'Australian Universities Have Zero Tolerance for Sex Assaults on Campus', Sydney Morning Herald, 15 May 2016 <<http://www.smh.com.au/comment/australian-universities-have-zero-tolerance-for-sex-assaults-on-campus-20160513-goulv3.html>>.

2. Methods

2.1. Review of policies

In commencing the *Local Perspectives* project, the AHRCentre conducted an initial review³ of a number of university-wide policies and protocols in March 2016. These included the:

- UNSW draft Reporting to External Agencies Guideline;
- UNSW Student Critical Incident Procedure;
- UNSW Code of Conduct;
- UNSW Student Code Policy;
- UNSW Student Complaint Procedure;
- UNSW Student Misconduct Procedure; and
- UNSW Health and Safety Policy.

The review also covered policies that are relevant to UNSW colleges and residences: the Kensington Colleges Resident Handbook 2013; the UNSW Village Rules; and the UNSW Village Party Policy.

2.2. Interviews

University representatives from security, health and counselling services, the legal office, the conduct and integrity unit, and college residences, as well as student representatives, legal practitioners and academics who conduct research into gendered violence, were invited to participate in semi-structured interviews. The interviews were 60–90 minutes in duration and explored a range of topics, including the role of the university in responding to sexual violence, student experiences of reporting to the university, limitations of the current policies and reporting systems, and recommendations to enhance existing procedures and practices.

The interviews were conducted between May 2016 and February 2017. A number of changes made to UNSW policies and procedures since that time are referred to in Section 5, Conclusion.

The UNSW case study project received ethics approval from the UNSW Human Research Ethics Committee (reference HC16032).

2.3. Project Working Party

As part of the UNSW Case Study project, an AHRCentre Project Working Party was established to exchange information and provide advice on how to improve efforts to prevent and respond to sexual violence, including awareness raising, cultural change, student support, revision of policies and procedures, and overall university management of complaints of sexual assault and harassment. The Working Party consisted of representatives from across UNSW, including the Gendered Violence Research Network (GVRN), security, health and counselling services, legal and internal disciplinary offices, student leadership organisations, and external agencies, such as the NSW Rape Crisis Centre and the Department of Defence.

³ A comprehensive UNSW audit of all relevant policies was undertaken by an external agency in 2016.

3. Policy review findings

The review of the policies identified significant deficiencies in the policy framework and areas for consideration, which were used to inform the case study interview questions. These included an absence of:

- comprehensive and express statements prohibiting sexual assault and harassment (including off-campus and online) in staff and student codes of conduct;
- clear, accessible and legally accurate definitions of sexual assault and harassment;
- a clear statement of the university's role in responding to sexual assault and harassment;
- clear, transparent and prominent language (including in multiple languages) detailing the process for making a complaint of sexual assault or harassment;
- clear, transparent and prominent language regarding the procedures to be followed to investigate and adjudicate a complaint and the potential outcomes/sanctions of the complaint process (including an explanation if no disciplinary action is taken);
- clarification of legal obligations regarding the reporting of sexual assault and harassment to the police in NSW;
- allocation/identification of specific university units or staff trained to receive initial disclosures and formal complaints of sexual assault and harassment;
- allocation/identification of specific university units or staff trained to address the administrative, legal and therapeutic needs of student victims⁴ of sexual assault and harassment;
- transparent and prominent indications of the location and functions of support services available at the university and in the local area;
- enhanced integration of university student support services, such as health, legal and counselling (noting confidentiality and privacy requirements);
- improved dissemination of university policy on sexual assault and harassment, including on the main university website, at student orientation events, and in staff orientation packages; and
- clarification of residential college obligations to report incidents of sexual assault and harassment to the university.

Following the findings of the initial policy review, in June 2016 the UNSW Student Representative Council (SRC) Women's Collective published an open letter to the UNSW Vice-Chancellor in the student publication, *Tharunka*, calling on UNSW to adopt the following mechanisms to ensure that "students and staff feel safe on campus, and that UNSW is a place of equity and respect for all, in more than just sentiment":⁵

- i. A *clear, accessible*, legally accurate, and widely publicised stand-alone sexual assault and harassment policy;

- ii. A *transparent* and accessible reporting and investigation procedure that vigorously enforces 'no tolerance'. The development of a *specialised, independent* unit to deal with sexual assault and harassment in a centralised, accessible way as a linchpin for the university's strategy, as well as increased funding for better-resourced counselling and health services;
- iii. Implementation of a *mandatory learning* module of sexual assault and harassment, consent and respectful relationships for all commencing students. There should also be resourcing for ongoing education programs, as well as awareness and prevention training for staff and students.

⁴ While the terms 'victim' and 'survivor' and 'victim-survivor' are used interchangeably to refer to people who have experienced sexual violence, they carry different connotations. The term 'victim' generally refers to someone who has recently been affected by sexual violence and also reflects many of the legal and policy frameworks that seek to regulate sexual assault and harassment. The term 'survivor' of sexual violence generally refers to someone who has gone through the recovery process following an experience of sexual assault or harassment. This report uses the term 'victim' to refer to students who have recently experienced sexual violence. The term is primarily used by all the interviewees. The use of the term 'victim' in this report does not intend to negate the agency of those who have experienced sexual assault or harassment.

⁵ SRC Women's Collective, 'Open Letter to the Vice Chancellor', *Tharunka*, 27 June 2016, 3 <https://issuu.com/tharunka/docs/four_final>.

4. Interview analysis

The interview findings and analysis are structured around seven key areas of examination: the occurrence of sexual violence at UNSW, barriers to reporting sexual violence, current policies and reporting procedures, the role and responsibility of the university in responding to sexual violence, institutional responses to sexual violence (including definitions and sanctions), support systems and prevention mechanisms.

4.1. The occurrence of sexual violence

In 2015, the National Union of Students (NUS) reported findings from a survey of the experiences of 1,366 women students at Australian universities: 73% of women who responded reported experiencing some form of sexual harassment or unwanted sexual behaviour while enrolled at their educational institution (not necessarily occurring on campus).⁶ Participants in the UNSW case study who had access to students who might disclose incidents of sexual assault and harassment generally reported that the numbers of reports via formal reporting mechanisms at UNSW were relatively low: “I haven’t dealt with many in the last six months I must say” (UNSWCS_140126_0074_051216). However, with an increasing public focus on the issue of university sexual violence, participants indicated a corresponding increase in reports:

There’s probably been an increase in people coming forward in the last six months partly because of the Respect. Now. Always. [campaign] and The Hunting Ground [documentary]. But, generally speaking, it’s not something that we would get a lot of.

(UNSWCS_131113_0068_210916)

In general this year we have seen an increase just across the board in reporting. Which is a good thing. But it’s still not as good as it could be.

(UNSWCS_130730_0066_080616)

Disclosures of sexual violence to the university health service appeared to be much higher than elsewhere, with one participant reporting that perhaps 10–15 cases of sexual assault might be recorded in the service database over the course of one year. However, as was also noted, medical data can be unreliable as patients may only report sexual assault if it emerges in a consultation as contributing to their primary reason for attendance at the service:

There’s not enough accuracy ... cases [are] often related to the complications of a termination of pregnancy based on an assault or, ... ongoing mental health problems ... The actual presentation of a mainly female student saying that, “Last night I was raped” or sexually assaulted. That number is quite small.

(UNSWCS_140121_0072_201116)

Participants emphasised that the low numbers of reports of sexual violence were not indicative of the extent of sexual assault and harassment across Australian universities, with one participant acknowledging that, “the scale of the issue [more broadly] is enormous” (UNSWCS_140122_0073_011216). Rather, participants suggested that this issue is significantly under-reported by victims, with concerning consequences:

⁶ National Union of Students, *Talk About It: NUS Women’s Department 2015 Survey Report* (2015) <https://d3n8a8pro7vhmx.cloudfront.net/nus/pages/144/attachments/original/1454369041/Talk_about_it_Survey_Report.pdf?1454369041>.

One of the major ... factors in this problem is the problem of under-reporting ... I think that contributes to perpetrators reoffending because they've never been caught.

(UNSWCS_140122_0073_011216)

I wouldn't say that there's been an overwhelming number of complaints or incidents ... involving an assault of a sexual nature, fortunately. Now that could mean that there [are] things going on that we never hear about.

(UNSWCS_131222_0069_311016)

I don't know if it's something that they report ... it's difficult sometimes 'cause people don't [want to] report, they don't want people ... involved.

(UNSWCS_130730_0066_080616)

The interviews did, however, reveal a perception that those primarily affected by sexual assault and harassment were women and international students:⁷ “I think it affects the majority of women and I think [culturally and linguistically diverse] populations are even more affected” (UNSWCS_140122_0073_011216).

However, one participant also noted that the forms of sexual violence were changing in the light of new and emerging modes of technology, such as mobile communications, social media and educational e-learning resources. These technologies give rise to new methods of perpetrating violence with a range of problematic consequences and may create difficulties “in the sense of trying to identify who the [perpetrator is]” (UNSWCS_130730_0066_080616).

4.2. Barriers to reporting

A number of key features emerged from the interviews as barriers and disincentives to reporting.

4.2.1. University track record in responding

As referred to above, under-reporting of sexual violence appears to be a key issue amongst the university staff and student community. In this regard, case study participants emphasised that the university's track record in responding to reports of sexual assault and harassment was poor and might inappropriately rely on police intervention:

... the reason people don't report is because we do it really badly. We respond really badly. And for the students that I've spoken to, the biggest issue for them is that they feel, and I've heard the university say it, that it's [going to] be taken out of their hands and some things are [going to] go to the police. Now, if I'm sexually assaulted at any, anywhere, I have the right to say I want police action or not and yet we think we can take it away at a university level. That's why they're not [going to] report.

(UNSWCS_140416_0076_230217)

Reference was also made to a lack of trust towards the university as an avenue for recourse, often as a consequence of negative experiences of reporting sexual assault and harassment, which led to a reluctance to report:

A lot of students do report, depending on the nature of the assault or situation ... But often ... they haven't been followed up and the reports are often made anonymously or those don't seem to have been dealt with in an appropriate way by the university ... [There is] an attitude amongst students of [a] lack of trust in the system and a belief that, even if they do report, nothing will be done about it because so many students have had negative experiences where they've attempted to report through the correct university channels and have been dissatisfied with the response from the university.

(UNSWCS_140122_0073_011216)

⁷ In 2015, UNSW reported that 25% (n=13,633) of its student population were international students. See UNSW Australia, *At a Glance* (2015) <https://www.unsw.edu.au/sites/default/files/156-013%20UNSW%20Overview%20Mini%20Guide%20a6_LR.PDF>.

4.2.2. Accessibility of reporting mechanisms

Participants also spoke to the fact that the “accessibility of the reporting mechanism at the university” was “not well-publicised” (UNSWCS_140122_0073_011216), making it difficult for students to know to whom they should report – a clear disincentive to reporting:

I find one of our biggest challenges is communication ... we still don't seem to hit the target audience. We still seem to miss it ... what do we need to do or what can we do? What are we missing? What is it that we're not getting across?

