



28.02.19

National Inquiry into
Sexual Harassment in
Australian Workplaces
Australian Human
Rights Commission
Submitted online

SUBMISSION: SEXUAL HARASSMENT IN AUSTRALIAN WORKPLACES

NAVA welcomes the opportunity to contribute to this important Inquiry.

The National Association for the Visual Arts is the peak body representing the professional interests of the Australian visual and media arts, craft and design sector. We represent a Membership and sector community of over 50,000 professional practising artists, creative practitioners, galleries and other art organisations. Since our establishment in 1983, NAVA has been influential in bringing about policy and legislative change to encourage the growth and development of the visual arts sector and to increase professionalism within the industry. Through the Code of Practice for the Professional Australian Visual Arts, Craft and Design Sector, NAVA sets best practice standards for the contemporary arts industry.

Sexual harassment in the contemporary arts is a significant and widespread problem. It reinforces gendered power structures, destroys confidence and ends careers. The impact of this Inquiry will be important to people all over Australia – most particularly, non-male-identifying people. On a personal note, the instances that I have experienced across my own career are far too numerous to mention.

Like all service organisations, NAVA receives a high volume of formal and informal complaints. NAVA works with colleague organisations all over Australia to support individual Members experiencing harassment and raising complaints, organisational responses to individual cases, as well as policy and best practice development for the sector as a whole.

In 2018, in response to widespread disclosures of current, recent and historical cases of gendered harassment, NAVA released a set of resources for Members including a [whistleblower protocol](#) drafted by Herbert Smith Freehills acting pro bono, and the open letter and video [Dear Person I've Been Reluctant To Keep Engaging With But Have Had To For Professional Reasons](#). The full text of this letter is included below, as it addresses many elements of the Inquiry's terms of reference, including the factors contributing to the prevalence of harassment. The

letter and video are deliberately uncomfortable experiences designed to create cultural change, and the feedback has been tremendous.

Each of these attempts to contribute positively to a change in culture has, however, highlighted the systemic barriers to achieving that change, which makes this Inquiry welcome and timely. In particular, the consequences for speaking up are damaging for victims' health, mental health and careers, which makes disclosures rare and satisfactory resolution even rarer.

NAVA recommends:

1. That the Australian Government establishes and funds an expert, independent national body to accept and respond to sexual harassment complaints in ways that maintain a discloser's anonymity if requested, while leading to real and tangible consequences in law for perpetrators;
2. That the Australian Government establishes and funds a third-party whistleblower service (e.g. Whispli: <https://whispli.com/>) to allow for direct ongoing dialogue that maintains a discloser's anonymity during an investigation that is conducted by any organisation dealing with reports of incidents;
3. That a diversity quota standard be set for all publicly funded arts organisations that require boards to be composed of 50% non-male-identifying directors;
4. That a diversity quota standard be set for all publicly funded arts organisations that require representation in acquisitions, exhibitions, on stages and across all programming to comprise 50% non-male-identifying artists; and
5. That the good work of the Australian Human Rights Commission is reflected and reinforced by cultural change within the Parliament. Poor behaviour by elected representatives, and the protection of that behaviour via parliamentary privilege, sets a poor standard for Australia as a whole, reinforcing prejudicial and dangerous behaviours in workplaces across the nation. Cultural change begins at top, whether it's an arts organisation or the Australian Government.

In addition, we endorse the recommendations made in the 'Power to Prevent' joint statement by Union Women:

6. Dedicated prevention efforts to address the underlying gendered drivers of sexual harassment, which should be part of a holistic strategy to prevent violence against women and promote gender equality in line with 'Change the story: A shared framework for the primary prevention of violence against women and their children in Australia';

7. Stronger and clearer legal duties on employers to take proactive steps to prevent sexual harassment at work, and strong and effective regulators that have the full suite of regulatory tools and resources necessary to effectively tackle sexual harassment, including as a cultural, a systemic and a health and safety issue;
8. Access to fair, effective and efficient complaints processes, including a new right of action under the Fair Work Act, extended time limits, increased transparency of conciliation outcomes where appropriate, and other amendments and resources necessary to address the unique barriers that currently prevent workers who experience sexual harassment from taking effective legal action;
9. Appropriate advocacy and support for workers who experience sexual harassment, including access to information, counselling and legal services that are appropriately resourced and coordinated; and
10. Accessible reporting tools, including piloting an online reporting tool that assists people to report and address problem behaviour and seek support, and identifies trends to assist with prevention and enforcement efforts.

