



Victorian Equal Opportunity
& Human Rights Commission

INDEPENDENT REVIEW

into sex discrimination and
sexual harassment, including
predatory behaviour in
Victoria Police

Phase One Report | 2015





Victorian Equal Opportunity & Human Rights Commission

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Independent review into sex discrimination and sexual harassment, including predatory behaviour

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Message from the Commissioner



In Australia, we have witnessed the growing horror at the extent and devastation caused by violence against women. We read daily about the challenges of gender inequality, in workplaces, on sporting fields, in playgrounds and in the media. It is surprising to many that almost 40 years after equal opportunity laws were introduced, progress towards gender equality has been so slow.

It is heartening that there is finally a community appetite for change and a desire to learn how to achieve equality. I commend Victoria Police for showing much needed leadership to bring about change in their organisation, recognising the role it has in influencing broader change in the community.

In commissioning this Review, Victoria Police asked the Victorian Equal Opportunity and Human Rights Commission to examine the prevalence, drivers and impacts of sex discrimination and sexual harassment. Victoria Police also asked us to develop recommendations and a comprehensive action plan for change, and to hold them to account, assessing their progress over three years.

And they requested that we do this work under the spotlight of public scrutiny. This is not a response to scandal. This is a commitment from the Chief Commissioner and his leadership team to change the organisation for the better.

This work is about systemic change. It is not a reason for the community to lose confidence in Victoria Police, but instead a reminder that Victoria Police is committed to the principles of equality and diversity, and to ending violence against women. It is absolutely critical that it displays this commitment in the way it treats those within its own ranks.

The Review heard from thousands of Victoria Police employees about how the attitudes and behaviours of their colleagues and managers and the systems and processes in place have shaped their experiences at work. I particularly

acknowledge the courage of the people who shared their distressing experiences of harm and wasted potential. These personal stories demand our attention, understanding and action.

We also heard that people love the job, that it is a calling, and that people want the organisation to be the best it can be.

We understand that this Review will require deep, and sometimes uncomfortable personal reflection by each and every employee to understand what their individual and collective roles have been that have allowed people to be harmed in police workplaces.

Our recommendations focus on prevention and response. In particular, implementing a response to harm that puts the victim at the centre of the process, rather than the investigation. But for enduring change, our recommendations propose multiple mutually reinforcing strategies aimed at preventing sex discrimination and sexual harassment from occurring in the first place, building workplaces where predators cannot operate and where all employees have equal opportunities.

I recommend other employers take heed of the findings and recommendations of this Review. Our workplace record of gender equality tells us women across many workplaces are missing opportunities because of their gender.

I know the Chief Commissioner Graham Ashton and his leadership team are committed to act, but change will only occur through a change in culture across the whole organisation. Their work starts now.

A handwritten signature in black ink that reads "Kate Jenkins".

Kate Jenkins
Victorian Equal Opportunity and Human Rights
Commissioner



Message from the Chief Commissioner of Victoria Police



For the past 163 years, Victoria Police have been leaders in our community.

We showed leadership once again when we decided to tackle the critical issue of sexual harassment and predatory behaviour in our own organisation. 12 months ago we asked VEOHRC (Victorian Equal Opportunity and Human Rights Commission) to conduct an independent study of this problem and make recommendations on how we can improve our organisation.

There have been numerous attempts to deal with this issue in the past, but they did not achieve the change that was needed. It was clear the time had come for us to bring in an independent umpire to conduct a robust review.

The results make for confronting reading. When you read the report you'll be left in no doubt there have been some terrible behaviours exhibited and some terrible experiences and ordeals have been endured by our staff.

This must change, this will change.

In response to this report, Victoria Police will implement all of the recommendations directed to us.

These recommendations will enable Victoria Police to strengthen its leadership role in our community. Sexual harassment and predatory behaviour occurs across all of society, across all sectors. There is no part of our community which is not affected.

We will change our culture, our approach and make Victoria Police a safer organisation for our people. We will set the example, as we have done in so many different areas, for others to follow. The leadership challenge for us is to improve Victoria Police. That leadership challenge will then be the challenge others will have to rise to.

I would like to commend VEOHRC for their work, it is trail blazing. It sets us a challenge and Victoria Police will meet that challenge.

As Chief Commissioner of Victoria Police I speak for our entire Command Team when I give you my commitment we will bring about the necessary change in this organisation so that it becomes a more respectful workplace.

Graham Ashton APM
Chief Commissioner of Police



Safety and help-seeking

The Review prioritises the safety and confidentiality of participants. All quotes and case studies in this Review have been de-identified and no individual has been named. All case studies and quotes have been provided with express consent of participants who have had the opportunity to ensure they are satisfied the material has been de-identified.

The Review acknowledges that the material in this report may cause distress.

Centres Against Sexual Assault (CASA)

Tel: CASA House on 03 9635 3610 (business hours). This service is based in Melbourne CBD. You can also call the Sexual Assault Crisis Line on 1800 806 292 (24 hours). This number diverts to your local CASA services during business hours. Email: ahcasa@thewomens.org.au

CASAs are non-profit, government funded organisations that provide support and intervention to women, children and men who are victim/survivors of sexual assault and who have experienced or been affected by sexual harassment. You can be referred to your local CASA or contact them directly.

Victoria Police Welfare Service

Level 5 & 9, Tower 3, VPC
637 Flinders Street, Docklands 3008
Tel: 9247 3344 (24 hours)
email: WelfareServices-OIC@police.vic.gov.au

Victoria Police Welfare Service (VPWS) provides timely and effective support, advice and referral services in consultation with Peer Support, Police Psychology, Internal Witness Support and Chaplaincy to all Victorian Police employees and their immediate families.

The Police Association Victoria

www.tpav.org.au

You can visit the Police Association Victoria website to get the details for their confidential 24-hour counselling service for members and their families. In an emergency always dial '000'

Beyond Blue

1300 22 4636 (24 hours/7 days a week)
www.beyondblue.org.au

1800 RESPECT: National sexual assault, domestic and family violence counselling service

1800 RESPECT (1800 737 732)
www.1800respect.org.au

Qualified and experienced counsellors provide telephone and online counselling, information and assistance to access other services to all people in Australia affected by sexual assault and domestic and family violence, including family and friends. It is available 24 hours a day, seven days a week.



Legal Disclaimer

This information is intended as a guide only. It is not a substitute for legal advice on any of the issues raised in the report. The experiences of participants that are reflected in the report are the perspectives and experiences of individual participants as shared with the Commission.



Terms of Reference

The Expert Panel, led by Commissioner Kate Jenkins, Victorian Equal Opportunity and Human Rights Commission, will review, report and make recommendations on:

1. The nature and prevalence of sex discrimination and sexual harassment including predatory behaviour among Victoria Police personnel.
2. The drivers of sex discrimination and sexual harassment among Victoria Police personnel.
3. The impact of sex discrimination and sexual harassment on people targeted by these behaviours.
4. Initiatives required to drive cultural and practice change including the adequacy and effectiveness of existing initiatives and of approaches to training, education, mentoring and development
5. Organisational change strategies to promote safety, equality and freedom from sexual harassment in Victoria Police.
6. Any other matters the Panel considers appropriate that are incidental to the above terms of reference. Additionally, 18 months after the release of the Panel's report and then again 12 months later a further independent Report will be prepared which:
 - audits the implementation by Victoria Police of the recommendations in the Panel's Report
 - makes any further recommendations necessary.

The Expert Panel will consult widely in conducting the Review.

The Commission and Victoria Police agreed that issues out of scope were:

- Prevalence of sex discrimination, sexual harassment including predatory behaviours by Victoria Police personnel towards community members
- Prevalence of family violence where Victoria Police personnel are alleged perpetrators or victims
- Barriers to community members reporting sexual harassment and predatory behaviour by Victoria Police personnel.

These limitations were based on complementary initiatives being undertaken by Victoria Police and other agencies, as well as the scope of the Commission's research powers under section 157 of the *Equal Opportunity Act 2010 (Vic)*.



Terminology

Throughout the report, the terms victim, target and victim/target are used interchangeably to describe people who have experienced some form of sex discrimination, sexual harassment or predatory behaviour. We acknowledge the word victim may be problematic as, for many people, it may seem to perpetuate stereotypes about lack of agency or resilience for people targeted by these behaviours.

The term victim/survivor is used to describe people who have experienced sexual assault, consistent with its usage by the Centres against Sexual Assault (CASA) and Victoria Police SOCIT (Sexual Offences and Child Abuse Investigation Teams).



Expert Panel

The Expert Panel comprises:



CHAIR: Victorian Equal Opportunity and Human Rights Commissioner, Kate Jenkins

Kate Jenkins was appointed as the Victorian Equal Opportunity and Human Rights Commissioner in 2013.

Kate brings 20 years' experience as a lawyer. Prior to this role, Kate was the lead partner of Herbert Smith Freehills' Australian equal opportunity practice.

Kate is on the Board of Berry Street Victoria – the state's largest independent child and family welfare organisation. She is also a member of the Boards of Heide Museum of Modern Art and Carlton Football Club. Kate holds honours degrees in Law and Arts.



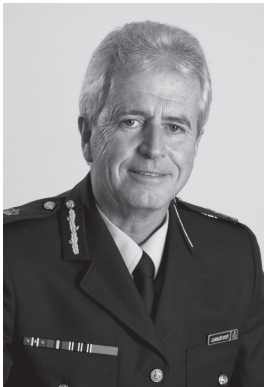
Major General Gerard Fogarty AO (retired)

On retirement from the Australian Army in November 2013, Gerard assumed the appointment of Chief Executive Officer of Defence Health Limited, a restricted not-for-profit Private Health Insurance company located in Melbourne.

His military career was predominately in the fields of Command and Leadership, and Human Resource Management.

He served as Australia's national commander on operations in Timor Leste in 2002 and in the Middle East in 2007. He was appointed a member in the Order of Australia for his distinguished command of the Australian contingent in Timor Leste and an Officer in the Order of Australia for his distinguished command in the Middle East and his work leading personnel policy reform in Defence.

During his military career, Gerard also held a wide-range of strategic level appointments in Army and Defence Headquarters. He was also a commissioner on the Military Rehabilitation and Compensation Commission and a Deputy Commissioner on the Safety Rehabilitation and Compensation Commission.



Peter Marshall (CNZM, MNZM)

Peter Marshall joined the New Zealand Police in 1972. He has held a wide range of uniform and Criminal Investigation Branch (CIB) positions in New Zealand and has commanded high profile operations such as the policing of the Asia Pacific Economic Conference (APEC) and the world famous Americas' Cup Challenges in Auckland. In addition, Peter has completed overseas service, including postings to the New Zealand High Commission in Canberra and the New Zealand Embassy in Washington DC.

Peter was seconded to the Royal Solomon Islands Police Force (RSIPF) in February 2007 and was appointed the Commissioner of the RSIPF in May 2008. His appointment as Commissioner of the New Zealand Police was announced in November 2010 and he officially started in the role on the 4th of April 2011.

In the year 2000 Her Majesty Queen Elizabeth II invested Peter as a Member of the New Zealand Order of Merit (MNZM). In 2014, Her Majesty then invested him as a Companion of the New Zealand Order of Merit (CNZM). In addition, he has received a Royal Humane Society Award for bravery and holds various international and New Zealand Police commendations.

He is a graduate of the Federal Bureau of Investigation (FBI) National Academy in Quantico, Virginia, and holds diplomas in New Zealand Policing and Business Studies.

Peter retired from the New Zealand Police in April 2014 after 41 years and seven months of service. In September 2014, at the request of the New Zealand Government, he travelled to New York to make submissions in support of his country's successful bid to secure a seat on the United Nations Security Council.

Professor Paula McDonald



Paula McDonald is Professor of Work and Organisation in the Business School at the Queensland University of Technology. Her research aims to advance social justice goals with respect to work and employment relationships.

From 2010–2012, Paula led an Australian Research Council Discovery project, which examined organisational and institutional responses to workplace sexual harassment and its impacts on targets. She worked with the Australian Human Rights Commission on their 2008 and 2012 prevalence studies of sexual harassment and in 2014 on the development of employer resources to address the problem.

Paula has published over 20 journal articles, book chapters and reports on sexual harassment and gendered forms of discrimination, addressing issues such as prevention and response frameworks, media representations, bystander interventions and dispute resolution processes.

In 2013, Paula gave expert evidence to the Canadian House of Commons Standing Committee on an investigation into sexual harassment in the federal workplace and she regularly responds to media requests and speaks to industry groups about her research.



Acknowledgements

The Review would like to thank members of Victoria Police engaged through the process, particularly Chief Commissioner Graham Ashton, Executive Command and members of the steering committee: former Deputy Commissioner Lucinda Nolan, Deputy Commissioner Wendy Steendam, Assistant Commissioner Stephen Leane, Assistant Commissioner Luke Cornelius, Commander Shane Cole and Executive Advisor to the Chief Commissioner, Fiona Stubbs.

Thank you also to Di Foggo AM for her industrial relations advice.

The Review was supported by a dedicated Review team in the Commission consisting of Helen Campbell, Isla Carboon, Emma Coetsee, Jennifer Jones, Sally Reid, Wendy Sanderson and Amber Witcher and Michelle Burrell.

We would also like to thank the thousands of police employees who have invested time, energy and trust in the work of the Review.

Executive Summary





Executive Summary

In recent years, Victoria Police has been a leader in reforming community understanding and responses to family violence and sexual assault. It has put the needs of victims of violence at the centre of its approach, providing a model for other police services in Australia and internationally to follow.

Tackling violence against women in the community is a key priority for Victoria Police. As this report makes clear, however, it is time for Victoria Police to give the same urgency to addressing sex discrimination and sexual harassment within its own ranks. This requires addressing the drivers of these issues – unequal power between men and women and rigid adherence to gender stereotypes – that are supported by structural and attitudinal barriers to gender equality.

An entrenched culture of ‘everyday sexism’, coupled with a high tolerance for sexual harassment, has left many current and former Victoria Police employees harmed, sidelined and deeply disillusioned. In addition to the serious consequences for safety and welfare, sex discrimination and sexual harassment carries significant costs for the organisation.

Victoria Police should be commended for commissioning this Independent Review into the prevalence and impact of sex discrimination and sexual harassment, including predatory behaviour,¹ within the organisation.

It demonstrates a strong commitment by the organisation’s leadership to promote gender equality and prevent violence against women in its own ranks. Across Australia’s public and private sectors, Victoria Police is paving the way in terms of its transparency and accountability.

Many participants expressed support for commissioning the Review, and felt that it heralded a commitment by the organisation to real and sustained improvement:

The fact that this [Review] is being undertaken makes me so proud to be part of Victoria Police (female survey participant).

[The] initiative on this has salvaged for me some pride in this organisation. Please don’t let me down (male survey participant).

The findings of the Review are outlined in this report, along with a comprehensive and integrated set of recommendations that seek to promote safety and gender equality within Victoria Police and drive organisational transformation.

The Review will continue to assist and encourage Victoria Police in its efforts to reset the workplace culture so that all employees feel valued, respected and able to reach their potential.

About the Review

The Victorian Equal Opportunity and Human Rights Commission was commissioned by Victoria Police to conduct an independent review into the nature, prevalence and impact of sex discrimination and sexual harassment, including predatory behaviour, among Victoria Police employees.

A comprehensive body of research demonstrates that gender inequality is the key driver of sexual harassment and sex discrimination. The Review therefore examined in detail those factors that support or undermine gender equality within the organisation.

The Review drew on a robust set of qualitative and quantitative data sources to develop the findings and recommendations in this report, including a comprehensive online survey open to all Victoria Police personnel.

Almost 5000 people participated in the survey, of which 59 per cent were men, 38 per cent were women and three per cent who preferred

¹ The Review defines predatory behaviour as ‘a misuse of authority or influence with the intention of exploiting others for sexual or other personal gratification’.



not to disclose their gender. The high number of respondents means the survey is likely to be the largest survey of workplace sexual harassment ever conducted in the world – aside from U.S. military studies – and the largest ever conducted into policing worldwide.

The Review also held confidential interviews with current and former Victoria Police personnel; spoke with people with specialised expertise and knowledge of Victoria Police; received confidential written submissions; conducted site visits across Victoria; analysed Victoria Police corporate data; and drew broadly on key research and public policy relating to discrimination, harassment and violence against women.

Attitudes and culture within Victoria Police



Men run this organisation, and they run it to suit other men. Women get intimidated, stood over, spoken over, excluded and overlooked – all day, every day – in this job. Because of their gender (FEMALE SURVEY RESPONDENT).

Policing can be challenging work. On a daily basis, police members, PSOs and some public servants are confronted with dangerous and traumatic incidents and interactions. It takes ‘a certain type of person’ to do police work but it is a job that ‘gets in your blood’, the Review was told. Police employees can establish strong bonds with each other from working together so closely, with many describing their colleagues as ‘family’.

The Review heard that being strong, assertive and resilient is seen as essential in order to cope with the rigours of day-to-day police work. It is important to have a ‘thick skin’ and keep personal emotions in check. Valuing and encouraging these attributes – qualities

associated with commonly-held constructions of masculinity – are central to the workplace culture within Victoria Police.

This has significant implications for women in Victoria Police by reinforcing traditional gender stereotypes:

Many members still seem to treat women as inferior or interlopers in the workplace, and to have different expectations of how a woman should behave (male survey respondent).

The Review heard that women are often regarded as less competent than their male colleagues and that they constantly need to ‘prove themselves’. Women are seen as less committed to their careers if they have to juggle family responsibilities or utilise flexible work arrangements.

Many participants reported that women have to work harder and perform better to be considered for promotion opportunities. However, those who are successful were often referred to as being ‘like blokes’, having ‘slept their way to the top’ or that they were part of the ‘lesbian mafia’.

Some men also reported they experience hostility, bullying and sexual harassment because of their actual or perceived homosexuality or because they do not fit the traditional male stereotype:

Joining Victoria Police as a gay male, I have been subjected to copious amounts of harassment and abuse ... Whilst homosexuality is more accepted (whilst still not completely accepted) at present, it's the worst in any organisation I've ever worked in (male survey respondent).

Many Victoria Police employees have taken personal and professional responsibility to challenge those norms and demonstrate and acknowledge the diversity of men and women within Victoria Police. For many men in Victoria Police, the prevailing gender norm for men is uncomfortable at best.

The Review heard that women working in Victoria Police were commonly viewed by their male colleagues as potential sexual partners.

Victoria Police has a workforce of around 17,000 people, including approximately 13,200 police, 1100 protective services officers and over 2600 public servants. In April 2015, there were 5618 women in Victoria Police (31 per cent of all employees). By job type, 64 per cent of women are police, 2 per cent are protective services officers and 35 per cent are public servants, including forensic officers and executive officers. There is a highly gendered breakdown of the workforce in terms of rank / level, nature of role performed and place of work, as well as between public servants, PSOs and police.

They were very conscious of the need to 'manage their reputation' and their interactions with male colleagues.

Some women told the Review that they put up with inappropriate behaviour or tried to ignore it; being 'one of the boys' was a way to not 'ruffle feathers'. Others said they did not want to be 'one of those women' who reacted to inappropriate workplace behaviours, such as sexist jokes and banter, or 'dobbed on' their colleagues.

The Review spoke with many police employees – male and female, at all ranks and levels and in all parts of Victoria Police who had a zero tolerance approach to sexist and disrespectful behaviour and were doing good work to change the culture of the organisation.

Many had also experienced sex discrimination or sexual harassment. However, most said they were reluctant to report the incident or seek support as they did not want others to view them as 'weak' or lacking the resilience necessary to cope with police work:

With regard to sexual harassment ... police shouldn't have to put up with it. They are extremely vulnerable because of the perceptions that "if you can't hack it, then this isn't the job for you" (The Police Association Victoria).

Challenging this entrenched culture and speaking up about experiences of sexual harassment often had significant consequences for the targets. Some said that they felt blamed or were held partially responsible for what happened.

The Review also heard of a number of cases where reporting inappropriate workplace behaviour or sexual harassment – even physical and sexual assault – was regarded as an act of disloyalty to 'the team'. Individuals had been excluded, ostracised, shamed and physically and emotionally abused for making a report or not 'fitting in'.

Despite this, the Review found a significant diversity of opinion among Victoria Police employees about the types of attitudes and behaviours that men should demonstrate in the workplace. Many Victoria Police employees have taken personal and professional responsibility for challenging the prevailing norms.

There was broad agreement that the culture in Victoria Police has changed significantly from what it was a generation ago. Even so, entrenched attitudes about the role of men and women in the organisation, along with harassing and predatory behaviours persist and are at odds with the organisation's commitment to provide a safe and inclusive workplace. Generational change alone will not be sufficient to resolve the issues.

This workplace culture also poses a significant challenge for Victoria Police in recruiting and retaining talented women who seek to make a career in policing:

I found it hard to recommend any female to join the Victoria Police force as I know what attitudes and behaviours they will face through their years of employment (female survey respondent).

Sex discrimination and sexual harassment in Victoria Police

They would sit around the muster room and watch porn. One of the main impacts on me was the realisation that that's what blokes do. But actually now I know it's not. It is what VicPol blokes do (female interviewee).

Although a number of people told us that sexual harassment within Victoria Police was the result of 'a few bad apples', the Review found



these behaviours were widespread across the organisation.

There was substantial evidence of an everyday sexist climate, with a high tolerance for sexualised behaviour and interactions in the workplace.

Sex discrimination and sexual harassment are widely regarded as 'non-events' within Victoria Police. Perceptions about the prevalence and impact of sex discrimination and sexual harassment are shaped by attitudes that minimise or excuse them.

These attitudes are held individually and collectively. They have a profound influence on what behaviours Victoria Police employees recognise as sexual harassment, setting a threshold that is generally much higher than in other workplace settings. They also have a profound impact on how women are valued in the workforce and their retention and progression through the organisation.

Key survey findings

Men were more than twice as likely as women to agree that sex discrimination is no longer a problem in the workplace in Australia.

40 per cent of women and seven per cent of men who responded to the survey answered yes to the question 'Have you ever personally experienced sexual harassment?' For women, that lifetime prevalence rate is higher than that found in the community (33 per cent) and the Australian Defence Force (25 per cent). For men, lifetime prevalence is higher than in the ADF (3 per cent) and lower than in the community (9 per cent).

Almost one in five female survey participants and one in 20 male survey participants had experienced harassment in a Victoria Police workplace that started in the last five years.

The survey showed that two thirds of female survey participants and over half of male survey participants had witnessed at least one form of sexual harassment in the workplace in the past five years.

Sexual harassment was most likely to occur in a station or office environment. Women were more likely than men to also experience it off site (for example at a social event, while on patrol,

in a vehicle). Men reported being more likely to experience harassment in a conference or meeting or in training.

Within the survey, the most common form of behaviour was 'sexually suggestive comments or jokes'. Women in Victoria Police experienced higher rates of 'unwelcome touching' than those in the community. 'Actual or attempted rape or sexual assault' by a colleague was reported in the survey by just under 2 per cent of female survey participants who had experienced workplace harassment in the past five years.

Women were more likely to experience sexual harassment and were most likely to be targeted by a colleague more senior in rank or grade. Men were more likely to report being targeted by someone of the same or more junior grade/rank.

Survey participants at all ranks/grades reported experiencing sexual harassment, and female public servants appear to be at higher risk of being sexually harassed.

Gay men were six times more likely than men overall to have been sexually harassed by a colleague in the last five years. Lesbian women also had an elevated risk of being targeted.

Women described many different types of sexual harassment that they experienced or witnessed within Victoria Police, including examples of predatory behaviour:

I was on a night shift. I was in the van with a Senior Constable. He drove the van to a secluded spot and started putting the hard word on me. I froze. I thought what can I do here? ... They saw young women like me as fresh blood ... You feel like a piece of meat (female interviewee).

One night [on a work-related trip] the inspector was in the next room and calling that he was thinking of me and masturbating and ejaculating on the wall between our rooms. I was really frightened with all those guys with a gut full of grog (female interviewee).

I was talking in my office about daily work and was leaning over a filing cabinet and the Sergeant entered the office, walked around and past me and

slapped me, hard, on the arse and said "Good morning" (female interviewee).

In many cases, sexual harassment was experienced as part of a broader pattern of sexist hostility, which often took place with the support or tacit endorsement of supervisors or others in leadership positions:

[The Senior Sergeant] allows conversation with a sexual overtone to occur without addressing those guilty of the conversation. He joins in and laughs with the group but he won't stop anyone from having improper dialogue (written submission).

I worked with one woman and a few of the guys would blatantly stare down her top and comment on her body. You are in an environment where this is quite normal (female interviewee).

Sexual harassment was most likely to occur in a station or office environment, often in the presence of bystanders. The Review was also told of numerous incidents that took place at social events attended by Victoria Police personnel.

The widespread acceptance of these behaviours by colleagues and managers left many victims or witnesses feeling isolated and vulnerable. They were encouraged to 'deal with it' and move on.

In real life and on the street, I would stand up, but in that environment, I couldn't. My job would have been at stake if I said something ... It is a toxic environment (female interviewee).

The level of understanding and identification of sex discrimination and sexual harassment at supervision and management level across the organisation is inconsistent. Managers and supervisors often fail, for a range of reasons, to set appropriate workplace standards and act appropriately on harmful workplace behaviours or complaints about these behaviours.

When their behaviour was called out, harassers commonly responded by making a joke of it, undermining the target, covering their actions,

reinterpreting events or attempting to intimidate those involved.

The high level of tolerance for sexism and sexual harassment in the workplace, especially among supervisors and managers, clearly undermines the confidence that women had to speak up or come forward with a complaint.

I remember coming in [in the early 90s] and them saying there was no sexual harassment happening here. Then we explained what we meant by sexual harassment and they said 'Oh yes, that happens but that's just what you deal with being a woman in police' (former executive).

There is also a significant gap in the advice and support available to managers and supervisors to manage people issues. Workplace values and behaviours are not understood as a critical element of performance.

There are many police men and women who have, and will, champion and embrace positive cultural change, and their work should be acknowledged and rewarded.

Women also experienced sex discrimination in Victoria Police in recruitment, retention and promotion processes. This was reflected particularly in the attitudes towards and treatment of women who became pregnant, took parental leave, returned to work after parental leave and women and men who sought access to flexible working arrangements or part-time employment.

Both structural and attitudinal factors contribute to an environment where women have significantly less access than men to the pathways that put them in line for promotion and, as a consequence, women are significantly under-represented in supervisory and management roles across employee categories.

The lack of representation of women within Victoria Police and particularly at the management level is extremely problematic. It is both a symptom of and contributing factor to sex discrimination and sexual harassment within the organisation.

Workplace sex discrimination and sexual harassment was chronically under-reported within Victoria Police. Only 11 per cent of survey



participants who were targeted made a formal complaint or report about their experience of sexual harassment. Men were less likely than women to make a report (8 per cent and 13 per cent respectively).

The most common reason that women and men gave for not reporting was the perceived negative consequences for their reputation. The next most common barrier for women was the potential negative consequences for their career. The next most common barrier for men was that they felt that reporting an incident would make no difference.

The Review found that channels for formal complaints were convoluted, relied too heavily on criminal thresholds, were not victim-centric and that a lack of confidentiality was a major deterrent to reporting.

The Review also found that the inconsistent collection and classification by Victoria Police of matters involving sex discrimination, sexual harassment and gender-based bullying and victimisation obscures the full number and nature of complaints in Victoria Police.

Accordingly, the report includes recommendations for Victoria Police to establish systems that better capture this data – including gender and diversity analyses – in order to inform policy and strategy to address sex discrimination and sexual harassment within the organisation.

Understanding the impact of sexual harassment



I will never forget what has happened. For me, the harm is significant. My whole career is policing, I have so much more I want to give ... Now I can't look at the uniform ... I shake when I see a police car
(FEMALE INTERVIEWEE).

The Review heard from many Victoria Police employees about the devastating impacts that sex discrimination and sexual harassment

has on their personal and professional lives. These included serious harm to physical and mental health, including depression and stress; isolation and exclusion with the workplace; economic loss; and reduced opportunities for professional development and advancement.

Those who had experienced sexual harassment commonly told the Review that they felt 'uncomfortable and stressed in the workplace', particularly in the presence of the harasser or bystanders who had previously taken no action.

In the absence of any sustained workplace support, many women said they did what they could to avoid the harasser. This included changing their shifts, which often had implications for their family and caring responsibilities.

Some expressed anger and became distrustful of their colleagues and the organisation, especially if they had experienced a poor outcome after reporting the sexual harassment:

I felt so much disbelief that someone could do that to me, particularly someone who has taken the Oath to uphold the right (female interviewee).

I felt so betrayed and intimidated. I felt so disappointed and disillusioned (female interviewee).

Other women told the Review that they became fearful for their personal safety. In some instances, the harassment they experienced at work followed them into their private lives. The Review heard of a number of instances when families were also targeted and received direct threats of harm.

Of extreme concern was the number of people who reported thoughts of suicide:

[My male colleagues had just publicly humiliated me] and I just left. I was so distressed that I had to get away. Driving home, I was in such a state that I seriously considered running myself into a tree. [A colleague] called to see how I was. I was grateful for this (female interviewee).

As a result of their experiences, a number of women told the Review that they felt humiliated and 'broken'. They lost their confidence and

self-esteem because being a victim of sexual harassment was at odds with being a 'strong' and 'resilient' police officer.

The Review was told that employees reporting sex discrimination and sexual harassment often faced significant economic and professional costs. They were concerned about the consequences for their career, either losing opportunities for promotion or losing their jobs altogether:

I don't know how my friend that experienced sexual assault coped. She was very stuck and mentally scarred by it. She had a young family and had to try and find a new job (female interviewee).

Loss of promotional prospects, loss of professional development opportunities and the need to leave workplaces and communities also had significant flow-on consequences for families.

Sexual harassment also carries considerable direct and indirect costs for Victoria Police, such as absenteeism, low morale and reduced productivity:

From day dot, you are exposed to comments about boobs, you ... see them perving on women, you have to hear about who sleeps with who. That was the day my bubble burst. I thought it would pick up but it was a slow decline (female interviewee).

For women in the organisation, the risk of harm associated with the daily rigours of policing is escalated where there is a climate of gender-based hostility.

Sexual harassment is a form of violence against women. In developing effective responses, it is crucial that it is not dismissed or downplayed, regardless of how 'minor' the behaviours appear to be.²

Consistent with wider evidence, the Review found that the cumulative impact of 'everyday' experiences of workplace sexism – such as sexist jokes and remarks – can impair personal

and occupational well-being as much as incidents that are less frequent but more severe in nature.

It is therefore essential that initiatives to advance gender equality within Victoria Police encompass this broader understanding of harm.

Prevention responses that draw only on individual responses and incident management will be limited in their effectiveness. Instead, there must be a holistic response designed to reset organisational culture, including attitudes about the role and treatment of women in Victoria Police.

Moreover, Victoria Police must acknowledge and take responsibility for the significant harm experienced by current and former employees as a result of workplace sexual harassment and sex discrimination, including the actions of their supervisors and managers:

It's the same mentality as domestic violence but being perpetrated by the organisation ... The nightmares I have are horrendous (female interviewee).

The Review outlines a redress scheme – based on the principles of restorative justice – that seeks to provide individuals with a safe and supported environment in which they can describe the harm and consequences they experienced, as well as receive an acknowledgement of that harm. This redress scheme should also provide for financial and non-financial reparations.

Adopting such a scheme would be a powerful demonstration of Victoria Police's commitment to promote the safety and well-being of its employees. It would also send a strong statement to all employees and to the community that Victoria Police will enforce a 'zero tolerance' policy in relation to all forms of violence against women.

² Bianca Fileborn, Conceptual understandings and prevalence of sexual harassment and street harassment (July 2013) Australian Institute of Family Studies <<http://www3.aifs.gov.au/acssa/pubs/sheets/rs6/>>.



The benefits of a safe, inclusive and effective organisation

Victoria Police employees do not live in a vacuum. They are individuals and community members as well as employees, whose attitudes reflect and inform broader community and societal attitudes about the identity, roles and assumptions and expectations about how men and women should be, what they should do and how they should interact.

Victoria Police is one of the key public institutions in this state. It has a proud record in addressing crime, upholding community safety and helping those in need of assistance. In today's rapidly changing environment, the ongoing effectiveness of Victoria Police and its ability to engage with the community relies on having a diverse, motivated and committed workforce.

The Review acknowledges that Victoria Police is also influenced by external factors, such as legislation and funding, and there is a need for broader support in addressing gender inequality and adequately responding to workplace harm.

Strengthening capability

For many women, there was frustration that the culture in Victoria Police was preventing them from reaching their full potential in a job they love, as well as preventing the organisation from reaching its full capability.

A workplace culture that treats men and women fairly and with respect, and which has zero tolerance for all forms of discrimination and harassment, can significantly bolster job satisfaction, performance and commitment to the organisation among employees. As one woman told the Review, 'If I am respected, I will give you 110 per cent'.

Cultural reform within Victoria Police must also address attitudinal barriers to professional development and promotional opportunities

to ensure that merit is rewarded and talent is developed, regardless of gender.

Poor morale of individuals and within teams and staff turnover affects the performance of Victoria Police personnel and the quality of service provided to the community.

Encouraging workforce diversity

There is clear evidence that gender diversity in decision-making roles leads to greater transparency and improved ethical orientation.³ In addition, diverse teams have been shown to be smarter, more effective⁴ and linked to more innovative organisations.⁵

Strengthening operational capability through a more diverse workforce is vital for an organisation like Victoria Police as it grapples with the evolving demands of modern-day policing. Evidence collected by the Review highlights the value of establishing innovative specialist partnerships and making greater use of women in the organisation.

Importantly, increasing gender diversity within Victoria Police will help protect women against sexism and sexual harassment by reshaping the workplace culture and establishing a more inclusive environment.

In driving genuine reforms to build a safe and inclusive workplace, Victoria Police has the potential to reap substantial benefits, by strengthening its capability, improving its service delivery and positioning itself to attract the best talent.

³ Rachel Soares, Christopher Marquis and Matthew Lee, 'Gender and corporate social responsibility: it's a matter of sustainability' (Catalyst, 2011) <<http://www.catalyst.org/knowledge/gender-and-corporate-social-responsibility-its-matter-sustainability>>.

⁴ Anita Williams Woolley et al, 'Evidence for a collective intelligence factor in the performance of human groups' (2010) 330 *Science* 6004.

⁵ Joana Marinova, Janneke Plantenga and Chantal Remery, 'Gender diversity and firm performance: evidence from Dutch and Danish boardrooms' (2015) *The International Journal of Human Resource Management* (published online 28 September 2015).

Maintaining community confidence

As noted earlier, Victoria Police has been at the forefront of reforms that have significantly improved the experiences of women in the community facing harm. Responding to family violence and sexual assault are both major areas of its work and together make up one of its highest volume areas of intervention.

These efforts by Victoria Police should be applauded. However, its leadership in this area could be at risk if it falls behind community expectations on gender equality within its own ranks.

If Victoria Police aspires to be a leading service provider and an employer of first choice, there is an urgent need to reset expectations about the role and the treatment of women in the organisation.

Where poor attitudes exist within Victoria Police, they also exist in the interaction between police members and the community. This is because women in police are also community members, and because attitudes about how women are valued, inform how police make decisions when they engage with the community:

You can't address family violence in the community unless you address family violence in the force. Violence against women in the force is a form of family violence because Victoria Police is "home" for so many people. It's our blue family. But it's not called out (female interviewee).

To maintain and strengthen community confidence, Victoria Police must model safety and respect among all its employees.

Anticipating internal backlash

Responses to the Review's survey indicated that there was a high level of hostility towards the Review from a large number of male Victoria Police employees. There was a strongly held perception among some men that measures to address entrenched gender inequality were unfair and a form of 'reverse discrimination':

There is more discrimination against men. Women get promoted because they are women, even if they are not

the best person for the job (male survey respondent).

This was generally based on a lack of understanding by the participants of 'merit' and the structural barriers that currently exist to prevent the recruitment, retention and advancement of women. Under the current system:

1. alleged harassers have been moved or promoted
2. women experienced direct and indirect discrimination, often related to their status as parents or carers and accessing flexible work arrangement and having those responsibilities accommodated
3. women experienced gender stereotyping and sexual harassment.

All of these experiences reduce the retention and advancement of women. The lack of transparent messaging and engagement between management and employees about the rationale for diversity or the nature of merit provides a vacuum for the dominant narrative of the 'woman or merit' perception to persist.

In assuming leadership to promote gender equality, Victoria Police should anticipate backlash from employees who do not see value in a more diverse workforce or cannot adjust to a workplace that demands equality and respect for women.

Victoria Police will require a careful and comprehensive employee engagement process to ensure that women are not targeted, ostracised or discriminated against as part of the implementation of the Review's recommendations.

A roadmap for equality and diversity

Victoria Police is a workplace with a great diversity of sites and roles. While the Review collected evidence of widespread sex discrimination and sexual harassment, the Review also heard reports from women and men of an extremely positive working environment:

Most of my experience with police has been very positive. I am treated with great respect and some of the best

people I have worked with have been police (female survey respondent).

The recommendations from the Review provide a roadmap to make these experiences universal.

Building gender equality into the values, culture and operations of Victoria Police will require strong and committed leadership. It is more than writing new workplace policies and implementing new systems, although these are important. Cultural reform involves changing deep-seated ideas around what is considered a 'good man' and a 'good police employee'. It is also about changing how people are valued in the organisation.

Fostering greater diversity within the Victoria Police workforce is central to driving changes in culture, attitudes and practice, as well as to improving the organisation's service delivery. As one person told the Review:

The organisation has been very Anglo-Saxon and male dominated (male interviewee).

To begin this process, the Review recommends the development and implementation of an organisation-wide Gender and Diversity Strategy, which is linked to the organisational performance and capability framework. Drawing on this, each Command should develop its own equity and diversity work plan and report regularly on the progress made in its delivery.

In addition, the Review makes recommendations in relation to a broad range of organisational issues, including:

- **Leadership**, so that leaders advocate for change, value the contribution of all employees, reject unprofessional and inappropriate behaviour, and respect and reflect the diversity of the community they serve.
- **Enhancing the recruitment and retention of women**, so that women are able to develop their professional skills in a safe and respectful work environment, are supported to advance to more senior roles and can access flexible working arrangements when they need them

- **Delivering education and knowledge development**, so that all Victoria Police personnel better understand the nature, prevalence and impact of sex discrimination and sexual harassment, as well as the role of bystanders, supervisors and managers to prevent it and support those who experience it
- **Supporting local managers and supervisors**, so they have the knowledge, skills and accountability to provide a safe and inclusive environment for their staff and are able to respond effectively to harmful or inappropriate workplace behaviours
- **Ensuring workplace safety and welfare**, so that preventing the harm caused by workplace sex discrimination and sexual harassment is given similar priority to addressing the harm and trauma caused in day-to-day police work
- **Addressing barriers to reporting and disclosure**, so that employees do not fear negative consequences if they report sexual harassment or inappropriate behaviour and have confidence that their supervisors or managers will treat the issue seriously
- **Improving actions and outcomes of formal processes**, so that the victim is supported throughout the process, complaints are resolved in a consistent and professional manner and steps are taken to stop similar inappropriate behaviour occurring in the organisation.

The compiled list of recommendations made by the Review is available in Appendix 1.

An organisation is defined by its actions, not its rhetoric. If Victoria Police is committed to the principles of equality and diversity, and to ending violence against women, it is absolutely critical that it displays this commitment in the way it treats those within its own ranks.

Ending sex discrimination, tackling sexual harassment and changing organisational culture will not go unchallenged. Many within the organisation will strongly resist it. However, genuine reform is possible when there is clear and unambiguous leadership.

While recognising its unique context and challenges, similar results can be achieved within Victoria Police. However, it will require

all those in leadership roles – from Executive Command down to local managers to supervisors – to make gender equality a priority within their sphere of influence and to be unapologetic in their efforts to stamp out discrimination, harassment and outdated sexist attitudes.

To undertake this reset, Victoria Police and its Chief Commissioner will require the support and backing of others who share the same vision to achieve gender equality in this state, including government, unions and other employers.

Action Plan and Recomendations



Action Plan

The recommendations of this Review together constitute an Action Plan for Victoria Police to implement over the next three years. The recommendations are interlocking and designed to be mutually reinforcing.

The Review notes that implementing the recommendations will require a considered, rigorous and staged approach, embedding change so that it becomes 'business as usual', rather than simply a 'tick the box' approach.

Careful consideration of the sequencing and layering of work and effort will be critical if genuine culture change is to be effected.

To support Victoria Police in implementing the Review's recommendations, including laying the ground work for such efforts, organisational change approaches will need to be embedded and sustained beyond the life of the Review period. This will in turn, lead to safe and respectful workplaces for all Victoria Police employees, especially women.

This Action Plan, and the recommendations it encompasses, should be driven and implemented by Executive Command. The Review acknowledges that this may be frustrating for some employees and managers who may seek to 'fix' what they see as an obvious problem in their workplace. To achieve genuine workplace change and a process of transformative equal opportunity, Executive Command will need to consult broadly and deeply to develop a comprehensive and evidence-informed Gender and Diversity Strategy. Victoria Police will also need to develop and implement a strong internal communications and employee engagement process.

Critically, Executive Command and all managers will need to engage, listen to and learn from the expertise and lived experience of women in the organisation.

The recommendations outlined in the following action plan are interdependent but should be implemented in three phases:

Phase 1

Laying the foundations to support safety and organisational change (December 2015–June 2016)

- Acknowledge harm
- Establish external 'safe space'
- Establish advisory structure
- Develop vision and strategy and performance framework
- Communicate and engage employees
- Align organisational initiatives
- Create authorising environment
- Build business case for major measures
- Create baseline data holdings
- Scope workplace harm model

1. **Acknowledge harm and commence work** to establish the redress scheme.
2. Immediately **establish an external 'safe space'** service to provide confidential support to victims/targets of workplace harm.
3. **Establish three externally informed advisory structures.** The function of the three structures are separate, have specific expertise, and should:
 - a. Advise Executive Command and report to the Chief Commissioner on the whole-of-organisation vision and strategy and associated performance framework development.
 - b. Advise People Development Command on academic governance arrangements with respect to curriculum review and development for all training conducted in Victoria Police, in line with the Education Master Plan (Academic governance).



- c. Advise Executive Command on the development and implementation of the Workplace Harm Model (Independent Advisory Board).

The establishment of the mechanisms for this external, independent advice is a prerequisite for the implementation of the Action Plan. Each body will inform all actions within their respective frames of reference.

4. **Develop an organisational vision and strategy** under advice of the expert-informed advisory structure, along with the associated performance framework. Genuine consultation processes, underpinned by mechanisms to support safe engagement will provide important pathways to raise awareness and understanding among all employees.

Align, inform and leverage other organisational initiatives that have potential complementary purpose and/or implementation design. These include, but are not limited to work in the areas of capability planning, mental health, workplace safety, and education reform processes, as well as emerging service delivery models that provide potential leverage for victim centric approaches and/or contemporary approaches to equity and diversity.

5. **Scope the Workplace Harm Unit** under guidance of the dedicated Independent Advisory Board .
6. **Develop and implement a communication and employee engagement strategy** that includes the following aims:
 - Support current and former employees who have experienced workplace harm.
 - Build employee awareness and ownership of the relevance of the Review's findings to them as individuals and teams.
 - Support managers to ensure consistent, supportive messaging in the workplace about the impacts of harm and the role of managers at all levels in creating and maintaining respectful and healthy workplaces.

- Show zero tolerance for attitudes and behaviours that victimise or discriminate against women.
 - Involve and consult employees in building safe and respectful workplaces.
7. **Establish systems and processes that capture baseline data** across the organisation with respect to remuneration and women's access to training, upgrades, and promotion.
 8. Commence work to ensure funding arrangements support **back fill for parental leave and training that is accessible to all employees**.
 9. In the context of organisational capability reviews, ensure Victoria Police structures and reporting arrangements support a clear authorising environment to lead change. Any structural changes or realignment requirements of the people portfolios, including workforce capability and professional development requirements need to be underpinned and informed by the findings and recommendations of this Review.

Phase 2

Planning, consultation and monitoring.
(July 2016–December 2016)

Develop Command/Departmental work plans

Establish Workplace Harm Unit

Establish HR business partnering model

Develop expert training content and review and update curricula

1. Develop Command/Departmental workplans with associated accountability measures that cascade from the organisational Gender and Diversity Vision and Strategy. Workplans will ensure consistent and evidence based directions, informed by experts and command/department level baseline data. Developing command workplans should be supported by a strong consultation process (see Phase 1) across the organisation to build awareness, ownership and engagement in the shared challenge of building gender equitable and respectful workplaces.
 - Work plan development and implementation processes should explicitly and respectfully recognise the expertise and lived experience of women in Victoria Police.
2. Scope and establish the **Workplace Harm Unit** under guidance of the Independent Advisory Board.
3. Establish a **human resources business partnering model** which will bring specialist, external expertise and experience to people management issues.
4. Develop (compulsory) training content for all supervisors and managers, as well as review and update all course curricula for all relevant training under guidance of the externally informed academic governance arrangements.

Phase 3

Implementation, ongoing performance monitoring and accountability
(January 2017 onwards)

Workplace Harm Model implemented

HR business partnering model implemented

Training implemented, evaluated and continuous improvement process established.

Performance framework implemented and integrated into organisational performance metrics.

Capability planning clearly embedded in Review recommendations and appropriately resourced.

Ongoing reporting and monitoring

1. Workplace Harm Unit in operation.
2. Business partnering model in operation.
3. Contemporary and **expert informed training implemented and evaluated**.
4. Gender and Diversity Strategy Performance Framework implemented and integrated into organisational performance metrics.
5. **Capability planning** clearly embedded in Review recommendations and appropriately resourced.
6. Ongoing **reporting and monitoring** underway.

Action Plan



1: Informed and sustained leadership and governance

Future State

- Leadership is united and purposeful in driving gender equity and addressing gender inequality and workplace harm.
- Leadership is reinforced by ambitious and aligned vision, strategies and policies.
- Governance structures, which oversee the development and implementation of organisation wide vision and strategy, the workplace harm model and academic governance, have ongoing senior and expert external advisors who provide advice that is heard and integrated by the organisation.
- Significant improvement is demonstrated in the opportunities for flexible work and career advancement for women in Victoria Police.

Actions	Progress Indicators	Related Recommendations	Schedule
Establish appropriate, independent advisory structures			
<p>Establish three advisory structures. These are:</p> <ul style="list-style-type: none"> • Gender and Diversity Governance reporting to the Chief Commissioner • Workplace harm model Independent Advisory Board • Academic governance, People Development Command <p>For each function, their establishment should be prioritised as a prerequisite for guiding, monitoring and reporting on all recommendations in this Review.</p>	<ul style="list-style-type: none"> • Senior, independent, external expertise is a critical success factor. Securing participation of high calibre expertise is an early priority. • Terms of Reference and protocols for the workplace harm model’s confidentiality, referral pathways, information sharing, decision making, dispute resolution, workplan and reporting processes are developed and agreed. • Gender Equity principles are embedded in organisational planning and directions. 	2, 9, 13	Phase 1
Develop and implement the whole-of-organisation Gender and Diversity Vision and Strategy linked to organisational and individual performance metrics. It should be aligned with the intent, accountabilities and implementation of this Review and with other key change initiatives.			
<ul style="list-style-type: none"> • Develop organisational Gender and Diversity Vision and Strategy • Resource and coordinate women in policing committees for all female employees across all regions, including rural areas, as part of the organisation’s Equity and Diversity Strategy. 	<ul style="list-style-type: none"> • Vision and Strategy is expert informed and evidence-based and provides a mechanism to drive all work envisaged by the Review. • Chief Commissioner has endorsed/ launched new Vision and Strategy • Strategy is aligned and reinforced by other key change initiatives. 	3	Phase 1

Actions	Progress Indicators	Related Recommendations	Schedule
Develop a comprehensive communications and employee engagement strategy			
<ul style="list-style-type: none"> Establish long term, comprehensive communications and engagement strategy and internal engagement which will build awareness, understanding, and skills for all employees to play their role to support gender equity and respond confidently to sex discrimination and sexual harassment. 	<ul style="list-style-type: none"> A post -launch communications and engagement strategy is developed that draws on best practice organisational change approaches. Communications strategy performance metrics are approved by Gender and Diversity Strategy advisory structure. 	4	Phase 1 and ongoing
Alignment, planning, and maintaining momentum			
<ul style="list-style-type: none"> Identify existing initiatives that are potentially complementary of purpose and/or implementation design. These include, but are not limited to work in the areas of capability planning, mental health, workplace safety and education reform processes, as well as emerging service delivery models that provide potential leverage for victim centric approaches and/or contemporary approaches to equity and diversity. Identify recommendations that can be implemented early and develop workplan to support the policy review processes recommended by the Review. 	<ul style="list-style-type: none"> Strategies and initiatives are identified and reviewed by the independent advisory structure to inform its work plan. A work plan to systematically review key initiatives to align and reinforce the Vision and Strategy is developed and implemented. 	3	Phase 1 and ongoing
Policy and Process Review			
<ul style="list-style-type: none"> Embed gender equity principles in all organisational policy development and review processes. Review and update all relevant policies and procedures to ensure they are compliant with legal obligations and provide clear direction for managers to respond effectively to workplace harm and build gender equitable and diverse workplaces. Amend the <i>Victoria Police Manual</i> to provide information regarding complaint processes related to executive level personnel. 	<p>Policies and processes are updated, including:</p> <ul style="list-style-type: none"> Sexual harassment, discrimination and victimisation Structured hand over process Conflict of interest policy Guidance on interpretations of disciplinary terms. 	5, 16	

Actions	Progress Indicators	Related Recommendations	Schedule
Align funding and reporting lines with intended outcomes.			
<ul style="list-style-type: none"> Review organisational and HRD capability, authorising environment and reporting lines to lead whole-of-organisation change and culture change processes. 	<ul style="list-style-type: none"> A strategic and influential human resource function is built. 	11	Phase 1
<ul style="list-style-type: none"> Review funding and training delivery model to enhance accessibility for all eligible employees, including those in regional Victoria, enhanced accessibility for employees with caring responsibilities, and those who have flexible work arrangements. 	<ul style="list-style-type: none"> A new funding and training delivery model is developed and implemented. 	9	Phase 1 and 2
<ul style="list-style-type: none"> Identify mechanisms and processes to ensure backfill for paid and unpaid parental leave and light duties and implement universally. 	<ul style="list-style-type: none"> Backfill for paid and unpaid parental leave and light duties is implemented universally and monitored. 	7	Phase 1 and 2
Establish performance measurement and baseline data			
<p>Develop performance measures to provide a basis for monitoring the Gender Equity and Diversity Strategy.</p> <p>Victoria Police request the breakdown of data by gender against employment category, employment type and classification from VPSC in future rounds.</p> <p>Benchmark, and review comparative remuneration between men and women annually as outlined in the <i>Workplace Gender Equality Act 2012</i> (Cth).</p>	<ul style="list-style-type: none"> Within 18 months, women's access to upgrading and training opportunities at all levels is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service) and within three years, 50 per cent of all upgrade and transfer opportunities are accessed by women. 	3	Phase 1-3 May 2016 Repeat six monthly as part of reporting process

Actions	Progress Indicators	Related Recommendations	Schedule
Establish performance measurement and baseline data coninued			
<p>Introduce baseline, granular reporting, disaggregated by business units on gender in workplace recruitment, retention and advancement.</p> <p>Develop and disseminate reporting requirements and guidance to Divisions to support data and performance measurement requirements at all levels of the organisation. This will involve drawing on measures included in this Review and other measures identified by the external expert advisors.</p> <p>Review employee insight tools and organisational climate tools to select best fit for the purpose of the vision and strategy.</p> <p>Integrate reporting requirements into regular reporting mechanisms such as Compstat.</p>	<p>Improvements in access to flexible work across the police, PSO and VPS employee bases, including:</p> <ul style="list-style-type: none"> • utilisation of flexibility policy options by gender • number and proportion of flexibility requests declined, and individualised briefings on reasons for refusal • improved parental leave return rate • improved parental leave retention rate (1, 2 and 5 years post return to work) • improvement in ratio of part-time: full-time employees at supervisory, management and executive levels by rank/level and sex. <p>This should include trend data on reasons for redundancy / involuntary exits by gender.</p> <p>Organisational statistics by gender will indicate improvement in 'merit' pathways, including women's:</p> <ul style="list-style-type: none"> • access to training • access to upgrades • shortlisting for promotion • representation at regional Command • representation on selection panels – seniority • data on the process and outcomes of promotion and appeals processes disaggregated by gender, rank/level and employment type • other measures as appropriate 	3	
<p>Analyse baseline data to inform priority issues to be addressed by the Gender and Diversity strategy, as well as areas for additional and specific focus in individual Command/Departmental work plans</p>	<p>Year on year improvements.</p>	3	<p>Phase 1 and ongoing</p>

2: Building Capability and Competency

Future State

- All employees have an equal opportunity to realise their professional potential in Victoria Police – all employees will have a level playing field
- Work enables women and men to access flexible work arrangement without compromising career progression
- Women feel respected for their capability and the diverse skills and experience that they bring to Victoria Police
- Public servants are respected and valued for their skills, experiences and perspectives
- Employees seek and embrace contemporary thinking across the complex and multi-faceted work of Victoria Police
- Good people management is valued and rewarded in Victoria Police.

Actions	Progress Indicators	Related Recommendations	Schedule
Ensure Victoria Police have contemporary professional development			
Develop training content informed by expert academic governance processes, review and develop training content recommended by the Review.	<ul style="list-style-type: none"> • Academic governance body completes review of current foundation and training content. • Content is updated and developed to reflect recommendations • Independent expert advisors are satisfied with the resulting content and content development process. 	9	Phase 2
Select external training partners to co-deliver aspects of training relating to sexual harassment, sex discrimination and gender training for all courses.	<ul style="list-style-type: none"> • Process of identifying specialisation is developed • Introductory and train the trainer sessions for all Victoria Police instructors is implemented. 	9	Phase 2
Commence implementation of regular, compulsory and accessible supervisory and management training across the state	<ul style="list-style-type: none"> • Proportion of staff trained • Locations that training has been provided • Refer to organisational performance framework. • Within eighteen months, women's access to leadership training is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service). Within three years, 50 per cent of all senior management training opportunities are accessed by women. Where there is not a sufficient pool of women to draw from, managers will nominate women with demonstrated people management capabilities and leadership potential. 	9	Phase 3 and ongoing

Actions	Progress Indicators	Related Recommendations	Schedule
Support managers to manage			
Scope and establish a specialist human resource business partnering model that includes specialist human resources skills in supporting managers to manage sex discrimination and sexual harassment	<ul style="list-style-type: none"> A protocol that defines the interaction between the business partnering model and the workplace harm model with regard to referrals, secondary consultation, information sharing and individual and workplace interventions is developed. 	15	Phase 1 and 2
Develop clear and detailed guidelines for managers and supervisors on their roles and responsibilities to responding to inappropriate behaviour and complaints in a safe and supportive way. This should be informed by policy and process reviews, as well as guidance to inform managers interaction with the work of the workplace harm model and business partnering model.	<ul style="list-style-type: none"> Guidance is overseen by workplace harm model governance to provide an integrated set of tools to managers. Guidance tools are evaluated with regard to their accessibility to managers, usefulness and uptake – the quality and efficacy of guidance will be critical factors. 	5, 9	Phase 2
<p>Integrate recommendations with work to map current and future capability needs scheduled for 2016.</p> <p>Implement genuine performance assessment and professional development processes. This will be achieved through:</p> <ul style="list-style-type: none"> Reweight the capability framework Embed workplace equality and respect explicitly in performance assessment processes and training, as well as introduce upwards assessments. Implement performance measures for people in leadership positions Provide lifelong learning for all employees to continually improve their people management capabilities. 	<ul style="list-style-type: none"> Recommendations of this Review are demonstrated in capability planning aligned to the Victoria Police capability road map. Identify and implement key performance measures for inclusion in Executive Agreements and PDAs. Managers who do not have and record appropriate conversations to support equality and respect in staff PDAs are assessed as not meeting KPIs. Individual performance measures are implemented in subsequent round of performance assessment processes and refined and improved over time. Employees are supported by Command to participate in training opportunities. In line with performance framework, support will be measured and reported. 	12	Phase 1 and ongoing
Identify appropriate risk management, tracking and recording mechanism(s) for inappropriate workplace behaviours that warrant ongoing supervision and management.	<ul style="list-style-type: none"> Mechanisms within and outside organisation are reviewed Consistent organisational approach to tracking and recording is developed and supported by appropriate data systems and training for managers. 	12	Phase 2

Actions	Progress Indicators	Related Recommendations	Schedule
<p>People Development Command develop training for instructors under academic governance processes, inform new conflict of interest policies and tighten risk management processes with regard to both instructors and workplace-based learning.</p>	<ul style="list-style-type: none"> • A review of training for all staff within the School of Policing, as well as staff in Academy Services and Learning and Development Standards is undertaken within six months of this Review and refreshed annually. • Organisation wide training is developed following establishment of academic governance as a priority. • Risk management processes are tightened as a priority with further refinement as academic content is developed. • Maximum time in position is enforced. 	10	Phase 1
Strengthen capability through diversity			
<p>Review the inherent requirements for roles to ensure they reflect the tasks required.</p>	<ul style="list-style-type: none"> • Recommendations from the Review and its findings are clearly demonstrated in workforce capability planning. • Workplan for role reviews in place. 	11	Commence Phase 1
<p>Review and amend recruitment and exit processes</p> <p>Monitor and report on recruitment and exit processes as part of the Gender and Diversity Performance Framework.</p> <p>Implement processes to deliver on recruitment target.</p>	<ul style="list-style-type: none"> • An explicit target for recruitment of at least 50 per cent women for future squads of police and PSOs and remains in place until equity is achieved. 	6	Phase 2
<p>Review and standardise all policy and processes relating to flexible work arrangements and particularly periods of parental leave</p>	<ul style="list-style-type: none"> • Standardised policies and processes are implemented and integrated into training and guidance tools for managers. 	3, 7	Phase 1/2
<p>Review, design and implement employee career planning and support, which includes clear pathways and support for women to pursue professional development and training in leadership and non-traditional roles, formal sponsorship and promotions.</p>	<ul style="list-style-type: none"> • Within 18 months, women's access to upgrading and training opportunities at all levels is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service) and within three years, 50 per cent of all upgrading, training and transfer opportunities are accessed by women. 	8	Phase 2 and ongoing
<p>Report process and outcomes of promotion and appeals processes as part of the Gender and Diversity Strategy performance framework.</p>	<ul style="list-style-type: none"> • Tracking of process and outcomes for promotions and appeals is undertaken immediately. • Data is reviewed to inform development of tools for selection panels alongside development of manager capability requirements. 	3	Phase 1
<p>Where women are not participating in application processes, the Deployment Unit should be required to undertake an audit based on the principle of "50 women/50 men: If not, why not?" in partnership with local management.</p>	<ul style="list-style-type: none"> • Outcomes reported through the Equity and Diversity Work Plans. 	3, 8	Phase 1

3. Respond swiftly and effectively to workplace harm

Future State

- Women feel respected and safe within their workplaces.
- Where people experiencing sex discrimination and sexual harassment do not feel safe, they can report confidently and receive appropriate support and responses from their managers, colleagues, support services and the organisation.

Actions	Progress Indicators	Related Recommendations	Schedule
Acknowledge harm and Redress Scheme			
Acknowledge the experience of sex discrimination and sexual harassment experienced by women and men in Victoria Police and begin work to provide redress.	<ul style="list-style-type: none"> • Announcement • Engagement plan with current and former employees developed and implementation commenced. 	1	Phase 1
Safe space			
Immediate establishment of an external 'safe space' service to provide confidential support to victims/targets of workplace harm.	<ul style="list-style-type: none"> • Service in place with clear protocols to guide information sharing and confidentiality. • Clear and primary focus of victim centric responses is demonstrated. • Reporting pathways are accessible and confidential • de-identified data is analysed and used to inform development of workplace harm model. 	13	Phase 1
Establish workplace harm unit			
Establish external expert-informed advisory structure for workplace harm model to advise on all aspects of work.	<ul style="list-style-type: none"> • Advisory structure established and supported by clear and consistent protocols to classify and record complaints about workplace harm, consistent with relevant legal definitions and best practice victim centric approaches for sex discrimination, sexual harassment and victimisation. 	13	Phase 1
Secure external service delivery expertise	<ul style="list-style-type: none"> • The workplace harm unit is staffed and managed by specialist workers in the areas of gender based harm and sex discrimination. 	13	Phase 1 and 2
Implement workplace harm model	<ul style="list-style-type: none"> • Model is implemented with regular reporting as established by the governance structure. Specific requirements for reporting on management responses to bystander intervention and reporting, and general feedback on employee confidence to undertake interventions, and suggestions on improvement. 	13	Phase 1 and 2

Actions	Progress Indicators	Related Recommendations	Schedule
Review current functions			
<p>Review roles of Welfare Services and Police Psychology to ensure their purpose and remit are clarified and to ensure they are properly aligned, resourced and skilled to provide their core functions.</p> <p>Review the ongoing role of Peer Support Officers in relation to workplace harm.</p>	<ul style="list-style-type: none"> • Roles of these functions are complementary and secondary to that of the workplace harm unit with regard to sex discrimination and sexual harassment. • There is clear delineation of function with protocols developed between Welfare Services, Police Psychology and the workplace harm unit developed to set out roles and responsibilities, referral pathways, information sharing and confidentiality arrangements and other matters, as identified. 	14	Phase 2
Hold employees to account for inflicting workplace harm			
<p>Revise classifications for end of service to include 'resigned under investigation' and this be used in the Gazette and statements of service in cases within the remit of this review.</p>	<ul style="list-style-type: none"> • Classifications revised 	16	Phase 1
<p>Advocate and act organisationally to reform the discipline system to allow Victoria Police to act decisively against employees who perpetrate workplace harms.</p>	<ul style="list-style-type: none"> • Initiated 	16,19	Commence Phase 1

4. Advocate for change

Future State

- Victoria Police is explicit, persuasive and has credibility about gender and diversity workplace matters.
- The community regards Victoria Police as a leader in gender equity and violence against women.
- Victoria Police responds swiftly, decisively and in line with community expectations to employees engaging in sexual harassment and sex discrimination.

Actions	Progress Indicators	Related Recommendations	Schedule
With employee representatives			
Work with The Police Union to consider Review's gender audit findings into EBA negotiations	<ul style="list-style-type: none"> • Underway and incorporated into final agreement as appropriate 	Appendix 2	Started prior to conclusion of Review
With the Department of Public Prosecutions			
Pursue and conclude disciplinary charges concurrently with criminal investigations/proceedings unless there is a real risk that the disciplinary matter will prejudice the criminal proceeding	<ul style="list-style-type: none"> • Engagement underway and process developed • Rate of reports and rate of disciplinary charges pursued, attrition points and outcomes measured and reportable. 	16	Phase 1
With the Victorian Government			
<p>Victorian Government and Victoria Police should streamline and simplify Victoria Police's existing discipline system by considering and implementing the detailed recommendations for reform in:</p> <ul style="list-style-type: none"> • the Office of Police Integrity report, <i>A fair and effective Victoria Police discipline system</i> (2007) • the Office of Police Integrity report, <i>Improving Victoria Police discipline and complaint handling systems</i> (2011) • the State Services Authority report, <i>Inquiry into the command, management and functions of the senior structure of Victoria Police</i> (2011) 	<ul style="list-style-type: none"> • Work plan is developed and progress is demonstrated. 	20	Commence Phase 1
<ul style="list-style-type: none"> • The Victorian Government work with the ESSS to undertake a gender impact analysis of the defined benefit superannuation scheme 		17	Commence Phase 2
<ul style="list-style-type: none"> • The Victorian Government consider whether there are any legislative barriers in the Victoria Police Act 2013 and Protected Disclosure Act 2012 which prevent disclosure of the subject matter of a protected disclosure complaint of assessable disclosure by Victoria Police personnel or Victoria Police work units to support services and to WorkSafe Victoria. 		18	Commence Phase 1

Recommendations

A list of the detailed recommendations can be found at Appendix 1.

Recommendation 1:	Victoria Police undertake work to deliver a Redress Scheme and public acknowledgement of harm.
Recommendation 2:	Victoria Police establishes independent advisory structures to guide the intent and implementation of the Review's recommendations.
Recommendation 3:	Victoria Police develops a whole-of-organisation Gender and Diversity Vision and Strategy linked to performance and capability.
Recommendation 4:	Victoria Police develops a comprehensive communications and employee engagement strategy.
Recommendation 5:	Victoria Police reviews and updates all relevant policies and procedures to ensure they are compliant with legal obligations and provide clear direction for managers to respond effectively to workplace harm and build gender equitable and diverse workplaces.
Recommendation 6:	Victoria Police reviews recruitment and exit processes.
Recommendation 7:	Victoria Police reviews and amends all arrangements relating to flexible work.
Recommendation 8:	Victoria Police reviews and improves arrangements relating to promotion pathways for women.
Recommendation 9:	Victoria Police reviews its training and education functions to align learning intent and future capability needs as expressed in the Education Master Plan with organisational processes.
Recommendation 10:	People Development Command strengthens management of risks associated with the Academy environment.
Recommendation 11:	Victoria Police reviews the inherent requirements for roles to ensure they reflect the tasks required.
Recommendation 12:	Management performance in workplace equality and respect should be a compulsory performance field or performance appraisal and reward and incentive systems. Victoria Police should review and identify the appropriate tracking and recording mechanism(s) for inappropriate workplace behaviours that warrant ongoing supervision and management.
Recommendation 13:	Victoria Police establish a workplace harm model as outlined in the Review, including <ul style="list-style-type: none">• Immediate establishment of an external 'safe space' service to provide confidential support to victims/targets of workplace harm• An internal victim-centric workplace harm unit to triage and case manage internal complaints about workplace harm• An Independent Advisory Board (IAB) to provide expert advice and support to the Workplace Harm Unit.
Recommendation 14:	Victoria Police reviews the roles of Welfare Services, including peer support, and Police Psychology to ensure their purpose and remit are clarified and to ensure they are properly aligned, resourced and skilled to provide their core functions.
Recommendation 15:	Victoria Police establish a specialist human resource business partnering model.

Recommendation 16: Victoria Police advocate for changes to its operating context and environment, and take interim actions where possible to enhance its flexibility to build diversity, set and enforce Victoria Police values and behaviours.

Recommendation 17: The Victorian Government work with ESSS to undertake a gender impact analysis of the defined benefit scheme, and undertake comparison with other schemes. This analysis should be used as evidence to review the appropriateness of the scheme in supporting contemporary career patterns, flexible work, and wellbeing of all Victoria Police sworn personnel.

Recommendation 18: Request the Victorian Government consider whether there are any legislative barriers in the *Victoria Police Act 2013* and *Protected Disclosure Act 2012* which prevent disclosure of the subject matter of a protected disclosure complaint of assessable disclosure by Victoria Police personnel or Victoria Police work units to support services and to WorkSafe Victoria. If so, consider most appropriate legislative amendment to enable disclosure in those circumstances.

Recommendation 19: Police Registration and Services Board members should be provided with contemporary training in equal opportunity and human rights law, as well as the impact of sexual harassment and discrimination on victims. This should occur at induction for new members, immediately for current member, and then every two years. PRSB should work with specialist partners to develop guidelines on Equal Opportunity and Human Rights and victim impact in decision-making.

Recommendation 20: The Victorian Government and Victoria Police should streamline and simplify Victoria Police's existing discipline system by considering and implementing the detailed recommendations for reform in:

- the Office of Police Integrity report, *A fair and effective Victoria Police discipline system* (2007)
- the Office of Police Integrity report, *Improving Victoria Police discipline and complaint handling systems* (2011)
- the State Services Authority report, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011).



Chapter 1

About the Independent Review

Introduction

Victoria Police commissioned the Victorian Equal Opportunity and Human Rights Commission (the Commission) to undertake an Independent Review into Sex Discrimination and Sexual Harassment, including Predatory Behaviour, in Victoria Police (the Review).

The Review's task was to examine the nature, prevalence and impact of sex discrimination and sexual harassment, and identify the drivers and workplace enablers of sex discrimination and sexual harassment in Victoria Police.

As a result of the Review, the Commission has developed an evidence-based Action Plan which contains organisational change strategies and initiatives to promote safety and respect in Victoria Police.

Additionally, 18 months after the release of this Review and then again 12 months after that, a further report will be prepared which audits Victoria Police's implementation of the Action Plan and makes any further recommendations necessary.

About the Commission

The Commission is an independent statutory body that is responsible for the administration of the *Equal Opportunity Act 2010* (Vic), the *Charter of Human Rights of Responsibilities Act 2006* (Vic) and the *Racial and Religious Tolerance Act 2001* (Vic).

This Review was conducted under the Commission's research function contained in section 157 of the Equal Opportunity Act.

The Commission has undertaken significant policy development, research and review, both in partnership with Victoria Police and independently. The Commission has expertise in

sex discrimination and sexual harassment laws and policies and brings technical experience in complex human rights research.

The Commission is committed to working closely with public authorities, organisations and employers to help them meet their obligations under the Charter and equal opportunity laws. The Commission promotes and protects equal opportunity and human rights through education, consultancy, dispute resolution, monitoring and research.

About Victoria Police

Victoria Police was formed in 1853 with 875 personnel. In 2015, the organisation has a workforce of around 17,000 including approximately 13,200 police, 1100 protective services officers (PSOs) and over 2600 public servants. Additionally, 400 additional police custody officers will be recruited over the next three to four years, with the first squad entering the Academy in December 2015.

Victoria Police provides policing services to the Victorian community 24 hours a day, seven days a week. Victoria Police services include:

- responding to calls for assistance in matters of personal and public safety, emergencies and serious incidents
- preventing crime through a range of proactive community safety programs
- detecting and investigating offences, and bringing to justice those responsible for committing them
- supporting the judicial process to achieve efficient and effective court case management
- providing safe custody for alleged offenders, supporting victims

- ensuring fair and equitable treatment of victims and offenders
- promoting safe road-user behaviour.⁶

The first two women in Victoria Police were employed as auxiliary agents in 1917 and in 1924 four women were sworn in as constables. In 1947, Victoria Police introduced uniforms for women and the following year women started doing street patrols.

In 1978, following the introduction of the Equal Opportunity Act, female police were allowed to work in general duties. In 1989, the first female Assistant Commissioner was appointed and, in 2001, Victoria appointed the first (and only) female police commissioner in Australasia.

In April 2015, there were 5618 women in Victoria Police (a representation rate of 31 per cent). 64 per cent of women in the organisation are police, two per cent are protective services officers and 35 per cent are public servants, including forensic officers and executive officers. A full breakdown of workforce representation by gender is provided in Chapter 7.

Current structure

Victoria Police frontline service delivery is divided into four geographic regions with boundaries aligned with other Victorian agencies. Two regions are metropolitan – North West Metro and Southern Metro, while the other two – Eastern and Western – cover metropolitan and rural areas. Regions are further divided into divisions (21 in the state) which in turn contain a number of local area commands (54 in the state), some of which share boundaries with local government areas.

In addition to the four regions, the organisation includes seven specialist operational commands and 11 departments. Each of these organisational units is aligned to one of five executive portfolios – three headed by deputy commissioners and two headed by executive directors.

Governance

The levels of management in the organisation and the usual rank/grade for these levels are as follows:

- CEO – chief commissioner
- Executive – deputy commissioner/executive director
- Head of command or department – assistant commissioner/director
- Head of division – superintendent/assistant director
- Head of local area command/inspector.

Further detail about ranks and classifications can be found in Appendix 3.

The Victoria Police executive, referred to as Executive Command, is comprised of the Chief Commissioner, three deputy commissioners and two executive directors.

There are five sub-committees of Executive Command which govern the organisation's five areas of management focus: People, Community Safety, Service Delivery, Stakeholder Management and Business Development.

A Corporate Advisory Group of external specialists provides strategic advice to the Victoria Police executive on organisational reform.

There is also a senior advisory group, referred to as Command, comprised of heads of regions, commands and departments.

As well as the policing duties set out in the *Victoria Police Act 2013* (Vic), the organisation has service delivery responsibilities to the State of Victoria under numerous Acts including:

- *Crimes Act 1958*
- *Terrorism (Community Protection) Act 2003*
- *Emergency Management Act 2013*
- *Family Violence Protection Act 2008*
- *Road Safety Act 1986*
- *Road Safety Road Rules 2009*
- *Transport Act 1983*
- *Liquor Control and Reform Act 1998*
- *Firearms Act 1996*
- *Private Security Act 2004*
- *Controlled Weapons Act 1990*
- *Second Hand Dealers and Pawnbrokers Act 1989*
- *Sex Offenders Registration Act 2004*
- *Racing Act 1958*

⁶ Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 4.

Many employees indicated strong support for Victoria Police undertaking this Review.



Job well done for the Victoria Police for putting emphasis and concern on these issues
(MALE SURVEY PARTICIPANT)

[If you could change anything in Victoria Police ... what would it be?] You're doing it now thank you
(FEMALE SURVEY PARTICIPANT).

- *Casino Control Act 1991*
- *Witness Protection Act 1991*.

Why this Review?

In late 2014, Victoria Police approached the Commission to discuss a need identified by Command to understand the prevalence, nature and underlying causes and drivers of sex discrimination and sexual harassment in Victoria Police to inform sustainable actions to address the issues and prevent them from occurring. Victoria Police is showing strong leadership in tackling sex discrimination and sexual harassment through this Review to ensure a safe and respectful workplace for all Victoria Police employees.

This Review is the first independent review of sex discrimination and sexual harassment conducted in Victoria Police.



It's a brave organisation to put up its hand to go through this and the first one to do it, and I'm proud of this
(EXECUTIVE INTERVIEWEE).

The Chief Commissioner told the Review

We could have undertaken an internal review but that wouldn't have led to systemic change. We need change more quickly. Sunlight is the best disinfectant (Chief Commissioner of Victoria Police).

The Review spoke with many employees who are extremely proud to work for Victoria Police. The Review consistently heard that employees are supportive of measures to address inappropriate behaviours in order for Victoria Police to be the best possible organisation.

Many Victoria Police employees expressed excitement and support for Victoria Police commissioning the Review. While the majority of participants were supportive of the Review, some participants spoke of never having experienced or witnessed sex discrimination and sexual harassment. Other participants expressed their concerns about potential damage to Victoria Police's reputation. The Review team respects the seriousness of these concerns. A range of assumptions and attitudes underpin these perspectives, which the Review will address throughout the report.

To provide the best possible service to the community, Victoria Police must ensure a safe operating environment for its employees free of sexual harassment, predatory behaviour and sex discrimination.

If you are going out onto the streets to deal with difficult and stressful situations ... to properly assist members of the community, you should, indeed you must, be able when you return to your police station, to be in a safe working environment – a non-stressful, non-hostile working environment ... If the stressors of the street end up being less than the stressors of the internal workplace, then there is something seriously wrong with the workplace.⁷



The fact that this [Review] is being undertaken makes me so proud to be part of Victoria Police
(FEMALE SURVEY PARTICIPANT)

[The] initiative on this has salvaged for me some pride in this organisation. Please don't let me down
(MALE SURVEY PARTICIPANT)

⁷ Chris Ronalds SC, 'Sexual Harassment – Don't cop it' (Speech delivered at the Queensland Police Service Conference, Brisbane, 18 October 2007) 25.

Victoria Police has requested the Commission provide public, frank and fearless advice on the prevalence and nature, impact and drivers of sex discrimination and sexual harassment, including predatory behaviour.

Far from being understood solely in terms of individual behaviour and a few ‘bad apples’, there is a strong international evidence base that demonstrates that gender inequality is the key driver of sexual harassment including, predatory behaviour, and sex discrimination.

Sex discrimination and sexual harassment, including predatory behaviour is experienced by both men and women. However, international and national evidence has established that women are more likely to be the targets of sexual harassment, and men are more likely to be the harassers.⁸

As a result, the Review examines the contextual factors that support or undermine gender equality within the organisation. While not all attitudes and behaviours addressed in this Review will be seen as violence against women, violence against women covers a range of criminal and non-criminal behaviours ranging from sexual or physical assault to psychological, social and economic harm.

The Action Plan prepared by the Commission is supported by a robust evidence base which aims to drive cultural and practice change.

Victoria Police is leading the way

By commissioning this Review, Victoria Police is showing proactive leadership in gender equity and the prevention of violence against women. This Review puts Victoria Police at the forefront nationally, and internationally, on working to set a better standard in the organisation, in their service delivery and vitally, as a very influential part of the broader community.

More importantly, it puts policing ahead of major business and government in terms of transparency, accountability and a whole-of-organisation focus. Other governments, sectors and private enterprise are looking to Victoria Police for the initiatives and lessons from this work.

⁸ See for example, Australian Human Rights Commission, *Working without Fear: Results of the Sexual Harassment National Telephone Survey 2012* (2012) 4.

The Chief Commissioner suggested that:

For us, it's about Victoria Police being an exemplar and a community leader. The Action Plan will carry this work forward. We will be chipping away at these bigger gender issues (Chief Commissioner of Victoria Police).

Workplaces are effective settings for prevention of violence against women.⁹ By challenging violence supportive and gender hostile attitudes, workplaces can influence their own internal cultures and gender equity more broadly.¹⁰ As a large community-facing organisation, Victoria Police has a unique opportunity to champion gender equity in Victoria and nationally.

Prevention of violence against women has gained considerable momentum in the last decade or so. During this time, Victoria Police has led the way in reforming the way the community thinks about and addresses family violence and sexual assault and is now focused on delivering community oriented, victim-centric strategies as core business. However, this has not always been the response to ‘victims’ where they are employed by Victoria Police.



Given the increase in media attention to and community concern about gender equity and violence against women, Victoria Police must be on the front foot in their interactions with community and within their own workforce. Society as a whole is changing (MALE SURVEY PARTICIPANT).

⁹ Victorian Health Promotion Fund (VicHealth), *Preventing violence before it occurs A framework and background paper to guide the primary prevention of violence against women in Victoria* (2007) 57.

¹⁰ Scott Holmes and Michael Flood, ‘Gender at Work: Exploring the role of workplace equality in preventing men’s violence against women’ (White Ribbon Research Series – Preventing Men’s Violence Against Women, Publication No. 7, White Ribbon Foundation, 2013) 10, 14.



There are far more decent human beings in the police force than not. The vast majority of Victoria Police members' don't think sexual assault or sexual harassment/discrimination is acceptable. The level of this shouldn't define the whole police force. But it will define us as an organisation if we don't address it with some urgency and focus
(MALE INTERVIEWEE).

The case for change is compelling

The social, physical, emotional and economic costs of sex discrimination and sexual harassment on the individual, workplace and community are well documented.¹¹

The Review heard of the diverse impacts on individuals, including the physical and emotional effects of trauma, loss of commitment to Victoria Police, poor morale, feeling undervalued, fears for safety and poor performance. A high organisational tolerance for sexual harassment can also negatively impact women's work attitudes.¹²

Recent research confirmed that experiencing sexual coercion and unwanted sexual attention in the workplace is directly related to mental health outcomes.¹³ When sexual harassment occurs in workplaces, there is increased team breakdown and hostility, and decreased productivity and employee morale.¹⁴ These in turn have an effect on the organisation's capacity to attract and retain women, which may create an environment where there is a heightened tolerance of sexual harassment. In addition, a loss of capacity to recruit and

11 See for example, Donna Chung, Carole Zufferey and Anastasia Powell 'Preventing violence against women in the workplace An evidence review: full report' (VicHealth, 2012).

12 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly* 23 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

13 Ibid. 17, 23.

14 Donna Chung, Carole Zufferey and Anastasia Powell 'Preventing violence against women in the workplace An evidence review: full report' (VicHealth, 2012); VicHealth, *Preventing violence against women in the workplace An evidence review: summary report* (2012) 9.

retain women and a consequent reduction in workforce diversity has significant efficiency implications for the organisation.¹⁵

The benefits of gender responsive organisations are significant. The good news is that Victoria Police has much to gain from being a gender responsive organisation. The Geneva Centre for the Democratic Control of Armed Forces (DCAF), a leading international institution in security sector governance and reform, states:

*Focusing on gender – the social differences and social relations between men and women – helps a security sector institution to improve its responsiveness to the communities it services, boost operational effectiveness, diversify and get the best from its personnel and meet the highest standards of professional accountability.*¹⁶

Other benefits include a more productive work environment, improved public trust and increased national and international standing.¹⁷ The Australian Human Rights Commission's Review of the Australian Defence Force identified five key motivations for change: to attract the best talent, reduce costs of recruitment and retention, increase capability, be a first class and high performing employer, and take a leadership position.¹⁸ To be an employer of choice and to recruit and retain the best people, Victoria Police must provide a flexible, safe and supportive environment which embodies contemporary expectations of behaviours and attitudes towards gender equity.

Victoria Police employees can safely tell their story

By commissioning this Review, Victoria Police has provided a safe and confidential space for current and former employees to share their

15 See for example Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014).

16 Megan Bastick, 'Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector' (The Geneva Centre for the Democratic Control of Armed Forces, 2011) 2.

17 Ibid.

18 Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 43.

experiences, perspectives and thoughts for change.

The Commission acknowledges that for many people, participating in the Review was emotionally demanding and traumatic.

The Review also acknowledges that for safety reasons, many people who have been or are targets or victim/survivors of inappropriate behaviours did not participate in the Review. It is the Commission's hope that Victoria Police's implementation of the Review's recommendations will go some way towards assisting these people to gain safety and equality in their workplace.

In order to succeed, Victoria Police, through the Action Plan, must address the drivers of sex discrimination and sexual harassment, and empower victims and witnesses to report behaviour, enable bystanders to 'call out' the behaviour, and address enabling culture more broadly.

Context for the research

The Independent Review is extensive and robust. The Review's terms of reference look broadly at the organisation, to determine the prevalence and nature, impact and harm, as well as the drivers of sex discrimination and sexual harassment, including predatory behaviour, and to report on initiatives to drive cultural and practice change.

Traditional models of managing obligations around equal opportunity have focused on legal compliance and risk/reputation management where employers show they have taken reasonable precautions over time to reduce and prevent sex discrimination and sexual harassment, demonstrated through development and implementation of policy, training and complaints processes. The aim of these models has been to deter or respond to misconduct by individuals and assumes that a combination of organisational standards, individual accountability and response will expiate an organisation's responsibilities by compliance with the law.