(UNSWCS_130730_0066_080616)

Some participants highlighted that many students do not physically attend the university campus (e.g. distance learning students) making many of the reporting options and support services less accessible to them:

You've also [got to] look at the fact that lots of students don't come onto campus on a regular basis. Or, if they come, they leave. They don't [want to] hang about, you know. They're not here for use of services necessarily, unless something happens and they need to draw on them.

(UNSWCS_131113_0068_210916)

Inaccessibility was also raised as an issue for culturally and linguistically diverse (CALD) students. In addition to experiencing barriers to locating and accessing reporting mechanisms, this cohort of students also confronts communication and language barriers, as well as concerns about the impact of reporting an incident on visa conditions, and that reports of sexual violence may stigmatise or dishonour them and their families in their home countries:

For international students, there is ... a communication barrier.

(UNSWCS_130730_0066_080616)

Students from culturally and linguistically diverse backgrounds ... have certain cultural barriers that prevent them being able to talk about ... [sexual] issues in the same way and access services in the same way. I think there are really big barriers for those groups.

(UNSWCS_140122_0073_011216)

I think lots of people don't want to report it ... because they don't know what happens next, they don't know that if ... they're an international student, they'll lose their visa, that I'll be required to tell their parents, that I'll have to take them up to the police station. There's a whole lot of mystery, of really unhelpful mystery around what happens next.

(UNSWCS_130731_0067_090616)

4.2.3. Institutional culture

For students residing in residential colleges, peer pressures were seen as contributing to a culture of silence around sexual violence and misogyny. As one participant stated: “In the older colleges, there was always a tradition, there is a history, there is a culture that they absorb when they get here” (UNSWCS_130731_0067_090616). Others spoke of a sense of a “collective identity” which may take “precedence over respecting what other people or what elsewhere might be considered the right kind of social norms” (UNSWCS_140122_0073_011216).

Within such an environment, sexist attitudes and practices may prevail without challenge:

People feel afraid to call it out because they don't [want to] be alienated from that collective identity, because that's really important to them, and, all their close friendships exist within that bubble.

(UNSWCS_140122_0073_011216)

Participants also spoke about a sense of “normalised sexual violence” and a culture of “victim blaming” (UNSWCS_140209_0075_191216) more broadly across the university, which creates an environment that is not conducive to reporting: “If you look at the culture that exists on campus, it is a sexist one” (UNSWCS_140122_0073_011216). This culture was reflective of broader social attitudes:

We have a culture in society of victim blaming and ... also just of minimising harassment and minimising assault against women, and normalising it ... I think that means that a lot of women have an internalised sense that it's not a big ... problem. And therefore ... it doesn't warrant reporting. It's not important enough to report.

(UNSWCS_140122_0073_011216)

4.3. Current policies and reporting procedures

4.3.1. Sexual assault and harassment policies

The UNSW *Sexual Assault, Sexual Harassment & Rape* webpage available online for current students states that “UNSW has zero tolerance for sexual assault, sexual harassment and rape and takes reports of this behaviour very seriously.”⁸ The page does not include specific policies on the reporting and management of complaints of sexual violence (except for the Student Critical Incident Procedure for staff reporting of serious student incidents⁹) but refers students to reporting and support options if they experience sexual violence.

The webpage lists emergency contacts for instances where there is risk of immediate danger, and also refers students to online complaints, the Student Integrity Unit (SIU), Campus Security, Counselling and Psychological Services (CAPS), the UNSW Health Service and the NSW Rape Crisis Centre. The page suggests that students may wish to report incidents to NSW Police and lists a range of additional internal and external support services available to victims, including support services that are available to women, men, and lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) students. As at June 2017, this webpage also included links to external resources that provide more information about the types of behaviours that constitute sexual assault and harassment.

In the absence of an explicit policy on sexual assault and sexual harassment, a complaint can be made using the Student Complaint¹⁰ or the Student Misconduct¹¹ Procedures or “under the applicable enterprise agreement” (UNSWCS_131222_0069_311016). Alternatively, complaints may be guided by other policies and procedures:

⁸ University of New South Wales, *Sexual Assault, Sexual Harassment & Rape* (6 June 2017) <<https://student.unsw.edu.au/harassment>>.

⁹ University of New South Wales, *Student Critical Incident Procedure* (20 February 2016) <<https://www.gs.unsw.edu.au/policy/documents/studentcriticalincidentprocedure.pdf>>.

[A complaint] could be investigated under the student complaint procedure but the procedure also provides a framework for receiving and triaging complaints. So, essentially, everything gets funnelled through the student complaint procedure and it's a mechanism to ensure that the student has somebody to listen to their concerns, to effectively triage or appropriately triage those concerns and then, if there isn't another place or procedure for that issue to be dealt with under, it might be investigated in accordance with that procedure.

(UNSWCS_140106_0070_151116)

If a student makes a complaint and it's of sexual assault by a teacher, by a professor, that would ... be dealt with as an employment, disciplinary matter under the applicable enterprise agreement. So it would cease to be dealt with as a student complaint because it is, in truth, a staff issue and the student would end up being interviewed by the person conducting the process under the enterprise agreement but it would fundamentally, become an employment misconduct matter. Similarly, if the student comes along and alleges harassment by a fellow student, that may well start life as a student complaint but end up then becoming a university disciplinary process under the student misconduct procedure against the alleged harasser. So, really, the student misconduct procedure is kind of the initial portal through which the matter would pass but then it might be hived off to be dealt with under something else.

(UNSWCS_131222_0069_311016)

4.3.2. Avenues for reporting

Currently, no centralised service for reporting incidents of sexual assault and harassment exists at UNSW, with one participant describing the various reporting options as a “smorgasbord” of choice:

They could go and see ARC [a student organisation]. They could go and see the health service. They could go and see CAPS. I mean there [are] a lot of services in one place but what's the best service for them at that particular time? ... [I]t's almost a smorgasbord, isn't it, really? ... [T]here's a lack of co-ordination, centralisation.

(UNSWCS_140126_0074_051216)

The lack of a centralised reporting system across the university creates a number of challenges, including minimal communication between the relevant university agencies and services (such as security, health, counselling, the SIU, the university legal office) and a perceived lack of accountability or responsibility by the various services in failing to report and follow up cases of sexual assault and harassment:

The fact that we haven't got full awareness of what might be going on in different parts of the university means that we are at risk of under-reporting and, worse, at risk of being thought to be concealing when, in fact, it's not that at all; it's just that we don't have the right systems to support accurate reporting.

(UNSWCS_131222_0069_311016)

The “diffuse and devolved nature of the university” (UNSWCS_131222_0069_311016) also presents significant challenges for communication, even where they may be “physically colocated ... that doesn't necessarily mean that you've got good communication about what they provide” (UNSWCS_131113_0068_210916):

Sometimes you've got people working in silos, in more private organisations and you wouldn't know what's happening because it's, it's not reported. So it's about opening up those channels.

(UNSWCS_130730_0066_080616)

¹⁰ University of New South Wales, *Student Complaint Procedure* (5 August 2014) <<https://www.gs.unsw.edu.au/policy/documents/studentcomplaintproc.pdf>>.

¹¹ University of New South Wales, *Student Misconduct Procedure* (16 August 2016) <<https://www.gs.unsw.edu.au/policy/documents/studentmisconductprocedures.pdf>>.

A key issue was that the reporting process was thought to be unclear and not well communicated within the UNSW community: there is a “lack of confidence in, and knowledge about, what the process looks like” (UNSWCS_140106_0070_151116). The reporting process was described as “a bit haphazard” and one participant raised concerns about the lack of knowledge of the process among staff and students:

People don't know answers to questions and, if our people, if our staff don't know what the policies are and what services are available, then how can our students know?

(UNSWCS_140106_0070_151116)

It's not just in relation to those kinds of policies and procedures. Students aren't aware even of the services that they can access. I mean it's communicating with 62,000 or 52,000 students – 62,000 in the future. How to do that efficiently is not, I don't think that's something we've unpacked yet.

(UNSWCS_131113_0068_210916)

The Student Integrity Unit [which would generally handle complaints of sexual violence] has never been well advertised to students. Most students on campus have no idea that it exists.

(UNSWCS_140122_0073_011216)

Further, communication about all the stages in the reporting process was seen as critical to facilitating reporting of sexual assault and harassment and generating greater trust and confidence in the university effectively responding to a student complaint:

We definitely can be doing more to advise students of what will happen if they make a report ... What we can do is give [students] more information ... and make them feel more comfortable.

(UNSWCS_140106_0070_151116)

You've [got to] bring a victim along with you right through the process. So consultation is vital. Ongoing communication so that the victim understands what is happening, why it's happening.

(UNSWCS_130722_0065_310516)

A number of channels within the university are utilised by students to report incidents of sexual assault and harassment, with evidently differing (and contradictory) methods of recording, referring and resolving complaints.

Student Integrity Unit (SIU)

The SIU has been established to “support and implement the procedures relating to the making of complaints by students and [investigating] allegations made about students” (UNSWCS_140106_0070_151116). The Unit manages any complaints made by students in relation to their “studies, student life, the University or the University environment. Basically, anything which negatively affects studies or experience at University”.¹² In theory, this should include reports of sexual assault and harassment. However, in practice, this does not always occur as complaints are not always escalated to the SIU, particularly those made to residential college staff:

Procedurally, it should come straight to [the SIU]. In practice, it hasn't ... [M]atters of a serious nature should be dealt with centrally by the university. If it's a residence and it's a university college, it's a university issue. If it's a non-university-owned or managed accommodation, it's still a serious matter.

(UNSWCS_140106_0070_151116)

One of our biggest weaknesses as an institution and one of our biggest areas of risk is the fact that things can happen at a college level and not [be picked up] by the central university.

(UNSWCS_131222_0069_311016)

¹² University of New South Wales, *Student Complaints and Appeals* (8 March 2017) <<https://student.unsw.edu.au/complaints>>.

Reports of sexual assault or harassment that are referred to the SIU are generally conveyed by first responders, such as college staff, academic staff, or staff from the counselling service. Once a report is sent to the SIU, “if it is matter that should be dealt with by the police, [the SIU] would strongly encourage the student to make a report” (UNSWCS_140106_0070_151116). The SIU may consult the legal office about its mandatory reporting obligations if the victim refuses to report to the police. As one participant said, there is merit in a police investigation taking place as it would provide support to any investigation undertaken by the university: “if the student’s found guilty, then it’s much easier to pursue an allegation against them in relation to a breach of the student code” (UNSWCS_140106_0070_151116).

When a report of sexual assault or harassment is received by the SIU, a case officer, who has “had no previous involvement with the [alleged perpetrator]” (UNSWCS_140106_0070_151116), is assigned to the investigation and begins the task of collecting supporting information, including a statement from the victim. The case officer file is forwarded to the director of the SIU who determines whether to proceed with a university investigation on the basis of the information supplied. If the victim chooses to report the incident to the police and a police investigation commences, the SIU will not proceed with any university action until the conclusion of the police investigation.

