

# END RAPE ON CAMPUS AUSTRALIA

## FACTSHEET: MAKING COMPLAINTS ABOUT SEXUAL ASSAULT

*This factsheet presents four options for reporting sexual assault, or a university's response to an incident of sexual assault, outside of university procedures. Each option may have different outcomes, depending on the powers of each body. If you would like support in accessing any of these procedures, please contact us: [ellie@endrapeoncampusau.org](mailto:ellie@endrapeoncampusau.org).*

### 1. Make a complaint to an anti-discrimination agency

**What you can complain about:** Complaints about sexual harassment can be made to the Australian Human Rights Commission, or to your local state/territory anti-discrimination agency. Sexual harassment includes sexual assault, rape, unwelcome touching, unwelcome requests for sex or dates, suggestive comments or jokes etc. Depending on your complaint, it may be initiated against the sexual harasser, and/or against the university itself.

**How the complaint is dealt with:** Sexual harassment complaints are usually resolved through conciliation. This involves the parties discussing the issue and attempting to come to a resolution with the help of an independent mediator. The anti-discrimination agency will not investigate the complaint or make a decision about what happened. There is usually an option for conciliation to take place without the parties having to see each other.

**Potential outcomes:** Potential outcomes are flexible and can vary. They include the survivor being paid financial compensation, an agreement that the university will change its policies or institute staff training, or a formal apology.

**More information:** If you are interested in this option, you can call the complaints line at the Australian Human Rights Commission on 1300 656 419 or call your local anti-discrimination agency. Links to each state and territory agency can be found at <https://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/Australias-Anti-Discrimination-Law.aspx>.

### 2. Make a complaint to an ombudsman

**What you can complain about:** Survivors can make complaints to an ombudsman if they believe the university acted unfairly or otherwise mismanaged a case of sexual assault. A women's officer or other student representative could also make a complaint on behalf of a survivor, or if a university repeatedly acts in an improper way in relation to sexual assault complaints. Complaints about a public university can be made to your state/territory ombudsman. Complaints made by an international student about a private university can be made to the Commonwealth Ombudsman.

**How the complaint is dealt with:** The ombudsman will usually require that you have made a complaint about the issue to the university itself before making a complaint to the ombudsman. However, they may make an exception. When the ombudsman receives your complaint, they will decide whether to investigate it.

**Potential outcomes:** After an investigation, the ombudsman can make recommendations about what the university should do, for example that they should change a decision, apologise, or change university policy. The ombudsman cannot compel the university to comply with these recommendations but they are considered to be persuasive.

**More information:** Links to each state and territory agency can be found at: <http://www.ombudsman.gov.au/about/related-sites>.

# END RAPE ON CAMPUS AUSTRALIA

## FACTSHEET: KEY SKILLS FOR ADVOCATES

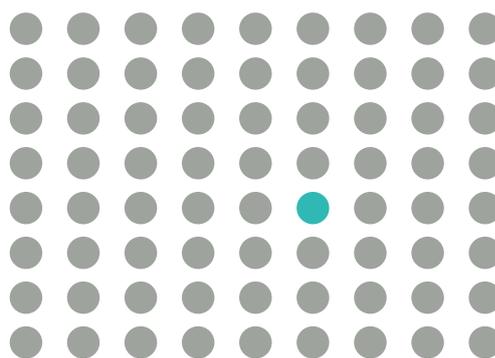
### 3. Make a complaint to the Tertiary Education Quality and Standards Agency (TEQSA)

**What you can complain about:** It may be possible for survivors or women's officers and other student representatives to make complaints about their university to TEQSA. TEQSA oversees universities' compliance with national Threshold Standards. These Standards include requirements that universities foster 'a safe environment', have policies 'that deliver timely resolution of formal complaints', and that students are informed in writing of the outcome of a complaint and the reasons for it. If you believe your university has breached one of the Standards, you can submit a complaint to TEQSA.

**How the complaint is dealt with:** TEQSA will usually require that you have made an internal complaint about the issue to the university before making a complaint to the ombudsman. However they may make an exception. TEQSA does not deal with complaints individually, but deals with them together when carrying out a regular assessment of the university. However, if a matter is sufficiently serious, they may choose to investigate it individually.

**Potential outcomes:** Because of its confidentiality requirements, TEQSA will not inform you of any action taken against a university. However, TEQSA has the power to affect a university's registration and access to federal funding.

**More information:** Find the complete Threshold Standards at: <https://www.legislation.gov.au/Details/F2015L01639>.



A 2016 University of Sydney study found that only **1 in 72** survivors reported their experience to the university.

University of Sydney, (2016). *Creating a Safer Community for All: Sexual Harassment and Assault on Campus* [online]

### 4. Take legal action

Survivors may want to seek legal advice about whether they can take any legal action against their university. For example, if a university has investigated a sexual assault, but has failed to provide the survivor with procedural fairness, the survivor may be able to take legal action against the university.

A survivor may also be able to pursue legal action if a university has acted negligently, for example if they have failed to do something reasonable, and a student or staff member suffered harm (such as being sexually assaulted) as a result. Lawyers may also be able to provide advice about the complaints options outlined above.

There are a number of places where you can seek free legal advice. Look at 1800 Respect's Services and Support Map at <https://www.1800respect.org.au/service-support/>, call your state/territory Legal Aid office, or search for your local Community Legal Service at <http://www.naclc.org.au/>.

End Rape on Campus Australia can provide further training and resources for student representatives.  
**get in touch** - [sharna@endrapeoncampusau.org](mailto:sharna@endrapeoncampusau.org) | **access resources** - [endrapeoncampusau.org](http://endrapeoncampusau.org)