
NSW SEXUAL ASSAULT STRATEGY

2018 – 2021



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Minister's introduction



As the Minister responsible for the prevention of both domestic violence and sexual assault, I have seen the links and similarities between these two crimes. Both occur primarily within either the family or other familial relationships and are traditionally underreported. They share the dynamics of power and control, and often reflect deep cultural norms, especially gender norms. These are complex crimes that demand complex responses if we are to reduce their incidence and the damage they cause.

Sexual assault is a crime with far reaching consequences for individuals, families and the community as a whole. The impact of sexual assault, as we have seen from the Royal Commission into Institutional Responses to Child Sexual Abuse, is often profound and long lasting. For this reason alone it demands significant commitment, not only by governments but by the wider community, to champion change in social attitudes and accountability.

In much the same way as the NSW Government has approached domestic violence, the complexity of sexual assault requires a whole-of-government strategy that addresses prevention and early intervention, trauma-informed support, healing for victims and survivors, and proper accountability for perpetrators. These elements of the strategy need to be integrated within a framework that accounts for the social and criminogenic complexity of sexual assault, as well as its persistence within a wide range of settings; the home, social settings and the workplace.

The *NSW Sexual Assault Strategy* recognises the role of power and control dynamics in granting or denying, and seeking or ignoring consent. In NSW children under 16 years cannot consent to sexual activity, and consent cannot be given when a person is asleep or unconscious, or unable to understand what they are consenting to due to their intellectual disability. Furthermore, adults can refuse to give consent to sexual relations at any time.

Whether it is the failure to seek consent, refusal to recognise when someone cannot give consent or ignoring their refusal, consent is at the heart of the continuum of sexual offending. Sexual assault is part of a continuum of violence, ranging from inappropriate sexual behaviour, to sexual harassment to sexual assault. To address this requires a whole-of-government, whole-of-community approach. We must

prevent sexual assault wherever possible and intervene early when it does occur, support victims and survivors with a trauma-informed approach, and hold perpetrators to account. As sexual assault is a gendered crime, it is important to better educate the community about critical issues such as gender equality, power and control.

The *Sexual Assault Strategy* would not be complete without recognising that children overwhelmingly are represented as victims and survivors, and again the power and control dynamic is evident. The Royal Commission is commended for its work in exposing child sexual abuse in Australian institutional settings, and the NSW Government has responded to these recommendations. We also know that children are more likely to be victimised by a person known to them or their family, and the strategy responds to this.

The Royal Commission has drawn attention to the victimisation of boys in institutional settings. More than 64 per cent of attendees in private sessions were men, and the *Sexual Assault Strategy* recognises the hurt often deeply felt by adult survivors and the importance of effective supports for both women and men.

The strategy recognises that individual characteristics such as gender, age, disability, ethnicity, sexuality and race can intersect and impact on a person's experience of violence, their ability to access services, seek justice and recover. An intersectional approach helps us to understand that individuals and groups experience different forms of systemic social, political and economic disadvantage and discrimination.

Modern sexual dynamics are complex, and this framework does not intend to compromise or infringe on consensual interactions in relationships, social settings or even the workplace. In 2003 as Sex Discrimination Commissioner, I established the first national telephone survey on sexual harassment with the Australian Human Rights and Equal Opportunity Commission. Since that time there has been growing awareness of what constitutes unacceptable, unlawful or illegal behaviour. I believe the community reached a tipping point some time ago, and now expects a deeper and stronger response from governments.

It is true that sexual harassment has been unlawful since 1984 and sexual assault a legislated crime for well over a century. Our society, however, has been largely content to leave the crisis response to the police, the courts and support services. Today the community expects that prevention, early intervention, response and support for victims and survivors will be led by government and owned by everyone.

The NSW Government's *Sexual Assault Strategy* is embedded in contemporary values of sexual behaviour and proposes an integrated response that is not merely focused on the crisis point and the criminal justice response. This integration also involves prevention, early intervention and education, perpetrator accountability and evidence-based therapeutic support for victims and survivors. In addition, it is important to improve the system as a whole and ensure it is effective, accessible and flexible.

The NSW Government, through this strategy, will strengthen and clarify contemporary understandings of consent and its application in both social and criminal justice settings. This will be done through the development of social protocols that can be easily applied and recognised, and by examining current court practices intended to elucidate consent.

The *NSW Sexual Assault Strategy* would not have been possible without significant input from experts, the broader workforce and community members. The strategy is informed by a wide evidence base, and points to areas where more work is needed to understand the needs of diverse communities who have been affected by sexual assault.

A comprehensive state-wide consultation process was undertaken to develop this strategy. The insight we gained from experts in the field, frontline workers, non-government service providers, peak organisations and government agencies has been vital.



Pru Goward

Minister for the Prevention of Domestic Violence and Sexual Assault

July 2018

Where we are now

DEFINITIONS AND STATISTICS

Sexual assault is a broad term describing all sexual offences against adults and children. It occurs when a person is forced, coerced or deceived into sexual acts against their will or without their consent.

Sexual assault can happen to anyone in our community. It affects girls and boys, women and men. There is a continuum of sexual violence ranging from sexual harassment, sexual acts, sexual touching, sexual assault and aggravated sexual assault. Sexual assault does not have to be a single act of aggression, but should be considered as part of a continuum of attitudes and actions.

For the purpose of this strategy, 'sexual assault' is the term used to describe all types of sexual offences, ranging from sexual touching to aggravated sexual assault.

The age of consent in NSW is 16 years. This means that consent of a child under 16 years to sexual activity is not a defence. Any of the following acts are considered an offence if the victim is a child under 16 years.

SEXUAL HARASSMENT Unwelcome sexual advances, request for sexual favours or sexual conduct where a person is offended, humiliated or intimidated e.g. inappropriate remarks or sexual comments.