Throughout the investigation process, the SIU purports to maintain communication with the victim to allow “[victims to] feel like they’re still engaged in the process” (UNSWCS_140106_0070_151116). However, once the decision has been made to proceed with an investigation, it becomes “a case that the university’s bringing against this student... the university against [the alleged perpetrator]” (UNSWCS_140106_0070_151116) and the victim is “no longer a party [in the case]” except as “a relevant person who may provide evidence and, certainly, [the SIU would] communicate the outcome to them” (UNSWCS_140106_0070_151116).

Where the victim no longer wishes to proceed with an investigation following the making of a report, the SIU would seek legal advice as to whether it is “obliged to investigate [irrespective of the victim’s wishes] or [whether it needs] to respect the victim’s rights” (UNSWCS_140106_0070_151116). On the issue of whether the victim’s rights in this regard should persist, a case study participant maintained that:

[t]he integrity unit is only [going to] be concerned about university reputation so they’re [going to] make choices that they feel will protect the university most which is not necessarily what a victim may want them to do.

(UNSWCS_140416_0076_230217)

Should the matter proceed to investigation, the alleged perpetrator would be informed of the complaint and investigation via a notice of allegation and provided with an opportunity to respond. The alleged perpetrator is given “multiple opportunities” to respond to ensure that “there is no bias in decision-making” and to “afford the students procedural fairness” (UNSWCS_140106_0070_151116):

The Student Integrity Unit writes an investigation report ... Ordinary course is they’d write a report. The student gets, sees it. Approves it. Checks it for facts. The report goes to [the director of the SIU] to make a decision, which is appealable. Super-urgent under the student code there’s a special provision that ... it can skip that investigation step and [the director of Integrity] can step in ... and make some quick decisions about relocations or order stuff to happen; police forensics, whatever is needed.

(UNSWCS_140126_0074_051216)

One participant from the SIU advised that following a rigorous process of information checking between the case officer and the alleged perpetrator, the director of the SIU makes a decision regarding any punitive action taken by the university. There is a close relationship between the SIU and the legal office, which has a “primary role to guide [the SIU director] in terms of [the] obligations for administrative decision-making” (UNSWCS_140106_0070_151116).

The director of the SIU’s decision on an appropriate sanction against the alleged perpetrator may be appealed to the Deputy Vice Chancellor (Education) on “the grounds of procedural fairness” (UNSWCS_140106_0070_151116) and not “on the merits of the decision” itself (UNSWCS_131222_0069_311016). In these cases, the Deputy Vice Chancellor (Education) may take into account factors such as the length of the investigation or the stress to the alleged perpetrator:

On occasion, there might be claims that the length of time for a matter to be investigated caused them undue stress and that should be considered in determining penalty and it wasn’t. And we try as best as we can to wrap matters up.

(UNSWCS_140106_0070_151116)

UNSW security

UNSW security services are another reporting avenue in cases of sexual violence. When UNSW security receive a complaint of sexual assault or harassment, they assess the immediate needs of the victim and take a statement in the form of an anonymous complaint. Security staff would advise the victim about reporting and support options, and encourage the student to report the incident to the SIU and/or police:

[Security staff] take the report and all the information, ensure that the support services are there in regards to whether the person needs to come up to hospital, counselling support ... If somebody phoned directly and said, you know, “I [want to] report a sexual assault, an allegation of a sexual assault,” [security staff] would ask to meet with them ... and sit down, and discuss with them. Get a little bit of information and understand what’s happened ... then try to give them information about reporting.

(UNSWCS_130730_0066_080616)

International students may be reticent to report an incident to security services due to fears based on negative experiences with state officials in their home country:

There is a known issue that they [international students] don’t feel very comfortable ... because of maybe from their own, home countries and the security services, and the police are maybe not as approachable and friendly. So they might have had a bad experience.

(UNSWCS_130730_0066_080616)

College staff

There are six residential colleges that are owned and operated by UNSW that house approximately 1,200 students. This group includes both international and domestic students undertaking undergraduate and postgraduate degrees. Many of the college staff live in the residences, making them accessible to students who might have any difficulties or concerns. College staff who do not reside at a college are generally on call 24 hours per day.

Due to the close living arrangements, social nature of the college environment, and daily interaction between college staff and students, participants suggested that students may be more willing to report incidents of sexual assault and harassment to college staff rather than escalating an incident through the SIU:

If it's something that happens in residence, I think they'd report more likely to the residential community staff because there's a formed relationship there ... [A] known person they [have] that rapport with and [feel] confident they could talk to.

(UNSWCS_130730_0066_080616)

In these instances, college staff would seek to “determine immediately what the person wants from making this report”:

What do they want to happen next? ... What support do they need? ... Is there somebody better ... who's [going to] be able to meet their need for support? Is it counselling? Is it health service? Where do they want this report to go? [W]hat do they want to happen to the other party?

(UNSWCS_130731_0067_090616)

However, the interviews revealed concerns that college staff may not remain impartial in cases of sexual assault and harassment: “They’re just too involved and they’ve got interpersonal relationships with these young students” (UNSWCS_140126_0074_051216), which may include friendships or associations with alleged perpetrators of sexual assault or harassment. While these relationships might facilitate an ‘in-house’ or localised resolution of some complaints, a number of participants were concerned that this approach might lead to inconsistent or ad hoc decision-making and exacerbated harm to the victim:

[An incident] can be managed in a particular way at that college level which may not be the optimal way to manage it ... there are all sorts of risks in that situation of prolonging the trauma for the alleged victim and of inconsistent findings and overlapping investigations, and different rules of procedure, and a whole lot of risks ... So that's something we have to fix. And it's made more complicated by the fact that not all our colleges are our own colleges.

(UNSWCS_131222_0069_311016)

Health and counselling services

Case study interviews suggested that disclosures of sexual violence are most likely to be made through mechanisms such as CAPS or the UNSW Health Service which play a vital role in providing physical and emotional support to victims:

[A] GP is important for lots of reasons. [T]here's things around the protection side of issues and testing for sexually transmitted infections, and dealing with the possibility of pregnancy, that type of thing ... And, obviously, the sort of mental health-type support.

(UNSWCS_140121_0072_201116)

The most important thing is looking after their [physical] welfare and their emotional welfare ... [T]he initial thing is going to be about being empathetic, non-judgemental, getting some sort of detail ... to make an assessment about what further medical-type testing or that they might need [e.g. sexual health, pregnancy] ... the initial thing's [going to] be more about just offering them support and someone to talk to, and then trying to point the way for them.

(UNSWCS_140121_0072_201116)

Importantly, however, these services do not provide specialist sexual assault assistance:

So we wouldn't see [the service] as a sexual assault service; we would see [it] as a first point of contact perhaps or a second, or a third point of contact depending on what's happened for the student. We would see [the service] as referring, offering support, understanding, acceptance of their experience, referring to specialist services, particularly the sexual assault service at RPA [Royal Prince Alfred Hospital], making sure they were aware of resources, their rights in the situation, where they could go for further information.

(UNSWCS_131113_0068_210916)

A report of sexual assault to the health service would typically involve referral to the specialist sexual assault centre located at the Royal Prince Alfred Hospital (RPA) in Camperdown:

If you've been sexually assaulted and you need to see a doctor ... as soon as possible after that assault, you should really go to the Rape Crisis Centre or the unit [sexual assault centre] which is at RPA, because they're the only ones who are, in a sense, qualified to do the sexual assault kit, which is the forensic side of it.

(UNSWCS_140121_0072_201116)

The lack of a proximate specialist sexual assault centre to UNSW was seen as “highly problematic”, as the health service has no capacity to transport victims to the RPA (approximately 10 kilometres away). Due to both contractual and insurance constraints, the university security service is unable to transfer students to either the university health service or the RPA sexual assault centre:

We can't even get people transported on campus to the health service if they're not well or injured ... [T]he number of times ambulances are called to come to the university because someone's sprained their ankle and security won't bring them, won't transport an injured person to the clinic ... They could escort them as long as the student could get there themselves but ... [t]hey're not allowed to transport someone who's injured. It's just a flat rule ... They [would] probably call an ambulance.

(UNSWCS_140121_0072_201116)

4.4. The role and responsibility of the university in responding to sexual violence

The Australian release and widespread screening of *The Hunting Ground* documentary at Australian universities has been a catalyst for the recent and increased focus on Australian university responses to sexual violence, prompting conversations about the role and responsibility of universities in addressing and preventing this issue. University responsibility in this regard was assumed by some participants, while others viewed it as unclear. Despite this ambivalence, one participant spoke about the documentary as being crucial in giving visibility to the issue, particularly as it meant that universities had to be more transparent in acknowledging deficient historical responses to reports of sexual violence. Despite the risks of institutional reputational damage, increasing visibility and transparency was viewed as a positive outcome by “bringing the whole topic to the forefront”:

It's something that historically, and I'm not talking specifically to UNSW, but I think for a lot of organisations it's something ... [t]hey know [it is] happening but nobody wants to talk about it because there's bad publicity ... I think it's important that we're transparent. I think that whole open-door policy, the whole ... [acknowledging] this is what we are and this is what has happened ... I think that in itself gives individuals attending here – our staff and our students – actual confidence that we're not hiding anything.

(UNSWCS_130730_0066_080616)

UNSW has held a number of screenings of the documentary, including at residential colleges, followed by panel discussions with staff and students. Participants praised the efforts of the university in bringing visibility to the issue:

*The university has done commendable things. It was commendable to participate in *The Hunting Ground* ... we've had the screening numerous times with both staff and students. And so shining a light on this issue and appearing to take responsibility for it is really great. And we've had panels and Q&As that have sort of allowed students and staff to engage with this issue, to discuss it with university representatives and academics in this field, which has been ... really positive because it's definitely made people aware of the issue, and made people think about ... addressing it, which is good. And having ... our Vice-Chancellor come out and affirm a stance of zero tolerance and speak with good intent to addressing the issue.*

(UNSWCS_140122_0073_011216)

Despite an obvious concern by the university in relation to the issue of campus sexual violence, key questions emerged from the interviews as to whether the university has a formal role or responsibility in addressing and preventing sexual assault and harassment, namely:

- whether a university has a 'duty of care' towards its students;
- what, if any, are the legal obligations of the university and the 'risk' it assumes in relation to managing the issue; and
- whether the university has any moral or ethical responsibility to address or prevent university sexual violence.

One participant also queried whether, aside from any legal obligations, "a settled standard of good practice for how to deal with these sorts of incidents" was "perhaps ... evolving" (UNSWCS_131222_0069_311016).

