

February 28, 2019.

There are four challenges/problems/options about stopping sexual harassment at work. I'm providing a brief overview and links to stories I have written about those issues. I'm confident you have had terrific submissions noting most if not all of these issues but on the off-chance someone forgot to mention defamation laws, I've added it at the end. Good luck with the inquiry and with working for change.

1. Sexual harassment at work is most frequently dealt with by human resources partners within the workplace. These people are employed to protect the reputation of the employer not the wellbeing of the employee. When the AHRC released its recent survey on workplace sexual harassment, it found one in five workers complained about harassment but half of those who complained said nothing changed after the complaint. In the majority of organisations, complaints are dealt with by staff in human resources, completely unsuited to protecting complainants. In one story I wrote, Commissioner Jenkins reveals the story of one young woman who complained about sexual harassment. When she did, a human resources staff member asked the complainant what she had been wearing (<https://tinyurl.com/y6a84yzz>). Two years ago, after cadet reporter Amy Taeuber complained about sexual harassment, the human resources staff member falsely claims complaints about Taeuber have been received (<https://tinyurl.com/yyjooh66>). Paula McDonald from QUT examined a six-month period of complaints to Australia's nine human rights commissions and, overwhelmingly, the issue was this: employers sought to get rid of the complainant instead offenders.

2. Given that, complaints of sexual harassment must be dealt with external to the workplace and instead, through the Fair Work Act, which would provide the Fair Work Commission with the powers to conciliate and arbitrate where necessary. Where possible, when sexual harassment is alleged to have taken place during the course of one's work but not by another employee, then the Fair Work Commission should also be able to investigate, for example in the case of Catherine Marriott who brought a complaint against former Nationals leader Barnaby Joyce. (<https://tinyurl.com/yyxlwc3s>)

The NSW Nationals completed an investigation but were "unable to make a determination" about the allegation due to insufficient evidence. They refused to release the final report. Joyce has always vehemently denied any wrongdoing, branding the allegations "spurious and defamatory". As Marriott told the ABC after her case was made public, "The party never had the external processes in place to deal with a complaint of sexual harassment by a Member of Parliament . . . my complaint was handled internally by NSW National Party executive with no professional external expert brought in at any stage to handle the matter," she said. I note that the ACTU has developed a coalition of experts supporting the concept of bringing sexual harassment under the Fair Work Act. (<https://tinyurl.com/y6nvcmhz>)

3. If I had my way, I'd ban non-disclosure agreements and confidentiality clauses about sexual harassment and sexual assault settlements. It's a credit to those organisations which waived their former and current staff members' non-disclosure agreements to speak to this inquiry but it's still not enough. If we can't have the names of the perpetrators, employers should be forced to reveal what the circumstances were and how much it cost them. Non-disclosure agreements and confidentiality clauses are really a licence to allow the perpetrator to keep doing what he's been doing. (<https://tinyurl.com/yxaxbmmw>)

4. We urgently need to change defamation laws. News Corp Australia's national editorial counsel and former Press Freedom medal winner Michael Cameron has described Australian defamation laws as the worst in the English-speaking world. He said last year "If it wasn't for journalists," he said, "Harvey Weinstein would still be producing films [but] if the Weinstein story had come out in Australia he would be suing you and probably have a good chance of winning." (<https://tinyurl.com/y25mhzyw>)

Fortunately, there are defamation experts already on the case (<https://tinyurl.com/y6ggnfto>) but I fear some women are far too frightened to ever come forward.

I could send you my entire back catalogue of stories about sexual harassment going back nearly 40 years but I know that you have had wonderful people and organisations making submissions based on all their expertise and experience. I wish them and you well in working for change.

Thanks for the opportunity,



Jenna Price