SEXUAL ACT Behaviour of a sexual nature with or towards another person without consent or when a person is made to do something of a sexual nature e.g. masturbating in front of another person.¹

SEXUAL TOUCHING Unwanted touching (or threatening to touch) a person in a sexual manner without their consent e.g. unwanted touching of a person's breast, bottom or genitals.¹

SEXUAL ASSAULT Any form of penetration of the vagina, anus or mouth with another person's body part or object without consent.

AGGRAVATED SEXUAL ASSAULT Sexual intercourse without consent in circumstances of aggravation e.g. gang rape or sexual assault with a weapon.

In Australia



- Almost one in five women (18 per cent or 1.7 million) and almost one in 20 men (4.7 per cent or 428,800) experienced sexual violence since the age of 15 years.²
- Almost one in six women (16.4 per cent or 1.5 million) and almost one in 27 men (3.7 per cent or 330,300) experienced sexual violence by a known person since the age of 15 years.³
- Australian Bureau of Statistics (ABS) statistics highlight that the victimisation rate for sexual assault in Australia has risen from 83.3 victims per 100,000 population (or 18,616 victims) in 2011 to 95.5 per 100,000 population (or 23,052 victims) in 2016. In NSW, the reported number of sexual assault victims rose from 7,024 to 8,795 over the five-year period.⁴
- Before the age of 15, almost one in 14 Australians (7.7 per cent or 1.4 million) experienced sexual abuse, which includes almost one in 10 women (10.7 per cent or 1 million) and almost one in 22 men (4.6 per cent or 411,800).⁵

In NSW in the 12 months to March 2018:



- 13,309 incidents of sexual offence were reported to the NSW Police.⁶
- Women and girls were nearly four times more likely than males to be a victim of reported incidents of sexual offence.⁷
- Two-thirds (65.7 per cent) of victims were children.⁸
- Girls were victims of reported sexual offences at more than three times the rate of boys.⁹
- Males made up 97.5 per cent of alleged perpetrators.¹⁰

Reported incidents of sexual offences are usually perpetrated by someone known to the person and it usually occurs in residential locations.



- In NSW, in the 12 months to March 2018, the majority of victims of reported sexual offences (86.1 per cent) experienced sexual offences by someone they knew rather than by a stranger.¹¹
- 60.5 per cent (almost two-thirds) of reported sexual offence incidents in NSW in this reporting period occurred in a residential location.¹²

Most people do not report their experience of sexual assault to the police, and only a limited number of incidents result in a finding of guilt in the criminal justice system.



- The 2016 Personal Safety Survey found that 86.8 per cent (553,900) of Australian women sexually assaulted by a male, in the last 10 years, did not report the most recent incident to police.¹³
- The 2012 Personal Safety Survey,^{14 15} found that in Australia, 95.7 per cent (24,300) of women sexually assaulted by a female since the age of 15 did not report the most recent incident to police;¹⁶ that 66.5 per cent (48,100)¹⁷ of men sexually assaulted by a male since the age of 15 did not report the most recent incident to police; and that 94.6 per cent (123,600) of men sexually assaulted by a female since the age of 15 did not report the most recent incident to police.¹⁸
- In NSW 1,186 defendants whose principal offence was 'sexual assault and related offences' were found guilty and sentenced in 2017.¹⁹

Current NSW laws regarding consent



The law in NSW says that a person is unable to give consent if:

- the person does not have capacity to consent because of age or cognitive incapacity
- the person does not have the opportunity to consent because the person is unconscious or asleep
- the person consents because of threats of force or terror, or because they are unlawfully detained.

Secondly, it may be established that a person does not consent on the grounds that:

- the person is substantially intoxicated by alcohol or any drug
- the person has sexual intercourse because of intimidatory or coercive conduct or threat
- the person has sexual intercourse because of the abuse of a position of authority or trust.

Like sexual assault, sexual harassment disproportionately affects women



The Commonwealth *Sex Discrimination Act 1984* defines sexual harassment as an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, which, in the circumstances, a reasonable person would anticipate the possibility that the recipient would feel offended, humiliated or intimidated.²⁰

Since 1984, sexual harassment has been recognised as illegal in the workplace through the Commonwealth's *Sex Discrimination Act*. It is also recognised as a form of sex discrimination. Despite this, sexual harassment remains a problem in Australia.

Women are more likely than men to experience sexual harassment. A 2012 national survey conducted by the Australian Human Rights Commission found that a quarter of women (25 per cent) and one in six men (16 per cent) aged 15 years and over have experienced sexual harassment in the workplace in the past five years.²¹ In Australia, one in two women (53 per cent or 5 million) and one in four men (25 per cent or 2.2 million) aged 18 years and over had experienced sexual harassment during their lifetime.²²

CURRENT POLICY CONTEXT

The *NSW Sexual Assault Strategy* complements a number of state, national and international policies.

National Plan to Reduce Violence against Women and their Children 2010-2022

The National Plan is a platform for action by all Australian governments to reduce domestic and family violence, and sexual assault against women and their children. The Third Action Plan 2016-2019 has six national priorities, including a focus on sexual violence. *National Outcome Standards for Perpetrator Interventions* are being developed under this action plan.

The NSW Government response to the Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) commenced in 2013 and delivered its *Final Report* in December 2017. The Royal Commission heard evidence of the shocking and appalling abuse of children within institutions that were supposed to care for and value them. In June 2018, the NSW Government released a comprehensive response to all 409 recommendations made by the Royal Commission, including the 189 recommendations included in the *Final Report*.

The NSW Government is strongly committed to improving the prevention of and response to sexual assault in all situations including family, institutional and community contexts. The *NSW Sexual Assault Strategy* complements the NSW Government's response to the Royal Commission's recommendations. Key themes emerging from the Royal Commission's recommendations align with the pillars of the *Sexual Assault Strategy*. This includes making institutions child safe, support and treatment, and improved responses within particular institutions including schools and out-of-home care.

