



Chair's Report to AGM 29 November 2018

Welcome everyone,

I'd like to acknowledge the traditional owners of the land on which we meet, the Gadigal people of the Eora nation. I pay my respects to their Elders, past, present and emerging.

Just 250 days ago, give or take a day, NOW Australia came into existence. Fuelled by our collective determination to ensure every Australian is able to work in workplaces free from sexual harassment, intimidation and abuse. Fuelled by our imagining of a future in which anyone who experiences workplace harassment is informed and empowered if they choose to seek support or justice.

We all came together as a result of the tremendous passion, determination and commitment of Tracey Spicer AM.

This is an organisation that would not exist without Tracey's vision and her burning determination to make a difference. We know that contribution has come at great personal cost and we pay tribute to Tracey for her bravery and courage.

We launched in the media spotlight as #metoo continued to pick up speed. We came together as volunteers to map how we too might work together to drive the critical changes we deserve as women, and that every Australian deserves regardless of race, colour, status, gender or creed.

We were and are conscious of the fact that diversity can and must be a priority – that many of us on the Board and the founding members enjoy a position of white privilege and that our experience of sexual harassment in the workplace is dwarfed by the horrors endured by our siblings in the CALD community, the LGBTQI community, the Torres Strait Islander and Aboriginal communities and those with access issues.

This is why we have worked at boosting the diversity of our Board and our Steering Committee as well as our Ambassadors and why it will and must continue to be a focus. We must make sure we are centring the diversity of the mainstream Australian population.

There are lessons to be learned from how we have managed this to date. We didn't do as well as we would have liked as a Board and it is our commitment to you to do better to live our values including being inclusive.

In addition to identifying our challenges and achievements this afternoon, I also want to take you through the next steps and the Board's vision to ensure that NOW Australia is here to make a difference not just for the next year but for the years ahead.



It's easy with the benefit of hindsight to see where we were laying challenges for ourselves – hindsight is a marvellous thing.

Much of my time during the period this AGM covers was spent going back to shore up and/or establish the structures that are critical to NOW being a sustainable organisation with the necessary governance and reporting frameworks in place. This has required on average 25 hours a week of on my part and often more – something that is not sustainable as a volunteer .

This commitment challenge is one repeated across the other Directors and for you our volunteer members and Steering Committee members. Diaries fail to align, priorities change, life gets in the way. And before you now it, deadlines slide.

This is why the decision to hire an Interim Executive Director on a part-time basis was critical. The scope, complexity and sensitivity of this sector need an dedicated and experienced hand at the tiller. The hiring of Kristine Ziwica in June on a six-month contract has allowed us to identify those areas where we were lacking and those areas that needed reinforcement.

The period from launch to present has focused on how NOW can best contribute to ending workplace sexual harassment and assault and the kinds of programs that we can develop, given our finite resources to achieve maximum impact.

Setting up an organisation like ours would normally see scoping and cementing of relationships prior to the public announcement that we exist. We didn't do that and so the recent 'discovery' phase where we explore how and where NOW fits has been extremely important.

More than 60 key stakeholders and experts in the women's services and legal services sectors have been consulted – organisations including the AHRC, DSS, 1800Respect, Australian Women Against Violence Alliance, Justice Connect

These stakeholders have overwhelmingly reinforced the importance of NOW being a trauma-informed organisation and the fact that anything less is not acceptable. They have also raised concerns about the proposed telephone service – concerns about the necessary scale of infrastructure required; the need for a large team of individuals answering the calls to be qualified legally and from a counselling perspective; and the importance of a service of this nature being supported/provided by Government to ensure the funds necessary to scale the service to meet demand.