Benefits of cultural reform

Enhanced capability:

- Improved workforce performance and impact measures
- High employee satisfaction and engagement rates
- Universal capability
- Thought leadership
- Deeper talent pools
- A Victorian employer of choice.

Improved community confidence:

- Showing leadership and influencing broader community attitudes to prevent harm
- Driving community attitudes on respect and safety
- A workforce that reflects the community in which it works
- A workforce that internalises human rights concepts and is sophisticated in its interaction with community.

Financial and ethical performance improvements:

- A high performing, diverse and capable workforce
- Diversity in leadership and decision-making
- Realising the potential of a professional workforce
- Greater return on investment in training and professional development
- Reduced direct and indirect costs of workplace harm.

Safety:

- A safe and resilient workforce
- Best practice responses to all victims of harm (internal and external)
- Increased confidence to 'call out' behaviours and report, moving to decreasing need to report over time (in line with success in prevention measures)
- Strong leaders at every level who understand and prevent harm across internal and external communities.



This Review draws on the growing evidence base on primary prevention, which recognises the benefits of diversity and the harm of inequality. The aim of this Review is to ensure Victoria Police is well placed to achieve equality and prevent harm before it occurs, by addressing the attitudinal and structural barriers to equality. The Review outcomes will be driven by leadership with the power to make change at multiple levels, work to understand the underlying causes and drivers before determining actions, and to structure, stage and measure the success of mutually reinforcing strategies over time.

The Review leverages the significant work being undertaken nationally through the National Plan to Reduce Violence against Women and their Children (2010–2022). The Review utilises the evidence base developed by VicHealth (2007) on the drivers of violence against women, including sexual harassment, including the costs to the economy and the community of gender inequity. The Review has been informed heavily by the extensive consultations undertaken in the development of the New National Framework.¹⁹

The commissioning of this Review is part of a suite of initiatives being implemented by Victoria Police to address harm and safety within the organisation. This includes the directions set out in the *Victoria Police Blue Paper: A Vision for Victoria Police in 2025*, and through corporate planning and prioritisation, including occupational health and safety and mental health initiatives. It includes strategies to diversify and professionalise the workforce and the new victim-centric service delivery model plan, *Future directions for victim-centric policing*.

The Review is mindful of the unique role Victoria Police plays in addressing gender inequality and violence against women as an employer, in service delivery, and influencing community attitudes more broadly. This is particularly pertinent in the context of the forthcoming reports from the Victorian Royal Commission into Family Violence. The Review has also been able to draw some lessons emerging from the national Royal Commission into Institutional Responses to Child Sexual Abuse.

¹⁹ OurWatch, VicHealth and Australia's National Research Organisation for Women's Safety (ANROWS), *Framework foundations 2: Think pieces, stakeholder consultations, issues, implications and approach. Companion document to Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (2015).

Lessons from other reviews

The Review's recommendations draw from good practice and studies in this area in the Australasian context. These include, the Australian Human Rights Commission's completed *Reviews into the Treatment of Women in the Australian Defence Force Academy* (Phase 1 report) and the *Australian Defence Force* (Phase 2 report); the *2006 Ronalds' Inquiry into Sex Discrimination and Sexual Harassment in the NSW Police*, and the *2007 New Zealand Commission of Inquiry into Police Conduct*.

The Review has also made reference to work undertaken in other sectors and internationally, including police, the private and public sector and military organisations.

Legal context

There are a range of complementary obligations under the law which hold organisations responsible for the health and safety of their employees. The Equal Opportunity Act also requires that employers take proactive steps to eliminate sex discrimination and sexual harassment from occurring in the first place. The law reflects the growing recognition of the need to address the structural and systemic barriers to equality.

The Equal Opportunity Act contains definitions of sex discrimination, sexual harassment and victimisation.

What is discrimination?

Discrimination includes 'direct' or 'indirect' discrimination on the basis of 18 protected attributes (including sex, parental and carer status, pregnancy, breastfeeding, marital status and personal association with a person with one of the protected attributes).²⁰ Discrimination is unlawful when it happens in particular areas of public life including the workplace.

Direct discrimination is when a person treats, or proposes to treat, a person with a protected attributes unfavourably because of that attribute (s 8(1)).

Direct discrimination may occur because people make assumptions about what people with certain personal characteristics can and cannot do. It

²⁰ *Equal Opportunity Act 2010* (Vic) s 7(1).

can also be related to personal preference and prejudices. In determining whether a person directly discriminates, it is irrelevant whether or not the person is aware of the discrimination or considers the treatment to be unfavourable (s 8(2)(a)). It is also irrelevant whether or not the personal characteristic is the only or dominant reason for the treatment, provided that it is a substantial reason (s 8(2)(b)).

Indirect discrimination occurs when a person imposes, or proposes to impose, an unreasonable requirement, condition or practice that purports to treat everyone the same, but has (or is likely to have) the effect of disadvantaging persons with one of the 18 protected attributes (s 9(1)).

The person who imposes or proposes to impose the requirement, condition or practice has the burden of proving that the requirement, condition or practice is reasonable (s 9(2)–(3)).

For both direct and indirect discrimination, when determining whether or not a person is discriminating, that person's motive is irrelevant (s 10). It is also irrelevant whether a person discriminates by acting alone or in association with someone else, or whether the discrimination occurs through doing an act or failing to do an act (s 11).

Systemic discrimination: Discrimination can become systemic when entrenched in an organisation. Institutional patterns of behaviour or actions affect a range of people. These behaviours and actions can form part of organisational culture that may be reinforced by policies or procedures.

An example of systemic discrimination may be a policy that allows only employees who work a minimum of 40 hours per week to be eligible for promotion. This policy is likely to have a disproportionately negative impact on women, who on average, undertake more parental and carer responsibilities than men and who are consequently more likely than men to work less than 40 hours per week. Hence, the policy favours men in opportunities for promotion.

Some of these protected characteristics apply specifically to women (such as pregnancy and breastfeeding). Others apply to everyone. However, discrimination affects women more than men. Relevant characteristics for the purpose of the Review are:

Sex: in Victoria, it is against the law to discriminate against someone because of the person's sex.

Parental and carer status: it is against the law to discriminate against someone because of their actual or assumed parental or carer status or family responsibilities. 'Parental status' includes being a biological parent, step-parent, foster parent, adoptive parent or guardian. 'Carer status' refers to someone who has total or significant responsibility for the care and support of another person. The person needing care may be a child, a partner, a parent, a relative or a friend. Carer status does not apply to people who are paid to provide care and attention.

Under the Equal Opportunity Act, it is against the law for an employer to unreasonably refuse to accommodate an employee's responsibilities as a parent or carer in relation to their working arrangements. Failure to do so also amounts to discrimination under the Act.

If an employee genuinely thinks the employer has unreasonably refused their request, they are entitled to the same dispute resolution options as anyone else who feels they have been discriminated against.

The obligation to not unreasonably refuse requests to accommodate an employee's parental/carer responsibilities is not overridden by the right to request flexible working arrangements under section 65 the *Fair Work Act 2009* (Cth). The two provisions operate concurrently and employers must ensure they comply with both provisions, in considering requests by employees to change their working arrangements.²¹

Pregnancy and breastfeeding: it is against the law to discriminate against a woman because she is pregnant or might become pregnant or because she is breastfeeding or expressing milk.

Marital status: it is against the law to discriminate against someone because of the person's actual or assumed marital status. Marital status refers to whether or not someone is single, married, divorced, widowed, separated or a domestic partner. The term domestic partner covers all couples, irrespective of sex and sexual orientation.

²¹ *Fair Work Act 2009* (Cth) s 66.



The Equal Opportunity Act also provides that it is unlawful discrimination if an employer unreasonably refuses to accommodate the needs of parents and carers (ss 17, 19).

Workplace bullying based on your sex amounts to discrimination under the Equal Opportunity Act and so forms part of this Review.

What is sexual harassment?

Under the Equal Opportunity Act, sexual harassment is unwelcome sexual behaviour, which could reasonably be expected to make a person feel offended, humiliated or intimidated (s 92).

Sexual harassment can be physical, verbal or written. It can include:

- comments about a person’s private life or the way they look
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling or hugging
- sexually suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or objects
- repeated requests to go out on dates
- requests for sex
- sexually explicit emails, text messages or posts on social networking sites.

Sexual harassment is against the law and some types of sexual harassment can also be a criminal offence. A single incident is enough to constitute sexual harassment – it does not have to be a repeated incident. The intent of the harasser is not relevant.

Sexual harassment may also meet the definition of discrimination under the Equal Opportunity Act. This will depend on the circumstances in each case. For example, if a workplace culture is hostile to women, organisations may be open to claims of both sexual harassment and sex discrimination. This is because harassing conduct may result in a woman being subject to unfavourable treatment in employment.

The Positive Duty

Under the Equal Opportunity Act, employers must ‘act’, not just ‘react’. That is, employers have a positive duty to prevent sexual harassment in their workplace, not just respond to complaints if they arise. This requirement compels organisations to do all they can to prevent discrimination happening in the first place, rather than simply responding after a complaint has been made. As well as preventing individual claims of discrimination, this requirement aims to help address the systemic causes of discrimination, sexual harassment and victimisation.²²

Sexual harassment, sex discrimination and predatory sexual behaviour are driven by gender inequality and stereotypes about the roles and characteristics of men and women. A detailed discussion on the drivers of these behaviours can be found in Chapter 2.

Predatory behaviour is defined in this Review within the definition of sexual harassment. It is also defined more broadly as a misuse of authority or influence with the intention of exploiting others for sexual or other personal gratification.

What is victimisation?

Victimisation is subjecting someone to a detriment, or threatening to do so, because they spoke up about their rights, made a complaint, helped someone else to make a complaint about discrimination, or refused to do something that would be a contravention of the Equal Opportunity Act. Victimisation is against the law.²³

For example, one of your employees could claim victimisation if they are demoted, ostracised or denied a promotion because they made a complaint, even if they are not the person who was the direct victim or target of the discrimination.

²² *Equal Opportunity Act 2010* (Vic) s 15.

²³ *Equal Opportunity Act 2010* (Vic) ss 103–104.

Vicarious liability

Victoria Police is vicariously liable for sexual harassment, discrimination, and victimisation by its employees in the course of their employment unless it can prove that it took 'reasonable precautions' to prevent the sexual harassment, discrimination or victimisation from happening in the first place.²⁴

In practice, Victoria Police can be vicariously liable for sexual harassment, discrimination or victimisation:

- by its managers or supervisors; or
- by other employees where their managers or supervisors failed to take reasonable precautions to prevent the unlawful conduct.

Other relevant laws

Charter of Human Rights and Responsibilities

The Charter requires public authorities, including Victoria Police, to consider and protect human rights when they make decisions.²⁵

Public authorities have a legal obligation to act compatibly with human rights when they set policies and procedures, handle complaints, investigate crimes, and make decisions about whether or not to lay criminal charges against a person.

In making these decisions, Victoria Police has obligations to promote the rights of all employees. Relevant Charter rights comprise, for example, equality before the law, which includes the right to equal protection of the law; and freedom of expression, which includes the right to receive information.

Human rights are not the only consideration, but they are part of the decision-making framework that all public authorities must apply.

²⁴ *Equal Opportunity Act 2010* (Vic) ss 109–110.

²⁵ *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 38.

Occupational health and safety

Under the *Occupational Health and Safety Act 2004* (Vic), employers have a general duty to maintain a workplace that is safe and without risks to health as far as is reasonably practical. Employees also have a duty of care to ensure that they work in a manner that is not harmful to the health and safety of others. Evidence shows that where a person experiences unwanted sexual conduct in a work environment, it puts them at risk of physical and psychological harm, including depression and anxiety.²⁶ If an organisation has not met the positive duty to prevent sexual harassment, it may not be complying with its duty under the Occupational Health and Safety Act, and may be at risk of claims being made against it.

Federal laws

Sexual harassment in the workplace may also be against the law under the federal *Sex Discrimination Act 1984*. Sexual harassment is covered directly under the Sex Discrimination Act and can, in some circumstances, also fall within the definition of sex discrimination.

Employers also have a duty to comply with the federal Fair Work Act. The Fair Work Act deals with discrimination and prohibits any adverse action against employees and prospective employees on a number of grounds including race, sex (relevant where sexual harassment also constitutes sex discrimination), age, disability, pregnancy or parental status.

Contract or tort

Sexual harassment can also amount to a breach of the common law duty of care as an employer, or a breach of an implied term of mutual trust and confidence in a contract of employment. As such, an organisation could face claims of breach of contract or negligence.

Criminal law

Some types of sexual harassment are also offences under criminal law. This can include indecent exposure, stalking, sexual assault and obscene or threatening phone calls, letters, emails, text messages or postings on social networks.

²⁶ Joe Catanzariti, 'Discrimination Can be Costly' (2009) 47 *Law Society Journal*, 42.



International obligations

At the international level, Australia is a signatory to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The Preamble to the Convention states that discrimination against women:

*... violates the principle of the equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.*²⁷

The Convention recognises that discrimination not only has an impact on the ability of women to participate in equal terms with men in the workplace, but that the impact is far-reaching, affecting the lives and the health of women more broadly.

In 2009, the Optional Protocol to CEDAW came into force for Australia, allowing individuals to make a communication to the CEDAW Committee about a violation of rights protected under CEDAW provided there are no other ways to deal with the complaint at the domestic level. The Optional Protocol also enables the CEDAW Committee to investigate claims of serious or systematic violations of CEDAW through an inquiry.

Methodology

In order to understand the prevalence, impact and drivers of sex discrimination and sexual harassment within the organisation and to make recommendations to address these behaviours within the organisation, this Review utilised a mixed methods approach. The Review drew on literature and public policy relating to violence against women broadly rather than taking a purely compliance based approach. A variety of qualitative and quantitative data sources were subject to analysis and synthesis to

provide a robust evidence base for the findings and recommendations included in this report.

The methodology was assessed as complying with the National Statement on Ethical Conduct in Human Research (2007) by the Department of Justice Human Research Ethics Committee.

Principles underpinning the Review

Principles underpinning the Review include:

Safety and wellbeing-focused and victim-centric process

Due to the possibility of participation in the Review raising difficult issues for participants, all participants in the research were offered a range of opportunities for referral to Centres against Sexual Assault (CASA), Victoria Police Welfare Services and other support services. Interviews were conducted at a location of the participant's choosing, whether at a Victoria Police location, at the Commission's offices or at an independent location. All interview participants were asked to review and approve their notes in full, as well as any quotes used in context to ensure that they felt that the interviewer had accurately captured their experiences and perceptions and that they were not identifiable.

Confidentiality

In deciding whether or not to participate in the Review, many people were extremely concerned about confidentiality. The Review received many calls from prospective participants seeking to be involved but who were anxious about their involvement affecting their personal safety. It was incumbent upon the Review team to ensure that all participants could be guaranteed confidentiality. All notes were numbered and recorded without identifying information. Identifying information was kept separately to interview notes. Participants selected the process by which they would like to receive their notes for approval. All information relating to the Review was accessible only to the Review team with strict data security mechanisms in place.

²⁷ Convention on the Elimination of All Forms of Discrimination against Women, opened for signature on 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) Preamble.

Voluntary participation

Participation in all aspects of the Review was entirely voluntary. Where people did agree to be interviewed, they were offered opportunities to withdraw from the interview at any time. This included withdrawing part or all of their data at any stage up to publication of the report.

Comprehensive and inclusive approach

All Victoria Police personnel including police, public servants and protective services officers were invited to participate in the Review. A range of data collection mechanisms aimed to ensure flexibility for the workforce in terms of the manner in which they could participate. The Review was advertised through a range of internal and public media, encouraging participation by both the current workforce, including those on leave, former Victoria Police personnel, and supporters or families of those affected.

Governance

The Expert Panel

The Commission appointed an Expert Panel to provide advisory support to the Review. The Expert Panel is led by Commissioner Kate Jenkins, Victorian Equal Opportunity and Human Rights Commission and also includes:

Peter Marshall, former Commissioner of New Zealand Police

Professor Paula McDonald, Professor of Work and Organisation, Queensland University of Technology Business School

Major General Gerard Fogarty AO (retired), Chief Executive Officer of Defence Health Limited.

Steering Committee

The Review is supported by a Steering Committee, which has monitored progress over the life of the project to ensure accountability for the deliverables of the project. It will be responsible for managing risks identified through the Victoria Police organisational risk plan.

The Steering Committee comprises:

Victoria Police

- Former Deputy Commissioner Lucinda Nolan, Deputy Commissioner Wendy Steendam (from October 2015) – Co-chair
- Assistant Commissioner Stephen Leane/ Assistant Commissioner Luke Cornelius (from October 2015)
- Commander Shane Cole, Director Health Safety and Deployment, Human Resource Department
- Fiona Stubbs, Executive Advisor, Office of the Chief Commissioner
- Inspector Margaret Lewis, Staff Officer to Deputy Commissioner Lucinda Nolan.

Victorian Equal Opportunity and Human Rights Commission

- Catherine Dixon, Director, Victorian Equal Opportunity and Human Rights Commission – Co-chair
- Wendy Sanderson, Manager, Independent Review, Victorian Equal Opportunity and Human Rights Commission
- Tessa Van Duyn, Legal Manager, Victorian Equal Opportunity and Human Rights Commission.

A key factor for success was to ensure organisational ownership by Victoria Police of any findings and associated recommendations. The establishment of the project Steering Committee and regular meetings helped to ensure that this would be the case. It is anticipated that these meetings will continue throughout the three-year project implementation phase. At a practical level, the Steering Committee also shared relevant organisational information to facilitate the implementation of the project.

The Commission has responsibility for the methodology, content and release of information. No identifying information was or will be shared with the Steering Committee.

Data sources

The Review's communications strategy was inclusive and exhaustive to ensure the workforce could participate through a number of different mechanisms. It had high levels of engagement from the workforce. The findings and



recommendations in this report are based on an analysis of qualitative and quantitative data.

Quantitative data sources included:

- An online survey
- Victoria Police corporate data.

Qualitative data sources included:

- Confidential interviews with current and former personnel, and their supporters
- Confidential written submissions
- Interviews with internal and external individuals with expertise relevant to the Review terms of reference
- Site visits.

Survey

All current Victoria Police personnel, including police, protective services officers and public servants, were offered the opportunity to complete an online survey. The survey was hosted on the cloud based Survey Gizmo service.

The survey questions covered: demographics; prevalence and incidence of sexual harassment and predatory behaviour; the nature and impact of sexual harassment; experiences of reporting and responses to reports; attitudes towards gender-related issues in the workplace; and suggestions for changes to promote safety and respect.

A number of questions from the following surveys were included to enable comparative analyses:

- the 2012 Working without Fear: the Sexual Harassment National Telephone Survey, Australian Human Rights Commission (AHRC)
- the 2012 AHRC Sexual Harassment Prevalence Survey: Prevalence and nature of sexual harassment in the Australian Defence Force
- the 2013 VicHealth National Community Attitudes towards Violence against Women survey.

A technical report including the full survey is available online.

An invitation to participate in the online survey was emailed by the VEOHRC Commissioner to all current Victoria Police personnel. The email explained that the survey was for everyone, regardless of whether or not they

had experienced sex discrimination or sexual harassment. Because personnel on long-term leave cannot access their email, a letter about the survey was sent by the Acting Chief Commissioner to all these personnel encouraging them to participate.

The survey was open from 15 February 2015 to 20 April 2015.

The survey is likely to comprise the largest survey of workplace sexual harassment:

- ever conducted in the world, aside from United States military studies
- ever conducted in policing worldwide
- ever conducted in Australia, including those using military/defence samples. This includes the three Australian Human Rights Commission community surveys of sexual harassment, though these are large and representative enough to provide valuable comparisons in the Australian context.

The survey was started by participants a total of 5552 times. Examination of individual responses, disqualified 665 of these from the analysis. The majority of these were disqualified because the participant did not answer any items beyond the demographic questions. Two participants were disqualified due to 'nuisance responding'. This left a total of 4887 people with valid data who participated in the survey including 2898 men (59 per cent), 1851 women (38 per cent) and 138 people (3 per cent) who preferred not to disclose their gender.

Of the 4692 participants who disclosed their employee category, 71 per cent (3311) were police, 24 per cent (1123) public servants and 5 per cent (258) protective services officers. Compared to the overall Victoria Police workforce, police were under-represented in the sample (77 per cent of the Victoria Police workforce are police compared to 71 per cent of survey participants). Protective services officers were also slightly under-represented (7 per cent of the workforce compared to 5 per cent of survey participants) and public servants were over-represented (24 per cent of the workforce compared to 31 per cent of survey participants).

The survey did not use 'forced choice' programming which requires people to answer every question before they can move on to the next question, thus not all participants answered

all questions relevant to them. It should also be noted that many of the survey questions enabled respondents to select more than one response option for a question.

To help protect the identity of participants in reporting results, the Review followed Australian Bureau of Statistics guidelines for 'confidentialising' data. No summary statistics which contained fewer than five responses are displayed.

Confidential interviews

Current and former Victoria Police personnel were offered the opportunity to take part in a confidential interview by phone or in person by contacting the Commission via a dedicated telephone number or email address. The confidential email and phone lines were staffed between 7am and 7pm to enable people to call outside of standard work hours. Interviews were also available to family members or friends of those affected.

The interviews were conducted in a semi-structured format that allowed participants to discuss the issues most relevant to them in relation to the terms of reference of the Review. They were offered as telephone interviews, in person or via Skype. All interviews were attended by two staff from the Commission to enable one member to ask questions while the other took notes of the conversation.

Participants were given the opportunity to review the notes taken during their interview and provide general approval for the anonymous inclusion of their responses in the report. After writing the report, participants were given a second opportunity to see their comments in context and to make a decision as to whether they were happy with their inclusion. This was a necessary step as participants were often extremely concerned that their comments would be identifiable. It did, however, mean that ultimately not all interviews were approved for inclusion. It also meant that sometimes people made significant amendments to their interviews, including the submission of significant additional information as 'proof' of their experiences. This is likely to be a consequence of the evidentiary culture of a policing organisation. Of the 70 interviews undertaken as part of the Review, 62 individuals approved their quotes for inclusion.

Expert interviews

Interviews were conducted with Victoria Police employees, including members of Executive Command, Command and personnel from work areas that have a broad bearing on the areas of sex discrimination and sexual harassment. Some were identified via a 'snowball' technique where they were referred by other participants as having relevant expertise, knowledge or experience of organisational issues and processes relating to the terms of reference.

A number of people with relevant experience and knowledge from outside Victoria Police were also interviewed. A number of participants also agreed to talk off the record in which case their comments informed the Review but were not quoted.

These participants were interviewed using a semi-structured format to gain an understanding of the organisational context and environment, strategy, policy, best practice and areas requiring attention. All expert interviews were attended by two staff from the commission to enable one member to ask questions while the other took notes of the conversation.

69 interviews were conducted with quotes from 42 ultimately being approved for inclusion.

Written submissions

Although not initially advertised as a pathway to participation, nine current or former Victoria Police personnel who did not participate in a confidential interview sent in written submissions. These were typically individuals who had telephoned the confidential telephone line and sought to provide information to the Review but were concerned that participating in a confidential interview would jeopardise their anonymity.

Site visits

The Review team also undertook a range of observations through visits to 37 work sites. Discussions were held with staff at the work sites in order to gain a comprehensive understanding of the organisational context and operational environments and to ensure the applicability and relevance of any recommendations to the diverse work sites that comprise the Victoria Police workforce. The



Review team de-identified notes of participant observations on site visits and associated informal discussions with management and staff at the relevant worksites.

A summary of site visits is provided at Appendix 5.

Victoria Police corporate data

The Review also requested a range of internal data from Victoria Police to assist the Commission in undertaking the Review. This included workforce data which captured recruitment, retention and advancement statistics. It also included complaints and incident data from the Human Resource Department and Professional Standards Command databases, including de-identified complaints, investigations and assessments. Victoria Police data was not always available or only available in a format that would have potentially informed the Review. Available data has been used where relevant.

Victoria Police policies and guidelines

In addition, Victoria Police provided the Review with a range of policy, governance and planning documentation as well as guidelines and standard operating procedures from specific work areas. These included the *Victoria Police Manual*, organisational and business unit plans, current and previous Enterprise Bargaining Agreements, reviews of areas of policing and a range of other materials.

Data analysis

Qualitative

Analysis was undertaken in several stages. First, following the completion of data collection, a broad coding framework was developed by the Review Team, in consultation with the Expert Panel, on the basis of key themes emerging from the data; the collective knowledge of the Review Team and the Expert Panel about relevant organisational structures and processes in Victoria Police; and consideration of the international evidence base related to

sex discrimination and sexual harassment in the workplace.

Second, interview, observational and documentary data were coded according to the thematic structure of the coding framework. As the details of the findings became more clearly evident, iterative adjustments were made to the framework in order to minimise conflation and overlap between thematic areas.

Quantitative

Survey results were analysed using Survey Gizmo; Excel and SPSS. Questions with 'other' response options were recoded into existing or new categories. Responses were subject to frequency analysis to examine proportions of responses in the whole sample or subsets of the sample. Responses to most questions were examined by gender, while others were examined by employee group (police, public servant, PSO) or sexual orientation. Where questions from other surveys had been used, results were compared in order to identify whether there were differences in the Victoria Police sample.

Other quantitative data such as Victoria Police workforce data were also subject to frequency analysis by gender and other variables.

Synthesis

Qualitative and quantitative findings related to each theme were summarised and refined for presentation in discrete chapters for the final report. Policy and response recommendations presented in the report were developed from the evidence collected during the Review and are supported, where relevant, by key studies in the field. Some reference is also made to other organisations demonstrating relevant organisational practices.



Chapter 2

Drivers of sex discrimination and sexual harassment in Victoria Police

Main findings

- Victoria Police employees have wide ranging views about gender inequality in their workplace, with many believing the workplace has improved over time.
- Victoria Police employees' understanding about what was valued as being 'good police' closely mirror gender-related social norms such as toughness, resilience, strength, sexual assertiveness and being a 'good bloke'.
- Homophobia and sexuality-based hostility is widespread.
- There was a double standard for women employees. They were regarded as less competent, felt the need to 'prove themselves' and were perceived as less committed to their careers because of caring responsibilities and requests for flexible work arrangements.
- Women adopted a range of strategies to fit into workplace norms and expectations of how to conduct themselves in the workplace.
- Victim-blaming attitudes were widely held about women who experienced or reported sexual harassment.
- For police members, policing is a life-long career which creates longstanding relationships with colleagues. This has positive and negative implications for professional boundaries, insular workplaces and workplaces that implicitly and explicitly differentiate employees on the basis of their employment type, police, public service, protective services officers (PSOs) and on the type of work they do.

Introduction

Historically, Australian organisational responses to sexual harassment and sex discrimination, and initiatives to improve gender equity have been based on legislative and compensation requirements set out in the Equal Opportunity legislation. These responses have been progressed without considering the principles that underpin this legislation more broadly, including a need to proactively address the drivers of discrimination and systemic inequality.

In short, laws have required organisations to show they have taken reasonable precautions, over time, demonstrated through the development and implementation of policy, training and complaint processes. However, these initiatives have not been successful in achieving gender equity.

The Review notes that these approaches were not derived from an understanding of the drivers of sexual harassment and sex discrimination. Experience of the sectors engaged with the issue of violence against women, which acknowledge the drivers of systemic inequality and harm, provide effective lessons and evidence on action needed to reduce sexual harassment and sex discrimination.

Addressing practices, processes and workplace behaviours is the area in which Victoria Police has the most direct influence to address and prevent sexual harassment and sex discrimination. To do so, understanding the causes of those behaviours is imperative.



This understanding of prevention of violence against women has been the premise of work and advocacy of successive Chief Commissioners in seeking respectful and equitable relationships between men and women in the community as a means to end family violence and sexual assault.

While not all attitudes and behaviours addressed in this Review will be understood as violence against women, many forms of sexual harassment described to the Review are just that. Violence against women covers a range of behaviours that may be criminal or non-criminal

in nature, from sexual or physical assault to psychological, social and economic harm.

The nature and prevalence of sex discrimination and sexual harassment in Victoria Police are set out in Chapter 3.

Taking a rights-based approach, all forms of violence against women can be understood as ‘a form of discrimination that seriously violates and impairs or nullifies the enjoyment by women and girls of all human rights and fundamental freedoms.’²⁸

Attitudes matter

Gender inequality is reflected and supported in multiple ways including through commonly held community assumptions and implicit and explicit rules or expectations about the ‘way we do things’ (norms) that include:

- **gender identity norms** or commonly held ideas about the attributes and behaviours expected of men and women and the value given to them. An example of this is that men are logical and women are emotionally driven.
- **gender role norms** or commonly held ideas about the roles of women and men in public and private life, such as women as primary carers and men as breadwinners or men being better suited to physical tasks and women more suited to caring tasks.
- how men interact with other men (such as the ‘brotherhood’ or ‘boys club’); how women interact with other women and how they interact with each other in public and private life (Victoria Police ‘blue family’).

Attitudes that support gender inequality are reinforced and perpetuated through:

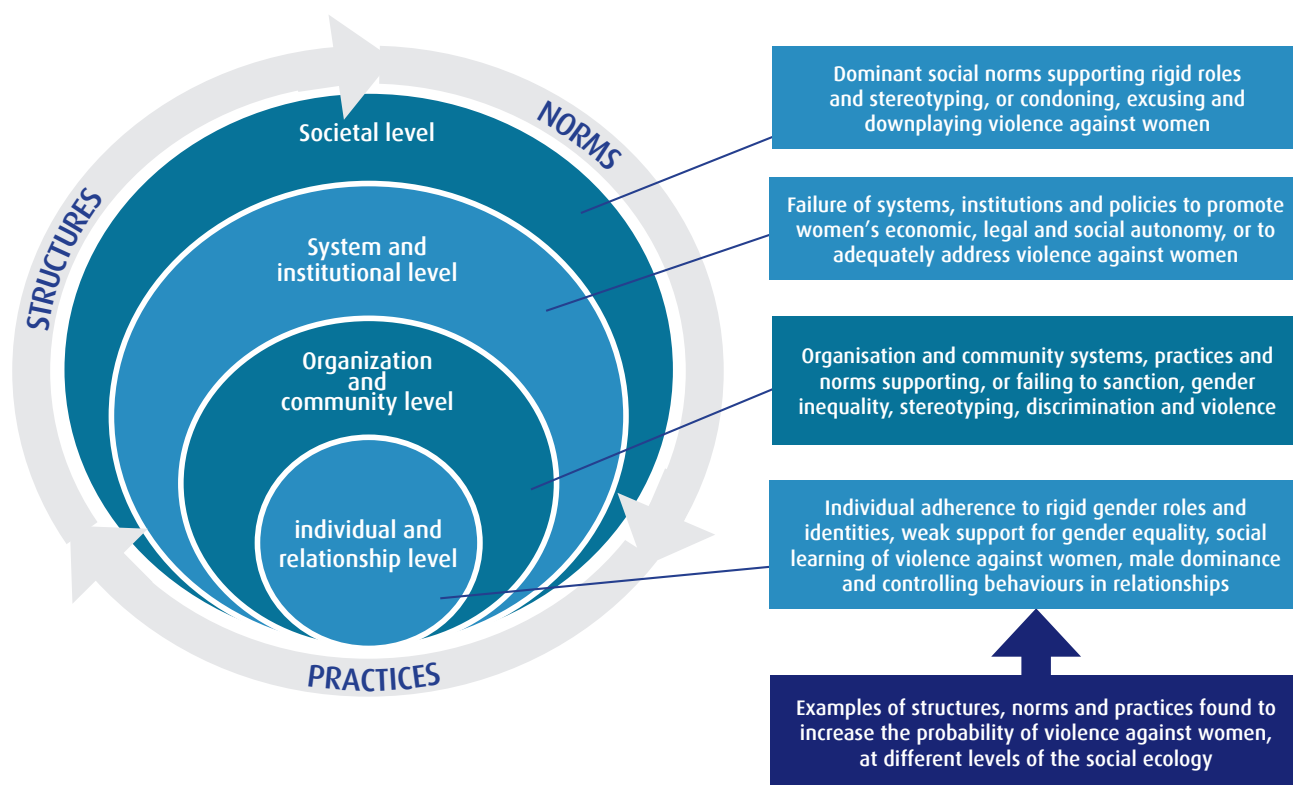
- enabling structures that promote the unequal share of economic, social and political power and resources between men and women and political, government, legislative and policy mechanisms that reinforce this inequality.
- enabling practices, processes and behaviours at individual, organisational, social and cultural levels that reflect and reinforce gender inequality.

Recent research has found that there is a gap between contemporary evidence about the drivers of violence against women, and community understanding of the issue.²⁹ In the context of Victoria Police, this Review examines the structural and external contextual factors as well as organisational policies, processes and practices to understand the extent to which they have enabled, left unchallenged or supported gender inequality as the key driver of sex discrimination and sexual harassment in Victoria Police.

²⁸ United Nations Commission on the Status of Women, *Report on the fifty-seventh session (4–15 March 2013)* UN ESCOR, Supp No 7, UN Doc E/2013/27-E/CN.6/2013/11, 2.

²⁹ VicHealth, *Australians’ attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS)* (2014).

Figure 1: Safety through equality and respect: A shared framework for the primary prevention of violence against women and their children in Australia (2015)



Attitudes about women and men in Victoria Police

Victoria Police employees do not live in a vacuum. They are individuals and community members as well as employees, whose attitudes reflect and inform broader community and societal attitudes about the identity, roles and assumptions and expectations about how men and women should be, what they should do and how they should interact.

Throughout the Review, police employees communicated their attitudes and perceptions about women and men's gender identity, their roles in the workplace and interactions among and between women and men. Many police employees shared with the Review their

perceptions and concerns about gender (in) equitable attitudes and practices and the urgent need to address these attitudes.

There are plenty of good men who just don't see it – they don't see how that behaviour affects women. Sometimes they realise when you point it out. They would never lay a hand on a woman but they don't see the continuum. Then you get some who are violent and controlling straight out. I think some unfortunate community attitudes can be reflected in the organisation. There are some poor attitudes to women (former executive).

Others told us that they did not think that gender was a 'problem' for them or one that they had observed through their policing career to date.

Some interviewees suggested that where sexual harassment or sex discrimination had occurred, it had been isolated – 'a few bad eggs' – or a reflection on individuals rather than a systemic issue.



Gender inequality and other forms of discrimination

There was broad recognition by Victoria Police employees of the lack of diversity within Victoria Police, both with regard to sex and other attributes named by employees including sexuality, race and ethnicity.

The organisation has been very Anglo-Saxon and male dominated (male interviewee).

Sex discrimination and sexual harassment can affect people of all gender and sexual identities. Men and women's identities are also shaped by other identities, circumstances and contexts, including their sexuality, race, religion, ability, economic status, immigration status and so on.

... in other areas of Victoria Police there is sexual, racial discrimination and religious vilification as well, I think they're all hand-in-hand (are present) in a lot of respects (male interviewee).

The evidence for the new National Framework to Prevent Violence against Women, provides a useful way of understanding the intersection between women and men's experience of sexual harassment and sex discrimination.

The research acknowledges that inequality between men and women will persist until all forms of sex, gender and sexuality hostility and discrimination are eliminated, including homophobia, transphobia and hostility and discrimination towards intersex people.³⁰

Perceptions of changed workplace attitudes to women

There is broad agreement, expressed through a mix of relief and that the culture in Victoria Police has changed.

Compared to those attitudes back to the 1970s, things have changed significantly in a relatively short period of time. In the 1970s, people would have a cigarette and a drink before going home. It's changed for the better in most ways. The good old days weren't so good (male interviewee).

Then you get to policewomen two generations ago. They were in a dangerous, alpha male business. They had to be tougher, louder, swear more and they couldn't cry (external expert).

While it is widely acknowledged that Victoria Police had improved in terms of numbers of women in some areas over the past decade, attitudes and behaviours that persist within Victoria Police are at odds with its commitment to provide a safe workplace.

The shit flows down hill. We have a crap upper management. It has a boy's club. The sergeants are a boy's club (female interviewee).

It's about respect for women; it really is a football club mentality. I see guys who stick together really closely (male interviewee).

As in the wider community, there are a broad range of views held by men and women in Victoria Police about the need to address sex discrimination and sexual harassment and the norms that inform those behaviours. This reflects widely differing experiences and perceptions of sex discrimination and sexual harassment in the Victoria Police workplace.

However, In Victoria Police, as in the wider community, sex discrimination and sexual harassment are predominantly experienced by women and perpetrated by men.

³⁰ OurWatch, VicHealth and Australia's National Research Organisation for Women's Safety (ANROWS), *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (November 2015) <<http://www.ourwatch.org.au/getmedia/1462998c-c32b-4772-ad02-cbf359e0d8e6/Change-the-story-framework-prevent-violence-women-children.pdf.aspx>>.

Attitudes towards gender equality

While many police employees characterised views of gender inequitable attitudes as being of a previous generation, sometimes referred to as ‘dinosaurs’ or ‘crusties’, recent research on community attitudes suggests that these views are not confined to older generations.

Recent research found that young people in Australia demonstrate lower levels of understanding of violence against women, are less likely to reject violence-supportive attitudes and have a lower level of support for gender equality than older Australians.³¹

At the same time, older people are more likely to hold violence-supportive attitudes, are less likely to have a high level of support for gender equality, and are less knowledgeable about violence against women.³²

Generational change is not sufficient to resolve the issue within Victoria Police.

These dinosaur attitudes will have to just die out in the current system. They will eventually, but I'm concerned about who will replace them (female interviewee).

Unfortunately some of these issues are embedded in the community we serve. Things are improving, which is positive (male survey participant).

Evidence generated by this Review, including the prevalence of sexual harassment at all ranks, suggests that experiences and attitudes that enable and support sexual harassment are consistent with wider community attitudes and are held at all levels of seniority within Victoria Police.

I looked around and thought, what is my part in this? What allows these things to happen in the workplace? What creates a culture where women are targeted? This needs to happen for everyone in leadership (executive interviewee).

Addressing attitudes about women’s identities, roles and interactions in the workplace at all

31 VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS)* (2014) 15.

32 Ibid 18.

management levels is imperative for culture change to be achieved.³³

Victoria Police and policing identity

Police and the nature of police work



‘Being a police officer is not what I do, it is who I am’, was the constant theme running through my head and to that end, I swore an Oath of Allegiance to uphold what was right, without favour or affection, malice or ill will. In my thinking, determining what was ‘right’ was part of my job as a sworn Constable of a legislated Constabulary. In many ways, it still is (FEMALE INTERVIEWEE).

With the exception of police trained in other states, there is currently no opportunity for people to join Victoria Police as a sworn police member, other than as a recruit. Those who join Victoria Police through the Academy early in their careers effectively grow up together and maintain longstanding relationships with each other and Victoria Police as an organisation.

For police, many identified strongly and personally with being a police member. There was a widely held view that the unique nature of operational policing, being the final point of call for community members, and being routinely exposed to traumatic incidents, meant that it was other police members who were best placed to understand each other’s work and experience.

Policing is a hard job, it is life threatening. There are elements that create an environment that opens things up for relationships. Often members are in situations together for long periods of time (e.g. in the van for eight hours), in addition to the element of danger (male interviewee).

33 Ibid.

It takes a certain type of person to do this work. I love this organisation. I love the community and 'can do' attitude. It gets in your blood. It does provide significant opportunities to do good, but also evil (executive interviewee).

The Academy is amazing, it's the best experience you can have. But it's recognised that if you go into the Academy in a relationship you won't come out with one. That's not always a bad thing – there is something substantial and life changing about the Academy that can really open your eyes about what is important to you in life. In the Academy, you're a family, a squad, and there is something quite beautiful and unifying about that (female interviewee).

This has implications for how external expertise and perspectives are valued by police, how PSO and public servants contributions are valued, as well as help seeking behaviour and resilience which are addressed below.

It was noted that the reputations, relationships and loyalties established early in a police member's career stayed with them throughout their career. Throughout Victoria, police referred to their colleagues as 'a family'. Belonging or being part of a team had significant personal and professional value for police employees.

Many police employees, at all ranks and levels, told the Review that their experience of working in Victoria Police was one of collegiality and support. They had experienced being part of teams that had high levels of dedication to good policing practice and worked alongside professional colleagues who were committed to building a safe and equitable workplace.

However, the Review team heard from a significant number of police members where individuals had been excluded, ostracised, shamed and physically and emotionally abused for not fitting in and for reporting sexual harassment, unprofessional workplace conduct and sex discrimination. In some cases, the viciousness, discretion and workplace tolerance for people's exclusion was extreme.

I lost a good friend who committed suicide from the way he was treated in that workplace. Men and women were discriminated against. If you didn't

conform to corrupt behaviours, you were ostracised. He was a lovely person, a guy everyone liked, but when they turned on him, he suffered depression and committed suicide (executive interviewee).

These issues can't be dealt with in-house. The 'closed ranks' is entrenched. And it would be hard to break it (female interviewee).

One interviewee who was abused by colleagues told the Review:

I should be able to trust these people; we are supposed to be family (female interviewee).

At the same time, members were expected to show loyalty, even to colleagues who had demonstrated a lack of loyalty through their harassing and discriminatory behaviour.

The crux of it is that the culture in the organisation is that of teamwork and people sticking together – when someone steps in or says something it is seen as disloyalty. Whatever process is put in place, culture will overwhelm it. Nothing will change until we see cultural change and have an obligation for every person to change (executive interviewee).

Insularity

Many Victoria Police employees told the Review of the insular nature of the workforce and the perception that sworn members regarded themselves as, and indeed were treated as, 'special' in comparison with public servants and PSOs. This was in part driven by the unique nature of the work police undertook.

Sworn members who had worked outside the organisation noted that there was little value placed on the relevance of outside expertise and knowledge in the context of their policing work. Many people told the Review that 'police only listen to police', particularly in the context of training and learning opportunities.

Coppers have lack of trust. They say 'what would you know, you don't work in policing?' But people business is people business (female interviewee).

After you have done ten years here, you will have seen people behave badly and not done anything about it. You will have formed a network, which will have its own cultural norms. After ten years, I suspect you are stuck with these behaviours and networks. It could be difficult to shift. In the public service, career movement is more frequent and culture is less consistent – and changes more rapidly reflect changing social norms (executive interviewee).

Personal and professional spheres

Many police members told the Review of their perceptions of the blurred distinction between their professional and personal lives as an aspect of police identity and work.

Reports of improvements in recent years about the nature of workplace socialising were common. While the Review heard that alcohol featured less in out of hours socialising than it had previously, it was still commonplace and seen by many as an 'outlet' or way of coping with the rigours of day to day policing work.

For many police, particularly those working in rural and regional areas, socialising with colleagues was an important aspect of their police and personal life. For those who did not want to participate in out of hours socialising, or could not do so because of caring responsibilities, there was a risk of being excluded.

We [lesbian police women] are often referred to as a group, not as individuals. When I moved stations, another member referred to a colleague as "Oh, that other lesbian" (female interviewee).

In the country, I struggled to belong. If you didn't go out drinking and be one of the boys, you were segregated (female interviewee).

The Review heard repeatedly about the number and nature of sexual and intimate relationships between police members in both positive and negative terms. Many have suggested that the unique nature of work which requires long hours in close proximity, often in a police car,

and the role of alcohol and shared experiences, provides a basis for sexual relationships.

But if you think about it, you can go through more life-changing things in one shift than you can in a whole marriage of more than ten years. That creates a unique type of intimacy (female interviewee).

Some of these relationships are the beginning of long term committed partnerships. Others are less enduring. Engagement in serial and/or concurrent relationships in the workplace was suggested to the Review as being potentially problematic for individuals and the workplace more broadly.

There are environments that predominantly have a high male staffing ratio. In these environments, there are excuses provided for particular behaviours. We work hard, we go out for drinks, and if you happen to sleep with someone, it's because of the stress. I don't agree with this attitude. It's the conditioning of an organisation that sits in a period gone (senior manager).

There are parameters about social occasions and alcohol that I think our organisation is still not very good at dealing with. I know of a [manager] who was concerned that an incoming senior member was coming to his division, and that this senior member was having an affair with a lower ranked member. The [manager] was very concerned about this. He is one of the few who said he would have to have a conversation with someone of a more senior rank to him. Most wouldn't do this ... The week after this conversation the senior and junior member were observed kissing openly at a work function. The [manager] went back and tore shreds off the senior member. That situation is unusual. You get a difference in rank and that has a lot of influence (female interviewee).

The Review also heard how there was no shared understanding of what the professional boundaries of these relationships are or how to manage potential conflicts of interest where



employees have sexual relationships with colleagues. This also applies where married couples are employed in the same workplace, which is not uncommon, particularly in rural and regional police stations.

Often it is very hard for them to separate their personal and professional lives and that can cause conflict and inappropriate behaviours (senior manager).

I am aware of many circumstances in which members working so closely together have developed inappropriate (though consensual) relationships that have resulted in family breakdowns. Family breakdowns whilst in every corner of society are at a greater risk for Victoria Police members due to the nature of shift work which impacts on family time, which is an unavoidable part of the role, but more so in the work place relationships that can spring up through that related opportunity (female survey participant).

Being a police man

Attitudes and identity as police members closely mirror gender-related social norms such as toughness, resilience, and strength that are commonly held notions of what it is to be a man.

Attributes of logic, toughness, and invulnerability, of being able to manage one's emotions, being objective and able to settle disputes through strength are commonly held or normative constructions about masculinity. This was widely shared by or reflected on by police employees participating in the Review.

You can overcome it, but men and women on the street look macho in their gear, which may attract a particular type of macho male. It may also portray a particular image to the community, and deter applicants who want to join for other reasons ... We have to be careful about portrayal. I need to keep saying it, we need to keep the whole community safe. We need tolerance, respect and we need to be policing for everyone. We don't want to create unnecessary victims (executive interviewee).

Regardless of any other workplace standards or policies, '... but can they face an angry man?' has been the deciding factor in hypothesising about a person's ability to be a police officer. From Constable to Chief Commissioner the expression is widely utilised and universally understood (female interviewee).

In particular, these views are associated with notions of heterosexual masculinity. These ideas of masculinity are not universally held by all Victoria Police employees but they are acknowledged as the dominant set of norms by men and women alike. These were also the characteristics thought to be those of a 'good' police member, and are those associated across Australian society about what it is to be a man.³⁴

Resilience

The Review heard that police members are expected to be strong and 'unemotional' in traumatic or dangerous situations and able to cope with the impact of day to day policing experiences without needing or seeking support.

Many police members spoke of this form of resilience as critical to their own capacity to operate effectively. For many, there was also an implicit expectation that their colleagues would have this form of resilience and be able to continue working without being traumatised by tragic or frightening incidents that were part of everyday police work.

The bosses stuck their heads in the sand – they didn't want to deal with it. They expected you to be the same. The years go by and you're not the same, and they look at you like you're stupid (female interviewee).

Closely connected to the expectation that the rigours of policing must be weathered, there was a widespread perception among sworn police members that poor workplace behaviours and mistreatment by their colleagues or managers should be withstood.

³⁴ Rachel Jewkes, Michael Flood and James Lang, 'From work with men and boys to changes of social norms and reduction of inequities in gender relations: A conceptual shift in prevention of violence against women and girls' (2015) 385(9977) *The Lancet* 1580-1589.

... police members are supposed to be a lot more resilient and harder about these things, so you're expected to just take a joke at work, but this is your workplace, a line needs to be drawn about what you can be expected to be resilient about (male interviewee).

The Review spoke to many police employees at all ranks and in all parts of Victoria Police who had experienced or witnessed colleagues being reticent to report or seek support for their experience of sexual harassment, predatory sexual behaviour or sex discrimination, as they did not want to be perceived as 'weak'. This reluctance to raise inappropriate workplace behaviours and the harm it creates is detailed further in Chapters 11 and 12.

Many police members discussed the stigma associated with accessing support services.

Throughout the Review, there was a consistent theme that being a victim of sexual harassment, predatory behaviour or sex discrimination was inconsistent with their identity as a police member. There was an implicit and explicit assumption that police protected victims, and therefore should not be victims themselves.

As a police officer, you are told you are not the victim. If you speak out, there is an unspoken rule that you shouldn't speak out ... It was basically up to me as a victim to handle the situation and if I could not manage it that it was my fault (female interviewee).

Importantly, these norms of masculinity were seen as the characteristics needed to be a good police officer and were entrenched in understandings of performance, progression and the place of men and women in the organisation.

Research categorises attitudes that are violence supporting as those that:

- justify violence against women
- excuse violence by attributing it to external factors
- trivialise the impact of violence, based on the view that the impacts of violence are not serious or are not sufficiently serious to warrant action by women themselves, the community or public agencies
- minimise violence by denying its seriousness, denying that it occurs or denying that certain behaviours are indeed violence at all
- shift blame for the violence from the perpetrator to the victim or hold women at least partially responsible for their victimisation or for preventing victimisation.

This does not mean that people who hold violence-supportive attitudes are themselves necessarily 'violence-prone' or would openly condone violence. However, as discussed below, such views expressed by influential individuals or held by a substantial number of people can create a culture in which violence is at best not clearly condemned and at worst condoned or encouraged.³⁵

³⁵ VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) (2014)* 37.

Violence, or the threat of violence, may be used to re-establish the perceived natural 'gender order', with men's violence towards women often occurring and more likely to be supported in circumstances where women have, or are perceived to have breached, socially defined feminine roles.³⁶

Adherence to 'masculine' role modelling, included a need for men to be aggressive and competitive.

[It came from] Instructors as well as the young guys. Some of the older guys really tried to defend us from the young guys. The instructor, one in particular ... He was a vicious piece of work ... He would pick on physically strong young men to take them down, to prove how tough he was. He used to injure them ... He was a law unto himself (female interviewee).

It also required that men are seen as strong, decisive and sexually confident or assertive.

He says, 'You think I'm a predator, don't you?' He thought he was a hero (male interviewee).

Male promiscuity is tolerated and often celebrated in Victoria Police workplaces. The Review often heard of employee's perceptions that reflected the persistence of attitudes and behaviours that value men's sexual prowess such as having multiple sexual partners in the workplace as well as outside of it.

There is a code of ethics, but we don't refer to it and are not held to account to it unless the behaviour is really, really bad. I hear about lots of relationships or cheating on their partners with other members, especially by male detectives. There are more male detectives and it's a more male-dominated domain (female interviewee).

³⁵ VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) (2014) 37.*

³⁶ Dennis Reidy et al (2009) cited in VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) (2014) 35.*

If you have sex with anyone in the police force, then everyone knows about it. It's impossible to keep it private, because inevitably the men will talk about it. They're often compelled to by the social reward they receive when they gloat about it to a male colleague. I have never met a worse bunch of gossips in my life (female interviewee).

The Review notes that there is significant divergence in the attitudes of Victoria Police employees about the types of attitudes and behaviours men should show to demonstrate their manliness. The Review heard from many police men who did not fit the norm. For many men in Victoria Police, the prevailing gender norm for men is uncomfortable at best.

The jokes and comments were not directed towards me, they were directed towards members of the public who could not hear. These made me feel uncomfortable [and were] ... mainly focused around female members of the public (male survey participant).

Many Victoria Police employees have taken personal and professional responsibility to challenge those norms and demonstrate and acknowledge the diversity of men within Victoria Police.

“ The day of the male jock who is everyone's mate and who sees sex as being a social conquest needs to be isolated and driven out of our culture. We need to see this behaviour as what it actually is and to educate all members that the current climate and culture is not acceptable (MALE SURVEY PARTICIPANT). ”

Homophobia

Where men are perceived to differ from this normative construction of masculinity, the Review heard that men experienced, or were

seen to experience hostility, harassment and discrimination.

A large number of male employees told the Review of their observations and experiences of homophobia in their workplaces among Victoria Police employees, which they attributed to their actual or perceived homosexuality or deviation from the male gender norms.

Joining Victoria Police as a gay male, I have been subjected to copious amounts of harassment and abuse, starting at the academy whilst a recruit. Whilst homosexuality is more accepted (whilst still not completely accepted) at present, it's the worst in any organisation I've ever worked in (male survey participant).

I have seen men treated this way where they are not considered 'tough' enough – not masculine enough (former executive).

Minimising or excusing men's behaviour and responsibility

For many, perceptions of being a 'good cop' or a 'good bloke' appeared to provide men with 'immunity' for their inappropriate sexual behaviour in the workplace.

The Review heard repeatedly that police members had explicitly or implicitly minimised the responsibility of individual men who choose to sexually harass or otherwise sexually exploit women in their workplaces.

[The Inspector] basically said that the [alleged perpetrator] was more important than me, due to his expertise ... [and] apparently the 'issue' didn't exist because a formal complaint was never made (female interviewee).

There is still an attitude that "he mucked up on the drink, she should have cut him some slack." People would have thought I was trying to bring him down (female interviewee).

Across Victoria Police, there were wide ranging attitudes about the extent to which sex discrimination and sexual harassment were problems. They ranged from being outside

an individual employee's awareness to strong understandings of the relationship between gender equality and these forms of behaviour.

I'm an old dinosaur! I may say things that I don't realise are not right (male interviewee).

A comment I heard about this Review pretty much sums everything up: "I just disagree with the statement that it's a big problem here, none of the issues raised with me have really disturbed me to any level". This is a classic example of a failure/inability to connect with what is going on by senior managers. Very few sworn members and managers have any work experience outside of Policing. The result of this is they have no real concept of what is and isn't acceptable in a more 'normal' workplace (female survey participant).

Some men regarded the issue of sexual harassment, predatory behaviour and sex discrimination as a joke.

Most disappointed I have never been harassed (male survey participant).

Being a police woman

Qualities typically associated with women (or normative constructions of femininity) include compassion, empathy, subjectivity, passivity, submissiveness and weakness. These attributes are framed negatively and are regarded by many as unsuitable attributes for effective police members. Women also told the Review they that they are regarded as less competent, that they need to 'prove themselves' and that they are less committed to their careers because of caring responsibilities and requests for flexible work arrangements.



What I have recently come to realise is in the early years of my career and training, I learnt how to be a police officer, but as I grew in rank and confidence I actually learnt how to be a police woman and there is a very big difference.

Women need to be proud and strong about the difference they bring to the organisation; different thinking, different problem-solving and a different way of interacting with both peers and the community. I think this causes uncertainty and challenges in how to respond to situations for a lot of women throughout their career, I know it challenged me! (FEMALE INTERVIEWEE)

The Review amassed considerable evidence that reflected the attitudes of male and female employees held about women in Victoria Police and the strategies women adopted to operate within the dominant heterosexual norm in local workplaces. The Review notes that there was resignation from many women that dominant men held sway and that while this was frustrating, it could be managed but was impossible to shift.

[My] team ...is mostly female. I'm careful about the meetings I send my team to if I'm not there. They are strong women but their treatment can be appalling. It can be dismissive and rude. I assume it is because the men think they out-rank them. When I'm in the meeting it's different because I out-rank the same men (executive interviewee).

In the country, I struggled to belong. If you didn't go out drinking and be one of the boys, you were segregated (female interviewee).

In addition to objective performance measures, women are expected to embody resilience, mental and emotional toughness and to 'keep their emotions in check', not only in the course of policing, but also in response to unprofessional and inappropriate workplace behaviours directed towards or about them as individuals and women.

Women are far from being treated equally in Victoria Police and if you are a victim then it's up to you to cope (female interviewee).

Reputation

As many Victoria Police employees remain in Victoria Police for much of their career, they develop long and widely known 'reputations'.

You can walk away and start somewhere else if you fail – but in VicPol your baggage stays with you. It is amazing how news travels. It has been said that "the definition here of keeping something confidential is telling only one person at a time" (Executive interview).

The reputations of women and men differ significantly. The Review heard that the nature of gossip about women in the workplace reflected attitudes that damaged women's reputations with regard to unfair gender norms, unfair assessments of their work performance, double standards about sex, or victim blaming.

Does a person's sexual reputation following consensual sex have a different impact [on male and female police members]? Completely different. For men there's a high five, and for women they're a slut. There is no reprisal for men, but there are significant reprisals for women (female interviewee).

Work performance

Some people told the Review that there were different measures of work performance required of women and men. Many women and men told the Review that there was a double-edged sword for women to be promoted within the organisation. Women had to work harder and perform better to be considered for upgrading and promotion opportunities.

I am seeing men promoted and very good women with much more background in the work not hired because the supervisors of teams are more comfortable with men. Most of the women are smarter and it's hard not to think the guys are threatened by that (female survey participant).

I was friends with one of the Sergeants who made the decision so I asked why she had missed out. He said it

was because he was the best person for the opportunity but when he went on to explain why she didn't get the opportunity, the judgements and criticisms were about her personally, rather than her professionally (female interviewee).

On the other hand, women who were successful or had attained seniority were often referred to as 'like blokes', the 'lesbian mafia' or having 'slept their way to the top'.

It's hard enough for a woman in this job but as soon as equity issues are raised, women are branded lesbian or feminists (senior manager).

Women as sexual objects

Women were commonly objectified by men as potential sexual partners and their status was dependent on how they 'managed their reputation' and interacted with male colleagues throughout their career.

It's entitlement. There is no better word to describe policeman. It's like they think "I'll claim her, even if I can't have sex with her, I will still own her." Women are sexually objectified; their value reduced to their potential as a sexual conquest (female interviewee).

In this context, victim blaming attitudes are those that partially or fully blame victims for their experience of sexual harassment, predatory behaviour or sex discrimination.

In the past, other females had spoken out and said that had happened to them. I heard there was a girl who had been there before I arrived, and she was labelled a slut (female interviewee).

It must impact on the work. How can you keep embedded attitudes separate? But I think they're cluey enough to know that some things shouldn't be said. Recently, I had a conversation with a staff member about rape complaints. He started saying women make false reports of rape. Notwithstanding the evidence, I was finding it hard to get through to him. I

said to him as a member of this team, you can't say these things. He backed off (female interviewee).

The Review heard of many and varied victim blaming attitudes. Most commonly, these were that the victim:

- invited the behaviour because they were sexy or promiscuous

They don't get violence against women – they don't get the gender analysis, the violence, and the impact. They don't think it's their job – they just get the bad guy. They often say 'she's a frequent flyer', 'it's a false report', and 'she's having us on' (female interviewee).

He told me he sees the girls ... flaunting themselves, and that these young men think with their dicks, so what do the girls expect. I told him it was never an invitation to be sexually assaulted. He became more aggressive with his body language and the way he spoke. I was quite concerned and disturbed (female interviewee).

- was drunk or socialising inappropriately

And then I would hear things like – people joke about it all the time – 'get them drunk, it's not rape then' (female interviewee).

Many Australians shift the blame to victims – with one in five agreeing that a woman is partly responsible for rape if she is intoxicated.³⁷

- was a 'trouble maker'
- should have done something about it and didn't stop other women from being harassed or inappropriately pursued by a colleague.

[I feel] Angry and ashamed as people may think I actually let him get away with trying to hit on me because I hadn't made a complaint (female survey participant).

³⁷ VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) (2014) 64.*

The male senior sergeant when he was told apparently said make sure they clearly say 'fuck off'. Once again, victim blaming (female interviewee).

These attitudes were widely held and informed many police employees' perceptions about women who had raised sexual harassment or sex discrimination as issues in their workplace. They also informed women's decisions not to report and incur reputational damage, as discussed in Chapter 12. Many police women told us that they 'didn't want to be that woman', that they would seek a transfer away from the perpetrator or workplace that was victimising them rather than report their experience.

These victim-blaming views are consistent with those in the wider community. The National Community Attitudes Survey found that up to one in five people think there are circumstances in which women bear some responsibility for violence.

I've heard too many men in org say something like "I'd be having a go at her too if she threatened to take my kids" and "I was just joking, she has no sense of humour" (female survey participant).

Many employees told the Review of their experiences of (including criminal forms of) sexual harassment that minimised the perpetrator's behaviour, reflecting the depth of prevailing attitudes about women and men. It reflected the nature, real or desired, of loyalty in the police force where inappropriate acts were overlooked or minimised by joking or in other ways.

This highlights the selectiveness of loyalty, and who bestows and receives it within Victoria Police. It also reflected the manipulative behaviours of some perpetrators in invoking these values of loyalty and belonging to benefit themselves.

The Review also heard of workplaces that were supportive of women reporting these incidents which are detailed in Chapters 10 and 11, but the predominant perception was that women should be able to withstand these behaviours.

'Fitting in' strategies

In my experience a lot of girls lose their femininity when they come into the force and think that they have to be like men to survive. It can be a whole personality change due to the things they see and are exposed to (male interviewee).

Throughout the Review's site visits, it was not uncommon to have private conversations with considered and thoughtful police women about their perceptions and experiences of workplace norms and attitudes about women, with the conversation ending with comments such as:

You will think I'm a different person when we walk out and you see how differently I interact with my colleagues – I need to do that to be credible (site visit).

Many women told the Review that they put up with behaviour or tried to ignore it. Their reason for doing so was to do their best to manage their reputation and or safety.

I tried my best to redirect all of his comments and behaviours that were making me feel uncomfortable. I suppose that was me trying to survive (female interviewee).

It was hard but I felt like if they got past all the stupid games they were playing, they would get to know me and know that I could be trusted (female interviewee).

Others adopted a 'blokey' demeanour to fit in and be 'one of the boys'.

Got to go along, be cool, be one of the boys. Got to go along with the sexist sexualised jokes to belong. Don't want to ruffle feathers, considered a prude, automatically a lesbian or not a team player (female survey participant).

I work for a patriarchal organisation within a patriarchal community ... That is not to suggest that women are not suited to work or pursue leadership roles within either, they are, however what is indirectly communicated to me is that to do so, I just have to be like the men that I work with. Think like them and act like them. (female interviewee).

There were numerous suggestions by police employees that many women had chosen to 'use their sexuality' in the workplace, although very few women reported this as a deliberate strategy. Those who did talk about having sex with colleagues said they 'liked' their colleague and were interested in an ongoing intimate relationship with them or that it was a defensive strategy to avoid other situations or outcomes.

The Review also heard many reports about women who were perceived to have slept their way to promotions, or used sexual banter and sex as a way to fit in or as a strategy to manage the risks they perceived in the workplace to their reputation or safety.

There was a strong and automatic narrative that did not include any consideration of women being promoted on merit; indeed many women noted they did not want their gender to be 'visible' and regarded themselves as a police officer rather than a police woman.

Public servants

The experience of public servants within police workplaces varied widely across the workforce. In police stations across Victoria, the work that public servants do is widely valued, and they are seen as integral to the smooth functioning of the station. Their roles are generally administrative, mostly at Victorian Public Service (VPS) Grades 2,³⁸ and primarily held by women. More detail is provided in Chapter 7.

The longest unsworn was here for 42 or 43 years at a VPS 1 rank. It struck me. Why do people stay for so long? I think it has something to do with the nature of the work. ... You get a sense that the work is valuable and meaningful. Over time individuals often get exposure to the business as a whole, people tend to feel a part of it (executive interviewee).

Many public servants commented to the Review about their respect for the unique and dangerous work that their sworn colleagues did. They were highly aware of the dangerous and

³⁸ There was a very small number of public servants at the VPS 1 level. Of the twenty seven people at this level, seventeen were male and ten female (Victoria Police Workforce Data April 2015, received 12 June 2015). These positions were generally in the Operational Infrastructure Department and People Development Command.

traumatic nature of police work and observed its effects on their police colleagues.

The Review observed that police members in stations saw a responsibility to protect public servants (most often women) from the more traumatic aspects of their work.

In a few cases, the Review heard of a lack of consideration for public servants' safety where they were engaged with community, even though public servants' otherwise felt supported and included in the business of the workplace.

I didn't feel as protected as the sworn female officers, as they had received training ... Although, I didn't feel that different from them either. Maybe it was that the officers didn't treat me differently ... I went to my Inspector and said that all sworn officers had been given ... protection ... [The boss] did arrange for my locks to be changed ... but in terms of my safety, there wasn't anything else that could be done (female interviewee).

Throughout the course of the Review's fieldwork, public servants, particularly those in regional stations, told the Review team that they felt valued, if overworked.

Many public servants in regional stations were longstanding employees and noted the importance to them of a secure public service position. Most reported to a public service staff member and supported the administrative work of sworn police.

Public servants told the Review that most police members saw them as subordinates and that they implicitly 'knew their place'.

In conversations with public servants, the Review heard comments such as 'you just need to deal with it and shrug it off' and 'at the start, it can be intimidating then you learn to live with it' (site visit).

Admin staff are referred to as 'girls' and I have heard comments made when a staff member wears a dress to work. This is usually directed at the younger female admin staff (female survey participant).

Senior public servants are mostly employed to work from central facilities including the Victorian Police Centre (VPC), Crime



Command and the Forensic Services Centre. The perceptions of senior and/or specialist public service employees about their treatment in Victoria Police varied significantly. One commented to us that the language about ‘unsworn’ or VPS staff itself reflected the relative values attached to VPS by police members.

Many acknowledged it was a very masculine and hierarchical culture, and most agreed that the way employees interacted in their day to day work was different to anywhere they had worked previously. For some public servants, their rank went some way to give them credibility in the workplace. Three senior VPS women working in different areas told the Review:

It can be challenging. To sworn members, you are always an outsider. I’m not sure whether this is about being a female or an unsworn. If you put up suggestions related to policing, the attitude is that you know nothing. Sometimes I suggest something and it is ignored or ridiculed, then a sworn members says it and everyone agrees it’s a great idea (female interviewee).

I have never been asked so many times what my VPS rank is and they equate it to rank. It dictates a level of conduct and deference – so they know where you are in the pecking order (female interviewee).

I have never been treated so much like a ‘woman’ until I came to work for this organisation...I am used to working with men and being considered “an honorary bloke” and being respected for my knowledge. There are times here when I have definitely felt that I am a woman and people think because of that, I don’t know what I’m talking about. It happens in discussions, it can be as subtle as not being looked at when you are trying to make a point. Not ignored, but not given an equal amount of attention as a male. It is very subtle. I have never needed to say I am a feminist, because it has never been important to me until now (Executive interview).

Public servants and PSOs alike reported that their perceptions of being ‘second class employees’ was compounded by their gender.

I have experienced discrimination that isn’t intentional and not overt, it has been unconscious. The attitude is something like, ‘you don’t have any ideas.’ I don’t think they think ‘she is a female unsworn.’ It’s unconscious (female interviewee).

Rank and command and control

Respect for rank is instilled in the Police Academy as a cornerstone of operational policing, and is heavily reliant on command and control management structures and processes. This focus has been to the detriment of building the administrative capability of managers to manage people and address workplace issues, including sexual harassment and sex discrimination. It also has implications for the way that people experience being managed in their workplaces on a day to day basis, and reflects traditional notions of strong (male) leadership.

[X] is a Dedicated Training Workplace (DTW). The Sergeants are like gods to the probationary constables. They are young and vulnerable. The young girls are eager to please, and they are looking up to the Sergeants, so it is like Christmas to a predator (male interviewee).

The Review heard frequently that managers had not been trained in broader staff management competencies to manage staff outside of operational policing tasks.

Asserting authority over others and dominating others when needed is ingrained in police work. Some will translate this to everyday situations (male survey participant).

The way you could treat people, educate them, train them 20 years ago, you couldn’t get away with now. Then, if the sergeant said, ‘do that’, you did it. Like the Army says, ‘we can’t make you do things, but we can make you wish

you had'. There is not the need to treat them the way it used to be done – they are more sophisticated learners and there is a more educated product at the end. You can't be an effective leader by saying jump and the only question is "how high?" It's not as authoritarian any more – you have got to have more than a deep voice and the ability to yell. Members nowadays want to know why they are being asked to do things (male interviewee).

The Review heard of individual managers who were committed to developing, motivating, and leading effective teams. This included through genuine performance management processes, modelling leadership and values, enabling employee empowerment allowing scope for people to grow and contribute, and maintaining a supportive culture embedded within the organisational values. However, many were stifled by perceived structural constraints, hierarchy and their lack of confidence and capability in understanding and implementing their administrative responsibilities as people managers.

We still over-emphasise the command and control aspect out of context. Ninety-nine per cent of police work is unrelated to command and control (senior manager).

Command and control extends further into the organisation than it needs to – people will retreat into command and control if they're not equipped, or they don't have skills and expertise – it is a defensive position (former executive).

I think the organisation has been dragged into the 21st Century over the last 10 – 12 years – some of the Chief Commissioners have recognised that policing is also a business with humans as their main resource, and that this needs to be appropriately managed – meaning the management of our people is a critical part of how we function as an organisation (female interviewee).

It cannot be assumed that just because of seniority or rank, senior police members have

more knowledge or capability to manage their workplaces in accordance with good management principles and administrative processes.

He was very driven by rank and promotion and he couldn't handle successful women. He was critical of those who were promoted above him, particularly women. He also took up upgrading opportunities whenever he could because he felt "rank" gave him power (male interviewee).

Everyday sexism supported in management ranks

The Review heard differing experiences about the level of awareness senior managers about gender inequality issues in their workplaces and a broader inconsistency in management capability across the organisation. These are detailed in Chapter 10.

Some senior managers had a poor view of managers' capabilities, more broadly. Others thought the problem was at middle management ranks.

The Review heard consistently from employees that their day to day experiences were most directly impacted by the attitudes of their Officer in Charge (Senior Sergeant) and Sergeants.

I often feel like the organisation thinks that women aren't as capable at general duties policing as men. It's mainly a feeling I get from ranks from Constable to Senior Sergeant, not from upper management level (female survey participant).

International studies support the Review's learning that the way in which workplace gender norms operate within Victoria Police is different in various areas of the organisation. The propensity for gender norms to vary across an organisation is consistent with a study of sexual harassment in the United Kingdom banking industry which noted the "dominance of a 'swinging dick' version of masculinity in



dealing rooms, with a more polite patriarchy prevailing in executive suites.”³⁹

Those at the top of the organisation have an unrealistic birds’ eye view of what happens on the street. Sometimes I want to grab [them] and bang their heads together and make them realise how different it is on the street (female interviewee).

Indicators of more subtle forms of attitudinal support for gender inequality were heard by the Review. Examples include attitudes and behaviours that may appear either benign or positive but are actually damaging to women and gender equality more broadly, such as the belief that women need to be protected by men.

In conversations with employees, the Review heard that in some operational roles “women often end up ‘black side’ (at the back)” because of the assumption that they need protection (site visit).

Such beliefs are referred to as ‘benevolent sexism’. For others, views that appear to support egalitarianism are actually hostile towards creating it, such as denying that gender inequality is an issue.⁴⁰

Chapter 10 details the experiences of managers in seeking to address sexual harassment and sex discrimination. Unsurprisingly, many managers reverted to the management skills they had been trained in – those of command and control and those that approached workplace issues as policing issues.

Occupational specialisation that undermines gender equality

Certain specialist functions within Victoria Police, especially crime and homicide, have traditionally been performed by men. In contrast, sexual assault and the mounted branch, has been seen as the domain of police women.

Workplaces employing predominantly men and that have norms that privilege stereotypical male characteristics remain difficult work environments for women as well as for men who do not fit heterosexual gender norms.

These include:

- perceptions that women do ‘soft’ policing, while men do ‘real’ policing work

There’s been no improvement with some SOCIT members who still think CASA do the warm fuzzy stuff, they do the hard policing. Some say ‘you don’t expect us to deal with that; it’s not our role, I’m out there actually getting the bastard’ (female interviewee).

- perceptions that men’s work is more difficult and excuses behaviour.

There are environments that predominantly have a high male staffing ratio. In these environments, there are excuses provided for particular behaviours. We work hard, we go out for drinks, and if you happen to sleep with someone, it’s because of the stress. I don’t agree with this attitude. It’s the conditioning of an organisation that sits in a period gone (senior manager).

The drivers of sex discrimination and sexual harassment in Victoria Police are gender inequality and attitudes that reflect unequal gender roles and stereotypes. While these attitudes are similar to those held in the broader community, they are compounded and amplified by strongly held norms about the personal attributes of police, the nature of police work and the life-long career that policing is for many police.

At the same time, there is strong support from Victoria Police employees to challenge and address these attitudes and recognition that strong leadership is an essential ingredient to achieve a safer and more respectful workplace.

³⁹ Linda McDowell (1997) cited in Paula McDonald and Sara Charlesworth, ‘Workplace sexual harassment at the margins’ (2015) *Work, employment and society*, 14 <<http://wes.sagepub.com/content/early/2015/04/17/0950017014564615.abstract>>.

⁴⁰ VicHealth, *Australians’ attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) Full Technical Report* (2014). 59.



Chapter 3

Nature and Prevalence

Main findings

- There is substantial evidence of a sexist organisational climate, which puts unequal value on stereotypically male traits and gender roles, and has a high tolerance for sexualised and sexist workplace behaviour and interaction.
- Women in Victoria Police are more likely to report experiencing or witnessing bullying, suggesting that experiences of bullying are also linked to gender as a form of sex discrimination. Female police and protective services officers (PSOs) are more than one and a half times more likely to report personally experiencing bullying. Female Victorian Public Service (VPS) staff were also more likely to report witnessing and experiencing bullying than their male police, PSO and VPS counterparts.
- The Review also heard of many women in regional and rural areas experiencing ongoing, protracted sex discrimination, including gender-based bullying.
- Perceptions about the nature and extent of sex discrimination and sexual harassment within Victoria Police are gendered. Men were more than twice as likely as women to suggest that discrimination is *no longer* an issue.
- The lifetime prevalence of sexual harassment for female survey participants was almost 40 per cent. This is substantially higher than for women in the community and the Australian Defence Force (ADF). Nearly one in five female survey participants reported their sexual harassment started in a Victoria Police workplace in the past five years.
- Nearly 7 per cent of male survey participants had experienced sexual harassment in their lifetime. This is lower than in the community and higher than in the ADF. One in 20 male survey participants, reported experiencing sexual harassment in a Victoria Police workplace that started in the past five years.
- Two thirds of female Victoria Police employees and more than half of male Victoria Police employees *witnessed* at least one form of sexual harassment in the workplace in the past five years.
- There is overwhelming evidence of serious and chronic under-reporting of sex discrimination and sexual harassment.
- Sexual harassment was most likely to occur in a station or office environment. Women are more likely than men to experience sexual harassment off site (for example at a social event, while on patrol, or in a vehicle).
- The most common form of sexual harassment was 'sexually suggestive comments or jokes'. Women experienced higher rates of 'inappropriate staring or leering' and 'unwelcome touching' than both the community and ADF samples. Experience of 'actual or attempted rape or sexual assault' was reported by just under 2 per cent of female survey participants who had experienced sexual harassment starting in the past five years.
- People at all ranks reported experiencing sexual harassment. Women were most at risk of being targeted, with female public servants at particular risk of being sexually harassed.
- The ranks/grades of harassers most commonly reported by survey participants were sergeant, leading senior constable/senior constable, followed by sergeant.
- There is a difference in the power dynamics of sexual harassment for men and women. Women were the majority of targets of sexual harassment and reported experiencing harassment by someone more senior. Men, conversely, were more likely to report being targeted by someone of the same grade/rank or more by someone junior.

- Gay men were six times more likely than men overall to experience sexual harassment in the organisation. Lesbian women also had an elevated risk of being targeted.
- Siloed and inconsistent data collection and classification of sexual harassment, sex discrimination, gender-based bullying and victimisation matters by Victoria Police means that the Review was unable to obtain a comprehensive overview of the volume or nature of past complaints made to the organisation.
- Notably in the survey, there was hostility toward the Review from a large number of male participants, signifying the magnitude of the challenge ahead for Victoria Police.
- Where sex discrimination and sexual harassment were occurring, many Victoria Police employees felt angered and disappointed at the behaviours, their perceptions of the organisation's tolerance for it and how it reflected on them as individual Victoria Police employees.

Introduction



Men run this organisation, and they run it to suit other men. I am constantly patronised by older men in this job, called “sweetie” and told not to get involved in complicated things because they “can be confusing”. Sexual harassment is just one tangent of how disgustingly women get treated in this organisation. Quite often the harassment is not of a “sexual” nature as such, but is 100% based on gender. Women get intimidated, stood over, spoken over, excluded and overlooked all day, every day in this job. Because of their gender. This is the far more dangerous and prevailing problem for women in Victoria Police (FEMALE SURVEY RESPONDENT).

Sexual harassment is associated with gender stereotypes, and includes experiences of sex discrimination and other components of a sexist organisational climate.⁴¹ This chapter presents a detailed picture of the extent and nature of sex discrimination and sexual harassment, including predatory behaviour. This picture is informed by a number of interlinked data sources including survey responses (which addressed sexual harassment only), confidential and expert interviews, Victoria Police workforce and complaints data and site visit observations.

It is well documented that attitudes supporting the drivers of sex discrimination and sexual harassment may influence behaviour directly. However, it also impacts through its influence on broader social norms and culture. Collective attitudes that justify, excuse, trivialise, minimise or blame targets of sexual harassment and sex discrimination, usually women, influence the ways in which communities, organisations and institutions respond to these issues.

Throughout the Review, there was a focus on capturing the attitudes of participants and the level to which they support and influence the way that they, and the organisation, respond to sex discrimination and sexual harassment.

While the law does not prohibit a sexist culture, this chapter illustrates the way that culture enables specific conduct that constitutes sex discrimination and sexual harassment. Under the Equal Opportunity Act, employers have an obligation to take steps to prevent sex discrimination and sexual harassment from occurring in the first place.

Nature of sex discrimination experienced in Victoria Police

Many participants, both men and women, provided compelling examples of their own experiences of sex discrimination. The Review has also documented evidence of systemic sex discrimination where entrenched or institutional patterns of behaviour or actions affect men and women in Victoria Police differently. These

41 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly* <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

behaviours and actions form part of the organisational culture and are reinforced by policies or procedures.

“ They will be aware of predatory behaviour if it's clear cut, but they wouldn't identify everyday sexist behaviour ... as it's a normalised part of our culture (FEMALE INTERVIEWEE).

Women reported being treated less favourably in recruitment, retention, advancement, and as managers and co-workers. Many women also reported every day experiences of hostile work environments and negative treatment based on judgements about sexual behaviour and reputation, through isolation and exclusion and unfavourable treatment because of actual or potential pregnancy or caring responsibilities.

Evidence of direct, indirect and systemic sex discrimination in recruitment, retention and the advancement of women in Victoria Police is considered in detail in Chapters 7 and 8. These chapters paint a clear picture of structural and attitudinal barriers to the equal treatment and representation of women in Victoria Police.

Further evidence of the gender composition of the workforce is provided in later chapters, and illustrates that women across every employment group are significantly underrepresented in supervisory roles and above. There is also evidence of the barriers to flexible work, return to work and career pathways.

Many women reported experiencing unfavourable treatment as managers and co-workers, based on entrenched gender stereotypes and reflecting commonly held ideas about the roles of women and men in public and private life.

When I'm acting in this role, it's interesting the number of times I have heard 'can you handle that or should we ring [your manager]?' ... (executive interviewee)

The insistence on old school courtesy, [such as] door opening really riles me. It's a very small thing – but it's a way of them saying 'You're different to

me by virtue of your gender' (female interviewee).

“ One day he said to me “You don't want to be known for getting by on your looks”. I was so shocked because of all the people, he should know as my manager that's not what I was trying to do. After all the work I'd put in after working so hard to be valued for the work I was doing ... I just didn't know where he was getting this from. I got quite angry with him, and so he began to rapidly back pedal. That's the thing – everyone is so scared of getting a complaint – but it's just so few people would actually complain. He did a huge back pedal, and from then on he'd just avoid me and wouldn't talk to me (FEMALE INTERVIEWEE).

. . . . Some men do not know how to, have no experience of, or do not like working with confident, talented and educated women and consider that women should be demur and not have opinions.

This is particularly apparent between police and VPS staff where relationships must be equal ... Too often I hear 'We shouldn't have to do that work. That work is VPS work!' or comments like (just heard this yesterday) 'why should I have to go and work with a bunch of VPS women?' (female interviewee).

The Review collected prolific data from participants about the hostile work environment within the organisation. This included being treated in a derogatory and undermining manner. Participants expressed frustration, both at the attitudes, and the implications for them to do the job they loved and realise their potential within Victoria Police.

There is a Sergeant ... who thinks women are inferior and makes it a point to try to intimidate, condescend and

bully ... Management won't even pull him up on it. They say they know and just to ignore him. It is disgusting (female survey participant).

[Many] junior female officers have left the station in relation to the same person. He knows what he is doing and loves to see the power he has and gloats of the members' inabilities when they leave (female survey participant).

It has been going on so long – 75 per cent of VicPol is men and it is a boy's club. I hear their conversations in the muster room all the time – "my wife doesn't put out" and lots of sex talk. And then the bitching about other members is just appalling. There is a lot of bitching and backstabbing (female interviewee).

"She has big tits ... she gave a blow job to the boss ... she only got the job because she's a slut" ... that sort of conversation is a dime a dozen in this organisation. Literally everyday fodder (female interviewee).



I found it hard to recommend any female to join the Victoria Police force as I know what attitudes and behaviours they will face through their years of employment (FEMALE SURVEY PARTICIPANT).

For many women, the experience of everyday sexism and gender-based hostility was experienced as isolation and exclusion.

Vic Pol is the hardest organisation I have worked in. There are fantastic people here but sometimes I wonder whether because I'm a woman [or] a VPS, that I am treated differently. Did I expect it to be like this? No. I've worked in many other sectors and Vic Pol is very different. There are certain things that you say or do and your opinion doesn't count for as much (executive interviewee).

I recently arrived at work [early and] sitting on some tables were [a bunch of]

... males all waiting for their breakfast/ coffee. A single ... female who was last to place her order ... was trying to locate a seat with them for about a minute – she sat behind them, stood and then eventually she moved herself to the end of a seat – it was quite devastating to watch ... It was, in my view, a hopeless situation (female survey participant).

He made it clear he wanted a friend of his there, not me. He would throw [things] at me. He excluded me (female interviewee).

Perceptions of how widespread and serious sex discrimination and sexual harassment are influenced by attitudes that minimise or excuse these behaviours and create an organisational tolerance for them. These attitudes are held individually and collectively. They influence what employees think constitutes sex discrimination and sexual harassment. The threshold for behaviours understood by Victoria Police employees to amount to sex discrimination and sexual harassment appears to be high, and is also strongly gendered.

In trying to understand the attitudes that minimise or excuse these behaviours, the Review asked respondents to rate their agreement with the statements 'In Victoria Police, a man's reputation regarding his sexual behaviour can inhibit his career' and 'In Victoria Police, a woman's reputation regarding her sexual behaviour can inhibit her career'. There was a major difference in agreement rates regarding the impact of reputation based on the respondent's gender.