NSW has already made significant improvements to child protection and the response to sexual assault since the Royal Commission began. This includes reforms to out-of-home care, improved responses to the needs of victims and survivors, and a strengthened criminal justice response including maximum life sentences for persistent child abusers.

In March 2018, NSW and Victoria became the first states to join the National Redress Scheme for people who were sexually abused as children while in the care of institutions.

In April 2018, the NSW Government announced a wide ranging reform package to strengthen child sexual abuse laws in response to the Royal Commission's *Criminal Justice Report*.

The *Sexual Assault Strategy* and the NSW Government response to the Royal Commission form a comprehensive reform agenda to improve wellbeing and safety for the whole community, including children, women and men.

Review of the sexual consent provisions in the *NSW Crimes Act*

In May 2018, the Minister for Prevention of Family Violence and Sexual Assault and NSW Attorney General announced that the NSW Law Reform Commission would review and report on sexual consent provisions in section 61HA of the *Crimes Act 1900*. The review will determine if the law needs to be amended to better protect victims and survivors of sexual assault. It is considering sexual assault research and expert opinion, as well as community views, and developments in law, policy and practice in Australia and internationally.

Australian Human Rights Commission – *Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities*

In August 2017, the Australian Human Rights Commission released research into sexual assault and sexual harassment at Australian universities. The report makes nine recommendations to universities and university colleges aimed at improving high-level commitment to prevention; response procedures and support; and ongoing monitoring and evaluation. Eight of these recommendations concerned on campus procedures and one related to residential colleges.

Child Sexual Offences Review

The Department of Justice reviewed NSW's child sexual assault offences to identify opportunities to consolidate and simplify the current framework, revise current offences and include new offences. Research, findings and recommendations of the Royal Commission on criminal justice issues were considered in the review, together with public and stakeholder consultation processes. Reforms arising from the review will be introduced as part of the package of legislative reforms which the government is making in response to the Royal Commission's *Criminal Justice Report*.

Child Sexual Offence Evidence Pilot

The pilot aims to reduce the stress and trauma experienced by children and vulnerable young people who experience and witness sexual offences in NSW. The pilot introduces two new initiatives – pre-recording the entire evidence of children who experience or witness sexual offences, and witness intermediaries i.e. psychologists, social workers and speech pathologists who provide communication support through the court process. The three-year pilot commenced in March 2016 in two NSW locations and is currently being evaluated. In August 2015, the NSW Government also appointed two specialist District Court judges trained in managing child sexual assault matters.

Review of the *Victims Rights and Support Act 2013*

The NSW Department of Justice is conducting a review of the *Victims Rights and Support Act (2013) NSW* to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

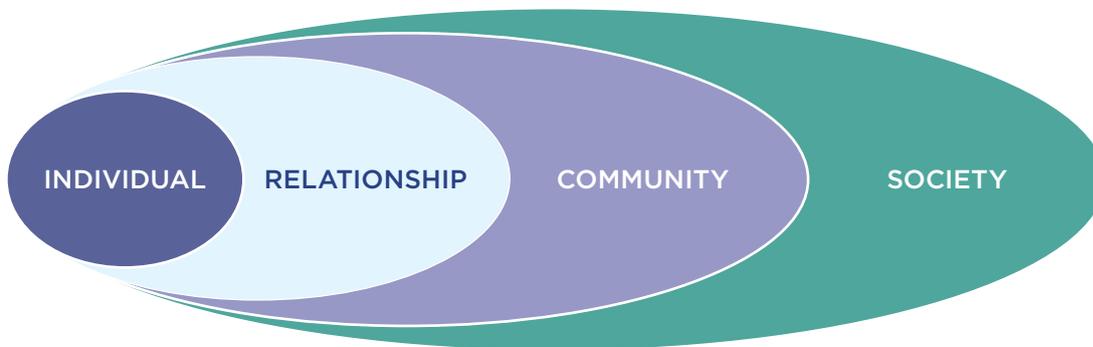
Non-consensual sharing of intimate images legislation

In August 2017, a legislative amendment to the *Crimes Act* was introduced to make it an offence in NSW to intentionally record or distribute, or threaten to record or distribute, an intimate image of a person without their consent. Intimate images include photographs and videos of a person's private parts or of a person engaged in a private act such as undressing, showering or engaged in sexual activity.

Individuals, relationships, communities and society

The World Health Organisation's socio-ecological model helps us understand how individual relationships, community and societal factors can interrelate and contribute to sexual assault.²³

The model helps to explain that sexual assault occurs due to a complex interplay of factors. Individuals are influenced by the attitudes and behaviour of their family and friends, the broader community and deep-seated social norms.



What we will do: areas for action

The *Sexual Assault Strategy* recognises that the priority areas apply differently to adults and children. Action taken within workplaces, universities, sporting and social settings will vary, and additional consideration is necessary for how these actions apply to those at elevated risk of sexual assault. Families, friends and other bystanders can all play different roles and take action.

Some individuals and groups may experience greater barriers than others to reporting sexual assault and accessing services, including Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds, people with disability, and lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people. There is a need to educate services to become more culturally aware and flexible to meet the needs of their clients, such as therapeutic and healing programs looking at intergenerational abuse in Aboriginal communities; and understanding the psychology and dynamics of domestic and family violence and sexual assault in LGBTIQ relationships. It is important that services recognise people are multidimensional, priority groups are not homogenous, and actions must be tailored to the diverse needs of individuals. Services need to provide flexible, inclusive approaches to people who have experienced sexual assault.

The strategy's five priority areas for action will be developed and implemented through flexible and inclusive approaches, with participation and engagement from diverse communities. The strategy identifies key groups and settings, and allocates actions in the priority areas targeted at each of them.