Kristine has also attended the Consultation of the 4th Action Plan of the National Plan to Prevent Violence Against Women, the National Council of Women Conference, a round-table on sexual harassment law reform which she helped organise with Victoria Legal Aid and the AHRC Melbourne consultation of the National Inquiry, all valuable opportunities to



connect with key stakeholders/ potential partners and scope NOW's inquiry response and proposed activities, including the triage service:

Key themes that have emerged thus far:

- There was a lot of goodwill expressed to work collaboratively and in partnership with NOW, but NOW must proceed on a more consultative, collaborative basis in order to ensure that NOW positions itself at the heart of a “movement” and is essentially a vehicle through which many feel they can collaborate and work collectively towards change.
- If NOW's strategy (including “theory of change”) and corresponding programs are not informed by evidence and consultation, there is a risk that NOW's reputation will suffer as it will not be seen to be a credible/ expert thought leader, impacting on its ability to form strategic partnerships and gain funding and support for its work. Going forward, NOW must seek out additional expertise on its Board, Steering Committee and staff.
- As part of the AHRC inquiry process, many suggestions are being tabled to take the burden off women to end harassment by taking a complaint, including a new enforcement regime that creates duties on employers to take more meaningful steps to prevent harassment (comparable to Work Health Safety laws), a positive legal duty, and other broader “primary prevention” work. There was a desire to see an organisation like NOW take a leadership role in advocating for law reform and these kinds of systemic changes.
- Those who already operate a service providing telephone or online counselling or legal triage (1800 Respect, Safe Steps, DV Connect, Justice Connect, Vic Legal Aid, VEOHRC, the various Working Women's Centres -- Kristine will speak to JobWatch and Wire) were all consistent in their advice that the resources and proposed structure in the Business Plan would be woefully insufficient. Three staff (one ED, one lawyer and one counsellor) could not service the volume of calls NOW, with a national footprint on a very high-profile issue, is likely to receive. They all pointed to the cautionary tale of 1800 Respect, which was only answering 30 percent of calls for a significant period of time when it was managed by one service provider.
- There was overall support to expand the remit of 1800 Respect to include sexual harassment (the NSW Unions and RDVSA are exceptions due to ongoing tensions following the decision of RDVSA not to contribute to support 1800Respect as part of a panel of service providers for various reasons), as they already have the infrastructure and the relationships with existing service providers. But there was general agreement that NOW and others will need to play a role in ensuring that the counselling model is bespoke to sexual harassment and ensuring that there is funding for state services to develop and provide specialist *sexual harassment* support services that 1800 can refer to (there is a paucity of sexual harassment specific referral pathways, while sexual assault services struggle to meet demand with existing funding). NOW might also provide support for the development of such bespoke sexual harassment services in the form of an Outreach Grants program, as Time's Up have done.



- The Board is also exploring whether this support could be provided through an expanded 1800Respect service.
- Re legal triage, all legal stakeholders felt it was unrealistic to endeavour to provide a national legal triage for *everyone* who wants or needs it without placing any means test or developing criteria to ensure NOW manages its finite resources and prioritises support for those most in need.
- Justice Connect already provides triage services for pro-bono legal support, but it has criteria to manage demand and prioritise who gets support. One Justice Connect lawyer can roughly manage 200 requests a year (they need to take enough information to ensure the case has merit, meets its criteria and match with a pro bono provider), successfully triaging 60 cases to their network of pro-bono service providers. One staff member at NOW could, on this estimate, manage 200 calls and 60 referrals. It's safe to assume NOW will get more than that based on the volume of contact NOW's Founder has had in one year.
- As a result of this feedback, discussions have moved on to creating a more targeted Legal Defence Fund in partnership with a respected organisation (such as Justice Connect) so NOW can benefit from its existing legal triage expertise and infrastructure. This would need to take a more targeted "strategic casework approach", prioritising support to those who need it most and on the kinds of cases where, for example, a win might set a precedent that benefits many. Time's Up have also been very clear and transparent that the Fund is not "for everyone" and published the criteria in advance.
- Legal advice has also since raised questions regarding whether the provision of this kind of service, which is broad, would meet the criteria for DGR PBI status, which may have been part of the original calculation in focusing NOW's activities on this kind of service provision, as opposed to education and advocacy.
- There was a lot of goodwill expressed to work collaboratively and in partnership with NOW, but these concerns must be noted and NOW must proceed on a more consultative, collaborative basis with more resource devoted to both in order to ensure that NOW positions itself at the heart of a "movement" and is essentially a vehicle through which many feel they can collaborate and work collectively towards change.