58 per cent of women and 28 per cent of men agreed that a woman's sexual reputation can inhibit her career. Fourteen per cent of women and 37 per cent of men agreed that a man's sexual reputation can inhibit his career.

There are still judgements made about sexual behaviour and reputation – I don't see it overtly but I know from speaking to members. It's that attitude where sleeping around doesn't impact the man, but the woman is seen as a slut (female interviewee).

Many participants also gave examples of attitudes and behaviours directed at women on

Figure 2: Agreement with the statement – In Victoria Police, a woman’s reputation regarding her sexual behaviour can inhibit her career

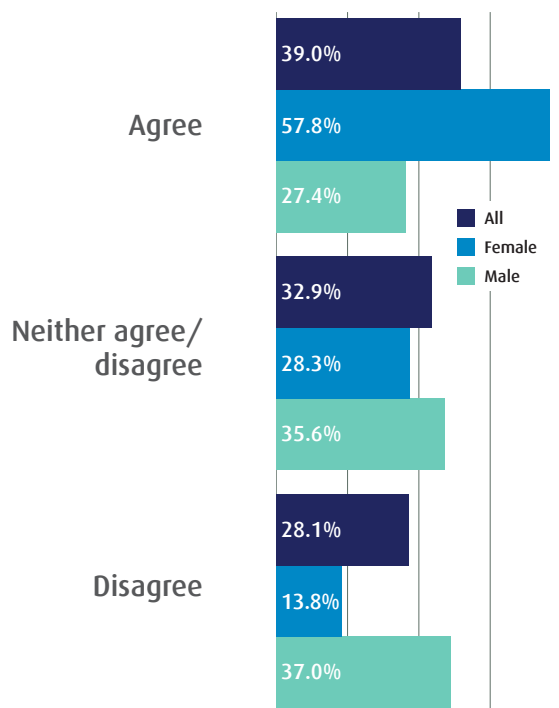
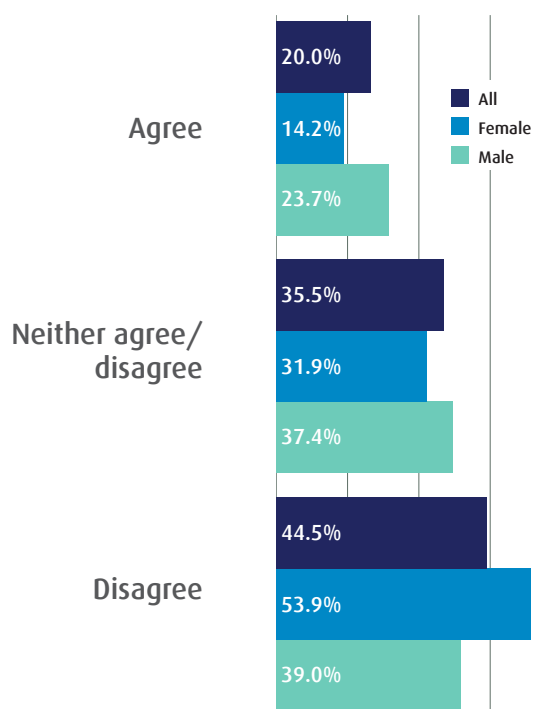


Figure 3: Agreement with the statement – In Victoria Police, a man’s reputation regarding his sexual behaviour can inhibit his career



the basis of their actual or potential pregnancy and parental status or status as a carer.

If you’re in a unit such as a CI and you become pregnant a massive groan can be heard by colleagues and managers alike – you’re seen as a huge burden on everyone else ... There’s no sympathy from men, they all just bitch about it. My friend witnessed a conversation where they were making sweeping generalisations about pregnant women and how useless they are as detectives. Another woman told her manager she was pregnant and was asked, ‘Are you sure this is the right place for you ... is this where you really want to be?’ – pressuring her to move on to another position because she was pregnant (female interviewee).

The *People Matter Survey* is an employee opinion survey run by the Victorian Public Sector Commission (VPSC) from March to May of each year. The information collected is used by participating organisations to identify their strengths and weaknesses based on employees’ opinions. It helps Victorian public sector organisations to measure their progress in embedding the public sector values and employment principles in their work culture.

Of significant interest to the Review were questions relating to workplace well-being and bullying.

In the ‘workplace wellbeing’ category, female police and PSOs recorded a satisfaction rating of 79 per cent, with male police and PSOs recording a significantly higher satisfaction rating of 87 per cent. The rates of satisfaction for VPS staff, both male and female, were similar at 84 per cent and 83 per cent respectively.

The survey asked respondents to rate their agreement with statements about aspects of their organisation that contributed to workplace wellbeing. In Victoria Police, fewer female police and PSOs agreed their workplace supported wellbeing (79 per cent) compared to male police and PSOs (87 per cent). The rates of workplace wellbeing for public servants, both male and female, were similar at 84 per cent and 83 per cent respectively.

Rates of witnessing and experiencing bullying suggest that bullying is also linked to gender.



Figure 4: 2014 People Matter Survey – witnessed or experienced bullying – by gender and employment category

Personnel category	Victorian Public Servant		Police and PSOs		All	
	Male	Female	Male	Female	Police	PSO
Witnessed bullying	25%	29%	20%	28%	24%	11%
Personally experienced bullying	17%	23%	16%	25%	20%	7%

Female public servants were most likely to have witnessed bullying, followed by female police and PSOs. Female police and PSOs were also most likely to have experienced bullying, with female public servants next most likely to have personally experienced bullying.

In addition, the Review heard from many women in regional and rural areas about ongoing, protracted sex discrimination, including gender-based bullying.

The People Matter Survey is a rich source of information regarding organisational and workplace climates. However, the results are not currently reported by gender, and no questions are asked regarding witnessing or experiencing sexual harassment. The survey does not contain explicit questions on experiences of discrimination, other than bullying more broadly.

In implementing the recommendations from the Report, the Review suggests that Victoria Police request the breakdown of data by gender against personnel category and classification from VPSC in future rounds.

The Commission has written to the VPSC to make this recommendation for their future reporting more broadly.

Prevalence of sexual harassment

Lifetime prevalence

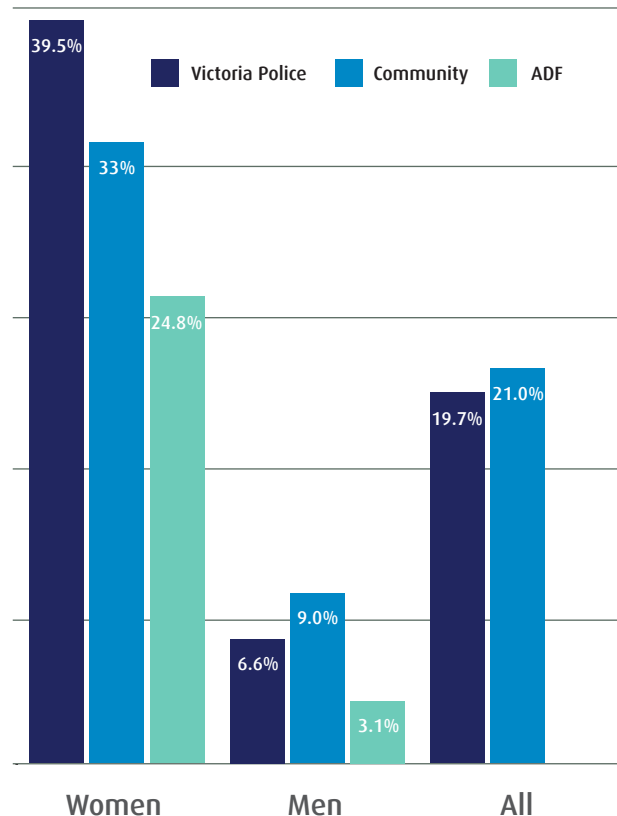
Figure 5 shows the rate of survey participants' experience of sexual harassment during their lifetime. These are compared to rates found in the Australian community and the ADF in Australian Human Rights Commission surveys.

40 per cent of women and 7 per cent of men who responded to the survey answered yes to the question 'Have you ever personally

experienced sexual harassment?' For women, that lifetime prevalence rate is higher than that found in the community (33%) and the Australian Defence Force (25%). For men, lifetime prevalence is higher than in the ADF (3%) and lower than in the community (9%).

Consistent with the Australian Human Rights Commission approach, rates of harassment in the workplace starting within the last five years were also measured. This approach captured

Figure 5: Lifetime prevalence of sexual harassment compared to community and ADF (by gender)



people for whom the harassment started in the past five years (incidence), but the measure excludes people whose harassment started more than five years ago. Because some people experience protracted, ongoing harassment, it is likely to underestimate the overall prevalence of harassment behaviours occurring in the five year period.⁴²

Almost one in five female survey participants and one in 20 male survey participants had experienced harassment in a Victoria Police workplace that started in the last five years.

For those for whom the behaviour started in the last five years, ninety nine per cent of participants said the harasser or harassers were Victoria Police personnel.

Nature of sexual harassment

Figure 6 lists the behaviours experienced by survey participants who experienced sexual harassment in a Victoria Police workplace that started in the past five years.

Overall, women reported experiencing higher rates of all the sexual harassment behaviours than men.

In the broader community sample of workplace experiences of sexual harassment, the most common types of behaviours reported by people bringing complaints are sexually suggestive comments or offensive jokes, intrusive questions about personal matters and inappropriate staring or leering.⁴³

Similarly, as can be seen on the following page, the most common behaviour experienced by women and men in Victoria Police was 'sexually suggestive comments or jokes' (58 per cent for women and 53 per cent for men) followed by

'intrusive questions about your private life' (39 per cent for women, 28 per cent for men).

For women, the third most commonly experienced behaviour was 'inappropriate staring or leering' (35 per cent), while ten per cent of men experienced this behaviour.

'Unwelcome touching' was experienced by 31 per cent of women and was the third most commonly experienced behaviour by men (24 per cent).

'Actual or attempted rape or sexual assault' were reported by just under 2 per cent of female participants and no men.

Women in Victoria Police for whom the sexual harassment started in the last five years reported experiencing higher rates of 'unwelcome touching' (31 per cent) compared to women for whom the experience had started in the last five years in the community and the ADF (23 per cent and 22 per cent respectively). This suggests that physical sexual harassment is more common in Victoria Police than in the community or the ADF.

Compared to men in the community and ADF men in Victoria Police for whom the sexual harassment started in the last five years experienced higher rates of 'unwelcome touching' (24 per cent versus 16 per cent for community and 5 per cent for ADF) and 'sexually suggestive comments' (53 per cent versus 45 per cent for community and 40 per cent for ADF). This may be explained by the evidence that shows that much of the sexual harassment experienced by men was experienced by gay men and appears to intersect with their sexuality and their experience of homophobia as outlined in Chapter 2.

Men and women in Victoria Police reported experiencing substantially lower rates of other sexual harassment behaviours including 'sexually explicit emails', 'sexually explicit pictures' and 'sexual gestures' than in the community and ADF samples.

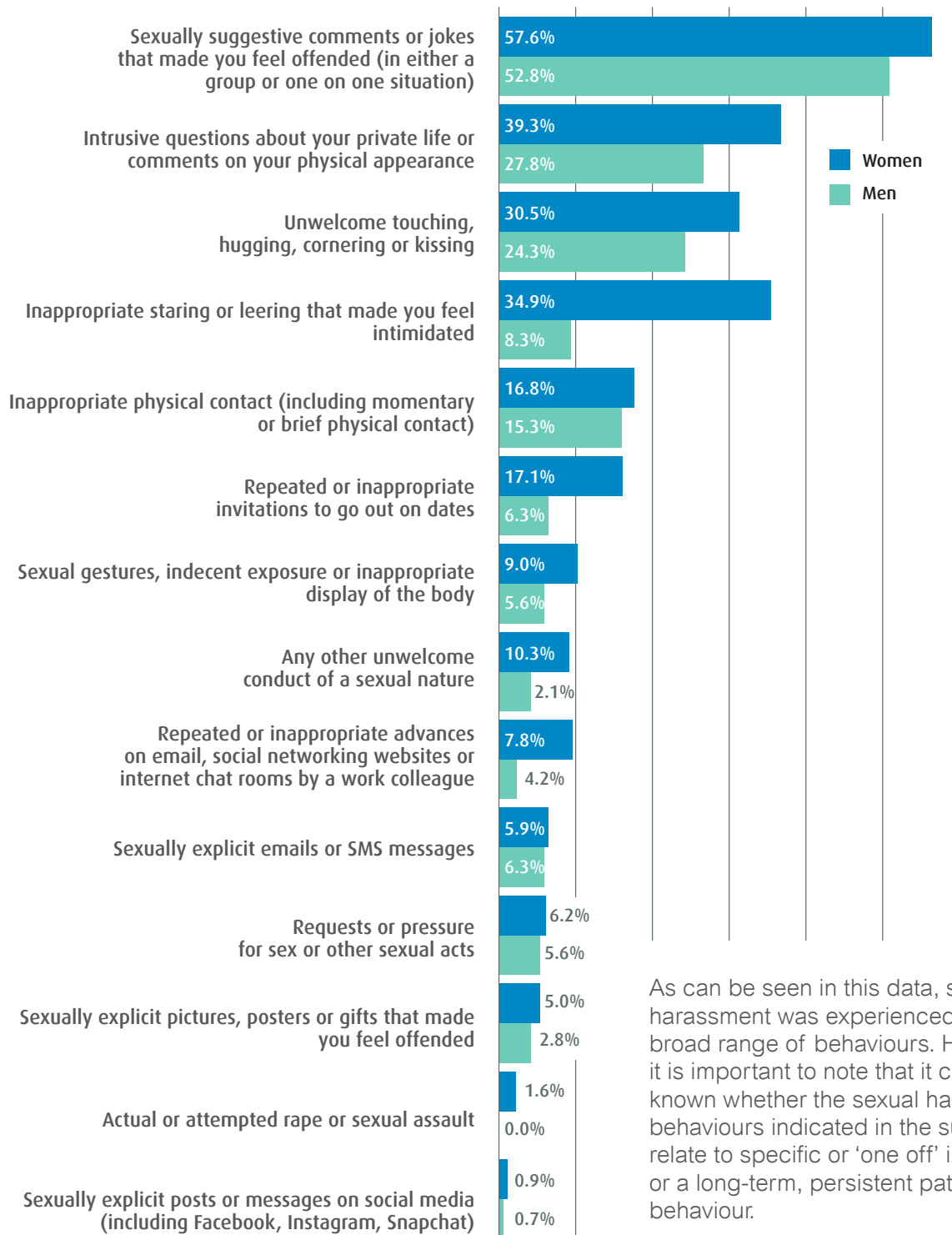
To assist in assessing the contribution of workplace factors to sexual harassment, the survey participants who had experienced recent harassment were asked a number of questions about their work environment.

42 The survey design did not enable an estimate of the proportion of participants currently experiencing harassment in a Victoria Police workplace which started longer than five years ago to be calculated. In addition, prevalence estimates of workplace sexual harassment more broadly diverge markedly according to methodological protocols such as sample size and diversity; whether the surveys targeted random samples from the community or a specific industry or sector; whether sexual harassment was operationalised according to a legal or behavioural definition; and the retrospective timeframe specified to participants. Paula McDonald, 'Workplace sexual harassment 30 years on: A review of the literature' (2011) 14(1) *International Journal of Management Reviews*, 1-17.

43 Australian Human Rights Commission, *Working without Fear: Results of the Sexual Harassment National Telephone Survey 2012* (2012) 4.



Figure 6: Sexual harassment behaviours that started in the last five years (by gender)



As can be seen in this data, sexual harassment was experienced as a broad range of behaviours. However, it is important to note that it cannot be known whether the sexual harassment behaviours indicated in the survey relate to specific or 'one off' incidents or a long-term, persistent pattern of behaviour.

Figure 7: Do you know if this kind of harassment happened to anyone else in the same workplace?

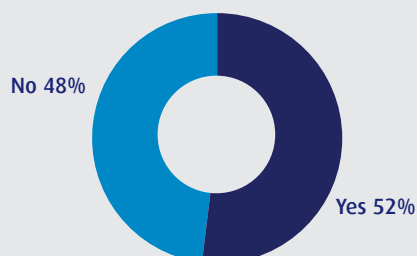
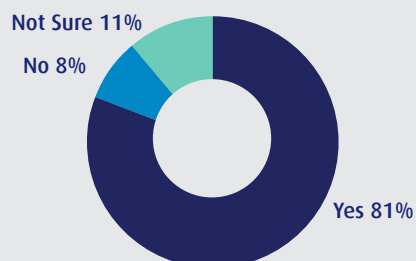


Figure 8: Was/were the harassers the same person/people who harassed you?



As can be seen in Figure 7 just over half the survey participants who had experienced sexual harassment starting in the past five years were aware of harassment of other employees occurring in their workplace. In the vast majority of instances (81 per cent), the perpetrators were the same people (see Figure 8). These results suggest that those who perpetrate sexual harassment target multiple individuals in the same workplace.

Survey participants who had experienced recent sexual harassment were also asked about the frequency of harassment in their workplace. 34 per cent said sexual harassment was common, while 45 per cent said it happened sometimes. Only 17 per cent said it was rare or very rare.

The Review heard a range of responses from employees about the prevalence of sexual harassment and predatory behaviour in places they had worked.

Survey participants were asked whether they had either witnessed or been told about a colleague directing any harassment behaviours toward another work colleague in the past five years.

68 per cent of women and 57 per cent of men had witnessed at least one incident of sexual harassment.

The most commonly witnessed behaviours were sexually suggestive comments or jokes (24 per cent), inappropriate staring or leering (13 per cent) and intrusive questions or comments (12 per cent). Actual or attempted rape or sexual assault had been personally witnessed by 10 participants. Behaviours that survey participants had witnessed are summarised in Figure 9.

The most commonly reported form of sexual harassment was predatory behaviour (defined in the survey as ‘misusing their authority or position to manipulate circumstances or people to gain sexual or other personal gratification for themselves or others’).

The next most common forms were unwelcome touching (16 per cent) and sexually suggestive comments or jokes (10 per cent).

3 per cent of participants reported having been told about an actual or attempted rape or sexual assault.

75 per cent of women and 65 per cent of men had been told about at least one incident of sexual harassment.



Figure 9: In the past five years have you *personally witnessed* a colleague directing any of the behaviours toward another work colleague?

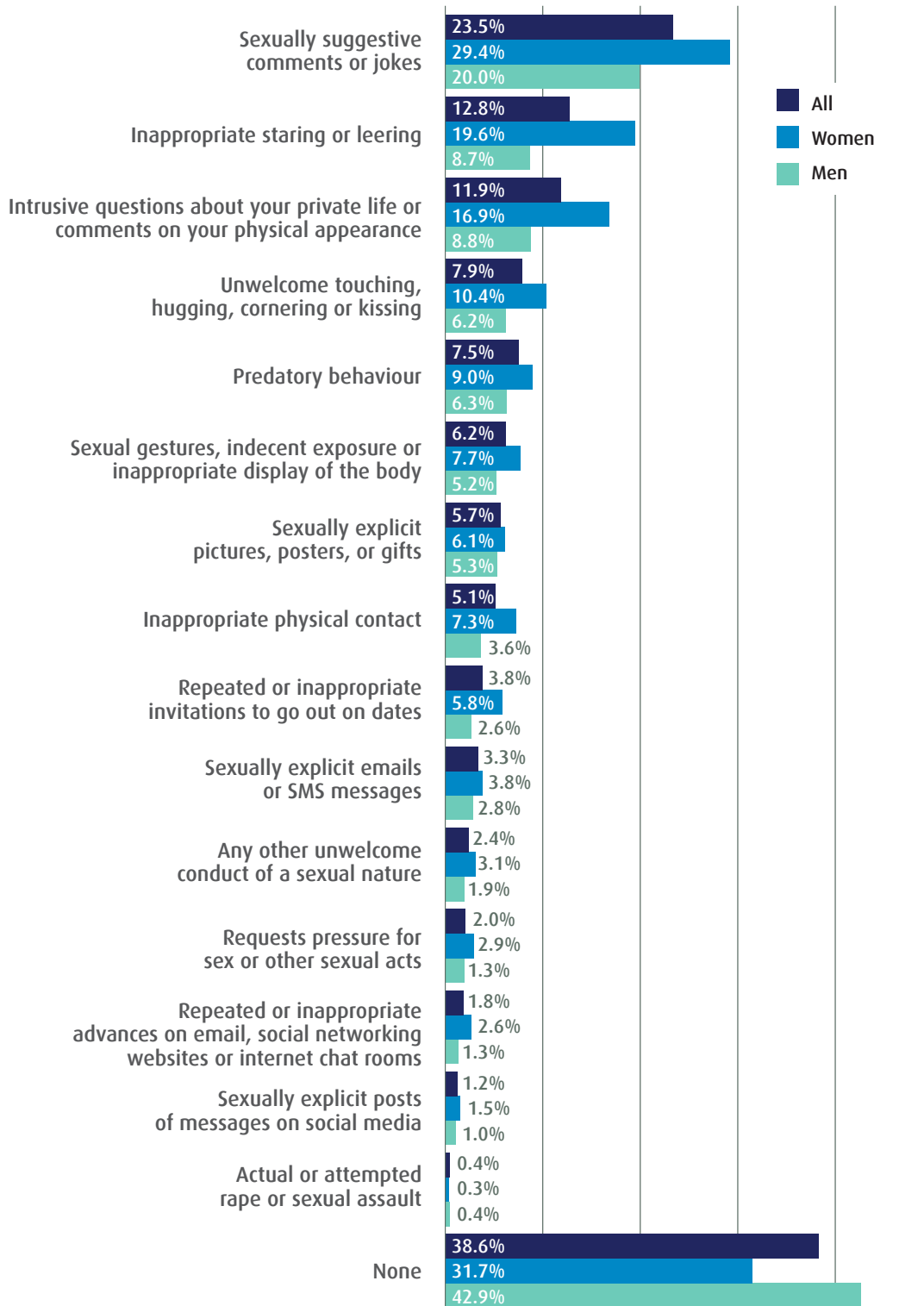
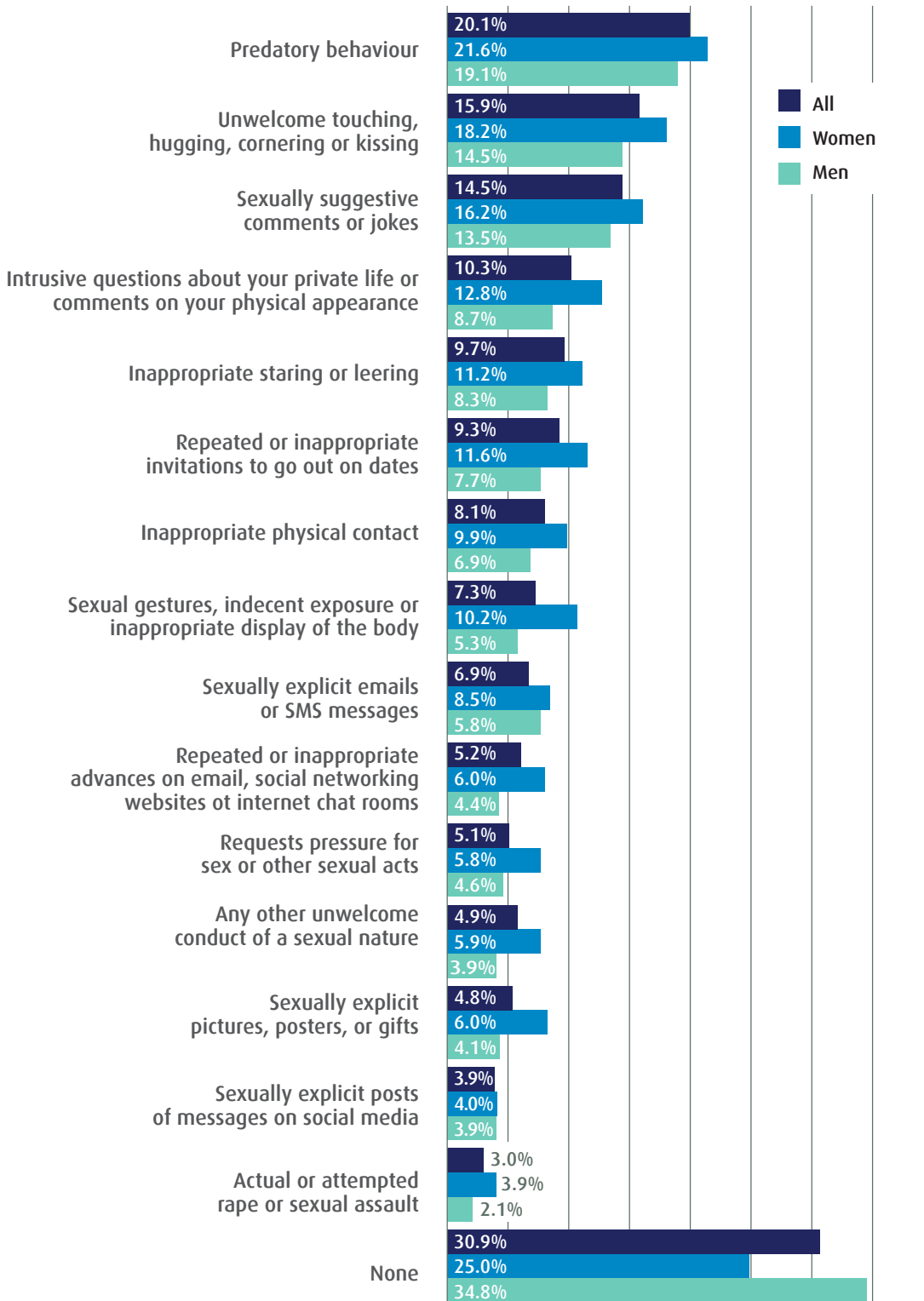


Figure 10: In the past five years have you been *told about* a colleague directing any of the behaviours toward another work colleague?





Where and when the harassment occurs

Survey data revealed that sexual harassment was most likely to occur in a station or office, suggesting that much of the behaviour occurred in the presence of bystanders.

Women were more likely than men to experience sexual harassment off site, or in an isolated environment (such as at a social event, while on patrol, or in a vehicle) and men, while less likely to experience harassment overall, reported being more likely to experience harassment in a conference or meeting, or in training.

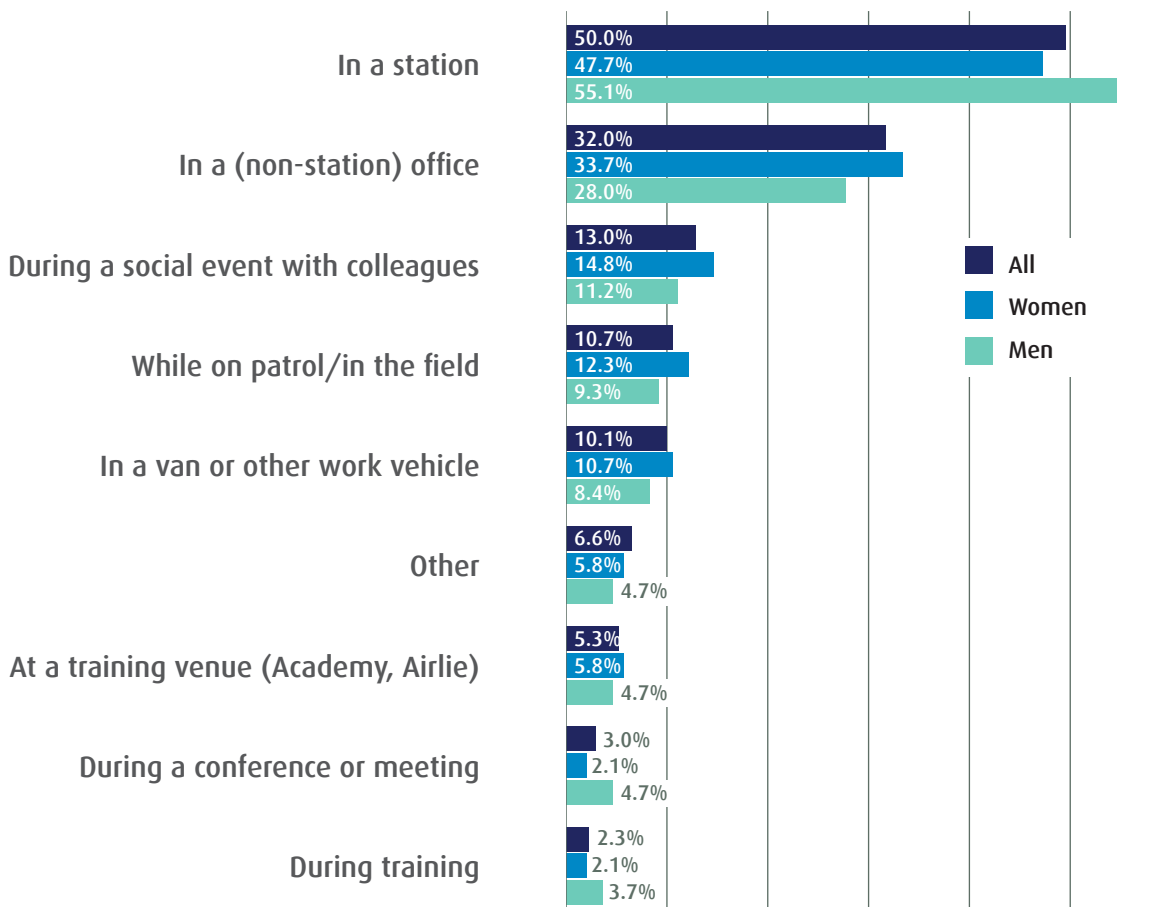
As discussed in Chapter 4, women were substantially more likely to experience sexual harassment that was highly intimidating or offensive.

Under the Equal Opportunity Act, the overall context and circumstances in which the sexual harassment occurred is considered for every claim of sexual harassment in determining whether a target or witness would be likely to be offended, humiliated or intimidated, including:

- the nature of the harassment
- when and where the harassment took place
- gender
- experience
- the relationship between people involved
- any power imbalance, such as seniority or age.⁴⁴

44 Victorian Equal Opportunity and Human Rights Commission, *Guideline: Sexual harassment – complying with the Equal Opportunity Act 2010* (2013) 7.

Figure 11: Which of the following options best describe the circumstances in which the harassment occurred?



The impact and harm of the behaviours is considered in detail in Chapter 4.

In drawing a picture of the harassment in Victoria Police, the Review has used examples based on the location in which they occurred to illustrate the scope of behaviours.

Harassment in the station or office

As seen in the data, the majority of targets and bystanders experienced or witnessed sexual harassment in a station or office environment, suggesting that much of the behaviour occurred publicly.

Many participants provided examples of sexual harassment in the workplace by an individual or group.

They would do a loop, perve on the women with cleavage ... That was normal practice. The boys constantly talked about sex and sex-related crap in front of me. I used to know who was an ass man or tits man. They'd tell each other when they had a wank (female interviewee).

There are a lot of young [women] in that workplace. It's perceived by some ... as being like a meat market. ... I would be in an office and a few [women] would walk past. I heard [male colleagues] say things like "I would like to stick my pole up her arse." It was so normal to say that. In real life and on the street, I would stand up, but in that environment, I couldn't. My job would have been at stake if I said something ... That sort of stuff happens all the time. It is a toxic environment (female interviewee).

I was talking in my office about our daily work and was leaning over a filing cabinet and the sergeant entered the office, walked around and past me and slapped me, hard, on the arse and said, 'good morning' (female interviewee).

Outside the workplace and outside work hours

An employer's responsibility for sexual harassment extends beyond the normal

workplace and outside normal working hours. For example, social functions sponsored and paid for by the employer, after-parties to such events (regardless of their location), hotel rooms paid for by the employer and sexual harassment which takes place at work premises outside working hours or while employees are not performing their duties are all examples of where the employer continues to have a duty of care for their employee.⁴⁵

“ In one precedent-setting sexual harassment case, the court stated that a rape of a staff member of another employee, was ‘a culmination of a series of sexual harassments that took place in the workplace’.⁴⁶

The Review heard from a large number of people who had experienced inappropriate behaviour offsite.

[A senior employee] known for exposing himself at every work Christmas Party (and other work functions involving alcohol). I avoided attending work functions as a result ... (female survey participant).

We had ... our first real conversation, and he was lovely – before he was drunk. Then when he was more pissed he got more flirty ... it got to the point where I thought 'time to go.' ... I said goodbye to a few people and couldn't see him so I just left. When I walked out he was there waiting for me. I asked him to please go back inside, I said 'You know what they're going to say if we're seen out here together.' ... He continued to pressure me into letting him go with him and I continued to remind him about his girlfriend ... Eventually, I was able to leave without him. The next time I saw him, his ego trashed and he's acting all awkward. It was awful, because I knew it would make people

⁴⁵ Victorian Equal Opportunity and Human Rights Commission, *Guideline: Sexual harassment – complying with the Equal Opportunity Act 2010* (2013) 9.

⁴⁶ *Lee v Smith & Ors* [2007] FMCA 59. See Victorian Equal Opportunity and Human Rights Commission, *Guideline: Sexual harassment – complying with the Equal Opportunity Act 2010* (2013) 8.

think even more that something happened between us (female interviewee).

... until that point thought he was someone with high integrity, so dismissed it as him being a bit too drunk and silly. That is when he grabbed me. ... I ran to my colleague, told her what happened and that I needed to get back to [where we were staying], I did not feel safe. ... I do not socialise or drink with my colleagues. Once bitten, twice shy (female survey participant).

In many areas, Victoria Police workplaces have banned offsite functions, and on many site visits, managers and supervisors pointed to social functions as an area of heightened risk.

The Review also heard of several cases where employees were targeted on training courses and other work-related trips, and after hours.

One night the inspector was in the next room and calling out that he was thinking of me and masturbating and ejaculating on the wall between our rooms. I was really frightened with all those guys with a gut full of grog (female interviewee).

He was trying to grind with me. ... He came up again later. I was standing with him and another guy ... Through the course of the conversation he said, "Everyone wants to know what's going on between us?" ... [Later] he touched me completely inappropriately. The girls told him to fuck off (female interviewee).

He started to text and call me in my personal time ... they were never work related ... I would maintain politeness and reply to a couple of them. I felt I had to do this because we worked together and he was my boss. I didn't want things to be awkward in my workplace, even though I already felt that way ... There was one incident where he sent me a dirty joke text ... I never encouraged this behaviour. I was polite but never invited further texts, calls or uncomfortable conversations about his sex life (written submission).

A long-term serving member recalled an experience from early in her career:

... as the car journey continued, he started speculating that the nature of the investigation might require an overnight stay. I remember the sick feeling in my stomach, knowing that if it occurred, I would spend [the] evening fending him off me sexually (female interviewee).

Responses about the utilisation of social media and emails to sexually harass were statistically low in the organisation. This may be because of targeted operations undertaken by Victoria Police on the inappropriate use of emails and police expertise in evidentiary requirements. At the same time, the Review team heard that sexual harassment was often categorised in the data or treated as 'misuse of social media' rather than sexual harassment.

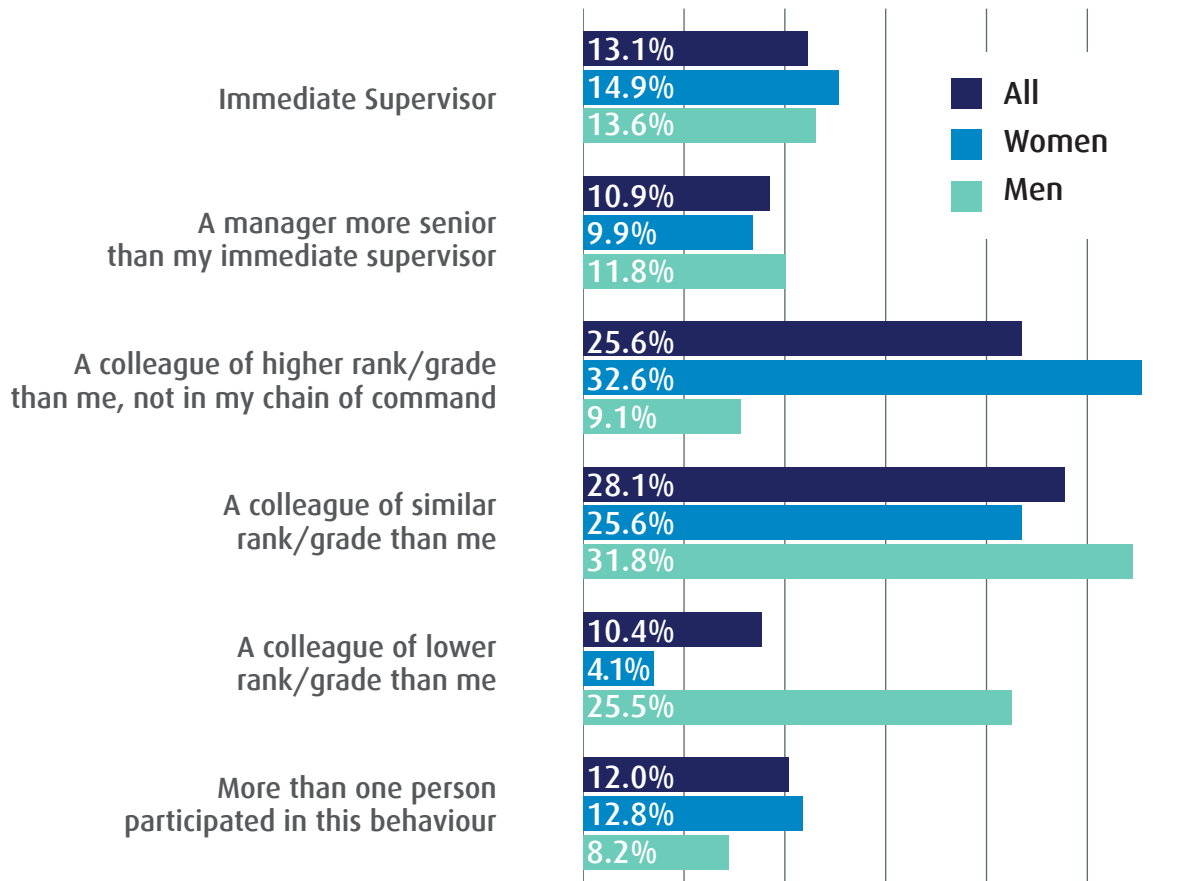
He shared intimate correspondence she'd sent him. She heard about it. This was not regarded as a police issue but a social media issue. I don't know if she had grounds to take it further, but for her she felt absolutely humiliated in her workplace. For them (men in workplace) it was a joke and a laugh and being one of the 'boys' (female interviewee).

Professional relationship between harasser and target

Survey participants who had experienced recent harassment were asked about the professional relationship between them and the harasser. The results can be found in Figure 12. Around a quarter of women and men, were harassed by someone who managed them, either their immediate supervisor or a manager more senior than their immediate supervisor.

For women, the most common relationship to the harasser (33 per cent) was a colleague of a higher rank or grade but not in their chain of command (compared to 9 per cent for men). For men, the most common relationship (32 per cent) was a harasser of similar rank/grade. Men reported substantially higher rates of harassment by colleagues of lower rank or grade compared to women (26 per cent and 4 per cent respectively). These findings suggest

Figure 12: Which of the following best describes the harasser?



While around a quarter of both female and male victim/targets were in the highly vulnerable position of being harassed by a manager, overall a larger proportion of women experience harassment by someone more senior. Men, conversely, were more likely than women to be targeted by someone of the same or more junior rank/grade.

variation in the power dynamics of sexual harassment relative to gender.

In looking at the prevalence data on both sexual harassment and sex discrimination, including gender-based bullying, it is clear that there is consistency with broader evidence that suggests that women might be exposed to more hostile gender harassment from co-workers of the same organisational status who perceive them as a threat, whereas women of lower status might be exposed to more unwanted sexual attention from workers with higher status (for example, supervisors).⁴⁷

47 Victor Sojo, Robert E Wood and Anna E Genat, 'Harmful Workplace Experiences and Women's Occupational Well-being: A Meta-Analysis' (2015) *Psychology of Women Quarterly*, 23 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

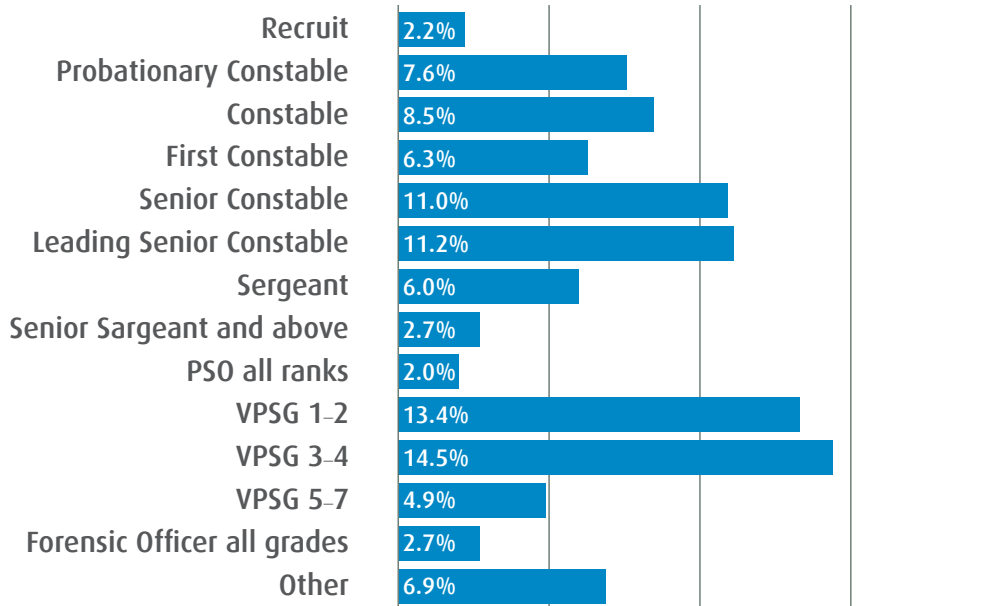
Characteristics of harassers and targets of sexual harassment

Age and employment profile of people targeted

Survey participants were asked their age when their most difficult incident or episode of sexual harassment occurred. The survey found targets of harassment in every age group, with the largest group aged between 25 to 34 years old (34 per cent). The next largest group were aged 35-44 years old (30 per cent), followed by 45 to 54 years (18 per cent), 18-24 years (14 per cent), and over 55 (2.3 per cent).



Figure 13: At the time the harassment began, what was your rank /classification/grade?



Comparing the proportions ranks/grades/classifications targets to the proportions of ranks/grades/classifications across the Victoria Police workforce, the following personnel groups were over represented as targets:

- Recruit – 2% (0.4% of workforce)
- Constable (all classifications) – 22% (18% of workforce)
- VPS 1-2 – 13% (7% of workforce)
- VPS 3-4 – 15% (6% of workforce)
- VPS 5-7 – 5% (2% of workforce)
- Forensic officer (all grades) – 3% (1% of workforce)

The following personnel groups were over represented as harassers:

- Sergeant – 19% (14% of workforce)
- Senior sergeant – 11% (4% of workforce)
- Inspector and above – 6% (2% of workforce)
- Forensic officer (all grades) – 2% (0.8% of workforce)
- Executive officer (all levels) – 1% (0.1% of workforce)

Ranks/grades/classifications that were underrepresented as harassers were:

- Senior constable (including leading senior constable) – 27% (39% of workforce)
 - Recruit and constable – 10% (18% of workforce)
 - Protective service officer (all ranks) – 1% (7% of workforce)
 - VPS1-2 – 3% (7% of workforce)

Employment profile of harasser

The survey asked participants who had experienced recent sexual harassment to choose the rank, classification or grade of their harasser.

The police ranks senior sergeant, sergeant, senior constable (including leading senior constable) make up the majority (57 per cent) of the identified harassers.

Figure 14: What was the gender of the person harassing you (women participants)

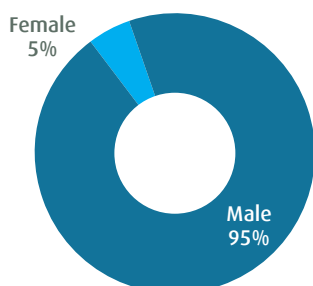


Figure 15: What was the main gender of the group harassing you (women participants)

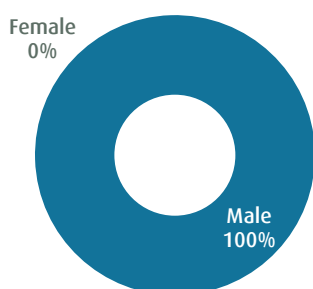


Figure 16: What was the gender of the person harassing you (men participants)

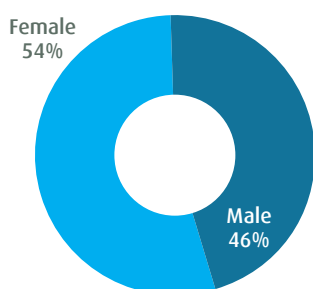
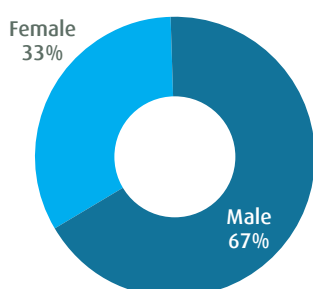


Figure 17: What was the main gender of the group harassing you (men participants)



Survey participants who had experienced recent sexual harassment were asked about the gender of the individual harasser or the main gender of the group where they were harassed by more than one person.

77 per cent of individual harassers were men. For female targets, who made up the large majority of targets, 93 per cent of harassers were male and five per cent were female. For male targets, 53 per cent of harassers were female and 45 per cent were male.

The percentage of female harassers against male targets is unusual compared to the broader evidence base. When considered against data on the relationship between targets and harassers, factors that influence this behaviour are discussed in Chapter 2 and may include ‘fitting in’ strategies.

I have adopted a ‘give as good as I get’ attitude. I receive comments of a harassing/sexual nature every day, and rather than get upset by them, I choose to return them and act like ‘one of the boys’. This behaviour is wrong, and backs up the culture in VicPol. But it’s the only way to fit in here (female survey participant).

As can be seen in Figure 17, in 67 per cent of harasser groups the main gender was male. For female targets, in 97 per cent of groups the main gender was male and none female. For male targets, in 67 per cent of groups the main gender was male and 33 per cent was female.

Group-based harassment was largely perpetrated by men for both male and female targets.

Predatory behaviour

The language of ‘predator’ raises concerns about identifying inappropriate behaviour.

I don’t think the word “predatory” helps ... as it implies some dangerousness that is probably more equated with criminal conduct, and may make managers more blind to picking it up ... (female interviewee).



CASE STUDY:

I started at the Police Station after completion of my probationary period. As soon as I started the perpetrator started pursuing me. He did and said things that were uncomfortable and intimidating. There was a culture of sexual banter and innuendo at the station. He started asking me about my sex life. He would call my mobile while I was at work when he was off duty and when I did not answer he would call the station line. He repeatedly asked me out for coffee and to commence a relationship with me. He left unwanted gifts for me to find in either my locker or other places only I would find them. I tried to deflect him by politely saying that I was not interested in him but he wouldn't give in. He was married. I told him I had a boyfriend.

I did not know what to do. I felt trapped. Another woman had spoken out before and was labelled a slut, so I did not want to raise it. An old squad mate said I should report it before it escalated. I felt sick but did tell the roster Sergeant that I was worried about my safety on the van and concerned about his behaviour towards me. He took me off the van, but made me feel like I was an idiot and that my concerns were not of any substance. He said I was safe, even though I had colleagues that could see what was happening and would swap their shifts with me to help me get away from him. The perpetrator would just change his shifts to work with me anyway. I was scared, defeated, ashamed and felt isolated. He was allowed to continue his behaviour without management putting a stop to it.

After a social event one night I got home and into the house and I actually thought, "Phew, I made it safely through that". The next thing I knew was that he was inside my house. Things started getting blurry. I was trapped. I couldn't fight, I was unable to move. I am sure that I was drugged by him. He raped me.

After that, the stalking and harassment kept happening, he kept changing shifts to be rostered on with me. He would turn up to my house uninvited. He sent me photographs of himself. Management didn't do anything despite my repeated pleas for assistance. People would joke about the perpetrator's behaviour all the time, saying things like "he will just get them drunk, it's not rape then". Another night the same perpetrator offered another young girl a life home. The same Sergeant encouraged it. (female interviewee)

One of the main reasons for the development of the term 'predatory behaviour' appears to have been to address the gap between legal definitions of 'sexual harassment' – defined as unwelcome sexual advances, unwelcome requests for sexual favours, or any other unwelcome conduct of a sexual nature, in circumstances which could be expected to make a reasonable person feel offended, humiliated or intimidated – and behaviours that are criminal.

The definition used in the Review is misuse of authority or influence with the intention of exploiting others for sexual or other personal gratification.

Many of the behaviours have been compared to 'grooming' where a member engages in multiple

sexual relationships, manipulates rosters, or creates other necessary precursors to take advantage of another employee. There may be varying levels of consent to engage in sexual activity by women, but this consent may also be in the context of influence or pressure from the harasser.

In looking at predatory behaviour examples in the data samples, there was evidence that behaviour identified as 'predatory behaviour' was most often sexual harassment, sometimes criminal, that had gone uninterrupted, or was tolerated in the context of a high organisational tolerance for violence against women and its antecedents.

For example:

We dealt with an incident where a person displayed behaviours that were not high impact or large scale but high volume. That person was moved and we are seeing the behaviours appear again (senior manager).

Sexual harassment may start in a way that seems innocuous, but when left unchecked can escalate. In the case of *Lee v Smith & Ors* [2007] FMCA 59, an employee who sexually harassed a fellow employee on many occasions in the workplace later committed rape. The court stated that the rape itself was ‘a culmination of a series of sexual harassments that took place in the workplace’.

... As it is, posters on the wall about it do nothing, checking females Facebook prior to her coming to a position and ringing other stations to ask what she looks like is the reality (female survey participant).

Victoria Police treats women disgustingly and [some] squads ... [A unit] in my area only selects its junior members for secondment on how good looking they are... (male survey participant).

In keeping with the broader attitudinal issues, there were also concerns expressed about the predatory behaviour of women. In cases presented to the Review of female ‘predators’, the behaviour concerned younger or more junior women, who sought to ‘manipulate rosters’, ‘get better shifts’ or encourage supervisors to overlook their underperformance.

You cannot always blame the male for sexual harassment ... I have seen a few females literally throw themselves at males. Some females are more than happy to seek male attention as a means to further their career/get their own way. This has a huge impact on the workplace, as everyone knows who they are (survey participant, gender unknown).

Discussions about the drivers of sex discrimination and sexual harassment can be

found in Chapter 2, including discussion about the role of sex as a commodity in Victoria Police:

But, there came a point ... that I started to become increasingly uncomfortable ... Although he didn't directly voice a relationship/sexual interest in me, I believed that his actions and words in a roundabout way – indicated as such. He was my [boss], so it was not unexpected that he worked with me to enhance my skills. However, it was obvious pretty quickly that I was being treated better and differently to the other junior staff. I even recall him taking a warrant off another Constable to give to me, which he saw as a great opportunity. I never gave him my phone number, but ... He started to text and call me in my personal time (written submission).

This [male member] had ... a ‘fuckability’ type of approach towards women. Be ‘fuckable’ and you were noticed, e.g. younger attractive women, ‘unfuckable’ and you were ignored in all facets of the workplace (female survey participant).

Inappropriate relationships

In many circumstances, behaviour considered ‘predatory’ had some basis in people’s moral judgements about the appropriateness of relationships. For example, if employees were married and having extra-marital affairs, people engaged in multiple relationships at the same time, or participated in serial short-term sexual relationships, it was viewed as inappropriate.

Young men and young women work in the police force, and get married and have worthwhile long-term relationships, and that is a normal fact of life, but this was different. A married supervisor, with children, having multiple concurrent relationships with female subordinates, the alarm bell should have rung loud and clear (male interviewee).

Workplace relationships

Relationships in the workplace are inevitable and consenting adults are entitled to form relationships and engage in lawful sexual activity. These rights are in fact protected by anti-discrimination laws including the Equal Opportunity Act and the Charter of Human Rights and Responsibilities Act. However, the same laws and principles also protect people from unwanted sexual advances.

In addition the Equal Opportunity Act and the Occupational Health and Safety Act provide for a positive obligation on employers and employees to create a safe working environment.

A supervisor or manager may have no authority or even requirement to manage or intervene in an appropriate personal relationship but they may need to manage the professional relationship, particularly if one party has line control over the other.

Appropriate workplace relationships

In determining whether or not a workplace relationship is appropriate the following factors were described as important considerations:

- The relationship is consensual
- The relationship is transparent
- Personal relationship activities/ conversations occur off duty and outside the workplace
- The relationship is respectful and professional
- There is no fear, force, fraud or workplace benefit driving the relationship
- The relationship has no influence on workplace decisions or activities
- Appropriate boundaries are set and willingly observed
- One party does not have line control over the other or where one party is external to Victoria Police and they have met as a result of police duties ensure

that there is no conflict of interest (for example the member is not the informant, investigator or performing any other role associated with the relevant matter).

Inappropriate workplace relationships

While there are many examples of appropriate workplace relationships there are also many that are inappropriate and which often come about due to a misuse of power or authority by Victoria Police employees. These types of relationships have the potential to cause harm to individuals, workplaces and Victoria Police as a whole.

Factors identified as signs that a workplace relationship is inappropriate include the following:

- A power imbalance or position of authority is used to initiate, control or maintain the personal relationship
- The relationship is being carried out in the workplace and on duty (for example, sex during work time and/or in police premises/vehicles)
- The relationship is having an adverse impact on the workplace for other reasons (creating division/causing friction)
- Lines of reporting are being abused or compromised
- Fear, force, fraud or workplace benefit is driving the relationship or diminishing capacity to freely consent
- Instructor/student relationships during training such as recruit training, motor driving school, Detective Training School
- The relationship is being used to gain or provide some workplace advantage (reputation (including sexual reputation) – 'hero' status)
- The relationship involves exploitation of vulnerable persons in the community.

- **Victoria Police Taskforce Salus September 2015.**

There was a great deal of contention in the data about how to define inappropriate relationships.

In some instances though they don't step over the boundary, they jump over them. People socialise together, drink together, do dumb stuff, misbehave, hit on each other, sleep with each other ... The separation of personal lives and work can be a real problem (female interviewee).

Under the Equal Opportunity Act, behaviour that is based on mutual attraction, friendship and respect is not sexual harassment if the behaviour is welcome, consensual and reciprocated.⁴⁸

In September 2015, Taskforce Salus undertook a workshop with police employees from across a range of areas and prepared a paper that elucidated the differences between appropriate and inappropriate workplace relationships. The previous table was developed in that workshop and provided to the Review.

There is a clear argument for setting organisational standards and policies on this issue.

At this time, a male colleague befriended me ... I was targeted by him. He kept plying me with drinks. Eventually this turned into a sexual relationship. We didn't have sex in the office, but he encouraged me to ... Now I realise he was doing this to others too. I guess he was also having relationships with multiple partners (female interviewee).

In addition, although there may be no case of sexual harassment or criminal behaviour in the initial relationship, there are after effects for women. Many women told the Review of the ongoing, negative comments and innuendo they experienced about their sexual reputation or 'sleeping their way to the top'. These comments may constitute sexual harassment in their own right.

They are all adults and can make their own decisions, but I have seen

⁴⁸ Victorian Equal Opportunity and Human Rights Commission, *Guideline: Sexual harassment – complying with the Equal Opportunity Act 2010* (2013) 7

women unfairly tarnished because of a relationship they have had or ended, or because they have multiple relationships. It's like the ADF stuff. It's concerning – things like people keeping score and using power and influence to prey on often inexperienced and sometimes naive female officers (male interviewee).

Any police woman who has a relationship with a police man is seen as the police bike. The comments are relentless, untrue and I have no defence or opportunity to fight back (female interviewee).

The Review recommends that Victoria Police strengthens its Conflict of Interest Policy to define sexual relationships that can be regarded as a conflict of interest, and provides guidance for managers to respond appropriately (see Recommendation 5).

The Review's terms of reference is limited to Victoria Police employees, though the Review acknowledges evidence that poor attitudes towards women inside the organisation are unlikely to be isolated to the work environment.⁴⁹

The experience of sex discrimination and sexual harassment for LGBTI employees

Under the Equal Opportunity Act, people are protected from unlawful discrimination on the basis of a number of protected attributes in addition to sex, including sexual orientation, age, race and disability.

These forms of discrimination may act together to produce particular patterns of oppression and marginalisation, and influence vulnerability to victimisation.

The Review's survey findings demonstrate that sexual orientation is a risk factor for being sexually harassed. For gay male survey participants, the rate of workplace harassment in the last five years was six times higher than for male participants overall. For lesbian survey participants the rate of sexual harassment was

⁴⁹ Philip M Stinson and John Liederbach, 'Fox in the Henhouse: A Study of Police Officers Arrested for Crimes Associated with Domestic and/or Family Violence' (2013) 24 *Criminal Justice Policy Review* 601.



a third higher than that found in female survey participants overall.

Joining Victoria Police ... as a gay male, I have been subjected to copious amounts of harassment and abuse, starting at the academy whilst a recruit. Whilst homosexuality is more accepted (whilst still not completely accepted) at present, it's the worst in any organisation I've ever worked in. Harassment has been across numerous levels, peers through to high ranking management. Command have the view that it's only male versus female harassment which is far from reality (male survey participant).

[I felt] Very Uncomfortable. I told the person that I was gay and not interested in men. Still he kept asking me to go out and insinuated that we could have sex. Like, I would 'change' for him (female survey participant).

In 2015, Victoria Police joined Pride in Diversity, Australia's national employer support program for lesbian, gay, bisexual, transgender and intersex (LGBTI) workplace inclusion. Just over one thousand Victoria Police employees participated in a national survey on LGBTI workplace inclusion which is managed by Pride in Diversity (6 per cent of the workforce).

The survey also found that 75 per cent of LGB respondents are 'out' at work, either completely or to a moderate extent, and that 75 per cent of LGB respondents are 'out' to their manager. The major barriers to employees being out at work were reported as:

- concern about being labelled
- concern about repercussions
- lack of comfort in being out at work
- fear of being the target of gay jokes or sexual innuendo.

Of the full sample of respondents, regardless of sexual orientation, over half of respondents had witnessed negative comments or jokes targeting LGBTI people at work in the last year, and almost 20 per cent had personally witnessed

or been made aware of more serious LGBTI employee bullying/harassment at work.

70 per cent of LGB respondents have experienced some form of negative gay commentary or jokes within the past year. 11 per cent of LGB respondents reported having personally experienced bullying or harassment because of their sexual orientation in the past year.

The Review noted a number of homophobic and/or hostile attitudes towards gay and lesbian police employees:

It seems females have to accept lewd sexual behaviours to 'be one of the boys' and progress their career. It also seems usual behaviour for me to act this way. However, it also seems women can threaten sexual harassment and utilise the 'gay' card for political reasons (survey participant, gender unknown).

Too many 'gay' members use their sexual status as a tool to prevent managers from managing them. There is a very real clique within VicPol consisting of gay female members and they seem to [be] able to achieve transfers and promotion that no one else can (male survey participant).

Victoria Police recorded incidents of sex discrimination, sexual harassment and predatory behaviour

There are a number of mechanisms through which Victoria Police employees can report sex discrimination and sexual harassment, as well as other inappropriate conduct. As in other organisations, Victoria Police employees can report these matters through their supervisors, chain of command or to other staff members. Police employees also have access to Welfare Services, and a chaplaincy. In addition, Welfare Services supports a network of voluntary Peer Support officers across Victoria who can provide advice and support in an informal way.

For matters relating to discrimination and sexual harassment, complaints can also be taken to the State and Federal Equal Opportunity and Human Rights Commissions, the Police Association or the Community and Public Sector Union. For employment-related matters relating to workplace flexibility, matters can be brought to Fair Work Australia.

Misconduct can also be reported as a protected disclosure under the *Protected Disclosures Act 2012 (Vic)* to the organisation or to the IBAC.

Victoria Police provided the Review with a significant data holding in the course of the Review. The main data sources currently used to collect information on sex discrimination and sexual harassment, including predatory behaviour in the organisation include:

- complaints data collected through Professional Standards Command and through Workplace Standards in the Human Resource Department
- the annual People Matter Survey undertaken by Victoria Police and administered by the VPSC
- Pride in Diversity LGBTI Workplace inclusion program Australian Workplace Equality Index Survey and benchmarking report 2015
- workforce recruitment, retention and advancement data (discussed in chapter 7).

As a result of scattered data, multiple points of entry and uniqueness of purpose across a number of data systems, the Review was not able to obtain a comprehensive picture of the complaints made to Victoria Police. Review recommendations regarding the consistency of collection and centralisation of data and complaints can be found in Chapter 13.

Since 2006, Human Resources data on formal complaints has been held in centralised databases. From 2006–2011, data was held in the Equity and Conflict Resolution Unit (ECRU) in a standalone database. From 2010–2014, data was held in the Workplace Standards Access database and from 2014, matters have been recorded in Interpose, which is owned by Information, Security and Systems Command.

In addition to the problem of siloed data, issues with classification and handling also affect the data capture, for example, inconsistent data entry, file reclassification and duplicate entries across the databases.

Across the Human Resources data from 2006–2014, there are fewer than 700 matters of bullying, sexual harassment, victimisation and stalking recorded, of which just over 100 complaints are for sexual harassment.

In a manual review of the data conducted by Victoria Police, there appears to have been an historical mis-classification of matters relating to sex discrimination and sexual harassment as ‘bullying’ or ‘conflict’. This appears to have been propelled both by a focus on downgrading sexual harassment matters as ‘workplace conflict’ for local-level resolution, misidentification by employees of sex discrimination and sexual harassment matters as bullying, as well as a reluctance by some Victoria Police employees to ‘name’ the problem.

Victoria Police also shared the complaints and allegations data from its database, Register of Complaints, Serious Incidents and Discipline (ROCSID). The database is managed by Professional Standards Command, and is used to record allegations relating to Victoria Police employees and the outcomes of those allegations. It includes data on the length of time for classification and resolution, outcome and gender and rank of targets and alleged offenders.

On receipt of the ROCSID data, the Review was informed that some files may have been missed. Victoria Police has long acknowledged the limitations in their complaints data capture. The quote below goes some way to illustrate data handling issues:

It is sometimes the case relevant incidents or allegations exist within other complaint types (e.g. one example was the use of a video camera to record a women’s change room – this was recorded under Surveillance – misuse of equipment). These will not be captured in this data.

The file types included [in the data provided to VEOHRC] report were: Malfeasance; Sexual Offence; Attempted Rape; Indecent; Instigate; not specified; predatory Behaviour; Rape, sexual behaviour, voyeurism, wilful and obscene exposure; Behaviour; Harassment; Repeated Approaches and For Making Complaint; Discrimination; Harassment; Not specified; Sexual Harassment; Gestures; Invading Privacy; Lawful Sexual Abuse; not specified, subject to intimacy; threat of intimacy; touch; verbal; (email received 10 March 2015).

Further discussion about the need to undertake work to improve classification and recording of sex discrimination and sexual harassment can be found in Chapter 13.

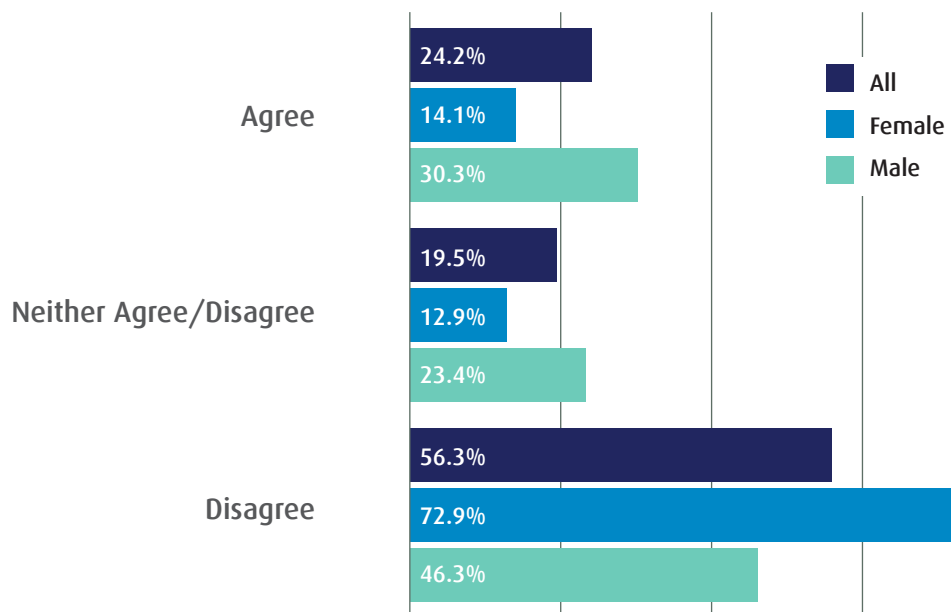
Perceptions of the extent of sex discrimination

The Review survey asked participants to rate their level of agreement with the broad statement “discrimination against women is no longer a problem in the workplace in Australia”. Just over 24 per cent agreed and 56 per cent disagreed, meaning that just over half the survey respondents believe sex discrimination is still an issue.

Men were more than twice as likely as women to suggest that discrimination is no longer an issue (14 per cent and 30 per cent).

Almost three quarters of women participating in the survey agreed that it is still a problem, with just under half of men agreeing that it is a problem. In the community sample, 13 per cent of people agreed that sex discrimination is no longer a problem compared to 24 per cent in Victoria Police.⁵⁰

Figure 18: Agreement with the statement – Discrimination against women is no longer a problem in the workplace in Australia



⁵⁰ VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS) (2014)* 14.

Taken together, data generated by the Review identified a range of factors contributing to why men in Victoria Police are less likely to identify or acknowledge the extent of the issue compared to the broader community.

The Review considers the drivers in more detail in Chapter 2.

“ ... It used to be more overt and obvious ... it is now more underhanded or subversive in the comments or behaviours, where some males are either oblivious to it occurring or that they are actually engaging in the behaviour themselves but are probably not even cognisant that they are (female survey participant). ”

Perceptions of the seriousness of sexual harassment

The survey asked participants to rate their agreement with the statement ‘sexual harassment is a big problem in Victoria Police’.

As can be seen in Figure 19, just under 20 per cent agreed and 42 per cent disagreed with this statement.

In a similar pattern, responses to views about the prevalence of sex discrimination in the community, the views of women and men about whether sexual harassment is a problem varied substantially. Of the women who responded, 28 per cent agreed and 27 per cent disagreed while 14 per cent of men agreed and 51 per cent disagreed.

The survey also asked participants to rate their agreement with the statement ‘predatory behaviour is a big problem in Victoria Police’. As can be seen in Figure 20, just below 21 per cent agreed it was a big problem while twice as many (42 per cent) disagreed.

Here too, there was a significant difference in the rates of agreement between women and men. Of the women who responded, 29 per cent agreed and 28 per cent disagreed while 16 per cent of the men agreed and 50 per cent disagreed.

Participants’ perception of the seriousness of sexual harassment and predatory behaviour are impacted by a range of factors explored throughout the report, relating to attitudinal

Figure 19: Agreement with the statement – Sexual harassment is a big problem in Victoria Police

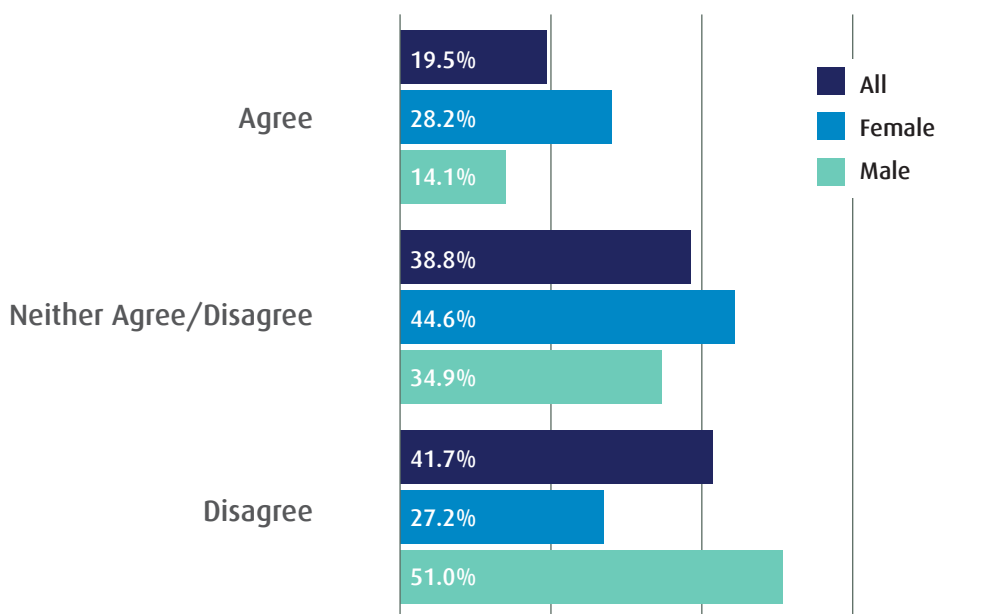
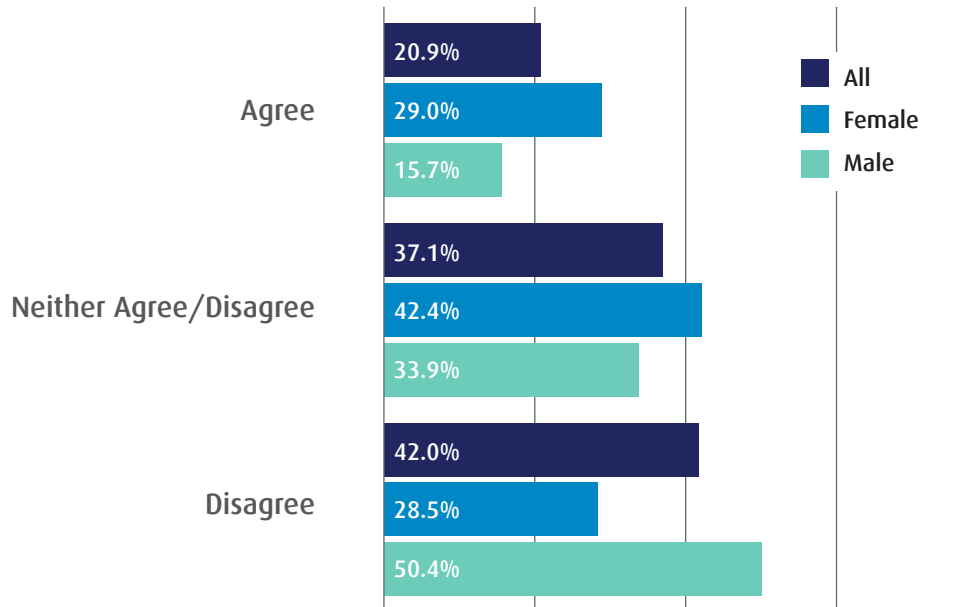




Figure 20: Agreement with the statement – Predatory behaviour is a big problem in Victoria Police



norms within the organisation that result in a level of justification, excusing, trivialisation, minimisation and shifting blame. In addition, in a similar way to attitudes in the broader community, many Victoria Police employees are less inclined to see non-physical forms of control, intimidation and harassment as ‘serious’.⁵¹

Participants’ perceptions of the prevalence of sexual harassment varied widely, including

- participants who talked of its endemic and pervasive nature:

I believe the harassment is endemic. It wasn't directed specifically towards me. It appears to be an accepted standard of sexist and derogatory behaviour amongst many of the male staff (female survey participant).

I think many male police members feel comfortable being suggestive and sleazy towards female members (female survey participant).

- participants who reported not having seen it or heard about it:

I have been a policeman for over 10 years. I have never witnessed sexual harassment within the ranks (male survey participant).

I have not personally witnessed any form of inappropriate behaviour and i would report it immediately if i did (male survey participant).

I have [family members] who work in VicPol. I am a very comfortable it is a safe workplace in this regard (male survey participant).

- participants who believed the problem was caused by a few individuals:

While sexual harassment does occur within this organisation I do not believe that it is endemic, I would define it as being limited to a few isolated incidents. I do not believe that it is solely the domain of males offending against females either (male survey participant).

51 VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS)* (2014) 13.

I believe this behaviour within Victoria police is the exception and not the norm (male survey participant).

Many survey and interview participants reflected on the changing nature and prevalence of experiences of sexual harassment in Victoria Police. For some participants, there was a sense that it had improved overall:

No. I have seen it many, many years ago however, it seems to have changed and is not as relevant as it used to be (male survey participant).

I haven't been sexually assaulted in the last [few] years, except for a few taps on the bum, which is quite minor in comparison (female interviewee).

The majority of participants, however, commented that it had either deteriorated and/or changed in nature:

There are some members who still don't like females in the job. They don't talk openly about it anymore, but they're still amongst us. Recently a superintendent said – 'pregnant policewomen are like cows, they're fucking useless and should be chucked in a paddock' (female interviewee).

Interestingly, the Review heard from many participants that sexual harassment is only a problem if women witness it.

I've never seen or heard about anything bad. But I've heard a lot of jokes between men about finding female colleagues 'hot' or wanting to have sex with them. But never any suggestion of acting on those comments (male survey participant).

This happens constantly, frequently via males who show off pornography on their mobile phones at work without considering who else is in the area (female survey participant).

These quotes illustrate that for many employees, there is limited understanding of the definitions of sexual harassment, the drivers, the conduct,

or the impact on the broader workforce and community of sexual harassment.

In addition, some participants asserted that men as well as women were the targets of sexual harassment:

Sexual harassment goes both ways and is not right regardless of the sex of the offending person. However, as with this survey society and this organisation is geared to protecting only females. It shouldn't be gender specific (male survey participant).

Others noted that women made complaints for malicious purposes:

Women use accusations of harassment to harm men (male survey participant).

This lack of understanding of the drivers of sexual harassment, as well as attitudes that are supportive of gender inequity and victim blaming, can have significant implications for safe responses, support and intervention of inappropriate behaviours.⁵²

Avoidance strategies

In workplaces where there was only a small number of women, or no other women, participants reported that this impacted their sense of safety and collegiate support. The Review heard that often people self-isolate and exclude themselves as a protective mechanism.

I make every effort to avoid going home with a male in a work car. Early in the piece, one or two, that I thought I could trust, drove me home and put pressure on me to drive me to my place ... I don't go to work functions. I don't socialise. I don't get into a lift with anyone I know is heavily involved in this behaviour ... I share very little about my personal relationships at work ... (female survey participant).

... I didn't feel confident disclosing the behaviour to anyone as I thought "who will believe me over him?" I thought I handled the situation well considering, but since that occurrence I find I am not as relaxed

⁵² VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS)* (2014).

around male colleagues as I once was ... I'm angry that this one person has changed the way I interact with my co-workers but I can't help feeling wary now (female survey participant).

I did what I had to do during the next week and kept to myself. ... This is not like me. This experience has affected me so much. I have a high set of values and standards (female interviewee).

Under the Equal Opportunity Act, a workplace environment that is 'fun' or casual is not an excuse for allowing behaviour that may intimidate or offend employees to go unchecked. The fact that an employee may have been silent or taken part in exchanges of sexual comments, banter or jokes does not mean it is not sexual harassment.⁵³

Participants commonly reflected on circumstances where they felt it was in their interest to 'play along' with sexualised banter and behaviour. Most commonly, it was an attempt to protect themselves or avoid escalation of the harassment. In other circumstances they reported having consented to the conduct up to a point, prior to the behaviour escalating to a point where it became intimidating, humiliating or offensive.⁵⁴

... As my personality is strong and quick witted, I didn't mind the guy talk and jokes, even if they were a bit rude or sexist. On occasions a number of male police officers brushed up against me, touched or leered, and one even sat me on their lap at a social event. When he pulled me onto his lap, he whispered into my ear – "Can we go outside to have sex?" His wife was sitting next to us ... I'm not sure whether it was the fact they were coppers or just being guys but it was very sexually overt. I felt that over time I changed the way I dressed and how I may have been perceived by the male officers. I was never provocative. I worked with one woman and a few of

the guys would blatantly stare down her top and comment on her body. You are in an environment where this is quite normal (female interviewee).

... occasionally it got to the point of being grabbed on the bum and that sort of the thing. I was tolerant of it. It was sporadic, but that can make it more insidious (male interviewee).

The first couple of months those types of comments were funny, you wanted to be accepted. In the end, I thought what am I doing to my own gender? I took a good hard look at myself. I had to look what I was morally doing. I tried not to get involved in these discussions. After a while, it was noted that I wasn't going along with it and I was excluded from things going on in the office, and people wouldn't talk around me (female interviewee).

Failure to intervene by bystanders and witnesses

For many targets and witnesses of sexual harassment, there was a sense of isolation in the experience because of broader tolerance of co-workers and managers, by being tacit bystanders or active participants in sexual harassment.

They would sit around the muster room and watch porn. One of the main impacts on me was the realisation that that's what blokes do. But actually now I know it's not. It is what VicPol blokes do (female interviewee).

It was intimidating in the beginning. There are things that overstep the line, something was uncomfortable about the way he was towards me. His conversations were not the same as other males I spoke to in the past. The culture is one where jokes and sexual innuendo are somewhat tolerated as banter. I had not had anyone overstep the mark before (female interviewee).

The joke [did] not really [offend] me.

53 *Horman v Distribution Group Ltd t/as Repco Auto Parts* [2001] FMCA 52.

54 See Victorian Equal Opportunity and Human Rights Commission, *Guideline: Sexual harassment – complying with the Equal Opportunity Act 2010* (2013).

However, I [felt] offended because other members were laughing and no one stood up for me (male survey participant).

For many participants, the behaviours of supervisors not only constituted sexual harassment, but created an environment that increased women's vulnerability by isolating them from an avenue that they should have had the confidence to seek help from:

[The supervisor] was a dead set creep. The first time he touched me was in front of other members. A new girl saw it but didn't speak up then even though she saw it was creepy. She didn't know what our relationship was ... He was blatant, but he would mostly do it when no one else was around (female interviewee).

In the lunchroom, he would try to engage me in inappropriate conversations. He pushed boundaries (female interviewee).

[The boss] allows conversation with a sexual overtone to occur without addressing those guilty of the conversation. He joins in and laughs with the group but he won't stop anyone from having improper dialogue. The office is like a never ending episode of Big Brother.

- *[Every] conversation ... most times it ends up with a sexual connotation.*
- *Everyone in the office knows each of the others intimate details of who is with who, who is sleeping with who, whose marriage is on the rocks. There are no boundaries.*
- *He sidles up to the women in the office and his behaviour with some can only be described as sleazy.*
- *He allows 'fun' in the form of policewomen being [objectified and humiliated].*
- *He allows practical jokes that are smutty.*

- *He does not refrain from letting others know that he is [well-endowed] (written submission).*

This is a crucial point in considering evidence about the escalation of behaviours, and significant harm, experienced by many women throughout the Review's data collection, and the role of supervisors and managers in creating a tolerance for sex discrimination and sexual harassment.⁵⁵

As seen in the data, many women who experienced sexual harassment, experienced it off site, or in an isolated environment as well (such as during a social event, while on patrol, in a vehicle).

The Review team noted the routine experiences of female sworn participants who had been sexually harassed while on duty in the van or offsite:

When I first joined I was on nightshift in the divvy van at my training station. It was maybe three months after graduating. The member I was in the van with ... lunged at me. I ran and called the sergeant from a house and his punishment was that he was banned from working with girls for three months ... (female interviewee).

... She wasn't stupid – he took her to one place that was isolated and made advances. She declined politely and was able to convince him that she wouldn't go any further. This happened more than once (male interviewee).

... Everything seemed fine, then we drove off and he gets talking about his relationship, how they never have sex anymore or anything. This is quite normal you have to understand, you spend that much time in the van you end up talking about everything. That afternoon as we're just driving around, he told me that he thinks about me while he's masturbating. And now I'm driving ... he completely

⁵⁵ Poorer psychological outcomes have been associated with harassment that: is perpetrated by a supervisor as opposed to a co-worker; involves sexual coercion; takes place over a long period of time; and occurs in male-dominated settings. Linda L Collinsworth, Louise F Fitzgerald and Fritz Drasgow, 'In harm's way: factors related to psychological distress following sexual harassment' (2009) 33(4) *Psychology of Women Quarterly*, 475.

CASE STUDY:

That place was a hunting ground for the probationary constables ... The Leading Senior Constable [and I] had been out in the car for an hour – I felt uncomfortable – it was dark. He kept asking [questions about my private life]. I didn't want to be rude or rock the boat. I am a big believer in your name is your reputation and it is all you have.

He started telling me that [he has extra marital sex]. He said his wife didn't mind. He kept asking my opinion about it and if I thought it was "wrong". I tried to be diplomatic about it, that if it worked for him and his family then it was his business. That led to him suggesting that I wouldn't mind that – that I was the type of girl who would be cool. I felt very uncomfortable, I didn't want to say, "You're a big creep," so I humoured him. He kept going on – would you be the type of girl that would want to do that? He pulled over somewhere pretty secluded so that we could check on people speeding.

I was very, very junior, I didn't know our call sign, where we were or how to use the radio. I felt very vulnerable. He started asking about what kind of sex I like and that sort of thing. At this point, I hadn't said stop per se, I'd just tried to redirect the conversation ... I didn't want to be labelled a troublemaker, and I was new. I didn't want to be 'that girl' who was 'a bitch' to my colleagues. That stuff follows women around the force – "she's the one that made a sexual harassment complaint".

I definitely tried to mitigate it somehow, I don't remember how, but just avoid the conversation and change the subject. He kept asking me what I would be "up for". I think I said, "I don't think that is what I would do, certainly not in a police car". I tried to move my leg when he touched it. He was saying, "I reckon you would be the type of girl that if I got my cock out you would suck it". He kept pushing it. I kept thinking, "I am going to get raped in a police car. This is not an ideal start to my career".

Eventually I snapped when he started touching himself (over clothes), I threatened to spray him. He said, "You don't have to be a bitch about it". I said, "You don't have to pull your dick out".

He put the car in gear and drove straight back to police station, without saying a further word. After that he completely ignored me.