1 PREVENTION AND EARLY INTERVENTION

Prevention strategies that aim to stop sexual assault from ever happening in the first place, and early intervention when it does occur.

What we will do

- Support prevention initiatives under the *National Plan to Reduce Violence Against Women and Their Children*.
- Provide input into the NSW Education Standards Authority review of the K-12 curriculum to provide content related to the continuum of sexual violence and future teacher training.
- Scope research projects with Australia's National Research Organisation for Women's Safety (ANROWS) for consideration as a priority on the research agenda.
- Expand NSW Health's therapeutic services for children and young people with harmful sexual behaviour.

2 EDUCATION

Education for children, young people and adults to form healthy and respectful relationships, recognise sexual assault and respond effectively.

What we will do

- Launch a community education campaign utilising social media. The campaign will identify the continuum of sexual harassment to sexual assault, consent and address the role the bystander and community can play in identifying sexual offending and speaking out. The campaign will highlight gender inequality as a driver of sexual assault and harassment.
- Trauma-informed training for the Department of Family and Community Services (FACS) frontline staff to increase capacity to deliver therapeutic, inclusive, flexible and appropriate services to people who have experienced sexual assault.
- Adapt and promote the *See, Understand and Respond to Child Sexual Abuse: Practical Kit* as an online resource available to professions that work directly with children.
- Work with NSW universities and university residential colleges with a view to supporting implementation of the recommendations from the Australian Human Rights Commission report.
- Ensure that material related to the community education campaign is made available in universities, residential colleges and TAFEs.
- Develop a best practice guide for grievance handling of sexual assault and harassment allegations in TAFEs.

3 SUPPORT VICTIMS

Support victims and survivors who have experienced sexual assault to access services that help them feel safe, achieve justice and rebuild their lives.

What we will do

- Prioritise adult survivors of child sexual assault, where eligible, for social housing.
- Review protections for vulnerable witnesses, and victims and survivors of sexual assault providing evidence in court.
- Deliver integrated medical, forensic and crisis counselling services to those who have been sexually assaulted through:
 - I. continuing to increase the number of doctors trained to undertake medical and forensic examinations for sexual assault victims and survivors of all ages
 - II. continuing to increase the number of trained Sexual Assault Nurse Examiners (SANEs)
 - III. ongoing clinical supervision, professional education and learning opportunities for doctors and nurses working in the field.
- Support programs that work in partnership with LGBTBIQ communities to raise awareness of sexual assault and access to support services.
- Continue to improve outreach and service delivery for Aboriginal and Torres Strait Islander people and targeted populations.
- Recommend the Commonwealth expand information about sexual assault in the *Life in Australia* handbook, including information about the links between sexual assault and domestic violence.
- Ensure services are accessible for people with a disability as part of the Community Builders program.
- Ask the NSW Mental Health Commission to review the intersections between mental health and sexual assault and abuse.
- Consider the evaluation of the Child Sexual Offence Evidence Pilot.

4 HOLD PERPETRATORS TO ACCOUNT

Hold perpetrators to account through criminal and civil processes, and address their offending behaviour through rehabilitation and treatment.

What we will do

- The Law Reform Commission (LRC) to conduct a review of the *NSW Crimes Amendment (Consent – sexual assault offences)* from 2007, which will consider the experiences of sexual assault survivors in the criminal justice system.
- NSW Minister's Domestic Violence Corporate Leadership Group to support employee understanding of their right to a workplace free from harassment.
- Monitor international evidence for Multi Systemic Therapy – Intimate Partner Violence (MST-IPV), for consideration of future implementation in NSW.

5 RESHAPING THE SERVICE SYSTEM

Improve the system to become more effective, accessible and flexible through an integrated service system.

- Expand the NSW Minister's Domestic Violence Corporate Leadership Group to include discussions on sexual assault policy.
- Align FACS service delivery for sexual assault to the Human Services Outcomes Framework inclusive of non-government agencies.
- Develop workforce strategies that support a competency-based approach to workforce development.
- Embed evaluation in all future NSW Government-funded sexual assault services outlined in the NSW Government *Program Evaluation Guidelines*.

Prevention and early intervention



Prevention means taking action to stop sexual assault before it happens. This requires changing social attitudes and behaviours across the community, and is therefore a long-term process.

Early intervention aims to change the situation for people at higher risk of experiencing or perpetrating sexual assault.

Developing, implementing and evaluating primary prevention strategies requires specific knowledge and skills that differ from those needed for early intervention and crisis response.

Sexual assault occurs as part of a continuum where attitudes, beliefs, and actions act to support the more serious forms of sexual assault, such as aggravated sexual assault. More serious forms of sexual violence are able to be prevented when all forms of sexual offending are addressed. Primary prevention efforts that promote gender equality, and respectful and non-violent relationships will benefit the whole community. Children can be at particular risk of sexual assault because they are dependent on and physically weaker than adults, and lack social and legal power.²⁴

 **Prevention needs to target all forms of sexual assault including sexual harassment.**

Gender inequality

Sexual assault is known as a gendered crime and the statistics show this clearly. In NSW alone, women experienced sexual violence at close to four times the rate of men.²⁵ Primary prevention that promotes gender equality, respectful and non-violent relationships and a better understanding of consent will benefit the whole community.

The workforce

Sexual harassment disproportionately affects women, with a 2012 national survey finding that one in four women aged 15 years and over reported having experienced sexual harassment in the workplace in the past five years. One in six men aged 15 years and over also reported having experienced sexual harassment in the workplace in the past five years.²⁶

Sexual harassment can severely affect workforce participation, particularly for women, and is costly to organisations and the broader community. Workplaces have a responsibility to prevent sexual harassment and to respond appropriately if it occurs.