NOW also has very significant limitations due to its current funding. The reality is that NOW is simply not in a position to launch the service outlined in the initial Business Plan – even if that were appropriate which we now know from our consultations is not.

In line with the Time's Up experience in the US however, NOW Australia can evolve into a collaborative model, working closely alongside and in partnership with the many organisations already active in the space.

This is critical in terms of NOW having a meaningful impact and in terms of providing complementary reinforcement rather than duplicating existing resources. The creation of a



legal defence fund as per Time Up's fund and an Outreach Grants Program to support the work of others and ensure better collaboration across the sector has been a focus.

Additionally, there has been a focus on ensuring the appropriate governance structures, policies and practices are in place.

DGR status

NOW Australia currently benefits from an auspicing agreement with the YWCA that enables it to receive tax deductible donations from major donors to support the development of a triage service, which was NOW's proposed "principal activity" in the Business Plan drafted at the time of the launch. YWCA is also providing auspicing coverage for the smaller crowd funded donations. We are very very grateful for this support.

NOW Australia is receiving pro bono legal support via Justice Connect (now provided by Herbert Smith Freehills) to aid in the development of the DGR application and to advise NOW on the category under which it would be best placed to apply.

Herbert Smith Freehills has advised NOW to first develop a 3 Year Strategy and corresponding Business Plan and to delay further work on DGR until after a Board approved 3-year Strategic Plan and Business Plan are in place. Samantha Loff, a Senior Associate in Herbert Smith Freehills' Charity Law team, is guiding NOW in this process on a pro bono basis for which we are extremely grateful.

We are also considering an alternative; becoming a Public Ancillary Fund. A PAF is a fundraising trust which is able to raise tax deductible funds from the public and distribute those funds to organisations which are themselves Item 1 DGRs.

Seeing as NOW is looking at collaborating with and partnering with existing organisations through a Legal Defence Fund and/ or Outreach Grants Program (including Justice Connect and other counselling service providers) in the space, this could be a good option. PAF's cannot conduct their own services, but are permitted to conduct awareness raising and fundraising activities. The application and process for obtaining PAF are also much easier/ streamlined as granting this category does not involve a cost to the Treasury.

NOW Australia has received conflicting advice regarding which category it would be best placed to apply under, options including Public Benevolent Institution (PBI), Charitable Services Institution, or Harm Prevention Category.

NOW Legal Defence Fund

- A range of potential national partners including Justice Connect have been consulted to identify how best to establish and maintain a Legal Defence Fund.



- The objective is to ensure support is targeted at those who need it most and on the kinds of strategic cases likely to bring benefits for many.
- The intent is to launch the Fund in early 2019.
- The Permanent ED (when appointed) will also work with the Board and partner(s) to recruit high-profile experts to lead and help manage the Fund, as Time's Up did. This will add credibility and bring wider networks to the Fund, crucial for obtaining funding, as well as bring much needed additional legal policy and practice expertise into NOW Australia. The right pick(s) may also add to NOW and the Fund's national media profile and its reputation as an expert thought leader on sexual harassment.
- This is one of our key activities in our new 3 Year Strategic Plan and Business Plan (in development)

AHRC submission

- Relevant academic research has been collated.
- Academic experts consulted include Prof Rae Cooper and Prof Paula McDonald (with Victor Sojo at University of Melbourne and Sara Charlesworth at RMIT still to be consulted)
- The work of Director Nareen Young with Unions NSW and Maurice Blackburn in creating the roundtable discussion in Sydney around law reform is 1) included in inquiry submissions and 2) replicated in the Nov 13 roundtable which NOW coordinated with Victorian Legal Aid in Melbourne.
- NOW is developing its own research-based submission in order to reinforce our thought leadership.
- NOW is also collaborating on a submission with a range of organisations (this is being co-ordinated by Victorian Women's Trust and NOW Director Katherine Teh-White has been instrumental in this collaboration)
- NOW will work with our network of pro-bono communications adviser, including Fifty Acres, to craft a communications strategy in support of its submission, helping to position NOW as a thought leader and expert in sexual harassment and the legal and cultural reform required to end it.