It was gross. It was awful. I didn't tell anyone I worked with ... It was really disempowering. I did tell a [senior woman I worked with] a few weeks later. A lot of the girls were consensually sleeping with senior constables. I told her a shortened version of what had happened. She said, "You need to tell me who it was and I will get him fucking fired". I didn't tell her – there was too much at stake – there were a lot of men in management and he still seemed pretty well protected (female interviewee).

blindsided me. I was totally unprepared and I'm so uncomfortable but somehow also worried about reacting in a way that would make him feel uncomfortable or embarrassed about what he had just said. He kept going on and I kept just hoping we'd get a job so I could get out of this conversation (female interviewee).

In many cases, it was experienced as an escalating pattern of behaviour over time, often occurring in areas where there was a lack of intervention in the behaviours by the workplace, which meant a person subjected to such behaviours did not feel confident or safe to report it.

... Everyone at the station has warned all the new trainees, particularly the females about the SC, but no one was prepared to stand up and say anything. They're all happy he's out of the job but none of them did anything about it at the time ... The SC drives to a location within their area and says 'this is a great location to have sex in the van because the CCTV cameras can't see you.' She was frightened he was going to do something to her. And this is her workplace (female interviewee).

The perpetrator would change shifts so he worked with me. I thought once the roster sergeant had rostered me off, I would be safe. I thought that if I pretended to be friends with the perpetrator, then it would be OK (female interviewee).

The comments were made in front of a group of three other male colleagues of my same rank. I felt embarrassed that no other person thought the comments were inappropriate, all who joined in laughing. Made me feel as though the comments made were part of a bonding exercise. (female survey participant).

Backlash and perceptions of 'reverse' discrimination

The Review team spoke with many employees who were extremely proud to work for Victoria Police and that they wanted these inappropriate behaviours addressed to make Victoria Police the best possible organisation it can be.

Sexism and sexual harassment is one of VicPol's biggest problems and MUST be addressed if we are to evolve into organisation that women can be proud to work for. I love my job and I love VicPol. But I am quite frankly, ashamed of how women are treated and how often sexual harassment is casually ignored by both male and female members in VicPol (female survey participant).

[I] feel very strongly that we need to change the culture which allows this type of behaviour to not only exist but thrive. The day of the male jock who is everyone's mate and who sees sex as being a social conquest needs to be isolated and driven out of our culture. We need to see this behaviour as what it actually is and to educate all members that the current climate and culture is not acceptable (male survey participant).

The Review's data shows there was wide variations among respondents in their perceptions and attitudes about the existence and prevalence of sexual harassment and sex discrimination.

Many respondents rejected the idea that gender inequity could be a problem in Victoria Police.

... command are well out of touch if they think this is an issue ... (male survey participant).

I have not witnessed any of this behaviour and therefore do not believe it warrants this amount of resources/ investigation (male survey participant).

Not broadcasting to the world that there is a widespread problem and paint every hardworking police officer as a sexual predator would be fantastic (male survey participant).

The resources used to fund this program could be better used to fight the “ice scourge” or family violence (male survey participant).

Some spoke of a lack of environmental or interpersonal awareness of the prevalence, nature and impact of sexual harassment and sex discrimination.

I have been a policeman for over 10 years. I have never witnessed sexual harassment within the ranks (male survey respondent).

One of the Sergeants said to me ‘glad to hear you’re pregnant – I thought you were putting on weight’. When I said it’s not appropriate to say that he just didn’t get it. What language do you use to get them to be aware of it? (female interviewee).

Furthermore, the Review heard from a significant number of employees who believed that any measure to address inequality were unfair.

Sex discrimination traditionally implied females being treated poorly by males. Over the past eight years the tide has turned significantly with separatist actions taking place. Women Policing forums – an unfortunate by-product is that unhealthy cliques have formed and women in some cases are being promoted based on gender. Management have been heard to say they need to fill the position with a female to balance the male / female management ratio. This is flawed and action such as this is fuelling males to view females negatively (male survey participant).

Moreover, any employees who held these views also held views that women ‘played the gender card’ to compensate for inferior work performance and/or were not promoted on merit.

I do not like females claiming to be discriminated against on the basis of their gender when their actions or performance is deficient (male survey participant).



... Some people, if there has been anything that looks like affirmative action or preferential treatment, will push back and try to redress the imbalance they perceive. They see this as pushing back on ‘unfairness’ rather than addressing it ...

... Well, we should treat people equally, but they often don’t get that equal doesn’t cut it. It is more paternalistic than equal – more protective and paternalistic sometimes ... (SENIOR MANAGER)

Recent research and national consultations undertaken by OurWatch in partnership with Australia’s National Research Organisation for Women’s Safety (ANROWS) and VicHealth found evidence of hostility towards initiatives and reforms aimed at establishing gender equality. They point to a growing consensus that increasing hostility and violence against women can be best understood in conjunction with ‘backlash’ theories that examine what happens where existing or expected power differentials and hierarchies are challenged:

For example, when gender relations are based on a hierarchical model where women play a subordinate role, violence may be used and accepted as a mechanism for maintaining this dynamic, especially when it is under threat.

... Violence against women is also more likely to be supported in circumstances where women are perceived to have breached socially defined feminine roles, such as when women’s education level increases relative to men). Studies show levels of violence against women increase in societies ... where women begin to play a more prominent role in paid work and civic society. Together, this

suggests that violence, or the threat of violence, may be used in such circumstances as an attempt to re-establish the previous 'gender order', one that is often perceived to be 'natural' or 'traditional'.⁵⁶

This may increase the risk of women being undermined and targeted and will need to be addressed as part of the implementation of the Review's recommendations.

... there is a cultural belief that a woman will get promoted before a man. Extremely unfair (female survey participant).

It also affects the way women value themselves and other women by shifting the blame from the structural and attitudinal barriers to women being able to equally and fully participate onto women who are prepared to make a complaint or push back.

It is my perception that probably more than 50% of complaints are fabricated or exaggerated by females who are anti-men and want to get places. This behaviour and attitude of women ruins the job for the rest of us, because unfortunately we get tarnished with the same brush! (female survey participant).

While backlash continues to be experienced, Victoria Police should recognise that many male participants are aware of gender-based hostility or sexual objectification and experience discomfort and stress as a consequence.

I have heard about something unacceptable happening, which is called "decorative appointments" where people will hire VPS staff that are attractive. For example, VPS2 appointments were prioritised based on their looks – this was done at Super level (senior manager).

The jokes and comments were not directed towards me, they were directed towards members of the

public who could not hear. These made me feel uncomfortable [and were] ... mainly focused around female members of the public (male survey participant).

Many participants, both male and female spoke of the benefits to both men and women in the organisation of creating a more flexible, respectful and equitable workplace.

These vastly different perspectives will be important considerations in designing and implementing internal communication strategies to address the prevalence and nature of sex discrimination in Victoria Police and build support to create a workplace that benefits from its diversity of employees.

Further discussion on the impact and harm caused by of sex discrimination can be found in Chapter 4.

Conclusion



Victoria Police likes to think of itself as a women friendly workplace when in fact it's only women tolerant (SITE VISIT).

Throughout this Report, the evidence shows sex discrimination and sexual harassment to be prevalent and widespread in the organisation. Significant evidence gathered by the Review shows that there is systemic discrimination against women employees in Victoria Police, and measures to address this will need careful and consistent employee engagement.

Women are significantly more likely to experience sex discrimination, gender-based bullying and sexual harassment.

⁵⁶ OurWatch, VicHealth and ANROWS, *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (2015) 31 <<http://www.ourwatch.org.au/getmedia/1462998c-c32b-4772-ad02-cbf359e0d8e6/Change-the-story-framework-prevent-violence-women-children.pdf.aspx>>.

Victoria Police have a long, long way to go. Lives have been forever destroyed, good smart female officers lose their career. In general sexualising harassment is tolerated. [Some units] have a terrible predatory nature in general women are treated like meat and those who do not go with it are treated poorly (female survey participant).

It is also clear that there is heightened risk of being targeted for VPS employees and for gay and lesbian employees who do not conform with gender identity norms. This is discussed further in Chapter 2.

Sexual harassment is significantly under-reported. The reasons for this are outlined in more detail in Chapter 12. However, it is clear from the Review's evidence, that under-reporting may also be strongly affected by employee perceptions on the prevalence, nature and importance of these issues, which promote the idea that experiences of sex discrimination and sexual harassment are 'non-events', are not worth pursuing or should be endured.

This, combined with what appears to be a high level of tolerance and normalisation of sexism and sexual harassment in the workplace, will continue to exacerbate the problem until it is addressed in a comprehensive and strategic way.

There is also a clear argument for a zero tolerance response to actions that are often perceived as 'low level' behaviours in workplaces and among teams. In tandem, there is evidence of a propensity for 'backlash' on initiatives that seek to address gender inequity, which has significant implications, and needs to be taken into account at all stages of implementation.

Gender equality must remain central to implementation. It will be important to engage men. Research demonstrates that backlash and resistance is an inevitable part of the change process, and should be planned for and expected.⁵⁷

... we need to address these issues as soon as it happens rather than waiting for something to happen. I said conversations like the one we're having need to happen in an informal way and by everyone, it needs to be in the mess hall, and when people are talking (in sometimes very derogatory ways) about women in their day to day interactions. It is not just in education about policies and rules ... There's an underground network for guys. If a female won't put up with it, and goes to the 'horrendous' lengths to report it, they will be ostracised ... And that's why we have what I think are much higher levels (of harassment and discrimination) than we know about (female interviewee).

Sex discrimination and sexual harassment in workforce recruitment, retention and advancement data will be explored in more detail in Chapters 7 and 8.

⁵⁷ OurWatch, VicHealth and ANROWS, *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (2015) <<http://www.ourwatch.org.au/getmedia/1462998c-c32b-4772-ad02-cbf359e0d8e6/Change-the-story-framework-prevent-violence-women-children.pdf.aspx>>.



Chapter 4

Impact and Harm

Main findings

- The Review witnessed a range of impacts of sex discrimination and sexual harassment on individuals and workplaces. Targets and witnesses experienced significant detriments and harm, including psychological harm, social isolation, exclusion and withdrawal, economic loss, health-related issues and extreme physical harm, miscarriage and thoughts of suicide.
- The proportion of participants feeling very intimidated by the sexual harassment is substantially larger than in the community and the Australian Defence Force (ADF).
- The proportion of participants feeling very offended by the sexual harassment is also substantially larger than in the community and ADF samples.
- Families of employees are also negatively affected by sexual harassment, sex discrimination and predatory behaviour. In some cases, they are also the direct targets of these behaviours.
- Sexual harassment is costly to Victoria Police in terms of retention, reduced morale, absenteeism, the cost of investigations and other direct and indirect costs.
- Significant impacts on both men and women were seen especially in workplaces where there was a heightened tolerance for inappropriate behaviour and gender-based hostility.
- For women in the organisation, the risk of harm already present in the ordinary rigours of policing is escalated where there is a climate of gender-based hostility.
- The Review heard of multiple, historical incidents of sexual harassment and assault. For individuals who were former employees of Victoria Police, there were ongoing psychological impacts. For many victim/

targets, the harmful experience continued to affect their everyday lives.

- There are significant organisational risks and costs of a lack of gender diversity in the workforce, including risks to capability, community confidence and integrity.

Introduction

Participants who experienced sex discrimination and sexual harassment described to the Review a range of detriments and injury, including psychological harm, social isolation, exclusion and withdrawal, economic loss, health-related issues and extreme physical harm, miscarriage and thoughts of suicide. Third party harm, experienced by partners and families, is equally concerning.

These impacts are not experienced in isolation. Victim/targets frequently reported experiencing a combination of these harms, many of which were pervasive and distressing, at different times and to varying degrees.

Sex discrimination and sexual harassment is problematic in a unique and corrosive way, stripping away women's and some men's identities as participants in their place of employment, reducing the quality of working life, creating barriers to full and equal participation in the workplace and imposing costs on organisations.⁵⁸

The data for this section has been drawn broadly from the data collection. Given the difficulty in defining 'severity' in relation to impact and harm, we report here on the scope and extent of harm broadly, rather than an outcome of any particular type of

⁵⁸ Australian Human Rights Commission, *Sexual harassment in the workplace: Code of Practice for Employers* (2004); Deirdre McCann, 'Sexual harassment at work: National and international responses' (Conditions of Work and Employment Series No. 2, International Labour Organisation, 2005); Sandra Fredman, *Women and the law* (Oxford University Press, 1997).



discrimination, harassment or predatory behaviour on any individual. Drawing on these harms broadly highlights the Review’s finding that one particular incident *does not equal or result in* one particular impact or harm.

Focusing on the criminal end of sexual harassment fails to recognise the cumulative impact where individuals are discriminated against or sexually harassed on an everyday basis. This does not and should not take away from the seriousness of particular incidents such as sexual assaults, however, it emphasises the point that the impacts of sexual harassment, sex discrimination and gender based violence and hostility are significant.

This chapter also examines the impact of historical sex discrimination and sexual harassment of former employees and long serving current employees. The Review found there is significant harm existing in the workforce and the community.

Victoria Police cannot draw a line in the sand and start fresh. Cultural change will require recognition of the lived experience of the harm.

Victoria Police has shown competent leadership in protecting their employees from external risk, including through developing Occupational Health and Safety standards and leadership through the Zero Harm strategy. As addressed in Chapter 11, the acknowledgement of and efforts to address workplace harm are gaining traction, as demonstrated in Victoria Police’s commitment to developing a mental health strategy and through their engagement in this Review. In addition, Victoria Police has been proactive in identifying the need for a harm index to look at impact over volume in the context of community safety and crime prevention.⁵⁹ The relevance of this development to this Review is discussed in more detail in Chapter 6.

There is no doubt that there are inherent risks in the everyday rigours of policing. The Review heard consistent evidence that demonstrated this was the case for sworn members, both police and protective services officers (PSOs),

as well as public servants, whose roles in frontline policing, renders them potentially vulnerable to recognition and subsequent targeting within the community. In the context of the inherent dangers and stresses of policing, and for people who are targeted or harassed internally, the risk experienced by employees and perceived by families is heightened and the potential impact and harm elevated.

Women that I’ve spoken to say that it’s always in the back of their minds. There is that more acute awareness of their environment. You take that into the workplace and it is compounded (executive interviewee).

... It’s the same mentality as domestic violence but being perpetrated by the organisation ... The nightmares I have are horrendous. I am really fearful about coming forward and speaking about it. I know what can happen ... There wasn’t anyone to tell. It’s like a domestic violence victim. You’re isolated. You’re on strange shifts with two weeks’ notice, so your social life went out the window. The guys were drinking and screwing around. They just regarded us as part of their property. It’s almost like you get into the mindset (female interviewee).

Impact on targets

Cumulative harm

Recent evidence has pointed to the importance of moving away from traditional systems of measuring incident-based workplace harm to an approach that recognises and responds to cumulative harm. This is crucial in thinking about the harm and impact of sex discrimination and sexual harassment in the workforce.

For example, evidence has shown that more frequent, though less intense harmful workplace experiences (for example, sexist jokes and remarks, ignoring women during meetings) can impair occupational wellbeing as much as less

⁵⁹ Victoria Police, *Blue Paper: A vision for Victoria Police in 2025* (2014) 27.

frequent yet more intense forms of mistreatment at work.⁶⁰

This is an essential point in understanding the limitations of measures of severity and trying to quantify workforce harm through incident data. Therefore, prevention measures that only look to individual responses and incident management, rather than holistic responses that look to organisational climate and impact measures, will be limited in their effectiveness. This does not diminish the significance of serious and potentially criminal incidents, such as sexual assault, and the need to intervene and respond effectively.

Consistent with evidence-based research, the Review found that everyday experiences of sexism, or 'low severity/high frequency' experiences of inappropriate workplace behaviours, have a similar impact as 'high severity, low frequency' experiences on victim/targets. The cumulative impact of these experiences is perhaps less well-understood than 'higher severity' experiences of criminal offences, such as sexual assault. This gap in the understanding of harm is a significant challenge for Victoria Police in progressing gender equity initiatives; a challenge articulated by the following two senior employees:

If they are not the ones experiencing it, if they can't pinpoint an incident that caused the trauma, there is this cynicism, like you're not entitled to be impacted. There are all sorts of judgements about the type of incident, level, and seriousness – like in mental health. If it is not big impact stuff, then you should be fine, you shouldn't be affected. You may have been to 10 car crashes in five months but there is no legitimacy to be impacted by those experiences...

I don't think they understand the cumulative effect of poor workplace behaviour (conflict, bullying, harassment) at all – this is spoken about even less than trauma I think. And if they have trouble understanding

it with trauma, then there is even less legitimacy of the cumulative effect for these issues (female interviewee).

I want to reemphasise that trauma isn't just about the critical stuff. The issue is that things are dealt with as they come in the door, there is no digging deeper (female interviewee).

In responding to sexual harassment and other forms of violence against women, or in trying to measure its harm and impact, it is crucial that it is not dismissed or downplayed regardless of how "minor" or benign those behaviours appear to be.⁶¹

The Review heard about a range of strategies, both positive and negative, that Victoria Police employees use to manage stress and harm. Whether employees recognise the longer term impacts and the cumulative and complex interactions between job stress, workplace stress and gender based discrimination and harassment, is an area requiring further work.

Coping mechanisms aren't a one size fits all though. I know of members that cope by not talking about it whatsoever. I couldn't do that. If I didn't talk about it, it would be very dangerous for me, as a person. But I've known members who every time something comes up they walk out of the room (male interviewee).

A practicing psychiatrist told the Review:

There is often a long history of occupational stress that precedes these diagnoses – with sub-clinical anxiety or depression. I routinely ask, 'When did you last feel 100% psychologically well?' Often it's years and over this time, they've been struggling with stress and sub-clinical anxiety in reportedly adverse working environments (external expert).

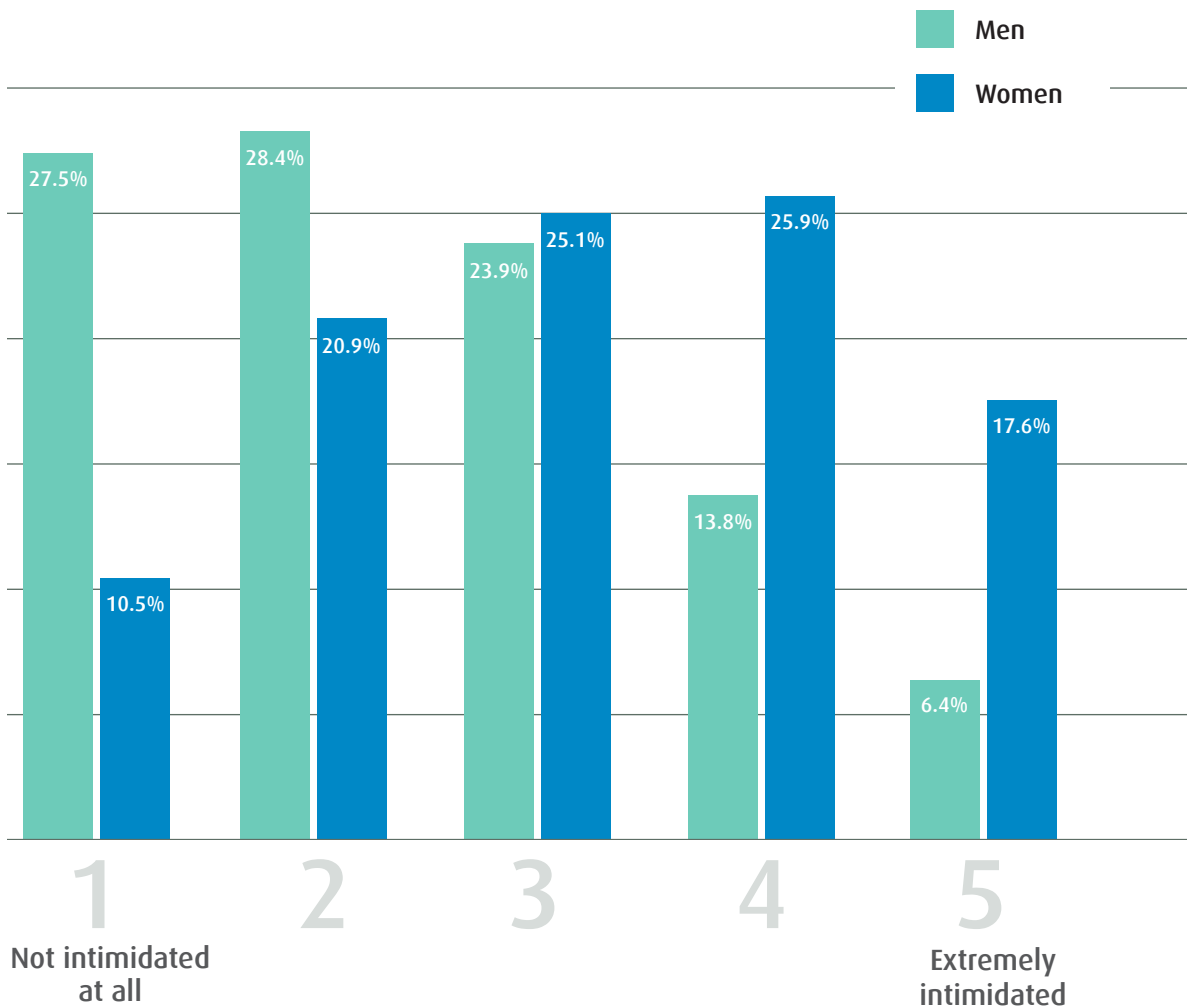
Consistent with previous research, the Review demonstrated that targets experience a range of significant negative psychological, health and job-related outcomes including anxiety, anger,

60 Victor Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly*, <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

61 Bianca Fileborn, *Conceptual understandings and prevalence of sexual harassment and street harassment* (July 2013) Australian Institute of Family Studies <<http://www3.aifs.gov.au/acssa/pubs/sheets/rs6/>>.



Figure 21: On a scale of 1 to 5, overall how intimidated did the harassment make you feel?



powerlessness, humiliation, depression and post-traumatic stress disorder.⁶²

Intimidation and offence

Survey participants who experienced sexual harassment that started in the last five years were asked to rate the impact of the harassment in terms of feelings of offence and intimidation.

As can be seen in Figure 21, a high proportion of women (44 per cent) and less than half that proportion of men (20 per cent) indicated feeling very intimidated (scores of 4 and 5) by the harassment.

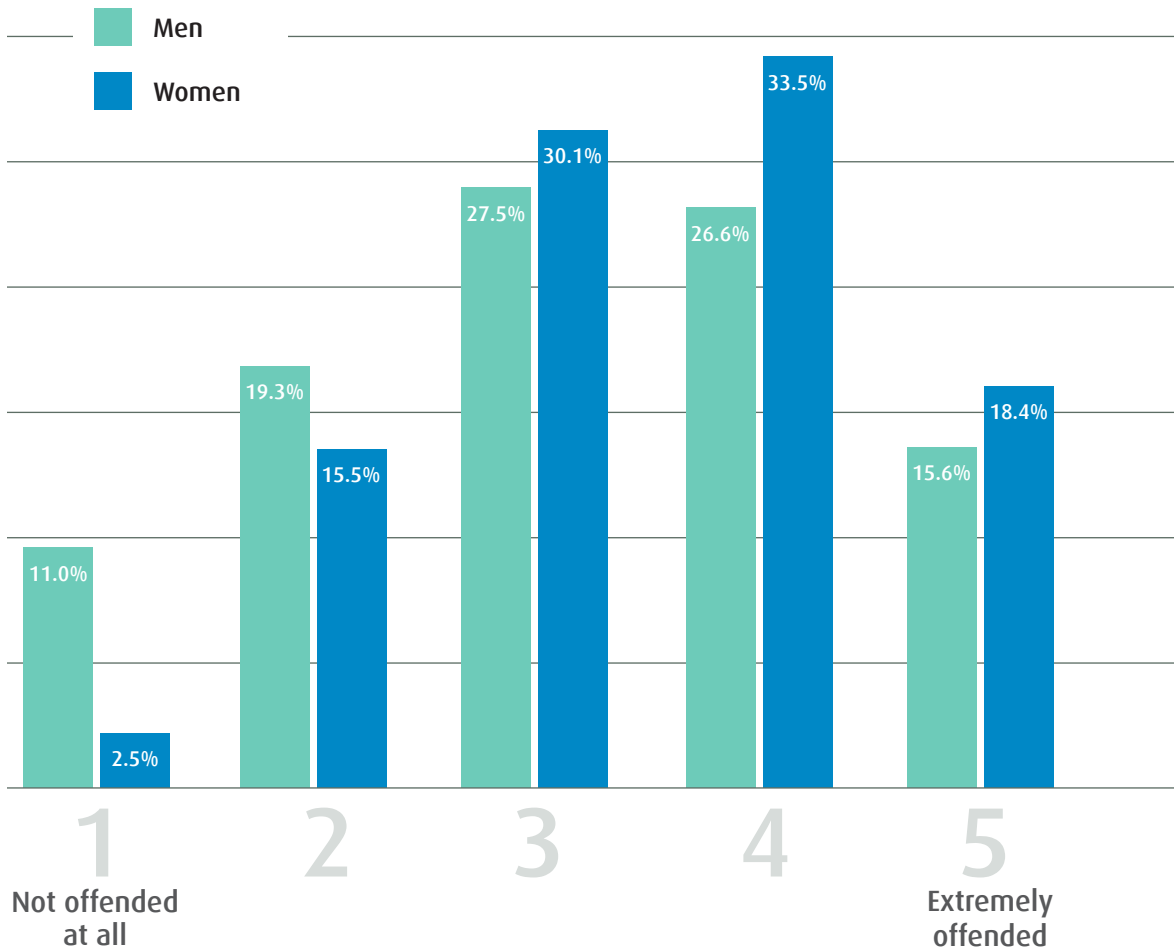
62 M Bergman et al 'The (un)reasonableness of reporting: antecedents and consequences of reporting sexual harassment' (2002) 87 *Journal of Applied Psychology*, 230-242; C Willness, P Steel and K Lee, 'A meta-analysis of the antecedents and consequences of workplace sexual harassment' (2007) 60 *Personnel Psychology*, 127-162.

While there is a marked difference in the intimidation felt by women and men in the Victoria Police sample, the overall proportions of survey participants reporting feeling very intimidated is substantially larger than those found in the community (women: 25 per cent, men: 13 per cent) and the ADF (women: 22 per cent, men: 9 per cent).

As can be seen in Figure 22, high proportions of women (52 per cent) and men (42 per cent) indicated feeling very offended (scores of 4 and 5) by the harassment they experienced.

These levels of offence are substantially higher compared to those found in the community (women: 31 per cent, men: 19 per cent) and the ADF (women: 30 per cent, men: 14 per cent).

Figure 22: On a scale of 1 to 5, overall how offended did the harassment make you feel?



Psychological impacts

Participants frequently reported feeling “uncomfortable and stressed in the workplace,” particularly in the presence of the harasser and bystanders who had previously taken no action. For many participants, the workplace became a place associated with anxiety, discomfort and unease.

He made me feel very uncomfortable around him along with all the other females in the room ... (female survey participant).

I felt uncomfortable having another person come up really close to me and speak in a hushed tone and

occasionally stroke my arm. This was happening to a lot of people in my office and they too felt very uncomfortable to be around this person (female survey participant).

I just didn't know what to do – I didn't do anything. I felt so uncomfortable (female interviewee).

Embarrassed and felt as though I was unable to talk about the matter and the harasser had turned people against me (male survey participant).

I felt more intimidated and uncomfortable rather than offended, as

I was not sure how to respond to the situation, given a substantial age gap (female survey participant).

Many responses about the significant psychological impacts of sex discrimination and sexual harassment in Victoria Police were recorded during the Review. The following is a snapshot of what was reported.

Participants described feeling distracted and stressed and they experienced depression and anxiety after they were sexually harassed.

I have been on medication for depression – too much. I’m stopping that now. I have been in a sense of panic and lost my self worth – I couldn’t stop [the harassment and the ongoing and escalating bullying] and had no control (female interviewee).

I was promoted to [another station]. But when I got there, I don’t think I was meeting standards, maybe because of the [rape and assaults]. But no one sat down with me to find out or help out. I found that I was struggling, for example, reading a paragraph over and over again and I still couldn’t make sense of it. I knew my head wasn’t right, but not at the time. Concentrating was a real problem (female interviewee).



He regularly made me feel like I was a bad person for not wanting him. Soon after this I had leave scheduled ... Once again I felt trapped and distressed, but tried my best to hide it (FEMALE INTERVIEWEE).

Anxious, defeated, depressed & hateful towards the organisation (male survey participant).

[I went back to work too soon after the harassment] and I felt an anxiety attack come on when we were out and about. We went to see an Ice addict, but I wasn’t ready for that work, my anxiety is really high (female interviewee).

I developed an anxiety disorder whilst

on maternity leave and had the worst 12 months of life (female survey participant).

The Review also heard from people who had been diagnosed with Post Traumatic Stress Disorder (PTSD), eating disorders and trauma-related emotional or psychological breakdowns, including people who had been stalked, sexually assaulted and who had experienced ongoing victimisation:

I had another breakdown ... I am resilient but it was awful. There is only so far resilience can take you (female interviewee).

I had had an emotional and physical breakdown, just like people do with PTSD ... I could not escape the reminders and vivid and distressing flashbacks (female interviewee).

I’d developed bulimia as a coping mechanism. It’s a pattern of anxiety relief I didn’t get out of until my 40s (female interviewee).

I broke down at work. I rang [my husband], he had to pick me up. I was off for months ... I have been diagnosed with PTSD (female interviewee).

In a 2012 study, targets of sexual harassment experienced symptoms of PTSD, with 80 per cent of participants reporting they had experienced at least one PTSD symptom as a result of sexual harassment. The severity of these symptoms, particularly depression, was positively correlated with the frequency of exposure to sexual harassment. That is, the more frequently participants had encountered sexual harassment, the more negatively they were affected by it. Further, the impact of the sexual harassment and coercion varied depending upon the type of behaviour encountered.⁶³

⁶³ Bianca Fileborn, Conceptual understandings and prevalence of sexual harassment and street harassment (July 2013) Australian Institute of Family Studies <<http://www3.aifs.gov.au/acssa/pubs/sheets/rs6/>>.

I am not in a position to know if Victoria Police understands the depth of psychological stress, distress and potential damage that it's usual workplace practices as well as its culture has the potential to cause. When combined with bullying, harassment and intimidation, this can be overtly destructive for the psychological health of previously healthy competent officers both male and female (external expert).

Of extreme concern was the number of participants who reported thoughts of suicide in the context of ongoing harassment and victimisation. The Review received several phone calls from current and former Victoria Police employees who also had suicidal thoughts but chose not to participate in the Review.⁶⁴

After I ended the relationship with him (the predator, though I didn't know that at the time) he told me that people were gunning for me – that they wanted me gone. He told me to watch my back ... I complained to the other sergeant but he dismissed me straight away. He didn't take it seriously. For the rest of day no one would talk to me. ... At this point in my life I was a wreck. I was experiencing on-going distress in relation to the lack of investigation to the claims I'd made. I had a crystal clear thought about suicide (female interviewee).

For many people, the experience of being victimised following reporting, was the most harmful and stressful period. This is discussed in detail in Chapter 12.

Impacts on safety

The Review heard a range of experiences and perspectives on the impact of sex discrimination and sexual harassment on targets' relationships. A number of participants reported withdrawing from partners, family, friends and work as a consequence of their experiences. See pages 115–116 for a detailed discussion of the impacts on partners, family and friends.

⁶⁴ The Review provided appropriate support and referrals to these people.

One participant who previously worked in a male-dominated area and experienced daily discrimination and sexual harassment told the Review:



One of the main impacts on me was the realisation that that's what blokes do. But actually now I know it's not. It is what VicPol blokes do. I look at my boyfriend, and think maybe he does that? These thoughts do go through your mind.

I think it has done untold damage to me. I question my relationships and the people around me. I can't help but think about this with my boyfriend (FEMALE INTERVIEWEE).

The Review heard that victim/targets, particularly those who experienced poor reporting outcomes, were distrustful of colleagues and the organisation.

[I] felt like I could not trust these members and no longer felt comfortable working with them (female survey participant).

People offered to help, including a male inspector, and I had to tell him that I couldn't, because he was male and in the rank structure, and I couldn't trust that (female interviewee).

I felt so betrayed and intimidated. I felt so disappointed and disillusioned (female interviewee).

I wanted to live in a bubble. I didn't want any more politics (female interviewee).

A changed attitude towards people in the workplace, particularly men, was frequently reported by participants. Participants also told the Review they experienced body image issues and self-consciousness, with one female survey participant remarking she felt 'very conspicuously female.'

I am so overly aware and sensitive about how blokes look at me. Now I don't wear shorts even in my private life. It felt dirty. So obvious. I wear

everything baggy – I don't want to be looked at that way (female interviewee).

I have changed the way I interact with male colleagues. Even though I know I didn't do anything wrong, I can't help worrying that I somehow encouraged the harassment so I am now very wary of friendships with men at work. I feel uncomfortable anytime I hear someone say this person's name because it makes me think about him (female survey participant).

[It] made me feel intimidated, uncomfortable, embarrassed, like this was all this male could think about (female survey participant).

[I felt] like I was only valued for the way I looked (female survey participant).

Some participants became hyper vigilant about their personal safety. In some cases, this heightened fear and concern for safety affected both their professional and personal lives, and the lives of their families.

I kept having dreams about people breaking in and hurting me and my baby. I had the house booby-trapped when my husband was away or when I'm home alone (female interviewee).

I feel apprehensive about being [in my current workplace]. I was having more nightmares, particularly since coming here. When I'm [in my area], I do feel safe but if I meet him in the stairs what would happen then? ... I do carry the stress around. The main reason is that I am scared I will freeze again (female interviewee).

“ I did not feel safe at home. I did not feel safe in my work place. I was concerned this person was going to kill me [they have] access to illegal firearms. (FEMALE SURVEY PARTICIPANT)

I hid in the toilets when the sergeant was around ... I don't feel safe in my workplace (female interviewee).

As the time drew closer where I had to return to the office and work with [the harasser], I felt that I would be putting myself back into a vulnerable situation and I didn't feel safe (female interviewee).

“ My stress and anxiety comes from within the four walls of work – not from the street like you would think (FEMALE INTERVIEWEE).

Physical impacts

The range of physical impacts on victim/targets, both from the behaviours themselves and as a result of the physical and/or emotional consequences of the behaviours, was extremely concerning. Two former police members shared their experiences after they experienced assault: one was left with a serious physical injury and the other reported being drugged.

I went straight back to [the work site]. ... The pain was excruciating, but I wasn't going to stop because of him ... I had no idea my injuries were that serious. An ambulance was called and I was taken back to hospital, to check for further damage. Luckily I was okay ... (female interviewee).

After the rape, I was in a stupor for the next 24 hours ... When I woke up it was ... the afternoon. That has never happened to me, I knew I had been drugged with Rohypnol or something. I tried to carry on acting as normal (female interviewee).

In a large number of cases, employees reported feeling physically ill, vomiting, losing weight and experiencing other stress-related conditions.

I felt physically ill. When I came into the office ... the comments from other members were relentless. ... I walked out of the room, everyone was staring. [Then] an unsworn member ... leaned forward and said ... "When will they start the music so you can get your gear off?" I know that his only motive ... was pure humiliation. I was the only female (female interviewee).

By this time, I was stopping on the way to work to throw up I was so stressed and anxious about his [harassment and bullying] (female interviewee).

It makes me feel anxious [knowing he will harass and intimidate me]; I have a knot in my chest (female interviewee).

... I developed eczema on my scalp which my GP suggested might be stress related ... (female interviewee).

One participant who had been harassed, stalked and sexually assaulted reported:

I was completely stressed, I was very thin ... I went out the back and I just collapsed (female interviewee).

Some participants who had experienced ongoing discrimination and harassment told the Review they now experience an intense physical reaction to objects or artefacts related to policing. This affected their personal lives in deeply troubling ways.

I will never forget what has happened. For me, the harm is significant. My whole career is policing, I have so much more I want to give ... Now, I can't look at the uniform. Previously, it represented the best day of my life. But now when I look at it, I feel nauseated ... I shake when I see a police car (female interviewee).

The worst side effect of my breakdown following years of ongoing sexual harassment and exclusion was not being able to wear my Police uniform without breaking out in a cold sweat (female interviewee).

The Review heard from a number of women who were pregnant when they experienced sexual harassment. This had a range of physical and psychological impacts on their experiences of pregnancy and later, as a mother.

I was heavily pregnant towards the end of the time frame that I was subjected to the harassment and it made me feel disgusting and physically ill. I was also made to feel powerless and totally vulnerable when in fact I am a usually

strong and assertive person (female survey participant).

I was pregnant at the time and the inappropriate comments ... were unnecessary and caused me stress at an already stressful time. (female survey participant).

I was pregnant at the time and a new change to me emotionally and physically. Being subjected [to discrimination and harassment] made me feel very protective of my unborn child (female survey participant).

In several extreme cases, some women reported that workplace stress caused by harassment and victimisation contributed to them suffering miscarriages.

... I told work I was pregnant. They rostered me permanently in the watch house. On the Friday, I had a miscarriage. This all happened in a space of a week ... On the Monday, I went back to work. ... I told the Sergeant that I was no longer pregnant. I wasn't expecting sympathy. He paused for a second and then said, "Hmm, it probably would have been a fucking spastic anyway (female interviewee).

Not long after [I reported the sexual harassment] my partner and I had a weekend away and when we got back I had a bleed ... I was nervous and stressed, and worried and I wasn't sleeping. I had to make a really concerted effort to de-stress but I've never forgotten it ... I cried so much, I don't think I can cry any more. I am surprised I haven't had a stroke from the stress. We lost our [baby to miscarriage soon after] (female interviewee).

Emotional impacts



I cried in the car every day before I went in because I felt broken (FEMALE INTERVIEWEE).



There is no one way to process an experience of sexual harassment and sex discrimination. The following examples highlight that the emotional experience of gender discrimination and harassment are complex, diverse and a constantly evolving experience.

For example, feelings of anger were frequently reported:

Very angry and frustrated and unheard - I should not have to repeatedly (i.e. more than 20 times) rebuff requests for a date from the same person over an extended period of time (female survey participant).

Over time, I hated myself, then I hated my colleagues and my workplace and the job (female interviewee).

I felt powerless at first, embarrassed, unable to control the situation, then angry (survey participant, gender unknown).

As commonly experienced by sexual assault victim/survivors,⁶⁵ the Review also heard from participants about their feelings of shame, guilt and self-blame, which also impacted on their feelings of self-worth.

[I] feel like my integrity has been damaged, felt like I was weak and pathetic to allow the behaviours to continue (female survey participant).

I left that meeting deflated and scared. I honestly believed that this would make my workplace unbearably uncomfortable, and that the chances were high I would become a target ... I also left that meeting feeling like I was the one causing all the problems that this was all my fault (written submission).

I kept asking myself "Am I tough enough, smart enough, good enough to do the job?" (female interviewee).

After [the rape] happened I went to a girlfriend's house and cried. I just thought, what is wrong with me, what did I do that it seem like I was the kind of girl who you can say and do this to?

There was all this self-blame, and I felt angry at myself for feeling that way (female interviewee).

Disrespected and like I was an object, not a colleague (female survey participant).

As discussed in Chapter 2, the Review heard that there is a perception in Victoria Police that being a victim/target of sex discrimination and sexual harassment is inconsistent with the expectations of individual resilience and strength.

Stupid I suppose. I thought I could trust the members that I worked with (female survey participant).

I was ashamed that I was the victim, I was afraid of everything, I had so much self-doubt. I felt I had no one to turn to (female interviewee).

Ashamed and low self-confidence as a police officer and as a person (female survey participant).

For many women, this had an ongoing effect on their careers and capacity to work at their best.

... When I was working there, one of the guys came back to the office after a big night out. He put it on me to have sex with him. I saw him recently. He was rude and dismissive. When I see them, I think, "You have ruined ... years of my career" (female interviewee).

The gender bias these men held for women generally, accommodated women working in positions of authority beneath their own but not equal to them or above it. That bias acted as an effective barrier against all attempts I made to forge working relationships or personal relationships with them. The constant resistance and ongoing accusations of female privilege was damaging to my emotional and psychological health ... (female interviewee).

Sexual harassment and sex discrimination, in and of itself, can be an isolating experience. The fact that approximately one third of

⁶⁵ See South Eastern Centre Against Sexual Assault and Family Violence, *Feelings after sexual assault* (2011) <<http://www.secasa.com.au/assets/Documents/feelings-after-sexual-assault.pdf>>.

participants chose not to disclose the harassment, may be linked to the large number of women who did not feel welcome in their workplace. Whether they were directly or indirectly excluded, or they chose to self-isolate to manage their own safety, the impact on these participants was extreme.

... always feel tense in the office, cannot relax, constantly want to call in sick to avoid the harassment (female survey participant).

I was [junior and probationary] I felt trapped (female survey participant).

It is deliberate actions by the perpetrator to make you questions yourself and to isolate you (female interviewee).

One survey participant described how the harasser further isolated her.

... sexual harassment turned to other forms of bullying when his advances were rejected (female survey participant).

For women in the organisation, particularly sworn women, the risk of trauma is heightened where they are isolated and excluded from collegial support networks by overt or unconscious gender-based hostility.

I can't imagine what their lives are like, they are quite traumatised, but it was overwhelming ... I think people had survived a lot of trauma by minimising what had happened. It was a boys' club to support each other in a masculine environment where people don't tend to seek help. ... For example, one guy who used to work [in my area], every once in a while he would lose it and start ranting at me. I had to help reassure him. I felt so sorry for him. He didn't want to talk to anyone about it. ... I think the sworn members carry a lot of stress ... sexist attitudes that are part of the cultural norm are minimised ... (female interviewee).

The Review's research suggests that for women in the organisation, the risk of harm is escalated beyond the ordinary rigours of policing because of a climate of gender-based hostility.

For me personally ... there is a feeling that you're being dismissed when you speak, there is dismissiveness about what you're saying because you're a woman (female interviewee).

Everything just got worse and worse, I felt trapped. It was a very lonely and isolating experience. It is kind of like the family violence stuff, when the victim stays around even though they are being abused (female interviewee).

Isolation and exclusion can be exacerbated by geographical isolation.⁶⁶

Many women, including those in senior roles, spoke of personal experiences of sex discrimination, including gender-based bullying, in regional and rural areas across Victoria.

Economic impacts

Participants reported experiencing a range of economic detriments as a direct and indirect consequence of sex discrimination and sexual harassment, including sexual assault. Most frequently, the Review heard that employees were concerned for their career, in the sense of either losing opportunities for promotion or losing their jobs altogether.

I don't know how my friend that experienced sexual assault coped. She was very stuck and mentally scarred by it. She had a young family and had to try and find a new job (female interviewee).

Promotional prospects can be limited by the stigma of experiencing sex discrimination and sexual harassment, and further, the stigma of reporting them.

She was seen as over reacting. This is career limiting and women are hypersensitive in the way they're perceived and what that means for their promotion (female interviewee).

There is nowhere for me to go. I can't go for promotion, probably because of what's happened to me ... I am in fear of these people. My integrity is being

⁶⁶ For example, 'For police members in regional areas, there is added isolation ...' (external expert).

challenged. I asked to be seconded and was the only member to do so in the PSA [police service area], I was ready to go. The senior sergeant said they weren't going to take anyone. A few weeks later they sent one of the blokes there (female interviewee).

The Review was also told about employees who had to take leave for purposes other than which it was intended, or adjust the timing of leave, in order to cope with sexual harassment.

I'm now using up my long service leave. I am petrified to put in a work cover claim. This has cost me a lot personally (female interviewee).

He had targeted this woman explicitly. A number of people had laughed at this behaviour. She had never told anyone before. She reported it to her managers who said 'don't worry, that's just what he's like'. She went on sick leave and got a reputation of being a malingerer. To maintain her career, she didn't put in a WorkCover claim. She applied for six months leave without pay for a fictitious reason. She wanted to escape ... but knowing she would get no support from local managers, had to take leave without pay (male interviewee).

Loss of promotional prospects, loss of professional development opportunities, and the impacts of job retention and leaving workplaces and communities, also had knock on economic ramifications for families.

The experiences of families and partners

In hearing the experiences of targets and bystanders, it became clear that the experience of these behaviours have a broader impact than just on individuals and workplaces. In framing and addressing the problem, it is crucial that Victoria Police considers its responsibility to its employees, as well as their families, partners and the broader community.

Policing can be difficult work. I've seen partners nervous about sending their loved one to work, frightened families, kids in tears. ... There is a long way to go

but it is pleasing that people recognise there is help out there (senior manager).

In looking at the extent of harm of sexual harassment and sex discrimination, there was clear evidence of significant impact and harm to employees' families and partners.

... [I spoke to a group once about an incident] ... it impacted on the people in the room. They realised the issue wasn't being made up or embellished. It impacted on me too, seeing people struggling, and the impact on families is huge (senior manager).

In some cases, families were directly targeted. This included threats as well as direct harassment and abuse.

... My [family member was] subjected to months of unwanted predatory behaviour and eventually raped by a male member ... (male survey participant).

... my wife who is not a police woman was groped by a [police employee] ... (male survey participant).

He was moved. Lots of things started happening. I found pictures of my kids in the bin (female interviewee).

Then the phone calls started to my parents' house. I'd only recently moved back in. They were anonymous ... They didn't do it to just me, they would say it to mum and dad too. Mum ended up having a nervous breakdown ... Later ... Dad broke down and told me about [his own experience] ... He told me about all the things that happened to him in [an institution] (female interviewee).

... My family and the family of a female colleague were also targeted (male survey participant).

My partner went in to collect my stuff the next day ... she was subjected to sexual comments by [a colleague] who said "you know [your partner] has lots of people on the go – but I'm not going into her pants, you don't know what you'll catch". She said that at

the counter in front of others (female interviewee).

The Review also heard about the impact on partners and children when their loved one was experiencing sexual harassment and discrimination at work.

He was trying to corner me like a crook. He was really angry. My kids could hear this conversation. The impact on them is huge (female interviewee).

[Had an] extremely serious impact on my health and family (female survey participant).

Sometimes I feel like maybe I should just harden up. Now people say to me that I'm too hard. My partner says I'm too hard on him (female interviewee).

The Review also heard evidence of significant stress related to supporting the family member, the breakdown of families and damage to family relationships.

Once you get into this process – it's so damaging. Every day, you get another letter, and you have to go to another medical, and so on. It breaks you. I have lost my community, my home, my family, my partner, my life purpose and drive. This has taken all of that from me. I doubt everything about myself and struggle to move forward (female interviewee).

[I have experienced] emotional and physical stress in home and family life. Anxiety. Trust issues (female survey participant).

The impact on my wife and kids has been greater than the impact on me. I am relatively resilient and am in a senior role. It is difficult for my wife that I don't talk about work anymore, an unintended consequence of me trying to protect her from the ordeal this guy and Victoria Police's lack of action created. Despite what Victoria Police says, the issue doesn't go away ... (male interviewee).

For many women, there was also a reluctance to share with partners and families what had

occurred, because of feeling humiliated, a fear of escalation, the need to manage their own risk, as well as concern about the impact on their relationship with their family or partner.

My mother got an inkling, but my father didn't get his head around it. If he had, he'd probably have gone and killed them ... (female interviewee).

Overall, I felt powerless, little, vulnerable, embarrassed and scared against my manager ... I was worried but thought I would try and control it, manage it, take care of the issue ... myself without telling my husband ... (female survey participant).

Several employees described having to make changes to shifts and roster arrangements to avoid the harasser, some of which had significant negative impacts on their ability to manage their paid work obligations alongside their commitments to partners and children.

I changed my shifts to avoid being put on the van or in the watch house with him. This meant more time away from my family and more frequent switches between morning and afternoon shifts (female survey participant).

In analysing the Review's data on impact and harm, it became clear that in workplaces where there was a heightened tolerance for inappropriate behaviour and gender-based hostility, there were significant impacts on both men and women.

This was exacerbated when there was a lack of proactive engagement by supervisors with staff, a failure to redress 'low level' harassing or hostile behaviours and where supervisors and managers displayed poor behaviours themselves.

For a discussion on management and supervision, see Chapter 10.



Historical harm

The Review heard of multiple, historical incidents of sexual harassment and assault. For individuals who remained serving with or were former employees of Victoria Police, there were ongoing psychological impacts. For many victim/targets, the harmful experience continued to negatively affect their everyday lives. These experiences highlight the significant harm that continues to live in the workforce and the community.

Several participants shared their experiences with the Review:



[The sexual harassment and assault] happened [many] years ago. A lot of it feels like it happened yesterday. So much of my life moved on from there. I had been trying really hard to make myself a valued member of the team. You had to back people up even though they stuffed up. I am honest, trustworthy. But in the job, I wasn't able to live my life by my values, even if I tried. It was relentless. Even rumours about me giving everyone 'head jobs' followed me around everywhere I went. Soul destroying rubbish ... Every day is a struggle (female interviewee).

One police woman I met ... in the 1980s ... She had been out to a function and was drunk. She got a lift home with a colleague and when they got to the front door, he pushed her into the house and raped her. Then he boasted about it in the mess room the next day. They always used to use the 'she was drunk' excuse. Even if they knew she had been raped, they would still say 'she was drunk'. It was like that then ... I think by the time I met her she had had a total collapse and ended up in the police hospital (female interviewee).

In [the early 1990s], at [this station], I was raped by a colleague ... started feeling very hazy, very quickly soon after arriving. I thought, 'what have you given me'?

I physically couldn't leave. He'd taken me to his bedroom and put me on his bed. ... I found him penetrating me ... I pushed him off and rolled off the bed, and crawled to an empty room where I slept for 14 hours (female interviewee).

One long-term serving female member shared an historical experience. The experience occurred the day after the woman had responded to a real-time critical incident that was extremely traumatic in its own right. On the 'day-after' shift, the woman was paired to work with a more senior male member, who routinely referred to his female colleagues as 'bitches' and often openly refused to be paired on operational shifts with them.

Throughout the shift, my partner kept bemoaning how he had not been working the day before and what he would have done if he had been. We went to a job and we became separated. I located a deceased person. Family and friends were standing around yelling at me - 'Do something, do something'. I knelt on the floor and checked the person for vital signs ... I knew the man was dead however, I also know loved ones can be assisted by seeing and then knowing that everything that could have been done to save a life was done. I started First Aid. It was a horrible experience for me personally and worse because I was alone. I continued going through the motions of giving First Aid, checking vitals/ administering CPR and so on.

After a short time, I leant back on my heels and said 'He's gone'. That allowed the loved ones to move from shock and anxiety to open grief.

At that point, my partner found us and came running in. He dropped down on the other side of the deceased and said to me, 'You stupid bitch'. He then went to commence CPR ... When he realised the situation himself, that the man was clearly dead, he said, 'oh.'

... On the way back to the van to radio for the undertakers, I stopped in the yard and took my jacket and tie off because I needed

air. After about a minute of deep breaths, I put the jacket and tie back on, made the radio call and went back to finish processing the scene.

Back in the van, I felt too exhausted to speak. My partner was telling me all the things that were wrong with me and every other woman who worked at the station. He said that although I wasn't a 'slut' like one particular woman, a 'lazy mole' like another woman or a 'dirty bitch' like another woman, I just needed to come and seek his opinion and that of other male crime fighters because I never did (female interviewee).

I know of another female colleague, who when she would go to a police function, they would ply her with alcohol. They knew that after a certain point they could line up. To see them in action is sickening – it still makes me nauseous (female interviewee).

When I joined I was still a virgin, I hadn't had a boyfriend at that time. I was naïve probably. A guy ... and his mate, decided to take me under their wing. I didn't realise they were after me ... My initiation into sex was an attempted rape under a tree after a night of drinking ... I went with him, but there was force used. It was being thrown [down] and him having a bit of a go ... Next thing I know he dropped me and told all the males. Then there was a queue. Literally (female interviewee).

For some people, the impacts emerged years later.

I didn't realise how offended and intimidated I was until I moved stations. That's when the full extent of what I'd been putting up with began to affect me (female survey participant).

These responses make clear that the traumatic effects of sexual harassment and a gender hostile workplace are severe and can last long after the conduct has ceased and/or the employee leaves the organisation.

Impacts of participating in the Review

The Review heard a range of reasons why people chose to engage with the Review, including feeling safe and supported and confident their experiences and perspectives would be listened to. A number of people with whom the Review spoke had never previously disclosed what happened to them.

I knew I needed to do [this] (female interviewee).

... I had opportunities to tell people up the chain but I didn't know what alliances people had. It was an unsafe environment to tell anyone anything ... I don't think Victoria Police will ever understand, unless enough of us come forward (female interviewee).

I wanted to speak to the Review because I have had a gutful, in a nutshell! (female interviewee).

This ... is awesome – I would never tell people about what happened to me otherwise (female interviewee).

For many participants, the Review was emotionally demanding:

“ I became nervous and paranoid when this Review came out. I didn't want the boys to see or know I was looking at it on the computer. And certainly did not want them to see me typing ... (female interviewee)

... thinking about it, recalling the events has frankly been a physically and psychologically painful process. I suspect it would have been regardless of what is occurring for me at my current work location (FEMALE INTERVIEWEE).



One former employee who had experienced multiple sexual assaults by a number of colleagues told the Review:

... I am really fearful about coming forward and speaking about it. I know what can happen ... It's one of the reasons I have nightmares. You know what's going to happen if you cross them (female interviewee).

Participants told the Review that the reason they participated is to create a better organisation for those in the job, and those who will one day be in the job:

Participating in this review can't help me, but it can help others. I have nieces and nephews and there are kids at the local primary school who want to be cops. I struggle saying it's a good job. I adore being a police officer but I despise the organisation. Unfortunately, you can't have one without the other (female interviewee).

I can see value in participating in this. It's not official in the sense that no one will be punished, or named, but it can help others ... I feel that this is something that I can do to help women today and those who choose to join, in the future. The guys that I was with at the Academy are now the ones making the rules so hopefully this review will help them make some important changes (female interviewee).

Organisational impact, harm and reputation

From a gender perspective, the compelling business case is that there are heaps of studies that show that as an organisation we're not able to harness all that talent. There's also the importance of having more women in decision-making roles for things like ethical decision-making (female interviewee).

Sexual harassment is costly to the organisation in terms of employee retention, reduced morale,

absenteeism, the cost of investigations and those arising from legal actions.⁶⁷

For Victoria Police, perhaps even more so than other organisations, the impact of sex discrimination and sexual harassment is associated with significant risk of damaging the organisation's external reputation and resulting in a loss of community confidence. Indeed, the reputation of Victoria Police is affected by how it treats its employees, as members of the broader community:

As I said, this Review won't help me, but I would hope it helps other. ... I have friends, and friends of friends, often asking me about careers with Victoria Police. I now tell them I'm not the best person to ask. I cannot bring myself to speak positively of an organisation that has treated me so badly (female interviewee).

Capability

Throughout this Chapter, the Review has considered the range of impacts on individuals who are experiencing, or have experienced, sex discrimination and sexual harassment. This impacts the way they engage with and value Victoria Police as an organisation:

... My husband supports me if I want to leave, but I loved my job – I really did. I feel sad that I have lost my passion and excitement about the job (female interviewee).

She left disillusioned because of that kind of behaviour. The organisation and the community lost a great worker (male interviewee).

Anxious, defeated, depressed and hateful towards the organisation (male survey participant).

⁶⁷ Australian Human Rights Commission, *Working without Fear: Results of the Sexual Harassment National Telephone Survey 2012* (2012); A US study reported that 24 per cent of targets had taken leave to avoid the harasser. Louise Fitzgerald, Suzanne Swan and Vicki J Magley, 'But was it really sexual harassment? Legal, behavioural and psychological definitions of the workplace victimization of women' in W O'Donohue (ed), *Sexual harassment: Theory, research and treatment* (Allyn and Bacon, 1997) 5–28.

“ After this, I will not give above and beyond to the job anymore. I feel let down. I’m paid to come to work and do my job, not to put up with this behaviour (FEMALE INTERVIEWEE).

... One day, there [were two colleagues] sitting in there. I heard them say “Why don’t you give her a go?” The other one replied “No, I know where she has been.” ... I hated going to work. I dreaded walking through the front door (female interviewee).

MAKES ME NOT WANT TO SHOW UP TO WORK (female survey participant).

I was completely humiliated and intimidated [by being constantly sexually harassed]. This often occurred in the muster room in front of other police members. I lost a lot of self-esteem and would often feel too embarrassed to walk around the office. I started to dread coming to work (female survey participant).

If in future I was sexually harassed, I would possibly just resign instead of going through what I have ... (female survey participant).

For many women, there was frustration that the organisational climate was preventing them from reaching their full potential, and the organisation from reaching its full capability:

If I am respected, I will give you 110% (female interviewee).

I was hoping I could be a game changer ... a professional woman who could influence change (female interviewee).

“ I didn’t [want to be sexually harassed and assaulted], I didn’t ask for this. I was reluctant to make a complaint because I didn’t want to admit that I was a victim. I didn’t believe this could happen to me. I don’t want to be that person. I want my reputation to be clean; I just want to go to work and work hard because I love my job. I have built such a strong reputation – but he has now tainted that (FEMALE INTERVIEWEE).

Put down and seen as weak being a female. Told that females waste too much time talking instead of doing real work (female survey participant).

Working effectively and deriving professional fulfilment from work whilst experiencing sexual harassment became difficult for many participants. Research tells us that sexual harassment in the workplace can lead to, among other detriments, lowered job satisfaction, performance and commitment to the organisation.⁶⁸ Recent research also confirms that harassment is negatively associated with co-worker and supervisor satisfaction.⁶⁹ See Chapter 11 for more detail.

Learning capability reduced. Let down by my superiors having rostered me (straight out of the academy) with him, despite knowing all other females at station refused to work with him ... (female survey participant).

Resulted in considerable time off work, loss of confidence, not valued as a team member, lodging a work cover claim, seeking psychological support and a return to work at a new workplace (female survey participant).

68 Darius K-S Chan et al, ‘Examining the job-related, psychological, and physical outcomes of workplace sexual harassment: A meta-analytic review’ (2008) 32 *Psychology of Women Quarterly* 362, 373.

69 “... gender harassment [is] related to dissatisfaction with co-workers, while unwanted sexual attention [is] associated with supervisor dissatisfaction.” Victor Sojo, Robert E Wood and Anna E Genat, ‘Harmful workplace experiences and women’s occupational well-being: A meta-analysis’ (2015) *Psychology of Women Quarterly*, 23 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.



Other impacts included unnecessary resignations.

... in the end, I felt like I had no other option but to seek a transfer elsewhere within Victoria Police (male survey participant).

Community confidence and service delivery

Victoria Police has been at the forefront of reforms that have significantly improved the experiences of women who are harmed in the community. However, as an organisation, if the opportunity offered by this Review to extend that focus internally is not taken, it risks losing a leadership opportunity and falling behind community expectations on gender equality.

Society as a whole is changing, take the Military as an example and the Chief of Defence and his stance on the issue (male survey participant).

In commissioning the Review, Victoria Police has taken a courageous step in offering transparency on the issues of the treatment of women in the organisation. This should offer the community confidence in the credibility of leadership, and of the many excellent Victoria police employees who want to drive change and promote safety and respect for their colleagues, and in the broader community.

Where poor attitudes exist within the organisation, they also exist in the interaction with community, because women in police are community members, and also because attitudes about how women are valued will have implications for how police make decisions in their community-facing work.

You can't address family violence in the community unless you address family violence in the force. Violence against women in the force is a form of family violence because Victoria Police is "home" for so many people. It's our blue family. But it's not called out (female interviewee).

The need to ensure a gender balance that reflects the community it services is crucial, particularly for building safety and trust in the organisation by women who need the help of Victoria Police to feel confident they will be believed and treated with respect. To maintain and continue to build community confidence, Victoria Police will need to model safety and respect among all its employees.

There is no equity for women in this organisation ... It is very much an US and THEM mentality ... Resourcing is utterly inadequate at VicPol to redress this unfortunate issue and VicPol's reputation within the community is at stake! (female survey participant).

... they need to re-engineer the gender make-up of the organisation. You need more women in executive roles and more people men and women with mandates around gender equality. They were improving their practice though things like the Family Violence Code of Conduct, the SOCITs, the MDCs and associated referrals and linkages with services and ways to improve police responses to victims. I think this reduces discrimination in their service delivery and internally (female interviewee).

The Review heard from many participants about the desire to maintain a masculine and male dominated police force:

Many police women were promoted during the tenure of ex-Chief Commissioner, Christine NIXON ... This stance led to the resignation and retirement of many experienced senior male policemen. How did the upper management of the Victoria Police abide this ... Victoria Police needs to re-establish its core function and stated purpose. Let's take our profession seriously and show the community that intent (male survey participant).

In assuming leadership, Victoria Police should anticipate backlash from employees who do not see value in a more diverse workforce or cannot adjust to a workplace that demands workplace equality and respect for women. Victoria Police will require a careful and comprehensive employee engagement process to ensure that women are not further victimised or disparaged and discriminated against in the wake of this Review.

Integrity, innovation and good governance

There is clear evidence that gender diversity in decision-making roles leads to greater transparency and improved ethical orientation.⁷⁰ In addition, diverse teams have been shown to lead to smarter, more effective⁷¹ and more innovative organisations.⁷²

This is particularly important for an organisation like Victoria Police that has a unique role and set of risks, an increasingly fluid external environment and often deeply entrenched ways of functioning:

Policing is a unique profession – our workforce deals with the best and worst of society. This can sometimes lead to members becoming isolated from the broader community (executive interviewee).

Throughout this Report, the Review calls for the need for diversity, for the creation of innovative specialist partnerships and greater utilisation of the expertise of women in the organisation. Some participants noted that, in their experience, poorly managed and unsafe workplace culture creates a lack of transparency and isolation:

... it affects the community. The station actively resists having [external support workers] co-located in the station. There is hostility towards civilians

working in the station. But it works really well at my current station ... Members at the station will say that they won't be able to behave the way they always have because there will be outsiders there ... It is a closed brotherhood culture – what is said there, stays there (male interviewee).

There is clear evidence that gender diversity protects women against sexism and sexual harassment in the workplace and that as the number of women working in an area increases, the dominant culture shifts and male cultural traits that are associated with sexism and sexual harassment are diluted.⁷³

Victoria Police is a workplace with a great diversity of sites and roles. The Review heard many examples where Victoria Police had provided an extremely positive experience for its employees:

“ Most of my experience with police has been very positive. I am treated with great respect and some of the best people I have worked with have been police (FEMALE SURVEY PARTICIPANT).

The recommendations in this Review aim to provide the platform to make these experiences universal.

The opportunity offered by this Review is crucial to re-setting cultural expectations about the role of women in the organisation to ensure Victoria Police is able to harness the best talent, build its capability and improve its service delivery in line with community expectations.

70 Rachel Soares, Christopher Marquis and Matthew Lee, 'Gender and corporate social responsibility: it's a matter of sustainability' (Catalyst, 2011) <<http://www.catalyst.org/knowledge/gender-and-corporate-social-responsibility-its-matter-sustainability>>.

71 Anita Williams Woolley et al, 'Evidence for a collective intelligence factor in the performance of human groups' (2010) 330 *Science* 6004.

72 Joana Marinova, Janneke Plantenga and Chantal Remery, 'Gender diversity and firm performance: evidence from Dutch and Danish boardrooms' (2015) *The International Journal of Human Resource Management* (published online 28 September 2015).

73 Victor Sojo and Robert Wood 'Resilience: Women's fit, functioning and growth at work: Indicators and predictors' (Briefing note, Centre for Ethical Leadership, The University of Melbourne, July 2012) <http://www.researchgate.net/publication/251566430_Resilience_Women's_Fit_Functioning_and_Growth_at_Work_Indicators_and_Predictors>



Acknowledging, addressing and preventing harm

This chapter examined the impacts of sex discrimination and sexual harassment on individuals, the organisation and the community. It has outlined its findings of significant social, economic, physical and psychological detriments experienced by Victoria Police employees subjected to sexual harassment and sex discrimination.

What is particularly striking is the harm experienced by former employees and the understated impact of cumulative harm. For some participants, the harm was further compounded by victimisation, ostracism and poor management, investigation and justice outcomes. Later chapters will address how this 'secondary' impact can be as harmful to the victim as the initial experience – see Chapter 10, Chapter 12 and Chapter 13. When reading the following recommendations, please also consider the information in these chapters, especially the section in Chapter 12 addressing the impact of reporting, on pages 306–307.

Recognising the cumulative harm and long term impacts of gender hostility and sexual harassment on the individual, workplace and organisation, is vitally important to Victoria Police's commitment to the safety and wellbeing of its employees, both current and former. While the strategies and initiatives contained in the Action Plan will address the enablers of sex discrimination and sexual harassment for current and future employees, for those who have experienced these harmful workplace behaviours in the past, they may receive little or no benefit or improvement to their situation.

Rationale for redressing harm

The following section will consider how Victoria Police can best respond to the harms experienced by employees as a result of sex discrimination and sexual harassment through a redress scheme and public acknowledgement of harm. It is important to note these redress mechanisms do not affect or preclude disciplinary or criminal justice processes.

Many participants told the Review there is an organisational hesitancy to address the

harm experienced by targets/victims of sexual harassment, sex discrimination and predatory behaviour. The reasons for this hesitancy suggested by participants include a lack of understanding of the harm caused by sexual harassment and sex discrimination, lack of leadership will and a perception it would 'open up a can of worms.' One senior male police member told the Review:

There has been acceptance that bad behaviour has happened but people are too scared to do anything – just like the Catholic Church. Senior management's tenure is limited, so they are scared to act. They do want change but they don't want to get hurt, or hurt their friends (male interviewee).

Despite this hesitancy, many participants voiced encouragement for redress mechanisms to address historical abuse and harm.

People who have stayed in are the ones who have the power. I have never felt believed. The validation of a public apology would be good, it would go some way ... If I had the guts, I would go to court with others. But I don't want my family exposed (female interviewee).

The Chief Commissioner indicated his full support for restorative mechanisms.

Restorative justice is particularly useful in addressing the harm. It is important (Chief Commissioner of Victoria Police).

However, others expressed concerns that it may limit their right to share their experiences with others.

... there is always shut up money at the end, and I don't want to have to shut up (male interviewee).

Several participants told the Review about positive experiences engaging with networks, counsellors and Internal Witness Support

that provided support and validated their experiences of harm.

Targets participating in the Review overwhelmingly sought acknowledgement of the harm rather than financial motivation.

[Is restorative justice something that could be done?] There would need to be support systems built into it. People coming forward would need to know they wouldn't be subject to repercussions (executive interviewee).

[Do you see value in a restorative process?] An offer of any type of restorative process would be welcome and probably very beneficial in most cases but it should be up to the individual to accept or participate in any proposed process. Some employees we speak with talk about leaving Victoria Police because of the impact of these incidents – we always advise them not to make such a big decision while stressed and traumatised and that any decision to leave should be on their own terms, not because they feel disillusioned, unsupported or without other options (female interviewee).

Such responses, achieved through various redress mechanisms and public acknowledgement, is a decision that sets a powerful standard and genuine commitment within the organisation and in the community to address the harm caused by sex discrimination and sexual harassment.



RECOMMENDATION 1 REDRESS SCHEME

Based on contemporary best practice, Victoria Police (supported by the Victorian Government) should develop a redress scheme for Victoria Police personnel that includes:

- Restorative engagement initiative
- Reparation scheme – financial and non-financial
- Public acknowledgement of harm.

What is a redress scheme?

Redress schemes focus on addressing harm by acknowledging and assuming responsibility for the harm through a variety of mechanisms.

Redress schemes are often founded on restorative justice principles, which offer victims a remarkably different experience than that offered by an adversarial redress scheme, such as courts or tribunals. These redress schemes provide the individual an opportunity to voice the harm and for the perpetrator/enabler to understand and acknowledge the harm caused to the individual.

Various government and non-government redress schemes have been established in Australia, including state government redress schemes for children who were abused or neglected in state and institutional care, and non-government schemes addressing Church-related abuse.⁷⁴ The redress scheme most relevant to this Review, is the Defence Abuse Response Taskforce.

⁷⁴ For a detailed outline of several Australian and international redress schemes, see Royal Commission into Institutional Responses to Child Sexual Abuse, 'Redress and civil litigation' (Consultation Paper, Commonwealth of Australia, 2015) Appendices A and B.

CASE STUDY: Defence Abuse Response Taskforce

The Defence Abuse Response Taskforce (the Taskforce) was established in 2012 by the Australian Government in response to the DLA Piper Review into allegations of sexual and other forms of abuse in the Defence force.

The Taskforce assists Australian Defence Force employees who have experienced sexual and other forms of abuse, including sexual harassment and bullying, prior to 11 April 2011.⁷⁵

Applicants are assessed to determine whether they fit within the scope of the Taskforce. If successful, a case coordinator is assigned to the complainant.

The Taskforce provides referrals to counselling, reparation payments, restorative engagement conferencing and referrals to police or military authorities.

Since its establishment in 2012, there have been seven Interim Reports and a Report on Progress, Operations and Future Structure which track the progress and outcomes of the Taskforce.

Given the Taskforce has been operating for a number of years and has rigorous reporting processes, the Review has drawn on various learnings and crucial success points to ensure any redress scheme developed for Victoria Police employees who have experienced harm through sexual harassment and sex discrimination, is robust, accessible and reflects contemporary best practice.

It is important to note that a redress scheme is not a substitute for the sustained implementation of the strategies contained in the Action Plan, designed to create a safe and equitable workplace at Victoria Police. Rather, it is part of a complementary package of cultural change strategies to respond to the prevalence, nature, impact and drivers of sex discrimination and sexual harassment in Victoria Police.

To be successful, a redress scheme must contain complementary and robust strategies and initiatives underpinned by victim-centric guiding principles.

Guiding principles

- Victim safety – do no harm
- Victim choice, control and informed consent
- Comprehensive support services, including external referrals
- Accessible – participation widely communicated to current and former employees with multiple access points
- Independent
- Timely
- Confidential
- Flexible
- Transparent decision-making including a built in review mechanism
- Does not require applicant to produce extensive documentation or evidence – only if absolutely necessary
- Fair – criteria for participation is based on alternate threshold to criminal threshold (for example—on the balance of probabilities or ‘plausible allegation’ as adopted by the Defence Abuse Response Taskforce)⁷⁶
- Independent monitoring and review – based on victim satisfaction principles.

The intent of this recommendation is to provide a principle-based framework to guide the development of the redress scheme, rather than to be prescriptive. Specialist and technical expertise, including trauma informed care,

⁷⁵ Defence Abuse Response Taskforce, ‘Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure’ (Commonwealth of Australia, 2015) 9.

⁷⁶ Plausibility means that the allegation has the appearance of reasonableness. Defence Abuse Response Taskforce, *The difference between Standards of Proof used by the Defence Abuse Response Taskforce and Defence* <<http://www.defenceabusetaskforce.gov.au/Outcomes/Documents/OutcomesAdministrativeActionFactSheetDefenceStandardOfProof.pdf>>.

sexual assault practitioners, discrimination and gender equity experts and emergency services support organisations, should be engaged.

Any redress scheme developed should involve rigorous consultation, including with Victoria Police employees, both current and former, who could potentially participate in such a scheme.

At this stage, the Review recommends this redress scheme be limited to people who have experienced harm related to sexual harassment and sex discrimination. This may be extended at a later stage to harm caused by discrimination on other grounds (for example, discrimination based on race or sexuality), bullying and other workplace harms.

The Review proposes that Victoria Police engage with the Victorian Government to deliver a public consultation on the redress scheme by 30 June 2016. Consideration will need to be given to the Terms of Reference and time limitations of the redress scheme.

1. Restorative engagement initiative

Based on the Defence Abuse Restorative Engagement Program, Victoria Police should develop, in consultation with specialists with technical expertise, a restorative engagement initiative.

The Defence Abuse Restorative Engagement Program

The Defence Abuse Restorative Engagement Program (the Program) was developed by the Defence Abuse and Response Taskforce, to provide a safe and supported environment for victims of abuse within the Australian Defence Force to share, with senior Defence personnel, their experience and the associated impact and harm. The Program gives senior Defence personnel an opportunity to acknowledge, address and respond to the harm caused to the individual.⁷⁷

⁷⁷ Defence Abuse Response Taskforce, *Restorative Engagement Program Framework* (27 March 2014), 1 <<http://www.defenceabusetaskforce.gov.au/Outcomes/Documents/RestorativeEngagementProgramFramework.pdf>>.

*The Restorative Engagement Program has the potential to assist complainants in their recovery from the abuse and its implications. It also serves to build a collective understanding within Defence of the impact that abuse has on individuals and organisations and it is hoped through this understanding the Restorative Engagement Program will positively impact Defence culture and eventually employee retention rates in the coming years.*⁷⁸

The Program is based on the principles of confidentiality, privacy, safety, respect and dignity, informed consent and 'do no further harm.'⁷⁹ One participant reported:

*[The Defence Representative] gave me back the one thing I had lost – respect for the ADF and pride in my own service. I hadn't expected to feel proud of my war service ever again. (2013/754)*⁸⁰

A senior Defence person also explained:

*I can assure you that sitting there for two or three hours with these victims of abuse is a life-changing event for most people. We think an exceptionally powerful way to get this message through to the future leadership of the ADF is by exposing them to this process now, exposing them to the issues and really deeply changing their views about this.*⁸¹

⁷⁸ Defence Abuse Response Taskforce, 'Fifth Interim Report to the Attorney-General and Minister for Defence' (Commonwealth of Australia, March 2014) 19.

⁷⁹ Defence Abuse Response Taskforce, *Restorative Engagement Program Framework* (27 March 2014), 3, 7 <<http://www.defenceabusetaskforce.gov.au/Outcomes/Documents/RestorativeEngagementProgramFramework.pdf>>.

⁸⁰ Defence Abuse Response Taskforce, 'Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure' (Commonwealth of Australia, 2015) 35.

⁸¹ Defence Abuse Response Taskforce, 'Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure' (Commonwealth of Australia, 2015) 19, quoting Parliamentary Hansard, Senate Estimates, 1 June 2015, 38.

At 30 June 2015, a total of 281 restorative conferences have been conducted.⁸²

Substantial resources and planning have been devoted to developing this innovative Program, and as such, the intellectual property relating to the Program belongs exclusively to the Commonwealth.⁸³ This point must be taken into account when considering the development of any Victoria Police restorative engagement initiative.

One participant shared his experience of victim engagement with senior leadership:

Personal experience or a story can change people's thinking. I have seen it before – the personal story or the narrative is a most powerful thing. There was a victim that got up and gave an extraordinarily powerful story. A Superintendent got up and apologised for what the police didn't do for her ... (former executive).

The Review supports the development of a restorative engagement initiative. Having regard to the guiding principles on page 125, the following critical design elements should guide the development of the restorative engagement initiative.

- Victim/survivors involved in design
- Senior leadership engagement
- Adequate funding and resourcing
- Engage specialists in the design and delivery of the initiative
- Communicate how the initiative works and how to participate
- Process of applying is accessible, supported and victim friendly
- Outcomes match expectations and there is clear process for understanding potential outcomes.

82 Defence Abuse Response Taskforce, 'Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure' (Commonwealth of Australia, 2015) 18.

83 Defence Abuse Response Taskforce, 'Fifth Interim Report to the Attorney-General and Minister for Defence' (Commonwealth of Australia, March 2014) 19.

2. Reparation scheme

Financial

Part of acknowledging the harm experienced by the victim is providing financial and non-financial reparation, as far as it is reasonably possible.

The Victorian Government has previously noted in its consultation paper on redress schemes for institutional child abuse that past redress schemes have provided unattached financial payments to victim/survivors for many different reasons including, "personal validation, a symbolic acknowledgement of the abuse by the relevant institution, self-esteem, financial security, and allowing opportunities for [victim/survivors] and their families that might not otherwise be available."⁸⁴

As part of the Defence Abuse and Response Taskforce, the Defence Abuse Reparation Scheme provides reparation payments of up to \$50,000 to complainants. The Taskforce explains:

*"These payments are not compensation for the abuse suffered. They are an acknowledgement that the abuse was wrong and ought not to have occurred."*⁸⁵

Any financial reparation scheme should be overseen by an independent assessment body.

Non-financial

As stated previously, the intent of this recommendation is to provide a framework to guide the development of a redress scheme, including financial and non-financial reparation.

Non-financial reparation avenues include provision of health and wellbeing related support, memorial projects, awards/scholarships, establishing and supporting survivor/victim networks and access to personnel and complaint files.

84 Department of Justice and Regulation, 'A Victorian redress scheme for institutional child abuse' (Public Consultation Paper, State of Victoria, 2015) 24

85 Defence Abuse Response Taskforce, 'Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure' (Commonwealth of Australia, 2015) 11.

For example, the Defence Abuse Response Taskforce provides the Defence Abuse Counselling Program, which

... delivers up to 20 counselling sessions for a complainant through its contracted service provider or the complainant's existing psychologist (if that consultant meets the Taskforce's requirements). Decisions on the total number of sessions allocated to each complainant are made progressively as their treatment proceeds.⁸⁶

A non-financial reparation scheme should be based on a victim-centric approach of choice and control, flexibility and appropriate support services. Broad and inclusive consultation should inform the design and implementation of the complete reparation scheme.

Public acknowledgement of harm

In light of the significant harm caused, Victoria Police should publicly acknowledge, in the form of an apology, current and former employees who have experienced harm or detriment due to sex discrimination and sexual harassment within Victoria Police.

While the experience of the victim/survivor and target must be at the forefront of processes that acknowledge harm, it must also be recognised that there are significant organisational costs and vicarious harms related to sex discrimination and sexual harassment. This can include reputational damage, loss of capability and talent, and loss of community confidence.

However, the benefits of public acknowledgement for Victoria Police are significant. Recently, Victoria Police publically acknowledged a group of community members who were mistreated and experienced harm at the hands of Victoria Police. The response from 'victims' and the community was largely positive.

This example shows that such acknowledgement of past harm and historic abuse, although occurring years after the incident, can increase community confidence and begin to restore trust between harmed individuals and Victoria Police.

An apology should acknowledge harm and detriment, restore dignity to the victim, and provide an overview of how the organisation has and will address sex discrimination and sexual harassment going forward. It is an opportunity to set a standard for what is and is not tolerated within Victoria Police, and sends a strong message to perpetrators and harassers that their attitudes and behaviours are not accepted.

The Review heard from several participants who were sexually harassed by currently serving senior ranking employees. Several former employees who had experienced sexual harassment expressed distress and disappointment at seeing the perpetrator representing Victoria Police in public or in the media. One way to address this issue in the apology is acknowledging there remain issues at the leadership level but going forward there will be moves to ensure that core criterion for all leadership positions within Victoria Police is a demonstrated commitment to respect and diversity and that there will be zero tolerance for inappropriate behaviours. The apology should be issued genuinely, sincerely and clearly communicate how the organisation will make reparation with victims of sexual harassment and sex discrimination. For this to occur, Victoria Police must work with the Victorian Government to ensure the redress scheme and public acknowledgement are mutually reinforcing.

⁸⁶ Defence Abuse Response Taskforce, 'Report to the Minister for Defence and Minister for Justice Report on progress, operations and future structure' (Commonwealth of Australia, 2015) 20.

CASE STUDY: Tasty Nightclub Raid Apology

In 1994, Victoria Police raided and strip searched patrons at Tasty Nightclub, in an apparent drug raid. For the several hundred patrons, it was a humiliating and disturbing experience which caused significant harm over the following two decades. In 2014, Victoria Police issued a public apology to the patrons and the wider LGBTI community. Below is a powerful excerpt from the apology:

Simply put – the events that took place that night caused distress to people who were in attendance and had a significant impact on the relationship between Victoria Police and the wider LGBTI community.

It is therefore appropriate – as we near the 20th anniversary of this incident, that Victoria Police extends a sincere apology to the community members who were affected by events on that night.⁸⁷

Importantly, Victoria Police stated it wants the “organisation to set the standard for internally identifying and quashing discrimination.”⁸⁸ The apology detailed initiatives and strategies Victoria Police implemented to improve relations with the LGBTI community, celebrate diversity in Victoria while also recognising there remains significant opportunities for improvement.

87 Victoria Police, *Tasty Nightclub Apology* (5 August 2014) <<http://www.vicpolice.com.au/cops-and-bloggers/4201-tasty-nightclub-apology.html>>.

88 Victoria Police, *Tasty Nightclub Apology* (5 August 2014) <<http://www.vicpolice.com.au/cops-and-bloggers/4201-tasty-nightclub-apology.html>>.



Chapter 5

External Context and Regulation

Main findings

- There is confusion about whether a government requirement on Victoria Police to comply with a set sworn workforce size constrains the organisation's ability to hire additional personnel to cover shortages created by parental and other long term leave.
- There appear to be limitations in various enterprise bargaining and legislative mechanisms that prevent the take up of flexible work practices. However, even considering these constraints, application of the existing arrangements seems to be more conservative than necessary.
- There was confusion among participants of the role of the Police Association Victoria in supporting internal victim/targets during disciplinary and criminal matters.
- Provisions of the Victoria Police Act and the Protected Disclosure Act prohibit disclosure of the subject matter of complaints which are considered protected disclosures complaints under the Acts. This may prevent victims/targets from accessing support services and making claims from WorkSafe Victoria, which involve the subject matter of their complaint.
- The defined benefits fund for sworn personnel may not align with contemporary career pathways and may have intrinsic financial disadvantages for women

Introduction

Victoria Police operates in a complex regulatory, political and industrial relations environment. In doing this work, the Review considered external influences on the way the organisation operates. This includes not only the structural barriers, but also enablers, to achieve social and organisational change. In particular, this chapter considers:

- the funding model with resources Victoria Police
- the regulation of employment matters
- the role of unions
- the role of the Police Registration and Services Board
- the role of the Independent Broad-based Anti-corruption Commission
- the impact of superannuation arrangements.

While these matters/organisations are beyond the direct control of Victoria Police, they have the potential to impact on achieving gender equality within the organisation.

Governance

The Victoria Police Act is the governing legislation for the organisation. Until this legislation came into force in 2014, the governing legislation was the *Police Regulation Act 1958*.

Among other things, the Victoria Police Act regulates the constitution, role and functions of Victoria Police, and its relationship with the Victorian Government.

The Chief Commissioner reports directly to the Minister for Police. The Victoria Police Act sets out the conditions under which the Minister may give directions to, or request information or reports from, the Chief Commissioner.

Victoria Police is a statutory entity aligned under the Department of Justice and Regulation. Under this arrangement, policy and funding initiatives are administered with government via the relevant organisational units of the Department of Justice and Regulation.