Children at higher risk

Some children are particularly at risk, based on factors such as age, gender, disability, connections with family and friends, the presence of domestic or family violence in the home, and their ability to communicate.²⁷ Children living outside of the family, such as in out-of-home-care (without the protective factors of family and social connections), can also be at risk of sexual assault. Literature on institutional child sexual abuse consistently suggests that girls are more frequently victims of child sexual abuse in residential and foster care settings. However, males are also abused in residential care and are less likely to report their abuse.²⁸ These factors can mean that children are more likely to be targeted by perpetrators, are less able to disclose or report abuse and more likely to receive an inadequate response to sexual assault compared to other children.²⁹

Aboriginal and Torres Strait Islander children, children with disability and children from culturally and linguistically diverse backgrounds can face discrimination when disclosing abuse or seeking help.³⁰

Children with harmful sexual behaviour

Children and young people sometimes cause harm to other children. It is important to distinguish children and young people who engage in harmful sexual behaviour from adult perpetrators of sexual assault. Research and practice evidence shows that children and young people are more likely to change their harmful behaviour if they are not branded as an offender.

In NSW, children under 10 years are below the age of criminal responsibility. Children between 10 and 14 years can be held criminally responsible. However, the prosecution must prove that they were capable of committing a criminal act by understanding why their actions were seriously wrong (the principle of *doli incapax*). Children and young people aged 14 to 18 years are held fully responsible for criminal acts, but face different sanctions to adults.

Early identification and treatment of problematic and harmful sexual behaviour by children and young people can significantly change their behaviour. Successful early intervention requires families, pre-schools, schools, out-of-hours school care services, health services and other services being able to recognise the behaviour and connect children and young people with specialist services.

Working with children and young people with problematic or harmful sexual behaviours is highly complex and requires specialist training. NSW Health's New Street services provide therapeutic services for children and young people aged

10-17 years to assist them to understand, acknowledge, take responsibility for and stop harmful sexual behaviour. An evaluation of New Street³¹ found positive indicators that the program is contributing to reducing further risk of involvement with statutory bodies. Seventy-eight per cent of clients who had completed the program had taken responsibility for their behaviour at some point during the programs, and only 2.4 per cent of all clients during the evaluation period had been charged with an offence of some kind during their involvement with New Street.

Intervening early with vulnerable communities

System reform needs to prioritise service delivery to diverse and high-risk communities in NSW. There is a need to educate services to become more culturally aware and flexible to meet the needs of their clients. This includes clients with complex needs and those from culturally and linguistically diverse communities. People should not fear judgement, shame or reprisal if they report sexual assault or abuse to services.

What we will do

Support prevention initiatives under the *National Plan to Reduce Violence Against Women and Their Children*.

Provide input into the NSW Education Standard Authority review of the K-12 curriculum to ensure inclusion of content related to the continuum of sexual violence and future teacher training.

Scope research projects with ANROWS for consideration as a priority on the research agenda.

Expand NSW Health therapeutic services for children and young people with harmful sexual behaviour (relates to Royal Commission recommendation 10.3).



Education



Education about sexual assault aims to improve knowledge about sexual assault, its impacts and how to effectively respond. Education about sexual assault can have multiple objectives and a diverse range of education programs are currently available in NSW. Ensuring that education programs have a clear purpose, be it to increase knowledge, facilitate skills, or produce attitudinal change, is important to enable evaluation of their effectiveness. Campaigns need to be inclusive and tailor information for different parts of the community, including individuals, families, community groups and workplaces.

Important community education topics include:

- what constitutes sexual assault
- understanding consent and situations when someone cannot consent
- accessing help and assisting others to access help
- negotiating consent to participate in sexual activity
- effective bystander behaviours.

Important education topics for generalist and specialist service providers include:

- understanding sexual assault
- understanding trauma
- responding effectively to disclosures of sexual assault
- effective responses to diverse needs
- managing the impacts of disclosure on supporters and carers.

Families can promote positive behaviours and inclusive attitudes towards people of all abilities, sexual and gender identities, and cultural backgrounds. Families can also educate children to understand risks, and how to disclose and seek support. Families can support family members who disclose sexual assault, and help them to report and go through the court process as appropriate, or access other support.

Families and communities can play an important role in challenging negative attitudes and behaviours, and helping to improve the prevention and response to sexual assault. For example, supportive family, peer and community or cultural connections can play a protective factor, reducing the risk and likelihood of sexual assault for children.

Tertiary and educational settings

TAFEs, universities, residential colleges and other tertiary education institutions have an opportunity to demonstrate leadership in preventing and addressing sexual assault by delivering attitudinal and behavioural change education programs. These programs should provide clear information and education about consent and effective bystander actions, training first responders to respond effectively to disclosures, resourcing counselling services, and ensuring information about internal processes for preventing and responding to sexual assault are accessible to all.

NSW TAFE's *Code of Conduct and Ethical Practices* currently states that staff members should not have sexual relationships with students, who they are 'teaching, tutoring, advising, assessing or providing pastoral or welfare support', regardless of whether or not the student is an adult.³¹

What we will do

Launch a community campaign utilising social media. The campaign will identify the continuum of sexual harassment to sexual assault, and the role the bystander and community can play in identifying sexual offending and speaking out. The campaign will also highlight gender inequality as a driver of sexual assault and harassment.

Trauma-informed training for FACS frontline staff to increase capacity to deliver therapeutic, inclusive, flexible and appropriate services to people who have experienced sexual assault.

Adapt and promote the *See, Understand and Respond to Child Sexual Abuse: Practical Kit* as an online resource available to professions that work directly with children.

Work with NSW universities and university residential colleges with a view to supporting implementation of the recommendations from the Australian Human Rights Commission report.

Ensure that material related to the community consent campaign is made available in universities, residential colleges and TAFEs.

Develop a best practice guide for grievance handling of sexual assault and harassment allegations in TAFEs.