The 4th Action Plan of the National Plan to reduce violence against women

- A number of meetings have been held with the Department of Social Services who are coordinating the Action Plan and determining how various initiatives are funded.
- Kristine Ziwica has had meetings with DSS, COAG and AHRC to further help reinforce NOW's commitment to leadership in the sector, and articulate the need for sexual harassment to be more firmly knitted into the National Plan, with more resources made available for response (expanding the remit of 1800 Respect) and prevention.
- NOW is also lining up meetings with Kelly O'Dwyer, Linda Burney and Tanya Plibersek to articulate the opportunities to more effectively address sexual harassment response and prevention in the 4th Action Plan of the National Plan.
- And NOW is continuing to coordinate with stakeholders to back in those asks.



- I note too the work Director Tasneem Chopra has done in taking these arguments to the COAG Summit on the Prevention of Violence Against Women in October of this year.

Financials

- Just under \$120k was raised initially which was under half of our initial goal.
- The predominant expenses for this period related to the costs of establishing NOW with some minor travel expenses and wages for the interim ED.
- When the 3 year strategic plan is approved and NOW has a suite of specific, costed programs aligned to its “theory of change” (including the Legal Defence Fund and Grants Outreach Program), it will be better placed to develop its fundraising strategy and present the “case for support” to funders aligned to the various, specific programs of work.

Directors

We had advised that the first of our rotation of Directors was due to happen this AGM however we have now received legal advice that in fact the first vote is to take place at our 2019 AGM.

However, as I’d previously mentioned, the workload for Directors during this start up period has been above and beyond what any of us had anticipated. As a result and due to personal circumstances, Avril Henry, Nareen Young and Tasneem Chopra have all advised that they are stepping down. Avril, Nareen and Tas have all been significant contributors at Board Level and on NOW’s behalf in building and extending relationships. Avril, in particular, despite her wedding, her own recovery from surgery, the arrival of her first grandchild and running her own business stepped up as Acting Chair while I was recovering from heart surgery. Thank you Avril, thank you Nareen and Tas for your commitment, wisdom and contribution.

Launch Patron

Our launch patron, Ann Sherry AO has also advised that she needs to step down as Patron as of the end of November. She has been a source of wisdom and we all thank her for her valued contribution and support

Also at the end of this year, Kristine Ziwicki will step down as our inaugural Interim Executive Director. NOW is about to commence recruitment of a permanent, full time ED via an open and transparent recruitment process. To live its values of diversity and inclusion, it is important for NOW to go to market for the permanent ED role and ensure anyone who wishes to make a contribution and lend their talents to NOW has the opportunity to apply. NOW will also have the opportunity to recruit a permanent ED whose skill set is aligned to the implementation of the new 3 Year Strategic Plan.

Kristine has played a critical role in NOW’s early days, parachuting into the role and very quickly facilitating the stakeholder outreach and research underpinning the “discovery



phase”, bringing back insights and expertise that have formed the basis of the 3 Year Strategic Plan, Business Plan, “theory of change” and specific programs intended to enable NOW to achieve its vision.

We thank Kristine for her contribution and know that while she is returning to her journalism and consultancy work, she will always be a great friend to NOW and continue to lend her support as a member and through the steering committee.

Our Founder Tracey Spicer continues to juggle multiple demands. Due to these demands her involvement in NOW reduced by necessity. She is and always will be NOW’s founder and we thank her for her on-going support.

Our achievements for the period in question are significant – we actually got NOW off the ground and we all deserve congratulations on that. We established a relationship with Times Up in the States – one which we look forward to formalising early next year.

Our achievements since then are shared. We played a considerable role in creating the environment that resulted in the world first of the AHRC inquiry into sexual harassment in the workplace. Thank you to you our Founding Members for your support. Thank you to our Steering Committee Members as well.

It is inevitable NOW Australia will evolve and continue to evolve. It is inevitable that we will make mistakes. What we must do is learn from those mistakes and ensure that we are emboldened by that learning and by turning an idea into reality.

Together we are creating a better future. A future that we all deserve, that every Australian deserves.

I’d now like to move to the Treasurer’s Report.