

Mark Speakman, Attorney General
Law Reform Commission
GPO Box 31
Sydney NSW 2001

29 June 2018

Preliminary submission to the NSW Law Reform Commission's review of consent in relation to sexual assault offences

Thank you for the opportunity to make a preliminary submission on section 61HA of the Crimes Act 1900 (NSW), which deals with consent in relation to sexual assault.

The Young Women's Advisory Group (YWAG) of the Equality Rights Alliance is a group of ten women under the age of 31. We are young women from across Australia, and both urban and rural contexts, who aim to bring young women's voices and perspectives to the national policy space.

We commend the Attorney General's decision to review sexual consent laws to protect victims better. We recommend any reforms be implemented alongside an increased focus on and resourcing of consent education as part of sex and relationships education.

In 2015, YWAG surveyed over 1000 young women aged 16-21 across Australia about their experiences of relationships and sexuality educations at school. Twenty-eight per cent of respondents were from New South Wales. From the survey, in 2016 we published a report entitled *Let's Talk: Young Women's Views on Sex Education*¹ which details our findings, and which we have attached to this submission. Young women overall did not feel confident about their understanding of respectful relationships after sex education, with almost two thirds (63%) of respondents not being taught consent education at school. We enclose the *Let's Talk* report as part of this submission.

In mid-2016, YWAG launched a companion report entitled [A Whole Generation Out of Date](#)², which analyses three focus groups run concurrently to the *Let's Talk* survey in collaboration with local youth organisations, in Queensland and the Australian Capital Territory. Participants expressed the need to bring a greater focus on areas including respectful relationships, consent, and where to access help and information around sexual health and sexual assault.

YWAG emphasises the importance of affirmative, explicitly-given (whether verbal or otherwise), free and voluntary agreement to a definition of consent. Any definition of consent should also consider factors impacting the capacity to give consent, including disability, cultural and linguistic differences, and pressure put on the survivor to comply. We recognise the complexity of legislation regarding

¹ See attached, or YWAG. *Let's Talk: Young women's views on sex education*. Equality Rights Alliance 2016. Available from <https://www.equalityrightsalliance.org.au/wp-content/uploads/2016/10/Lets-Talk-Final-Report.pdf>.

² See YWAG. *A Whole Generation Out of Date: Young People's Stories of Sex Education*. Equality Rights Alliance 2016. Available from <http://reports.equalityrightsalliance.org.au/ywag/lets-talk/>.

minors but suggest that the NSW Law Reform Commission considers that it is normal and healthy for some young people to be sexually active. The experience of reporting cases of sexual assault and abuse can cause further distress for survivors, so it is important to ensure adequate trauma aware support that is accessible and inclusive for young people.

Young women, like all young people, have agency, and can contribute analysis and perspectives from a particular set of life experiences that need to be both respected and included in national conversations and for the development of equitable policy. YWAG emphasises the importance of including young women's voices at the level of federal policy and legislation. We propose holistic principles to comprehensive sexuality and respectful relationships education in Australian schools. In particular, schools should embed informed consent in an age-appropriate way. It is crucial that young people understand the definition and complexities surrounding informed consent, building their capacity to navigate and communicate throughout their relationships.

For further information or to discuss the content of this submission, please contact [REDACTED]

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YWAG'S 2015 NATIONAL SURVEY

EXECUTIVE SUMMARY

WHO WE ARE

The Equality Rights Alliance's Young Women's Advisory Group (YWAG) is an independent group of ten young women aged 18-30 across Australia bringing young women's voices and perspectives to the national policy space.

WHY SEX EDUCATION?

We all want to grow up forming healthy and safe relationships with our friends, family, and partners. If delivered effectively, sexuality and respectful relationships education can help young people understand what healthy and safe relationships are and how to manage their sexual and reproductive wellbeing.

The Australian Curriculum for Health and Physical Education includes content on sexuality and reproductive health and respectful relationships, however sexuality education provided in schools across Australia varies significantly depending on the jurisdiction and school.¹

YWAG believes that sexuality education is in need of reform.

WHAT DID WE DO?

YWAG recently conducted a national survey of women aged 16-21 who had attended school in Australia asking about their sexuality and respectful relationships education. The survey is one of the first in Australia to ask young women what their experiences of sexuality education were, and to find out whether it met their needs to develop healthy and respectful relationships.