With regards to the university's duty of care, one participant stated that Australian universities broadly advertise "that they will provide students with a safe, secure environment, free from discrimination, harassment" and therefore "seem to be assuming a duty of care" (UNSWCS_131222_0069_311016). Beyond this general declaration of a duty, participants stated that the university had a specific duty of care to support victims who report sexual violence and to prevent future assaults from taking place:

If somebody makes a complaint of assault, then the university owes an appropriate duty of care to that person, but also it might be argued to other students and staff. One of the obligations they might feel is that they need to take steps to prevent anything like this happening again to anyone else.

(UNSWCS_130722_0065_310516)

Additionally, it was suggested that the potential exposure by universities to legal action for failing to act in circumstances where a sexual assault allegations had been made required them to "err on the conservative side, of ... not taking a risk ... it's risk management too" (UNSWCS_130722_0065_310516):

I think a university in particular has to adopt a fairly conservative sort of approach to these issues. I mean not stick their necks out ... if it seems to be indicated that something bad has been done, then they should take action to address that and to prevent it happening again.

(UNSWCS_130722_0065_310516)

The issue of legal risk also arose in relation to university-hosted events where the university has control over the provision of alcohol or the number of security personnel present at an event, which "may enliven additional levels of legal responsibility" (UNSWCS_131222_0069_311016).

Beyond the potential legal obligations and risks that the university may need to manage, participants also stated that the university has a broader moral or ethical responsibility in keeping students safe and responding to reports of sexual assault, if and when they arise. The term "pastoral care" (UNSWCS_131222_0069_311016) was used in this regard, suggesting a focus on student wellbeing rather than any attendant legal duty or responsibility, with other participants asserting that the university may have some "moral responsibility [which] may not, in fact, be entirely matched by an equal legal responsibility" (UNSWCS_131222_0069_311016):

We ... have a legal duty to keep people safe or use our best efforts to make this a safe study area for students, for everyone. And we've got the resources and the facilities to investigate. And we should be doing a broader education role. So morally, legally, yes.

(UNSWCS_140126_0074_051216)

[The university should act] not because it has to but because it should and because it's the right thing, and it's what the community would expect.

(UNSWCS_131222_0069_311016)

The universities have an ethical responsibility to their students and the community that they are creating.

(UNSWCS_140122_0073_011216)

Everything that you're doing and others in exploring these issues is towards articulating ... where we [want to] set that standard for ourselves about our moral duty to our students ... I see it as a moral duty, really.

(UNSWCS_131222_0069_311016)

These perceptions were largely shaped by the recognition that sexual violence could negatively impact on the student experience and potentially affect student participation and progression in their course of study. One participant noted that the university's responsibility must extend to addressing "the harm that flows from the incident because the consequences for the student and potentially others are going to be far worse if the university doesn't step in and provide levels of support" (UNSWCS_131222_0069_311016).

The assertion that the university had a responsibility to address "the harm that flows from the incident" was made particularly in relation to women students, with participants noting that sexual violence was often a consequence of gender inequality:

If someone's experiencing ... sexual assault ... then they're not [going to] be able to participate properly in their education ... it also feeds into a gender issue more broadly. Part of the reason that sexual assault exists in the first place is because there's a lack of respect for women, generally, and although it happens to all people it is more prominent for women ... I think part of that is because there is still a ... huge disrespect for women in society and, as an education provider, that's trying to ensure that women and other disadvantaged groups do have equal access to education they need to make sure that they're also safe in this environment.

(UNSWCS_140209_0075_191216)

Broadly, participants agreed that the university should be setting a clear standard for the attitudes and behaviour expected from the UNSW community by facilitating a culture that does not discriminate against women, the group primarily affected by sexual violence:

Universities are [not just] a workplace, they are a place of education. They're also a community where people live and ... the university has a responsibility to set a tone of that culture and that comes through the policies that are in place, and the supports that are there ... the university is responsible for setting a culture and ... an environment that is safe, that is respectful, that treats people equally, where women are not discriminated against, women are not denigrated.

(UNSWCS_140122_0073_011216)

As one participant described, setting up these standards from the outset is about meeting "legitimate community expectation, legitimate stakeholder expectation, legitimate student expectation about what universities should do to assist and support their students in those circumstances" (UNSWCS_131222_0069_311016). Enforcing social norms indicates to the student (and academic) community that "there are certain behaviours that, as a university, we feel really strongly about and we feel are wrong ... People then make a choice about ... whether they fit with this culture, but we have to respond appropriately" (UNSWCS_140416_0076_230217).

The role of the university in shaping a normative institutional culture can have broader constructive impact beyond the academy:

How this university or any university finds its way with encouraging people to have respectful relationships I think is really important and could do a lot toward, well peace sounds a little bit dramatic but if people can manage respectful relationships on a one-on-one basis or in small groups, then, potentially, that has the capacity to move forward into tolerance and acceptance in a broader situation.

(UNSWCS_131113_0068_210916)

Whatever universities do it filters out into society. So I think that universities need to be a voice and take leadership on this issue so that, hopefully, we can change the rape culture that's ... happening everywhere, and allow victims ... not just students or not just victims within the universities, to actually be able to speak out about these issues.

(UNSWCS_140209_0075_191216)

This last point is exemplified below with one participant emphasising the potential of UNSW to take a leadership role in responding to sexual violence and instigating broader cultural change:

We've got young people here who have the capacity to change the way in which we see relationships between men and women, men and men, women and women, trans, different cultures. We [the university] like to think we are intellectually challenging, stimulating, looking at social change ... if we cannot respond to this appropriately, we should just pack up ... Because I think universities are part of a whole-of-community response. I don't see that they're not part of that ... If everyone takes the responsibility of saying: "That behaviour's okay. That behaviour's not" and we will respond positively when people disclose certain things ... I mean what do we want to stand for? What do we want as a university? ... Why would we not want to be seen to be at the forefront of saying there are certain things that are wrong?

(UNSWCS_140416_0076_230217)

4.5. Institutional responses

4.5.1. Definitions

A key theme emerging from many of the interviews was the need for clear and explicit definitions and express prohibitions regarding specific forms of sexual violence. As one participant stated:

You've [got to] be clear about your definitions ... there's an assumption that when we use certain terms we all know what they mean and we don't. And that's true at a policy level in terms of responses as well.

(UNSWCS_140416_0076_230217)

Providing clear definitions for sexual assault, sexual harassment and associated behaviours can help to minimise misunderstandings about what constitutes prohibited conduct and enable victims to recognise that certain experiences fall within these behaviours. Clear definitions may also play a preventative or deterrent role, ensuring "that everybody knows what the various types of conduct issues are and what the consequences would be [if they transgressed]" (UNSWCS_140106_0070_151116). Implementing strong definitions was seen as good practice, as this can allow for the development of "[an accepted] standard of good behaviour and appropriate behaviour for universities in responding to these kinds of events and problems" (UNSWCS_131222_0069_311016).

However, the task of providing clear definitions is challenging, given the varied terminology used to cover a range of behaviours, such as sexual violence, gendered violence, sexual assault, sexual harassment and sexual misconduct, and that some definitions may unduly narrow the scope of prohibited behaviour. One interviewee proffered the term 'gendered misconduct', as it covers "a

range of behaviours ... not just about sexual assault and sexual harassment which I think people are focusing very much on". An advantage of 'gendered misconduct' is that it is a more "neutral term" covering a broad range of behaviours, including hazing and domestic violence, and "there can be a sexualised component or not" (UNSWCS_140416_0076_230217).

Additionally, a broader definition would reflect developments in the provision of support services addressing various forms of gendered violence across Australia, which "gives people an opportunity to disclose that this is what has happened to them" because "when [you] ask people have they experienced domestic and family violence, for example, or sexual assault they'll often say no. But if you ask them about different relational contexts or behaviours, or acts, they say yes" (UNSWCS_140416_0076_230217).

The failure to identify harmful conduct because it does not 'fit' within a specific definition can also give rise to under-reporting by victims. By broadening the definition, victims may be able to give voice to their own experiences, even in circumstances where they may not previously have identified their experience as sexual assault or harassment. This might be particularly pertinent in situations where consent has not clearly been given or obtained, such as circumstances where alcohol is involved:

[A] woman might speak about having an uncomfortable experience or being too drunk to know what happened, or feel guilty about something that's happened but they'll never actually speak about it as being a lack of consent. And I think that's where part of the problem is.

(UNSWCS_140209_0075_191216)

4.5.2. Mandatory reporting obligations

Under the Crimes Act 1900 (NSW), any person who fails to report certain information relating to a 'serious indictable offence' to the police without a reasonable excuse may face two years' imprisonment.¹³ A 'serious indictable offence' is any offence that is punishable by imprisonment¹³ for five years or more, such as sexual assault and indecent assault. In discussing s 316, one participant asserted that it is "more than just a requirement to act in a particular way; it makes criminal a failure to act in a particular way" (UNSWCS_130722_0065_310516).

Some participants saw the existence of a mandatory reporting obligation under the NSW *Crimes Act* as a significant barrier to student reporting of incidents of sexual violence to university staff if the latter were always legally required to refer the incident to the police.

However, the interviews revealed a broad lack of awareness regarding the contours of the obligation, particularly among potential first responders in cases of disclosure of sexual assault:

I haven't been made aware of any obligations I have ... so I sort of have been acting with discretion on each case.

(UNSWCS_140122_0073_011216)

That's an obligation we need to make all our relevant staff incredibly clear about [be]cause I'm not sure that they are at the moment.

(UNSWCS_131222_0069_311016)

¹³ *Crimes Act 1900* (NSW) s 316: "If a person has committed a serious indictable offence and another person who knows or believes that the offence has been committed and that he or she has information which might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for it fails without reasonable excuse to bring that information to the attention of a member of the Police Force or other appropriate authority, that other person is liable to imprisonment for 2 years."

If people are going to put themselves in a position where they may be liable to prosecution, they need to understand what they're doing and why they're doing it, and have some clear rules about what should govern it.
(UNSWCS_130722_0065_310516)

The development of clear guidelines was also seen as important in clarifying circumstances where there is (or is not) a requirement for mandatory reporting, such as in cases of sexual harassment: "Sexual harassment is unlawful but not under the *Crimes Act* (NSW) ... that's the *Sex Discrimination Act* [1984] (Cth). So it's a different territory and that kind of mandatory reporting idea doesn't arise" (UNSWCS_131222_0069_311016). One participant mentioned the high number of university students who are aged 17 and that incidents involving these students would "fall into the child reporting area" and potentially require mandatory reporting to community services (UNSWCS_140121_0072_201116).

There was an inherent tension for potential first responders in complying with legal obligations to report while simultaneously respecting the victim's request for limited disclosure. The interviews acutely illustrated conflicting opinions as to whether reports of sexual assault should be forwarded to the police as standard practice:

I wouldn't be saying that someone has to report something to the police if they're saying very clearly they don't want to. I would make sure that they had every opportunity to work through why they may or may not want to make that choice but you certainly wouldn't take that choice away from them. It is totally in contrast to what would happen in any best practice response.

(UNSWCS_140416_0076_230217)

When you're talking about sexual assault and offences that are indictable offences, serious offences ... [I suppose] you've [got to] make a general policy decision applicable to all cases ... [A]s to whether or not that sort of conduct is something that's appropriate to be dealt with under a disciplinary scheme or whether, in every case, the police should be called in ... I think the police should be called in.