Gender impact of funding arrangements

Many participants cited 'the funding model' as a significant constraint on the organisation's ability to enable flexible work practices; a key feature of facilitating greater gender equality in the organisation. However this Review found that a government target for the number of sworn members employed, rather than the funding model per se, appears to be the primary issue.

Funding model

Victoria Police has an annual appropriation set out in the budget forward estimates (the current financial year plus three years in advance) which is currently around \$2.5 billion. This funding is tied to delivery of the output measures listed in the budget papers.

In the budget process in May, adjustments are made for: a) government policy initiatives with financial implications and; b) costs of CPI indexation on salaries of sworn and forensic officers (a.k.a. 'operational') personnel. Indexation of public servant salaries is also allowed for, however, this is offset by the Victorian Government efficiency dividend applied to all public service salaries. Thus, public servant salaries need to be subsidised from operating budget or reductions in the number or grading of public servants.

Sworn workforce target

Although not part of the budget mechanism, the Victorian Government sets an 'informal' input measure in the form of the number of sworn members – expressed as full-time equivalent (FTE), rather than head count. This measure is informal in the sense that it is not included as a key performance indicator in the budget papers, nor has it been set by the Minister for Police under section 15 of the Victoria Police Act.⁸⁹ For the 2015/16 financial year, the agreed figure was 13,135 FTE. Victoria Police is required to report compliance with this FTE target to the Minister for Police on a monthly basis.

⁸⁹ Headcount is the number of people employed, whereas full-time equivalent (FTE) is the number of full-time positions. With part-time employees on staff, the headcount is often higher than the FTE. Thus two people each working 2.5 days per week represent would be recorded as a headcount of two and an FTE of 1.

As far as the Review is aware, this type of input measure is uncommon and potentially unique in Victoria, although the Metropolitan Fire Brigade and Country Fire Authority have workforce numbers set through their enterprise bargaining agreements. There are also staffing ratios set for Education (teachers to students) and Health (nurses to beds). However, the Review understands that no other Victorian agency requires such close compliance with an FTE target.

This FTE target and reporting serves to provide comfort to government that Victoria Police is at full capacity; however it also creates a (potentially unintended) constraint. By adhering to this target, Victoria Police is unable to create additional sworn positions above the FTE when the need arises.

This constraint is a particular problem when the organisation has a substantial number of sworn personnel on parental leave and other forms of long term leave. Historically, government required these personnel on long term leave to be included in the FTE count.

Participants told the Review that 'the funding model' is a major driver of the inability to backfill parental leave positions.

Evidence from the Review's survey and interviews indicate that a lack of backfill creates pressure on workplaces with resultant resentment towards pregnant employees.

I have seen women get harassed for correspondence whilst on maternity leave, or women get told they have to work certain shifts otherwise their station will not like them ... (female survey respondent)

I would like to think that we would treat each other with respect at all levels, but it is human nature to respond to pressure. Roster pressures due to insufficient numbers do mean that women who take maternity leave ... are pressured, directly or indirectly, because colleagues often have to bear additional work load, and managers who have to manage the additional burden of the work, while still achieving 'results' (male survey respondent).

The Review has been advised that the method of reporting the FTE count to government has been changed, effective from the 2015/2016 financial year. Victoria Police now uses the Victorian public sector agency financial reporting direction 29 for workforce data disclosures, which specifies inclusion or exclusion of employees in the count, based on whether they are 'active' or 'inactive' according to definitions provided. This means that employees, who are on unpaid leave and not receiving salary for that financial year, will no longer be included in the FTE count. Victoria Police would therefore have the ability to recruit additional personnel within the FTE limit.

Even with this change, where an employee is on paid leave (such as paid parental leave), or is pregnant and has been transferred to a job to work 'light duties', where reasonably necessary to protect their health or safety⁹⁰, they continue to be paid and included in the FTE count. As a result, there is still no capacity available to backfill, creating pressure on remaining colleagues.

Internal budget allocation

Separately, the Review was advised that Victoria Police has changed their practices for allocation of budget to work areas. Rather than providing budget for personnel costs based on the set workforce profile agreed at the start of each financial year, funding will be adjusted across the year to match outgoings on actual staffing. This will assist in making funding available for backfilling parental leave roles.

The Review understands that many people who take parental leave are at ranks above constable; however positions are customarily backfilled by personnel performing higher duties whose positions are in turn backfilled by upgrading lower ranks to enable development opportunities. This shifts vacancies down the ranks resulting in a potential shortage of constables in general duties units, and detrimental impacts on capacity for frontline service delivery.

There is a strong argument for Victoria Police to consider options to ensure backfill of positions left vacant by upgrading. Any such initiative should serve to:

- safeguard general duties capacity

- facilitate professional development through upgrading
- help deconstruct a clear structural driver of discrimination against women on the basis of potential pregnancy
- prevent backlash against women who become pregnant.

To realise all these potential benefits, any initiative will need to be used to backfill parental leave positions as a priority.

The Review considers that a 'reliever pool' would be one option to address this issue. The ability to provide backfill is one factor affecting whether parents are able to access flexible and equitable work. Further discussion and recommendations on this issue can be found in Chapter 7.

Regulation of employment

Victoria Police's workforce includes police, protective services officers, recruits, reservists, public servants and contractors. Regulation of Victoria Police's workforce is complex and distinguishes police and protective services officers from public servants with different governing laws and federal industrial instruments.

From December 2015, Police Custody Officers will be employed by Victoria Police under the Public Service Workplace Determination currently under negotiation. As they had not commenced during the timeframe for this report, they have not been considered in the data.

For the 'sworn' workforce – police, recruits, reservists and protective services officers – the Victoria Police Act regulates, among other things:

- appointments, probations, promotions and transfers (Part 3)
- duties, powers, entitlements, protection and liability (Part 4)
- police registration (Part 6)
- discipline (Part 7)
- appeals and reviews (Part 8)
- complaints and investigations (Part 9)
- investigation of protected disclosure complaints (Part 10)

⁹⁰ *Equal Opportunity Act 2010* (Vic) s 86.

- the Police Registration and Services Board (Part 12).

The *Public Administration Act 2004* (Vic) governs the employment of public servants, including executive officers, in Victoria Police.

Industrial instruments

Additional terms and conditions of employment for Victoria Police personnel are set out in separate federal industrial instruments:

- the Victoria Police Force Enterprise Agreement 2011 applies to police and protective services officers
- the Victoria Police Force (Commanders) Enterprise Agreement 2011 applies to police of commander rank
- the Victorian Public Service Workplace Determination 2012 applies to public servants.

At the time of writing, these instruments were being re-negotiated.

Disputes about the operation of both instruments can be dealt with by the Fair Work Commission.⁹¹ However for sworn members, the Fair Work Commission cannot determine disputes arising under the Victoria Police Force Enterprise Agreement 2011 that fall within the jurisdiction of the Police Registration and Services Board (PRSB). The PRSB is responsible for reviews of decisions related to discipline (including termination of employment) or disputes about promotion or transfer.⁹²

The Review notes that having separate industrial instruments for public servants and police and protective services officers may contribute to a sense of inequality and inconsistent value in the capability of these personnel groups.

Gender equity impact assessment

As part of this Review, the Commission conducted a gender equity impact assessment of the Victoria Police Force Enterprise Agreement 2011. In undertaking the assessment, the Commission considered:

- whether the agreement, on its terms or in its application or interpretation, discriminates

⁹¹ *Victoria Police Force Enterprise Agreement 2011*, AE889678 (19 December 2011) cl 11, and *Victorian Public Service Workplace Determination 2012*, AG895510 (23 July 2012) cl 11.

⁹² *Victoria Police Force Enterprise Agreement 2011*, AE889678 (19 December 2011) cl 12.

against employees on the basis of sex, pregnancy, or parental or carer status

- ways to further demonstrate Victoria Police's commitment to achieving a gender equitable workplace in the agreement
- ways to comply with the positive duty to eliminate discrimination, sexual harassment and victimisation in section 15 of the Equal Opportunity Act.

In consultation with Victoria Police and the Police Association Victoria, the Commission made recommendations. The recommendations sent to Victoria Police and the Police Association Victoria is included at Appendix 2.

Outside this Review, the Commission has provided a briefing to the Community and Public Sector Union (CPSU) and the Victorian Government on equity and diversity measures, in the context of the re-negotiation of the Victorian Public Service Workplace Determination 2012.

The role of the unions

The Police Association Victoria

The union for sworn employees of Victoria Police, the Police Association Victoria (TPAV) was formed in 1917 and given legal status in 1923. Over the 98 years of its existence, TPAV has negotiated with successive governments and police administrations to improve pay and other conditions for sworn employees (police, protective services officers, recruits and police reservists). Around 99 per cent of sworn members belong to TPAV.

Member benefits

TPAV provides the following services:

- negotiation with government and the Victoria Police executive for improved pay and working conditions
- lobbying on legislation and policy
- advice on occupational health and safety, workers compensation matters, employment rights and obligations
- advocacy and support for members with grievances against management
- legal advice, advocacy and representation including on non-employment related matters

such as family law and medical negligence (subject to eligibility)

- representation of members in negotiations with the Police Registration & Services Board, the Fair Work Commission and WorkSafe Victoria.
- advocacy for members undergoing disciplinary action
- hardship grants, sickness benefits for non-employment related illnesses, death benefits (subject to eligibility)
- welfare assistance and counselling services for members and their families
- education and awareness through online and hard copy publications
- provision of scholarships for eligible members and school-age children of members
- non-employment related benefits such as holiday accommodation and discounts on goods and services.

TPAV has an administration of 42 people who provide services to members under the directions set by the executive of TPAV. The administration is headed by a Secretary/CEO who is supported by an Assistant Secretary, both of whom are currently serving police members. The Secretary is appointed by the Executive Committee and the Assistant Secretary is appointed by the Secretary.

The business affairs and policies of TPAV are directed by an Executive Committee of 12 members of TPAV. Members of the current executive are all police and only two are women. This gender representation rate of sixteen per cent is substantially lower than the 26 per cent representation rate of women in sworn positions.⁹³

The Executive Committee is headed by a president who is drawn from, and elected by the executive.

Legal Representation Fund

TPAV maintains a fund in excess of \$20 million used for financing legal representation and disciplinary advocacy for members, with eligibility criteria set out in TPAV's constitution. To qualify the member must⁹⁴:

- (a) have been a full financial member at the time of the act or omission giving rise to the applicant having been charged with any disciplinary or criminal offence – such act or omission having been lawfully and/or in good faith done or made by the applicant in the course of or in the discharge of police duties; or
- (b) have been a full financial member at the time of the act or omission giving rise to the applicant having been charged with any criminal offence solely because the applicant is a police officer; or
- (c) be a member of the executive or servant of TPAV who has become a party to any legal proceedings as a result of carrying out the aims and objects of TPAV; or
- (d) have been a full financial member acting lawfully and/or in good faith at the time of the act or omission that gave rise to the applicant becoming:
 - (i) a party as a defendant or respondent in any civil proceedings arising out of the applicant being a police officer; or
 - (ii) a plaintiff or applicant in any civil proceedings (or who initiates such proceedings) arising from the course of or in the discharge of the applicant's police duties and who has first been granted leave by the Executive to initiate those proceedings through the preferred solicitors of TPAV in those proceedings.

In addition, TPAV's Member Benefits and Services brochure states: "Members may also seek legal advice regarding issues including WorkCover, medical negligence, asbestos exposure, superannuation, and insurance claims, public liability and family law."

Members must apply to access the fund and decisions to provide funding are made by a committee of three people appointed by the executive (and including no more than two members of the executive) in the case of criminal charges and the Full Executive for civil matters. For successful applications, TPAV contracts legal representatives directly to represent and advocate for members.

⁹³ Victoria Police Workforce Data April 2015, received 12 June 2015.

⁹⁴ The Police Association Victoria, *The Police Association Constitution* (updated 9 September 2011), rule 75, < http://www.tpass.com.au/About_Us/Constitution_.html >



Historical context

TPAV started funding legal representation for members in the early 1970s. At this time, and up until the introduction of the Victoria Police Act, members had a higher level of personal liability for acts or omissions carried out in the course of their duties. Under previous legislation, there was an onus on members to demonstrate they were acting 'in good faith' in order for the State to take liability. The new Act has brought Victoria into line with other Australian jurisdictions in having liability default to the State. Under the legislation, the State must establish the action was 'serious and wilful misconduct' in order for liability to transfer to the member.⁹⁵

Benefits for members who are victims or witnesses

The Review heard from many participants who believed TPAV legal fund did not cover costs for members who were victims or witnesses (other parties) in cases where other members were subject to disciplinary or criminal proceedings.

The Review was advised that TPAV legal fund covers costs who are victims and were advised that TPAV has funded cases of Victoria Police employees subject to sex discrimination and sexual harassment.⁹⁶

TPAV advised the Review that, where other members were subject to disciplinary or criminal proceedings, the other party can access assistance from the Association's industrial relations section, noting a recent civil case against Victoria Police involving workplace sexual harassment committed by another member who was subsequently charged and ultimately dismissed.

The Review also heard:

In instances of breaches of the Equal Opportunity Act, TPAV relies on a victim wanting to make a complaint. In those instances TPAV supports, advocates and assists members in reaching an outcome within the legislative parameters – often by way of a confidential settlement with Victoria Police.

⁹⁵ Victoria Police Act 2013 (Vic) s 74(2).

⁹⁶ TPAV noted high profile cases such as *McKenna v The State of Victoria* [1998] VADT, *Robertson v The State of Victoria* [1998] VADT.

If an amount of compensation is received, TPAV legal fund will recover monies expended in pursuing the claim. This has always been the arrangement and this is expressly detailed in the waiver any successful funding applicant signs. It is unclear in what circumstances a witness would require direct assistance in a matter however welfare support is regularly provided to members in those circumstances (The Police Association Victoria).

For a number of female participants who participated in the Review, TPAV was not considered a viable option for accessing support.

In discussion with TPAV, it became clear that the organisation is considering ways that it might best represent the changing workforce dynamic. TPAV told the Review that, in March 2015, the Association launched an initiative; TPA NOW (TPA Network Of Women) specifically to promote participation of female members in TPAV and create a forum where issues impacting on female police can be discussed and progressed through TPAV's formal and informal processes.

Industrial relations

TPAV has been active in advocating nationally through their industrial relations arm in negotiations, with Victoria Police and through the Fair Work Commission, on the need for better support for workplace flexibility and parental and caregiving responsibilities.

For example, TPAV utilise the dispute resolution procedures in clause 11 of the Victoria Police Force Enterprise Agreement 2011 as a way to agitate issues relating to unfair treatment of female personnel with parental or caring responsibilities.

Utilising a formal dispute process requires Victoria Police managers to take a complaint seriously and seek expert assistance from the Victoria Police Human Resource Department to resolve the dispute at the workplace level. The consequences of not resolving the dispute is that the employee can apply for the matter to be conciliated by the Fair Work Commission or, if conciliation is unsuccessful, an arbitrated decision which is binding.

The Review understands that disputes commonly brought under clause 11 relate to the right to request flexible working arrangements, the implementation of those requests, or the ability to access and maintain part-time work arrangements. For example, in October 2012, the Police Federation of Australia (of which TPAV comprises the Victorian Branch), made an application to the Fair Work Commission to deal with a dispute in relation to part-time work and accommodating child care arrangements.

Community and Public Sector Union

Public servants in Victoria Police may join the Community and Public Sector Union (CPSU) which covers all Victorian Public Service employees. Although the Review was unable to get membership figures, participants have suggested around 15 per cent of Victoria Police public servant employees are members of the CPSU.

Member benefits include:

- collective bargaining of the VPS workplace determination
- advice on pay and conditions, appeals, unfair dismissal, discrimination, contract negotiations, health and safety and workers' compensation
- income protection for members injured commuting to work
- discounts on specified employment law services
- benefit for family bereavement
- online will-drafting service
- discounted goods and services.

The Review heard mixed reports about the ability to access advocacy through the CPSU.

The role of the Police Registration and Services Board

The Police Registration and Services Board (PRSB) is an independent statutory body that provides for external appeal and review of certain Victoria Police decisions affecting police and protective services officers. In particular, the PRSB:

- hears appeals against certain promotion and transfer decisions
- reviews various decisions made by Victoria Police, including those related to discipline.⁹⁷

Appeals against promotion and transfer decisions

The PRSB is responsible for hearing appeals against certain promotions and transfers lodged by a police officer or protective services officer.⁹⁸

The Victoria Police Act states that the grounds for appeal are:

- in relation to a senior sergeant, sergeant or senior constable
 - superior efficiency
 - equal efficiency and greater seniority
- in relation to an inspector or chief inspector, superior efficiency.

The term 'efficiency' is defined as:

- the aptitude and special qualifications necessary for the discharge of the duties of the position in question, together with merit, diligence, good conduct, quality of service, mental capacity and physical fitness
- in addition, for the rank of inspector – the potential to develop the executive ability and leadership and management skills essential in senior executive positions
- in addition, for the rank of commander, chief superintendent, superintendent or chief inspector – the executive ability and leadership and management skills essential in senior executive positions.⁹⁹

The function and impact of this power is considered in more detail in Chapter 8.

Reviews of Victoria Police disciplinary decisions

Under the Victoria Police Act, a police or protective services officer may apply to the PRSB for review of a decision related to discipline (including a decision to dismiss an officer).¹⁰⁰ In reviewing a decision, the PRSB must have regard to the public interest and the

⁹⁷ *Victoria Police Act 2013* (Vic) Part 8.

⁹⁸ *Victoria Police Act 2013* (Vic) ss 141–142.

⁹⁹ *Victoria Police Act 2013* (Vic) s 4.

¹⁰⁰ *Victoria Police Act 2013* (Vic) s 146(1), (2).

interests of the applicant.¹⁰¹ Public interest is defined to include ‘the interest of maintaining the integrity of and community confidence in Victoria Police’.¹⁰²

The function and impact of this power is considered in more detail in Chapter 13.

Police registration

The PRSB is also responsible for registering at a specified rank, former and certain current police and keeping a Police Profession Register.¹⁰³

Subject to qualification requirements, registration is open to people who have formerly served as police in Victoria Police, unless they were dismissed. Once registered as capable at a specified rank they are eligible to apply for positions at or below their registered rank.

This process enables former members to have their work experience outside Victoria Police to be considered toward assessment of capability at a rank that may be higher than their former rank. Prior to the commencement of the Police Profession Register on 1 April 2014, ‘re-appointees’ re-entered the organisation at the rank of constable or senior constable.

Registration is also available to current members who are on leave without pay or on secondment to an external organisation.

A person is qualified for registration if the person:

- is of good character and reputation
- has any qualifications and experience for registration at a specified rank
- has the aptitude and efficiency required to perform as a police officer at a specified rank.¹⁰⁴

Professional standards

Since 2013, the PRSB’s Professional Standards Division is responsible for the following functions:

- to advise the Chief Commissioner about competency standards, practice standards, educational courses and supervised training

¹⁰¹ *Victoria Police Act 2013* (Vic) s 151.

¹⁰² *Victoria Police Act 2013* (Vic) s 151(3).

¹⁰³ *Victoria Police Act 2013* (Vic) ss 105, 121.

¹⁰⁴ *Victoria Police Act 2013* (Vic) s 103.

arrangements for police, protective services officers and police reservists

- to support and promote the continuing education and professional development of police, protective services officers and police reservists.

Police professionalisation

The Review was told that the PRSB is presently developing a model for police professionalisation in Victoria to assist in the future positioning of the Board and the establishment of the Professional Standards Division, and will undertake an extensive consultation process with Victoria Police, TPAV, relevant government departments and other key stakeholders. The Review understands the project is examining existing processes and practices across other professional registration systems and will draw on the professionalisation work being undertaken by the Australia and New Zealand Policing Advisory Agency (ANZPAA).

At the cross-jurisdictional level, the ANZPAA has focused on the development of police practice levels and training and education guidelines. ANZPAA and participating jurisdictions are exploring options for a national system involving certification, registration and continuing professional development.

This is considered further in Chapter 9.

Recommendations about the PRSB are set out in Chapter 13.

The Independent Broad-based Anti-corruption Commission

The Independent Broad-based Anti-corruption Commission (IBAC) is responsible for identifying, investigating and exposing ‘police personnel misconduct’ – a term which includes separate definitions for (a) police officers and PSOs and (b) police recruits and public servants employed by Victoria Police.¹⁰⁵

Police personnel misconduct means conduct which is likely to bring Victoria Police into

¹⁰⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(2)(a).

disrepute or diminish public confidence in it.¹⁰⁶ For police officers and PSOs, police personnel misconduct also includes offences punishable by imprisonment and disgraceful or improper conduct (whether on or off duty).¹⁰⁷

According to IBAC, examples of police misconduct include human rights breaches, stalking, family violence, sexual offences and assault.¹⁰⁸

Under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (the IBAC Act), 'police personnel misconduct' has the same meaning in relation to police officers and PSOs as 'misconduct' under the Victoria Police Act.¹⁰⁹ Chapter 13 discusses definitional issues with 'misconduct' and 'conduct' within the Victoria Police Act.

IBAC receives direct complaints and notifications about police personnel, including notifications made by Victoria Police about misconduct.¹¹⁰

Protected disclosures

IBAC determines whether disclosures made or notified to it are protected disclosures.

A protected disclosure against a member of Victoria Police personnel can be made under the Protected Disclosure Act.¹¹¹ Protected disclosures can also be made by police officers and PSOs under the Victoria Police Act.¹¹²

A person who makes a protected disclosure has legal protections under the Protected Disclosure Act, including:¹¹³

- protection from defamation action
- protection from detrimental action in reprisal for making a protected disclosure

¹⁰⁶ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 5.

¹⁰⁷ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 5.

¹⁰⁸ Independent Broad-based Anti-corruption Commission, *What is police misconduct?* <<http://www.ibac.vic.gov.au/reporting-corruption/what-can-you-complain-about/what-is-police-misconduct>>.

¹⁰⁹ *Victoria Police Act 2013* (Vic) s 166.

¹¹⁰ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 15(3)(b)(i); *Victoria Police Act 2013* (Vic) s 167.

¹¹¹ *Victoria Police Act 2013* (Vic) s 167(3); *Protected Disclosure Act 2012* (Vic) Part 2.

¹¹² *Victoria Police Act 2013* (Vic) s 167(3); *Protected Disclosure Act 2012* (Vic) s 3.

¹¹³ *Protected Disclosure Act 2012* (Vic) Part 6.

- immunity from:
 - civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure
 - committing a statutory offence that imposes confidentiality obligations or otherwise restricts the disclosure of information
 - breaching any other obligation requiring confidentiality or otherwise restricting the disclosure of information.¹¹⁴

IBAC obligations

IBAC is required to dismiss, investigate or refer any complaint or notification it receives.¹¹⁵ If a person has made a protected disclosure, section 59 of the IBAC Act requires IBAC to notify the person about the action it has taken within a reasonable time of taking the action or commencing an investigation.¹¹⁶ Some exceptions apply, including if notifying the person would put a person's safety at risk.¹¹⁷

For all other complaints and notifications, IBAC may notify the person who made the complaint or notification about the action it has taken.¹¹⁸ However, unlike protected disclosures, there is no requirement to do so.¹¹⁹

The Review understands that police personnel sometimes choose to make complaints to IBAC because they do not feel safe or confident to complain directly to Victoria Police. The Review also noted a perception from some participants that IBAC may refer complaints to Victoria Police without notifying, or seeking the consent of, the complainant.

IBAC has advised that it is mindful of the importance of communicating with complainants about decisions to dismiss, investigate or refer complaints or notifications.

¹¹⁴ Independent Broad-based Anti-corruption Commission, *What is a protected disclosure?* <<http://www.ibac.vic.gov.au/reporting-corruption/what-is-a-protected-disclosure>>.

¹¹⁵ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 58.

¹¹⁶ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 59(2)–(3).

¹¹⁷ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 59(4).

¹¹⁸ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 59(1).

¹¹⁹ *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) s 59(1).



IBAC has also highlighted this area as worthy of further consideration in any review of the protected disclosure regime.

The Review considers that it is important that complainants are informed about actions taken in regard to their complaints as well as any option to withdraw a complaint prior to it being referred, particularly to their own employer, in the case of Victoria Police.

In this context, the Victorian Government may consider whether section 59 of the IBAC Act prevents IBAC from notifying complainants prior to referring their complaint to Victoria Police.

Disclosure requirements

It is an offence under the Victoria Police Act to disclose a 'restricted matter' (including for example, the subject matter of a protected disclosure being investigated under Part 10 of the Victoria Police Act or any information that could identify a person who has or may be interviewed as part of a protected disclosure investigation conducted under that Part).¹²⁰

The Protected Disclosure Act also prohibits particular persons and bodies (including Victoria Police) from disclosing the content of, or the identity of a person making, an 'assessable disclosure'.¹²¹ Assessable disclosures include certain disclosures that must or may be notified to IBAC or which are made directly to IBAC.¹²² Both Acts include limited exceptions to these offences, such as seeking legal advice.¹²³

The Review heard about unintended consequences of the disclosure offences under the Victoria Police Act which may have negative impacts for victims. In particular, the Victoria Police Act does not contain any exceptions to allow a complainant to disclose the subject matter of their complaint for the purposes of receiving welfare support or for making a claim for compensation to WorkSafe Victoria. This can create additional stress for people who are already vulnerable from being targeted by harmful workplace behaviours by their colleagues.

The Review considers that it is essential for

¹²⁰ *Victoria Police Act 2013* (Vic) s 185.

¹²¹ *Protected Disclosure Act 2012* (Vic) ss 52–53.

¹²² *Protected Disclosure Act 2012* (Vic) s 3.

¹²³ *Victoria Police Act 2013* (Vic) s 185(2); *Protected Disclosure Act 2012* (Vic) s 54.

individuals to be able to discuss the subject matter of a complaint when seeking welfare support or compensation. The inability for Victoria Police to provide information about assessable disclosures for the purposes of referring personnel to support services or providing information for WorkSafe Victoria claims may also create practical difficulties for Victoria Police.

In some circumstances, the Chief Commissioner may authorise disclosure of restricted matter.¹²⁴ However, the Chief Commissioner must not authorise a disclosure if it would be likely to prejudice the investigation of a protected disclosure, the safety or reputation of a person, or the fair trial of a person has been charged with an offence.¹²⁵ Subject to limited exceptions, the Chief Commissioner also must not authorise disclosure of a restricted matter that is likely to lead to the identification of a person who has made an assessable disclosure.¹²⁶

Although the Chief Commissioner has the power to authorise disclosure of restricted matter in some circumstances, the Review considers that it would be more effective and practical to have a clear statutory right to allow disclosure of the subject matter of a protected disclosure complaint or assessable disclosure to support services and to WorkSafe Victoria.



RECOMMENDATION 18

The Review recommends that the Victorian Government consider whether there are any legislative barriers in the *Victoria Police Act 2013* and *Protected Disclosure Act 2012* which prevent disclosure of the subject matter of a protected disclosure or assessable disclosure complaint by Victoria Police personnel or Victoria Police work units to support services and to WorkSafe Victoria. If so, the Victorian Government should consider the most appropriate legislative amendment to enable disclosure in those circumstances.

¹²⁴ *Victoria Police Act 2013* (Vic) s 186(1).

¹²⁵ *Victoria Police Act 2013* (Vic) s 186(2)(a).

¹²⁶ *Victoria Police Act 2013* (Vic) s 186(2)(b).

Superannuation for police and PSOs

Police and PSOs, along with other Victorian emergency services employees, have a defined benefit superannuation fund administered by the Emergency Services and State Super (ESSS). Unlike an accumulation superannuation fund, a defined benefit fund pays a set amount when the member becomes eligible which is not affected by investment market fluctuations.

In light of broader recognition of the large gender gap in superannuation savings, the Review examined the potential consequences of the current defined benefit scheme on women and other personnel who have flexible work arrangements.

Defined benefit superannuation

In the Australian public sector defined benefit superannuation schemes have been closing off to new members since the 1980s. The last Commonwealth scheme, Military Super will no longer be available to new members of the Australian Defence Force as of 1 July 2016. The Review understands the ESSS scheme, is one of only two public sector defined benefit funds in Australia still open to members.¹²⁷ The decline of defined benefit schemes is due both to the substantial financial liabilities held by the employers, but also because they are not aligned with modern career/lifestyle choices.

Historically, defined benefits schemes were set up as an incentive for employees to stay long term in jobs that were traditionally poorly paid. However, few people now stay with a single employer for the majority of their work life. Further, relatively speaking, salaries for Victoria Police and many other public sector employees are strong. The Review notes that probationary constables are paid a base salary of \$62,039 p.a. and newly promoted senior constables have a base salary of \$75,758 p.a., which is on par with the average full-time salary of Victorians (\$75,800 p.a.). However base salary levels for PSOs are substantially lower, with only the two highest ranks (supervisor and senior supervisor) paid an annual salary higher than the Victorian average.

¹²⁷ The other being administered by the Fire & Emergency Services Superannuation Fund in Western Australia. See <<http://fessuper.com.au/AccountTypes/DefinedBenefitAccount.aspx>>.

ESSS retirement benefits

Retirement

For police and PSOs, the lump sum payout on retirement is based on the member's contribution rate (between 0-8 per cent before or after tax salary at the election of the employee) to the fund as well as their age, period of membership and employment status (for part-time work contributions are pro-rata).

At 50 years of age, a member who has 30 years of full-time service and contributes 7per cent after tax will be eligible for a retirement benefit of 7.5 times their annual salary (averaged over the last two years). There are a number of variations on this formula relevant to subgroups of eligible personnel. Those who do not work for 30 years full-time service receive a smaller multiple of their annual salary with the multiple increasing relative to the number of years in service.

Data provided by ESSS indicates that benefit amounts received by men and women leaving the Victoria Police defined benefits scheme are similar until age 40, after which time men received substantially higher benefits (up to \$150,000 more). A higher proportion of men remain with Victoria Police until reaching their maximum benefit, while many women leave before age 45. However, for personnel with the same length of service, men receive higher benefits than women on leaving the fund. This gender gap widens and length of service increases.

According to ESSS the reasons for the gender gap include:

- More women with periods of nil contributions (leave without pay) prior to age 40
- More women (nearly 50 per cent) with periods of part-time employment
- Few women making contributions prior to age 40.

The Review also notes that the low proportions of women at higher ranks may also contribute to lower average salaries (this issue is subject to a recommendation in Chapter 7 on reviewing equal remuneration).



Disability

Disability benefits are also affected by length of service, service breaks and contribution amounts. This is a particular issue for women in Victoria Police because from age 35 onward they are much more likely than men (up to 35 per cent) to claim a disability benefit.¹²⁸ This gender difference contrasts other emergency services, in which men are more likely to claim disability benefits right across the working life span.

Gender impact of the defined benefit scheme

The Australian Human Rights Commission noted earlier this year that:

Research into unpaid care has highlighted that Australia’s superannuation system is designed around male patterns of workforce participation. Interrupted patterns of work are a key barrier for mothers with young children trying to accumulate sufficient super. Estimates from 2009/10 suggest that the average superannuation payouts for women are 57% that of men.¹²⁹

As will be discussed in Chapter 8, women police in Victoria Police have an average length of service almost half that of men (12 versus 23 years). This, coupled with periods of part-time employment for caregiving, mean few will be eligible for the maximum advantages provided by the ESSS defined benefit arrangements.

The Review notes that the ADF has identified the change to their superannuation arrangements as supporting flexible work arrangements: “The new superannuation arrangement will particularly assist the establishment of Defences’ part-time service arrangements under Project SUAKIN, the ADF’s future workforce model”.¹³⁰

Further, given the stressful nature of policing and its consequences for physical and mental health, the logic of a remuneration scheme that

compels employees to work full time for at least 30 years to gain the full entitlement is highly questionable.

In addition, and though not gender-specific, the Review heard the relative rigidity of the defined benefit scheme, may provide a barrier to mobility between employment categories (police and VPS).

Remedial actions

The Review notes that ESSS has been working with the TPA to educate women in Victoria Police to encourage them to make higher contributions. The Review also notes that since 2010, ESSS has made minimum contributions to the funds of women on unpaid maternity leave for up to 12 months to minimise the impact of service breaks on their benefits.

Despite these efforts, there remain inherent structural inequities arising from the defined benefits scheme.



RECOMMENDATION 17

That the Victorian Government work with ESSS to undertake a gender impact analysis of the defined benefit scheme, and undertake comparison with other schemes. This analysis should be used as evidence to review the appropriateness of the scheme in supporting contemporary career patterns, flexible work, and wellbeing of all Victoria Police sworn personnel.

128 Emergency Services Superannuation Scheme (ESSS) data. (Information provided to the Review by ESSS, 04 November 2015).

129 Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014) 79.

130 Australian Government, Department of Defence, *ADF Super – Frequently Asked Questions* (September 2015) <http://www.defence.gov.au/dpe/pac/milsuper_faq.htm>.



Chapter 6

Organisational governance and accountability

Main findings

- There is significant evidence of structural and attitudinal obstacles to implementing the Review's recommendations, which will require strong leadership, whole-of-organisation accountability and broader support.
- There has been a lack of focus on equity and diversity issues affecting employees in Victoria Police in strategies, and performance objectives and measures.
- There are a number of strategies currently being pursued by Victoria Police to address workplace harm and safety. While the intent and drivers underpinning each strategy are different, the organisational levers are common. This creates an opportunity to align the strategies for greater mutually reinforcing effect.
- There are significant capability and reputational issues at the supervisor and management ranks. In responding to this Review, it will be important for all managers to be mindful of the individual and collective credibility of their leadership and to reflect deeply on their experiences and accountability, when advocating for change.
- Human resources has not been considered a strategic function within the organisation. The lack of linkages and alignment across Victoria Police people functions has resulted in siloing and a lack of organisational accountability on strategic people issues.
- There has been an historical over-reliance on intervention measures in response to harm through incident or volume measurement over prevention measures, which prevent harm from occurring or escalating in the first place.

Purpose and leadership

Gender inequality is the common driver of sexual harassment – some forms of which can be understood as violence against women – and sex discrimination.

Building gender equality into values, capability and organisational performance require persistent and unwavering work in all aspects of police business. It will require deep commitment and discipline to remain focused on building gender equitable and respectful workplaces (prevention), at the same time as developing improved responses to employees experiencing workplace harm as a result of the behaviours of their colleagues and managers (response).

As has been noted in other parts of the Review report, there are serious but not insurmountable obstacles to undertaking an organisational reset in Victoria Police. The organisation has been able to drive large-scale cultural change where a 'burning platform' has existed and where there has been adequate sponsorship and resourcing, such as leading work in reforming the family violence response and in key safety initiatives, such as Project Beacon (described in more detail in Chapter 11).

While there are similarities in the implementation of this Review and the work of implementing the Australian Human Rights Commission Review of the Treatment of Women in the Australian Defence Force, Victoria Police is a different organisation, with a different function, and one which faces unique challenges. As outlined in Chapter 5, there are limitations for Victoria Police in being able to manage those whose histories or behaviours are inconsistent with those required in a cultural reset.

To undertake such a reset, the Chief Commissioner will require support from Government, from the Unions and from



other Victorian employers to implement the recommendations and lead the charge on gender equity and reducing violence against women.

This emerging research has significant implications for prevention practice, and needs to be taken into account at all stages ... While women's ... empowerment must remain central to prevention activity if we are to address the gendered drivers of violence, it is important to engage men ... in the process ... Backlash and resistance is an inevitable part of the change process, and should be planned for and expected.¹³¹

The work of implementing the Review will require prioritising the voices of those who have been harmed and whose voices have been silenced. It will require those voices to be listened to, respected and supported by all men and women in the organisation.

Research demonstrates that backlash and resistance is an inevitable part of the change process, and should be planned for and expected.¹³²

It will also require a sustained journey to reset expectations about 'what makes a "good man" and a good police employee' and what that means for the way all people are valued in the organisation.

It will also need unwavering commitment to protect the organisational values, build a lasting legacy for the organisation and pursue broader cultural change.

Strategic focus

The Review heard of a lack of strategic focus on Equity and Diversity issues affecting employees. Some spoke of the need for a Women and Policing Strategy for the organisation while others spoke of a broader Equity and Diversity Policy.

¹³¹ OurWatch, VicHealth and ANROWS, *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (November 2015) <<http://www.ourwatch.org.au/getmedia/1462998c-c32b-4772-ad02-cbf359e0d8e6/Change-the-story-framework-prevent-violence-women-children.pdf.aspx>>.

¹³² Ibid.

I would put in place a policy structure around gender equality and workforce development. I would get content experts in to create an enabling culture. You need to do some analysis of the structures in place that perpetuate discrimination. Train the workforce and get more contemporary practices in place around flexibility for men and women (female interviewee).

We published a Diversity Strategy. This should be fundamental in an organisation like this. ... The principles and base levels need to be in place. We have challenges around our current data and a lack of ownership (executive interviewee).

As noted in Chapter 10, Victoria Police has an Equal Opportunity Policy that is, in parts, out of date. There is a general lack of guidance on how to implement the policy. Similarly, Human Resources has a Diversity Action Plan (DAP) which is in its final year of implementation. While women's representation in the Victoria Police workforce has increased in recent years and compares favourably to other emergency services, the Review assessed the DAP as lacking substance, strategic value or sufficient governance and accountabilities.

The EO action plan – it has no concrete actions. If you sit it in HR it's already demeaned because it is linked to unsworn members. The thinking is 'everything that attaches to HR is unsworn thinking'. It needs to be under the Operations DC or AC of regions but your action plan, you drive them more at operations (female interviewee).

In the absence of strategy and explicit policy in this area, local initiatives have been developed by individuals in some workplaces to perceived gaps around human resource issues as basic as parental leave and return-to-work plans. While such informal initiatives may be appropriate and well intentioned, a perceived lack of transparency can fuel broader resentments and perceptions of favouritism or bias within the organisation. This is discussed in Chapter 7.

The Review has identified a clear need for an organisational Diversity and Equity Strategy, to guide any and all work to enhance gender equality in all workplaces across the state.

Defining and owning the issue and the vision or purpose of this work is the critical first step to map effective pathways to safe and equitable workplaces. There is no justification for different strategic approaches in different work areas. A dual approach of prevention and response is needed:

- **Prevention:** To access the potential contributions of all Victoria Police employees, its workplaces must build gender equitable workplaces and provide no incentive or opportunity for sexual harassment, predatory behaviour and sex discrimination to occur.
- **Response:** To respond to harm that has already been experienced, restorative justice processes are urgently needed, as are effective responses to employees who choose behaviours that sexually harass and discriminate against women. Workplaces that enable inappropriate behaviours must also be accountable for the conduct of their employees.

The Review heard repeatedly that the problem-solving instincts of police would incline Victoria Police to turn this Review's recommendations into a list of tasks and to delegate them accordingly.

We do compliance very well – black and white, give me a list and I'll tick it. Anything about humans or complexity becomes too difficult (female interviewee).

The following recommendations have been designed to mitigate this risk and support a cohesive, whole-of-organisation approach.

Organisational performance objectives and measures should be linked to safe and respectful workplaces. These measures need to cascade down into the performance and capability requirements of all managers and employees.

This will both challenge and provide new opportunities for Victoria Police.

The Review notes that without a sustained and substantial focus on equality and diversity, merely addressing harm that has already been experienced will not drive safety, equality and freedom from sexual harassment in Victoria Police.



RECOMMENDATION 3

Victoria Police develops a whole-of-organisation Gender and Diversity Vision and Strategy linked to the organisational performance and capability framework to drive cultural and practice change. This vision and strategy should be owned by and accountable to the Chief Commissioner.

It should:

- **articulate** the Victoria Police vision to build gender equitable workplaces in clear and unequivocal terms. This will be a first step and require consistent, visible leadership at the most senior levels. The Review notes that time spent consulting and engaging employees in this work will build a platform for all recommendations in this Review.
- identify and leverage the **interdependencies** among current and emerging workplace and community facing strategies
- sustain commitment and work to build whole-of-organisation knowledge and understanding of the relationship between gender equality and healthy, safe and respectful workplaces
- Victoria Police aligns the intent, accountabilities and implementation of efforts to implement responses to this Review alongside other key change initiatives
- develop a formal policy and process review mechanism to ensure gender equity principles are embedded in all organisational initiatives
- ensure gender impact analysis is embedded in policy and strategy development and review processes

- develop an organisation-wide **gender performance framework and annual monitoring**. Organisational performance objectives and measures should be linked to safe and respectful workplaces if the vision and effort to achieve a safe and respectful workforce is to be sustained. These measures should embed proactive data, process and outcome measures and cascade down to the performance and capability requirements of all managers and employees. They should include employee insight and satisfaction of the shifting workplace climate.
- prioritise safety and wellbeing of employees who have experienced workplace harm. For people engaging in inappropriate behaviours, a range of swift and appropriate management and policing responses are needed, depending on the nature of the behaviour. Detailed recommendations and measures to be included in organisational performance monitoring are set out in Chapter 13.
- cascading from this strategy, each Command should establish, develop and implement an equity and diversity workplan and report progress to Executive Command bi-annually. The quality and progress of these workplans should be considered as part of Command performance and individual performance assessments of leadership. These in turn should be supported by performance assessment recommendations.
- Victoria Police should resource and coordinate women in policing committees for all female employees across all regions, including rural areas. These forums should provide expertise to inform Command/ Departmental Equity and Diversity Strategies.

But how do you measure it? I've seen it a hundred times, when the Ombudsman or OPI go through an organisation with 125 recommendations. You can tick off those recommendations but how do you change culture? If you had the ability to do that for three or four years, it might actually change that culture (former executive).

The elements of work that will be needed to give form to this strategy are reflected in the recommendations. However, without an overarching framework approach, owned at the most senior levels, there is a danger that recommendations will not be considered and implemented in a cohesive and interlocking way.

You have a right to a safe workplace. An organisation and its leadership should acknowledge issues, respond immediately, and bring victims into a safe circle quickly, not drag them through a damaging process of blame the victim (female interviewee).

Both parts of this approach – preventing and responding to sex discrimination and sexual harassment, including predatory behaviour – will be achieved through existing functions and mechanisms that span the organisation. While some recommendations will be easier to start work on, the Review notes the importance of planning and staging work to ensure it has the intended impact and outcomes.

We remain reactive. We like to reinvent the wheel and implement either short term things, 'quick wins', or throw mini projects at something, just to demonstrate that we are 'doing' so we won't be criticised. So we jump and react to perceptions, rather than putting in things (whether they be strategy, policy, projects, etc) that are based on good research evidence and identified through effective gap/need analysis (female interviewee).

The pivot point of all efforts should be focused and disciplined, and a vision led and owned by the Chief Commissioner and Executive Command.

If you don't have the Chief Commissioner publicly supporting it and the next lines down too, it won't get anywhere. It has to be driven from the Chief Commissioner and seen that the Chief Commissioner embraces it as a serious issue to be dealt with and as a widespread cultural problem, not just pockets. The culture resists identification of the problem.

Building safe and respectful workplaces is the individual and collective responsibility of all Commands.

RECOMMENDATION 4

Victoria Police develops a comprehensive communications and employee engagement strategy, informed by organisational change principles to:

- build awareness of the rationale for diversity
 - redefine the notion of 'merit' and increase understanding of the existence of structural barriers to recruitment, retention and advancement
 - champion senior men and women who access flexible work arrangements, including part-time and parental leave
 - reinforce that performance and accountability of employees must align with the vision, values and strategy
 - support learning and professional development across the workforce about sex discrimination and sexual harassment, including predatory behaviour, its drivers, impacts and implications
 - develop a clear organisational statement and expectation that all employees, regardless of rank or level, should 'call out' sexual harassment and discrimination if they feel safe to do so and that they will be supported by management.
-

Strategy alignment

The Review notes the importance of a strong governance and policy platform to support the achievement of Victoria Police's equality and diversity intent – as a means to end sexual harassment, predatory behaviour and sex discrimination.

Many of the tools, processes, initiatives and strategies committed to in the *Victoria Police Corporate Plan 2015–2018 Year 1* have potential overlap with this Review's recommendations. There is an opportunity to align and leverage the intent and implementation of other work, such as mental health and safety initiatives, to implement this Review's recommendations. This will be important with respect to the effectiveness of the recommendations and the ability of Victoria Police to embed them in 'business as usual' processes.

In implementing Recommendation 3, Victoria Police should align intent, accountabilities and implementation alongside other key initiatives. These include the Zero Harm Strategy and the employee mental health strategy which, together, have potential for deep and lasting cultural change in Victoria Police workplaces. It also includes externally facing initiatives intended to drive improved awareness and sophistication of Victoria Police employees about diversity and equality, such as Equality is not the Same and Future Directions for Victim Centric Policing 2015.

While the intent and drivers underpinning each strategy are different, the organisational levers are common. All seek to inform what employees know, how they use their knowledge and define the professional behaviours required of Victoria Police.

Victoria Police has found ways to transcend its structure in other work areas and develop and implement a genuine whole-of-organisation strategy which provide learning for the issues addressed by this Review.



Credibility, capability and governance

The overwhelming feedback to the Review was that for employees' everyday work experiences to change, effort must be focused at the supervisory ranks.

The Review agrees that this is where change will be experienced by most Victoria Police employees. At the same time, the Review considers that without a capable, credible senior leadership and strategy – starting with the Executive Command – culture change will not be achieved in an acceptable timeframe.

Our organisation is command and control and if Command gets strong on something, people will identify the behaviours and once the whinging is finished, they'll change their behaviour (executive interviewee).

... the focus needs to come away from the complainant and what's the complaint, to the issue and the culture of the organisation. I don't need to have complaints come forward to know that there is an issue and that we could be doing something about it ... That's the difference senior command can make – it can put the focus on it and it becomes a priority for everybody (female interviewee).

At the time of the Review, there were serious concerns about workplace leaders who had reputations as having sexually discriminated or sexually harassed employees who had supported it through their management practices or failed to intervene, recently or in the past.

There are still behaviours at the highest levels that are not called and if those are not called, people will laugh at the Review. Some of the people saying that they believe in the Review are not walking the talk. It's about credibility. Some of the people selling the message are contributors to it in the first place so we need to look at all the root causes ...

... Also, the standards from a while ago were pretty low so when asking

that question, the baseline for senior people who have grown up in it is not the right baseline. It's about what is appropriate (executive interviewee).

In responding to this Review, it will be important for all leaders to be mindful of the individual and collective credibility of their leadership. They should reflect deeply on their experiences and accountability when advocating for change. It is incumbent on the organisation to ensure that the capabilities of people attaining leadership roles meet organisational values and competencies in driving the organisation and its workplaces towards its vision for safety and respect.

Executive Command is supported by a People Sub-Committee which is chaired by the Executive Director of Business Services and brings together leadership from Strategy and Organisational Development, Professional Standards Command, Human Resources, People Development Command, and representatives from Divisional Command and Specialist Operations. The Review heard concerns about the capability of current governance arrangements to drive a strategic, whole-of-organisation approach.

There is something attractive about an external model. How would you ever pick up 5000 pieces of feedback with an internal model? There is a great power in the VEOHRC doing this piece of work. There will be men and women in the organisation who will not sleep as comfortably knowing this is being done. This cannot be achieved internally ...

... Think about whether this is a significant enough problem? Is the organisation mature enough to do it internally now? I suspect not. Don't leave the organisation with more policy or training. It needs to be driven – it will be difficult and uncomfortable and expensive. But it's an opportunity. When we talk about governance models, there is something powerful about external input (former executive).

Executive Command should review its capabilities and current capability gaps to undertake this work. The Review notes the importance of accessing external expertise to inform Executive Command thinking and decision making.



RECOMMENDATION 2

The Executive Command establishes an appropriate, independent advisory structure to guide the intent and implementation of the Review's recommendations.

The advisory structure should include senior, external expertise that reports directly to Executive Command and meets quarterly with the Chief Commissioner as the strategy is developed.

The advisory structure should also include senior, external expert guidance in the areas of:

- best practice responses to working with men and women to build awareness of gender inequality, gender identity and role stereotypes, and of the link between gender inequality and violence against women
 - best practice restorative justice processes
 - best practice victim empowerment models of addressing workplace harm, with specific expertise in sexual harm, sexual assault and sexual harassment as well as secondary victimisation
 - best practice responses to sex discrimination and sex-based hostility
 - best practice bystander actions to build gender equality
 - organisational development and change
 - the Advisory Structure should report directly to the Executive Command representative and meet quarterly with the Chief Commissioner as the strategy is developed.
-

Organisational structure

A two-pronged approach to preventing and improving responses to sexual harassment, predatory behaviour and sex discrimination will be achieved through a range of business functions and mechanisms that span the organisation, functionally and geographically.

While the vision and strategy must be owned and executed by Executive Command, building safe and respectful workplaces is the responsibility of all Commands. Implementation needs singular oversight and mechanisms to ensure that all functions are aware of the broader remit of the work, of their role in it and their responsibilities to drive change.

The Review heard repeatedly of the challenge of working across multiple silos, which were functional and divisional/geographical.

The lack of linkage between people functions in the organisation is a contributing factor. Having them working in silos makes it easier for things to go missing or not to be aligned. HR, professional standards, people development and corporate strategy should all be in one portfolio. Spreading them across areas gives the organisation an excuse for not getting it right (executive interviewee).

People functions, which includes People Development Command, Professional Standards Command and the Human Resource Department, have specific roles to play in supporting managers to manage, learning and development and people who are experiencing sex discrimination and sexual harassment, including predatory behaviour. More discussion about how to effectively provide this support is outlined in Chapter 10, including the need for a centralised and elevated HR business model, such as business partnering.

At the time of the Review, the Human Resource function was not regarded as a strategic function within the organisation. This was reflected in its absence from strategic decision-making fora such as Executive Command,



lack of strategic tasking, and widely held perceptions of its value to managers and employees. It has had little influence on decision-making about people matters.

People functions also have a key role to lead evidence-based, expert-informed approaches to equality and diversity in Victoria Police workplaces, and to provide the mechanisms for managers to adopt and implement good work practices.

A command and control organisation means that if something is not in your span of control, then it is not for you to worry about. As a consequence, you're blinkered to it (executive interviewee).

In terms of governance, the visibility on these issues has been impacted because the head of HR role in the organisation has diminished. It's not as senior as it was in terms of governance. Executive Command has now dropped down to Command. People are important in this organisation. It needs to be more prominent at the moment ... It currently sits under the corporate head which sits under the budget (executive interviewee).

The Review's recommendations reflect the interdependence of people functions and the way in which they engage with all Commands.

Victoria Police should consider where best to locate a strong, strategic Human Resource function within the organisation to support the vision, strategy and its implementation.

Performance and accountability

At the time of the Review, there was a lack of focus in budget measures on workforce wellbeing and diversity.

The Review's recommendations have been developed as an interlocking, interdependent work program. In addition to building a clear vision, strategies to achieve enabling governance and structures, Victoria Police will need to articulate and measure the dimensions of performance for which the organisation, leaders and employees performance will

be measured by, and for what they are accountable.

The Review has recommended a review of existing organisational performance frameworks to build in gender equality outcomes and accountabilities. Organisational performance measures should be outcomes-focused. These should cascade down at each level of the organisation.

Key (prevention) measures at an organisational level should include, but not be limited to:

- a shift in gender balance in senior leadership positions and across occupational groups and ranks
- greater uptake of flexible working arrangements where they are needed
- greater satisfaction of staff that they can balance work and life commitments
- the development of key performance measures of improved identification, recording and management of sex discrimination and sexual harassment, including predatory behaviour by the workplace harm model as set out in Chapter 13.

To achieve breakthrough in the organisation's performance, the Review recommends that management accountability for managing inappropriate workplace behaviours is elevated.

Current policy and practice in managing difficult people issues in Victoria Police and other organisations is undertaken at the lowest feasible management level, with 'problems' reported up only when there are perceived risks to the organisation.

[Question to interviewee: Victoria Police Manual policies and guidelines advise managers to deal with issues at the lowest level possible. Are you suggesting the reverse of this? How would this work?]

Absolutely and it may not have to be for long to change the culture. Put in a five year action plan, similar to the thinking around safety and make it a priority in all aspects of business. The DC says he wants reports on WorkCover submissions. Tell me about that and

those cases. If that happened with predators ... (female interviewee).

Organisational learning and improvement in gender equality will only be achieved where supervisors, managers and Commands take a proactive approach, working to ensure that employees experiencing inappropriate behaviours are provided respectful, accurate and timely advice and referrals. Command performance KPIs will require managers to have demonstrated competence in creating, addressing and restoring workplace health and seeking appropriate human resource and learning support as needed. This is detailed in Chapter 10.

These measures should inform the work implemented as part of Recommendation 3 to enhance Victoria Police’s capability frameworks and management performance metrics to reward good management practice and identify professional development needs.

Collection of relevant data

The Review has noted elsewhere the gaps and inconsistencies with data collection, classification and the interoperability of data systems that are intended to support human resource and integrity functions. It has recommended that additional data be collected, monitored and analysed in areas such as recruitment, promotion, access to flexible work, as well as incidence, process and outcome reporting on sex discrimination and sexual harassment, including predatory behaviour.

In addition to the lack of data systems to support analysis of these issues, the Review has noted elsewhere that the current model of focusing on the number of incidents rather than the gravity of harm (volume over harm) measure has created perverse incentives for managers and supervisors in minimising or relegating good people management to the background:

... [I] understand what it is like from Sergeant to Super. You are very focused on the volume and there are so many demands and so many priorities e.g. massive volume crime, we are right in the middle of counter terrorism,

and there is a massive push on family violence and ice.

So, they have all that, which they are trying to manage, and they have oversight of hundreds of people. So, I know it would be difficult for them to step back to think, “What am I doing about safety?” They will be committed to it and want to do something, but if something else comes up – like counter terrorism – they will gravitate towards that because they know that better.

The [current performance measures, including Compstat and six-monthly KPI panels are] problematic in respect to rewarding good people management and safety (senior manager).

In considering performance and monitoring there will be a need to consider what is measured at every level of the organisation and externally and which is based on best practice prevention measures.

In 2014, the Victoria Police Blue Paper signalled a shift in the focus on reducing the greatest amount of harm rather than the greatest number of crimes [which] can help to emphasise enforcement and prevention activities, and should inform crime reduction reporting. It noted that:

*The traditional raw counting and reporting of crimes does not adequately consider the differences in severity between them. For example, some crimes are more serious because they: cause greater impact or injury, affect more victims ...*¹³³

The Review commends this focus and notes the importance of rethinking measures to align with harm prevention internally. The Review heard many times from participants frustrated by organisational performance measures that seemed to value volume or incident data over prevention-focused measures both with regard to policing work as well as understanding employee safety and wellbeing.

... if you look at volume crime – people

¹³³ Victoria Police, *Blue Paper: A vision for Victoria Police in 2025* (2014) 27.

are rewarded for success against data measure for volume crime. At the same time, that person might be leaving behind a level of carnage in terms of their people. We are good at hard-nosed policing, but not safety and wellbeing of people (senior manager).

Victoria Police has invested a great deal of energy into ongoing employee safety initiatives, including this Review, in, for example, Compstat, the Zero Harm Strategy and the forthcoming mental health strategy. The Review heard overwhelmingly positive feedback about the new prioritisation of Victoria Police in the safety and health of its people.

However, the Review also heard problematic feedback about the focus on 'early intervention' rather than preventative measures, relying on incident counts over harm and organisational climate measures.

With Compstat, the model covers leave and injuries but if there's some way we could measure and promote positive climates/work environments and good new practices ... (female interviewee).

Like volume crime counts in Compstat, incident reporting on the Zero Harm strategy goes some way to monitoring trends and taking an active role in intervening where risk has been assessed. However, it creates limited capability to prevent harm in the first place. This is notwithstanding the many informal ways police employees support each other. For example, at the local level, the Review heard of local safety initiatives that count the number of times members attend fatalities and uses this measure to undertake a welfare intervention. This would seem to prioritise harm reduction rather than models that aim to prevent compounding harm and risk (for example professional supervision models).

We get intelligence ... of ... complaint trends, but it didn't give us much that we didn't already know. Metrics are run, but ... they don't tell us about culture. ... We want [work]sites to meet our professional standards, [people] development and support police professionalism (executive interviewee).

In implementing Recommendation 3, Victoria Police should build on necessary operational measures to embed proactive data and performance measures. This should be evidence-based and focused on interrupting sexist organisational climates as suggested above. Measures should include employee insight and satisfaction of the shifting workplace climate.

To minimise the risk of diluting the vision and its realisation, tight performance planning and monitoring will be necessary. Any measures should focus on the strategies and behaviours required to implement safety as outlined in this Review, given the longer-term impact of prevention measures playing out in data and reporting.

The ... big thing is how we demonstrate the values – the difference in valuing data and results over how we treat people (senior manager).



Chapter 7

Recruitment and retention

Main findings

- The Victoria Police workforce is highly gendered in terms of rank/level, nature of role performed and place of work, as well as between public servants, PSOs and police.
- The lack of representation of women within Victoria Police and particularly within leadership, is problematic. It is both a symptom of and contributing factor to sex discrimination and sexual harassment within the organisation.
- Increased recruitment and retention of women is required to change the culture of the organisation and reduce sex discrimination and sexual harassment, broaden the talent pool, better reflect the community and improve organisational productivity and performance.
- Women experience high levels of discrimination in Victoria Police. This is reflected particularly in the attitudes towards and treatment of women who become pregnant, take parental leave, return to work after parental leave and seek access to flexible working arrangements, including part-time employment.
- Female personnel who take parental leave have historically not had their positions backfilled. This contributes to a climate of hostility towards women in Victoria Police.
- There is a lack of workplace flexibility that impacts disproportionately on women.
- Requests for flexible working arrangements are implemented at the discretion of local management who operate within a highly constrained environment and often with a lack of knowledge and support.
- There is no organisational equity and diversity strategy and a lack of transparency about recruitment, promotion and retention strategies, which contributes to workplace divisions and negative attitudes towards women.
- The lower numbers of women than men coming into Victoria Police as police and PSOs – with the exception of police recruits this year – coupled with the barriers to full participation in the workforce, mean that there are fewer women in the workforce and therefore fewer in the pipeline for promotion.
- Improved access to workplace flexibility without negative career consequences in the longer term, is needed to increase the representation of women, particularly in leadership positions
- Improved access to workplace flexibility has the potential to benefit all Victoria Police staff.

Introduction

This chapter examines the composition of the Victoria Police workforce. It finds that women are under-represented within police and dramatically under-represented within PSOs. It also finds, however, that women are over-represented within the organisation's public service, which has traditionally been constructed as a 'feminine' workforce. Women are generally employed at the lowest levels of the organisation across all three work categories and significantly under-represented within the organisation's power structures.

Chapter 2 of this report established gender equality as a necessary pre-condition to prevent violence against women and to eliminate sexual harassment and sex discrimination. Key to shifting the current culture and establishing gender equality is both increasing the representation of women across the organisation as well as increasing women's representation in the organisation's management structures. This is also a key business imperative. Also important is



ensuring that recruitment practices do not allow the recruitment of people who have discriminatory attitudes towards women and to ensure that recruitment is closely aligned with organisational values.

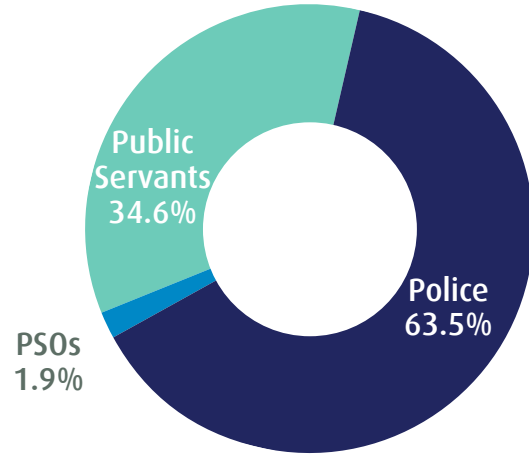
The current breakdown of representation of women within the organisation is largely caused by attitudinal and structural barriers. Attitudinal barriers relate to gender norms and gender stereotypes, especially the role of men as breadwinners and women as carers, as well as the view that good police should be resilient, tough and full-time. There are also structural barriers to the recruitment and retention of women related to attraction and recruitment practices as well as organisational approaches to the provision of flexible work. This chapter demonstrates the interconnectedness of these two sets of barriers, where organisational practices influence attitudes of hostility to women, which in turn affect organisational practices, particularly at the local level.

By making workplace changes to support and reflect the diversity of the workforce and by recruiting from a new pool of women employees, Victoria Police will attract more women as well as those with diversity of personal backgrounds and experiences. This will in turn be beneficial to the existing workforce.

Workforce composition

According to the *Report on Government Services 2015*, in 2013/14, women comprised 30.1 per cent of all Victoria Police staff. Aside from Western Australia (at 29.5 per cent women), this was the lowest proportional representation of women in any police service across Australia. Victoria Police data suggests that in April 2015, the number was somewhat higher with women comprising 31.9 per cent of the Victoria Police workforce. At that time, there were 5618 women in Victoria Police, broken down into work areas according to the following table.

Figure 23: Women in Victoria Police



Police

While 26 per cent of all sworn police were female as at April 2015, women's representation was variable by rank, falling off significantly at supervisory and management level positions. Around 30 per cent of constables were female while only nine per cent of superintendents or above were female.

There were particular ranks where the proportion of women fell considerably and could be considered critical points for intervention. These were between senior constable (31 per cent female) and sergeant (14 per cent female) and between inspector (13 per cent female) and superintendent (5 per cent female).

Female representation increased again in the very small numbers within the organisation's leadership with one of the nine commanders, three of the fourteen Assistant Commissioners and one of the two deputy commissioners¹³⁴ being female¹³⁵.

Protective Services Officers

Just nine per cent of PSOs/PSO first class/PSO senior (combined) were women and 13 per cent of PSO supervisor and PSO senior supervisors (combined) were women. While this increase in representation at the higher levels appears to buck the trend for women within Victoria

¹³⁴ Note that this data relates to substantive ranks and at this time, the Chief Commissioner and one Deputy Commissioner position were vacant.

¹³⁵ Victoria Police Workforce Data, April 2015, received 12 June 2015.

Police, it is important to note that the latter figure refers to just two women (from a pool of 16 PSO supervisors/senior supervisors) (Victoria Police data, April 2015).

Public servants

While the proportion of women who were public servants within Victoria Police was much higher at around 67 per cent, their representation was significantly skewed towards the lower Victorian Public Service levels.

Women represented 80 per cent of VPS 2 level employees, 48 per cent at VPS 5 level and only 29 per cent of those at VPS 7 level. Although they comprise much smaller numbers, this trend is consistent for Forensic Officers, with 76 per cent at FO2, 52 per cent at FO5 and no women at FO7. The Review notes that consistent with police employees, there is some increase in the representation of women within the very small numbers at the executive level.

The combined problems of high concentrations of female public servant employees at very junior levels and the workforce's experience that public servants are the most dispensable in times of financial constraints, is likely to exacerbate the gender pay gap in the organisation. In addition, the Review heard on several occasions that VPS 2 level employees within Victoria Police frequently worked at higher levels than VPS 2 employees within other parts of the public service. The below quote summarises these issues:

The majority of my staff are female VPS 2. If you compare VicPol VPS with other VPS – VPS classifications within VicPol are perceived to be lower on average than other public sector organisations. It is also the VPS cohort that is always cut due to financial constraints compared with sworn numbers (female interviewee).

As part of the performance framework under Recommendation 3, Victoria Police should audit comparative remuneration between men and women, benchmark, and review this annually as outlined in the Workplace Gender Equality Act 2012 (Cth).

The case for change: Increasing the recruitment and retention of women within the organisation

The Review heard consistent and strong messages from employees and managers alike of the need to increase the representation of women in the workforce.

It is important to have the number and visibility to normalise the situation (female interviewee).

I'm very firm in my view that a higher ratio of females is a bloody good thing for any organisation or workplace. All the literature findings conclude that higher numbers of women means less corruption, more productivity, a better workplace. From my experience, that appears to be the case (male interviewee).

If you come towards more equitable gender balance, the use of force decreases, satisfaction with police increases and productivity improves (senior manager).

This fits with a number of reports in recent years which have found that gender balanced teams perform better.¹³⁶ In addition, some argued of the need to increase the representation of women to improve the organisational culture:

Predominantly, VicPol members are caucasian and male. This contributes to a 'white boys club' mentality in which women, people of diverse cultures and people of diverse sexual orientations feel excluded (female survey respondent).

I wanted more female officers. I needed to break the culture (executive interviewee).

¹³⁶ See, for example, Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014) 14–20; McKinsey&Company, *Women Matter 2: Female leadership, a competitive edge for the future* (2008); Australian Stock Exchange Corporate Governance Council, *Corporate Governance Principles and Recommendations* (3rd ed, 2014); Catalyst, *The Bottom Line: Corporate Performance and Women's Representation on Boards (2004–2008)* (2011).



The Victoria Police Corporate Plan 2015–18 notes Victoria Police’s commitment to “Create a capable, flexible and professional workforce through a range of strategies, including that the ‘diversity of the workforce better reflects the community (p7).

To be effective we need to reflect the community that we serve (executive interviewee).

The Review notes the growing evidence and support for business cases for more diverse workforces. The benefits include reputational benefits and attracting and retaining the right employees.¹³⁷ These are vital in broadening the talent pool to increase overall workforce capability and effectiveness. This is particularly in light of the changing demographics of Australia’s overall workforce. The ADF Review argues that the ADF is:

only likely to attract and retain a wider talent pool if its work practices reflect the needs of a cross generational and diverse workforce.¹³⁸

The Review suggests that the same could be said of Victoria Police in considering its future capability needs. Victoria Police will potentially be competing in a different labour market, for different people with different skills from the pool from which it has historically employed. In addition it is important to note the importance of maximising retention in the context of the significant economic cost of the attraction, recruitment and training of police.

Participants recognised that there needed to be more women in leadership within the organisation to shift attitudes and organisational culture and prevent sex discrimination and sexual harassment.

How can we prevent these issues happening again or somewhere else? If there are women in the workforce, you need women in management. Diversity is really, really important (male interviewee).

¹³⁷ See for example, Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report* (2014) 14–20.

¹³⁸ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 56

More women in senior roles will put crusty old sergeants with antiquated views of what acceptable discourse with a women in the workplace is, back in their place. It will allow them to see women as thinkers, not just baby-makers (female survey respondent).

My command has a male dominated management team ... When [named female] came along ... she challenged the thinking (executive interviewee).

This issue is somewhat circular as there is a need to increase the numbers of women in leadership roles in order to change the culture, whilst at the same time, cultural change is required to dismantle the barriers facing women in achieving increased representation.

You also need to look at the gender mix. You need a system that encourages and retains women. At a senior level, there is a power and control imbalance that may reinforce attitudes and behaviours (senior manager).

Many women in leadership positions who participated in the Review felt a level of isolation in their roles.

Having a critical mass of women at all levels of the organisation is a vital step in achieving gender equality.

Changing demographics within Victoria Police

The Review notes that there has been a significant change in the demographics of police recruits in recent years, particularly the age at recruitment.

The demographic of the graduates at the academy has changed. When I was a recruit, I was 23 and I was the third oldest person. When I was an instructor at the academy recently, the average age was 30. It is now common to have people who are married, have kids, have had a business. There is often a huge financial impost on these people taking up with the police force too (male interviewee).

A number of participants referred to the increase in the proportion of women in police dating back to former Chief Commissioner Christine Nixon's time in the organisation.

... During that time, [we] took female representation from 17 to 23 per cent (executive interviewee).

There was also some suggestion of changes in gender based roles at this time:

When Christine came in, she broke up the squads. That was one of the reasons she was unpopular in some circles. She also made it known that policing was a much harder job for women and that it was going to change (female interviewee).

Some of the initiatives that led to the increase in police women included:

The recruits had to complete a pursuit course, with a wall you had to pull yourself over. It was higher than most walls. Was it really necessary to be able to do that? Men could easily do it because of their upper body strength. It was harder for women. It knocked many women out. This part of the course was changed to instead be a table. It was seen as the end of the world!

We looked at discriminating elements of the selection criteria. We put more emphasis on skills such as communications. We also ran focused advertising.

[There was also] the part-time work project. We spoke to the Union about how to be more flexible with part-time workers. We also completed an audit of Victoria Police internal policies for discrimination fairly soon after (female interviewee).

These examples demonstrate the significant impact that a targeted approach can have on improving gender representation in the workforce.

Many participants commented that there had been a significant and positive impact for women from the changes initiated.

However there was also significant backlash that accompanied the changes, that still reverberates within the organisation.

For men, they think 'if you can do it what does that say about me?' And how do you keep women out of their domain? You harass them (former executive).

There were perceptions among many participants that the work of that era had, in some ways, positioned the organisation well to address that backlash now:

There is a critical mass of women developing in different parts of the organisation and I think this is helpful to starting to deal with some of the diversity challenges we have (executive interviewee).

Equal gender representation is important at every rank – a big change is that there are now more women at senior ranks as role models and decision makers. It also follows that having women on the ground in middle management positions provides an opportunity for members with issues of concerns who prefer to speak with a female a place to seek advice and/or make a report.

Building on the changes made, the Review heard that further change is needed to underpin the benefits of diversity for all, including recognising men's caring responsibilities:

... the principles go across. We're doing great work to recruit CALD, for example, but once we've recruited, then what? What's our plan about keeping people from diverse backgrounds? (female interviewee).

Consistent evidence suggests that although overall, fathers have increased the time spent caring for children, men's responsibility for parenting remains secondary to women's.¹³⁹

Victoria Police has an opportunity and indeed a responsibility to play a role in driving

¹³⁹ Thomas Johansson and Roger Klinth, 'Caring fathers: The ideology of gender equality and masculine positions' (2008) 11(1) *Men and Masculinities* 42–62; Tina Miller, *Making sense of fatherhood: Gender, caring and work* (Cambridge University Press, 2010).



attitudinal change in gender roles both within the organisation and more broadly. One senior employee told the Review:

It has to start in the Academy and even before that, during the selection process. We are in a situation where we have changed nearly a third of our workforce in the space of five years. This is the best opportunity we will have had in a long time for a proper piece of cultural change (executive interviewee).

Understanding what constitutes ‘balance’ for women cannot be achieved without also considering the role of men.¹⁴⁰ For example, improving access to flexible working arrangements is likely to encourage men to consider taking up more caring responsibilities or spend more time with their children.

There are two key elements to the recruitment and retention process within Victoria Police that relate to the remit of the Review. The first is the recruitment and retention of women within Victoria Police. The second is the recruitment and retention of people with problematic attitudes in terms of gender equality who may, in particular circumstances, pose a risk to women in Victoria Police and the broader workforce. Both will be examined in this chapter.

Attraction

This section of the report addresses the recruitment of police and PSOs at the base level. Recruitment for this group in terms of lateral entry is discussed in the following chapter. In addition, this section does not focus on public servants as concerns for this group focus on lateral entry and career progression. These issues are also discussed in the following chapter.



... the structure doesn't service the organisation's needs ... what we designed 160 years ago doesn't meet the organisation's needs today in relation to training, recruitment etc ... a mandatory, generic recruitment process [gets] one type of person (EXECUTIVE INTERVIEWEE).

Chapter 5 discussed the legal framework for recruitment under the Victoria Police Act. In terms of organisational policy:

Victoria Police is committed to provide a comprehensive recruitment process to ensure that police recruits and officers reflect the organisational values and community expectations in delivering policing services to the community of Victoria. In doing so, Victoria Police will actively attract and recruit people who represent the community in terms of gender, diversity and race as well as reflecting community aims and aspirations.

Victoria Police aims to attract applicants who would add organisational value to the organisation. That is, skills and attributes to Victoria Police in terms of value adding and service excellence. Organisational value may differ from time to time and include such attributes as relative [sic] tertiary qualifications, particular knowledge of a particular community, language other than English, computer and/or information technology skills, relevant prior experience or any other skill noted by the organisation as desirable.¹⁴¹

¹⁴⁰ Paula McDonald and Emma Jeanes (eds), *Men, wage work and family* (Routledge, 2012).

¹⁴¹ *Victoria Police Manual (VPM)*, VPM Instruction 301-2 Police Recruiting (updated 14/2/14) 1.

Recruitment enquiries and reputation

Around 30 per cent of recruitment enquiries to Victoria Police come from women¹⁴². This proportion has remained relatively consistent over the past five years.

For PSOs, women comprised 13 per cent and 14 per cent of all enquiries to join PSOs in 2013 and 2014 respectively.¹⁴³

The considerably lower numbers of women than men enquiring about joining Victoria Police as sworn officers and particularly as PSOs would suggest that there is something in the reputation of the organisation that makes it more attractive to men than women. This may partly reflect community perceptions about the nature of the work as stereotypically male.

The Review suggests that community perceptions are shaped by the way the organisation represents itself, both unintentionally through incidents that come to the attention of the public but also intentionally through promotional activities and advertising.

A key step to increasing the representation of women in the organisation is increasing interest among women in the community in joining Victoria Police.

It is also crucial to change organisational practices to improve the treatment of women and to be more family friendly. There is also significant potential to speak about policing differently, and in different forums, as a way of attracting more women from the community to the organisation. Victoria Police has moved some way towards this in recent years however there is opportunity for more work in this area and better alignment with recent organisational directions that recognise and promote the value

of different models of policing.¹⁴⁴ Lessons could be learned from the Australian Defence Force Review and recent changes within the ADF in this area.

The Review understands that a review has been undertaken by the Applicants Attraction Team with an external consultant to address issues of attractors and detractors for women in policing.

The Review supports this work, and notes that it should occur in line with the strategic vision from this Review and recent organisation strategic directions in policing.

The recruitment process

A very small percentage of people who enquire about joining Victoria Police become recruits. The Review understands that the organisation has made some enhancements to most phases of the recruitment process over the past six months in order to select the most suitable applicants. The current process includes:

- An online application
- Victoria Police Entrance Exam
- Initial background checks
- Telephone screen interview
- Fitness test
- Psychological screening
- Medical examination
- Comprehensive background checks
- Selection interview

The data provided by Victoria Police in the below table demonstrate that women are in fact more likely to be successful at proceeding through the full police recruitment process than men. It is still important, however, given the relatively low overall numbers within

Table 1: Percentage of women and men who successfully pass through the police and PSO recruitment processes

	Full Process			Post Exam		
	Male	Female	Total	Male	Female	Total
PSO	2.4%	1.9%	2.3%	6.9%	5.8%	6.8%
Police	2.9%	4.4%	3.4%	10.0%	11.3%	10.4%

¹⁴² Victoria Police Data, Recruitment enquiries, Academy resignations, received 12 June 2015.

¹⁴³ These were the only two years for which reliable data could be provided by Victoria Police following the commencement of the Transit PSO program.

¹⁴⁴ For example, State of Victoria, Victoria Police *Blue Paper: A Vision for Victoria Police in 2025* (2014), 32.



the organisation, to look at any barriers to recruitment.

Women are considerably less likely than men to complete the PSO recruitment process (1.9 per cent compared to 2.4 per cent conversion rate from point of enquiry) suggesting that there may be some particular barriers to the recruitment of PSO women.

In the absence of detailed information relating to attrition during the recruitment process, the Review heard only anecdotal evidence about the reasons that women were withdrawing from the application process. It would be appropriate for the organisation to formally collect and monitor information about reasons for attrition during recruitment processes as part of broader monitoring under the Equity and Diversity strategy. This monitoring would assist with an understanding of gender recruitment patterns and barriers to increasing workforce diversity and allow targeted intervention strategies.

Although there is no data available which compile the reasons for attrition at recruitment, Victoria Police do hold data in relation to particular points of attrition.

The fitness test was the key point of attrition for women joining both police and PSOs.

The fitness test

Many Victoria Police employees told the Review that the fitness test was the area that has traditionally worked against the recruitment of women. One participant noted:

... I remember being at the Academy and a fit young woman failed the test because she couldn't get over the wall ... There was an overweight guy next to her lying on the ground panting and he passed. I knew that something was wrong with the testing. Did we want to test for people's fitness or to see if individuals could perform specific tasks? We developed standardised testing around fitness that was consistent with age and gender. We took the view that if you wanted to be a cop you needed the median level of fitness or better for your age and gender. This removed one of the big barriers to recruitment (senior manager).

Notwithstanding recent changes to fitness requirements aimed at increasing women's representation and diversity more broadly (for example, removing the 'wall climb over', removing the swimming test for PSOs and increasing the focus on areas such as communication) the fitness test is still the biggest point of attrition for women during the recruitment process.

From September 2013 to September 2015, 37 per cent of prospective female police recruits did not pass the fitness test. This is compared to 28 per cent of all prospective recruits both male and female.¹⁴⁵

In the same period, 57 per cent of female PSO applicants dropped out at the fitness gateway compared with 24 per cent of all prospective recruits both male and female (despite the removal of the swimming test).¹⁴⁶

These differences between male and female pass rates for the fitness test are highly significant, particularly for PSOs. The Review was told informally that PSO applicants often come from cultural backgrounds where physical exercise is not necessarily prioritised for women. Again, formal monitoring is essential to enable a comprehensive understanding of the issues and target interventions appropriately.

Assessing actual requirements of the role

The Review recognises that the revised test which assesses average levels of fitness for age and gender was introduced in an effort to reduce barriers to the recruitment of women. Notwithstanding this, a fairer standard would be to look at the role being recruited to and to develop a reasonable and objective entry test around the genuine and inherent requirements of the position. If there is a particular level of fitness or there are physical capabilities that are required of all recruits in the role, then that standard should be applied across the board, to both men and women.

The Review acknowledges the need to strike a balance between Occupational Health and Safety requirements and the need to ensure that applicants are not discriminated against in the process.

¹⁴⁵ Victoria Police Data, Recruitment Services Branch, October 2015.

¹⁴⁶ Victoria Police Data, Recruitment Services Branch, October 2015.

Where there are additional reasonable physical requirements in particular areas, such as specialist squads, it would be appropriate to have additional physical tests to demonstrate physical fitness for performing the roles when selecting people for work in these areas. However, it is incumbent on management to demonstrate the reasonableness of the fitness tests based on the inherent requirements of the positions. This Review should inform the work that Victoria Police is undertaking to review the capability framework.

A similar process was undertaken by the Australian Defence Force in relation to the removal of gender restrictions on combat roles. This work was underpinned by establishing objective physical employment standards through the establishment of a physical employment standard centre of excellence at the University of Wollongong.¹⁴⁷

There is a risk that having a standard fitness test for both men and women based on inherent requirements of the position could potentially disadvantage female applicants. Victoria Police will need to show they have assessed the physical requirements of the particular roles, and have objective evidence to support the components of the fitness test decided upon, in order to meet the evidentiary onus to show that the condition, requirement, or practice is reasonable in all the circumstances.¹⁴⁸

Support in preparing for the fitness test

There is extensive information on the Victoria Police careers website about the application process, including the fitness test and how to prepare for it. Indeed, the Review is aware that there are private providers who target fee for services to support people in their preparation for the process. In order to address any potential indirect discrimination and improve recruitment outcomes, the organisation has a responsibility in supporting potential recruits in preparing for the test.

Providing additional support to prospective recruits (or existing police where it relates to

meeting physical standards required for further progression or career development) to assist them understand the fitness requirements could be one aspect of ensuring that a one-size-fits-all fitness test is reasonable. It would also assist with maximising recruitment opportunities. This is in line with the Victoria Police Blue Paper which talks about swimming proficiency and physical conditioning short courses as ways of diversifying the workforce.¹⁴⁹

Recommendations are set out in Recommendation 6.

Recruitment patterns

PSOs

The new Transit PSO program commenced in 2012. Since that time, 121 female and 1119 male PSOs have been recruited (10 per cent female). Encouragingly, there has been an increase in the proportion of female recruits this year (as at August 2015) from 8 per cent in 2014 to 14 per cent of total PSO recruits (after slight drops in 2013 and then again in 2014).

Police

As of August 2015, 51 per cent of police recruits for this calendar year have been female. Although it was noted above that women do slightly better in terms of passing the full recruitment process and being placed on what is known as the 'Order of Merit', this does not appear to fully account for the discrepancy between the proportion of female enquiries and female recruits in 2015. The Review understands that the discrepancy is in part a result of a recent and positive change in strategy by the Human Resource Department to recruit more women from the order of merit.

The Review heard that, for some participants, the absence of formally communicated policy on these issues, was in itself problematic:

... The effect of the new policy is evident in the current Gazette with recruit appointments being close to 50/50 gender split as opposed to 20-25% historically. Whilst I support affirmative action, these types of

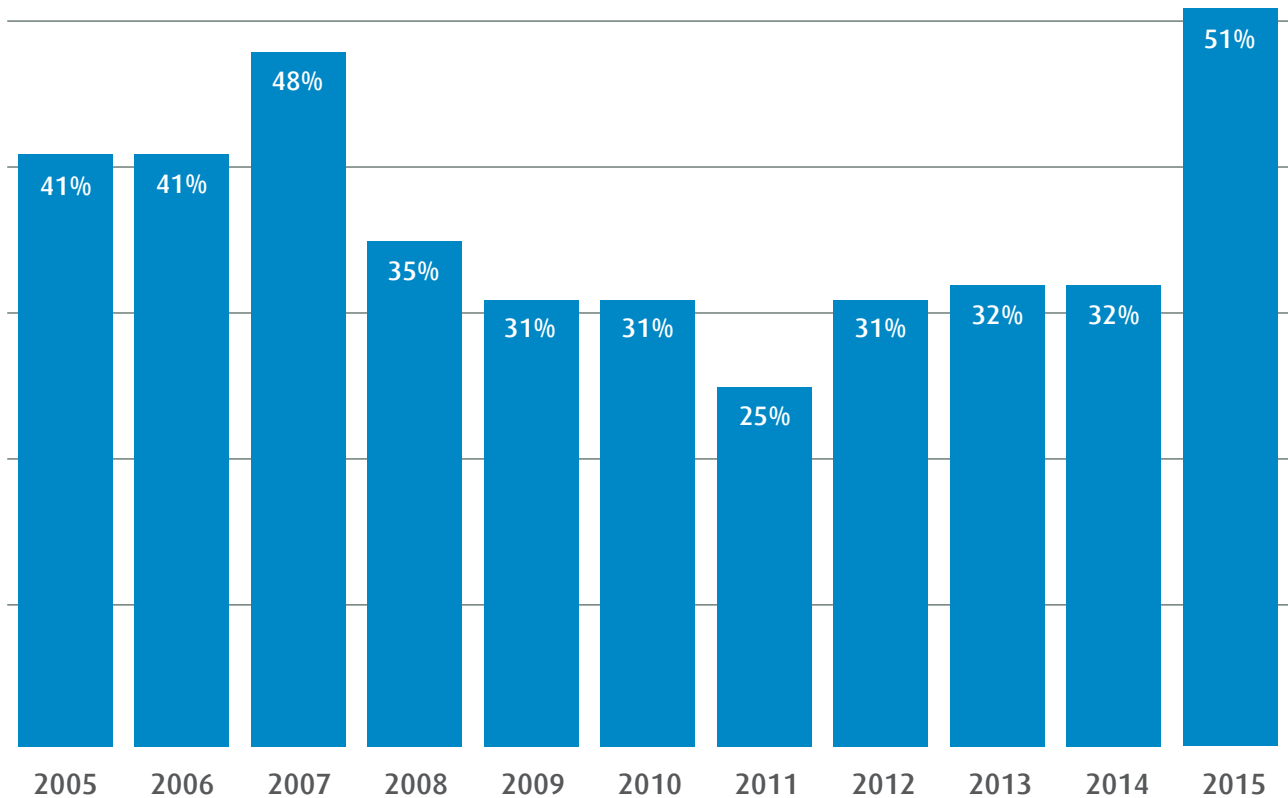
¹⁴⁷ Australian Government, Department of Defence, Removal of Gender Restrictions on Australian Defence Force Combat Role Employment Categories, Implementation Plan (nd) < <http://www.defence.gov.au/women/docs/Implementation%20Plan2.pdf> >.