KEY FINDINGS

Most young people receive some type of sex education at school

Young women want more from their sex and respectful relationships education

Sex education is outdated – topics covered are very limited and do not meet the needs of young women

POLICY RECOMMENDATIONS

YWAG proposes the following eight key components are embedded, in an age-appropriate way, within sexuality and respectful relationships education in Australian schools. Informed by the views of young women around Australia, these core components will work to empower young people to look after their sexual health and wellbeing, and build skills for developing positive and safe relationships:

1. Informed consent
2. Positive and Respectful Relationships
3. A healthy and informed approach to sex
4. Gender and sexual diversity
5. Relationships and technology
6. Bodies
7. Reproductive health
8. Sexual health

LET'S TALK: YOUNG WOMEN'S VIEWS ON SEX EDUCATION

YWAG believes that sexuality education is in need of reform. YWAG recently conducted an Australian national survey of young women, aged 16-21 about their sexuality and respectful relationships education experiences to find out what they learnt, and whether it meets their needs to develop healthy and safe relationships.

WHAT DID WE DO?

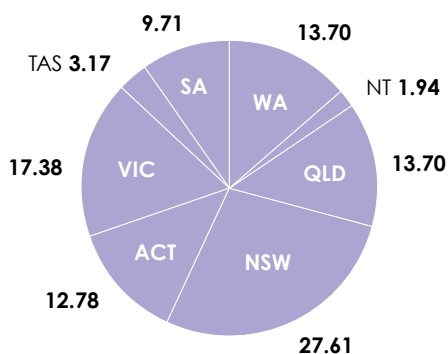
YWAG developed an online survey based on a literature review of sex education in Australia, including topics that were identified as gaps in sex education (e.g. social and gendered aspects of sexual health, prevention of gender-based violence, and respectful relationships).

We consulted with a range of experts in sexuality and relationships education and violence prevention to make sure the survey was appropriate and robust. Experts included sexual and reproductive health professionals, researchers and academics, youth workers, teachers, and women's services.

The online survey was opened from Thursday 28 May 2015 (International Day of Women's Health) to Friday 21 July 2015 and promoted to national and local networks, including youth organisations, sexual health and women's organisations, universities, and social media. Hard copy surveys were also available at participating organisations for young women who could not complete the survey online.

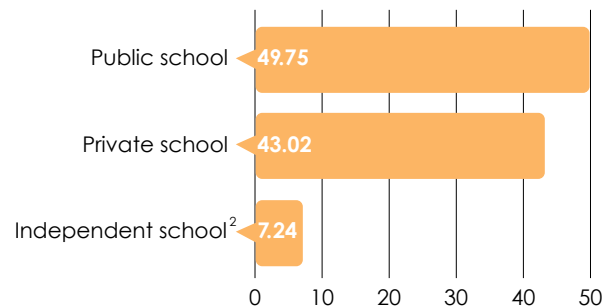
We surveyed 1,162 16-21 year olds across Australia, 1011 identified as women aged between 16-21.

STATE AND TERRITORY (%)



YWAG'S 2015 NATIONAL SURVEY

TYPE OF SCHOOL (%)



MOST YOUNG PEOPLE RECEIVE SOME TYPE OF SEX EDUCATION AT SCHOOL

Almost 90% had sex education in school, with one half receiving sex education for the first time in years 5 and 6.

YOUNG WOMEN WANT MORE FROM THEIR SEX EDUCATION

Seventy six per cent of respondents reported that they had not learnt anything from their sex education classes in school that had helped them when dealing with sex and respectful relationships.

Less than 2% of survey respondents rated their experience of sex education in school as excellent. Nearly 50% of respondents rated their experience as 1-4 on a scale of 10, where 1 was poor and 10 was excellent.

SEX EDUCATION IS FAILING YOUNG WOMEN AND GIRLS

After receiving sex education, young women did not feel confident in their understanding of respectful relationships and were unsure about their level of confidence in understanding concepts like consent. Almost two thirds (63%) of young women and girls were not taught about consent in their sex education at school.

"Sex education at school didn't teach me these things as much as they should have"

"I don't believe that there were enough topics covered. And as I am older now, I am having to research what I did not learn in high school education because I was not aware of all the risks and possibilities involved"

"My sex education was very biologically-focused. Not a lot was conveyed beyond 'this is how babies are made, try not to get STDs'. At a private girls' high school there was some talk of being 'emotionally ready for sex', but it reflected an unhealthy, patriarchal glorification of virginity... There was nothing to do with LGBT awareness or LGBT safer sexual practices"

TOPICS COVERED IN SEX EDUCATION ARE SEVERELY LIMITED

Many respondents reported a strong emphasis on menstruation, sexually transmitted infections (STIs) and contraception. Despite an emphasis on disease, many young women reported that they were not taught about the importance of being tested for STIs or where they could go to be tested (preferably for free). Abstinence was a strong theme for many respondents.