(UNSWCS_130722_0065_310516)

Under the NSW legislation, a person may be exempt from prosecution under s 316 where they have a 'reasonable excuse' for failing to report information to law enforcement. In this regard, one participant stated that protecting doctor–patient confidentiality might constitute such a 'reasonable excuse', depending on the circumstances: "I don't think a medical practitioner could be blamed for observing the patient's confidence" (UNSWCS_130722_0065_310516):¹⁴

The patient might be encouraged to report but, if they expressly say they don't want to report, then the balance from the doctor's perspective is respecting their wishes against complying with a provision of the Crimes Act.

(UNSWCS_140121_0072_201116)

One participant suggested that securing a written statement from the victim, clearly outlining that they did not wish to report the incident to the police, might serve to balance respect of the victim's wishes while also protecting a first responder and the university:

The university should ... get that person's wishes in writing to protect the university ... I think that would certainly, arguably, be a reasonable excuse for not reporting.

(UNSWCS_130722_0065_310516)

¹⁴ Under s 316(4) of the *Crimes Act* 1900 (NSW), the permission of the Attorney General is required for prosecution of an offence under s 316 if knowledge of an offence was obtained in the process of practising or following a profession, calling or vocation – for example, the medical profession.

It was evident from the interviews that there is a lack of clarity regarding mandatory reporting requirements, with interviewees strongly advocating that the university clearly advise potential first responders about their legislative obligations. In addition, students (and staff) should be informed of these requirements when approaching any university service to make a report of sexual assault or harassment.

There was, however, concerned recognition among many participants that the prospect of a report by a student being conveyed to the police was a disincentive to report incidents of sexual violence, particularly as many victims were reluctant to be party to criminal proceedings:

... not being believed. Being ridiculed. A lengthy process that's distracting from getting on with their lives. If it goes through the court system, they've got that whole trauma of being on a witness stand or having to give statements to the police. It's not always a comfortable thing to do. Having to retell their story over and over again which can be very traumatising.

(UNSWCS_131113_0068_210916)

However, those participants were also concerned to ensure that victims made informed decisions about reporting, understood the potential outcomes of such a report, and retained "as much control over what happens next" (UNSWCS_130731_0067_090616):

Victims need also to understand or to be told that, if they do provide information about an assault which is capable of leading to the knowledge or belief of the person to whom it's given that an assault has occurred, then they need to understand that that person has obligations as well ... [I]t might be important then to put in place some sort of mechanism at the reporting stage to ensure that the person who wants to report is aware of the possible consequences of reporting ... to ensure that any possible complainant is informed and makes an informed choice about complaining, and the possible consequences.

(UNSWCS_130722_0065_310516)

I think you have to tell the student that, regardless of what they want, if they disclose to us sufficient information to enliven that duty under the Crimes Act, that we've [got to] go and report it ... Whether they want us to or not ... I would say the appropriate way to deal with it is to tell the student up-front, before the student volunteers any information because, obviously, once the cat is out of the bag and they've told us a sufficient amount, it's no longer ... within their control to determine ... And then they can weigh up. If they seriously do not want the matter to go anywhere near the police, it's up to them to decide whether they wish to go further and talk to us about it.

(UNSWCS_131222_0069_311016)

Additionally, one participant highlighted that first responders should not give victims the impression that confidentiality can always be upheld, particularly where the safety of the victim or other people may be in question:

People are always very big about talking about confidentiality and I say, "You just can't." You can talk about privacy, not confidentiality, because some things you cannot keep confidential ... Some things, particularly where other peoples' safety is involved absolutely, there is no doubt they should be intervening.

(UNSWCS_140416_0076_230217)

Another participant raised the possibility that victims may simply want aspects of their experience to be formally recorded by the university, without any further action being taken:

The important thing is to give the person the choice to speak or not to speak about it. Or to tell a small part of the story or the whole story. If they want to just put on record that something has happened, they can do that without describing everything that's happened and without giving the listener knowledge or belief that a serious offence has occurred ... it would be a matter of wording, that first information that goes to the person before they actually describe anything ... I think there are words that could be standardised and used.

(UNSWCS_130722_0065_310516)

4.5.3. Concurrent criminal investigation

In deciding how to approach the issue of concurrent criminal and internal disciplinary investigations, there was a general consensus that once a report of sexual assault has been made to NSW Police, the university should not take any administrative action until that investigation has been concluded:

By and large, the practice has been that, where the police are actively involved and looking at something, the university does not do anything.

(UNSWCS_131222_0069_311016)

However, this position is not made explicit in any of the university's current policies and procedures and victims might interpret lack of action taken by the university as a failure to respond. The relationship between the various stages of the university's disciplinary process and the criminal justice process may therefore need to be explained to victims. However, some degree of flexibility is required, depending on the particular circumstances of the case and the stated wishes of the victim. For example, the university may need to make interim orders in circumstances where the victim has regular contact with the alleged perpetrator or resides in the same college. In these instances, interim orders, such as removing the alleged perpetrator from the campus, would need to be based on clear evidence that the individual posed a risk to the safety of others:

Well, if it's reported to the police, then the criminal justice course should run first. There may need to be some interim orders made about residence or access, or contact. But ... I would suggest that any administrative action taken by the university should come after the conclusion of the criminal proceedings.

(UNSWCS_130722_0065_310516)

In terms of what the university should do in the interim, while that's being addressed, Section 10 in the student misconduct procedure deals with temporary restriction of students in the case of [an] imminent threat to safety and good order ... [you] need to be able to demonstrate that [you're] conducting a robust assessment ... with an outcome that the student should be restricted is warranted because there is a genuine risk to the safety of that student or other students ... we have to have a really good reason why we would be stopping them from learning.

(UNSWCS_140106_0070_151116)

Where a victim decides not to proceed with reporting an incident of sexual violence to the police or proceeding with a criminal investigation and hearing, participants were generally of the view that the university should take administrative action "depend[ing] on the circumstances of the case" to "defuse what has happened and prevent anything like that happening again":

Now, if there are not going to be criminal proceedings and the victim says, "I don't want to prosecute this person," and the university gets all of that expressed in writing with reasons why the person doesn't want it prosecuted, then there's still an obligation on the university to care for that victim and for any other possible victims. And so administrative action should then be taken.

(UNSWCS_130722_0065_310516)

Finally, it was acknowledged that some victims may not initially report an incident to the police but may subsequently choose to report. This could be in circumstances where the victim "discover[s] it's happened to somebody else or [the perpetrator has] a history of [perpetrating sexual violence]... And then they make a decision to report" (UNSWCS_130722_0065_310516). Instances of delayed reporting may be seen as an opportunity to question the credibility or reliability of the victim in criminal proceedings. However, as one participant highlights, there is now a greater understanding about reporting of sexual violence cases, as it may take some victims many years to come forward for reasons of trauma, stigma and retaliation:

We understand more now about the dynamics of reporting and delay, and all that sort of thing. So it becomes a matter then for the credit of the witness to be assessed in the ordinary way.

(UNSWCS_130722_0065_310516)

Given that victims may report an incident to the university and only later choose to make a police report, formal recording of complaints by the university may be critical to the success of any criminal prosecution. A video recording of the victim's statement might be another method of preserving evidence provided to the university:

Well, the medical notes would be able to be used anyway. They'd be preserved, part of the medical records of the patient. They can be subpoenaed and they can be used in a prosecution as supportive of the account given by the victim ... We've had some legislative improvements made in recent years. One is in relation to sexual offence prosecutions, generally, which are in Part 5 of the Criminal Procedure Act [1986 (NSW)], and that enables a video-recorded statement made by the person at the time of complaint to, in effect, be that person's evidence-in-chief ... So that's a special provision that has been made to capture what the complainant says at the time and is recorded. So that then has additional weight because it becomes the evidence-in-chief and it can be seen and heard by the court.

(UNSWCS_130722_0065_310516)

4.5.4. Sanctions

4.5.4.1. The utility of transparent penalties

The imposition of appropriate penalties for sexual assault and harassment serves two important functions: providing justice for victims and deterring future misconduct of the alleged perpetrator. Sanctions may also reinforce a message that this type of behaviour is unacceptable and may act as a deterrent for other potential perpetrators.

The majority of interviewees spoke of a lack of transparency about the sanctions that were applied by the university in cases of sexual assault and harassment and a consequent absence of any precedent or standard which could be referenced. One participant described the range of sanctions currently available:

A formal reprimand – generally, the lightest penalty that's available. It would only really be applied if a suspension wasn't warranted. And for most cases [of sexual assault and harassment] I think a suspension is generally the minimum penalty, unless it is catcalling type of offence.

(UNSWCS_140106_0070_151116)

The lack of transparency in relation to sanctions (or any guidelines that might indicate how they are formulated and applied) and a perception that they are largely inadequate in cases of sexual assault and harassment, were also seen to contribute to low reporting by victims to the university:

The punishments or responses from the university have been inadequate. For example, students being given formal warnings and that's not really been good enough, and so the people, the women who make the report feel hard done by, by the system, and feeling that that's not actually [going to] have an impact. So being dissatisfied with the response, telling their friends and perpetuating people believing that the university isn't [going to] take any action, therefore there's no point making a report. If the students wanted an outcome from the university, like disciplinary action taken by the university, they would probably go to them if they trusted that the university was going to act.

(UNSWCS_140122_0073_011216)

This lack of transparency in reporting of sanctions for cases of sexual violence was seen as unsatisfactory for victims and creating a potential risk of ongoing harm:

If [sexual assault or harassment] happens at a college and there's no clear process of what happens to a perpetrator, they're probably [going to] be living next door to this person and for so long nothing's really happened to people, to perpetrators. And so, if they are to report this, they're risking potentially a way worse scenario happening if nothing happens to this person.

(UNSWCS_140209_0075_191216)

Ultimately, participants argued that guidelines on sanctions be made apparent so that victims and perpetrators had a clear idea of potential consequences following reports of sexual assault and harassment:

It needs to be very clear what happens to any perpetrators ... I'd also like to see reporting systems for students that clearly outline what happens to students who do, are perpetrators of sexual violence. And I'd like to see a really hard-line approach from universities on that.

(UNSWCS_140209_0075_191216)

Participants also spoke of the importance of the educative function of the disciplinary process for perpetrators of sexual assault and harassment by reinforcing that certain behaviours are unacceptable within the university, and that there are consequences for breaching policies and codes of behaviour. This is reiterative of the university's role in shaping attitudes and behaviour that will extend beyond the university setting:

I think there needs to be an educative process as part of the penalty ... I don't want them to get a letter that says, "The University thinks you did a bad thing," and for that to be it. I think there needs to be an analysis of where did we fail you, not just you failed us ... But I think somewhere in there we need to analyse how to get the best result. When something goes wrong, how do you get the best outcome from it. It can't be just punitive. It can't just be you're penalised. It's [got to] be there's a penalty but then there's: how did we get here? How did you think [this] happened?