¹⁴⁸ Equal Opportunity Act 2010 (Vic) s 9.

¹⁴⁹ State of Victoria, Victoria Police Blue Paper: A Vision for Victoria Police in 2025 (2014) 41.



Figure 24: Women as a percentage of police recruits by calendar year (to August 2015)



Victoria Police data provided 9 September 2015

*decisions make it difficult for women to 'prove' that they are in this organisation based on merit and not because of their gender. ... I get the sense that this 'process' is very underhanded and done on the quiet so as not to raise these types of questions and related discussions ...
(female survey respondent).*

This quote illustrates two concerns raised by some participants that have implications for this Review. The first relates to attitudes towards actual or potential implementation of measures to prevent discrimination. The second relates to a perceived lack of organisational transparency.

Targets: The Legal Context

Equal opportunity laws work to permit organisations and employers to set targets and quotas in order to promote substantive equality for disadvantaged groups with a particular attribute. Under the Equal Opportunity Act, this is described as taking a "special measure". A special measure is where a person or organisation takes proactive steps to help disadvantaged groups through targeted assistance. Special measures are not unlawful discrimination and do not require the person or organisation to seek an exemption from the operation of the Equal Opportunity Act from the Victorian Civil and Administrative Tribunal.

There are a number of criteria for targeted assistance to amount to a special measure.¹⁵⁰ The measure must:

- be undertaken in good faith to help promote or achieve substantive equality for members of the group
- be reasonably likely to achieve this purpose
- be a proportionate way of achieving the purpose, and
- be justified because the members of the group have a particular need for advancement or assistance.

A person or organisation does not have to prove that the measure will in all circumstances, promote substantive equality for a group – rather that it is *likely* to do so.

The Review has established that the lack of representation of women within Victoria Police, including within leadership, is extremely problematic. It is both a symptom of and contributing factor to sex discrimination and sexual harassment within the workforce. Significant measures are required to rectify this situation.

If Victoria Police formalised targets until such a time as the organisation achieves 50 per cent women in the organisation, it would be able to systematically prioritise the recruitment and promotion of women through, for example, recruitment drives particularly aimed at women recruits. These measures would help to ensure that there were greater numbers of women throughout the ranks, but more specifically in more senior and leadership roles (discussed in Chapter 8). This would greatly benefit the workplace culture of Victoria Police, act to prevent sexist or discriminatory attitudes and provide role models for more junior staff.

Targets and associated recruitment policies and practices would be reasonably likely to promote gender equality within the workplace at a number of different levels and work to prevent sex discrimination and sexual harassment.

Any such measures would need to sit within a clear formal policy framework, such as a broader organisational equity and diversity strategy and be supported by a strong business case and internal communications strategy.

¹⁵⁰ *Equal Opportunity Act 2010* (Vic) s 12.

Indeed, strong, explicit leadership on the need to give women a ‘fair go’ in the organisation will be required to implement the changes recommended by this Review (see Chapter 6 for further discussion).

The Review considers that positive steps should be taken to deliberately increase the recruitment and retention of women within Victoria Police. The Review welcomes recent moves by Victoria Police in this area however notes that it is important that the organisation is transparent in its approach and addresses any negative attitudes towards taking special measures for these steps to be fully successful and welcomed within the organisation.

New recruits

Barriers for women in terms of recruitment to police and PSOs mark the beginning of a series of challenges to women’s full participation and advancement within Victoria Police. Once through the recruitment process and added to the Order of Merit, new recruits must await appointment to a squad to commence training, however:

A woman cannot start at the Academy if she is pregnant; having carer responsibilities means you can't complete the course. If you don't live within reasonable distance, then training must be undertaken on a residential basis. Once completed, there is no guarantee where you will be posted which has implications for people who wish to or already have children. If you get through the training, then the reality of policing is that it's shift work. Nowhere do they provide adequate resources for shift workers to meet their family obligations such as with child care. Individuals have to negotiate their own work arrangements. For those who negotiate flexible work arrangements, they are often regarded as a burden on the roster (The Police Association Victoria).

Refusing access to the academy to a woman who is pregnant or someone with caring responsibilities could amount to unfavourable treatment by denying the person access to an occupational training program under sections



16 and 18 of the Equal Opportunity Act. Any unreasonable condition, requirement or practice in relation to accessing the academy training course would also amount to indirect discrimination if it disadvantaged women or people with caring responsibilities under the same sections of the Act.

The lower numbers of women coming into Victoria Police – save for police recruits this year – coupled with the barriers to full participation in the workforce (discussed later in this chapter and in Chapter 8) mean that there are fewer women in the workforce and therefore fewer in the pipeline for promotion.

As set out in the Action Plan there should be an explicit target for the recruitment of at least 50 per cent women to future police and PSO squads with monitoring and reporting on this target through the Command’s Equity and Diversity Strategy. This target should remain in place until each of the two work categories are comprised of 50 per cent women.

Recruitment of people who have potentially discriminatory attitudes towards women

Earlier in this chapter, it was noted that to improve safety and gender equity in the workplace, there needs to be an increase in the representation of women across the organisation, and consideration given to whether there is currently a process that allows the recruitment of people who have potentially discriminatory attitudes towards women.

“ ... I think these members do not suddenly become predators because they have joined Victoria Police. I believe that they have had a history of this type of behaviour and the police force has provided a level of authority to make the people more confident to exhibit these behaviours (male survey respondent).

There are many people seeking employment with Victoria Police. As for all organisations, not all of the people attracted to it are the right people. In its report *Enabling a flexible workforce for policing in Victoria*, the Office of

Police Integrity noted:

*Recruitment of suitable candidates would be improved by more intrusive background screening and a more rigorous approach to interviewing candidates.*¹⁵¹

One participant spoke, for example, of:

... a male employee who stalked a female member. He had been checked prior to recruitment but he also didn't disclose any previous issues. It transpired that he had stalking charges from other states (female interviewee).

The Review heard that there have been recent changes to recruitment processes. The Victoria Police careers website refers to entry requirements.¹⁵²

The recruitment policy discusses applicants needing to be ‘of good character’.¹⁵³ The focus here is on any previous criminal offences in the applicant’s background, including excessive driving offences. A range of probity checks also take place in relation to whether the applicant is of good character, including attitude testing.

This process appears to be for new recruits rather than for those being recruited through lateral entry (see Chapter 8) who sometimes expressed surprise at not being asked to participate in psychometric testing.

Pre-employment screening must specifically relate to the job that is being performed, and employers must be careful to ensure they collect relevant information and do not make requests for information that can be used to discriminate against an applicant. Given Victoria Police is charged with maintaining good order and safety within the community, as well as investigating and prosecuting criminal offences, it is safe to say that screening for “good character” is an essential aspect of any new recruit, reservist or PSO. However, as an employer, Victoria Police must also take

151 Office of Police Integrity, *Enabling a flexible workforce for policing in Victoria* (2011) 20.

152 These include good character and reputation; education; citizenship; fitness; driver's licence; first aid certificate; medical requirements; communication competence; and disclosing associations. See <<http://policecareer.vic.gov.au/police/entry-requirements>>.

153 VPM Instruction 301-2 Police Recruiting (updated 14/2/14).

reasonable steps to eliminate discrimination and sexual harassment within the workplace.¹⁵⁴

Given the findings of this Review, it is essential that those with discriminatory attitudes towards women or disadvantaged groups within the community are identified as early as possible. It is important to monitor how this attitude screening is impacting on who is recruited, wherever they are recruited to within the organisation. It may be that within the good character test, more emphasis should be placed on values and values testing. If this is the case, it is essential to ensure that gender and diversity attitude screening is being conducted according to best practice.

Further discussion about dealing with personnel who are already employed who are identified as having discriminatory attitudes is provided in Chapter 8.

Recommendation 6 requires that Victoria Police reviews its recruitment practices to ensure they align with best practice in screening to ensure the attitudes and expectations of all future recruits align to the values and vision of the organisation, including an emphasis on respect and diversity.

Retention

The case for change presented above demonstrates that as important to increasing the recruitment of women is retaining those already within the organisation.

Patterns of workforce attrition

Resignations from the Academy

The Review examined data on resignations by gender from the Academy¹⁵⁵ and was not able to draw specific conclusions about discrimination in the initial stages of a career in policing. For example in 2014/15, 20 men and no women resigned, whereas in the previous year, 17 men and the same number of women resigned.

For PSOs, only two women have resigned from the Academy in the past five years compared with 72 men. As noted above in relation to

attrition during recruitment, the collection of data which captures the reasons for resignations would be fruitful in understanding turnover as it relates to gender. A key focus for this would be learning any lessons relating to the experiences of new recruits and probationary constables within the organisation.

The need to collect and monitor exit trends across the workforce is noted further in Recommendation 6.

Length of service and age at leaving

Workforce data shows that the average age of women at different ranks is slightly lower than men.¹⁵⁶ This could mean that women are achieving levels sooner than men, however this suggestion is inconsistent with other evidence received by the Review. It is more likely to reflect different patterns of workforce attrition.

This assertion is supported by the organisation's separations data which demonstrate that in 2013/14, the average age of women leaving Victoria Police was 41 with an average 14 years of service. For men, the average age of separation was 48 with an average 23 years of service. This has shifted from 2005/6 where women left at 37 with an average 12 years of service and men at 46 with an average 23 years of service.¹⁵⁷

The consequence of this attrition by age pattern is that men who leave Victoria Police today joined younger and stayed longer than women. This would impact on the likelihood of ultimately achieving the higher ranks within the organisation.

The separation trends are not as clear for public servants although women still leave at a younger average age than men. Women left at an average age of 34 in 2005/6 and 40 in 2013/14 with an average of 4 and 7 years of service respectively. Men left at an average age of 36 in 2005/6 and 43 in 2013/14 with an average of 4 and 8 years respectively.

This suggests that public servants of both sexes are staying considerably longer and to an older age than was the case eight years before.

¹⁵⁴ *Equal Opportunity Act 2010* (Vic) s 15.

¹⁵⁵ Victoria Police Data, Recruitment enquiries, Academy resignations, received 12 June 2015.

¹⁵⁶ Victorian Police Data, Recruitment enquiries, Academy resignations received 12 June 2015.

¹⁵⁷ Victoria Police Data – Separations, received 16 June 2015.



It also demonstrates that public servants within the organisation stay for considerably less time than police.

For PSOs, the 2013/14 data suggests that the average age of separation was 34 for women and 40 for men with one and two years' service respectively. This is likely to be largely a reflection on the short length of time since the commencement of the Transit PSO program so it is too soon to identify trends for this group in relation to length of stay.

It should be noted that there are examples of where this issue has been addressed and length of service for women has significantly increased. The Australian Army, for example, has achieved in the past an average greater length of service for women than men.

Reasons for attrition

The key to the retention of women is providing a safe, equitable and flexible workplace that allows full participation in the organisation as well as the opportunity to enjoy a family and other life activities.

Attrition and workplace harm

Evidence presented earlier in this report suggests that gender stereotypes around sexual reputation as well as sexual harassment including predatory behaviour contribute to a hostile work environment and are the cause of some women choosing to leave the organisation.

She left disillusioned because of that kind of behaviour. The organisation and the community lost a great worker (male interviewee).

There is also attrition relating to victimisation and in some cases, misplaced performance management of women speaking out about such behaviour.

... I felt that I was under greater scrutiny than ever before. Everything I did was suddenly looked at with a magnifying glass ... Not long after that meeting I resigned (written submission).

Chapter 4 provides a discussion of these issues and recommendations throughout the report aim to begin the process of change in this area.

Attrition and workplace flexibility

The Office of Police Integrity noted that the provision of flexible work arrangements was key to attracting and retaining the right employees. Further, it was suggested that:

Victoria Police employees need to have the right skills and commitment to providing high quality policing services to the community, but in a tight labour market, they are increasingly likely to demand more family friendly work environments, career development opportunities and appropriate remuneration.¹⁵⁸

Currently, workplace flexibility is less than optimal in Victoria Police. A range of structural factors impinge on the ability of police to access flexible work arrangements and avoid significant negative career consequences when they do so. Also problematic are historical and traditional notions of the nature of policing as a masculine, physical occupation requiring tough men who are 100 per cent committed – interpreted, in most cases, as being full-time – and without primary care or other responsibilities outside of the workplace. These structural constraints and traditional notions of policing disproportionately impact upon women, including perpetuating hostile attitudes towards women.

Although it is no longer the norm for employees to cease working with Victoria Police to raise a family, the Police Federation of Australia's submission to the *Supporting Working Parents: Pregnancy and Return to Work National Review* examined the Victoria Police Workforce statistics and suggested that:

The greater numbers of younger female police officers and the lower incidence of female officers with children indicate that as women start to bear children they tend to leave the police force. The relatively low rate of part-time employment in the police force also supports this conclusion.¹⁵⁹

¹⁵⁸ Office of Police Integrity, *Enabling a flexible workforce for policing in Victoria* (2011) 6.

¹⁵⁹ Police at Work, Wave 2 cited in Police Federation of Australia, Submission to Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review* (2014) 1.

The submission suggests that women continue to have to choose between family and career.

Women usually stay in until they are at child bearing age, after about 10 years (executive interviewee).

One former senior public servant noted work done almost a decade ago that:

... looked at other ways to increase the numbers. We looked at when people left the organisation. Many women left when they got married and had children. We tried to bring them back in. We also did a quality part-time work project ... People don't want to come back to shitty part time. There were lots of women working in areas like Prosecutions because it was 9am–5pm (female interviewee).

There is a clear intersection between attrition relating to workplace harm and organisational attitudes towards workplace flexibility. Key areas in which these issues can be witnessed relate to the attitudes towards and treatment of women who become pregnant, take parental leave, return to work after parental leave and access part-time employment.

Part-time and Flexible Employment

The legal, industrial and policy framework

Chapter 1 provides information in relation to the Equal Opportunity Act. Relevant here are provisions relating to direct discrimination on the grounds of sex, pregnancy and potential pregnancy and parent and carer status as well as provisions relating to indirect discrimination.

Other key legislation here is the Fair Work Act. Victoria Police personnel who meet the length of service requirements are entitled to request flexible working arrangements under section 65, which can only be refused on reasonable business grounds. The grounds under section 65 of the Fair Work Act upon which flexible work can be requested are where:

- the employee is the parent, or has responsibility for the care, of a child who is of school age or younger
- the employee is a carer within the meaning of the *Carer's Recognition Act 2010* (Cth)

- the employee has a disability
- the employee is 55 years or older
- the employee is experiencing family violence; or
- the employee is providing care or support to an immediate family member who is experiencing family violence.

This entitlement is partially incorporated within the *Victoria Police Force Enterprise Agreement 2011* (VPF Agreement), and the Victorian Public Service Workplace Determination 2012 (VPS Determination).¹⁶⁰ In addition, the VPS Determination and the VPF Agreement provide that employees can request to work part time, including after returning from parental leave.¹⁶¹

The Victoria Police Workplace Flexibility policy (VPM 302-1) expands on those entitlements, and refers to workplace flexibility as “the application and/or alteration of a working arrangement in a way that meets the needs of Victoria Police and the needs of the employee; achieved through mutual collaboration for mutual benefit, which may be for a short or long-term period.” The policy lists 22 flexible work arrangements which include part-time employment and parental leave as well as a range of other options from purchased leave to study leave to supplementary and voluntary duties. Job-sharing and working from home are not included in these examples.

There are a number of other policies/guidelines/statements within the *Victoria Police Manual* which guide flexible work and part-time work within Victoria Police.¹⁶² The Review has a number of concerns about the industrial and policy framework which underpins accessing flexible working arrangements. These are set out in more detail below.

¹⁶⁰ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 15; Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl. 47.

¹⁶¹ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 31.1, 134.1(c); Victorian Public Service Workplace 2012, cl. 46.12.1(c).

¹⁶² VPM Instruction 302-2 Hours of Work Attendance (updated 08/12/08); VPM Instruction 309 – 23 Pregnancy in the Workplace (updated 06/10/08); VPM Instruction 302-5 Part Time Employment; VPM Instruction 302-4 Flexitime (Unsworn Employees Only) (issued 07/05/07); VPM, Organisational Policy Statement – Equal Opportunity (updated 22/12/14); VPM Policy Rules Leave (updated 16/01/13); VPM Procedures and Guidelines Parental Leave (updated 11/02/13); VPM Procedures and Guidelines Commonwealth Paid Parental Leave Scheme (updated 12/02/13).



Accessing Part-time and Flexible Employment

Police

According to Victoria Police data, in April 2015, just over 20 per cent of the female police workforce was working part time. This proportion varies according to rank. Of female senior constables, just over 30 per cent were employed on a part-time basis, while no women were employed on a part-time basis above the rank of Senior Sergeant.

This pattern of part-time work utilisation echoes that found in many other industries and workplaces where seniority is characterised by commitment and organised according to hierarchical career trajectories which are predicated on years of continuous, uninterrupted service.¹⁶³

A lack of access to part-time employment arrangements is likely to be highly significant in explaining the drop off of women after the senior sergeant level. Even at the senior sergeant level, there were only three women (3 per cent of female senior sergeants) who were employed on a part-time basis.

26 per cent of women in the police had flexible employment arrangements. It should be noted that this includes those working part time. As with part-time, access to flexible work arrangements was skewed to the lower ranks with only three out of the 47 women at inspector rank or higher (6 per cent) defined as having 'flexible' employment. Almost 38 per cent of senior constables had flexible work arrangements while only nine per cent of women had flexible arrangements at the senior sergeant level.

Just under 2 per cent of male police were employed on a part-time basis, with this again being heavily skewed towards senior constables. Two senior sergeants and one inspector were the highest ranking members working part time. Only 6 per cent of male

members overall were utilising flexible work arrangements.

PSOs

Of the 107 female PSOs across the ranks in April 2015, none worked part time and only one was utilising one or more flexible arrangements. Interestingly, 15 (1 per cent) of the 1071 male PSOs across the ranks had flexible work arrangements and one was reportedly part time.¹⁶⁴ This is despite the Review being told that part-time employment was not possible for Transit PSOs.

Public servants

Public servants appeared to have much more access to flexible work, and part-time work in particular, than did police, especially women. There is little difference between the entitlements to access flexible working arrangements in the respective industrial agreements for the two in this regard, so it is likely that the difference in utilisation is a consequence of characteristic cultural and structural constraints in the two environments rather than the VPF Agreement. This is explored further later in this chapter.

Paid and unpaid parental leave

Victoria Police data for April 2015 was examined to estimate the proportions of different employee groups accessing paid and unpaid parental leave.¹⁶⁵

¹⁶³ Pamela Stone and Lisa Ackerly Hernandez, 'The all-or-nothing workplace: Flexibility stigma and 'opting out' among professional-managerial women' (2013) 69(2) *Journal of Social Issues* 235-256.

¹⁶⁴ Victoria Police Workforce Data April 2015, received 12 June 2015.

¹⁶⁵ Victoria Police Workforce Data April 2015, received 12 June 2015

Police

In terms of parental leave, a total of 372 female police were on paid parental leave (255) and unpaid parental leave (117). Together, this makes up about 10 per cent of policewomen in the organisation. No woman above the rank of sergeant was on parental leave (either paid or unpaid).

Of male police officers, 359 were on either paid parental or unpaid parental leave. It is understood that this was almost exclusively on a short term basis as the secondary carer. The policy provides for a period of two weeks leave in this case.

PSOs

Of 107 female PSOs across all levels, two were on paid parental leave and one was on unpaid parental leave. Of the 1071 male PSOs, 54 were on parental leave (49 of whom were PSOs and five at higher levels), with two at the PSO rank on unpaid parental leave.

Public servants

The proportion of public servants taking parental leave was more evenly distributed across the levels. This is likely to be because, unlike for police, there are no 'time at rank' requirements.

3 per cent of male public servants were taking either paid or unpaid parental leave, at the particular point in time. It is unclear whether this leave was as a primary or secondary carer.

Improved data collection and monitoring would assist the organisation to understand nuanced patterns of parental leave taken by men and to target interventions appropriately. This would provide insights in relation to whether men are becoming parents and if so, the reasons behind whether or not they access their entitlements for caregiving and exactly which entitlements they access.

As part of the employee communications strategy in Recommendation 4, Victoria Police should consider ways of championing senior men and women who access flexible work arrangements, including part time and parental leave.

As part of work (Recommendation 7) to improve understanding and access to flexible work arrangements, Victoria Police should ensure data collection and monitoring captures access to flexible employment options for both women and men and any reasons for not accessing any entitlements in this area.

Women's experience of discrimination in relation to starting families and accessing flexible work arrangements: From pregnancy to part time

Women experienced both overt and subtle discrimination. The Review heard consistent feedback from employees of:

- unsupportive attitudes to parental leave
- lack of keeping in touch during maternity leave and lack of support on return to work
- lack of access to part-time or other flexible work on return from parental leave
- a general attitude of hostility towards women in the workplace on the basis of their flexible work options and sometimes more generally towards women on the basis of their perceived potential to access these provisions.

The Review amassed considerable evidence of women's experience of direct and indirect discrimination in Victoria Police in relation to starting families and accessing flexible working arrangements.

Pregnancy and parental leave: The legal and policy framework

When an employee is pregnant and fit to work, but as a result of their pregnancy they are unable to perform their normal duties safely, the Fair Work Act provides that the employee is entitled to be transferred to a safe job if one is available with no other changes



to the employee's terms and conditions of employment.¹⁶⁶

An appropriate safe job is one that has the same ordinary hours of work as the employee's existing role, or different hours with their agreement, and must be paid at the same rate of pay.¹⁶⁷ This is often described as being placed on 'safe duties' or 'light duties'. This transfer to a safe job entitlement is also found in the two industrial agreements.¹⁶⁸

The Victoria Police Policy on Pregnancy in the Workplace states there should be an option to undertake meaningful, alternative duties at the appropriate level to ensure the employee and her unborn child are not exposed to health and safety risks. The focus of the policy is on agreement through discussion between the manager and the pregnant police member, with reference to a range of things including risk assessment and medical advice. The policy explicitly states that "(m)anagers should not make assumptions about the capabilities or preferences of the pregnant employee".¹⁶⁹

Women's experiences of pregnancy and parental leave in the workplace

In practice, the Review heard concerns about types of duties provided to pregnant women and potential discrimination associated with this allocation of duties.

Often they get menial work when they're pregnant so there's discrimination because of a lack of understanding of what work they can be given (female interviewee).

... it is viewed as an inconvenience, and these women are expected to work all weekends if they are part time or expected to go to crime desk, DIU or another low key position within Victoria Police (female survey respondent).

Recently, someone rang up about a temporary assignment position. They

asked for the name of the unit 'that the women go to when they were pregnant'. They were alluding to the area of Senior Connies (female interviewee).

There were sometimes examples of good practice in relation to employment opportunities for pregnant women, for example:

It's about providing more opportunities, perhaps more flexibility. If a person is a good worker, I will let them work at home. If they are hardworking and productive, I will provide them with this flexibility. This can sometimes be difficult with our information systems and security. There's room for improvement (executive interviewee).

... she became pregnant and they put her into the property office in the basement. Someone told me she was very good so I brought her up ... She went from being a sergeant to acting inspector – she said that was the one time someone helped her. There can be prevailing thinking that people who are pregnant or part time become less useful or worthy ... they get sidelined and they can't realise success because of the way success is measured ... It discriminates against women. Interestingly, there has been a shift in more men wanting to see their families and having some balance too ... (former executive).

These examples suggest, however, that the treatment of pregnant women and those accessing flexible work arrangements was something of a lottery and reliant on favours by managers rather than being based on good, clear policy which is compliant with legislation.

All personnel at Victoria Police are entitled to paid and unpaid parental leave in accordance with the Fair Work Act and their industrial agreements.¹⁷⁰ Whilst on leave, the Fair Work Act provides for paid 'keeping in touch days' whereby the employee can perform work or

¹⁶⁶ Fair Work Act 2009 (Cth) s 81.

¹⁶⁷ Fair Work Act 2009 (Cth) ss 81(3)-(4).

¹⁶⁸ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl 120; Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl. 46.15.

¹⁶⁹ Victoria Police, *VPM Instruction 309-23 Pregnancy in the Workplace* (updated 06/10/08).

¹⁷⁰ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) AE889678 (19 December 2011) Part 15; Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl. 46.

attend training or meetings, which will not break the continuity of the employee's parental leave period.¹⁷¹ The employer should also be keeping in touch with an employee on parental leave to consult with them about any major changes in the workplace or any decisions that will have an impact on their pay, status or location of work.¹⁷²

In terms of women on parental leave, it was also suggested that:

Maternity leave tends to break the cycle of women going through the organisation. How do you keep them exposed and trained up? There's more thinking that needs to be done around this. We have some exceptional workers and we need to think about how we can best support them (executive interviewee).

This is an important question of how to support employees in maintaining career momentum in the context of having children and caring responsibilities. In addition to the legislative framework provided above, the VPM – Procedures and Guideline in relation to parental leave state that:

Work Unit Managers should maintain regular communication with employees who are on parental leave, and make suitable arrangements prior to their departure. This arrangement may be formalised in accordance with the Keep in Touch Program (female interviewee).

It was suggested, however, that:

At the moment there is no formal keeping in touch program ... For the workforce to be more inclusive, we need to keep in touch with women on maternity leave (female interviewee).

I think if I had had more contact – or had the option of more contact at least – that would have been good. Some people wouldn't want to have them in contact – but you should be able to have the offer of more support.

¹⁷¹ Fair Work Act 2009 (Cth) s 79A.

¹⁷² Fair Work Act 2009 (Cth) s 83; Also see Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) 2011, cl. 133; Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl. 46.18.

I felt alienated. And abandoned. I am amazed how much identity I have got back since going back to work – I didn't realise how ingrained being a police officer is in my personality (female interviewee).

In the absence of an organisational approach in this area, the Review heard that local policies and programs often arose. For example:

A Sergeant in [one area] has found a gap. ... She has set up a [program]. The Inspector and the Superintendent have been very supportive. It's still in its infancy but is a clear example of the organisation failing to have something in place and this area taking the initiative (female interviewee).

The employment barriers for carers, and the nexus between caring and career opportunities has been a key focus for many employers. In the 2013 report: *Accelerating the advancement of women in leadership: Listening, Learning, Leading*, the Sydney-based Male Champions of Change initiative noted on page 33:

Traditionally, the most common route to professional success has not included career breaks and visible caring responsibilities. Many women's career trajectories plateau following parental leave events – people often assume women are more interested in a job, rather than a career. Jobs and career paths need to be redesigned with consideration to people with caring and career responsibilities, or the 'double burden.'

The Australian context, including childcare, transport options, travel distances and societal norms, make the 'double burden' even heavier. But there is a generational shift underway, with men wanting a greater role in caring. We need to support this for true gender balance.

The report outlined the need for a four step process to change processes and mindsets across the parental leave cycle.



Table 2: Policies, processes and mindsets across the parental leave cycle¹⁷³

Phase of parental leave	1	2	3	4
	Preparing for leave	Staying connected	Reintegration	Career acceleration
Standard expectation	Leave and return should be clearly planned out, appropriately setting expectations for both employees and managers	Parents should feel connected to the organisation during leave and the encouragement to return should be clear	Parents should be able to pick up where they left off, while being able to balance work and family commitments	Career planning and development opportunities made available – placing returning parents on same successful career trajectory as all other employees
Mechanism to support	Manager and employee checklists; discuss 'staying in touch' expectations; plan expected return dates	Formal catch-up dates that are not cancelled; access to laptop and mobile; inclusion in development reviews; business update newsletters	Return to work workshops and seminars; flexible working options; childcare services	Career planning; sustainable flexible program; removal of any unconscious or systemic bias
Mindsets that need challenging	'Oh, you're pregnant! You must be stepping back from your career for a while'	'She won't want to be bothered with what's happening in the business during leave'	'Have you had a good holiday?'	'She won't want that opportunity, and I don't want to load more work on her when she already has a family to balance'

¹Accelerating the advancement of women in leadership: Listening, Learning, Leading, 35.

173 Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 35.



RECOMMENDATION 7

Victoria Police reviews and amends all arrangements relating to flexible work including:

- identifying mechanisms and processes to ensure backfill for paid and unpaid parental leave and light duties is implemented
- reviewing and standardise policy and processes relating to flexible work arrangement and particularly the parental leave cycle, (Indicator) reflecting best practice in relation to preparing for leave, staying connected while on leave, reintegration into the workplace and career acceleration
- ensuring data collection and monitoring captures access to flexible employment options for both women and men and the reasons for not accessing any entitlements in this area
- ensuring all of its supervisors are trained in dealing with flexible working requests and what it means to refuse someone on reasonable business grounds.

Parental Leave Backfill

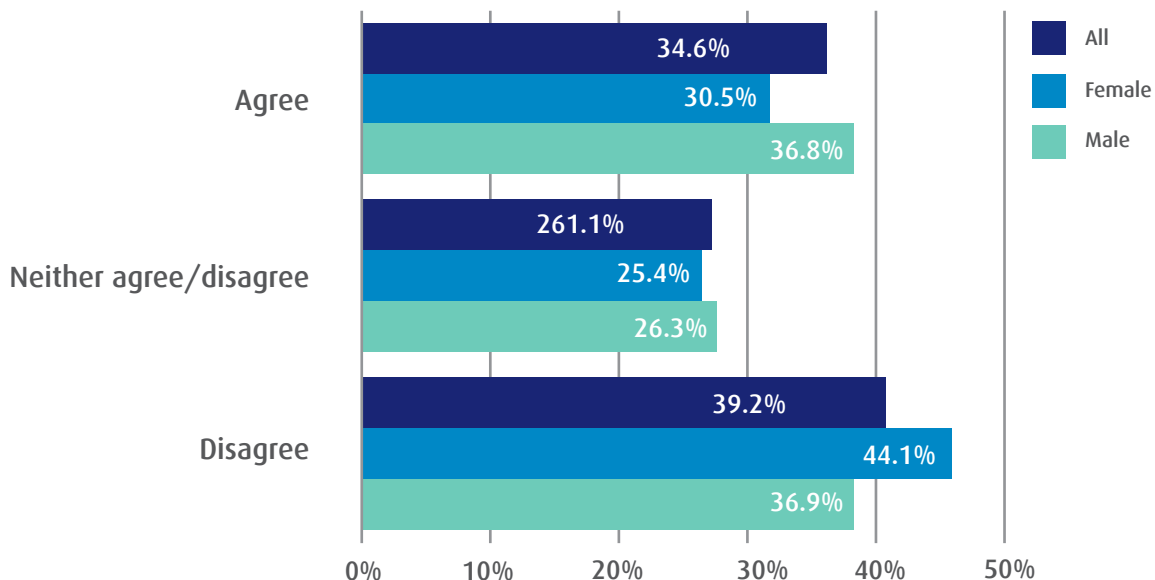
Key to the dissatisfaction and divisions within the workplace is the organisational practice of not providing backfill for police on light/safe duties or parental leave.

The Review survey asked respondents to rate their agreement with the statement 'when people go on parental leave teams are left in the lurch' and the results can be found in Figure 25 below. Just under 35 per cent agreed and 39 per cent disagreed. The rate of agreement was slightly higher in men compared to women (37 per cent and 31 per cent respectively).

Regardless of the rationale, the organisational approach in this area results in a situation where it is the individual's decision to have children that is perceived to directly and negatively impact on an entire workplace by leaving the workplace understaffed. Although police frequently 'act up' in various roles to backfill positions, inevitably, due to the funding model discussed in Chapter 5, a workplace is left short staffed, generally on the 'front line'. Women working light/safe duties due to pregnancy, taking parental leave or seeking part-time work arrangements were regarded by many as a 'burden on the roster'.

The Review heard about the resentment and hostility that the current approach creates towards women who are most likely to be the

Figure 25: Agreement with the statement – When people go on parental leave, teams are left in the lurch





ones taking longer-term parental leave as the primary carer.

There was someone who commented how appalled he was that women were getting pregnant and asked how the rest of them would get all the work done ... (executive interviewee).

I was pregnant and I wanted to go for a job in a specialist area when I got back. They said, don't bother, please. We don't want to have to carry you (site visit).

Indeed, even women becoming engaged and getting married was seen as being negative because it was conflated with the issue of having children and inconvenience to the workplace.

When I was working at a station, I got engaged to my current husband. When I announced it, my boss treated me like shit; he could perhaps see the future, that I would have kids, go part time. I started getting bad shifts. ... It can be difficult in some units, but women who work part time work 200 per cent to prove themselves (female interviewee).

I have overheard a manager joking about not hiring women because they might need time off to have a baby and then want to work part time!! (female survey respondent).

It is a difficult task for managers to find a way to work around the reduction in overall staffing in an already under-resourced environment. This further fuels hostility towards women.

It's got to the point that some managers associate an announcement of pregnancy with the loss of capacity and the start of a struggle to regain the capacity (male survey respondent).

At [station] there were [a few] on maternity leave. In the last few years, they may have only been working for a year or so. It does put more pressure on stations, particularly the busy ones. When a quarter of your roster is away, people have to take on more work (male interviewee).

The Review heard from many women who had internalised these views of themselves as 'a burden' and experienced guilt for 'letting the team down'. Women expected and experienced being unfairly treated as a result of parental leave and this had ultimately impacted upon their expected and realised career options. This is discussed further in Chapter 8.

The stress of letting the team down adds greater stress and anxiety to females having families. [The lack of backfill] also adds a greater workload to the office and creates a poor attitude towards females who start families (female survey respondent).

Often, the workplace itself and the people within it were seen as supportive of women but male and female police alike expressed anger towards Victoria Police in relation to this issue.

My workplace is supportive of me, but going on maternity leave does impact my workplace. Is that my right? Yes. Are they supportive? Yes. Does it impact them? Yes (female interviewee).



In relation to parental leave – I [have been on] safe duties and ... parental leave ... The feeling that I am leaving my team in the lurch is not created by my work unit who are very supportive, it is created by the failure of the organisation to work out a way to relieve the strain on operational units when someone goes off work for a year and can't be backfilled. It is ridiculous that the organisation actively recruits 50 per cent women but has failed to account for the fact that parental leave has a significant impact at an operational level (FEMALE SURVEY RESPONDENT).

This issue clearly demonstrates the causal relationship between organisational approaches to flexible work, negative attitudes to women and sex based discrimination and sexual harassment.

... When they comment about women coming to the police to have babies, the fact is that there are more men on suspension for alleged misconduct or approved LSL or LWOP at any one time than there are women on maternity leave (senior manager).

... The data indicates that there's more leave without pay and long service than maternity leave but there's an underlying sentiment or perception that women take more maternity leave and you hear managers complain about loss of resources due to maternity leave (female interviewee).

A snapshot of leave taken by police on 30 June 2015 showed that of the 4077 police on any type of leave, only 123 (3%) were women on parental leave.¹⁷⁴

Notwithstanding this, the focus of the police workforce is on the impact and 'burden' of women taking maternity leave. This suggests that it is not just the absence associated with the leave, nor the inability to backfill, but actually an exaggerated hostility towards leave that is for childbirth and the period of caring for an infant, which is leave overwhelmingly taken and required by women. This accords with broader research, which found that the taking of parental leave, in contrast to other forms of leave, appears to invoke the notion of motherhood, which is a status characteristic associated with negative stereotypes about commitment, competency and productivity in employment.¹⁷⁵ The Review suggests that it is also a status that sits counter to the stereotype of a good police officer (discussed in Chapter 2).

Enabling backfill for parental leave and light duties

Some participants noted the difference between Victoria Police and other public sector

¹⁷⁴ Victoria Police Data – Leave taken at Victoria Police, 1 July 2014 to 30 June 2015.

¹⁷⁵ Shelley Correll, Stephen Bernard and In Paik, 'Getting a job: is there a motherhood penalty?' (2007) 112(5) *American Journal of Sociology* 1297–3139.

organisations such as those in education and health, in the use of reliever pool to provide capacity for backfill. The Review heard reliever banks had existed in the past.

They used to have a force redeployment group. If you had a member on long-term sick leave or maternity leave they used to send out re-deployees to come in and cover. They really need to bring back a bank of overfill (female interviewee).

Victoria Police in the distant past had a 'force reserve' ... If members on waiting lists for areas could be put onto a reserve and deployed to fill these 'positions vacant for a period of time' then there would be far more support for members taking maternity leave and far less impact on the smaller work locations (male interviewee).

This was also presented as an opportunity:

I can understand where an office may be concerned about losing a member for a significant amount of time, but I think this attitude can be changed. I think it opens up a good position for new members to perform temporary duties (female survey respondent)

As discussed in Chapter 5, creation of a reliever pool may be an option to enable backfill for parental leave, it would support professional development through upgrading while ensuring capacity for general duties is maintained.

It would seem appropriate for the workforce planning framework to take into account the fact that a percentage of personnel will be unavailable for duty at any one time and create contingency for this. Given discrimination against women who become pregnant, go on 'light duties' and take parental leave, urgent change is required to support compliance with obligations as an employer duty-holder under the Equal Opportunity Act to not discriminate and to take reasonable and proportionate steps to eliminate discrimination, sexual harassment and victimisation as far as possible.



Implementation of Recommendation 7 requires that Victoria Police ensures that paid and unpaid leave, as well as light duties allocations, are backfilled as a priority.

Return to work and part-time work

The Fair Work Act provides a ‘return to work guarantee’, in that on ending unpaid parental leave, an employee is entitled to return to their pre-parental leave position, if it exists, or another available position for which the employee is qualified and suited nearest in status and pay to their pre-parental leave position.¹⁷⁶ In addition, Victoria Police who meet the service requirements have the right to request part-time work or flexible working arrangements under the Fair Work Act and their industrial agreements, as outlined above on page 176–177, on returning from parental leave, where they are the parent, or have responsibility for the care, of a child who is school age or younger.¹⁷⁷

The Review consistently heard about discrimination experienced by women returning from maternity leave:

I’ve been floored at the way I’ve been treated since returning from maternity leave. I’ve been told by supervisors that ‘you won’t get management opportunities because you are part-time’ and ‘you will probably have more babies, so the role you want is better suited to someone more committed’. I’ve been told by colleagues that ‘you are no longer fun because you don’t flirt. It’s like my sexuality isn’t fun now that it’s linked to child birth, and I was only good company because of my sexuality. It’s as though my sexuality was the only commodity I was valued for. Which had genuinely never occurred to me because that’s not how I want to be seen (female interviewee).

I got a call yesterday to see if I could do three days of night shift next week?

They know I can’t. When am I supposed to sleep? They said ‘you could express milk.’ (female interviewee).

... opportunities were not available and I was told to work hard for a year after returning to work after a birth, before I would be considered for temporary positions. This is despite having already completed the required steps to obtain temps prior to becoming pregnant (female survey respondent).

The discussion on this issue and the discrimination experienced was closely linked with transitioning to a part-time arrangement.

... I feel that Victoria Police does not know how to manage part-time policing for women returning to work after having a child. Or men taking up parenting responsibilities. I have seen them be victimised and made to feel useless, as they can no longer work the unpredictable hours some roles in the police force bring. Flexible rostering is in the EB. Fix it and make it work. Having children is a part of life, women shouldn’t be ostracized in the workplace for having children ... (female survey respondent).

When another part-timer and I were available to be upgraded to Sergeants ... I was told, “We never upgrade part-timers.” The boss gave the perception that part-timers were not appreciated-like “Dead wood.” (female interviewee).

In relation to PSOs it was suggested that:

Currently there is no casual or part-time employment option for PSOs but would be good to have part-time option available (executive interviewee).

Most views shared with the Review about the treatment of pregnant women, maternity leave and access to part-time work came from police members. For public servants, difficulties were less about backfilling and more about being supported to be a fully engaged employee.

¹⁷⁶ Fair Work Act 2009 (Cth) s 84. This is incorporated into Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 137 and Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl. 46.16.

¹⁷⁷ Fair Work Act 2009 (Cth) s 65; Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 14–15, 134.

... it took eight weeks to get remote access. It's not geared to people who don't sit at their desk between [7.00am and 3.00pm]. You need to get people in to demonstrate that it's possible to work flexibly. It's an entrenched view here that work is a [7.00am to 3.00pm] office-based role (executive interviewee).

Legal obligations and policy context

These comments are an important reminder to Victoria Police about their legal obligations under anti-discrimination law including that an employer must not, in relation to the work arrangements of an employee, unreasonably refuse to accommodate the responsibilities that the employee has as a parent or carer.¹⁷⁸ In practice, this means that workplaces must enable, and be responsive to, requests for flexible working conditions by staff rather than expecting all adjustments to be made by the person seeking to access flexible work.

In effect, a reasonable accommodation must be reached between the employer and employee who has requested the accommodation. This might mean that the arrangement is less than ideal for the employer – but potentially for the employee as well.¹⁷⁹ In addition, large employers like the State of Victoria with “substantial resources” (across the whole organisation) are expected to be more accommodating than a small employer with fewer resources.¹⁸⁰

The Victoria Police Policy for part-time employment sets out a range of possible reasons for applying for part-time work arrangements. Part-time employment following parental leave is the one the Review heard most about. The policy states that:

When considering requests for part-time employment made in these circumstances the delegate (level 3) may only refuse the request on reasonable grounds which relate to the effect on the workplace or its

operations. Reasonable grounds may include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service. The application must also be considered in accordance with the Equal Opportunity Act 1995.¹⁸¹

This is located within general statements within an overarching policy statement that:

Work arrangements should be as flexible as possible for management and employees and should be negotiated and undertaken in a spirit of cooperation”.¹⁸²

Under the policies, decisions are locally managed with a part-time employment panel reviewing decisions. The Review heard concerns relating to the policies themselves as well as the interpretation and implementation of the policies at the local level.

We have a number of policies that do not support flexible work arrangements (such as part-time work). You hear things like pregnant women need a ‘hidey hole’ where they can be parked (executive interviewee).

Victoria Police policy is outdated and does not meet the requirements of the Equal Opportunity Act 2010, or the 2011 Enterprise Agreement. There has been consultation, but there is no current policy within the legislative framework (The Police Association Victoria).

The VPM “Flexible Work” and “Part-time Work”¹⁸³ still refer to the *Equal Opportunity Act 1995* (Vic) which was replaced by the *Equal Opportunity Act 2010* (Vic). Neither policy reflects the obligation on an employer in the *Equal Opportunity Act* to not unreasonably refuse to accommodate parental and carer responsibilities.¹⁸⁴ They also each still refer to

178 *Equal Opportunity Act 2010* (Vic) s 19.

179 *Richold v State of Victoria, Department of Justice (Anti-Discrimination)* [2010] VCAT 433 [43].

180 *Richold v State of Victoria, Department of Justice (Anti-Discrimination)* [2010] VCAT 433 [41].

181 Victoria Police, *VPM Instruction 302-5 Part Time Employment* (updated 13/9/10, under review) s 4.2.

182 Victoria Police, *VPM Instruction 302-5 Part Time Employment* (updated 13/9/10, under review).

183 Victoria Police, *VPM 302-1 Workplace Flexibility* (updated 13/9/10); *VPM Instruction 302-5 Part Time Employment* (updated 13/9/10, under review).

184 *Equal Opportunity Act 2010* (Vic) s 19.



expired Victorian Public Service and Victoria Police Workplace Agreement. Again, neither policy has been updated to reflect changes to section 65 of the Fair Work Act expanding the right to request flexible working arrangements.

Victoria Police also have a guideline *Pregnancy In the Workplace*, which is intended to provide an outline of the entitlements and procedures for employees who are pregnant and wish to take parental leave. This guide was published in 2008 and the Review was advised that it has not been updated to reflect the changes in the Equal Opportunity Act.¹⁸⁵

There is now no general defence to discrimination under the Equal Opportunity Act on the basis of “reasonable terms or requirements of employment” including in relation to discrimination on the basis of pregnancy.¹⁸⁶

The Victoria Police Force Enterprise Agreement

As part of the Review, a gender impact assessment was conducted in relation to the *Victoria Police Force Enterprise Agreement 2011*. The process undertaken is explained in Chapter 5 and the associated recommendations are provided at Appendix 2. The gender equity impact assessment considered, in relation to

the provision of flexible working arrangements in the Agreement:

- There was no overarching statement about the commitment of Victoria Police to complying with its equal opportunity obligations, in the same way as there was to supporting a “healthy, fit, engaged and skilled workforce, operating in the right place at the right time”.¹⁸⁷
- The clauses in the Agreement which contain the right to flexible working arrangements (including part-time work) were spread out throughout the Agreement and were difficult to locate quickly. To understand what kinds of flexible work arrangements could be requested, personnel must refer to the VPM policies and Pregnancy Guidelines which are out of date
- There were types of flexible work practices that were not contemplated in the Agreement at all nor in the associated policies, such as job sharing arrangements or working from home.
- There were types of leave which were not contemplated in the Agreement which would have a limited cost impact, but would greatly benefit female employees, employees with caring or parental responsibilities, or who were experiencing family violence, who would otherwise have to utilise their annual leave or personal/carer’s leave entitlements in the relevant circumstances

The reason why clarity in entitlements is important goes back to the findings of the Review’s research into attitudes towards women who seek to access flexible work arrangements, and the ability of managers to understand how to balance the competing interests of the organisation with a request to accommodate the employee’s caring and family responsibilities or for flexible working arrangements more generally.

Ensuring employees can access flexible work involves a discussion and negotiation between the parties about what can work, and as a result it is imperative that employees understand their entitlements under the Fair Work Act, the Equal Opportunity Act and the

¹⁸⁵ Changes included the repeal of the exception in section 23 of the Equal Opportunity Act 1995 (Vic). Section 23 of the Equal Opportunity Act 1995 (Vic) was a general exception for discrimination in the area of employment whereby an employer was entitled to set “reasonable terms or requirements of employment, or make reasonable variations to those terms or requirements, to take into account: the reasonable and genuine requirements of the employment; any special limitations that a person’s impairment or physical features imposes on his or her capacity to undertake the employment; any special services or facilities that are required to enable him or her to undertake the employment or to facilitate the conduct of the employment.”

¹⁸⁶ The only similar exemption that might apply is the replacement to the former section 22 of the Equal Opportunity Act 1995 (Vic), in relation to discrimination in employment on the basis of disability. The new provision allows an employer to discriminate against an employee if they have sought to implement reasonable adjustments, but the employee cannot adequately perform the “genuine and reasonable requirements of the employment” even after the adjustments are made (section 23 of the *Equal Opportunity Act 2010* (Vic)). In the context of the pregnancy guidelines, this exception would only apply in relation to aspects of a pregnancy which fall within the meaning of “disability” within the EOA 2010, such as symptoms of morning sickness which cause “malfunctions” of parts of the body (see *Bevilacqua v Telco Business Solutions (Watergardens) PL (Human Rights)* [2015] VCAT 269 [154], [194]-[200]).

¹⁸⁷ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 13.2

Agreement, and that managers have the skill and ability to find a solution that works for both parties. This includes managers having a sound understanding of when they can refuse flexible working arrangements on “reasonable business grounds”, and when they can seek to change an employee’s working arrangements.

Containing entitlements within the Agreement, rather than in policy, provides an authoritative source for both employees and managers on what is able to be negotiated and what is considered appropriate for the organisation. This should be coupled with complementary support and training for employees and managers in equal opportunity law, negotiating flexible options, moving to light duties and the provision of meaningful work, and seeking transfer to a safe job or returning from parental leave (discussed in Chapter 1). The need for education and information for employees and managers about options available for internal reviews of flexible work requests (including requests for part-time work) that have been refused, is also considered in Chapter 10.

As a result, the Review considered that there were amendments that could be made to the Agreement which would make it easier for employees and their managers to understand their entitlements, to improve access to flexible work arrangements, and to send a strong message to personnel that Victoria Police was committed to complying with the Equal Opportunity Act and that it expects its employees to do the same. There are also amendments or actions which would provide additional support to disadvantaged employees, and assist with Victoria Police complying with their positive obligation in section 15 of the Equal Opportunity Act to take reasonable and proportionate steps to eliminate discrimination, sexual harassment, and victimisation as far as possible.

The recommendations made as part of the assessment relevant to clarifying and improving

flexible working arrangements are listed in Appendix 1:

Other recommendations were made in relation to progression, transfer and promotion which are considered in Chapter 8.

Local level implementation of the policies

While the clauses of the current Enterprise Bargaining Agreement and the organisation’s policies may appear on their face to be fair and non-discriminatory, their application are open to managerial discretion or interpretation of what a refusal of flexible work requests on “reasonable business grounds” means. As a result, they have potential to result in disadvantage to women or towards employees with parental and carer responsibilities or result in unreasonable refusal of a request to accommodate parental or caring responsibilities. It was suggested by one participant that:

... We are a product of our recruiting history. In the past, women made the choice to get married and have children and there weren’t supportive policies in place so they left the organisation. We suffer from policies that were around a long time ago and which diminished our female representation. From having policies that were not supportive, these issues have tended to [become] about attitudes. In practice, they haven’t progressed where they need to and often women don’t feel as supported as they should be. There is still an impact lag ... (executive interviewee).

Both approval of requests and implementation of the policies relating to flexible working arrangements occurs at the local level and in the context of a number of perceived and actual constraints by both employees and managers. For example, the Review heard many times that the nature of police work was unsuited to be undertaken on a part-time basis. Rather than it being a matter of the nature of the work being unsuited to part-time arrangements, the Review found there is a range of broader



organisational factors that mitigate against local level workplace flexibility.

This includes work practices and arrangements¹⁸⁸ such as the perceived need for continuity in handling cases.

During site visits, it was suggested that managing part-time employees is challenging for a workforce of investigators with caseloads and that ‘our work is 24/7’ and ‘you need to be available to respond to regular call-outs’ (site visit).

Broader research suggests however, that even full-time staff could be seen as part time in a 24/7 operational environment.¹⁸⁹ In addition, when looking at the leave data presented earlier in this chapter, 4077 people were on leave at the time the snapshot was taken (30 June 2015). This represents around 23 per cent of the workforce. The Review’s findings align with Charlesworth et al’s suggestion that there does not appear to be the same workforce concern around other types of absence from the workplace and that negative attitudes appear to be reserved for those accessing part-time arrangements, that is, women.¹⁹⁰

During the Review, it was suggested that:

Another element that makes it difficult for women to rise through the ranks is the culture of ‘face time’. Police work long hours ... this can lead to discrimination against members with carer responsibilities ... At the end of a shift, members are required to complete their paper work.

... If you’ve got a time constraint to pick up children, you’re in trouble. You’ll be seen as a shirker

(The Police Association Victoria).

188 The Review’s findings in this area align with the findings of Sara Charlesworth, Mark Keen and Kerri Whittenbury, ‘Integrating part-time work in policing services: policy, practice, and potential’ (2009) 10(1) *Police Practice and Research: An International Journal* 37; Sara Charlesworth and Debra Robertson, ‘Policing, gender, and working time: an Australian case study’ (2012) 13(3) *Police Practice and Research: An International Journal* 241. The below discussion draws on these articles.

189 Sara Charlesworth, Mark Keen and Kerri Whittenbury, ‘Integrating part-time work in policing services: policy, practice, and potential’ (2009) 10(1) *Police Practice and Research: An International Journal* 37, 40.

190 Sara Charlesworth, Mark Keen and Kerri Whittenbury, ‘Integrating part-time work in policing services: policy, practice, and potential’ (2009) 10(1) *Police Practice and Research: An International Journal* 37, 40.

- ***inflexible rostering systems***

As one participant noted:

They have been wrestling with [flexibility in rostering] for decades. There are EBA and job imperatives, they have always come from a deficit based model. The question is always “Why it can’t be done”, rather than a strength based model, “How do we get it done?” To some extent that goes with the job because you are always assessing risks – it is intrinsic to your role – and it can stick as someone moves up through the organisation (former executive).

- ***lack of backfill (discussed above)***
- ***inflexibilities in staffing budgets***

There is a perception that where a full-time staff member becomes part time, their residual hours may be lost and as with the backfill issue, a workplace left understaffed. The Review understands from senior management that this should not be occurring and that if it is, it is a result of local management practices rather than a result of problems with organisational policy. However, it has also been suggested that:

While official organisational policy allows residual hours from different locations to be pooled to create another position, the lack of responsive HR systems that would enable local managers to track and account for the total staff hours they have at their disposal can make this difficult in practice.¹⁹¹

The Review also heard from public servants that having shifted to part-time work arrangements on return from parental leave, some had subsequently not been able to ‘retrieve’ their hours. There was a sense that they had been ‘stolen’ (site visit).

Many of the above issues are exacerbated by the organisation’s limited IT infrastructure and a generally resource constrained environment.

191 Sara Charlesworth and Debra Robertson ‘Policing, gender, and working time: an Australian case study’ (2012) 13(3) *Police Practice and Research: An International Journal* 241, 245.

There is continually, however, an intersection between structural and attitudinal barriers:

I came back part time ... I felt like I had to work four times as hard to be considered competent and effective ... When you'd get in at 8.00am instead of 7.30am, this same Superintendent would say 'You in for the afternoon shift?' ... This organisation doesn't do part time well (female interviewee).

The Review heard repeatedly that part-time workers wanted day time shifts on week days, which was unfair to colleagues. These views were shared in the context of limited overall resources to fill the roster and a perception of a 'zero sum game' in terms of one person's flexibility leading to another's detriment.

One thing that frustrates blokes is that someone would say they were a single mum so they couldn't do the shift on the weekend. They would always have custody if they were given a shift, but suddenly they didn't have custody if they had a party on. Every time something had to be done, it would always be thrown at me or another bloke, but if you were a bloke who had kids than it was assumed your wife would sit at home and look after them ... I don't mind working with girls when you're on a crew, and everyone cops the twilight shift. But then you get someone else who is getting the same pay to just work day shifts because that's when she can get childcare ... It is frustrating when the roster is dictated by single mums who get to not work weekends even though they probably don't have the kids that weekend anyway (male interviewee).

Attitudes such as this go some way to illustrating the hostility many women experience in the organisation and reflect the depth of attitudinal and cultural change work that needs to be undertaken by Victoria Police.

In addition, this illustrates some employee's perceptions of part-time workers as shirking their responsibilities and being disingenuous in the way they were accessing flexible work arrangements.

My experience working in Victoria Police is part-timers with children are held to a completely different level of accountability than full timers ... It appears part-timers can come and go as they please whilst full timers have to pick up the additional workload and cannot complain out of fear of being discriminatory (male survey respondent).

... I have been in meeting where everyone is talking about their 'bloody part-timers' and how it makes their life a nightmare. I've heard women saying this as well (female interviewee).

The key challenge was seen to be rostering issues and ensuring fairness between full-time and part-time staff. Conversely, there was a view that the organisation was not flexible enough in its approach.

Vic Pol needs to change its attitude towards employees – part time mainly – who are primary carers to children and expecting the employee to work 7am, 3 pm and 11 pm. This is not always possible ... Also expecting so many weekends when part time is unfair (female survey respondent).

The other thing that's really important for women is rostering practices. It could be much more family friendly. Women need their rosters a month in advance. There are parallels with nursing because of shift work (female interviewee).

Some located the part-time issue within broader workforce rigidity suggesting that

There was a period of time where women were under-represented and where employees were driving the market – there was a skill shortage at the time. We understood that if we didn't offer a larger suite of employment options, we would be unattractive for retention and attraction. ... However take up of flexible work options is a different story. It's not popular in operational areas ... because it's difficult. The day is broken

into 3 shifts of 8 hours so it's hard to be flexible. It's the way service delivery is managed. At the operational end of policing, it's not popular amongst managers (senior manager).

Support for managers

The Review heard from managers that there was a lack of support and guidance for management in understanding how to best negotiate part-time and flexible arrangements.

This resulted in poor outcomes for workplaces. Managers were not trained in understanding how to balance the competing interests of the organisation with a request to accommodate the employee's caring and family responsibilities (which must not be unreasonably refused under the Equal Opportunity Act). Nor were they provided with any incentive to prioritise increasing their understanding and improving their practice in this area.

The Review heard that both managers and employees lacked understanding of and the capability to discuss and negotiate about flexible options with employees. This includes taking proactive steps to discuss options with the employee about safe and meaningful work when they are deemed medically unable to perform front-line duties, for example through pregnancy.

Some managers/ supervisors continue to roster like they used to years ago because this is the way they have done their business for so long. They don't want to think creatively (female interviewee).

The level of local management discretion in assessing 'reasonable business grounds' gives scope to managers making decisions based on their individual views about part-time and flexible work.

Some recognised that flexibility and part time can be managed well, even within existing constraints, creating minimal workforce implications.

When part-time work was introduced, there was hysteria. Now I have a few part-timers and it is really productive. It's not rocket science, you just have to

manage it well and make it work (site visit).

In addition, the Review heard comments that suggested that flexibility was often as much about 'thinking outside the square' as it was about battling the structural constraints:

I think that the orientation towards individual and family welfare must be greater – work matters like job-sharing, built in capacity for workplace flexibility would be good for everyone ... (external expert).

... there are ways to increase the flexibility without increasing the financial burden for example ... Managers are concerned about creating precedents but they often don't explore the available options fully or plan around the absence well in advance (executive interviewee).

You do remain a victim of your manager. Sometimes they work with their people to give them flexible arrangements. I know a Victoria Police employee who has a family member with health issues. Their supervisor at the time organised for the member to remain in productive work and supported them. If there was the same situation down the road at a different station, it might have been different (external expert).

A range of recommendations on support for managers and supervisors are provided in this report. In addition to these in implementing Recommendation 12, Victoria Police should ensure all of its supervisors are trained in dealing with flexible working requests and what it means to refuse someone on reasonable business grounds.

While the impact is disproportionately on women with parenting responsibilities, there is an opportunity here for Victoria Police to improve the experience of the workplace for all employees. Flexible work options are available for men as well, but the statistics detailed above show a distinct lack of uptake. Indeed, the right to request flexible working arrangements under the Fair Work Act is open to employees with

caring responsibilities for children, people with disabilities, for people over 55 years of age, and for people experiencing family violence or supporting someone who is experiencing family violence.¹⁹² Men accessing flexible working arrangements is key to shifting community attitudes about traditional roles and capabilities.

... In order to assist me to manage caring for my parents, I was seconded ... I had a good boss ... If I couldn't have done this it would have been really difficult to get through that time with my family ... The support I received during that time re-invigorated me for the job, so even though I had witnessed some changes throughout my career, the way I was treated reignited my loyalty to VicPol (male interviewee).

I recently had a man taking parental leave. It was the first one in my time – we made fun and said he was on a junket – but we were happy for him. Men should be entitled to it. Shared parenting is good (female interviewee).

My partner is a police officer, and we've already talked about how I'll be the one who wants to focus on promotion, and he'll go part time to take care of our child. ... Already the discussion has been met with a very different reaction than traditionally women receive – he was telling the guys at work and they were all telling him how great kids are and being really supportive and accepting and impressed with his choice ... they didn't see him as someone who was going to drain their resources – very different than how we've both seen women get treated as for the same thing (female interviewee).

There were also misconceptions in the workplace that parental leave had to be taken by a woman. One participant stated:

... why isn't there the same amount of paid Paternity leave if the woman wants to return to work and the man wants to look after the children? (male survey respondent).

[men take more leave] now but that's almost seen by all the guys as a free holiday, so good on 'em. It's very rare that a man would go part time after he'd had kids (female interviewee).

Unpaid parental leave entitlements in the Fair Work Act and in the relevant industrial instruments is available to both men and women, and the Commonwealth Paid Parental Leave Pay scheme provides payments at minimum wage for up to 18 weeks for the parent with primary responsibility for the care of a new child, provided they meet the eligibility requirements (regardless of gender). The Commonwealth Paid Parental Leave Pay scheme also includes a payment for eligible working fathers or partners, including adopting parents and parents in same-sex couples.¹⁹³

However, additional paid parental leave in the relevant industrial instruments differs depending on whether staff are sworn or unsworn, with both police and VPS having access to 14 weeks paid maternity leave (in connection with giving birth), and 14 weeks paid adoption leave. Police receive one week paid paternity/partner leave, and public servants, two weeks. Police also had access to 14 weeks of 'other parenting arrangements where employee is primary care giver' and one week, 'other parenting arrangements where employee is secondary care giver'.

It appears that while sworn male personnel will be able to access a period of additional paid parental leave under the 'other parenting arrangements' in the VPF Agreement, unsworn male personnel do not have access to the same entitlement.

The Review notes that the CPSU have indicated that they are seeking to remove all gender references in the paid parental leave clause of the VPS Determination, and replace them with 'primary carer's leave' and 'secondary carer's leave', for the replacement VPS Agreement.¹⁹⁴ This claim is consistent with concerns the Commission raised with Industrial Relations Victoria and the CPSU and discussed about

¹⁹³ See <<http://www.humanservices.gov.au/customer/services/centrelink/parental-leave-pay>>.

¹⁹⁴ Community and Public Sector Union/SPSF Group Victorian Branch, *Proposed Victorian Public Service Enterprise Agreement 2016* (9 September 2015) <http://www.cpsu Vic.org/public_docs/Full-Claim.pdf>.

¹⁹² *Fair Work Act 2009* (Cth) s 65.



potential sex discrimination inherent in providing only paid maternity leave but not paid paternity leave. The Commission's position is that the parties should consider providing gender neutral primary carer's leave that does not discriminate on the basis of how the infant is conceived, born or came to be part of a family.

There were many examples of good practice in modelling and applying flexible management, including managers modelling flexible work, job sharing and part-time arrangement, however these were not consistent.

Several of my managers work part-time. I think this sets a good example for the team. They see it can work. We are really transparent. It's business as usual (Executive interview).

Victoria Police is required to be fully compliant with legislative requirements in this area but there is also an opportunity to implement best practice in relation to flexible work provisions.

Positioning flexibility as the norm and asking the question, 'what roles could not be done flexibly', rather than the reverse, is recommended by the Male Champions of Change project.¹⁹⁵

The National Australia Bank offer significant flexibility to employees and state on their website that "Working flexibly doesn't mean you're missing out on opportunities. But it does mean having the freedom to be yourself – to make time for the things that matter to you, and to be as excited about coming to work each day as we are about having you". This is in stark contrast to Victoria Police's (and many other employers) approach which pits family and lifestyle choices against work.

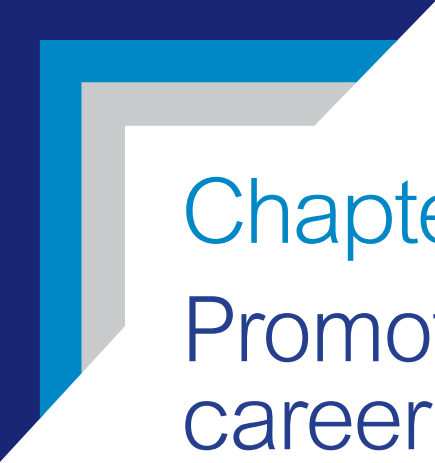
Telstra recently moved towards universal flexibility with their "All Roles Flex" policy. Their aim is to mainstream flexibility to "amplify productivity benefits, lift engagement, establish a clear market proposition and also enable a new way of working, ...". Interestingly, one of the lessons has been that more men are working flexibly, which is challenging previous perceptions.¹⁹⁶

It is important to note that Telstra see technology as intimately linked with workplace flexibility, including the ability to roster more easily. Universal flexibility may be aspirational for Victoria Police at this time while the organisation works towards improving the enablers for such an approach. In addition to technology, these include ensuring all policies and procedures are clear and moving towards cultural acceptance through good people management and accountability.

While reducing workplace harm and improving workplace flexibility is key to improving the recruitment and retention of women within Victoria Police, there is an opportunity for the whole workforce to benefit from an increasingly flexible and safe workplace.

¹⁹⁵ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 27.

¹⁹⁶ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 28.



Chapter 8

Promotion and career planning

Main findings

- Workforce mobility and career progression for women in Victoria Police are significantly impacted by sex discrimination and sexual harassment. Workforce data demonstrates gender inequity in promotion opportunities.
- A gender analysis of transfer and promotion supports the existence of systemic barriers to women's progression beyond senior constable rank.
- There is evidence of individual and/or collective bias in appeals against selection of women for supervisory and officer positions.
- Despite positive organisational moves towards describing skills and expertise to attain ranks and levels within capability frameworks, the informal organisational culture continues to hold sway in valuing of traditional male domains of policing.
- The skills and competencies valued in promotion to managerial positions preference operational expertise at the expense of people management.
- The organisation's pathways to promotion inherently disadvantage women in relation to access to:
 - higher duties roles
 - training opportunities
 - transfers and assignments
 - roles more valued for promotion
 - ongoing length of service considerations.
- Opportunities for promotion are more limited for people on flexible working arrangements, resulting in indirect discrimination against employees who are also carers.
- The organisation has a role to play in shifting community attitudes on gender stereotypes and the contemporary shift to work life balance and men's increasing involvement in raising families.
- A large proportion of the organisation has little faith in panel processes and does not see the transfer and promotion system as merit based. The existing system of promotion and training is often not merit based but instead, promotion decisions:
 - demonstrate direct and indirect discrimination
 - are influenced by factors associated with gender stereotyping and sexual harassment.
 - facilitate the promotion of alleged harassers.
- There appears to be little value placed in external experience and non-traditional pathways. People who undertake professional development or other careers find little traction or value placed on their capability on return.
- The impact of gender-based hostility on women may make them less likely to apply for positions. Attitudes towards women in the workplace may reduce access to promotion and transfer opportunities where women do put themselves forward.
- There is limited measurement or benchmarking of women's career progress within the organisation.

Introduction

This chapter examines women's career trajectories through the organisation and focuses on the promotion and transfer process. The Review recognises that many police employees do not seek or achieve promotion for a variety of reasons. As women progress through their careers, however, they continue



to experience reduced opportunities for progression. As with recruitment and retention discussed in the previous chapter, this lack of workforce mobility is strongly influenced by organisational approaches that reinforce gender inequality.

Chapter 2 established gender equality as a necessary pre-condition to prevent violence against women and to eliminate sexual harassment and sex discrimination. It noted that attitudes that support gender inequality, including hostility towards women in the workplace and the treatment of women both professionally and interpersonally, are reinforced and perpetuated through enabling structures and enabling practices, processes and behaviours. Some of those practices, processes and behaviours relate to promotion.

These organisational approaches are underpinned by attitudes that fit with a traditional policing model that is inherently masculine in its conception, as set out in

Chapter 2 (drivers). Resetting workplace norms requires targeted intervention to advance women’s career opportunities.

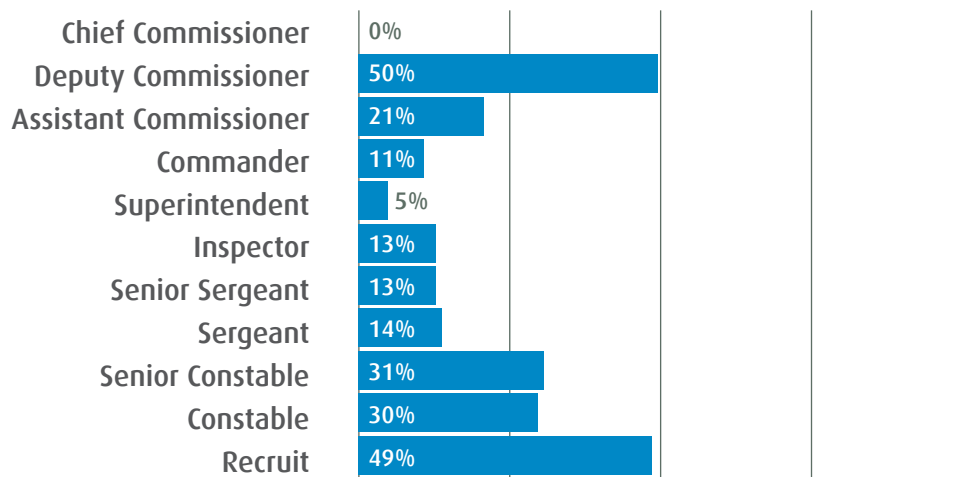
Women and progression through the organisation

The disproportionate representation of women throughout the organisation is evidence of systemic discrimination. This chapter explores how unlawful conduct manifests at every level of career pathways for women resulting in systemic discrimination. Chapter 7 overviewed the breakdown of women across the organisation based on Victoria Police data at April 2015. This is summarised in the tables below.

Police

There were particular ranks where the proportion of women fell considerably

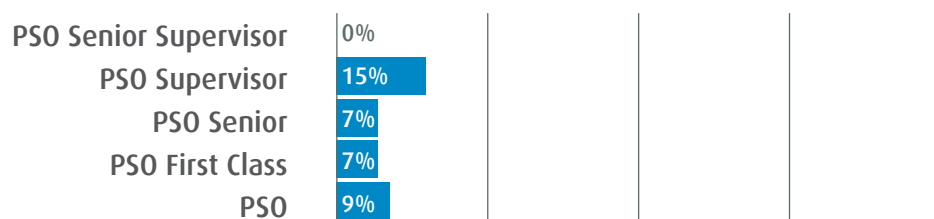
Figure 26: Women as a proportion of overall workforce at each rank – Police



Source: Victoria Police data, April 2015 (received 12 June 2015)

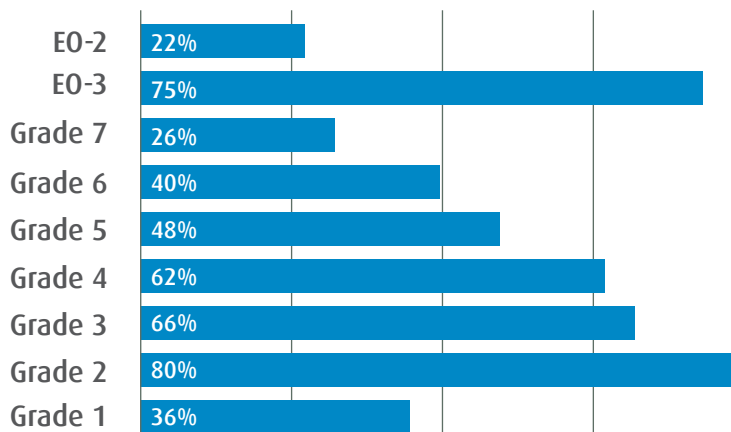
Note: this data relates to substantive ranks and at this time, the Chief Commissioner and one Deputy Commissioner position were vacant.

Figure 27: Women as a proportion of overall workforce at each rank – PSOs



Source: Victoria Police data, April 2015 (received 12 June 2015)

Figure 28: Women as a proportion of overall workforce at each grade – Public Servants ¹⁹⁷



Source: Victoria Police data, April 2015 (received 12 June 2015).

and could be considered critical points for intervention. These were between senior constable and sergeant and between inspector and superintendent. There was an increase in women’s representation in the very small numbers at the executive.

Also important is that only 11 per cent of Victoria Police supervisors and managers (sergeant and above) in rural areas are female.¹⁹⁸

Protective Services Officers

Of the 1178 PSOs, 107 across all ranks were women.

Public servants

There were 1943 women in the Victoria Police public service. The proportion of women in this category was much higher than the other work categories, being at around 67 per cent of total public servants. The table below demonstrates that women’s representation in this workforce was, however, significantly skewed towards the lower Victorian Public Service levels, apart from an increase in representation at the very small

numbers in the executive (as with the other work categories discussed above).¹⁹⁹

Concentration of women in different areas of Victoria Police

The Review team visited 37 worksites and noted that the gender representation across the workforce was highly variable. This was also reflected in the other data collected by the Review.

Sexual offence teams in Victoria Police have a lot of women and lots of part-timers. There are lots of negative comments about this and how hard it is for the manager to manage them. These comments are coming mainly from sworns (female interviewee).

On the question of the reasons behind the differential representation of women across the different types of police work and workplaces. Some participants suggested that women are more attracted to some roles but also that the organisation seeks them out for these roles.

In some of the traditionally male dominated sections of Victoria Police, such as the Water Police and Search and Rescue, the barriers for women participating were seen to be the hours

¹⁹⁷ This data combines VPS and Forensic Officers. There were also nine Senior Medical Advisors, three of whom were women, who are not included in the above data.

¹⁹⁸ Independent Broad-based Anti-corruption Commission, *Predatory behaviour by Victoria Police officers against vulnerable persons – Intelligence report 2* (2015) 8.

¹⁹⁹ There were a very small number of public servants at the VPS 1 level. Of the twenty seven people at this level, seventeen were male and ten female. There was only one Forensic Officer at FO 1 and this officer was male (Victoria Police Workforce Data April 2015, received 12 June 2015).



of operation and time away from home, worksite locations and physical requirements.

For example, the Special Operations Group is really physically demanding. In the Critical Response area we are getting more females now. We have information nights and encourage female applications. Apart from the physical challenges, the hours can also be a barrier. The work is physical and highly skilled, but there aren't a lot of numbers, so staff often have to work on call. The Dog Squad is the same. We have a couple of female members but the hours are usually late afternoon and evening (executive interviewee).

Such comments were examined in the previous chapter in terms of the reality being that it is still largely women bearing much of the household and child care burden. There is, however, a shift in community expectations with men becoming more interested in accessing flexibility. In addition, organisations allowing men to access flexible work arrangements and to take a greater role in domestic duties is key to improving gender equality in the workplace.

Some participants suggested that the organisation was making assumptions around the lack of participation of women in particular segments of the workforce and pointed to the need for a proactive, evidence-based approach:

In the regions, the women in the public service were generally at the VPS 2 level with general recognition that there was no scope for career progression.

... to progress you have to come in [to VPC] (female interviewee).

For PSOs, in addition to the very low numbers overall, the Review heard of situations where there was only one woman in a unit.

In addition to the total number of women and men, representation of women in Victoria Police is highly gendered in terms of rank/level, nature of role performed and place of work as well as between public servants, police and PSOs.

Relevant laws

Denying or limiting access to opportunities for promotion or transfer on the basis of a person's sex or parental responsibilities can amount to unfavourable treatment (direct discrimination) in breach of the Equal Opportunity Act.²⁰⁰

In addition, subjecting an employee to detriment in their employment (which can include humiliation and denigration of the employee because of their sex or parental responsibilities) can also amount to a breach of the Act.²⁰¹ This includes assumptions made about a person's capability or experience because of their sex, provided it is a substantial reason for refusing or limiting access to the promotion/transfer.

Similarly, the imposition of unreasonable conditions or requirements for promotions, which disadvantage women or employees with parental/carer responsibilities and which result in the denial of promotion or transfer will also amount to indirect discrimination.²⁰²

The Equal Opportunity Act also provides that an employer must not unreasonably refuse to accommodate the responsibilities an employee has as a parent or carer;²⁰³ this applies in development and promotion decisions as well as within current roles.

In the context of the obligation in the Equal Opportunity Act to take reasonable steps to eliminate discrimination, sexual harassment and victimisation,²⁰⁴ Victoria Police must do more to ensure women are not discriminated against in the areas of promotion and transfer.

Targeted recruitment of women to senior roles could be considered to promote substantive equality of women in the workplace, under the 'special measures' provisions of the Equal Opportunity Act (previously discussed in Chapter 7 in relation to recruitment).

²⁰⁰ *Equal Opportunity Act 2010* (Vic) s 18(a). For example, the Review heard evidence of managers stating they did not want a woman in a role.

²⁰¹ *Equal Opportunity Act 2010* (Vic) s 18(d).

²⁰² *Equal Opportunity Act 2010* (Vic) s 9.

²⁰³ *Equal Opportunity Act 2010* (Vic) s 19.

²⁰⁴ *Equal Opportunity Act 2010* (Vic) s 15.

The context within police

Victoria Police workforce data demonstrates gender inequality in promotion. There is a pressing need to ensure that all employees have access to the same opportunities to develop and demonstrate the ‘merit’ required to progress in the organisation.

Promotion processes

There are different rules and processes relating to transfer and promotion for police, PSOs, and public servants.²⁰⁵

The Victoria Police Act

Promotion

The Chief Commissioner of Police has the power to promote a police officer to a higher rank, in accordance with the Victoria Police Act and Regulations.²⁰⁶

The Victoria Police Act states that in promotion, there should be regard to the relative efficiency of the candidates and not to their relative seniority (except in relation to promotion to senior constable).²⁰⁷ This was a fundamental organisational shift away from length of service as a key determinant of progression. For candidates seeking promotion to the rank of senior sergeant, sergeant or senior constable where the candidates are considered equally efficient, seniority must be considered.²⁰⁸

The meaning of ‘efficiency’ for all ranks is described in section 4 as:

the aptitude and special qualifications necessary for the discharge of the duties of the position in question, together with merit, diligence, good conduct, quality of service, mental capacity and physical fitness.

²⁰⁵ In accordance with the division of employment, police officers and PSOs come under the *Victoria Police Act 2013* (Vic) and public servants come under the *Public Administration Act 2004* (Vic) and *Victorian Public Service Workplace Determination 2012*, AG895510 (23 July 2012) (discussed in Chapter 6).

²⁰⁶ *Victoria Police Act 2013* (Vic) s 31.

²⁰⁷ *Victoria Police Act 2013* (Vic) s 31(2). Section 31(2) does not apply to a promotion to a position of senior constable (general duties) or a promotion of a constable who holds a position to the rank of senior constable in the same position (see *Victoria Police Act 2013* (Vic) s 31(4)).

²⁰⁸ *Victoria Police Act 2013* (Vic) s 31(3).

Section 4 goes on to provide additional criteria for promotion to the ranks of inspector, commander, chief superintendent, superintendent or chief inspector:

- For the rank of inspector: the potential to develop the executive ability and leadership and management skills essential in senior executive positions
- For the rank of commander, chief superintendent, superintendent or chief inspector: the executive ability and leadership and management skills essential in senior executive positions.

There are also supplementary provisions relating to the criteria and procedure for in situ promotion to the rank of senior constable contained in the *Victoria Police Force Enterprise Agreement 2011*, and for progression/promotion within a value range in the *Victorian Workplace Determination 2012* for public servants.²⁰⁹

Transfer

Section 33 of the *Victoria Police Act* provides that the Chief Commissioner may transfer a police officer in a number of ways, under the Act and the *Victoria Police Regulations 2014*.²¹⁰ For example:

- by way of application or request under section 34 of the *Victoria Police Act*
- by directing a transfer under section 35 of the *Victoria Police Act*
- transferring under Division 6 of Part 4 of the *Victoria Police Act* (relating to incapacity of police officers for duty); or
- transferring under Division 1 or 2 of Part 7 (relating to disciplinary proceedings).

For constables, the most common process for transfer between divisions is by following the ‘expression of interest’ (EOI) transfer provisions contained in clause 18 of the *Victoria Police Force Enterprise Agreement 2011*. This provides for a General Duties Allocation Process for constables, whereby an EOI process is followed to fill permanent, full-time police positions below the rank of sergeant.

²⁰⁹ *Victoria Police Force Enterprise Agreement 2011*, AE889678 (19 December 2011) cl. 18–19, 63; *Victorian Public Service Workplace Determination 2012*, AG895510 (23 July 2012) cl. 22.

²¹⁰ *Victoria Police Regulations 2014* (Vic) reg 11.



Vacant full-time general duties positions are filled by employees from the EOI list provided there are no suitably qualified surplus employees available for redeployment.

There are different processes for 'internal EOI' and 'external EOI', and employees can only have one of each active at any time. These processes are not merit based, but rather are automatic transfers based on:

- for internal transfers – length of time in their division; or
- for external transfers – time on the waiting list.

The Review considers that the EOI process potentially disadvantages women, as both EOI processes only apply to full-time permanent transfers and not part-time or voluntary temporary transfers which employees seeking flexible working arrangements might desire. Those already working part time and seeking to remain part time must apply for the full-time role and then negotiate new part-time work arrangements if they are successful.

As outlined in this Chapter, and previously in Chapter 7, the difficulty and negativity around accessing part-time and other flexible work arrangements is likely to prevent those who already have those arrangements from seeking to transfer, in case they are unable to maintain their existing arrangements in the new role.

Recommendations relating to the Enterprise Bargaining Agreement can be found at Attachment 1.

However, for other forms of transfer, there are different processes. For example, a request to transfer to another position at the same rank (not for general duties) is determined on the basis of efficiency and not seniority (as defined above), except in relation to candidates for transfer to a position in the rank of senior sergeant, sergeant or senior constable if the Chief Commissioner considers that the candidates are equally efficient, in which case the Chief Commissioner must have regard to their relative seniority.²¹¹

As with the policies discussed in Chapter 7, local management plays a key role in the area of transfers so this area too is open to

variation dependent on the quality of local level management.

Accessing transfers is a benefit of employment as well as a way to acquire additional skills that can assist with later promotion. Disadvantaging women in transfers may constitute unlawful discrimination in employment.

Capability framework

Performance of police is determined according to the Victoria Police 'sworn capability framework'. The capability framework sets out capabilities for each rank. These range from operational criteria to ethical, professional or performance standards. There are a diverse range of capabilities outlined for the different ranks and included are capabilities relating to communication skills and relationship management.

As a document, the framework appears to be well thought through and comprehensive. However, throughout the Review, participants advised that technical policing skills were valued within the organisation over professional or interpersonal skills. Furthermore, these technical policing skills were not the broad policing skills required for a capable, contemporary police workforce but traditional, operational expertise.