Supporting victims and survivors



Individuals who have experienced sexual assault respond in different ways, and have a variety of needs. No one cultural or social group has homogenous needs, and therefore services should be trauma-informed and able to respond in flexible ways. Individuals have the right to choose their own path in recovering from sexual assault including access to forensic, medical, counselling and justice responses.

Anyone can experience sexual assault, regardless of their gender, sexual identity, cultural identity, age or socioeconomic status. Children can experience sexual assault or abuse in a familial setting, by family friends and other people known to them. Sexual assault can occur within the context of domestic and family violence or elder abuse, but it also happens more broadly in the community. Most victims who experience sexual assault or abuse know the perpetrator and many adults are living with the impacts of sexual assault they experienced as a child. A trauma-informed approach is essential in working with children and their families to recognise any past trauma that may have affected the family, including domestic violence.

Over the past five years, the NSW rate of adults reporting sexual offences that they experienced as a child has risen significantly. In 2012, there were 587 incidents of sexual assault experienced as a child but reported as an adult recorded by NSW Police. This increased to 1,213 incidents in 2017.³³ Heightened public awareness of child sexual abuse due to the Royal Commission may have impacted the increase in reporting of historical child sexual offences. This increase in reporting has also resulted in an increase in demand for sexual assault services.

The impacts of sexual assault often manifest as symptoms of trauma. These symptoms can include substance abuse, self-harm, chronic mental and physical

health issues, sleep disturbances, mood changes, intrusive thoughts and feelings, and difficulties in relationships.

Some individuals and groups in the community face particular barriers to accessing justice, and there is limited data on the prevalence of sexual assault experienced by certain groups. However, the available research indicates that some people may be at higher risk of sexual assault, and have lower reporting rates.

Women and girls

As with domestic violence, women are overwhelmingly the victims and survivors of sexual assault and 98 per cent of perpetrators are male.³⁴ Women are also much more likely to experience sexual harassment in the workplace. More than 90 per cent of females under 18 who experience sexual assault are known to their perpetrators.³⁵ Similarly, girls who experienced sexual abuse before the age of 15 are more likely to have been abused by a known person than by a stranger.³⁶

Older women are also at risk of sexual assault. The NSW Elder Abuse Hotline reported in 2015 that, of calls related to sexual assault, 71 per cent of victims and survivors were women and 28 per cent were men.³⁷ Older women remain vulnerable to sexual assaults by husbands, partners and other family members,³⁸ illustrating the overlap of domestic and family violence and sexual assault. Elderly people may lack access to information about what constitutes sexual assault and, because the most frequent perpetrators are family members, they may face barriers in reporting their experiences to others.³⁹ Reports that are made of sexual assault in aged care settings may also be dismissed or not appropriately followed up.⁴⁰

Men and boys

Many men have suffered sexual assault particularly as children, as highlighted by the fact that of the 6,875 people who participated in private sessions heard through the Royal Commission into Institutional Responses to Child Sexual Abuse, 64.3 per cent were men.⁴¹ This reflects the Royal Commission's report that the majority of victims who gave evidence to the Commission about historical sexual abuse in institutions, particularly religious institutions, were male.⁴²

Men can face barriers to disclosing sexual assault and seeking support. While specialist sexual assault services in NSW can support male victims and survivors, the community may not perceive these services as accessible for men. Reasons for this include services historically having a focus on women's responses to assault and abuse. Improving access for men to specialist services is important to ensure they are responded to appropriately.

Community attitudes and lack of recognition by services of male experiences of sexual assault can also influence their likelihood to not disclose or report assault and seek assistance.⁴³ Boys are more likely than girls to experience abuse by strangers or people outside the family,⁴⁴ although 83.5 per cent of males who experience sexual abuse before the age of 15 knew their perpetrator.⁴⁵ They are also more likely to be abused in the perpetrator's home, institution or in a public place, and more likely to have witnesses to their abuse. Boys are more likely than girls to be sexually abused by peers or others of similar age, including siblings, cousins or other relatives, and residents in institutions.⁴⁶

NSW Government response to the Royal Commission

The NSW Government established a taskforce to respond to the *Final Report* of the Royal Commission into Institutional Responses to Child Sexual Abuse within the requested timeframe. The taskforce carefully considered the report's 409 recommendations.

NSW has already made significant improvements to child protection since the Royal Commission began, including reforms to out-of-home care, improved government responses to the needs of survivors and a strengthened criminal justice response including maximum life sentences for persistent child abusers.

The NSW Government accepted an overwhelming majority of recommendations made by the Royal Commission, and will focus on working with government and non-government organisations to ensure action is taken to keep children safe. The NSW Government recognises the importance of prevention, accountability for institutions and support for survivors.

On 9 March 2018, the NSW Government announced it will opt-in to the National Redress Scheme. NSW and Victoria were the first states to commit to the scheme, and NSW was the first state to pass legislation for the scheme. The Redress Scheme will acknowledge the hurt and harm suffered, and ensure that institutions take responsibility for the abuse that occurred on their watch. The NSW Government announced reforms to civil litigation to make it easier for survivors to sue institutions responsible for child abuse. Further, the NSW Government has introduced extensive criminal law reforms to ensure survivors can find justice and perpetrators of abuse are held to account. This includes sentences that reflect community understanding of child sexual abuse and the harm it causes.

These changes are designed to prevent child sexual abuse, improve responses to reports of abuse, and ensure survivors receive appropriate support and the justice they deserve.