(UNSWCS_130731_0067_090616)

4.5.4.2. The limitations of a 'zero tolerance' position

Participants were strongly of the view that in the absence of clear procedures and sanctions for perpetrators of sexual assault and harassment, the university's commitment to 'zero tolerance' was meaningless. Without a clear policy on sexual violence and a specified disciplinary procedure, statements asserting zero tolerance were seen as ineffective as a deterrent or prevention strategy:

The university has said they have a zero tolerance and yet we don't have a policy which expressly prohibits sexual assault or harassment. So, effectively, we don't have zero tolerance in the sense that it's not written into any of our staff or student codes of conduct, in an explicit way. And, furthermore, that we don't have an effective procedure for a disciplinary procedure, when reports of assault or harassment are made, and it appears that students who have been found to commit sexual assault have not, in every case, been expelled as you would expect them to be if the university did have a zero tolerance ... there just aren't the procedural mechanisms in place that would actually [give] effect [to] a policy of zero tolerance because students have been allowed to get away with it and staff members have been allowed to get away with it. And that's not having a zero tolerance ... And they'll think, "Oh, there actually isn't a zero tolerance because nothing happened."

(UNSWCS_140122_0073_011216)

It's nice to say those things [about zero tolerance] but I think that, until we actually have programs for consent and training programs teaching students how to actually be respectful and have respectful relationships, and what consent actually looks like, that's the problem ... otherwise [zero tolerance is] just useless.

(UNSWCS_140209_0075_191216)

4.5.5. Collation, recording and storage of data

The interviews consistently pointed to an absence of any central university repository for recording reports of sexual assault and harassment. The ad hoc recording of incidents of sexual violence was seen as posing a potential risk to the university:

If it's an allegation of sexual assault or sexual harassment, or if it's something to do with some sort of sexual misconduct or deviancy, it should be handled centrally ... there's too much reputational risk to allow things to be handled locally [via the student services or in the colleges] ... Currently, there is no reporting process that's central, unfortunately.

(UNSWCS_140106_0070_151116)

Collating data on reports of sexual assault and harassment relies on the individual record-keeping of various first responders and different university entities (e.g. security, counselling, colleges). This unspecified process results in inconsistency in reporting, significant under-reporting of sexual violence and a lack of reliable data on the extent and impact of sexual violence across the university, which could provide useful indicators for the design and implementation of prevention measures.

Participants also raised concerns about the lack of accountability for responding to incidents, as there was no standard process for following up reports:

There's just so many sources. And they overlap ... [A] student might come to us but might also go to counselling, and might have gone to the health service, and might have raised their concerns with their academic advisor in the faculty. And also might be a college student. Then you've [got to] track ... Is this the same student or are these five different reports? [It would be] highly advantageous for the university to have a [central] reporting system.

(UNSWCS_140106_0070_151116)

Consistent and systematic record keeping may be crucial for any criminal justice proceedings that arise from reports. Given that medical records can be subpoenaed for the purposes of prosecution, there is a need for rigorous recording of medical information. Failure to record information could prejudice the outcome of a case.

The tension between the requirement to refer all records of reports of sexual assault and harassment and concerns about ensuring confidentiality was raised in relation to reports made to colleges remaining at the local level. Some participants indicated a concern if college reports of sexual assault or harassment went beyond a residence – for example, to a centralised university recording system:

[It would be] completely inappropriate [to centralise records] because [the colleges] have to ... look after the people that are here. And, if they [the victim and alleged perpetrator] are co-located as well, then you've [got to] figure out some way ... to make it safe.

(UNSWCS_130731_0067_090616)

Dealing with reports 'in-house' or locally also raised concerns about "individual decisions [being made] that may be inconsistent with one another":

The other risk is that we then don't have that bank of [precedent] ... ultimately, conduct that occurs in a university college is conduct that needs to be addressed by the university, centrally.

(UNSWCS_140106_0070_151116)

However, it was acknowledged that even if reports were to be sent “up the hill” (UNSWCS_140106_0070_151116), this still might not alleviate concerns that the recording of data remains inconsistent and unsystematic, given that accurate recording of data is largely dependent on individuals: “[The] system [for record keeping at the health service] is dependent on the doctor to record it and doctors are not great at recording things like that” (UNSWCS_140121_0072_201116). Additionally, the various services are currently under no obligation to record incidents centrally:

There’s no requirement on us to do that [send reports to a central university unit] ... But, if it was critical that we did report certain things, then we’d report it. But we’d probably need to be asked to do that.
(UNSWCS_140121_0072_201116)

4.6. Student support systems

4.6.1. Current support services

Adequately resourced and appropriate student support services at UNSW were considered essential to address the varied needs of victims of sexual assault and harassment. One participant stated that “ensuring that a university has a counselling service that is adequately resourced, ensuring that students have access to a health service of some kind, that’s kind of like a bare minimum” (UNSWCS_131222_0069_311016).

The university offers a range of support services to students who have experienced sexual assault or harassment.¹⁵ UNSW security provides a safety escort officer, a night shuttle bus and campus patrols, and regularly reviews the environmental safety of the campus (e.g. lighting):

So there’s a dedicated security safety escort officer in the evenings. We have the night shuttle bus that operates in and around the university, and side streets as well ... [Security] ramp up [their] services in the evening, like the mobile patrol officer again is out and about ... There’s the Stay Safe app with important support services, information that’s available. The bus tracker service.
(UNSWCS_130730_0066_080616)

Beyond ensuring the physical safety of staff and students, the medical and psychological health needs of the university community are addressed by the UNSW Health Service and CAPS. The interviews revealed a significant problem of under-resourcing and under-funding, given the demand on these services: “About a thousand students a year walk in the door [of CAPS] and can’t get a consultation ... [because] capacity to take on new people is limited by the number of people [employed]” (UNSWCS_131113_0068_210916). Similarly, the UNSW Health Service is “over capacity” and currently “doesn’t really fully meet demand” (UNSWCS_140121_0072_201116):

[The] counselling and psychological services are hugely underfunded so, if someone has like an urgent issue, they’re not [going to] be able to get in for at least two weeks, and that’s assuming that it’s not in exam time where the services are even more backed up.
(UNSWCS_140209_0075_191216)

Undoubtedly, with increased resources, better service provision could be achieved: “we can be doing so much more. We’re just, at the moment, we don’t have the resources” (UNSWCS_140106_0070_151116). Given these resource constraints, obtaining an appointment at

¹⁵ See University of New South Wales, above n 8.

either of these services is a lengthy and difficult process. Additionally, neither of these services offers a 24-hours-per-day service, which restricts the support options for students with needs that arise outside of regular business hours:

The problem is it takes a very long time to get an appointment and, even if you said it was an emergency, you'd have to disclose over the phone that you'd experienced sexual assault to someone who you don't know in order to get emergency treatment ... the same thing is the case with the counselling service.

(UNSWCS_140122_0073_011216)

Although there is an arrangement for an after-hours doctor to attend to college students outside of the health service hours, this service is not available to other staff and students:

In the colleges there is an after-hours doctor but I would imagine that, on the triage side of it, if they said, "I've been sexually assaulted. I need a doctor," they would be told [to go to the] Rape Crisis Centre.

(UNSWCS_140121_0072_201116)

These services are also constrained by spatial limitations, with the health and counselling services having "run out of space" (UNSWCS_131113_0068_210916). "Even if [the counselling service] was given additional staffing, [it] couldn't accommodate [more] people within the service than there currently is" (UNSWCS_131113_0068_210916). In addition, the physical set-up of the health service currently offers little privacy for victims who attend the service to report sexual violence. As a result of these resourcing issues, promotion of the services more widely across the university is restrained, given the limited capacity to see additional clients:

We should [promote] but because we're over capacity and we don't really fully meet demand [if we] market ourselves ... then we'll just create more demand.

(UNSWCS_140121_0072_201116)

A related concern is the limited remit of these services, given that they are not specialist sexual assault services. The CAPS service provides support "in the context of [a student's] university work, and not necessarily offering post-trauma, therapeutic engagement" (UNSWCS_131113_0068_210916). CAPS would generally refer students who report incidents of sexual assault or harassment to a GP in order to secure a referral to a psychiatrist to address any resulting post-traumatic stress. To maximise service delivery and resources, one participant suggested combining the psychological and health services, thereby increasing the university's capacity to provide the best possible service:

When you combine the budgets of health and counselling, the university's spending a lot less on it overall and providing a better service ... and then you have a triage system ... And you have a blend of employed staff and contracted staff.

(UNSWCS_140121_0072_201116)

A further suggestion was the establishment of a health advisory committee to help guide and improve health and counselling services:

There should be a student health advisory committee, made up of a broad section of the students, the ARC people, president of the SRC, members of the Women's Collective, the LGBTQI, the Queer Collective, that helps us [in relation to sexual assault matters].

(UNSWCS_140121_0072_201116)

4.6.2 'First responder' training

A 'first responder' is a person who hears an initial disclosure of sexual violence by a victim. First responders to complaints of sexual assault at UNSW may include security, the SIU, college staff, academic staff (e.g. lecturers, faculty heads) and health services. Although most of the participants were employed in roles where they might receive complaints of sexual assault or harassment, there was confusion among the group about the reporting processes, given the lack of consistency in approach between different individuals and university entities, and the decentralised nature of reporting. Most wanted to ensure that the immediate needs of the victim were met by referring them to appropriate support services, and providing them with information on reporting processes and potential outcomes:

For anyone in that sort of position [that of a first responder], the first concern is going to be ... who's accountable and the welfare of that person [disclosing], obviously. So people need some training and education in that aspect of it but then they also need to know, if these things happen, after the first contact, what are the consequences?

(UNSWCS_130722_0065_310516)

Concerns were raised that if the initial stage of disclosure is poorly managed, the victim may experience additional trauma and be dissuaded from proceeding with a formal report or from seeking support. Although most of the staff at student support services who might receive reports of sexual violence undergo mandatory first aid and mental health training, none had received "more directed training in dealing with cases of sexual assault and harassment" (UNSWCS_140106_0070_151116). Participants therefore emphasised the importance of appropriate training for designated first responders:

[The first responder] needs to be someone personable with ... specialised training that you disclose to.

(UNSWCS_140122_0073_011216)

In fact, I'm not really aware that there's sort of particular, more specialised training that's available, apart from going down the path of more specialised training in the psychological therapies side of it.

(UNSWCS_140121_0072_201116)

One participant noted that there was a tendency to report to university staff with whom students have a pre-existing relationship and therefore basic first responder training should be delivered to "every member of academic staff at a university" (UNSWCS_130722_0065_310516).

Ongoing 'refresher training' was seen as essential for those in professional roles, such as the counselling and security services, who may need to provide support to victims:

The professional development upkeep is quite rigorous [for psychologists] ... they have to do professional development to a certain level every year in order to get [their] registration renewed so there's that component of it – a refresh [is needed] ... I'm reasonably confident that we've got good skills but that doesn't mean that we couldn't do more.