The Victoria Police Corporate Plan states that the organisation recognises the need to 'create a capable, flexible and professional workforce' with desired outcomes for 2015–2025 including:

- Enhanced health, safety and wellbeing of the workforce
- Diversity of the workforce that better reflects the community
- Education and training that reflects the professionalisation of policing activities and expected performance standards²¹²

In addition, the Victoria Police Blue Paper: A vision for Victoria Police in 2025 raises a range of broad approaches to organisational capacity building such as Lateral entry or re-entry, Direct

²¹¹ Victoria Police Act 2013 (Vic) s 34.

²¹² Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 7.

entry, Early identification of talent and fast tracking, and a Graduate entry program.

This increase in flexibility of pathways is welcomed by many who feel that change is both necessary and beginning to occur. For example:

There has been talk of VPS doing police roles and vice versa. The skill sets are different but there are benefits of having a less rigid workforce (female interviewee).

... the entry points are a little bit different [now]. Some people who go out as sworn, come back in as unsworn. Some then want to transition back to sworn (female interviewee).

Ultimately, we want an educated workforce. There is no reason a constable couldn't do a module out of the Inspectors' course. You might get a constable with five years' experience who has done modules and done workplace learning and has years of management experience somewhere else, who wants to apply for an inspector position. This could happen. We are already doing this with Inspectors – advertising outside ... [the PRSB registrations] work will change this ... a lot too. We are getting there (senior manager).

Some argued for the importance of: ... breaking open some of the structures to let fresh air in. Executive level has lateral entry in the form of Executive Directors. There should be more lateral entry at Inspector and Superintendent levels of people from the wider world brought in with expertise and concepts of governance. Open that door up and the organisation would be refreshed ... (male interviewee)

The framework for public servants at grade is outlined in the Victorian Public Sector Agreement.

Transfer and Promotion:

Roles and Responsibilities

Existing policies and procedures related to transfer and promotion are overseen by three units that sit under the Deployment area. These include the Transfer and Promotions Unit (TPU), the Personnel Placement Unit (PPU) which administers the functions of the General Duties Allocation Committee (GDAC) and VPS Recruitment which is responsible for the employment of public servants.

Police

In relation to police, the Personnel Placement Unit:

... is concerned only with general duties [also known as 'frontline' or 'uniform'] positions ... There are over 6000 of these positions in the organisation. To move police members into these positions we use an expression of interest (EOI) process governed by GDAC. This is not a competitive merit based process. Members express interest in a location and they [go] on a list. They then take it in turn to move to the location. When ... a vacancy has opened at their desired location and they are next to move they are checked for probity by Professional Standards Command (PSC) and performance by line management. If ... clear then they move into the vacancy. A member can only have one EOI live at any time. Within metropolitan divisions they manage their own internal EOIs, otherwise they are managed through PPU and they are referred to as external EOIs (senior manager).

The PPU also manages things like the ballot. When police members join, they are told that they can be placed anywhere after the Academy. They go through two years of training and probation. When they are about to be confirmed, they fill Special Category or hard to fill jobs ... We rely on the ballot to fill them. It is picking names out of a bowl. The TPA and the



members can watch. It is not merit based at all, it is random. They are moved by direction ...

The Transfer and Promotion Unit within Deployment is also responsible for sworn members and:

... maintains a merit selection service used for lateral transfer or promotion in rank into non-general duties positions. The TPU owns the processes for selections for positions from constable through to senior sergeant. The Chief Commissioner owns the processes for Inspectors ... Merit selections are based on competition for a position and meeting a minimum standard. The minimum standard is described in the capability framework (senior manager).

In addition to the criteria in the Victoria Police Act, Victoria Police policy provides criteria and guidance for promotions and the interpretation of 'efficiency'. The VPM policy had previously stated that 'all activities within the selection process will be consistent with the principles of natural justice and procedural fairness' (however that specific policy is no longer available). The Review heard from the Transfer and Promotion Unit that what is considered in promotion processes, by panels, is:

- Experience (including work history and mandatory qualifications required for the position)
- Assessment of the six written key selection criteria (KSC)
- Performance at interview before a panel
- Professional Development Assessment system entries (past two years, which may pick up any performance or discipline issues)
- Probity check
- Referee comments
- Overall assessment on all of the available information
- Level of efficiency demonstrated throughout the selection process

Public servants

The organisational policy for public servant selections has a section on "Requirements", which contains a number of points to

ensure the process is 'bias free', that there is 'procedural fairness' and that applicants are 'fairly assessed'.²¹³ It provides the possibility for processes 'to employ members of disadvantaged groups declared by the Commissioner for Public Employment'. This does not incorporate a broader data led view on who is disadvantaged for the purposes of accessing the middle to upper ranks of the organisation, which would include women.

For public servants, policy states that interview panel members should consider the following information when determining the most suitable applicant:

- Job application including resume/curriculum vitae
- Performance at interview (allow for nervousness)
- Work performance (including performance while on assignments)
- Efficiency and experience and/or qualification
- Results of practical testing if applicable (for example written, etc.)
- Work samples
- Referee comments
- Possible training needs to develop the applicant
- Potential for development/advancement
- Disciplinary matters (if applicable).²¹⁴

The Review heard that women employees faced particular barriers notwithstanding the intent of policies. In order to identify and eliminate any barriers for women, it is important to consider both the transfer and promotion processes, as well as the organisation's pathways to promotion. The Review has specifically considered assignments and acting up into higher roles; access to training the effect of discrimination on applying for promotion.

Each of these is discussed later in this Chapter and is impacted on by sex discrimination in the workplace.

²¹³ Victoria Police, *VPM Instruction 306-10 Transfer and Promotion (Unsworn)* (updated 03/11/08) section 4.

²¹⁴ Victoria Police, *VPM Instruction 306-10 Transfer and Promotion (Unsworn)* (updated 03/11/08) section 6.3.8.

Appeals against promotion and transfer decisions

Appointments to VPS roles can be challenged using the grievance process under the Public Administration Act.²¹⁵

The Police Registration and Services Board (PRSB) is responsible for hearing appeals against promotions and transfers (on application by a police officer or protective services officer) in accordance with the requirements of the Victoria Police Act and Victoria Police Regulations. A police officer is limited to lodging a maximum of four appeals in any given financial year.²¹⁶

The Victoria Police Act states that the grounds for appeal:

- for senior constables, sergeants, senior sergeants are superior efficiency; or equal efficiency and greater seniority
- for inspectors or chief inspectors, is superior efficiency.²¹⁷

The PRSB's 2013/14 Annual Report explains the how the appeals process works:

The PRSB Review Division ... provides a final decision based on the relative efficiency of the candidates. It is a forum for employees of Victoria Police to challenge selection decisions involving positions for which they have applied.

Where an appeal has been lodged ... the PRSB hears and determines the claims to promotion and/or transfer ... The Chief Commissioner must give effect to the appeal decision of the PRSB.

Legislation provides that appeals proceed by way of re-hearing. This constitutes a fresh consideration of the efficiency of the parties based on oral submissions and responses to questions during the hearing. The re-hearing process provides an opportunity for applicants originally

not interviewed during the selection process to demonstrate their efficiency for the position under appeal. Through this process the PRSB assists in relieving workplace tensions and provides reassurance about ... fairness and equity.²¹⁸

In 2013/14, the PRSB heard 187 appeals – an increase of 112 appeals from the previous year. The majority of appeals arose from promotions. Of the appeals heard by the Board, 28 (15 per cent) were allowed.²¹⁹

The Review heard that Victoria Police has an entrenched culture of appealing promotions, which can undermine and disadvantage female police officers:

If someone applied for a job, it seemed standard practice to appeal it even if they didn't want the job. For women, you have to work twice as hard, be twice as determined to get the job. It needs to be dismantled. If you go for a job and get the job, it should be your job (female interviewee).

The introduction of the appeals process appears to have been in response to perceived cronyism and a lack of transparency in promotions and transfers. However, it may have created a perverse outcome:

I know of one situation where there were four roles going and two women and two men were appointed – the best people for the job. Only the two women got appealed (female interviewee).

The Review heard that the appeals process may lead to insecurity for successful job applicants and undermines the capability of Victoria Police to manage its own workforce. The process encourages the attitude that Victoria Police is 'unique' and cannot function as any other major Government employer.

Ideally, you want to be interviewing at least four people for each position, but this is limited by applicant

²¹⁵ Public Administration Act 2004 (Vic) s 64.

²¹⁶ Victoria Police Act 2013 (Vic) ss 141–142; Victoria Police Regulations 2014 (Vic) reg 54.

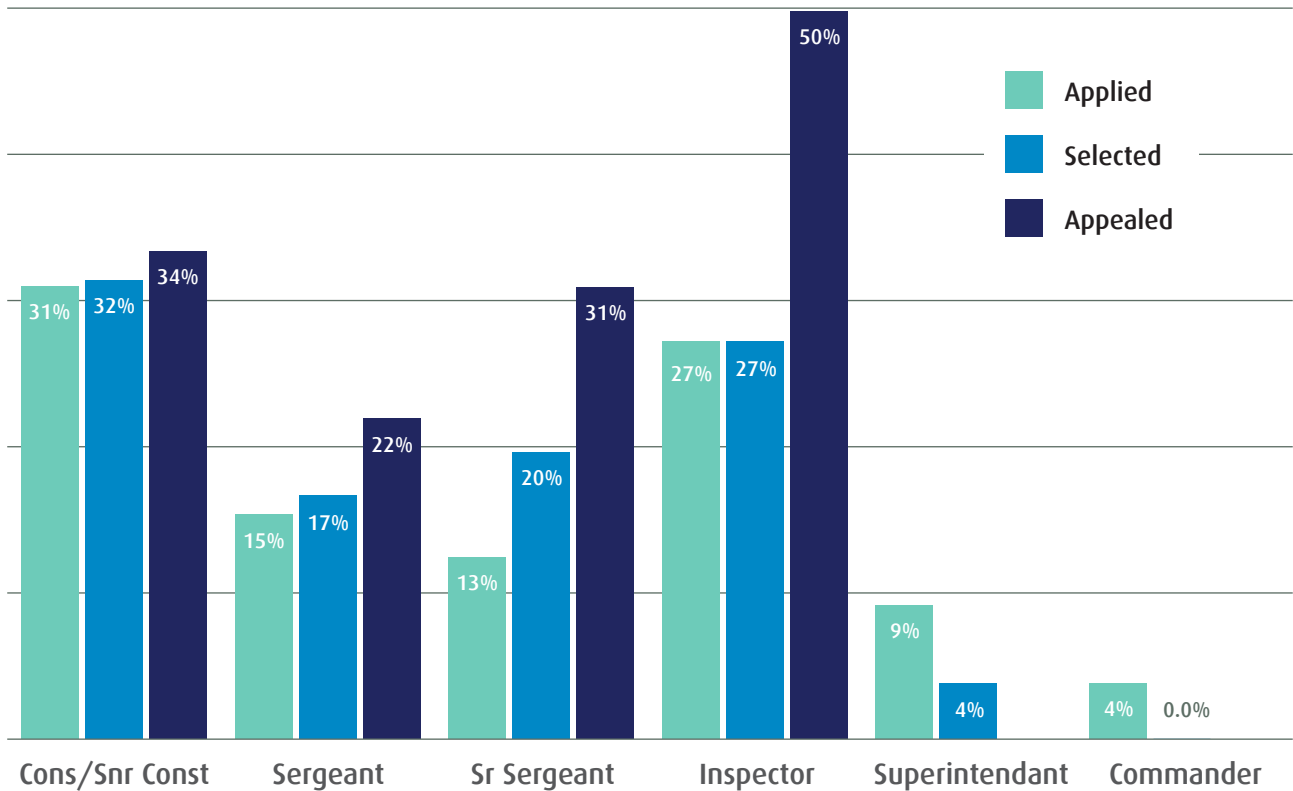
²¹⁷ Victoria Police Act 2013 (Vic) s 141(4).

²¹⁸ Police Registration and Services Board, 2013-14 Annual Report, 6 <http://www.prsb.vic.gov.au/sites/prsb/files/documents/prsb_annual_report_2013-14_1.pdf>.

²¹⁹ Police Registration and Services Board, 2013-14 Annual Report, 7–9 <http://www.prsb.vic.gov.au/sites/prsb/files/documents/prsb_annual_report_2013-14_1.pdf>.



Figure 29: Women’s progress through the transfer and promotion process



numbers. Everyone who applies is an applicant under the Act. ... In most organisations, potential applicants can file a grievance, but in Victoria Police the process allows them to compete on merit again – essentially running the race twice (senior manager).

In looking to the future, the appeals process, if expanded in any way, may also significantly hamper the ability to recruit and retain expertise and talent from other sectors through lateral entry, putting Victoria Police at significant disadvantage:

Gender analysis of police transfer and promotion processes

A gender representation analysis of the police transfer and promotion processes was undertaken to assess current arrangements. This analysis was conducted by comparing the proportions of women who: a) applied for; b) were selected and; c) whose selections were appealed, for all police positions advertised in a

26 month period.²²⁰ This includes approximately 60,000 applications. The results can be found in Figure 29.

For each rank, the graph displays:

- First column: the proportion of applications from women (so for sergeant positions, 15 per cent of applications were from women and the remaining 85 per cent from men)
- Second column: the proportion of selectees who were women (so for senior sergeant positions, 20 per cent of selectees were women and the remaining 80 per cent were men)
- Third column: the proportion of selection appeals where the selectee was a woman (so for inspector positions, 50 per cent of appeals were for female selectees and 50 per cent for male selectees)

²²⁰ For the period 1 July 2013 to 1 September 2015. Information provided to the Review by Victoria Police, 13 November 2015.

These proportions can be compared to the overall proportion of women in the police workforce (26 per cent) to assess representativeness within the transfer and promotion process.

Further, within each rank there should be a similar proportion of women applying, being selected and being appealed. This is the case for constable and senior constable positions, where applications from women make up 31 per cent of applications, 32 per cent of selections and 34 per cent of appealed selections.

Looking at applications and selections, the data indicate women are substantially underrepresented as applicants and selectees for all ranks except constable, senior constable and inspector. This pattern is particularly marked for superintendent and commander positions, where very few women applied and fewer were selected (none in the case of commander positions).

The Review heard from participants of a bias toward appealing selections of women. Superintendent and commander selections cannot be appealed so this applies to ranks below these only. The data provide strong evidence of this for inspector positions with the proportion of women appealed almost twice that of the proportion selected. A similar but smaller pattern was evident with senior sergeant positions (proportion of women appealed 11 per cent higher than proportion selected). There was also a small overrepresentation of appeals for women in sergeant selections. The data support the existence of systemic barriers to women's progression beyond senior constable rank. There is also evidence of individual and/or collective bias in appeals against selection of women for supervisory and officer positions.

The Review notes that the outcomes of promotions and appeals should be monitored and reported as part of the Gender and Diversity Strategy performance framework.

Promotion

Identifying and modelling promotional pathways

The Review heard consistently of the gendered expectations of the workforce aligning with gendered expectations relating to the domestic sphere and the changing world in which police now find themselves:

If I can get the women to sergeant then it's highly likely I can keep them moving up to senior sergeant. For a lot of them, it's balancing the kids. A lot are married to police and they say "he's going to go on with his career" and I say "you're in the same job ... why do you assume he's going to go ahead?" They never question it until I say "you can have both, you can put in for flexible work hours".

I recently put two [senior] policewomen at the same station which is usually never done and people were asking "why didn't you put one at each?" I challenged that saying that "there are usually two men at every station, what's the difference?" ... I'm looking at skill set and fit (female interviewee).

In its discussion about the principle that the diversity of leadership increases capability, the ADF Review suggests the importance of visible leadership arguing that:

While a handful of women in visible positions should not be read as a critical mass, it is nevertheless crucial that other female personnel are able to identify role models.²²¹

Unlike some other organisations, which have a regular practice of 'parachuting' in senior women from other businesses or sectors to leadership positions, the sworn workforce in Victoria Police has clearly defined pathways into senior roles through the police officer rank structure. While this is problematic in many ways, it does give sworn women in Victoria Police the opportunity for a clear line of vision

²²¹ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 586 (Meeting with ADM M Ferguson, Vice Chief of Naval Operations, USA).



to trace and emulate the career pathways of those ahead of them. Currently the value in this approach is constrained by the limited numbers or complete absence of women in senior roles as role-models, as well as limited examples of the organisation providing flexibility.

Public servants

In the case of the public service workforce, many senior, female staff have come from outside the organisation rather than being developed and promoted through the organisation. For public servants, there were clear obstacles to professional development or promotion, and a lack of emphasis on building people's skills. One senior female public service employee told the Review:

I think I could add more value than I do, here ... I was asked if I was ready for promotion – but where would I go? I said promotion opportunities are limited and I am not currently used to my full potential (executive interviewee).

For women in sworn-dominated workplaces, such as stations and units, their role is often seen as an unchanging support role. Interestingly, this view is reinforced by the organisation in the 2014/15 Annual Report, which refers to the role of VPS as 'support' to police and PSOs, rather than one which provides a public and community service in operational capacities, or a driver of quality assurance, or policy and system reform in their own right.

It's consistently reinforced that VPS staff exist to support police work. VPS staff see themselves as second to the sworn members. The consistent reinforcement of that message is not best practice (executive interviewee).

Those VPS at the station level often spent many years in a VPS 2 role, growing in experience and expectations around their role, without commensurate promotion opportunities.

On top of this, the Review heard about the impact of the recent Sustainable Government Initiative, where there were significant job cuts

for public servants, including within Victoria Police.

Impacts included that the VPS staff who remained often felt 'stretched' and that they were "punching above their weight" within the organisation.

The Review heard that as a consequence, managers were sometimes advised to encourage their VPS staff only to undertake tasks aligned with their position description (site visit).

It was assumed that police could undertake the specialist roles previously undertaken by the VPS and sworn capability was used to fill VPS roles.

... recently, the organisation has been replacing skilled VPS staff with sworn members. We have sworn people in positions that don't need to do those roles and are not qualified to do them! (female interviewee).

This was despite there being:

... certain areas that would be better run by VPS. VPS staff would be able to satisfy the role function, enabling VicPol to redirect sworn members to better service any operational needs ... I am aware that sworns are sometimes surprised when an unsworn arrives in an operational information/training session run by the Command (female interviewee).

These findings, and the perception of better protections of (and benefits for) police than VPS contained in enterprise agreement, results in a devaluing of public servants within the organisation, with funding implications for the organisation, given the relative cost of police to VPS and the pressures on frontline policing.

As noted in Chapter 5, the Review believes that recommendations in the State Services Authority Inquiry into the command, management and functions of the senior structure of Victoria Police (2011) around improving the flexibility of existing funding models would have a significant and beneficial effect on not only organisational efficiency but

the relationship between public servants and police within the organisation.

In terms of whether there are good opportunities at the more senior levels, it was suggested that

I hope so. I am ambitious and driven. When you get to the VPS 6 level, there isn't that much transition in terms of turnover (female interviewee).

Applications for higher roles

Not only does discrimination harm women's career progression, it also has a negative effect on women's work attitudes and health.²²²

Aside from the in situ promotion from constable to senior constable after four years (and after the fulfilment of various conditions), other promotions within Victoria Police require candidates to put themselves forward and apply for promotion.

Employees told the Review about a range of reasons that women did not put themselves forward for promotion or transfer. In part, they related to women's levels of confidence and their experiences within Victoria Police (see chapter 4), and partly to the stigma or expectations of accessing flexible work arrangements.

A variety of societal issues contribute to the 'glass ceiling' for woman. ... An attitude that "you can't be a manager if you are part time". I hear this time and time again from senior male and female staff, meaning that potentially terrific female leaders aren't even considered for senior roles solely on the basis they are part time. Part-time female staff themselves do not even put themselves up for such roles because of the weight of this attitude ... (male survey respondent).

Women tend to confide in you when you go in as a temporary Senior Sergeant. They tell you they can't get, or they feel they can't get, upgrading because they're female, they don't get

the opportunities because they have children, they experience degrading comments, have feeling of isolation and lack of support (female interviewee).

As a woman, there is a sense you need extra credibility to even apply for the job (Chief Commissioner of Victoria Police).

These comments suggest that women's progression opportunities are strongly impacted by organisational attitudes and behaviours to women generally and women who utilise flexible employment conditions in particular (see Chapter 7). In addition, they suggest that women lack confidence in the value of their experience in the broader context of the organisation and have concerns about a general lack of support and access to flexibility at higher ranks.

My corro sergeant has encouraged me to upgrade. But I don't feel like I'm there enough (female interviewee).

The Review heard suggestions that higher level roles were sometimes not attractive to women:

... I speak to a lot of them, they have family and they're not interested. It's not attractive. Women just don't want it (executive interviewee).

... there still aren't many female bosses. It isn't a discrimination issue, it's just the path people take (female interviewee).

Some might argue that this is personal choice, however, the Review heard from many women who had achieved seniority about the extra challenges they faced in also having to manage sex discrimination, including poor attitudes and behaviours directed at them based on their gender. In addition:

There's no exit interview process at present even though women are leaving more and they're not applying for higher roles so we think there are systematic barriers or is it personal choices? We don't have the evidence because there's no exit interview (female interviewee).

²²² Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report (2014)* 46, 100–103.



As part of the broader Equity and Diversity Strategy recommended by the Review, if women are indeed making this choice, it is important to understand the workplace context in which they are making it.

Recommendation 6 requires that Victoria Police introduces exit interviews for all resignations and retirements and monitors the data collected for trends around attrition of particular groups, and use this data to inform targeted interventions.

The issue of clear pathways and career planning for women in obtaining senior or non-traditional roles is not unique to Victoria Police, and the organisation can take lessons from other industries who have also taken the important step to attain gender equity:

*Achieving any major change also takes commitment from every leader in an organisation, not just its most senior. We have found that women's experiences, and their advancement, are often too dependent on whether they are lucky enough to have a manager or sponsor who is supportive and inclusive. We need to end the leadership lottery.*²²³

Selection criteria

The process

In 2011, under Chief Commissioner Simon Overland, Victoria Police introduced a capability framework (discussed earlier in this chapter). The framework was discussed at the start of this chapter. This was a concept that was already in operation within the Australian Public Service. The capability framework:

... replaces Key Selection Criteria (KSC). KSC are minimum job requirements for a role – now we have a capability framework. There are lots of descriptors. That is what we measure against in our selections ... In an interview, we will ask questions against three or more capabilities and a scenario question that relates back to the capability framework (senior manager).

²²³ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 7.

The organisation's policies and procedures and information received from the TPU continue to refer to KSCs. The Review team presumes, however, that these KSCs are linked to the capability framework.

The Review team heard of limitations in the interview process.

We expect a lot of the interview process. It needs to reveal an applicant's underlying commitment to our values and organisational direction as well as their ability to perform the technical aspects of the role. It must be conducted in a manner that allows the selection panel to determine the most efficient applicant in a period of approximately 45 minutes. For example, if the position being filled relates to managing and leading others, the interview process needs to reveal an applicant's ability to exercise sound judgement and influence others accordingly in the context of the role. That needs to be done by asking an average of four or five questions. We are always striving for a balance between testing for ability at level (rank) and testing for ability to perform the technical functions (role). We do our best but in the end there is always a level of compromise (senior manager).

The composition of panels

For public servants, the Transfer and Promotion policy states that:

The panel should:

- be selected to ensure Victoria Police diversity principles are met, for example, where female applicants are interviewed a female panel member must be included on the selection panel
- consist of two or more members ...
- be of an equivalent level or higher than the vacancy, and
- include an individual who is independent or neutral to the area and is familiar with effective selection processes ...²²⁴

²²⁴ Victoria Police, *VPM Instruction 306-10 Transfer and Promotion (Unsworn)* (updated 03/11/08) section 6.1.2.

This policy also outlines expectations around training and qualifications for convenors.

The Review understands that the selection panels for police:

*must include at least one employee of the same gender as the applicant to be interviewed.*²²⁵

Review participants commented on the composition of panels suggesting:

We always have a local management representative and independent members on the panel as well. The sworn panel members are usually a rank above the position that is being filled. We have to have gender balance and luckily for us, most of the TPU staff members are female. Otherwise, we would be asking the same police women over and over to assist (senior manager).

The Review heard that TPU processes are managed by the convenors who are VPS level 4 consultants either with Human Resources backgrounds or who have risen through the levels in Victoria Police.

Participants raised concerns about the composition of panels in practice. It was suggested that 'The promotion process is a joke' and that it is 'easy to stack the panel' as there are three people on a panel (one from the Transfer Promotion Unit and two police) and that the convenor of the panel is usually 'less influential' as well as being the female, the independent member and the VPS 4 from TPU and often the most junior person in the room.²²⁶

I've sat on panels before and they ask 'who do you want?' ... That's what the Transfer & Promotion Unit was meant to do – stop cronyism. The TPU staff don't have seniority to challenge higher ranks (male interviewee).

One person did state, however, that:

In terms of workplace practices, they sometimes had panels with an external

person. I think this is great. I'm not sure if they do this for senior appointments though (female interviewee).

The Review sees value in this process, particularly given the disproportionate burden on senior women, given their limited numbers, and the need for more, senior women on panels.

In addition, there was concern expressed about the relative status of public servants and police within Victoria Police which was a broader issue discussed earlier in this chapter. One public servant noted:

When you employ a police person, the only way to be on the panel is if there are more sworn members than VPS ... I think that people more suited to positions may be picked if 'panels' were more reflective of the community rather than the hierarchy. Why can't an unsworn be on the panels more often and why are the rules so stringent? I have recently been on a panel and a complaint was made because I am not the direct line supervisor of the sworn officer but they have an important role to play in my team in terms of leadership ... On one panel I sat on, I had to ring around and find a sworn member to sit on it as well. There's still an attitude that public servants aren't as important (executive interviewee).

In addition to panel composition in terms of gender and police/public servants, there is also a question around capabilities. One interviewee stated:

Here's an ethical point worthy of discussion. I am going through a selection process for a senior sergeant position. There are referee reports available to me. One is signed off by a ... detective inspector [who] was previously one of my subordinates and [in whom] I have a lot of faith ... [The detective inspector] has indicated in that report that [the applicant] ... was demoted for inappropriate sexual behaviour towards someone in the workplace within recent times.

I did not read the referee report and

²²⁵ Victoria Police, *VPM Instruction 306-2 Transfer and Promotion System (police members only)* (updated 13/9/10, under review).

²²⁶ Information provided at a site visit.

as a selection panel, we shortlisted the applicant out of the selection process based solely on an inadequate KSC submission. The question is, if these things come to your attention, do you ignore them for the sake of objectivity/ impartiality in the selection process or do you go with your intuition and not select that person if he is the highest rated person applying for the position? (male interviewee).

This quote draws attention to situations where, even where their behaviour has been identified and responded to (which this report demonstrates is often not the case), harassers may be promoted through different interpretations of the term 'merit'. The above quote highlights the importance of appropriate training for all panel members in relation to panel processes and in particular, what comprises 'evidence' for the purposes of panel processes. This may be quite different to what comprises 'evidence' for investigative policing purposes.

The need to adequately capture poor performance is discussed in more detail in Chapter 10.

The outcome

As discussed later in this chapter, there was great scepticism around whether the transfer and promotion process was actually merit based. There was a strong feeling that:

In this organisation, people know other people, given for many this is their whole career. I'm not sure they are always picking the best person on merit (executive interviewee).

'Jobs for the boys'

Some participants suggested that it went further than this and perceived highly unethical practices in the recruitment processes:

In my own experience, I went for a job and there was a female who also went for the job and the detective senior sergeant did not want the woman to get the job, so he tried to give me the answers which I refused ... I didn't report him because of his seniority and he was going to retire shortly ... He did

not want a woman in that job (male interviewee).

I don't even know why we hold selection boards and have applications for transfer. If a work unit want a member, they usually get him. His KSC is valued [sic] as ok and he is leaked the board questions (male survey respondent).

In Vic Pol you need to be aligned with the right people. It's not your skills and experience. You need to be connected (male interviewee).

As has been noted in organisational change management, however, even with the right people, the issue of organisational culture is important as ultimately, 'culture eats strategy for breakfast'.

When I started at VicPol, promotion was based on the time in position. That's why people were so obsessed with their registration number. It did change to a merit based system but you would still get a bunch of blokes on the panel. Their view of merit is 'Someone who looks like me. I decide what looks good' (female interviewee).

It is clear that monitoring and accountability is vital in this area. In the absence of organisational accountabilities that sit within an Equity and Diversity Strategy, some managers have taken it upon themselves to ensure that appropriate processes have been followed. One senior member stated:

When I get the files for promotion selections, I look at how many females applied. Recently eight out of thirty were female. I asked the convenor why none got a panel. And then I might validate it by calling for the panel files from the Transfer and Promotions Unit (TPU).

I'll ask "tell me how you satisfied yourself that not one of those females were good enough to get the panel?" ... (female interviewee).

A process requiring intervention and audit where women have not applied, are not evenly represented or have not been selected for

interview closely aligns with broader work being done in the private sector.²²⁷

The Review considers that an intervention audit model will assist to ensure transparent and equitable promotion practices.

While it is important to invest in development and support, including bias awareness, change leadership and coaching it is also important to examine the informal culture of the organisation. This was discussed earlier in the chapter in relation to the capability framework.

Where women do not apply, are not equally represented in applications or are not selected for panel interview for all VPS and sworn roles, the Deployment Unit should be required to undertake an audit based on the principle of “50/50: If not, why not?” in partnership with local management. The outcomes should be reported to Command through the Equity and Diversity Work Plan ongoing reporting process.

Operational skills continue to be preferred over people management skills

The Review continually heard that operational skills were valued over people management.

... we don't prepare people for managing people ... we don't prepare them when they qualify, when they are promoted. There is a sense that everything to do with people management is the 'fluffy stuff' or soft skills, so it is not prioritised. The emphasis is on the operational ... We have inadvertently prepared the wrong people for promotion. And then we wonder why they can't manage people (female interviewee).

The lack of focus on people management in the organisation is discussed in detail in chapters 9 and 10. This affects the quality of managers on panels and also the quality of candidates selected by those panels. This negatively impacts on workforce capability, and in particular the elimination of sex discrimination and sexual harassment, in a number of ways:

1. Promoting people without sound

²²⁷ For further discussion of initiatives in this area, see Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 24.

management skills and in particular, the skills to manage issues like sexual harassment, leads to increased victimisation of women.

Part of the problem is that there is a serious lack of leadership – we promote good coppers not good managers ... they completely lack the skills necessary to do this ... There are born managers and leaders who get into management and it's fantastic. But the majority ... have no natural or taught ability to manage people (female interviewee).

I've always wanted to be a senior sergeant and to run my own station but now the role of senior sergeant is seen as a step to Inspector. ... I could say I am a good people manager and it is not of interest. People management is not valued in the promotion and retention process (male interviewee).

2. Moving and promoting problem people.

The Review heard that promotions are based on operational skills, not people management and that:

The practice of moving people as a management strategy [is] definitely still widespread (female interviewee)

In conversations with employees, the Review was told there was one sergeant who was promoted to senior sergeant at a 'boys club' station. He was promoted despite there being a joke going around that he hated women (site visit).

In conversations with employees, the Review was told there was one sergeant who was promoted to senior sergeant at a 'boys club' station. He was promoted despite there being a joke going around that he hated women (site visit).

Together, these two impacts result in:

3. Maintenance of the status quo in terms of attitudes to women and limiting women's access to career opportunities, in particular, panels still preference masculine notions of policing.



This is in the context that:

*Leadership from the top is critical but not enough. Middle managers determine the day-to-day experience in our organisations. When inclusive leadership isn't clearly valued above other styles, we end up with a potluck situation that can adversely and acutely impact the progression of women ...*²²⁸

Despite recent efforts to change organisational culture, including through the development of a capability framework for the skills and competencies valued in promotion to managerial positions, culture continues to influence decision-making in promotions, and warrants attention.

Sometimes women aren't upgraded because they are told they need 'emotional development'. At Victoria Police, you can't show your emotions or the bosses think you are weak. For example, a female officer recently went to a [road traffic] accident. She was upset when she got back to the office. Her managers were worried she couldn't do the job ... but ... at the scene, she was professional and did her job well (female interviewee).

The unwritten standards around the traditional/historic notions of policing and views about the inherent masculine nature of policing or the ideal police officer being male, with no caring or parental responsibilities, and working full time, (see Chapter 2) is integrally linked to transfer and promotion opportunities.

We shouldn't be lowering/changing recruiting standards just to make it easier for women or minority groups/races to join Victoria Police. The standards should be maintained and prospective applicants encouraged to come up to the standard (male survey respondent)

This conception of the skills required to be an effective member of Victoria Police suggests that they are the primary domain of men and

that unless women or diverse groups can 'meet the standard', they are not welcome in the police force.

Tailoring role capabilities

Chapter 7 argued that Victoria Police need to reassess the true capabilities for roles in terms of their physical requirements. Similar processes should be undertaken by Victoria Police in unpacking the actual duties and prerequisites of roles across the organisation to determine the inherent requirements of the particular roles.

Telstra engaged in an assessment process like this when they were trying to shift graduate recruitment to 50 per cent male and 50 per cent female. They undertook a detailed analysis to understand the technical requirements for Telstra graduate opportunities and in the process:

*Myths were debunked when it was found that a much smaller number of roles than originally thought would actually require a technical degree.*²²⁹

There may be particular areas where traditional conceptions may be relevant, for example,

... people should be promoted on their ability to perform in the role, which sometimes in specialist divisions, relies on strength and fitness. Of course, a vast amount of roles in the police force may not require this level of strength and fitness (female survey respondent).

Participants, in line with the organisation's Blue Paper, suggested that greater value may need to be placed on other capabilities,²³⁰ for example

... emphasis should be placed on the 'customer service' side of policing in serving the community. This would lead to qualities such as approachability, good communication and affability being valued over qualities like physical size, aggressiveness and a macho

²²⁸ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 8.

²²⁹ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 23.

²³⁰ Victoria Police, Victoria Police *Blue Paper: A Vision for Victoria Police in 2025* (2014).

CASE STUDY:

Structuring role capabilities to better meet community needs

The Critical Incident Response Team (CIRT) is a specialist unit of around 200 police responsible for providing a 24/7 tactical capability. This includes: response to critical incidents not involving firearms; including people threatening to harm themselves; close personal protection of dignitaries; negotiation; and tasked operations such as forced entry of buildings.

Recently the CIRT reviewed their negotiation capability to assess whether the existing approach was effective in meeting business needs.

Until recently, the practice was for negotiators to be drawn from within CIRT personnel and provided additional technical and physical training. This was not providing the optimum pool of personnel with highly developed interpersonal communication skills to maximise effective negotiation.

Further, the model of having CIRT members in uniform and carrying high powered weapons, engaging with distressed or drug affected people was at odds with the need to gain trust to negotiate. In addition, less than five per cent of CIRT personnel are women and there are only four female negotiators. For women in the community who are traumatised from sex abuse and other violence at the hands of men, the use of male negotiators is often not appropriate.

In consideration of these issues, the CIRT has changed its structure to have a dedicated negotiator capability, with suitable personnel recruited from the whole police workforce (rather than from only within CIRT). With an improved gender balance and the optimum skills, negotiators (who will dress in plain clothes) will better meet the needs of the Victorian community.

attitude. I believe this would begin to permeate all aspects of Victoria Police and therefore would affect the interactions between individuals and groups whilst changing attitudes towards each other and fostering a greater respect for everyone. ... (male survey respondent).

... the police force is employment for a career. We have minimal lateral entry. I think that is quite compelling. It means that there is not always a cohort of experienced female applicants for promotional positions (executive interviewee).

The Male Champions of Change report suggested that at the moment:

Many of the pools that we source candidates from are male-dominated. We need to look more broadly. There are other ways beyond time in a role, that people gain capabilities, skills and experience²³¹

Valuing non-traditional pathways

The key to increasing female representation within Victoria Police is in part, increasing access to less traditional recruitment and promotion pathways.

²³¹ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 22.



This would appear to be particularly relevant to Victoria Police. Unnecessarily narrow criteria can restrict women’s advancement:

If the only profile we think of as successful is direct and unbroken experience, then we will bias selection. We may overlook people with other equally valid backgrounds and capabilities²³²

While the Review would suggest that greater flexibility in terms of organisational mobility is essential, there is a long way to go in terms of education and attitudinal change within the organisation to accept the legitimacy of these approaches to workforce capacity building as legitimate. As noted earlier, what the Review repeatedly heard, was that the more traditional, operational policing skills were more valued in terms of promotion within the organisation.

There’s a culture of not rewarding people who leave. You stay in through the tough times. So some people did not want to accept the re-employment of members who had left to, say, have babies (female interviewee).

It would be reasonable to assume that the organisation does not cope well with external people. Lateral entry can assist but you again need a critical mass. ... Lateral entry won’t be the panacea. It will have an impact in five to ten years’ time, unless you get some exceptional people through the door now ... (executive interviewee).

Anecdotally the Review also heard that in the recent recruitment drive for senior leadership roles, the Key Selection Criteria had not included experience in operational policing but that it was added later because of organisational backlash. A respect for traditional policing models may mitigate against building the capacity of the organisation’s workforce. In addition to the above, there is a continual tension between the roles of police and public servants within the organisation that needs to

be addressed as part of the professionalisation of the organisation.

Victoria Police, in developing Equity and Diversity Strategies, coordinate a review of the inherent capabilities required for different roles, articulate the role requirements and identify and mitigate any potential gender impact as necessary.



RECOMMENDATION 11

That Victoria Police reviews the inherent requirements for roles to ensure they reflect the task required.

Experience

Without doubt, relevant experience and professional development are key elements that support promotion and advancement, yet women are disadvantaged in access to assignment, higher duties and training opportunities, compared to men.

Assignments and acting

It is reasonable to assume that in addition to mandatory qualifications required for each position, ‘experience’ includes such things as higher duties assignments and exposure to particular parts of the organisation relevant to the role being applied for. As noted above, under the policy that applies to public servants, work performance explicitly includes performance while on assignments.²³³

The Victoria Police policy on the Assignment Process states in its introduction that:

As higher duties assignments represent a significant expenditure out of the salaries and wages budget, there is a need to ensure that:

- assignments are appropriately managed within available budgets
- the principles of merit and equity are applied

²³² Male Champions of Change, ‘Accelerating the advancement of women in leadership: Listening, Learning, Leading’ (Australian Human Rights Commission, 2013) 25.

²³³ Victoria Police, *VPM Instruction 306-10 Transfer and Promotion (Unsworn)* (updated 03/11/08) section 6.3.8.

- employees are recognised and rewarded for actual duties performed in accordance with employment conditions.²³⁴

The policy details a process that should apply where an assignment is for a period in excess of three months. For assignments of less than three months, it is unclear how these operate. In both cases, it is unclear where decisions about who should have opportunities to act in higher duties roles are made and what, if any, accountabilities sit around this.

Opportunities to act in more senior roles is an important factor in promotion. Under the VPM, it is recommended higher duties are assigned to members qualified for promotion.²³⁵ However, the Review heard that employees who have not yet qualified may be assigned where no other suitable person is available.

The Review noted differential access to opportunities to act in higher level roles.

Victoria Police workforce data states that in the 2014/15 financial year, sworn women were given around 18 per cent and men 82 per cent of the total number of days where someone was required to act in a higher role. This varied across ranks. Women comprise around 31 per cent of senior constables; however they acted up for only 20 per cent of the total days available for higher duties.²³⁶

I have two [women] trying to upgrade at the moment but it's impossible. The senior sergeants block upgrading and don't feed information back to the superintendent. The inspectors don't support women either (female interviewee).

These differential opportunities are particularly relevant in the context of the drop off in the representation of women between senior constable and sergeant. While it might be suggested that the numbers above can be explained by the proportion of part-time women at the senior constable level, two points must be made. The first is that as at April 2015, 24 per cent of the full-time, senior constable workforce was female, so even considering only the full-time, female workforce, women are significantly under-represented in the number of days acting in higher level roles. The second point is that if these opportunities are not being provided to women who are employed on a part-time basis, this is likely to have a significant impact on the overall retention of women and may constitute indirect discrimination.

These statistics fit with suggestions that:²³⁷

Sex discrimination is very evident regarding promotion. Police women who are pregnant, on or returning from maternity leave are discriminated against when seeking higher duties (part-time usually cited as the reason) or seeking promotion [and] feel obligated to return in a full-time capacity to further their career because they are discriminated against ... (female survey respondent).

For those at inspector level, days upgraded were proportional to the representation of women however given the low numbers of women at this rank (around 13 per cent) and significant drop off in their representation between inspector and superintendent, proportional representation at this point is clearly insufficient.

While 5 per cent of superintendents were women, only 2 per cent of upgrading days at

²³⁴ Victoria Police, *VPM Instruction 306-13 Assignment Process* (updated 22/11/10) s 1.

²³⁵ Victoria Police, *VPM Instruction 306-13 Assignment Process* (updated 22/11/10) s 5.1.

²³⁶ Victoria Police data – Leave and Higher Duties, 1/7/14 – 30/6/15.

²³⁷ These figures were calculated based on full time and part time staff. Men and women on any type of leave (see chapter 7) were not factored into this equation.



this rank were undertaken by women. These statistics were reflected by the experiences of participants who suggested that:

... women are given less opportunity to enhance their careers. All members go on a suitability list to get to the next level. Men seem to get a lot more opportunities to act in the more senior roles. They get upgraded for a year or two at a time where a woman might get three weeks here or four weeks there. I know of three women on the suitability list. The difference is that when men get on the list they go to the top. Women become the filler – it is not done on merit. The thinking is, “Well, Jim and George aren’t available, so we’ll just take Kate” (female interviewee).

Within the public service, the picture is perhaps even more striking given the very large numbers of women in this workforce and the clear discrepancy between men and women in opportunities to be promoted. Overall, female public servants acted up for 65 per cent of the total days where higher duties assignments were undertaken.

Women at the VPS 2/F02 level acted up in 72 per cent of days available for higher duties (where they make up 80 per cent of VPS2/F02 employees), however at VPS 7/F07, this dropped to 16 per cent of days (where they make up 26 per cent of VPS employees).

Days of executive women acting in higher level roles where there are a comparatively small number of days and a very small selection pool, increase again, with 90 per cent of the 126 days available at higher duties being filled by women.

Of the 302 upgrading days at PSO senior level where women represent only seven per cent of the workforce, 16 per cent were undertaken by women. Importantly, no woman had acted at the PSO Supervisor level for any period of time in the 12 month period, despite women comprising 15 per cent of the workforce at this level.

Victoria Police was not able to provide gender disaggregated data around members who

are eligible for promotion, who then are either successful or unsuccessful in accessing higher duties assignments or promotion. This data is essential to understanding any differences in opportunities available to men and women within the organisation.

Training opportunities

There are a number of ways that access to training is important for promotion. The first is where it is a pre-requisite for access to more senior roles within the organisation.²³⁸ The Transfer and Promotion Unit VP Selection Report template, for example, notes that to be successful in gaining a role, the candidate must:

*[hold] all of the mandatory qualifications to apply for the position in question and has completed and passed the Sergeant Pre-Promotional Exam.*²³⁹

There is also more general career enrichment training for police required to join particular units or squads. This is particularly important for women because the pathway to flexible work opportunities is often dependent on being able to join specialist units.

Chapter 9 of this report discusses training and education within the organisation and finds that the hours that training is provided are generally geared towards full-time staff and are sometimes even run on a residential basis. This, alongside geographical considerations, makes the organisation's training inaccessible for many women, particularly those who are employed on a part-time basis.

In training this could be achieved by shifting top down or order of merit selection to one which identifies a line above which all candidates are meritorious for the purposes of training (similarly to recruitment, as discussed in Chapter 7).

²³⁸ Victoria Police, *VPM Instruction 304-2 Promotional Programs* (updated 08/01/07). Section 5 refers to the Promotional/Qualifying Programs required to become confirmed as a Sergeant, Senior Sergeant or Inspector. The policy does not detail the promotional programs required for PSOs to rise through the ranks.

²³⁹ Transfer and Promotion Unit VP Selection Report. Information provided to the Review by Victoria Police, 9 October 2015.



RECOMMENDATION 8

Victoria Police reviews and improves arrangements relating to promotion pathways for women including:

- Through central and localised Equity and Diversity strategies and workplans, regularly review gender disaggregated data relating to key promotion criteria on who is accessing upgrade and transfer opportunities.
- Include training to be developed by PDC about utilising clause 63.6 of the Agreement to allow progression for constables who have taken a period of unpaid parental leave and do not have 12 months' salary payment at their current progression point, but otherwise meet the performance and capability criteria for promotion.
- Design and implement employee career planning and support, which includes clear pathways and support for women to pursue professional development and training in leadership and non-traditional roles and formal sponsorship.
- Under academic governance guidance, review the Senior Management Leadership Program and learning support mechanisms to ensure alignment with the contemporary requirements and needs of women for leadership.

As part of the performance framework (Recommendation 3), within 18 months, women's access to upgrading and training opportunities is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service) and within three years, 50 per cent of all upgrading, training and transfer opportunities are accessed by women.

Length of service

In the past, it was noted that:

*The HR process seemed antiquated.
Everyone gets a number at police.
If two people with the same skills*

and similar years of service applied for the job, the person with a year's longer service would get the job or could appeal it. In terms of the gender impact, anyone who has joined the force later or taken family leave/study leave is disadvantaged despite your professional capacity (female interviewee).

As noted above in relation to the transfer and promotion processes, there is now reference to seniority not being a factor in the consideration of effectiveness. Evidence presented at the start of this chapter in relation to merit based promotion, however, suggests that much of the organisation was either not abreast of the change or were not seeing evidence of the change in practice. It was suggested that:

Victoria Police's biggest issue is that its hierarchy is based primarily on time-in-service and not merit. There are too many dinosaurs and men from bygone eras in positions of authority to effect any real change on any modern issues (male survey respondent).

It was also suggested:

There is a view that for many years seniority was the basis of promotion. Now there is a system of merit which enables continued discrimination – it is a complicated issue (The Police Association Victoria).

Related to this is the Victoria Police Force Enterprise Agreement (Agreement). The application of the flexible work clauses of the Agreement, which were discussed in Chapter 7, also impact on the areas of transfer and promotion. However, there are clauses within the Agreement which specifically relate to promotion and pay progression which might also have a disproportionate effect on women, parents or carers. For example:

- An assessment of suitability for progression is conducted annually against the agreed policing capability framework. Employees must have received salary payments at their current progression point for a period of 12 months to be eligible for progression to the next point. This includes progression



for “in situ” promotion from constable to senior constable (which requires four years’ service). Where this salary criteria is met, and the person is assessed as suitable against the capabilities, they will progress. However, where a person has not received salary payment at their current progression point for a period of 12 months, or where a person has been absent for 12 months or greater on unpaid leave, they are not entitled to progression for that cycle. This will affect employees who have taken any form or length of unpaid parental leave, including extended unpaid parental leave.²⁴⁰

- Where an employee has taken a period of paid leave for three months or more, and their employer believes that because of the length of absence their performance is unable to be assessed, progression may be deferred. Employees who have taken their paid maternity/adoption/other parenting arrangement leave are likely to be caught by this provision – either by taking leave entitlement at full pay for 14 weeks (3.5 months) or at half pay for 28 weeks (7 months).²⁴¹

However, Clause 63.6 of the Agreement provides an exception to the rule. Where an employee has demonstrated suitability to progress and 12 months has elapsed since progression, but they have not received 12 months’ salary (such as because they were on unpaid parental leave), then their employer has a discretion to allow progression despite not meeting the salary criteria. It is not clear to the Review how often this was utilised or whether employees or managers knew about how to go about utilising this clause.

Recommendations relating to the Enterprise Bargaining Agreement can be found in Appendix 1.

Career support for women

Development support

The Review emphasises the importance of role modelling and sponsorship not being the sole domain of senior women in the organisation:

There are a lot of good superintendents in terms of supporting women. ... There’s also the inspector rank. The demands on leaders are phenomenal. They still need to pick up their kids and things like that and mentoring is often in their own time (female interviewee).

The Review acknowledges the strong perceptions of many employees that local initiatives aimed at supporting women was ‘separatism’ and anti-meritorious.

There is still a divisive counter culture which pedals a sort of women first at all costs approach ... It insults the policewomen who have been here for many years ... (male survey respondent).

At the same time, the Review provides clear and unequivocal evidence of the significant level of sex discrimination and sexual harassment within Victoria Police.

In the context of the obligation in the Equal Opportunity Act to take reasonable steps to eliminate discrimination, sexual harassment and victimisation, Victoria Police must do more to ensure women are not discriminated against in the area of promotion.

Targeted programs for women promote substantive equality of women in the workplace, under the ‘special measures’ provisions of the Equal Opportunity Act (previously discussed in Chapter 7 in relation to recruitment).

The Review heard of a number of programs that have been lead and implemented for women, and that these were of great value to women, particularly more isolated women, for sharing expertise and support (see Chapter 4).

However, some women reported that women-specific initiatives are not effective in achieving their aims, either because they didn’t have

²⁴⁰ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 63.

²⁴¹ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl. 63.7

sufficient support centrally, or because they were limited in their capacity:

Some of us have been involved in Women in Police initiatives. They weren't effective and were seen as tokenistic. It will take a lot more than that – it will take a long time to change – there's still a long way to go (female interviewee).

As part of the organisation's Equity and Diversity Strategy, Victoria Police should resource and coordinate women in policing committees for all female employees across all regions, including rural areas. These forums should provide expertise to inform Command/ Departmental Equity and Diversity Strategies (see Recommendation 3).

Mentoring and sponsorship

Broader evidence shows that advancement to senior and executive levels usually relies on sponsorship, which women are less likely to have access to than men.²⁴² Under IBM's sponsorship program, for example, sponsors are directly accountable for successfully advancing women into executive roles through advocacy.²⁴³

This means ensuring that potential candidates are identified by leadership and encouraged to take assignments that will open further opportunities.²⁴⁴

The Review heard the importance of having role models to look up to (see also Chapter 7).

More junior [women] need to be able to look up to female mentors as well as male (senior manager).

They need to hear from someone with the same background as them that 'We don't have to put up with this shit' (female interviewee).

The concept of mentoring to top-

²⁴² Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 26.

²⁴³ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 27.

²⁴⁴ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 586.

level leaders is there – they get opportunities, but others lower down are left to fend for themselves. There is no formal coaching, mentoring or supervision process that supports their development (female interviewee).

There is a lack of role models ... in higher [roles] who demonstrate that you can work hard without working massive overtime. Those who have been promoted have worked the long hours. Do high ranking members knock off at 3pm to pick up their children? (The Police Association Victoria).

One participant who had lived the challenges suggested:

I have children and have had to navigate a career and a family. There are some hard decisions you have to make. It also depends on the support models around you. People must be supported in their decisions and allowed the opportunity to have their family, as well as their career. There needs to be a maturity of discussion from the organisation about how this can be done in a more supportive way (executive interviewee).

Men and women managers both need to sponsor talent in their workplaces. Visible female leaders are needed to demonstrate potential career plans and pathways for emerging talent.

Support for women in the organisation was partly seen to relate to improved policies around part-time and flexible work practices (discussed in Chapter 7). While the initial beneficiaries of such changes would be women employees, flexibility would be accessible to men.

Serious consideration should be given to the development of a framework/ policy that provides support for the career path of part-time staff, most of [whom] are female (male survey respondent).

This participant goes on to discuss the importance of a:

Policy to encourage where ever possible that senior roles are merit

based and independent of the applicant's part-time status. If the best applicant is part-time, then consideration must be given to whether the duties can be fulfilled part-time or by job sharing arrangement. Performance management can be used to regularly review and monitor the [effectiveness] of job sharing arrangements. If these policies do currently exist then they are not communicated or ineffective in the current form ... (male survey respondent).

He noted that if implemented along with changes to provide for backfill of staff on parental leave (see Chapter 7), the benefits would include:

Good leaders will not be overlooked because of their part-time status

Reduce managers putting career limitations on part-time staff and part-time staff putting limitations on themselves.

Reduce risk of resentment build up towards part-time staff due to loss of capacity

Job sharing can provide a great developmental opportunity for staff

Increase equity in the workplace at the senior levels. (male survey respondent)

There are other approaches to getting women onto promotional pathways. This includes ensuring the nature of the work they are performing is the sort of work that is valued for the purposes of promotion. The Australian Defence Force Review, for example, examined promising initiatives in international militaries and discusses directing women into non-traditional roles. In particular, it suggests the US Navy uses a temporary special measure to direct women into technical – or seagoing – occupations.

This initiative involved setting direct quotas for women in seagoing occupations, and increasing the quotas for those 20 roles identified as having

the lowest representation of women. Inherent in doing so was a recognition that these occupations contributed to defence career progression.²⁴⁵

This fits with the Male Champions of Change report which recommends that leaders should:

Ensure women get critical experiences in 'hot jobs'.²⁴⁶

The report defines these as jobs that provide critical experiences that facilitate career progression. In Victoria Police it was suggested, for example, that:

For members promoted to officer, they need a strong operational background. I've been trying to put women into operational roles so that they are on a promotion track (executive interviewee).

Females are told they have to do 'ride alongs' to upgrade (female interviewee).

Conversely, it is important that women are not doing a disproportionate number of the jobs that will not assist with career advancement.

The Male Champions of Change report further recommends that if there are experiences that are critical for advancement, it is imperative that we find ways to ensure women gain these experiences, particularly early on in their careers.²⁴⁷ This early career planning can assist development after any subsequent period of parental leave. It also speaks, however, about "Raising the bar on women's experiences". In particular, it suggests:

²⁴⁵ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 587 (Meeting with Navy Personnel Office of Diversity and Inclusion).

²⁴⁶ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 5.

²⁴⁷ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 26.

[Understanding] the types of experiences your organisation requires and [broadening] the success profiles you consider for senior roles.²⁴⁸

KPMG found accelerated rotational programs critical as well as encouraging and sponsoring women to pursue lateral career moves on their pathway to senior roles.²⁴⁹ Victoria Police could further explore these models where the organisation's leadership personally sponsors talented women and expects the same of management.

... progression is often about leading larger groups. If you can't achieve balance targets now, that will impact my evaluation of you as a future leader.²⁵⁰

The above highlights the importance of building in targets within individual leaders' performance management frameworks to ensure a level of transparency and accountability to Executive Command.

Finally, in addition to both ensuring that women have equal opportunities to gain experience in the areas valued by the organisation for progression and to broaden out the conception of what those experiences might be, there is a role for Victoria Police in reassessing what is valued culturally for the purposes of career progression.

This is especially relevant in light of the organisation's vision around the future of policing, which would be likely to result in increasing the value around many of the roles in which women are already more likely to be engaging. Significant work has been undertaken by the organisation in this area to date, particularly through the development of the capability framework. This is discussed in detail below.

The Review has made recommendations around individual and collective accountability for inclusive leadership in Chapters 5 and 10.

248 Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 5.

249 Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 26.

250 Elmer Funke Kupper, Managing Director and CEO, ASX as cited in Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 16.

Data, targets and the myth of merit

'Merit' and resistance to change

The Review reported in Chapter 3 on individual and organisational resistance to change on diversity. As noted in Chapter 3,

... when gender relations are based on a hierarchical model where women play a subordinate role, violence may be used and accepted as a mechanism for maintaining this dynamic, especially when it is under threat.

... studies also show levels of violence against women increases in societies ... where women begin to play a more prominent role in paid work and civic society. Together, this suggests that violence, or the threat of violence, may be used in such circumstances as an attempt to re-establish the previous 'gender order', one that is often perceived to be 'natural' or 'traditional'.²⁵¹

In addition to earlier evidence of misconceptions and hostility towards women being promoted, there were strong views expressed by survey participants regarding promotion. Men and women alike argued that the processes were deeply flawed and did not support appointment on merit or efficiency.

I don't believe that either sex is advantaged in getting jobs or promotions. I believe advantages go more to friends regardless of sex or ability (female survey respondent).

Nepotism and cronyism is alive and well in Victoria Police for both men and women (male survey respondent).

Cronyism was considered by many participants, particularly women, as closely linked with gender with continual references to a 'boys club' and 'the brotherhood'. People spoke of

251 OurWatch, VicHealth and Australia's National Research Organisation for Women's Safety (ANROWS), *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia* (November 2015) 31.



'jobs for the boys', where 'men appoint men and look after each other':

I believe there is gender bias within the organisation. It has been my experience to have missed a number of job ... opportunities in favour of a male colleague of equal rank/experience. Female colleagues of mine have also discussed sharing similar experiences (female survey respondent).

Conversely, and consistent with employee views discussed in Chapter 7, there were deeply held and widespread perceptions that reverse discrimination was occurring for transfer and promotion processes.

Promote people on merit rather than rankings within their specific gender base as introduced by Nixon (male survey respondent).

This belief that women were not promoted on merit was expressed by a number of male survey respondents:

There is a very bad perception that we must now promote people based upon their gender and no longer their ability. By following this path we will discriminate by gender and not reward those who are most competent to do the duties required (male survey respondent).

... Promotion should always be on work performance not gender. And at this point in time Victoria Police are not helping with a perception in the workplace that if a male and female go for the same position and are of similar ability the promotion will be given to the female. This is also unfair on females who have obtained the role through their own ability (male survey respondent).

This perception that gender and merit were in conflict was also held by some women.

Management strongly support females to be promoted but sometimes this seems to be more ticking a box ... This results in some females being upgraded before their time which has a negative impact on the female

members who have gained promotion on their own merit ... it is difficult to gain the respect of your peers (female survey respondent).

The survey asked participants whether they agreed that men and women in Victoria Police were promoted on merit.

Approximately 40 per cent agreed that women were promoted on merit. Men were more likely than women to disagree that women's promotions were meritorious (33 per cent versus 25 per cent).

Approximately 43 per cent agreed that men were promoted on merit. Men were more likely than women to agree (45 per cent to 39 per cent) that men's appointments were meritorious.

It is important to note that while up to a third of participants believed women's promotions are not based on merit, the majority of men and women did believe that appointments for each gender were merit based.

The Review's qualitative data analysis revealed a lack of understanding of both the true meaning of 'merit' and of considerations that have historically shaped promotion decisions. These are discussed below.

Currently, those making promotion decisions are working within a system where, quite apart from individual or even systemic conscious and unconscious bias (discussed further below), there are significant structural barriers faced by women within Victoria Police in attaining more senior positions and therefore an equal approach to all will not result in an equitable outcome.

The evidence of discrimination lies in the workforce demographics, which show that women are promoted, trained and given higher duties and transfers at a much lower rate than their male counterparts.

The understanding of what potential issues and barriers are for women in the organisation is quite small. Paltry (executive interviewee).

The ways in which the system is not currently based on merit and has discriminated against women or colluded in their experience of harassment include:

The promotion of alleged harassers

Some talked of the current system of alleged perpetrators of sexual harassment being transferred or 'dressed for export' and promoted to shift a problem. The Review heard from participants who perceived that:

There has been, and still is, a culture of managing by sticking your head in the sand although it is getting better. ... When issues or the situation then becomes too problematic or risky, managers try to address it by moving people [and will] remove the risk, we upgrade someone, or give them a project or a secondment. We inadvertently reward the person by giving them opportunities that they can then use to get promoted, even though the original intention was to move them because their behaviour was problematic (female interviewee).

Treat women as equal and actually have a merit system for promotion. I'm disgusted to see men getting promoted as a way to get rid of them from one ... area to another (female survey respondent).

Discrimination

Others spoke of a range of ways in which the current promotion and career progression processes, far from being merit based, directly and indirectly discriminate against women. As with issues of recruitment and retention discussed in Chapter 7, this was often related to women's status as parents or carers, and accessing flexible work arrangement and having those responsibilities accommodated (or a perception that a woman might become a parent or carer and request access to part-time employment arrangements).

Unfavourable treatment on the basis of sex or parental or caring responsibilities can amount to direct discrimination where the employee is denied opportunities for promotion, or had access to opportunities to promotion limited. Other unfavourable, detrimental treatment in relation to promotion and transfer could also amount to direct discrimination. Unreasonable conditions or requirements relating to promotion that appear neutral, but disadvantage women or parents, could amount to indirect discrimination. Unreasonable refusal to accommodate parental and caring responsibilities also can amount to discrimination.

Comments included:

When there is a female applying for a job, when the boss finds out the applicant is a female with children, they assume she will go part time or not be committed to her job. A male often gets the job over a female because of this ... (female survey respondent).

... a member told me that the boss didn't give detective positions to part-timers. When I went for a job once in VicPol, I was asked how many more children I was going to have (female interviewee).

When I was seeking promotion, I had trouble. I knew there was a position I was the best applicant for, but I didn't get it because that unit already had several women off. So organisationally, they didn't plan [the recruitment drive] very well. It wasn't slow enough and there wasn't enough forward planning to take into account the changing nature of the workforce (FEMALE INTERVIEWEE).

The experience of gender stereotypes and sexual harassment

In order to maintain a working relationship, I put up with harassment, otherwise I would not be afforded the same career development opportunities as the male sergeants (female survey respondent)

There are women in this organisation who are working themselves into the ground trying to impress management so they can be given an opportunity for seconding, upgrading or promotion and time and time again, the guy who is mates with the boss (and does not even do half the work) gets it. We are ridiculed for taking maternity leave and coming back part time, where a man who works part time because he has a second job doesn't get one negative comment. Being the best one for the job doesn't matter, it's all about who the boss wants there and unfortunately there are a lot of bosses who do not think women should be in this job (FEMALE SURVEY RESPONDENT)

There appears to be a significant lack of understanding within the workforce about the structural barriers and discrimination that impact meritorious appointments for women. The lack of transparent messaging and engagement between management and employees about the rationale for diversity or the nature of merit provides a vacuum for the dominant narrative of the 'woman or merit' perception to persist. This has implications for performance management processes in an organisation where performance is not proactively addressed.

One well-known business leader clearly articulated the issues when he said:

Let's not pretend that there aren't already established norms that advantage men. Men invented the system. Men largely run the system. Men need to change the system. Without intervention to ensure that our systems are really focused on merit, we will continue to see a lag in women's advancement into senior roles.²⁵²

The statistics of women at each grade and rank (as detailed in Chapter 7), alongside the statistics on upgrading opportunities, are evidence that the principles of merit and equity are not operating

and that women are not attaining particular positions. Many recognised that:

In the Police workforce, women tend to occupy roles with lower classifications. To a lesser degree, this is also the case in the unsworn workforce. I don't believe that we have seen a significant increase in female employee representation in the police workforce above base grade levels (executive interviewee).

Despite this acknowledgement, however, many men and women felt that it would be unhelpful to prioritise the promotion of women through having targets or quotas

... One of the problems is the perception that women are there because of their gender not capability (executive interviewee).

To set a target for women to be promoted in my view is reverse discrimination. A promotion should be based on who is best qualified and deserving to move into a position (male survey respondent).

Many agreed, however, that something needs to be done. It was proposed by one former employee that:

... they need to re-engineer the gender make-up of the organisation. You need more women in executive roles and more men and women with mandates around gender equality. They were improving their practice ... I think this reduces discrimination in their service delivery and internally (female interviewee).

Victoria Police's Chief Commissioner stated:

I'm supportive of quotas but they are not the panacea; they are only part of the solution. What's the point of bringing in fifty per cent women when they only stay for two years? Targets/quotas must be part of a suite of multiple reinforcing initiatives and strategic pieces of work (Chief Commissioner of Victoria Police).

²⁵² Gordon Cairns, Non-Executive Director cited in Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 31.

Others argued in a similar vein:

The allocation of resources and opportunities that impact on promotion can occur in a way that discriminates against women.²⁵³ For instance, there is research that shows that:

*women might get penalised in performance evaluations, promotion decisions, and allocation of important projects, among others, sometimes due to unconscious biases and lack of formalised processes.*²⁵⁴

While quotas would not be welcomed by many men or women within Victoria Police, the current lack of a merit-based system caused by the structural barriers preventing women from gaining upgrading and promotion, need to be addressed directly.

Critical mass is important. The question is how we get there without setting women up to fail ... How do we give them legitimacy to do their role in a supported way? (executive interviewee).

Others talked from personal experience of the benefits to the organisation of more flexible career pathways:

Going out of the organisation and then coming back in was probably the best thing I did. I was a lot more accountable, I learnt a lot. I also learnt that Victoria Police is a great place to work. I also worked with another government department. That was interesting – there were more women than men. I found the relationships were different. It was perhaps more formal, and people challenged ideas in a more respectful

way. Those in leadership roles came from many different backgrounds. Because of that diversity I think there was less chance of the institutional thinking and behaviour that we sometimes experience at Victoria Police (executive interviewee).

However it was often suggested that little value was placed in some of these areas such as on external experience:

... I was a sergeant when I went overseas and I had so much responsibility. When I came back, I wasn't working to my full capability or capacity. That can be a problem in our organisation. It does take a long time before you move through the ranks. We should consider fast tracking the right people.

Along with fast tracking, what has improved in our organisation is the police registration process and welcoming people back into the organisation, and sometimes at higher ranks than when they left. No longer do we seem to be treating people who leave as pariahs (executive interviewee).

The Equity and Diversity Strategy should include strong employee communications and engagement strategies to build awareness of the rationale for diversity, redefine the notion of 'merit' and increase understanding of the existence of structural barriers to recruitment, retention and advancement. See Recommendation 3.

253 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly* 25 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

254 J Dunlea et al, *Developing female leaders: Addressing gender bias in global mobility* (2015) <<https://www.cel.edu.au/our-research/developing-femaleleaders-addressing-gender-bias-in-global-mobility>>; A Genat, R Wood, and V Sojo, *Evaluation bias and backlash: Dimensions, predictors and implications for organisations* (2012) <<https://cel.edu.au/our-research/evaluation-biasand-backlash-dimensions-predictors-and-implications-for-org>> cited in Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly* 25 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.



Special measures and why targets are critical

In the context of the obligation in the Equal Opportunity Act to take reasonable steps to eliminate discrimination, sexual harassment and victimisation,²⁵⁵ Victoria Police must do more to ensure women are not discriminated against in the areas of promotion and transfer.

Targeted recruitment of women into senior roles could be considered to promote substantive equality of women in the workplace, under the 'special measures' provisions of the Equal Opportunity Act (previously discussed in Chapter 7 in relation to recruitment).²⁵⁶

The often cited example is Norway, which for a number of years, has had temporary

²⁵⁵ *Equal Opportunity Act 2010* (Vic) s 15.

²⁵⁶ *Equal Opportunity Act 2010* (Vic) s 12.

special measures including quotas for women on Boards (and an increase in female representation from 7 per cent to 40 per cent in 7 years as a result). Temporary special measures are considered to be interim interventions that may be removed once 'normal' has been redefined and true gender equality is embedded into the systems and culture.

While some people distinguish between targets and quotas, the arguments for and against them, are similar (see table below).²⁵⁷

²⁵⁷ See Workplace Gender Equality Agency, Perspective Paper: Targets and quotas (2013) <https://www.wgea.gov.au/sites/default/files/2014-03-04_PP_targetsquotas.pdf>; Jennifer Whelan and Robert Wood, 'Targets and Quotas for Women in Leadership' (Research paper, Centre for Ethical Leadership, 2012) <<https://cel.edu.au/our-research/targets-and-quotas-for-women-in-leadership>>; UN Women National Committee Australia and Autopia, Re-thinking Merit White Paper (2015) <<https://unwomen.org.au/sites/default/files/Re-thinking%20Merit%20Whitepaper.pdf>>.

Supporters View	Opponents View
<ul style="list-style-type: none"> Statistics show that a history of aspirational gender initiatives and culture change programs is having little effect. 	<ul style="list-style-type: none"> In relation to targets, the degree of challenge, consequences and extent of public reporting are discretionary and determined by the organisation (and therefore are likely to be 'soft')
<ul style="list-style-type: none"> Targets and quotas make leaders accountable for outcomes and the development of strategies to achieve the outcomes. What gets measured gets done. 	<ul style="list-style-type: none"> Mandated quotas adds bureaucracy and onerous reporting requirements to organisational governance.
<ul style="list-style-type: none"> Targets and quotas fast-tracks the representation of women in key positions for immediate impact 	<ul style="list-style-type: none"> Appointment of women over men to meet a target is 'reverse discrimination'
<ul style="list-style-type: none"> Targets and quotas drives culture change by having a 'critical mass' of women in key roles which leads to long term sustainable impact 	<ul style="list-style-type: none"> Underqualified and incompetent women will be promoted to senior positions
<ul style="list-style-type: none"> Having measures for gender diversity is good business discipline, consistent with the diligence afforded to any other business priority. 	<ul style="list-style-type: none"> Women's credibility is undermined because they have been promoted to meet a target rather than on 'merit'
<ul style="list-style-type: none"> Targets and quotas counter the impact of a flawed merit-based system of promotion 	<ul style="list-style-type: none"> Men's credibility is undermined when you suggest that the current system of merit is flawed as it implies their appointments may be unmeritorious.

Tracking and monitoring through effective data collection

The Review has recommended a range of accountability measures to ensure that the organisational vision is achieved. These include a whole-of-organisation Equity and Diversity strategy, underpinned by Command/departmental-led strategies that report up centrally. Along with inbuilt personal accountability through performance frameworks, this will ensure collective accountability of leadership groups in achieving the vision.

There is a clear need for baseline data from which to monitor and hold leadership to account to underpin this work.

*... we had the recruits, we had the role models, we had the infrastructure, so I thought everything was ready to flow through ... but it didn't. I realised the way we worked had to change. I had to address the cultural barriers and address them in a way that suited [the organisation] – through harnessing the power of data.*²⁵⁸

As noted in previous chapters, data was not always available from Victoria Police and could not always be disaggregated by gender.

There is a way to measure and monitor 'flashpoints', whether at a particular rank or within a particular work area, to 'question deceleration and intervene as needed'.²⁵⁹

Consistent with this idea,

*The US Navy ... adopted a ... mechanism that flagged when the cohort of women at any particular base was reaching less than 15 per cent.*²⁶⁰

In early 2015, the Women's Gender Equality Agency published a gender equality toolkit, which referred to steps an organisation can

take to track progress against a strategic vision based on equality and diversity:

- proactively begin the collation of gender data where it is already available, or initiate analysis of existing business and/or people reporting from a gender perspective
- create the mechanisms and databases to capture and store fragmented gender data, so it can be opportunistically exploited in future and begin identifying and addressing 'hot spots'
- develop a gender diversity 'dashboard' which succinctly captures key metrics
- research and understand existing business reporting mechanisms and explore how gender data could be integrated into these with report owners to add value for report users.
- continue to identify or create opportunities to enhance gender reporting and strengthen its linkage between business decisions and outcomes; analyse and provide insights to business leaders.²⁶¹

In monitoring leadership and flexibility, Victoria Police will need to tailor strategies and monitoring for their environments, including reliance and interrogation of existing data, and the collation of new data:

Being a leader means looking at your environment and using the information you have, so that you understand how this looks at the workplace level (executive interviewee).

Victoria Police will need to coordinate this centrally through existing systems and strategies:

*Individual accountability and pipeline tracking is not possible without granular reporting, disaggregated to business units.*²⁶²

²⁵⁸ Dr Martin Parkinson, Secretary, The Treasury cited in Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 6.

²⁵⁹ Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 5.

²⁶⁰ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report* (2012) 588 (Meeting with Diversity Management and Equal Opportunity, Office of the Secretary of Defence, USA).

²⁶¹ Workplace Gender Equality Agency, *Gender Strategy Toolkit a direction for achieving gender equality in your organisation* <<https://www.wgea.gov.au/lead/building-gender-equality-strategy>>.

²⁶² Male Champions of Change, 'Accelerating the advancement of women in leadership: Listening, Learning, Leading' (Australian Human Rights Commission, 2013) 16.



Measures should include access to flexible work, for example:

- utilisation of flexibility policy options by gender
- proportion of flexibility requests declined, and individualised briefings on reasons for refusal
- parental leave return rate
- parental leave retention rate (one, two and five years post return to work)
- redundancy / involuntary exits by gender
- employees part time at level and sex.

In considering issues outlined in Chapter 7, it should also include 'merit' pathways, including gender breakdown of:

- access to training
- access to upgrades
- shortlisting for promotion
- representation at regional Command
- representation on selection panels – seniority

The numbers of appeals of positions, by gender of the appointee, should also be collected.

This granulated data collection should occur across the sworn, PSO and public service for both men and women and be reported as part of the performance framework (Recommendation 3 and Action Plan).



Chapter 9

Education and knowledge development

Main findings

- The true extent of sexual harassment, predatory behaviour and sex discrimination in Victoria Police is not well understood within the organisation.
- Training for employees and managers on sexual harassment, sex discrimination and processes to prevent and address those is too infrequent and reflects the longstanding underinvestment in people management skills.
- Inadequate training, coupled with inadequate guidance from policy and workplace processes, means that many supervisors and managers are not confident to respond to inappropriate workplace attitudes or behaviours or to build inclusive workplaces.
- The current training and funding models and management practices create a barrier to women accessing specialist training as a pathway to both career progression and to the additional flexible work arrangements that can accompany specific roles.
- Access to professional development is inconsistent across the state both in regard to costs of attending Melbourne-based training and management discretion in allocating training opportunities.
- There has been a misuse of power, including sexual harassment, predatory behaviour and sex discrimination by some Academy instructors and supervisory staff towards recruits and probationary constables.
- The cumulative effects of long term under investment in people management skills and employment responsibilities are reflected at all levels of the organisation.
- The *Education Master Plan: Learning and Development to 2020* (Master Plan) provides a promising platform to improve capability of Victoria Police employees to manage and

contribute to workplace gender equality and respond to inappropriate workplace behaviours.

State of knowledge about sex discrimination, sexual harassment and gender equality

The Review findings show that the extent of sexual harassment, predatory behaviour and sex discrimination in Victoria Police is not well understood.

In part, this reflects the state of knowledge about these behaviours, their drivers and the roles and responsibilities of employees as bystanders, supervisors and managers.

The Review found wide-ranging perceptions about employees' awareness and confidence in their own and colleagues' capability to address issues of gender inequality as employees, supervisors or managers. These are discussed in Chapter 2.

The Review heard the full spectrum of understanding about appropriate behaviours, the need to address sex discrimination and sexual harassment and the role of knowledge and training in building gender equitable workplaces.

It's about the courage of leadership. Take the victims out of the picture for a moment. When managers or leaders don't call out bad behaviour, they say they weren't trained and so they miss opportunities (former executive).

... The more people who we can get thinking and acting this way, the less common this banter around the sexualisation of their female colleagues, will be. So I do believe if we teach our people more about calling

it out when it happens, and how to do it in a way where you can get away with it – that’s the big thing (female interviewee).

You need to treat people with respect and dignity. Training has nothing to do with it. People know what the community expects before they come to the Academy. If you want to engage in bad behaviour, you probably won’t survive (senior manager).

One of the things we are trying to do in Taskforce Salus is to develop people with this nuanced understanding and send them out to the broader workforce with this expertise – particularly the safety aspects. That won’t cut it though – that stuff will fade away. It goes to a bigger issue – most importantly – awareness and understanding and training and education right across the force (senior manager).

Consistent with the broader evidence base about awareness of the drivers of violence against women, research shows that individuals with prior training about sexual harassment reject sexual harassment myths, such as that women have ulterior motives for reporting, more than untrained individuals do.²⁶⁴

Supervision and management skills

As for many workplaces, Victoria Police employees learn their supervision and management skills from their own personal experiences and observations of workplaces. Providing consistent learning and professional development opportunities across all Divisions is important to ensure accessibility to contemporary management information to all employees, irrespective of their work location or professional ambition.

The coaching [of senior sergeants] was initially targeted at safety behaviour, but it was evident that what was needed was coaching around the management of people and wellbeing issues – managing poor behaviour, morale,

communication, performance, mental health, personality, culture, etc (female interviewee).

Chapter 10 details the experiences of managers in seeking to address sexual harassment and sex discrimination. Unsurprisingly, many managers reverted to the management skills they had been trained in – those of command and control and those that approached workplace issues as policing issues.

As discussed in Chapter 10, the Review heard that managers were not confident about balancing individual and workplace needs with respect to requests for part-time work arrangements.

The Review also heard that training on managing sexual harassment and predatory behaviour for managers has been arranged by Divisional Training Officers (DTOs) as identified training priorities in some region. People Development Command (PDC) has sought to play a coordinating role, however DTO and divisional engagement in this process is voluntary. DTOs are accountable to their divisions, not PDC.

The Review cannot comment on the quality or learning outcomes of Divisional training. The Review has made recommendations on academic governance arrangements to ensure consistent, evidence based training and learning outcomes for managers at all levels on preventing and responding to sex discrimination and sexual harassment and that content should be overseen by PDC.

Non-operational professional development

Employee perceptions on the importance of training

The role of training and professional development was widely recognised by employees as an essential step to improving workplace behaviours and norms. At the same time, many recognised that training alone is not a panacea.

²⁶⁴ K Lonsway, L Cortina and V Magley, 'Sexual harassment mythology: definition, conceptualisation and measurement' (2008) 58(9) *Sex Roles* 599.

I have a view that it's not just education's role to train and develop staff. It is everybody's role (executive interviewee).

Many employees told the Review that they did not feel supported or enabled by their workplaces to implement people management learning in their workplaces for a range of reasons, which are explored in Chapter 10.

Access to consistent, high quality and sustained training and education has an important role to play in this. As noted in Chapter 6, there is scope for further alignment of effort by both PDC and the Human Resource Department (HRD) to ensure that there is consistent, regular and mandatory training and communications provided on key Human Resource policies and competencies, and their practical implementation by supervisors and managers across Divisions.

Middle management is not educated about the policies. The Police Association (TPA) is with members at the Fair Work Commission regularly on matters relating to Section 65 of the Fair Work Act ... Victoria Police policies and interpretation of flexible work practices are inadequate at both the workplace and corporate levels. ... In summary, there is no policy, no training and little advice offered to managers on how to deal with these matters. Policies and guidelines should give middle managers some explicit understanding about what their supervisory responsibilities are, and how to implement them. One example might be the considerations you need to make to respond to requests for part-time work arrangements, examples and case studies and details on what they should do (The Police Association Victoria).

The role of professional development through learning activities must go hand-in-hand with clear policies and processes for implementing best practice supervision and management. It is apparent that the current policies and guidelines are not sufficient to guide Victoria

Police values-informed behaviours in the organisation.

Employee perceptions of Victoria Police's commitment to training

Victoria Police employees consistently told the Review that current training on people management matters is under-funded and under-prioritised. Training provided to employees, including supervisors and managers on sexual harassment, appears to be too little, too late and too infrequent.

Anything to do with people is generally reserved for training days where it is shoved in the agenda for an hour to fulfil the 'health and safety' requirements. It is not given a space in promotional or other programs, but we will spend a week on emergency management or other operational needs. Whenever there is an operational training need that requires roll out, e.g. change in family violence legislation, changes to the semi-automatic firearms, everything else gets dumped in its favour – so there is a constant tension between the necessary operational requirements for our members, with other important skill sets, like managing people in a complex workforce (female interviewee).

The people stuff is seen as important but not urgent, and it doesn't get attended to. This is compounded by the lack of prioritising it by the organisation. Safety, particularly physical safety, is on the radar, but more nebulous concepts such as wellbeing, morale, culture are muddy, messy and clash with task focus and order, which is generally speaking the way police like to work (female interviewee).

The Review noted that in most cases, resources that are available are used to meet essential operational training requirements.



Cumulative barriers for women to access professional development

Access to training is highly influenced by the funding model which allocates training resources to each division. Divisions with employees located outside of metropolitan Melbourne, and especially those in the outer reaches of Victoria are required to fund the additional accommodation and travel expenses for employees to access training opportunities. These additional costs are a further disincentive for Divisions to approve staff undertaking 'non-essential' professional development.

Trying to decentralise away from the Academy, and moving away from face-to-face training and instead have modularised, building blocks and on the job training, at their own speed. This will improve accessibility to employees in regional areas, as well as those who work part time ... But we are losing the face to face component ... I don't agree with that (female interviewee).

Where training is available, the Review heard frequently that there is significant management discretion in which employees have access to training and professional development opportunities.

... you need to go to Executive Command and say if you want to support the women in this organisation, it needs to be about supporting the whole organisation, not necessarily focusing on doing something special for women ... Executive Command could say to station managers you have to provide this level of professional development to all your staff – and some won't be able to do it because the staff are needed, but in others you get sergeants choosing to only PD the male officer and women often miss out. So Executive Command needs to support this – but that raises other problems, with resourcing (female interviewee).

As well as structural/funding disincentives to develop supervisory and management capability across the organisation at all levels,

the current training and funding models create a barrier to women accessing specialist training pathways to both career progression and to the additional flexible work arrangements that can accompany specific roles.

Other courses are offered in blocks – Detective Training School is a seven week course, the Field Investigators Course (FIC) is a three week course – often need to be taken on a residential basis. This is difficult for women with caring responsibilities. For example, a single mother from the Western region would have difficulty in attending the three consecutive week course required to complete FIC training. In addition to the location, there could be consideration about the structure of the course to make it more accessible (The Police Association Victoria).

The Review heard consistent feedback about employment status with part-time police being discriminated against in access to training.

As discussed in Chapter 8, a large number of women employees never progress beyond senior constable or VPS2. They stay at rank/grade or leave Victoria Police. Additionally, part-time women have limited access to professional development and acting in higher roles.

Victoria Police will need to review funding and training delivery model to enhance accessibility for all eligible employees, including those in regional Victoria, enhanced accessibility for employees with caring responsibilities, and those who have flexible work arrangements. This should be considered in ways that do not diminish face to face learning opportunities (see Recommendation 9).

Current training in Victoria Police

Most formal training in Victoria Police is provided by People Development Command. The PDC has responsibility for the School of Policing and associated support and business services. At the time of the Review, it was led by an Assistant Commissioner who reported to the Deputy Commissioner, Strategy and Organisational Development.

The School of Policing²⁶⁵ provides recruit, specialist and promotional training to employees and plays a key role in the professionalisation of the workforce. The section on the *Education Master Plan 2020* provides further detail.

At the time of the Review, divisions employed divisional training officers (DTOs) which were selected, and managed by and accountable to divisions. There was no requirement for DTOs to have skills or experience in contemporary education and training theory or practice. Each division determines its training needs and the DTOs generally source training and develop regional training calendars (however, the Review heard this content is often displaced by organisational priorities). As a result, where divisional leadership is focused on operational policing matters (as the community expects of them), opportunities for effective and well-focused training on management issues are limited.

Stations do it a little differently, and it varies from station to station. They might assign a training officer, or a sergeant might look after a group of members (say if the station receives a lot of new members straight out of the academy). Every area manages it differently (male interviewee).

Specifically, training to equip managers to respond appropriately to sex discrimination and sexual harassment in the workplaces they manage, as well as setting appropriate standards of professional behaviour and workplace norms around gender, is not a priority.