Over 90% of young women reported that their formal sex education did not discuss lesbian, gay, bisexual, transgender, intersex and queer identities and relationships.

X% OF RESPONDENTS	LEARNT ABOUT (TOPIC)
78.9%	Sex
82.9%	Contraception
81.5%	Condoms
88.0%	STIs/STDs (sexually transmitted infections/diseases)
37.0%	Consent
40.4%	Relationships
8.4%	Lesbian, gay, bisexual, transgender, intersex, queer and questioning young people and sex and relationships
6.7%	Homophobia
6.8%	Pleasure
12.9%	Other stereotypes

CONSENT

"Consent was taught by a guest speaker briefly, I feel we should have had far more on it"

Forty eight per cent of respondents disagreed to some extent that after doing sex education in school they felt confident in their understanding of consent, while only 40% agreed to some extent that they felt confident.

"I recall learning 'no means no', but I don't recall hearing about affirmative consent until university"

RESPECTFUL RELATIONSHIPS

"[We should be] discussing consent in terms of respect – generally just a big focus on respect."

Less than half of respondents had been educated about relationships (40.4%). Only 37% of respondents agreed that sex education had made them feel confident in their understanding of relationships, with 48% disagreeing to some extent.

YWAG welcomes the recent impetus on respectful relationships and expects that data in years to come will reflect the evolution of this area of education.

"Provide education/ examples on a range of healthy relationships and subsequently discuss when and why one is unhealthy."

PLEASURE

Seeking to educate that sex is about pleasure helps to challenge negative ideas that sex and relationships are about power and control.

"The first time I had sex I didn't even know what an orgasm was"

Young women told us that pleasure was rarely included in their sex education classes. Nearly three quarters of respondents (74%) told us that after participating in sex and relationships education in school they did not feel confident in their understanding of pleasure.

Many respondents reported classes discussing male masturbation, but not female masturbation.

"I didn't even know sex was pleasurable for women until I was 16"

POLICY RECOMMENDATIONS: IT'S TIME TO BRING SEX EDUCATION INTO 2016

YWAG proposes the following eight core components be embedded, in an age-appropriate way, within sexuality and respectful relationships education in Australian schools. Informed by the views of young women around Australia, these core principles will work to empower young people to look after their sexual health and wellbeing, and build skills for developing positive and safe relationships:

1. **Informed consent:** It is crucial that young people understand the definition and complexities surrounding informed consent, building their capacity to navigate and communicate throughout their relationships.
2. **Positive and respectful relationships:** Every person deserves the right to experience positive and safe relationships with their family, friends, and loved ones. Knowing the difference between respectful versus disrespectful relationships and behaviour, including early warning signs, is vital to helping prevent intimate partner violence, as well as making it easier to seek help.
3. **A healthy and informed approach to sex:** An emphasis should be made on young people having an informed, holistic view of sex.
4. **Gender and sexual diversity:** There are many ways we identify with who we are and how we express ourselves. Young people should be taught that gender and sexual diversity are understood in different ways for different people.
5. **Relationships and technology:** Supporting young people to foster respectful relationships, friendships and interactions online, including developing 21st century skills and knowledge for staying safe and informed in the digital space.
6. **Bodies:** Being comfortable in one's own body is intrinsic to positive self-esteem, including having an understanding of the body and anatomy to comfortably explore sexual pleasure, self-confidence and identity.

7. **Reproductive health:** Giving young people the knowledge to take control of their reproductive health and wellbeing.
8. **Sexual health:** A holistic view that incorporates social and cultural norms, beliefs, and the impacts of gender stereotypes on an individual's sexual health, as well as knowledge of sexually transmitted infections (STIs), contraception, and access to helpful services.

All young Australians should engage in sexuality and respectful relationships education that is relevant, age-appropriate, and provides the foundational knowledge and skills required to define their own sexuality in ways that are safe, healthy, explorative, and informed.

(Endnotes)

- 1 Mitchell, A., Smith, A., Carman, M., Schlichthorst, M., Walsh, J., & Pitts, M. (2011) Sexuality Education in Australia in 2011. ARCSHS Monograph Series No. 81. Melbourne: La Trobe University. http://www.latrobe.edu.au/__data/assets/pdf_file/0019/148060/Sexual-Education-in-Australia-2011.pdf. Accessed 16 September 2014.
- 2 Independent schools refer to non-Government schools providing a particular religious or valued-based education.



CONTACT US:

Via ERA Secretariat [REDACTED]

To find out more on YWAG's national survey, visit <http://equalityrightsalliance.org.au/projects/lets-talk-young-womens-views-sex-education>