(UNSWCS_131113_0068_210916)

This whole process actually has highlighted something that [the university should] look at for our frontline security team ... the training awareness I think for the security team as well as understanding there's so many different definitions and terms ... It's not a one-off thing; it shouldn't be just a one-off training, tick the box, off we go. We need to be looking at it as a refresher, ongoing training.

(UNSWCS_130730_0066_080616)

4.6.3. Sexual assault centre

A common theme arising from these interviews was the fragmented nature of the university's current reporting and support services for victims of sexual assault and harassment. Many participants were of the view that a centralised specialist sexual assault centre located on the UNSW campus, staffed by people with the relevant training and expertise in the field, would be of considerable benefit to the staff and student community. The staff of such a centre would also have detailed knowledge of the university's reporting processes and would support victims through the process and advise them on potential outcomes and sanctions:

You need a specialist who's been trained, who's been educated, who understands the ramifications of action. And it makes sense anyway to have a central point to which somebody can go if they've got a problem instead of sort of fanning out down the corridor and finding someone whose door's open.

(UNSWCS_130722_0065_310516)

But particularly wanting a like specialised unit for reporting sexual assault and harassment to the university ... that [is] well-advertised, accessible, well-trained, specialised advisors that you could go to, to make a report, and that would make referrals and, and sort of triage you in the right direction, and support you in the process of, as in be an advocate to students or staff members making complaints in the process of the complaint.

(UNSWCS_140122_0073_011216)

One participant described it as a “go-to centre” (UNSWCS_140209_0075_191216) where victims could make confidential reports or be advised on the circumstances that precipitate mandatory reporting and obtain appropriate referrals for remedial and therapeutic support. Creating a single office of this nature would make accessing support easier for students, enable a coordinated response, and allow for more efficient management and follow up of reports.

However, one participant highlighted the need for a choice in the mode of reporting, as some students might be reticent to make a face-to-face report of sexual assault or harassment:

I think the online portal is a great idea and I think it would be really helpful. But I also think you need a face-to-face option because some people will feel more comfortable with that. And I think you also need an over-the-phone option where you can suss it out before you turn up ... often students who are gender diverse or sexuality diverse want to be able to talk over the phone and not be sort of judged on their appearance, based on how they identify.

(UNSWCS_140122_0073_011216)

4.7. Prevention mechanisms

4.7.1. Education and awareness

Most case study participants endorsed an increase in education and concerted awareness-raising programs about university sexual assault and harassment. One participant cautioned against making the assumption that students come to university with knowledge about issues, such as healthy relationships and the meaning and manifestation of sexual consent:

You can't assume that they've had the life experiences that are going to help them make the right choices around how they behave. They are going to want to belong. More than anything, they are going to want to feel part of something. Now our challenge is in making sure that what is demonstrated to them about how to belong and what it is they'll want to belong to is healthy, positive, inclusive.

(UNSWCS_130731_0067_090616)

It shocks me that ... university students don't know how to have respectful relationships – they just don't – because it's not something that's talked about in high school, it's not something that's talked about after university and it's not talked about during university at the moment either.

(UNSWCS_140209_0075_191216)

Educating students about what is consent and what [constitutes] sexual assault ... and, therefore, making students aware of when they are committing a crime and when ... not. [And] also what is respectful, what are the right kind of attitudes to have towards people of different genders and sexes. And right kind of attitudes to have in a relationship. And educating about the harms of assault and harassment, the harms of when that respect is not honoured.

(UNSWCS_140122_0073_011216)

Multiple participants supported the pre-enrolment completion of a mandatory online module on sexual assault and harassment that directs students to the relevant policies and procedures and requires them to agree to “abide by the policies and procedures” (UNSWCS_140106_0070_151116) as part of their admission confirmation:

[A] mandatory consent and sexual assault and harassment educational module for all students that would be online ... I think it would be very easy to have an online module at its most basic level – an hour-long tutorial that students have to do before they enrol.

(UNSWCS_140122_0073_011216)

I would like to see universities leading ... on this issue, so having the education programs in place ... like having a consent module that every student needs to complete before they enrol.

(UNSWCS_140209_0075_191216)

In relation to sexual violence prevention education programs, participants tended to support a “mix of modes” of training as there is “value in having group conversations and running exercises” (UNSWCS_131113_0068_210916) to ensure that students retain skills in conducting face-to-face interactions, which are increasingly at risk due to a reliance on technology.

Longer-term education programs were seen as more feasible and beneficial, as were programs that utilised realistic scenarios:

But then also within the colleges because it is a smaller student population and ... it's quite regulated, I think it would be easy to implement more ongoing, long-term programs, educational programs about consent and respectful relationships. ... It has to be related to the kind of scenarios they're [going to] be in and they have to be able to relate to why they need to change their behaviours, if they do need to change them.

(UNSWCS_140122_0073_011216)

More recently, some UNSW colleges have utilised the research and training expertise of the GVRN to develop programs directed at improving college culture. These programs engage students in conversations about the complexities of “gendered misconduct, including the level of micro-aggressions ... the sexism, the intersection with racism. How sexualised violence becomes racialised” (UNSWCS_140416_0076_230217). Student evaluation of the program has been positive, “empowering [students] to have conversations that make them think and that make them want to make changes so that the communities that they're so embedded in reflect the values that they have themselves” (UNSWCS_130731_0067_090616). Importantly, the focus of the program is constructive, seeking to engage with students rather than alienate them by highlighting wrongdoing:

So getting [students] to not think that everything they do is wrong but where does it turn bad. Where are they going to draw the line between things that they feel are acceptable and things that are not? And we use a pyramid of what becomes social acceptability ... On the bottom we've got the foundation as being sexism, racism, homophobia – all the range of things that contribute to certain people feeling vilified,

excluded – there's a gender component in all of those behaviours and there are intersections. Then [there are] verbal threats, verbal abuse ... technology ... probably fits across a whole range. And then there's physical violence. Then there's sexual violence ... So the pyramid [of the range of behaviours allows you to] understand that what you do at the everyday level of language and interaction creates the capacity for the other behaviours to happen.

(UNSWCS_140416_0076_230217)

The UNSW response to the 2016 incident involving misogynistic chants by students of the Phillip Baxter college¹⁶ was highlighted as an example of “poor handling” by the university and a missed educative opportunity: “They should have engaged with them [the students] in a less-punitive way and asked them what they were achieving. How did it happen? What did they think the effects would be?” (UNSWCS_140416_0076_230217). Adopting a punitive approach was seen as counterproductive – “if they want cultural change that's not the way to get it” (UNSWCS_140416_0076_230217) – with one participant arguing that effective education programs on preventing sexual violence seek to challenge students' assumptions and opinions in a safe environment where they feel comfortable expressing their opinions:

It's about engaging them [college students]. What do they think? How do they think other people might think? Have they seen situations that have got out of hand? Why did it get out of hand? When does it get out of hand? Is this okay and why is that not okay? You know, where's the line? – [You] get them to be more thoughtful about their effect on other people.”

(UNSWCS_140416_0076_230217)

4.7.2. Management of alcohol consumption

The relationship between alcohol consumption and incidents of sexual assault and harassment was acknowledged by a number of participants, although some were keen to state that alcohol was only one of a number of contributing factors to sexual violence:

From the reports ... that I've seen alcohol has been a contributor ... [F]or the sexual assaults, yes, I would say from the ones that I'm aware of and can bring to mind, alcohol would have played a part in some form.

(UNSWCS_130730_0066_080616)

It's hard because I don't [want to] say that alcohol is the problem ... But when alcohol is involved, it heightens the chances of something like that happening.

(UNSWCS_140209_0075_191216)

I'm not saying alcohol is necessarily part and parcel of every incident that I'm likely to become aware of here or that my counterparts at other universities would become aware of, but it is certainly highly implicated in the problem.

(UNSWCS_131222_0069_311016)

I don't think you can say it's one or the other of those things. I think they're all in the mix, really ... But certainly, when [there are big university] functions where there's a lot of alcohol served, there is usually a number of incidents that will come out of that.

(UNSWCS_131113_0068_210916)

Universities have become a hotspot for assault and harassment, and we need to look at why it's happening here more than elsewhere. It is a societal problem but there are so many factors [at universities]. Like young people being together ... There's the fact that I think young people, young women in particular, seem to be quite vulnerable and so often preyed upon. There's the fact that alcohol is involved ... there's lots of contributing factors.

(UNSWCS_140122_0073_011216)

¹⁶ Tracy Bowden, 'UNSW Baxter College President Says He Doesn't Know Why He Participated in "Appalling" Sexist Chant', ABC News, 13 April 2016 <<http://www.abc.net.au/news/2016-04-12/unsw-students-under-fire-over-song-glorifying-rape/7320112>>.

In residential colleges, problems associated with alcohol consumption extended beyond incidents of sexual violence. One participant perceived alcohol use to be one of the most significant challenges facing the colleges, even although one of the colleges is considered 'dry' (alcohol-free): "We have problems with alcohol in all six colleges (operated by UNSW) ... that would be the biggest challenge ... alcohol and issues relating to alcohol" (UNSWCS_130731_0067_090616).

Current university policy on alcohol and drugs offers guidelines covering "the consumption or serving of alcohol on University grounds and workplaces".¹⁷ The purpose of the policy is not to prohibit the use of alcohol or other substances that have been legally obtained, but to prevent inappropriate and illegal consumption. The policy prohibits transport or consumption of open alcohol beverages outside of licensed university premises. Under the Code of Conduct, "staff, affiliates and students [must] ensure that they do not attend work or perform duties or functions for the University under the influence of alcohol or drugs".¹⁸

Additional policies are in place to regulate alcohol consumption in the residential colleges. However, some participants were unaware that these policies exist, with one participant incorrectly stating that "there is no policy around drinking alcohol out and around on campus ... There actually isn't any policy on our campus about people just being able to rock up and open a slab of beers, and start drinking" (UNSWCS_130730_0066_080616).

The impact of excessive alcohol consumption has the "potential ... to become an area of legal risk for universities ... if the university is aware of and does nothing about the fact that one of its premises ... is in the habit of having large, alcohol budgets for social events and poor controls over how much alcohol is served" (UNSWCS_131222_0069_311016). Appropriate management of alcohol consumption on campus and at university events could play a broader risk minimisation role in reducing the prospect of violent conduct:

... from a legal, risk-minimisation perspective, it makes absolute sense to think about how we might manage that risk by putting limits around alcohol consumption. And it's not just about sexual assault ... when you think about one-punch type ... violent crimes, limiting alcohol consumption has a lot to commend it ... from every perspective.
(UNSWCS_131222_0069_311016)

4.7.3. University-led awareness campaigns

Campaigns that raise awareness of the issue of sexual violence at UNSW were largely viewed by participants as beneficial, increasing visibility of the issue and potentially deterring and preventing harmful conduct. However, participants emphasised that campaigns were only effective if reinforced by robust policies and reporting procedures, and if linked to clear targets that have tangible outcomes for victims:

The Respect. Now. Always. [campaign] is asking for respect and it's saying the standard that we demand from our students and our staff, and everyone in the community that they are respectful now, they're always respectful to everyone, regardless of gender, regardless of sexuality, regardless of race ... [But] we're not there yet because universities don't actually have systems in place for responding to the problem. So it was counterproductive ... all those people who see the poster and ... then they go to report it, they're [going to] be really dissatisfied with the response or they're not [going to] be able to access that reporting mechanism.
(UNSWCS_140122_0073_011216)

¹⁷ University of New South Wales, *HS825 Alcohol and Drugs Procedure* (30 April 2014) <<https://www.gs.unsw.edu.au/policy/documents/HS825.pdf>>.