Please do not hesitate to contact me for any further information I can provide.

Sincerely,



Esther Anatolitis
Executive Director



NAVA'S OPEN LETTER TO PERPETRATORS OF GENDERED HARASSMENT

Dear Person I've Been Reluctant To Keep Engaging With But Have Had To For Professional Reasons,

I know this letter is going to come as a surprise to you, but I have to tell you something – and it's going to make you feel deeply uncomfortable about who you are and how you come across.

You're a perpetrator of gendered harassment.

Habitually, routinely, and thoughtlessly, you make people feel uncomfortable because you sexualise the way that you touch them, talk to them, or talk about them.

And I am one of those people.

I've tried all the various ways I could think of to stop you from behaving that way towards me, but none of them have worked. You've brushed it off as a joke or just your way or just what it's like working in a creative environment. You've never stopped to think about how that affects someone, day-to-day, to be intimidated or humiliated or offended or distressed or hurt. You've never stopped to think about how it affects our entire culture when there's countless people like you who just go on behaving that way, oblivious to their effect.

There have been times when your behaviour has gone beyond gendered harassment. There are times when you've sexually assaulted me. You didn't notice, because you didn't realise that that was sexual assault. You didn't realise that you touched me that way because, in your position of power, you've long felt entitled to behave however was most comfortable for you, without considering the other. You didn't realise that touching me the way you did, in public, while I was in the middle of doing my job, or just at an opening, or even at my own opening, was not only horrible but against the law.

You're probably wondering why I've never mentioned this before, in terms as strong and as clear as this. I don't think you have any idea how hard it is to say all this. To realise that, despite all the work I've made and shown, I have been diminished into the object of someone else's momentary sexual gratification – just an object and nothing more... that is an abhorrent feeling. It disconnects you from yourself and everything you've achieved. And all the times when you've just laughed it off, I've felt even more humiliated. On top of all that, I've been worried about how it would hurt my career. How you might retaliate. I've heard the way you speak about other people. I know how rumour can ruin reputations. And I'm disgusted that, despite the fact that everyone seems to know all of this about you, people keep giving you great jobs and putting you on committees and giving you even more power over the careers of people like me.

The only alternative to sending you this letter was not sending it – and then that would mean that I would continue to feel uncomfortable and undermined and unsafe. And who knows how many others would be feeling the same way. I've seen you with other people. I've seen their body stiffen and their facial expression freeze. I've wondered how on earth it could be possible that you haven't noticed it too.

So instead of contributing to the bottomless mire of material designed to agitate the victims of gendered harassment into changing their behaviour, I'm offering ways that you can change yours.

There have to be dozens and dozens of times when you've been talking to someone, and suddenly their demeanour has changed or they've moved away from you abruptly. Ask yourself why. I mean Really. Ask. Yourself. Why. What were you saying? What were you doing? How could you have done any of that differently?

I know you've recognised this behaviour in others. Why haven't you said anything? Maybe now, reading this letter – and I know you're going to reread and reread it, because it's a really unsettling thing to receive – maybe now you'll find some way to say something. Maybe you'll find some way to stop yourself when you've moved into a colleague's personal space, or made a joke that had nothing to do with the work you were discussing, or decided that the artist you were speaking to was someone that you wanted to see smile or blush or squirm. You're going to start reflecting on all the ways you come across. This is the moment when you start to change.

Can you imagine what Australia's galleries and studios and public spaces and our entire contemporary arts scene would look like if nobody had to fear someone like you?

That's what's going to happen now. Because all around the world, people are coming together to stop gendered harassment and sexual assault from remaining a normal part of our working lives. And what this means for you is not going to be pleasant.

People are going to call you out on it, right there and then, to your face. At work, in public, at an opening. You're going to be intimidated or humiliated or offended or distressed or hurt.

Or you could just stop behaving like this.

It's up to you.

Sincerely,

The Concerned Colleague Who Started To Have This Conversation With You Yesterday
But You Wouldn't Take Me Seriously So I Wrote This Letter.

<https://visualarts.net.au/advocacy/campaigns/gender-equality/>