University students

The 2017 Australian Human Rights Commission report *Change the Course* found one in five (21 per cent) students reported experiencing sexual harassment in a university setting in 2016 and 1.6 per cent of students reported experiencing sexual assault in a university setting on at least one occasion in 2015 or 2016.⁴⁷

The same report noted that many students who witnessed other students being sexually assaulted or sexually harassed in a university setting did not take any action in response. Only 21 per cent of people who saw another student being sexually harassed in 2016 took any action in response to the incident. Only 37 per cent of people who saw another student being sexually assaulted in 2016 took action in response to the incident. The most common reasons bystanders gave for not taking action was not thinking it was serious enough to intervene or not knowing what to do.⁴⁸

Aboriginal and Torres Strait Islander people

In 2016, Aboriginal and Torres Strait Islander people in NSW experienced sexual assault at a rate of 2.4 times the rate of non-Aboriginal people.⁴⁹ Aboriginal communities also reported a lack of confidence and trust in the justice system.⁵⁰

Multiple barriers exist for Aboriginal people affected by sexual assault and abuse:

- a lack of culturally appropriate services for Aboriginal people
- high levels of shame and stigma
- community ostracism and retaliation from family members and community members when reporting sexual assault to police
- fear of disclosing child sexual assault due to concerns that children may be removed from families
- language barriers.

People with disability

More than 70 per cent of women with disability have experienced violent sexual assault at some time in their lives.⁵¹ People with disability can also experience sexual assault perpetrated by family members, intimate partners and acquaintances, and by people charged with their care.

It is important to note that people with disability are made vulnerable to sexual assault by the barriers and exclusions they are faced with in society, rather than by their disability as such. People with disability are not a homogenous group and have many layers of diversity. There are many intersectionalities for people with disability that increase risk and decrease access to support and justice. For example, a person with disability who lives in a remote area or a person with disability who is Aboriginal.

Efforts to support appropriate responses to people with disability affected by sexual assault should focus on providing education about human rights, ensuring that necessary care and assistance is provided safely, ensuring that perpetrators are held to account, and supporting mainstream services to develop the necessary skills to effectively support people with disability.

LGBTIQ people and communities

More research is needed about prevalence rates and characteristics of sexual assault on LGBTIQ people, as well as the barriers they face to accessing support.

The limited research available suggests that LGBTIQ people may experience sexual assault at higher rates than the general community,⁵² and experience barriers to accessing services.⁵³

A national on-line survey of gay, lesbian, bisexual and transgender people conducted by the Australian Research Centre in Sex, Health & Society, La Trobe University, in 2011 found that 3.1 per cent of women and 2.9 per cent of men reported being sexually assaulted in the last 12 months. No trans males reported having been sexually assaulted in the last 12 months, compared with 6.8 per cent of trans females.⁵⁴

What we will do

Prioritise adult survivors of child sexual assault, where eligible, for social housing.

Review protections for vulnerable witnesses, and victims and survivors of sexual assault providing evidence in court.

Deliver integrated medical, forensic and crisis counselling services to those who have been sexually assaulted through:

- I. continuing to increase the number of doctors trained to undertake medical and forensic examinations for sexual assault victims and survivors of all ages
- II. continuing to increase the numbers of trained Sexual Assault Nurse Examiners (SANEs)
- III. ongoing clinical supervision, professional education and learning opportunities for doctors and nurses working in the field (relates to Royal Commission recommendation 9.6).

Support programs that work in partnership with LGBTIQ communities to raise awareness of sexual assault and access to support services.

Continue to improve outreach and service delivery for Aboriginal and Torres Strait Islander people and targeted populations.

Recommend the Commonwealth expand information about sexual assault in the *Life in Australia* handbook, including information about the links between sexual assault and domestic violence.

Ensure services are accessible for people with disability as part of the Community Builders program.

Ask the NSW Mental Health Commission to review the intersections between mental health and sexual assault and abuse.

Consider the evaluation of the Child Sexual Offence Evidence Pilot.





Holding perpetrators accountable

Sexual assault is never acceptable, and it is important to have strong criminal justice processes to **ensure perpetrators are held accountable**. NSW criminal justice responses are undergoing reform in key areas including child sexual offences, non-consensual sharing of intimate images, stronger sentencing and management of high risk sex offenders.

Civil litigation and grievance procedures can also be used in some situations to hold perpetrators accountable.

Perpetrator accountability is important for people who have experienced sexual assault, and their families, supporters and carers. It can include seeking justice through the criminal and civil justice systems as well as other forms of healing, acknowledgement and validation.⁵⁵

The need for stronger justice

The criminal justice system is important for holding perpetrators to account and reducing the rate of re-offending.

NSW Bureau of Crime Statistics and Research (BOCSAR) statistics for 2017 show while the percentage of charges that were proven for murder was 60.3 per cent, for assault it was 61.1 per cent, for robbery it was 63.6 per cent, yet for sexual assault and related offences it was just 46.4 per cent.⁵⁶

In 2007 the NSW Parliament approved the *Crimes Amendment (Consent – Sexual Assault Offences) Bill*, to define 'consent' for the purposes of sexual assault offences as free and voluntary agreement to sexual intercourse, and to include in the cases when consent to sexual intercourse is or may be negated: incapacity to consent, intoxication, persons who are asleep or unconscious, unlawful detention, intimidatory

or coercive conduct, and abuse of a position of authority or trust. The amendment also provided that a person commits sexual assault if the person has no reasonable grounds for believing that the other person consents to the sexual intercourse.

Consent in NSW legislation is currently under review. In May 2018, the Minister for the Prevention of Domestic Violence and Sexual Assault and the Attorney General announced that the NSW Law Reform Commission would review and report on sexual consent provisions in section 61HA of the *NSW Crimes Act 1900*.

In April 2018, the Premier and the Attorney General announced that NSW had accepted the overwhelming majority of the Royal Commission's criminal justice recommendations, including that offenders convicted of the offence of persistent child sex abuse will face a maximum penalty of life in jail. These historic reforms are designed to deliver survivors the justice they deserve and impose tougher penalties on offenders for their abuse of children.