¹⁸ The University of New South Wales, *Code of Conduct* (29 February 2016) <<https://www.gs.unsw.edu.au/policy/documents/codeofconduct.pdf>>.

There's not enough information on like actually seeking support ... I think it needs to be more from like more of like from a victim's point of view ... I don't think it really reaches students enough at the moment is the problem.
(UNSWCS_140209_0075_191216)

[The Respect. Now. Always. campaign] talks about ending sexual assault on campuses and talks about ending gendered violence but it doesn't really say how ... I think instead of saying "we [want to] end sexual assault" it should say "we [want to] see every campus around Australia with a clear reporting system; we [want to] see every campus around Australia have education programs in place on consent and bystander training; we [want to] see support systems in place for every student if they are experiencing issues with sexual assault or gendered violence", or anything like that. So I think it needs to actually say, clearly, what they [want to] see out of it because otherwise people are just [going to] think, "Oh, this is just another campaign ..."

(UNSWCS_140209_0075_191216)

5. Conclusion

The UNSW Case Study project has provided in-depth perspectives from individuals who are involved in and/or responsible for responding to reports of sexual violence by members of the university community. The interviews revealed a number of key issues which reflect the findings of the AHRCentre's initial review of UNSW policies and procedures potentially covering sexual assault and harassment, and the call for action by the UNSW SRC Women's Collective in its open letter to the Vice-Chancellor in June 2016.

These issues include:

- the current lack of clear and accessible stand-alone policies on sexual violence;
- an absence of express statements that prohibit sexual violence;
- the lack of specific and appropriate sexual violence training for potential first responders;
- perceptions that guidelines around reporting are convoluted and difficult to access (which is a disincentive to reporting);
- ambiguity surrounding mandatory reporting obligations under NSW legislation;
- the need for a central record repository to capture all reports of sexual violence;
- the need for a specific sexual violence centre for the UNSW campus;
- greater resourcing of support services; and
- greater engagement with all staff and students on campus regarding sexual violence awareness, including awareness campaigns and mandatory consent education.

While the perspectives in this report have highlighted a number of weaknesses within the current UNSW framework to address this issue, they also offer useful suggestions as to how the university could strengthen its response to sexual violence.

Since the commencement of the AHRCentre project and the initial review of policies, a number of initiatives have been introduced at UNSW to address some of the identified deficiencies raised in this report and elsewhere, including:

- An external independent audit has been conducted of all university policies and procedures in relation to university management of complaints of sexual assault and harassment.
- The Gendered Violence & Work Program (part of the GVRN) has delivered eight workshops to 123 staff and student leaders of six of the residential colleges, consisting of workshops of three modules tailored to accommodate the differences in staff/student roles and the college context.¹⁹
- The SIU is drafting fact sheets for university staff on how to respond to reports of sexual misconduct. The SIU is also reviewing the Student Misconduct Procedure and the Student Complaints Procedure, and is developing an online reporting tool.²⁰

¹⁹ Personal communication from case study participant dated 18 May 2017.

²⁰ Personal communication from case study participant dated 22 May 2017.

- CAPS has sought resources to fund a sexual assault and harassment specific training program for professional staff. In the interim, CAPS is drawing on available expertise and resources to inform the service in relation to responding to disclosures of sexual violence.²¹
- The UNSW Health Service has implemented staff education based on the *Respect. Now. Always.* campaign and in relation to complaints of sexual violence. In partnership with Medibank and UNSW Global, the health service is funding a health promotion position to focus on the sexual health education of international students, including on issues such as consent. Staff have been trained in the appropriate identification of sexual assault cases (which may initially present as mental health issues) for recording in the medical records database. Importantly, the university has provided funding for a remodelling of the health service to accommodate additional space and a more student-friendly waiting area, which will facilitate greater privacy for students, expanded in-house mental health service provision, and shorter waiting times. Greater integration of the health service and CAPS is also being explored.²²
- Since July 2016, UNSW Security & Traffic Management has included sexual assault response guidelines in its induction program for all new security staff (internal and contracted staff). Contracted security staff are now required to undergo refresher awareness training every six months on sexual assault and related issues, as well as monthly scenario training to identify areas for improvement. A specific sexual assault and harassment awareness course for all new and current security staff is to be introduced and, in recognition of the importance of the availability of female security officers, the minimum number of female staff on duty at any time will increase from one to two from September 2017 as part of the external security contract (with aspirations for a 50/50 gender balanced team). In addition, CCTV around the university is continually being upgraded.²³

Broadly, the analysis and findings of this case study may be useful to other Australian universities in reviewing and reforming their responses to sexual violence. In the context of UNSW, it is hoped that these findings, in combination with the recommendations from the AHRCentre's report, *On Safe Ground - A Good Practice Guide for Australian Universities*, will facilitate constructive dialogue to enable university alignment with 'good practice' in responding to sexual violence, recognising that:

[The university] has all the information it needs and all the tools that it needs at its fingertips to develop a really effective response framework, and educational prevention framework.

(UNSWCS_140122_0073_011216)

²¹ Personal communication from case study participant dated 19 June 2017.

²² Personal communication from case study participant dated 20 June 2017.

²³ Personal communication from case study participant dated 2 June 2017.

6. Recommendations

While there were many suggestions proposed by case study participants for improving UNSW's response to sexual assault and harassment, the recommendations listed below were most commonly endorsed by the group as contributing to university 'good practice':

1. Development of a stand-alone sexual assault and harassment (or 'gendered misconduct') policy and procedure outlining the university's position and requiring all policies and procedures that address the issue to:
 - a. contain explicit statements prohibiting sexual assault and harassment, and other forms of sexual misconduct;
 - b. contain clear definitions of behaviours that constitute sexual assault, harassment and related conduct;
 - c. outline corresponding penalties should a student breach the policy;
 - d. apply across the university, including at colleges and residences (even those privately managed);
 - e. outline the process of reporting and investigation and the estimated timeline of events;
 - f. make clear that, where applicable, any internal administrative disciplinary action should follow (but not be dependent on) the conclusion of a criminal investigation, with the potential for interim measures to be taken to protect the safety of the victim, other students, and staff (where required);
 - g. detail clear referral pathways to support services located on campus, including health and psychological services; and
 - h. be widely promoted among the UNSW community.
2. Enforcement of policies and codes of conduct in relation to cases of sexual assault and harassment, including the imposition of appropriate sanctions following a finding of student or staff misconduct.
3. Establishment of a central unit at the university that manages reports of sexual assault and harassment, and allows for both online and in-person reporting.
4. Development of a central repository to contain all reports of sexual misconduct, irrespective of severity. All first responders should be required to send any reports of sexual assault and harassment to the central unit for recording and collation purposes.
5. Development of clear guidelines on the mandatory reporting obligations²⁴ of first responders in cases of sexual violence, including:
 - a. examples of circumstances when mandatory reporting might be triggered; and

²⁴ Crimes Act 1900 (NSW) s 316.

- b. standardised wording for first responders to use when speaking to victims to ensure that victims are equipped to make a fully informed choice about whether to report their experiences and the consequences of doing so.
- 6. Implementation of specific sexual assault and harassment training for potential first responders, including security, health and counselling services, academic staff, and others, and sensitivity training around issues relevant to Aboriginal and Torres Strait Islander students, CALD and international students, students with disability, and students who identify as LGBTQI.
- 7. Development of a mandatory online training module for students to complete prior to enrolment at the university on expected standards of student conduct and the consequences of their breach.
- 8. Introduction of training programs for students on gender inequality, respectful relationships and consent (provided by the GVRN).
- 9. Review of contractual agreements with security services to explore options for transporting student victims of sexual assault to specialised external medical centres, as required.
- 10. Enforcement of policies in relation to the responsible service and consumption of alcohol on campus, including in colleges and at sporting events.

Seeking assistance

The resources below may be of assistance to victims of sexual violence and those affected by its impact.

1800 RESPECT

24/7 National Sexual Assault, Domestic and Family Violence Counselling Service
Free and confidential call
1800 RESPECT (1800 737 732)
www.1800respect.org.au

LIFELINE – CRISIS SUPPORT

24/7 crisis support and suicide prevention services
13 11 44
www.lifeline.org.au

MENSLINE

MensLine Australia is a professional telephone and online support and information service for Australian men
24/7 free and confidential call 1300 789 978
www.mensline.org.au

EMERGENCY SERVICES

Emergency Services: 000
Police Assistance (non-emergency): 131 444
For cases that may constitute a criminal sexual offence, relevant state or territory police should be contacted.

END RAPE ON CAMPUS (EROC) AUSTRALIA

EROC Australia works to end sexual violence at universities and residential colleges through direct support for survivors and their communities; prevention through education; and policy reform at the campus, state, and federal levels.
www.endrapeoncampusau.org/about/

AUSTRALIAN HUMAN RIGHTS COMMISSION (AHRC)

The AHRC investigates and conciliates complaints regarding sexual harassment and discrimination.
See: www.humanrights.gov.au/complaint-information

STATE & TERRITORY ANTI-DISCRIMINATION BODIES

Complaints about sexual harassment can be made to local state / territory anti-discriminatory bodies. Links to each state and territory body are at: www.ag.gov.au/RightsAndProtections/HumanRights/Pages/Australias-Anti-Discrimination-Law.aspx

OMBUDSMAN'S OFFICES

Complaints about public universities and higher education providers acting unfairly or mismanaging complaints of sexual assault and sexual harassment can be made to the relevant state/territory Ombudsman.
Links to each state and territory body are at: www.ombudsman.gov.au/about/related-sites#stateombudsman
International students at private higher education providers can make complaints to the Overseas Students Ombudsman.
See: www.ombudsman.gov.au/making-a-complaint/overseasstudents

TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY (TEQSA)

Complaints relating to a university's learning environment that impact on the wellbeing and safety of students can be made to TEQSA which monitors compliance by higher education providers with the *Tertiary Education Quality and Standards Agency Act 2011* (Cth).
See: www.teqsa.gov.au/complaints

AHRCENTRE

AUSTRALIAN HUMAN RIGHTS CENTRE

UNSW Sydney
www.ahrcentre.org

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ABOUT
SEX

arc.unsw.edu.au/sex-ed20