Supporting perpetrators to rehabilitate

Building the limited evidence base about the effectiveness of treatment of perpetrators of sexual assault has recently been the focus of investment by ANROWS. It is hoped that outcomes of the research can increase the effectiveness of interventions for perpetrators, including exploring using family and community interventions as well as individualised approaches.⁵⁷

People concerned about their behaviour or at risk of perpetrating sexual assault have extremely limited access to services unless they have been convicted of a sexual offence. It is not known whether early intervention or diversionary programs are effective in changing behaviour, and more research is needed in this area.

Grievance handling in universities and educational settings

University investigation processes can offer an alternate pathway to redress for people subjected to sexual assault other than the criminal justice system.

The 2017 *Change the Course* report found that the reasons for university students not reporting sexual assault or sexual harassment varied, including victims and survivors not considering the incident serious enough to report or not knowing where they could formally report an incident.⁵⁸

Grievance handling in the workplace

There is a need for workplaces to better manage and support victims and survivors after they make a complaint of sexual harassment or assault. Recent media coverage and attention on the issue of sexual harassment has highlighted that many victims and survivors, who are overwhelmingly women, have been disadvantaged professionally as a result of speaking out.

In the 2012 Sexual Harassment Survey conducted by the Australian Human Rights Commission, more people experienced negative consequences because of reporting sexual harassment compared to previous surveys held in 2008 and 2003. Nearly one-third (29 per cent) of respondents who reported sexual harassment indicated that their complaint had a negative impact on them (e.g. victimisation or demotion). This is an increase from 2008 (22 per cent) and 2003 (16 per cent). The same study also found that low reporting rates 'suggest a need to improve access to reporting mechanisms'.⁵⁹

What we will do

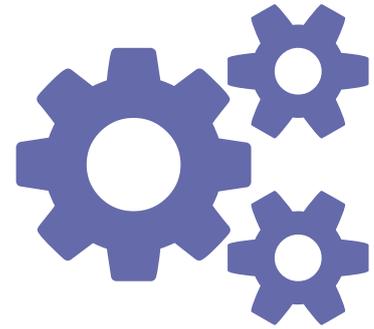
The Law Reform Commission will conduct a review of the *Crimes Amendment (Consent – sexual assault offences)* from 2007, which will consider the experiences of sexual assault survivors in the criminal justice system.

NSW Minister’s Domestic Violence Corporate Leadership Group to support employee understanding of their right to have a workplace free from harassment.

Monitor international evidence for Multi Systemic Therapy – Intimate Partner Violence (MST-IPV), for consideration of future implementation in NSW.



Reshaping the service system



A range of diverse services are involved in supporting people in NSW who have experienced sexual assault, including police, child protection, forensic, medical, legal, counselling, crisis support and courts. **Together, these services offer opportunities** for people who have experienced sexual assault to achieve justice, safety and both psychological and physical wellbeing.

A well-resourced service system offers the best response to people who have experienced sexual assault. Effective system coordination and strong governance is essential to support victims and survivors of sexual assault, and to work with perpetrators to address their behaviour.

It is important that all the different components of the sexual assault system are coordinated – from prevention to education, therapeutic services and justice responses. The system must be integrated to create clear entry points and pathways for people who have experienced sexual assault to access the support they need and to make informed choices about safety, recovery and justice.

Agencies working together

In NSW, Joint Investigation Response Teams (JIRTs) aim to provide an integrated service response from Police, Health, and Family and Community Services to children and young people at risk of significant harm, as a result of sexual assault, serious physical abuse and extreme neglect. JIRT's role is to undertake joint investigations of statutory child protection matters that require a criminal justice response. The JIRT model aims to deliver improved outcomes for vulnerable children, young people and their non-offending family members by providing them with coordinated safety, justice and health responses.

Multiple agencies also work together in situations where children and young people have problematic or harmful sexual behaviour. NSW Police provide response, NSW Health focuses on therapeutic intervention and the Department of Family and Community Services is responsible for the safety of children (including those harmed by other children and young people). Challenges currently exist in effectively establishing whether problematic or harmful sexual behaviour has occurred and in enabling early access to therapeutic intervention when the matter is in the hands of the justice system. Effective, coordinated approaches with a single shared vision are needed to ensure timely responses to such behaviour by children and young people.

Recognising trauma

Building a robust system requires services to recognise, understand and respond effectively to trauma. People who have experienced sexual assault or abuse have often experienced other forms of violence including physical or psychological abuse, neglect, and/or domestic and family violence. These experiences can impede recovery, give rise to challenging behaviours and require responses to multiple needs. Trauma-informed care involves the principles of trustworthiness, empowerment and choice. Safety services must be able to respond effectively to all needs without shaming and humiliating the victim.

Governance, system accountability and best practice

An effective sexual assault system requires shared accountability for common policy goals across the whole of government. This includes coordinating overarching policy that drives government and non-government service delivery and investment and strong data linkage across all government and non-government agencies. Building an inclusive and responsive system also means building upon best practice and evidence-based approaches. This requires investing in research, embedded evaluation, innovation, quality improvement, supporting best practice approaches and sharing information, as well as ensuring the quality of services delivered.

Workforce development

Training, workforce development and continuous service improvement are needed so that services can meet the needs of people who have experienced sexual assault. Staff recruitment and retention strategies must recognise the impact of vicarious trauma, and provide professional supervision and staff development opportunities. People working in regional, rural and remote areas can feel particularly isolated and lack access to professional support.

We need to build the capacity of specialists to deliver perpetrator interventions, support children and young people with problematic or harmful sexual behaviour, and provide sexual assault counselling for children and adults.

What we will do

Expand the NSW Minister's Domestic Violence Corporate Leadership Group to include discussions on sexual assault policy.

Align FACS service delivery for sexual assault to the Human Services Outcomes Framework, inclusive of non-government agencies.

Develop workforce strategies that support a competency-based approach to workforce development.

Embed evaluation for all future NSW Government-funded sexual assault services outlined in the NSW Government *Program Evaluation Guidelines*.



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