Victorian Public Sector (VPS) staff have access to some courses provided through PDC, but most commonly access training available to the rest of the VPS, such as external training courses. The Review notes that the professional development of VPS staff, particularly in regions, was not prioritised, except where it was an operational requirement (such as using

a particular database). This was discussed in more detail in Chapter 8.

The Academy as a workplace

The Review heard of widespread misuse of power by instructors towards recruits in the past.

[It came from] Instructors as well as the young guys. Some of the older guys really tried to defend us from the young guys. The instructor, one in particular ... He was a vicious piece of work ... He would pick on physically strong young men to take them down, to prove how tough he was. He used to injure them. I think one ended up with a broken arm ... He was a law unto himself (female interviewee).

Instructional staff include both police members and public servants. The Academy has a reputation as a place for police members who are seeking non-operational roles. Some police member employees told the Review that they had been transferred/promoted to PDC and they had not chosen to work in PDC. Others who worked in PDC valued the role of PDC in the professionalisation of Victoria Police very highly.

[The Academy had] the Registered Training Organisation accreditation audit last week – it was comprehensive – the auditor identified that we have generic non-compliance around educator professional development. That is that it would be preferable to include in the position description and Key Selection Criteria, elements relating to roles and responsibilities of a professional (but vocational) educator. Many people come here for many different reasons – not always because of a love of education (executive interviewee).

While the professionalism of teaching staff has improved, further work is needed to improve their capability and proficiency to engage with recruits on issues of sex discrimination and sexual harassment in ways that are sensitive, non-victim blaming and safe. The Review observed that there is a small number of teaching staff at the Academy that are proficient

²⁶⁵ The School of Policing is primarily based at the Academy, however some units are based elsewhere – Airlie at South Yarra, driver training at Brunswick, and OSTT throughout the state, and major sites at Craigieburn and Geelong.



in these issues. The Review recognises the considerable efforts of individual PDC staff in developing and delivering training packages.

There has been effort to provide professional development opportunities to educators and trainers at the Academy to ensure their interactions with recruits are professional and respectful.

This includes Professional Boundaries Training. This Training has been developed within the Academy to enhance teaching staff's understanding of power imbalances between instructors and recruits, as well as to provide them with strategies to manage such imbalances. The Training is intended for new teaching staff and does not link to any accredited competency unit.

As set out in Recommendations 9 and 10, the Review recommends that the content of the Professional Boundaries Training is reviewed under proposed academic governance arrangements to further focus it on issues of sexual harassment, sex discrimination and predatory behaviour, as well as to introduce gender equity and equality concepts to instructors. Furthermore, the Review recommends that this training is provided to all staff within the School of Policing, as well as staff in Academy Services and Learning and Development Standards within 18 months of this Review and refreshed annually.

The Review is aware of instances of sexual harassment and predatory behaviour by instructors that can be considered intentional abuses of power.

A number of these types of matters have been addressed through the complaints process, however, PDC shares concerns with other Commands that a culture of non-reporting persists.

The Review recognises that the role of Victoria Police is not to police consensual relationships between adults. There are however, circumstances where these relationships reflect poorly on the professionalism of the individuals

involved. One of those sets of circumstances is where teaching staff compromise their professional objectivity by establishing intimate relationships with recruits.

Other organisations have rules about dating, there should be rules about anyone above the rank of sergeant engaging in a sexual relationship with [recruits and probationary constables]. It should be a blanket ban. At least after two years the member has had an opportunity to find their feet. Previous existing relationships of course are not a problem as they developed prior to one person being in a vulnerable position as a junior member (female survey respondent).

The Review has made a recommendation in Chapter 13 that Victoria Police strengthens its Conflict of Interest Policy to define sexual relationships that can be regarded as a conflict of interest, and provides guidance for managers to manage these. The Review has noted that, specifically, there should be additional, clearly stated requirements for all teaching staff, mentors, supervisors and field coaches to refrain from improper use of their power over recruits and probationary constables. This includes participating in any sexual relationships with recruits and probationary constables.

This is because members have huge amount of their identity invested in being a police officer. They are very vulnerable in first two years – concern about being found not suitable/fitting in (The Police Association Victoria).

Excellence in learning police craft should be informed by current operational policing experience and expertise, as well as contemporary organisational values that support gender equality and respectful relationships. Inappropriate behaviour by instructors had been addressed in individual cases.

Operational policing instructors that do not have contemporary operational policing experience, and/or do not demonstrate organisational values undermine the Academy as a centre of excellence.

The Review heard of inappropriate attitudes and behaviour by current teaching staff towards recruits. As for the wider organisation, there is a reluctance for recruits to report these behaviours. As a result, the Review has recommended (Recommendation 10) that maximum time in position is instituted for police teaching staff in People Development Command.

The Academy as a training hub

Foundation training

Recruit training

The Victoria Police Academy is a Registered Training Organisation (RTO) and provides an intensive training program – the Diploma of Public Safety (Policing) with a theoretical and operational policing focus. The Foundation program is a 33 week program for police recruits and a 12 week program for PSO recruits.

At the commencement of the Foundation program, recruits are inducted and employed by Victoria Police. At week 12 they become probationary constables and are sworn into the Office of Constable. At week 13, they have a one-week workplace placement at a Dedicated Training Workplace (DTW) station to consolidate their learning about being in a police station watch house. At week 20, recruits undertake a second DTW placement to consolidate their learning in operational policing matters. From week 23 to week 26 recruits have their third DTW placement. Prior to graduation, recruits are further tested in the 'workplace' with a Safe Streets exercise.

After their 'marching out' graduation in week 33, probationary constables commence their post residential training phase. They are deployed to a DTW for 19 weeks where they complete on the job training and assessment tasks. They are then assigned to an Assigned Station workplace for 64 weeks. This phase includes a return to the Academy to undertake the Taking Charge course at around four months before their confirmation

of appointment due date.

Conduct and behaviour throughout this entire period will facilitate their confirmation as constables.

For police and PSO recruits, the Academy is an important formative experience. The Review heard that the learning environment and expectations had changed markedly. Adult learning principles underpin PDC policies and guidelines. However, practice does not always reflect these principles.

The way you could treat people, educate them, train them 20 years ago, you couldn't get away with now. Then, if the sergeant said, 'do that', you did it. Like the Army says, 'we can't make you do things, but we can make you wish you had'. There is not the need to treat them the way it used to be done – they are more sophisticated learners and there is a more educated product at the end. You can't be an effective leader by saying jump and the only question is "how high?" It's not as authoritarian any more – you have got to have more than a deep voice and the ability to yell. Members nowadays want to know why they are being asked to do things (male interviewee).

I read all the evaluations and sometimes comments about instructors, apart from comments of expectations that there is not enough drill, PT or discipline cited from time to time my position is that we are not the military, we're not running around yelling, there is no licence to treat recruits differently to our colleagues (executive interviewee).

Each squad is allocated a mentor from outside of their direct training environment to support them throughout their experience at the Academy.

Mentors are externally sourced. Each squad has mentor that is external and separate to the training environment. Squad manager is sourced across PDC – usually a sergeant. I would like to say

they are hand-picked, but generally not (executive interviewee).

Victoria Police and community expectations of the values and behaviours to be exhibited by Victoria Police are instilled in recruits by PDC leadership.

[Foundation Training] From day one, I outline the values of the organisation and expectations. They are diversity, recognise equality and difference, one service for everyone, organisational values and I tell them they are expected to adhere to those whatever their personal preferences. Some of the other members of staff who are addressing the recruits will talk about previous behaviour – to let them know their behaviour will be judged – we give examples of when people have been terminated. I'm confident that they get it in spades ...

... [We] terminated a recruit recently for drawing a penis on a board. Some would argue we took it too seriously, but it is the thin end of the wedge. They need to understand how seriously we take it. We have a responsibility to ensure they uphold the values of the organisation right from the start (executive interviewee).

PDC leadership have made significant progress in challenging an historical culture of poor behaviour, misuse of power, and sex discrimination and sexual harassment. However, challenges remain highlighting the need to address what is taught, as well as the behaviour, expertise and values of supervisory and training staff across the organisation.

Integrated 'on the job' training

The workplace integrated learning (WIL) model underpins recruits field training experience. At the time of the Review, this training model was being extended to other training as the Enhanced Designated Training Workplace (EDTW) for post-recruit training.

A key component of the Foundation experience is a series of on the job training sessions at Designated Training Workplace (DTW) stations

through DTW placements. DTW stations are assessed and accredited by PDC to be suitable learning environments and to provide required learning opportunities to probationary constables. Given demand for police numbers, the Review heard frequently from the Academy and Divisions alike that workplaces depended heavily on DTW placements to complement their police numbers. There have been cases where DTW accreditation has been withdrawn based on behavioural and cultural issues within specific workplaces.

The University of Melbourne Review told Victoria Police that the best model was to learn policing on the job. This drove change to expose recruits to policing in the field earlier in their training – this is a relatively robust training model and in line with other states, and training in the US (The Police Association Victoria).

During their DTW placements, DTW stations are required to provide probationary constables with prescribed operational policing experience commensurate with their learning at the Academy.

For each DTW placement, probationary constables are allocated a Field Coach. Prospective field coaches are nominated by their workplaces and developed through and on-line coaching module, as well as elements of a Certificate IV training qualification.

Managers need to send workplace exemplars as it is in their best interest if they desire a healthy workplace that attracts the best people (senior manager).

The Field Coaching Program is relatively new and provides excellent potential for ongoing professional development for both recruit placements and coaches alike. For experienced police employees, there is an opportunity to re-engage in formal training and establish a mutual professional learning relationship with colleagues who are engaged in contemporary learning.

Field coaches are nominated by workplaces based on assessments of workplace

supervisors on who is available, willing or a 'good bloke' to guide new learners.

These criteria do not always best support learning objectives or provide a safe and respectful introduction to workplace conduct in Victoria Police. The Review heard of recent examples where recruits had felt unsafe and disrespected in DTW workplaces.

The Review recommends (Recommendation 10) further tightening of the selection of field coaches with explicit regard for Victoria Police values, including respect and equality for women and men alike.

Risk and intervention

Prior to their first DTW, probationary constables are provided a two hour Professional Relationships course to that provides an introductory overview of inappropriate behaviours including sexual harassment and predatory behaviour, as well as reporting channels for those behaviours.

At the Academy – there is nothing on sexual harassment or discrimination – nothing. Or there wasn't when I was there. You do need stuff then, but more importantly, you need it once you're exposed to the job. You need it when you're going back to the Academy for after your first year on the job (female interviewee).

The Review heard that PDC was piloting training for constables just prior to their confirmation with a focus on enhanced decision-making processes.

At the conclusion of recruits' formal education at the Academy, recruits are surveyed about their experiences of inappropriate behaviours during participation in Foundation training. PDC is proactive in following up where behaviour both within PDC and in DTW workplaces have been inappropriate or where there is room for improvement.

An important step towards achieving consistent learning outcomes has been the development of the *Education and Training Evaluation Strategy 2014* (Evaluation Strategy). The evaluation principles include sharing evaluation findings with key stakeholders which will

support future efforts to inform workplace and supervisory learning as the workplace integrated model is further developed and implemented.

Of relevance to this Review is the risk assessment process that forms part of the Evaluation Strategy. The Review notes that it will be important to develop common approaches to identifying risks of inappropriate workplace behaviours at both the Academy and DTW workplaces. Appropriate identification and categorisation of risks will be critical for effective management and mitigation of risks associated with inappropriate workplace behaviours. This will be supported by the workplace harm model detailed in Chapter 13.

The Evaluation Strategy states that the 'level of escalation for appropriate investigation and risk control will be based on the risk assessment, and may include the Program Manager, the Program Owner, other Senior Management Team members of the Senior Management Team in general'.

RECOMMENDATION 10

People Development Command strengthens management of risks associated with the Academy environment by:

- Reviewing and updating the Professional Boundaries course by the recommended academic governance structure to further focus it on issues of sexual harassment, sex discrimination and predatory behaviour, as well as to introduce gender equity and equality concepts to instructors.

Indicator: This training is provided to all staff within the School of Policing, as well as staff in Academy Services and Learning and Development Standards within 6 months of this Review and refreshed annually.

- Maximum time in position is instituted for police teaching staff in People Development Command.

- Further tightening of the selection of field coaches with explicit regard for Victoria Police values, including respect and equality for women and men alike.
- Further prescription of the management steps taken by the Academy to manage risks and victim/target safety detected, including through the Evaluation Strategy or Learner Surveys of sexual harassment or gender based discrimination.

Feedback and improvement

The Review notes that while considerable effort has been made to ensure that workplaces are providing appropriate learning opportunities and outcomes, PDC did not have a clear authorising environment to influence the learning experiences of learners in workplaces.

Opportunities for continuous improvement and feedback loops among workplaces, the School of Policing and human resource functions need development based on a clear strategic platform within Victoria Police.

The Review notes that closer alignment of purpose and function of the people related divisions/commands would support stronger people capability development and support the development of a learning organisation culture in Victoria Police.

The Review notes that the Frontline Policing Practice Pilot program was developed and designed to re-engage staff in learning and to build strong positive workplace norms around community policing. This model of learning and engagement has promising results and significant potential for engaging employees' in learning to build and reinforce gender equitable workplace norms. Like the integrated workplace model of learning, the Frontline Policing Practice Pilot program was premised on evidence that most learning is experienced in the workplace. Drawing on the experience and professionalism of frontline police in the pilot sites, the Pilot provided a way for police employees to reframe workplace norms and narrative.

There is a need for more training at all levels, but it needs to be more than an online course – when we have those, everyone just finds out the answers from each other. In-house training and expert training are good, but not over days – you end up just losing members that way. Some of the best training I find is when it confronts you, a bit like the TAC [Transport Accident Commission] stuff. If you can show people how these things really impact on victims, you can really get the message home. Hearing a victim say ‘this is what happened to me’ works really well – you are getting people to understand real impacts on people (female interviewee).

The Review notes that success in scaling this approach would require both seamless intent and alignment of people functions, as well as clear and sustained support from senior management.

Life-long learning

After confirmation, police are required to undertake operational tactics and safety training (OTST) training bi-annually.

Organisationally, as you move through the Academy and climb the tree, you get the same education. There's a whole cohort out there though who are quite comfortable in where they are sitting in the organisation, senior constables and sergeants, who generally speaking, don't have to participate in anything other than Operational Tactics and Safety Training. So a large part of the organisation is operating in a way that wasn't challenged many years ago and we're missing them (executive interviewee).

Unless police members are supported to develop a specialisation or are working towards promotion, there is no requirement for them to undertake further professional development

outside of changes to the operational policing environment.

We do train people but the skills you learn will be delivered internally and then shaped internally by the culture. My sense is that we do foundation training and then wave them off. There is little continuity of development through the career lifecycle. I suspect people in other professions do have more regular development opportunities and are encouraged to self-reflect in the development process rather than simply be required to absorb an organisational policy or rule (executive interviewee).

As discussed in Chapter 8, a large number of police remain at senior constable level throughout their career without any requirement or opportunity for them engage in ongoing professional development.

The promotional programs touch less than ten per cent of the organisation's people – those who are getting promoted. We could have the world's best promotional program, but we will never reach tipping point – it is a closed workforce. We see the same people over and over. We never see the 20-year career sergeant. They might be a really good field coach – if he/she is in touch with learners and contemporary thinking, there are benefits everywhere (senior manager).

The Academy sees the recruits at around week six for one hour around inappropriate behaviours then we may never see them again until they are sergeants if they take promotion. Some come as 20 year senior connies after they get a lightbulb moment and want promotion. That (training) gap is a big risk (female interviewee).

There is a fairly rigorous education process across all ranks, but management at stations often only find out about things because the more junior members tell them. But it can't be left in their hands to detect it – there need

to be avenues for everyone to identify the problem. There is a fair amount of focus on bullying and harassment, and every workplace is obligated to have certain material on display – posters and so forth. It is not just up to managers to deal with it or prevent it, but they are in a position to reinforce the culture to prevent it, and if they're not prepared to do it then they shouldn't be in the job (male interviewee).

The Review heard of widespread and profound frustration from managers about constraints on divisions to support professional development of their employees.

In the course of the Review's field work, supervisors and managers noted the commitment of employees to the role of policing in the community. It was evident to the Review team that many employees had taken personal responsibility for building their knowledge and skills and had a deep commitment to ongoing learning.

In working through how police respond to family violence ... I have seen sitting down with constables and explaining why we were doing it and why it was important ... I asked them 'what part of the fall out of family violence don't you deal with? How much of your other work is coming out of family violence? For example, youth and mental health, homelessness, drug and alcohol dependence? How often do you have to return to these homes?' ... I have seen this happen in other organisations, you can really underestimate the power of the ability of people to understanding things. Once explained to them, they got it, they really picked up – they saw value in it ... (former executive).

Promotional and professional development

There is a lack of consistent opportunity for people to learn people management skills. It is not prioritised on courses, or on the PDA. We put them into these ranks and expect them to manage well and just swim (female interviewee).



Victoria Police employees told us that over the years, the length of training at different supervisory and management levels had been shortened.

Supervisory ranks (sergeant and senior sergeant)

The role of sergeant is essential to the provision of operational policing services and is the first line of management for front line police. The current capability profile for sergeants includes a strong focus on building productive working relationships and demonstrating personal drive and integrity, as well as strong capability in operational policing.

Aspiring sergeants undertake an exam to be eligible for promotion, although successful completion of the exam does not guarantee promotion.

I haven't done the sergeant's course but I have done the sergeants exam (the first step to get into the course). There is policy that you have to study regarding complaints, but it's just the process side of it, it doesn't teach you how to deal with their fears and concerns – nothing on how we're going to deal with the people involved (female interviewee).

New and prospective sergeants undertake a two week course – of which one week is devoted to supervision and management responsibilities.

When you are eligible to be promoted, there is a two-week long sergeant's qualifying program. The first week is on people management, mentoring and leadership, as well as the risk that can be involved around issues like equal opportunity, sexual harassment, and discrimination. It is touched on but it is only a week. There are programs that educate people on the risks. There might be more emphasis in the senior sergeants' program, but again that is only two weeks (male interviewee).

The Review team assessed that the components of training specifically relating to sex discrimination and sexual harassment were underdeveloped and insufficient. The training

relied heavily on the expertise and experiences of a very small number of committed teaching staff providing information in an over-crowded curriculum.

I think this is too focused on the policies and the rules, and I don't think that works. The ADF research hits the nail on the head. Anecdotally we're hearing things that are happening, where senior sergeants would be relieved that it's not their station, so if we could teach them how to avoid that being their station they would love it (female interviewee).

Course participants had already had significant supervisory responsibilities in their current roles, as well as during periods of upgrading in preparation for promotion without training in people management skills. It is unsurprising then, that first time managers draw on their own experiences of being managed.

We are working towards making [promotion training] pre-promotion ... We train about 350 (sergeants) a year. Senior sergeant is different – they don't have an exam ...

... We have already moved Inspectors to a pre-promotion model – the lower numbers help. Once we finish this rebuild, we will have a pool of qualified people to promote from. We will be promoting from the educated – those that can show they can do the job (senior manager).

I would like to see a concerted effort made to educate and develop our early rank managers, and see an investment in their skills as they enter the leadership ranks – at Acting Sergeant, Sergeant, Acting Senior Sergeant and Senior Sergeant levels. Unless we get these people practicing very good people management skills, we are not setting them up well and we are not doing the right thing by any of our members. Poor management has as much of a negative impact if not more on people than the issue itself (female interviewee).

The sergeants' course was the first opportunity for many to receive contemporary training on management responsibilities and processes and the Review supports work to provide pre-promotion training to sergeants.

I know previously there was a course for Sergeants who had been promoted for a long time, for example, if you have been a sergeant for ten years – could go to a refresher course. You would be sent or self-select. So many sergeants were so relieved to do it: to have the opportunity. They loved it and hearing about what others were doing. I absolutely agree that this is hugely beneficial ... No one sits down and talks them through these contemporary expectations – about equality and respect (former executive).

For sergeants and senior sergeants, further development and training strategies are needed to support the professionalisation of supervision and management within Victoria Police.

Throughout the Review, there were consistent messages that to change workplace norms and behaviours, sergeants and senior sergeants would have the greatest potential impact. This impact would be realised both in response to inappropriate behaviours as well as building safe and respectful workplaces. The Review recognises the critical role of these positions in the everyday working lives of police employees.

I don't need to have complaints come forward to know that there is an issue and that we could be doing something about it ... In training for promotion or managers, conflict awareness is more about making sure senior sergeants are aware of the legislation. It doesn't give tools to equip people to manage these issues ... The evaluations we get are about people just raving about the opportunity to get training on people management things – they just haven't had that and are then thrust into those situations (female interviewee).

To support the professionalism of sergeant and senior sergeant ranks, a greater and more focused investment in professional development in lifelong learning approach is needed, irrespective of promotional aspirations. This is consistent with the vision set out in the Master Plan.

On reflections of current training about sexual harassment and sex discrimination, one Inspector told us it was 'Pretty limited'. [An employee] does a presentation on it but apart from hers, there's some online training. My last course, I did the week in Inspector refresh [earlier this year] and I don't recall it in that either' (female interviewee).

You guys (Review) are long overdue because of the risks of not having these services. Workplace Standards doesn't provide support. They will push it back into the workplace. Superintendents come to me and say 'I don't know what to do' (female interviewee).

For promotional training, workplace learning is based on the learner identifying a task that is part of their role and/or work that is required by the workplace; being allocated a field coach; and negotiating with their line manager to manage them through the task and sign off on the piece of work before submitting it as part of an assessment portfolio. Assessment of the portfolio is based on the line manager's sign off and appearance before an examiner's panel.

The EDTW process appears sound when applicants are well supervised and managed. However, good supervision and management is not universally enjoyed in Victoria Police. Clear mechanisms are needed to ensure that employees are not excluded from professional development and promotional opportunities by their manager's poor performance.

The Review is aware that the EDTW process is new. The Review suggests that the Academy regularises a proactive approach to formal performance feedback to all learners' line

Case study – Vicarious liability

Richardson v Oracle Corporation Pty Ltd [2013] FCA 102 demonstrates the importance of providing current and comprehensive equal opportunity training to help to avoid vicarious liability. An employee at a large corporation was sexually harassed in employment.

An employee at a large corporation was sexually harassed in employment. The court found that the employer was vicariously liable as it had not taken all reasonable steps to prevent the conduct. The Court considered that the defence to vicarious liability in the Sex Discrimination Act was intended to be a difficult one to satisfy. All employees received a copy of a “Code of Ethics and Business Conduct” when they joined and compliance with this policy was referred to in employee’s contracts of employment. The policy aimed to provide a work environment free from harassment and defined harassment to include sexual harassment and discrimination based on a range of attributes that it listed. It stated how employees could complain and who they could approach.

Employees were required to do online sexual harassment training every two years. There was also face to face training on a new Australian “Diversity Policy”, and the respondent had done this training. Nonetheless, the Court found that the company was vicariously liable. This was because the training packages were formulated in the USA and as a result:

- there was no reference to the legislative foundation in Australia for the prohibition on sexual harassment.
- there was no clear statement that such conduct was unlawful and the employer could be vicariously liable.

It was the Court’s view that it was important to bring these significant elements to the attention of employees, no matter how firmly the policy states the consequence for breach of policy may be. The omission of these easily included elements led the Court to take the view all reasonable steps had not been taken.

Richardson v Oracle Corporation Pty Ltd [2014] FCAFC 82 In this matter the Full Court increased the award of damages from \$18,000 to \$130,000 on appeal. It did not have further substantive comments to make about the employer’s vicarious liability.

managers on the quality of their learning and professional development support to learners.

In addition to improving workplace management, the importance of investing further in professional development for sergeants and senior sergeants is critical for Victoria Police’s future leadership capability to build a safe and respectful workforce. At the same time, the professionalisation of supervisory ranks is partly dependent on the management capability of the ranks above them.

Management and leadership training

The Master Plan recognises the need to professionalise the police force and build capacity for police to operate flexibly and to make judgement based decisions rather than rely on traditional command and control management styles. The Review notes the progress made by PDC internally to implement the Master Plan.

The Review heard varied perceptions about management training at senior levels for both police and public servants.

Most senior sworn employees who engaged with the Review reflected on training provided to sergeants and senior sergeants rather than their own experiences at Inspector level and above.

Training programs for Inspectors are managed by Capability Development Division, PDC.

Airlie Leadership and Career Development (Airlie), PDC oversees training for executive ranks and public servants. The oversight of Promotional Programs is managed through the Chain of Command and the senior PDC management team. These courses have also been piloted for Sergeants and Senior Sergeants. Promotional programs are Victoria Police internal courses. As such, they are not externally accredited. Programs can be tailored to Victoria Police specific capability needs and anticipate emerging issues for the organisation. Airlie also coordinates external placements on external development programs, such as those conducted by the Australian Institute of Police Management.

The Senior Management Leadership Program (SMLP) is a 12 month program to build leadership capability.

We have people attending leadership development programs and other courses where they can develop coaching and leadership skills (executive interviewee).

The Review notes that while the SMLP may be an excellent course, there is a need for ongoing conversations about the work needed by the organisation to build the knowledge, understanding and management capability to build gender equitable and respectful workplaces, and that this content should be reflected in SMLP and considered as a core learning requirement for leadership development.

Senior leadership programs are currently being developed to reflect and contribute to the intent of the Master Plan. In doing so, there is a strong focus on integrating enhanced decision-making processes into all professional development training that takes a strengths based approach to learning. Building a learning culture, and a culture in which it is safe to reflect, is essential if leaders and employees are being asked to exercise judgement.

As discussed in Chapter 8, current training is not being accessed by emerging women leaders within the organisation as a pathway to promotion. Complementing recommendations to support career planning, leadership training opportunities should reflect the development

needs of emerging women leaders. Learning supports that are required to ensure women can access and engage successfully with the training should also be considered. This is addressed in Recommendation 8.

Missteps and mistakes are inevitable pathways to learning. Building the reflective capacity of Executive Command is needed to drive complex reform and culture change within the organisation.

The Review was not able to draw conclusions about the steps or progress Victoria Police had taken to assess the capability requirements of its most senior leadership to lead the people work needed to reset workplace attitudes, behaviours and the policies, processes and practices that support them. It will be essential for these capabilities to exist or be enhanced for the implementation of this Review to be successful.

It would be useful to benchmark the capability of Victoria Police Executive Command as an employer to that of comparably sized organisations. Victoria Police administers an organisation with a budget in excess of \$2 billion in 2013/2014 and assets valued at \$1.8 billion.

Building the capability of current and future generations of Executive Command and Command to manage and administer the employment functions of the organisation, in addition to managing state policing functions is critical. Addressing these challenges requires critical thinking and being open to new ideas from new sources.

This includes both providing contemporary thinking to current and emerging leaders within the organisation as set out in the Master Plan, as well as regularising arrangements for accessing and effectively using expertise from outside the organisation.

How do you build the capability of organisation by allowing people to return after they have been developed or gained valuable experience elsewhere? This is the best of both worlds, people with operational experience and other experience (former executive).



Women are effectively being excluded from making a contribution to organisational thinking by their experience of incremental and cumulative impacts of discrimination and harmful workplaces. This is a significant issue for the leadership of Victoria Police.

Victoria Police Education Master Plan 2020

At the time of the Review, PDC was part way through a profound change process to implement the *Education Master Plan: Learning and Development to 2020*, which sets out guiding principles to “guide the evolution of professional education and development in Victoria Police” over its life time. PDC is well advanced in some areas of the Master Plan’s progress which is envisaged to be fully implemented by 2020.

The long term goals set out in the Master Plan provide a good platform for the recommendations of this Review and seeks to build Victoria Police’ professionalism, its learning culture and its capability and capacity. The learning model to progress these goals is based on continuous professional development driven by individual learning plans.

The Master Plan has played a role in successive organisational strategies, most recently in the Victoria Police Corporate Plan 2015–2018 workplan. The Master Plan plays a key role in delivering people related outcomes and professionalisation of the workforce.

Of interest to the Review, the Master Plan envisages a reorientation of investment of training effort and resources into the Office of Constable to build professionalism beyond traditional functional duties to enable them to “adopt a professional identity and internalise professional values”. In doing so, professional constables will access development opportunities through:

- Annual personalised learning plans
- An annual development cycle that enables currency of industry knowledge and refreshment of core skills

- A Career Pathway Map to enable constables to identify the develop the knowledge they need and access to those opportunities
- Capability profiles which include constables being practice experts or leaders
- A localised learning focus to develop knowledge of local stakeholders and ability to work closely with them.

The Master Plan envisages members will have the opportunity to seek internal and external professional development opportunities to pursue their career path within Victoria Police. It also envisages public servants having access to a more strategic career progression within Victoria Police and the VPS, and continuous professional development opportunities to support this.

Academic governance

The Master Plan identifies the enabling structures to include a robust academic governance structure.

The Review regards having high quality and consistent professional development opportunities available to all employees will be essential to implement the recommendations of this Review over the life of the Master Plan.

The Master Plan also identifies the importance of aligning the academic governance structure with an appropriate People Development Command structure.

RECOMMENDATION 9

In relation to learning and professional development, Victoria should review its training and education functions to align learning intent and future capability needs as expressed in the Education Master Plan with organisational processes. These include:

- The funding and training delivery model
- PDC will establish an academic governance structure that includes independent expert(s) with a primary focus in the field of gender, sex discrimination and sexual harassment

to advise on academic policies and all curricula and to guide teaching and learning activities that support respectful and safe gender relationships on a life-long learning continuum.

- Ownership and funding for the review and development of all training curricula will reside with PDC and be informed by academic governance processes, which will include external expertise.
 - Under academic governance guidance, review the Senior Management Leadership Program and learning support mechanisms to ensure alignment with the contemporary requirements and needs of women for leadership.
 - Within 18 months, women's access to leadership training is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service). Within three years, 50 per cent of all senior management training opportunities are accessed by women. Where there is not a sufficient pool of women to draw from, managers will nominate women with demonstrated people management capabilities and leadership potential.
- Contemporary, evidence based management and supervisory training should be developed and incorporated into all Foundation, promotional and professional development training.
- The content and face to face delivery of the training should be developed and delivered in partnership with expert advisors/specialist external training provider that has expertise in workplace management of harms based on sexual harassment, sex discrimination and gender equality.
- This training will include the rights and administrative responsibilities of employees and employers in the workplace and contextualised for each learner cohort. Training will incorporate:
 - Definitions and meanings of sexual harassment, sex discrimination and victimisation and their drivers and impact.
 - Their responsibilities to prevent and respond to incidents of sexual

harassment, gender based hostility and sex discrimination, including positive duty and liability under the Equal Opportunity Act.

- Appropriate responses to the target of those behaviours to minimise the harm they experience and enhance their safety in the workplace
- Appropriate responses to the alleged perpetrator(s).
- Competence to refer/access informal and formal options available to the target/victim.
- Understanding manager's role in classification and recording issues and the appropriate place to do this.
- Understanding of manager's rights and responsibilities in considering requests for flexible work arrangements and strategies to establish and manage them.
- Understanding managers' responsibilities to support bystander action and create safe and health workplaces.
- Understand and promote workplace diversity, in particular gender equality, and practical applications of this through use of management processes, including performance management.
- The need to provide managers with guidance on making safe and appropriate referrals.
- Best practice bystander intervention in sexual harassment and sex discrimination.
- Participation in face to face training will be compulsory for all managers and supervisors annually.
- All other employees should participate in training biannually.

The Review notes that PDC will be dependent on divisions to nominate employees that reflect the *intended diversity* of the workforce for professional development opportunities. This is referred to in recommendations made in Chapters 7 and 8.

Divisional Command should model its commitment to support employees to participate in professional development. This commitment should be measured at a divisional



level and reported as part of the Equity and Diversity Strategy (Recommendation 3), as well as being reflected in management PDAs.

- Training should be provided on a life-long learning continuum and be tailored to be appropriate for all employees at all ranks. This includes Command and experienced senior managers who have not sought further career progression, particularly at Inspector and Superintendent level.
- Satisfactory completion of the training should be included on PDAs and considered in upgrading opportunities, applications and promotions or transfers.
- All employees should be required to refresh their learning in these areas every two years.

If properly owned and resourced across the organisation, the intentions of the Education Master Plan (EMP) will play a significant role in improving management capability to reduce the incidence and severity of harm being experienced through:

- improved capability to manage safety and accountability aspects of inappropriate workplace behaviours
- minimisation of further harm from the workplace and formal reporting processes, and
- confidence to build respectful and safe workplaces for men and women.

At the time of the Review, there were a number of interlocking 'pieces' of the Master Plan transformation in development that have promise for future management capability to be able to build gender equitable and respectful workplaces.

The vision of the Master Plan will not be achieved without concerted and sustained effort to align strategic people functions and the learning experienced in workplaces. This is addressed further in Chapter 6.



Chapter 10

Local management, supervision and performance

Main findings

- The level of understanding and identification of sex discrimination and sexual harassment at supervision and management level across the organisation is inconsistent.
- The categorisation of sex discrimination and sexual harassment by managers as workplace conflict, a relationship issue, or unimportant means that these behaviours are sometimes not managed in a safe or arguably lawful way.
- Managers and supervisors often fail, for a range of reasons, to set appropriate workplace standards and act on harmful workplace behaviours or complaints about these behaviours.
- Managers and supervisors provide inconsistent safety and support for targets/victims of sexual harassment and sex discrimination.
- There is a need to improve the skills, knowledge and accountability of managers to proactively manage and respond to harmful workplace behaviours in a safe and supportive way.
- There is a significant gap in the advice and support available to managers and supervisors in Divisions to manage people issues.
- There is a need for supervisors and managers to conduct ongoing performance management to develop employees' capability and reward good work performance. Workplace values and behaviours are not understood as a critical element of performance. This is separate and additional to the need to manage and record inappropriate behaviour.

Introduction

Managers and supervisors at Victoria Police are responsible for creating and maintaining safe, healthy²⁶⁶ and productive workplaces. As explained in Victoria Police's policy on Workplace Management and Supervision:

*Managers and supervisors play a significant role in contributing to the overall performance and behaviour of employees and the organisation. As organisational leaders, they are expected to demonstrate, promote and enforce ethical and professional behaviour and service excellence.*²⁶⁷

The Review considered the requirement for managers to manage inappropriate behaviours in the workplace, as well as the education and support needed to be an effective manager. In particular, this chapter considers:

- legal liability for managers and supervisors
- the need to understand and identify sexual harassment and sex discrimination
- the need to set clear standards
- management responses to individual and workplace norms and behaviours
- management responses to local reports and complaints
- incentives for managers to supervise effectively
- support for managers and supervisors
- performance management.

²⁶⁶ For example, see *Equal Opportunity Act 2010* (Vic) s 15 and *Occupational Health and Safety Act 2004* (Vic) ss 20–21, 23.

²⁶⁷ *Victoria Police Manual* – Policy Rules, Workplace Management and Supervision (updated 06/02/15) 1.



Legal liability for managers and supervisors

Under the Equal Opportunity Act, managers and supervisors at Victoria Police:

- can be **directly liable** for sexual harassment, discrimination and victimisation
- can be **liable for authorising or assisting** sexual harassment, discrimination and victimisation
- have a key role in preventing **vicarious liability** by Victoria Police
- have a **positive duty** to eliminate sexual harassment, discrimination and victimisation as far as possible in the workplace.

Legal liability under the Equal Opportunity Act is explained in more detail below.

Occupational health and safety laws also require employers to provide and maintain a work environment that is safe and without risks to the health of its employees and others, as far as 'reasonably practicable'.²⁶⁸

Direct liability

A manager or supervisor can be directly liable under the Equal Opportunity Act if they:

- discriminate against an employee because of their sex (including by denying or limiting access to opportunities for promotion, transfer, training or other employment benefits; dismissing or terminating the employee; denying access to guidance programs, training or other occupational training; or subjecting the employee to any other detriment);²⁶⁹
- sexually harass an employee or a job applicant;²⁷⁰ or
- victimise another person by subjecting, or threatening to subject, them to any detriment because they have asserted their rights under equal opportunity law.²⁷¹

²⁶⁸ Occupational Health and Safety Act 2004 (Vic) ss 20–21, 23.

²⁶⁹ Equal Opportunity Act 2010 (Vic) s 18.

²⁷⁰ Equal Opportunity Act 2010 (Vic) s 93(2).

²⁷¹ Equal Opportunity Act 2010 (Vic) ss 103–104.

Authorising and assisting

The Equal Opportunity Act makes it unlawful for a person to 'authorise or assist' discrimination, sexual harassment or victimisation. This includes where a manager or supervisor 'requests, instructs, induces or encourages' discrimination, sexual harassment or victimisation.²⁷²

A failure by a manager or supervisor to act on or manage complaints of sexual harassment or discrimination may also amount to 'authorising or assisting' under the Equal Opportunity Act – particularly where 'there was a duty or legitimate expectation that the relevant person would act'.²⁷³

An applicant can bring a dispute to the Commission or initiate proceedings to the Tribunal against the person who allegedly engaged in the conduct or the manager or supervisor who allegedly authorised or failed to respond to it.²⁷⁴

Vicarious liability

As noted in Chapter 1 Victoria Police is vicariously liable for sexual harassment, discrimination, and victimisation by its employees in the course of their employment unless it can prove that it took 'reasonable precautions' to prevent the sexual harassment, discrimination or victimisation from happening in the first place.²⁷⁵

Precautions may be considered reasonable if steps are taken to prevent such conduct including having up-to-date policies dealing with sexual harassment, discrimination and victimisation, and making sure that all employees are aware of and understand those policies including through training. Policies should be implemented, regularly reviewed and improved. Managers and supervisors also need to show that they took appropriate remedial action if a complaint was made or they became aware of sexual harassment or discrimination in the workplace.

²⁷² Equal Opportunity Act 2010 (Vic) s 105.

²⁷³ For example, see *Kafantaris v City of Yarra (Anti Discrimination)* [2005] VCAT 2591 [23].

²⁷⁴ Equal Opportunity Act 2010 (Vic) s 106.

²⁷⁵ Equal Opportunity Act 2010 (Vic) ss 109–110.

Positive duty

The positive duty requires Victoria Police and its staff to take 'reasonable and proportionate' measures to eliminate sexual harassment, discrimination and victimisation as far as possible.²⁷⁶ In practice, this means taking proactive steps to create a safe and healthy workplace that does not tolerate discrimination, sexual harassment or victimisation.

For managers and supervisors, complying with the positive duty includes:

- making sure that staff know and understand their legal obligations under the Equal Opportunity Act and relevant policies and procedures
- complying with, and making sure that staff are aware of, relevant complaint-handling and grievance procedures.

Complying with the positive duty is an important way that managers and supervisors can help Victoria Police avoid vicarious liability for sexual harassment, discrimination and victimisation by its employees.

Criminal conduct and intervention orders

Sexual harassment may involve crimes such as stalking, assault or threat to assault, sexual assault, threat to commit sexual assault, kidnapping, among others.²⁷⁷ If a manager reasonably believes that a police officer has committed an offence punishable by imprisonment, a criminal investigation must be instigated. A matter of police misconduct may also be referred to police for criminal investigation by the IBAC. Managers should encourage the reporting of crime. Managers may also make complainants aware of their right to apply for protection under protected disclosure laws.²⁷⁸

Where behaviour is reported to management involving allegations of stalking, assault, sexual assault, harassment, property damage or making a serious threat, and where the

²⁷⁶ *Equal Opportunity Act 2010* (Vic) s 15.

²⁷⁷ *Crimes Act 1958* (Vic) ss 21A, 31, 40, 43, 63A.

²⁷⁸ *Protected Disclosure Act 2012* (Vic).

prohibited behaviour is likely to continue or be done again causing the complainant to fear for her or his safety, managers and supervisors need to consider whether police should apply for a Personal Safety Notice²⁷⁹ or encourage a complainant to make an application in person. Managers may also need to make inquiries as to whether a Personal Safety Intervention Order or Interim Order is already in place so that appropriate arrangements are made to ensure compliance with the Order, including roster changes.

Managers and supervisors have obligations under the Charter of Human Rights and Responsibilities Act. This is discussed in more detail in Chapter 1.

Understanding and identifying sexual harassment and sex discrimination

The reality is that behaviours can become the norm if not identified and addressed (male interviewee).

Understanding the law

The Equal Opportunity Act sets out clear legal tests for discrimination and sexual harassment (see Chapter 1). These tests are reinforced in relevant Victoria Police policies and procedures.

However, the Review heard that there is a lack of understanding and visibility of sex discrimination and sexual harassment by managers and supervisors. This can lead to a failure to identify and respond to sexual harassment and discrimination when it happens.

The Review observed that some managers misunderstand the legal tests for sexual harassment and sex discrimination, including:

- incorrectly importing a requirement for 'intention' into the tests for sexual harassment and discrimination
- applying a criminal ('beyond reasonable doubt') rather than civil ('on the balance of probabilities') burden of proof to the tests for

²⁷⁹ *Personal Safety Intervention Orders Act 2010* (Vic) s 15(e).

sex discrimination and sexual harassment (see Chapter 13)

- failing to identify the broad spectrum of unlawful conduct that constitutes sexual harassment – instead, focusing on conduct at the criminal end of the spectrum.

The Review notes that in some cases, the *Victoria Police Manual* does not include current or accurate information about the Equal Opportunity Act. For example:

- policies on bullying, discrimination and harassment set out the tests for discrimination under the previous *Equal Opportunity Act 1995* (Vic) rather than the substantially different tests under the current Act
- the procedures on workplace conflict (which includes discrimination) refer to the requirement for ‘intention’, despite there being no requirement for intention under the Equal Opportunity Act.²⁸⁰

These findings have informed Recommendation 5, which includes a review and update of all relevant policies and procedures to ensure that the legal tests for sexual harassment, discrimination and victimisation are accurate and that current policies and procedures ensure remedial action.

Revised policies should inform training for managers and supervisors are also recommended in the Action Plan and in Chapter 9.

Identifying sexual harassment and sex discrimination

Unless you start to evolve the leadership framework in relation to this behaviour, it will perpetuate and won't be recognised at introductory levels (senior manager).

As a law enforcement agency, Victoria Police has longstanding expertise in identifying and responding to crime.

The Review observed that managers are able to readily identify sexual harassment at the criminal end of the spectrum (such as sexual assault) but are less able to recognise the broad spectrum of behaviour that constitutes

unlawful sexual harassment – such as offensive banter, jokes and unwelcome sexual advances. Managers are also more likely to recognise predatory behaviour than other forms of sexual harassment or sex discrimination.

Participants told the Review:

They might say, “He stands too close to me”. This is code for “He is harassing me”. They don't want to say the H word (senior manager).

There are times when a police woman says she doesn't want to work with a certain officer, and the manager doesn't ask why (external expert).

The Review also heard that in many cases persistent and pervasive sexism is the norm, despite having a significant impact on employees:

If the behaviour is embedded in a work group it would be difficult for management to identify or manage (female survey respondent).

In some cases, the Review observed a reluctance by managers and supervisors to name sexual harassment and sex discrimination.

It is always lower ranks identifying issues and making complaints. This stuff is never pursued proactively from higher ranks (female interviewee).

The Review also heard that some managers and supervisors failed to recognise and therefore respond to sexual harassment as a form of violence against women:

We need to invest in our management to understand what inclusion looks like, including in relation to gender violence. There is probably a reluctance to refer to ‘lower level’ negative behaviours as ‘violence’ (senior manager).

Forty to 50 per cent of middle managers do not see the seriousness of sexual harassment or recognise it as a gender issue (former executive).

²⁸⁰ *Equal Opportunity Act 2010* (Vic) s 10.

Categorising sex discrimination and sexual harassment as ‘workplace conflict’

The Review observed that managers and supervisors sometimes categorise and manage sex discrimination and sexual harassment as ‘workplace conflict’ rather than unlawful conduct perpetrated by one person against another. This is supported by policies, procedures and practices that categorise sexual harassment and discrimination as ‘workplace conflict’ or ‘relationship issues’.

For example:

- Victoria Police’s policies and guidelines on ‘workplace conflict’ include guidance on managing sexual harassment and discrimination – with the policy specifically stating that it aims to ‘assist with resolving workplace conflict, including complaints concerning bullying and sexual harassment.’²⁸¹
- Welfare Services has not captured sex discrimination and sexual harassment as a separate category of unlawful conduct. At present it is likely to be categorised as either ‘discipline related’, ‘workplace issue (conflict)’ or ‘relationship issue’. Although the Review was subsequently informed that this has recently changed with new categories created which include alleged bullying, alleged discrimination, alleged harassment and alleged sexual harassment.

Categorising harmful behaviours as workplace conflict or relationship issues can mean that these behaviours are not managed in a safe, supportive or lawful way.

This issue is discussed in more detail in Chapter 11.

Visibility of sexual harassment and sex discrimination

The visibility of sex discrimination and sexual harassment by local management is crucial to creating a safe workplace.

Another issue is early identification and intervention. I expect my supervisors to be across their workplaces. When you walk the floor, you can sense things. I’m disappointed when the inspector and superintendent don’t know things are going on (executive interviewee).

You have to be held accountable. If you don’t know what’s going on and you’re a boss, you are doing something wrong. If you don’t act when you do know, then you should be held accountable, not rewarded (female interviewee).

A number of senior managers and supervisors told the Review that they had never witnessed or been aware of sexual harassment or sex discrimination. This is discussed in Chapter 2. Some were surprised at the prevalence of these behaviours. For example, managers and supervisors told the Review:

I have never had to deal with [sex discrimination] from a management perspective and have never seen anything that would make me need to intervene (male interviewee).

The Review observed that a number of managers and supervisors failed to recognise the systemic nature of sexual harassment and sex discrimination, instead recognising ‘problem workplaces’ or one or two ‘bad eggs’.

Barriers to visibility

I have thought about why it’s not as visible to people like myself. Is the behaviour as overt as it was in the past? There’s new technology, social media – members interact differently today. If you are going to change the culture, the membership needs to understand the issues and the impacts of these behaviours (executive interviewee).

The Review heard about why sex discrimination and sexual harassment may not always be visible to managers and supervisors, including:

- the often insidious nature of sexual harassment and sex discrimination
- the normality of persistent and pervasive sexism and misogyny

²⁸¹ Victoria Police, VPM – Policy Rules, Workplace Conflict (21/01/13) 1.

- under-reporting of sex discrimination and sexual harassment (discussed in Chapter 12)
- the increasing use of technology and social media
- the physical and/or social separation of managers and supervisors from staff
- the failure to identify inappropriate behaviour as sexual harassment or sex discrimination (see discussion above)
- the nature of particular workplaces, which can mean that managers and supervisors may not interact regularly with their staff.

A number of participants raised the importance of having managers and supervisors that are physically located in close proximity to their staff, and who interact regularly with their staff. One senior manager noted the need for:

Physical line of sight in workplaces is a practical way of ensuring people understand their actions and behaviours are visible to the business. It provides supervisors with more opportunity for oversight ... Sergeant offices have glass walls between them and the muster room (executive interviewee).

Other participants explained that:

Because of the design of the building, where I sit with him is also physically isolated. It is a bit of a maze. The officers won't come over our side of the building, and there is almost no visibility of the Inspector at all, no connection ... The boss just walks past them and doesn't even acknowledge them. The lower ranks don't have much interaction with higher ranks here at all. That separation is a big problem (female interviewee).

Things fall through the cracks where management has no visibility and they don't speak with people. It is a dynamic that can get toxic easily (male interviewee).

Setting workplace standards

There was widespread agreement among Victoria Police about the need for clear

standards of workplace behaviour that were respected and upheld. The Review heard from many employees about the role that they and their managers should play in setting workplace standards.

Employees expressed their expectations about the role of management in setting workplace standards:

Managers should be briefing new middle manager's/team leaders when they arrive at their station/unit, etc that certain behaviour is not tolerated and if reported it needs to be taken seriously and dealt with, this may already happen I'm not aware (female survey respondent).

In short, if management and supervisors set the right standard through example, conduct and dealing with minor misconduct, then all members have a clear understanding of the expectations and consequences (male survey respondent).

The Review heard about managers who recognised the importance of strong leadership in setting workplace standards. Some managers were very aware of their responsibility to set good workplace standards and viewed this role as central to their roles and ranks:

... We might have people who have less experience than four or five years or quite senior people, but regardless of how long you've been in the job, when you come in there is quite a well-structured process for starting the job, there's a mentor assigned, and a process to develop you incrementally (male interviewee).

I've walked into a station where I addressed a male police member because the language he was using was just terrible, and I thought do I just ignore it or do I go out and embarrass him? Instead, I called him to my office, and told him I wouldn't tolerate that behaviour. He acted as though he hadn't said anything wrong ... I have high expectations about how people will behave and this is what I tell sergeants

they need to do. As a result of this everyone tiptoed around me, and acted as though I was going to have a problem with everything ... For the next two weeks I was there I didn't hear any swearing, but it also had the flow on effect of a female sergeant and a female constable came to speak to me, because they know I've drawn the line in the sand and I will stand up to it ... But it shouldn't just be females that support all the females in the organisation, but it's up to the men to step up to the plate (female interviewee).

Employees also gave us feedback about good supervisors who 'nipped it in the bud' and applied visible consequences when employees did not meet expected standards of behaviour.

Modelling and applying flexible work arrangements

Good management practice modelling and applying flexible management are discussed in Chapter 7. However, the experience of many employees seeking flexible work arrangements was that managers were not equipped to manage those requests.

Increase awareness of part-time entitlements. Managers need to be more across discrimination of part-timers re course allocation, etc. (female survey respondent).

Workplace standard setting

The Review heard a widely held perception that workplace standards are set by sergeants and senior sergeants:



The sergeant I was talking about could have just said, "No, we don't talk about women we work with like that," but he didn't, because he wants to be one of the boys, and just thinks its harmless banter, and just be one of the boys. If he had just said something, they would have stopped (FEMALE INTERVIEWEE).

The critical rank is senior sergeant – they set the tone for everything in the workplace (executive interviewee).

At the same time, there was recognition of the role of senior management in enabling inappropriate workplace standards to persist:

Sometimes they're not there. Sometimes they join in. If they start to think it's slightly inappropriate, the sergeant might come back with a bit of banter to pull them into line – such as if someone is saying they want to sleep with someone, the sergeant might make a joke about how that guy probably couldn't get it up or something (female interviewee).

There were questions about the genuineness of senior leadership's commitment to address inappropriate workplace behaviour, with many employees regarding it as a risk management exercise rather than a pro-active people-focused exercise:

The management style that is valued at Victoria Police is about ticking green lights – i.e. you don't take any sick leave, your books are up-to-date, everything is in order. People come second. But people management is what is important (site visit).

Senior command – and middle-top management – they don't exhibit any style of their own. They are all chameleons that change their colours to match the Chief Commissioner. Ken Lay put a stamp on things – he said that things would not be tolerated, so the leadership reflected that (male interviewee).

The Review heard that responsibility for standards and workplace culture was regarded as the 'job' of employees, but not for senior management:

Zero tolerance is drummed in everywhere for newbies. There are posters everywhere. Yet when you get to higher ranks – there is nothing. In their mess areas there is not anything – no posters – it seems like the expectation is that they are exempt from poor behaviour (female interviewee).



Employees told the Review that Executive Command had to lead if middle management was to improve:

It does have to come from Executive Command. Where it's being blocked at the moment is the senior sergeant level. Things like the woman who reported to me, and it was absolutely abhorrent what happened to her – nothing physical but the behaviour she had to put up with in the station. A Senior Constable asked to be put on the van with her, and the sergeant agreed– the problem starts here ... Everyone at the station has warned all the new trainees, particularly the females about the SC, but no one was prepared to stand up and say anything (female interviewee).

Managers not setting appropriate standards

There was extensive feedback to the Review that supervisors and managers did not set appropriate examples in their workplace:

Holistically, I think Victoria Police needs to take a stronger stance around that kind of joking in the workplace, because it means that the boundaries get blurred (male interviewee).

Supervisors being more of a good example to junior members. A lot of the time it's Sergeants who seem to be leading the behaviour (female survey respondent).

I've actually never even seen a sergeant say 'that's out of line.' (female interviewee).

Managers behaving inappropriately

The Review heard many examples of managers who were sexually opportunistic, inappropriate and engaged in unlawful behaviours:

The job was great, the work was great, but the bosses weren't. The Sergeant was always making sexual jokes. There is a culture of females constantly being put down (female interviewee).

A high-ranking senior officer may say all the right things at meetings and

to the media, yet their past can't be ignored. He has knowledge of his male subordinates engaging in conduct endangering life and a sexual assault. This matter was swept under the carpet. There was no apology to me (female interviewee).

She said "I don't want anything done. I'm moving from there and I don't want anything done". And she said "what worries me the most is the inspector is the biggest predator in the whole office" (female interviewee).

The Review heard extensive reports about the reputations of management and senior leadership who had engaged in inappropriate and sometimes allegedly criminal behaviours:

Then there are frontline managers, they need to put a boundary in because there are stories about the things senior people did when they were in more junior positions – for example, there is a [senior member] who when he was [more junior] used to get drunk and expose himself in public places, like wave his dick around at a party ... I saw the same member [when he was more senior] coming on to a probationary constable. How is she supposed to manage that situation? And how are all the women at that station going to see him after that? How could he be considered a safe person to manage a complaint of sexual harassment? (female interviewee).

In a few cases, managers have been promoted to very senior levels within Victoria Police notwithstanding their own behaviour:

My friend had initially gone to her boss and told him the male police officer had been making sexual advances. Nothing happened. The boss should have looked into the allegation before the alleged rape even happened. When she reported of earlier approaches, it should have been looked into. It would have made a difference if the guy had of genuinely apologised. But his career has flourished, he can't be touched. He is protected. There is a sense of betrayal when you see them on ... TV (female interviewee).

Management responses to individual and workplace norms and behaviours

Proactive management

The Review heard of many instances of good management practice across the organisation. Where workplaces were functioning effectively, the Review heard from management and employees alike that there was a clear line of sight between frontline members and management:

... I think as a people manager you need to develop and support people to be their best – I think you need to care and listen. Having one on one chats with people, not just when they are in trouble, or when a computer tells you to for the PDA. I think 95% of being a manager or supervisor is people management (male interviewee).

Conversely, where employees did not have regular engagement with senior management, there was additional risk of poor management and inappropriate behaviours:

In my work place, there are a few things that have made it easier for him to get away with his harassment. So, in terms of what really goes on in the station, who calls the shots – he does, he gets the direction from the inspector in headquarters. But we are really isolated, and he is allowed to be isolated – like he doesn't want headquarters to know our business (female interviewee).

I think for a lot of them, particularly at Senior Sergeant rank, it can be very isolating – they are a big fish in a small pond. There are a huge number of demands on them, they have huge responsibilities and are often torn in numerous directions all at once. Many are isolated from good support and management by their Inspectors (female interviewee).

In many workplaces, roster arrangements impacted on how often workplaces could come together, or be updated on current operational priorities and workplace issues.

It is much easier to educate your members about what your standards are in a face-to-face read out, or in a meeting, where you are engaged and have visibility, compared to an email where they might say what their standards are and you may not have seen them for a few weeks ...

... As a Sergeant in the station, you might have administrative control over ten members, but you might not see them for over a fortnight. This creates its own problems and challenges in driving the culture of a workplace (male interviewee).

Management recognition of the stress and impact of policing work on employees was important. Rather than waiting for early indications of stress or harm, the Review heard about managers that took a proactive approach to welfare in their workplaces.

It's getting the right bosses ... They go out of their way to help you (female interviewee).

The role of managers in providing a safe and supportive environment for victims/targets of workplace harm is discussed in Chapter 11.

Management response to unreported inappropriate behaviours

A number of issues were raised regarding supervisors and senior managers acting on information about inappropriate behaviours when no formal complaint had been made:

I think ... when senior managers look at their management responsibilities, they focus on the evidentiary stuff. For example, they may feel something going on but they don't do anything about it. There is a very high standard of proof (Chief Commissioner of Victoria Police).

The higher you go the less people you interact with. Your circle is less. There's less preparedness for people to raise these issues with you ... As a manager of three 24hr police stations, I'd have no problem taking action. But I'd have to know about the behaviour. Anecdotally you may know. It's about the senior sergeant ... sometimes it doesn't get to you until it's serious (male interviewee).

The Review heard that many supervisors and managers were not confident in managing their concerns about inappropriate behaviours in their workplace where no complaint had been made:

Access to information is not so good. Better direction and signposting would help. As a manager I have had no training or information on how to deal with these issues if they arose (male survey respondent).

A few managers told the Review that they thought current policies and procedures were clear and accessible, but these were the minority:

I am comfortable with the current policies and procedures that are in place for managers to support victims and sanction/support the perpetrator (male survey respondent).

In conversations with management, the Review heard there is no clear guidance or standard operative procedures for management. This leaves scope for duty failure and inconsistency between operational and staff management (site visit).

One woman told the Review:

The [manager] wanted me to follow it up, but I couldn't afford the risks to me or my family. I knew he couldn't guarantee my safety. He accepted that it would put me in jeopardy. He was receptive and open to hearing what I had to say. He wasn't surprised. He knew about the [perpetrator's] reputation. It didn't surprise him at all. He acknowledged that the leadership from the top was weak. He wished he was there long enough to make some changes (female interviewee).

A common theme that emerged through the Review was that 'women's issues', including sexual harassment, were referred by line managers to other women managers. Apart from not managing inappropriate workplace issues, this increases the management work for women who are managers and again relegates them to the 'caring' role:

Senior sergeants don't own women's issues. They always get referred to female managers (site visit).

It appeared this was based on the assumption that a woman would feel more comfortable talking to another woman. It also appeared that these issues were 'uncomfortable' for male supervisors to discuss, which in turn increases the discomfort for women to raise them at all.

The Review also heard of cases where managers simply abdicated responsibility for managing:

His angle was something like, 'Sorry there is nothing I can do, we don't deal with these things too well.' This was a different Inspector and he is a fair man but he still refused to help me (female interviewee).

Management collusion in workplace harm

Some managers – at all levels and ranks – appear to have unintentionally re-victimised employees through ill-considered management responses to inappropriate workplace behaviour.

It is devastating that my supervisors did not protect me or the other females from predatory behaviours.

... they saw him pursuing me but they didn't understand the seriousness of it, or perhaps did not care. There were a few sergeants that I told, but one laughed and made jokes about his conduct (female interviewee).

Other managers contributed directly to the re-victimisation of employees through unprofessional and, in some cases, intentionally vindictive behaviour. This included through:

- inappropriate and unprofessional sharing of personal information:

The [boss] shared confidential emails ... with the perpetrator (male survey respondent).

- lack of consideration for safety and welfare of employees who had been sexually harassed or discriminated against (discussed in more detail below):

Then a friend rang me and said they were moving [him to my station] ... I was so scared ... I rang my boss ... and spoke with him the next day in person and he got another Sergeant to corroborate while we spoke about why I didn't want to have [him] as my boss. Then a day or so later I was called into the Inspector's office and he said they wouldn't move me. He basically said that the [alleged perpetrator] was more important than me, due to his expertise ... [and] apparently the 'issue' didn't exist because a formal complaint was never made (female interviewee).

- victim-blaming attitudes:

She goes to move to a new station and the guy at [the new station] calls her and he says, "You're not going to cause any trouble over here are you?" (female interviewee).



The senior sergeant said, 'Do you really want to be that person? I'm just worried about your future.' So if you know that's what they're like, why would you complain about anything? The last thing I want when I'm feeling like a victim is to be further victimised by a complaints process (FEMALE INTERVIEWEE).

- minimising the risk of behaviours of men who sexually harass women:

I called the roster sergeant. I was worried about my safety on the van. When a young female member calls up and says the things I did, he should have done more. He minimised what I said. I was taken off the van, but I was left to feel that I was an idiot, and

making something out of nothing ... [This woman was later raped by the man referred to] (female interviewee).

- disregard of good management practice in responding to inappropriate workplace behaviours:

I spoke to the inspector, who made me sit for two hours outside the door waiting for him. He said "what a pity you don't have any emails or documentation to support your story" (female interviewee).

The Review heard of many cases where managers not only enabled, but encouraged situations that were potentially unsafe and put their female colleagues at risk.

One night after members had been having drinks after work, there was another girl who lived a distance away and the perpetrator offered to drive her home. The Sergeant encouraged it. I felt that this was grossly negligent (female interviewee).

Management responses to unreported behaviour and complaints

Managers and supervisors are responsible for responding appropriately to local complaints of sexual harassment, discrimination and victimisation in the workplace.²⁸²

This includes taking immediate action to ensure that the person who has made the complaint is safe and referring the person to appropriate welfare and support. It also means treating all complaints as genuine, following relevant policies and procedures, and making a detailed record of the complaint.

The Review heard that these responsibilities are not uniformly met by supervisors and managers across Victoria Police. There are a range of factors and contexts that mitigate against managers managing inappropriate behaviours.

²⁸² For example, see *Equal Opportunity Act 2010* (Vic) s 15; *Occupational Health and Safety Act 2004* (Vic) ss 20–21, 23.



Safety and support for targets/victims

There is very little support for people who disclose this type of behaviour ... The policy we have is cold comfort to genuine complainants ... complainants need to be supported and believed (male survey respondent).

The process of natural justice needs to be followed, but support for any victim should be a natural course for the management team (male survey respondent).

The *Victoria Police Manual* states that ‘supervisors and managers must treat all reported complaints of sexual harassment as genuine and provide employees with support and guidance in dealing with the issue’.²⁸³ It also requires managers and supervisors to take responsibility for employee wellbeing and to offer assistance to all parties. It notes that assistance may include a referral to Welfare Services or other support services as deemed appropriate at any time.²⁸⁴

The Review heard that there needs to be an increased focus on ensuring that a target or victim is safe and supported, as set out in Chapter 11. A number of participants told the Review that there can be a lack of safety and support for a person who makes a complaint to local managers or supervisors – with support more often provided to perpetrators than targets and victims:

[I was told] to ‘pull your head in’. I was told ‘the [perpetrator] is supported’. He is a top bloke. You have no documentation (female interviewee).

I have known a number of colleagues who have been stalked by other colleagues. In not one of these circumstances did I see the victims supported by Victoria Police or management ... One situation in particular I know that the victim of repeated ongoing stalking and assault was not only not supported by management but made to feel at blame (female survey respondent).

²⁸³ Victoria Police, *VPM Sexual Harassment – Procedures and Guidelines* (updated 29/09/2104) 2.

²⁸⁴ Victoria Police, *VPM Sexual Harassment – Policy Rules* (issued 29/09/14) 3.

In part, lack of support is driven by a disproportionate focus on procedural fairness for alleged perpetrators of workplace harm, rather than safety and support for targets/victims of workplace harm. The Review considers that the safety and support of targets/victims should be an immediate and ongoing priority for managers while a complaint is being investigated. This is not mutually exclusive with procedural fairness.

A strong theme was the perception by managers that people who made complaints were retaliating against claims of poor performance. Rather than address the underlying causes of the issues raised with them, managers sometimes focus on their symptoms.

The Review notes that these widely held attitudes about complaints reflect management deficiencies, an organisational victim blaming culture and inadequate clarity and implementation of performance management processes.

The mechanisms to support managers to respond to complaints in a safe and supportive way are described in Chapter 10 and 11.

The Review also heard about the significant impact of providing support to targets and victims, including acknowledging and validating a person’s complaint:

“ Thank you to my senior sergeant and the inspector for saying “this is not ok. You’re our concern and we’re here to support you.” I cannot tell you as a [junior employee] how much that meant to me. I didn’t think anyone would believe me (FEMALE SURVEY RESPONDENT).

I was introduced to the [manager]. He really wants to make a difference. I trusted him. I agreed to speak to him, and sound him out. I told him about the concerns for my safety. He was appalled. He acknowledged my

concerns and validated them (female interviewee).

As part of the Workplace Harm Model recommended in Chapter 13 and as set out in Recommendation 5, Victoria Police should develop clear and detailed guidelines for managers and supervisors on their roles and responsibilities to responding to inappropriate behaviour and complaints in a fair, safe and supportive way. The guidelines should make it clear that the safety and support of targets/victims is an immediate and ongoing priority for managers while a complaint is being addressed or investigated.

Failing to act on complaints

The Review heard that managers and supervisors sometimes fail to act on complaints of sexual harassment and discrimination:

There needs to be more accountability at those senior levels too. If you have people coming to you to make complaints or representing lower ranks, you can't be allowed to sweep it under carpet (female interviewee).

Too much is dealt with 'in-house' and swept under the carpet (male survey respondent).

Failure to respond appropriately to complaints may result in a failure to comply with the positive duty and may result in vicarious liability for Victoria Police. It may also result in a manager or supervisor being directly liable for authorising and assisting unlawful conduct under the Act (see discussion above).

Failing to respond promptly and appropriately to complaints can have significant consequences for the ongoing safety and wellbeing of employees:

With sexual assault matters, the message the police give to the community is they act quickly and support the victim. It's different when it happens on the inside ... My friend had initially gone to her boss and told him the male police officer had been making sexual advances. Nothing happened. The boss should have looked into the allegation before the

alleged rape even happened. When she reported of earlier approaches, it should have been looked into. It would have made a difference if the guy had of genuinely apologised ... Victoria Police's duty of care fails miserably around unwanted sexual behaviour (female interviewee).

The Review heard about the reasons why local management fail to act on complaints of sexual harassment and sex discrimination. This includes:

- failing to identify inappropriate behaviours as sexual harassment or sex discrimination (see discussion above)
- lacking specialist expertise and support to manage complaints (see discussion on support for management below)
- not taking complaints seriously
- difficulties managing friends
- deciding that there is not enough 'hard proof' (see discussion on burden of proof in Chapter 13)
- a lack of incentives to act (such as positive recognition in a manager's PDA or in their promotion pathway)
- disincentives to act (such as an increased workload, concerns about the impact on a manager's career, or fear of a counter-claim).

Some of these factors are discussed in more detail below.

Not taking complaints seriously

There were a few sergeants that I told, but one laughed and made jokes about his conduct (female interviewee).

The Review heard a number of examples of reports and complaints not being taken seriously by managers and supervisors. In some cases, inappropriate behaviour was encouraged or laughed at. For example:

[He] joked about the complaint ... he couldn't grasp that it's an issue – it's scary (female interviewee).

[H]e had targeted this woman explicitly. A number of people had laughed at this behaviour. She had never told anyone before she reported it to her managers who said 'don't worry, that's just what

he's like'. The participant continued that 'behaviour is often encouraged or laughed at. It's a systems and a leadership issue (male interviewee).

Managing friends

The Review heard that some managers and supervisors are reluctant to manage staff who are also their friends. This includes a reluctances to have difficult conversations, make difficult decisions, or in some cases, failing to act on complaints to 'protect their mates'.

[The Inspector] said this is just what happens – he didn't want to have that hard conversation with the Sergeant about his relationships in the workplace with subordinates (male interviewee).

Supervisors refuse to stop sexually harassing behaviours because they are friends with their colleagues as well as being their supervisors. This makes them less likely to recognise and act on such behaviour (female survey respondent).



Another conflict for people who are upgraded or promoted within, who have to manage issues they weren't aware of, or that they have been involved in, or having to 'manage' a mate. They have to manage these issues in their upgraded position, but then revert to their substantial rank and become a colleague again. This can shift the power balance significantly and cause issues (FEMALE INTERVIEWEE).

There has been acceptance that bad behaviour has happened but people too scared to do anything – just like the Catholic Church. Senior management's tenure is limited, so they are scared to act. They do want change but they don't want to get hurt, or hurt their friends (male interviewee).

The Review also heard about examples where managers were bullied by the staff member against which reports were being made:

Lots of members in my team have been having issues with the same senior sergeant. Constables were coming to me to make complaints about him. As their manager, it was my job to go to him, the offender, to take it up with him. But I was also being harassed and bullied by him (female interviewee).

Disincentives to manage

Participants suggested that there were disincentives for responding to complaints, including an increased workload, a lack of subject matter expertise, a lack of support to manage complaints, and potentially negative consequences for a person's career (including counter-claims being made against a manager or supervisor personally):

Managers are too busy to concern themselves with sexual harassment complaints. This is a major issue. A complaint consumes a significant amount of time like any other people issue. Managers like to use the "sort it out" yourself approach (male survey respondent).

It appears difficult to get any action from management as they don't want to know about it for fear of increasing their workload in an area that they are not experienced to manage (male survey respondent).

Managers don't intervene in inappropriate behaviour because they know they won't be properly supported if counter claims are made against them. Leaders want to be accountable but in order to hold them accountable they have to be supported (male interviewee).

Managers and supervisors told the Review that they have busy workloads and competing demands, often prioritising operational demands over people management:

The people stuff is seen as important but not urgent, and it doesn't get attended to. This is compounded by the lack of prioritising it by the organisation. Safety, particularly physical safety, is on the radar, but more nebulous concepts such

as wellbeing, morale, culture, etc., are muddy, messy and clash with task focus and order, which is generally speaking the way police like to work (female interviewee).

Acting against the target/victim's wishes

Managers discussed the tensions that arise between their obligation to act on a report and the importance of allowing a person to make a report safely and confidentially:

If you look at it from an OHS perspective VicPol has an obligation to provide a safe workplace and, as VicPol employees, we all have an obligation to report criminality and misconduct. However a lot of inappropriate behaviour is observed by colleagues and managers who see it and do nothing.

Alternatively, women will report but say "I'm telling you but I don't want to make a formal complaint" which often leads to the named person being informally spoken to by management and told not to behave in that way again. Often this person has been spoken to informally on a number of previous occasions but with no formal management and the same behaviour has continued to occur, sometimes over a number of years and in multiple workplaces.

The other side is when a manager tries to take action to deal with inappropriate behaviour but it is contrary to the victim's wishes and the victim is then angry, upset and is unwilling to participate in any part of the process.

It is really difficult to find the right balance between responsibilities as a manager/colleague and rights of the victim – having a say about the process is very important to most victims – it is also essential that any investigation is independent, transparent and conducted sensitively (female interviewee).

This issue is discussed in more detail in Chapter 13.

Outcomes of complaints

The Review heard examples of positive outcomes where local managers and supervisors acted on complaints:

I know of one example where someone complained, someone actually acted on it and it actually changed the behaviour ... The Sergeant spoke to the guy about it, and just listed it on his PDA as a "discussion about relationships and social media" rather than a "management" thing, so that it wouldn't affect the guy's chance of getting a job, but at least there was something on the record to show that the Sergeant had acted on it and more importantly, a conversation about behaviours was actually had with the member and the behaviour stopped (female interviewee).

The Review also heard concerns about the outcomes of local management, including promoting the perpetrator out of the workplace:

Deal directly with the problem rather than shuffle it around to another office or station (female survey respondent).

He got moved out of [station] by way of a promotion once there were rumblings that he had been targeting local women (female interviewee).

“ There had been no formal counselling, the Sergeant had been moved and upgraded. In their minds, the offender had been rewarded and nothing had happened. Nobody had recorded the management response. The Superintendent in charge of the entire division was saying "I'm happy" but he was presiding over a hyper-masculine workplace where predatory behaviour was encouraged by default and predators were seen as 'good blokes' (SENIOR MANAGER).

Some participants were also concerned about targets and victims being transferred as the result of inappropriate behaviour:

Guidance for managers to develop gender equity workplans

Each Command should champion and support learning and professional development of their managers through engagement in supervisory and management training to be developed by PDC. This will include:

- each Command will enable and support employees to participate in the training
- each Command will audit divisional management processes and mechanisms to ensure they are consistent with current policies and guidelines, and reflect policy and guideline changes that result from this Review
- each Command will support Sergeants and Senior Sergeants to use their learning in the workplace
- each Command will report to HR and PDC on any issues arising from the training, including adjustments or HR support needed to improve divisional responses to sexual harassment and sex discrimination

- each Command will have a KPI target for the proportion of Sergeants and Senior Sergeants trained, as well as the proportion of other ranks trained.

Centrally, human resource policies should be reviewed with implementation tools developed to support managers across Divisions to:

- understand gender inequality as the driver of sexual harassment, sex discrimination and gender based violence.
- understand their role and responsibility in preventing and responding to inappropriate behaviours in the workplace.
- set clear and unequivocal standards for workplace behaviour
- set clear pathways to support safety of targets of sexual harassment, predatory behaviour and sex discrimination
- set clear pathways to support learning and accountability of employees choosing to behave in these ways.
- record behaviours appropriately.

We still move the victim out of the area, often because it is seen as 'easier'. If the victim is moved out of the area, then you can get this harassment by stealth, innuendo, gossip (female interviewee).

Chapter 13 considers the outcomes of disciplinary processes in more detail, including transferring a person as a disciplinary sanction.

Support for managers and supervisors to manage learning

As set out in Chapter 9, the Review consistently heard that there is a need to improve the skills, knowledge and accountability of managers to proactively manage harmful workplace behaviours and respond appropriately to

reports about harmful behaviour including sexual harassment and sex discrimination.

Consistent and appropriate people management training was considered of particular importance given the fluidity of supervisory arrangements that often interrupts consistent visibility and opportunity to have constant, intrusive management styles in workplaces.

There are no records kept. Managers swap and change all the time so there is no oversight or consistency, so people know they can get away with it. Plus some seniors just let the bullying go on, and they don't protect you when you know stuff (female interviewee).

There is a sense too that you only have to outlast the senior manager –

a sense that they won't be there long. This makes workplaces vulnerable. Staff can then make, cliques or harems, and the next manager may or may not uncover it. There is no organisational visibility of issues. You can look at hot spots like [Stations] ... how many Superintendents have gone through? You get a stable workforce, which outlasts senior managers so the issues remain (female interviewee).

This informs Recommendation 5 which requires a structured handover process for rotating management positions for Inspector rank and above.

Management capability needs to be supported by line managers and the chain of command to address inappropriate behaviour:

Strong leadership is essential – in a police station it is the senior sergeant that sets the tone – if he/she are good role models it usually follows that the sergeants will have similar values and supervisory skills – that then leads to the troops having managers who are professional, fair and approachable and ultimately a well run workplace with good morale and very few issues. Oversight and support from a good inspector is also a necessity (female interviewee).

Specialist support for managers and supervisors

Managers and supervisors also need to have access to specialist expertise and guidance to address inappropriate workplace behaviours:

Come up with a model to improve the capacity of leaders to lead, then you need a performance accountability system that holds them to account (executive interviewee).

There used to be ECRU for dispute resolution. But we don't have a centralised unit anymore. ECRU was good because managers could call them for help (senior manager).

The Review heard that since the closure of historical complaint resolution units at Victoria Police, including the Alternative Dispute

Resolution Advisory Centre (ADRAC) and the Equity and Conflict Resolution Unit (ECRU), there is a lack of central advice and support for managers and supervisors to manage inappropriate behaviour and complaints locally.

Victoria Police's historical dispute resolution models are discussed in more detail in Chapter 10.

A number of participants also suggested that it would be valuable to have a central unit to provide advice and support to managers to respond to inappropriate behaviour and complaints locally, as well as access to human resource practitioners to coach managers and supervisors in the regions:

Some people want HR to manage their people. A unit like that would be good for support but not doing people's job for them. It could be a coaching conversation around how to play a management role (executive interviewee).

[Victoria Police should] create a response or support team that can enter workplaces that have complaints of sexual harassment and manage that behaviour and any other peripheral behaviours that may have led to the issue. Unfortunately, some managers are promoted without the relevant experience or courage to address issues and they need support (male survey respondent).

A senior employee suggested that:

... a highly strategic HR partnering model – not a co-location model – with people moving in regions and being accessible, developing relationships with frontline leaders, and with support from HR to work in the proactive zone and connect where necessary regions with specialist areas – a strategic well-rounded HR generalist who can operate across regions ...

... The business partnering capacity will provide coaching and mentoring for frontline people, not manage them (executive interviewee).



RECOMMENDATION 15

Establish a specialist human resource business partnering model to:

- coach and mentor managers and supervisors throughout the business to enhance their supervisory and management skills.
- provide secondary human resource consultations to managers where specific issues had been perceived or identified, including sexual harassment, predatory behaviour and sex discrimination.
- support divisional engagement with the workplace harm model and provide expert guidance preventative (gender diversity) and interventions for workplaces that were at risk of, or impacted by inappropriate behaviour.

The human resource business partnering model will be complemented by a workplace harm unit which will manage reports and complaints of inappropriate workplace behaviour.

Chapter 13 considers the proposed workplace harm model and human resource business partnering model in more detail.

Performance management

Professional Development Assessments (PDA) are the primary management tool for employee performance and professional development.

At the time of the Review, performance management policies were under review. Current practice in managing difficult people issues in Victoria Police (and other organisations) is undertaken at the lowest feasible management level, with 'problems' reported up only when there are perceived risks to the organisation.

Across Victoria Police, the PDA is underutilised as a performance development tool. While rates of compliance are improving, the quality of conversations to support professional development of employees is mixed.

For probationary constables, there is the PDA system. Each member has three formal sessions with manager/supervisor in the cycle. If there are performance/developmental issues, there is a responsibility under policy for management to ensure appropriate measures are undertaken to performance manage the probationary constables. Apart from the PDA, there are on occasions anecdotal or 'word of mouth' reports of issues with probationary constables. Supervisors should investigate and record this where appropriate to ensure proper oversight of performance. (senior manager).

Current promotional training provides guidance on the use of the PDA process to support the development of values aligned behaviour as dimensions of performance. This includes a place to record behaviours that are inconsistent with Victoria Police values.

Everyone has a PDA. Now there's a performance objective only for Senior Sergeant and above. It used to be for everyone. There is a safety one that everyone has to meet. If we're doing it for safety we should do it for this but I think they struggle with how how to word it (female interviewee).

I performance managed the senior sergeant continuously. His 'operational' performance was second to none – his intellect, product, and thinking. The issue was his personality and behaviour. The performance management system doesn't allow exploration of issues that are not linked to output. This should be part of changes to the system. When performance is challenged it is usually because of a failure in output – for example, failure to fill out paper work properly. There is no process to recognise the indicators of bad behaviour. Managers usually wait until it manifests and it is too late (male interviewee).

The Review heard of instances where the PDA had been used effectively to note individual's performance development needs.

There are constantly grumbles about PDA and the time it takes. Also in relation to it capturing good behaviour as opposed to being a punitive model (female interviewee).

The PDA has also been used as a tool to record unprofessional or inappropriate workplace behaviours:

[The manager respected the wishes of the victim] for it to be treated informally. [the manager] confronted the offender and documented the discussion (notes and PDA) ... [Later] it occurred again and [was] immediately formalised, [and] facilitated his suspension and ultimate resignation – endorsed by TPA (female survey respondent).

Most managers told the Review they were not confident to use the PDA in this way.

You have to be careful about having a big stick attached to it. I think that makes people resistant, and that's why I refer back to education. When the PDA was introduced, we had realised we needed better accountability about recording things ... But it was a legislative requirement that was forced on to managers, and you have no idea how resistant they were to it. The biggest complaint was that there wasn't enough education for people to implement it (female interviewee).

The Review heard from many managers that there was a lack of clarity about what the 'threshold' levels of behaviour were that might require a PDA entry:

If the girls changed night shift, he would also change shift. He would shine a torch at their breasts. What they put up with was disgraceful. Management covered up for him. Warning bells were going off for me, but this behaviour was not in his PDA (executive interviewee).

People are too scared to put a negative

PDA entry in so often all you get is positive PDA entries. I find PDAs problematic (female interviewee).

There can be many reasons why someone underperforms, it could be welfare issues, workplace, lack of clarity of roles. The PDA is a process that managers are hesitant to do. Managers are hesitant to ruin a person's career. All members need to understand that it is performance tool, not a punishment tool (female interviewee).

The Review heard from employees of concerns that the PDA was used punitively and had not been used as a professional development tool:

If I was ever promoted, I would never pay attention to a PDA. The only parts I would look at would be voluntary contributions by someone who you dealt with, not those with an ongoing relationship. You can't trust the information is impartial, and whether it was motivated by good or bad. It's the same as trying to pump up their PDA to get them moved on. I understand what they are trying to do, but it doesn't work (female interviewee).

Most police want to move – location, function, promotion. This opens the way for PDAs to be used to discriminate. It is always very easy to find ways to say the person should have done better ... As mentioned, there is an overfocus on punitive responses rather than an educational focus where appropriate. There should be a shift towards restorative justice or education. There is an obligation as an employer to train employees. NSW Police has shifted its model as has the AFP. With discipline issues the approach is 'if it warrants dismissal we will do that, otherwise we have an obligation to train you' (The Police Association Victoria).

The punitive use of the PDA included instances where women who had rejected sexual advances were disadvantaged:

With regard to the use of PDAs, there

have been cases where a police member's rejection of sexual advances has led to a manager 'punishing' individuals by entering negative information on their PDA (The Police Association Victoria).

The Review also heard instances where PDA discussions were regarded as the only mechanism to hold members to account for inappropriate workplace behaviours. In some instances, this did nothing to reinforce expected standards behaviour:

Force-wide standards for any action. [I know a] victim of [sexual harassment] by co-worker and it resulted in a PDA discussion, and no further action ... what a joke (male survey respondent).

PDAs were widely perceived as a tool to manage underperformance.

Very few employees or managers reflected on it as a way to encourage and reward good performance. The Review notes the need for consistent efforts to explain and promote the rationale of performance assessment processes as a professional development tool to employees and managers.

Performance assessment, for Victoria Police the PDA, is an important professional development tool. Its role in building a learning organisational culture has not reached its potential and further work is needed to build the capacity of managers – both through training and through guided practice learning opportunities.

There is no support as a manager at this station. Male sergeants and senior sergeants undermine me and are waiting for me to trip up. I have learnt to be a manager by using my own initiative. That is what lead me to develop the [initiative for women] ... to support and promote better treatment of women in the police force. I do all of this work at home on my own time. OHS is one of my portfolio responsibilities but my work in this area is not recognised in my PDA (female interviewee).

Similarly, the potential of performance assessment processes has not been harnessed

to build management capability. The Review heard support for upwards performance assessment processes.

360 Degree Feedback would solve so many problems in Victoria Police (survey respondent, gender unknown).

We have access to 360 degree formal feedback which is used frequently (executive interviewee).

We need to focus on stronger leadership in the workplace especially on middle managers who drive the culture and set the workplace standards. We have a flawed system that recruits and promotes managers with little true management expertise. Need to move away from the 'he's a good bloke syndrome' (male survey respondent).

The Review notes the need for additional professional development and support for employees to demonstrate Victoria Police values in their workplace interactions. At the time of the Review, policies and guidelines on performance and professional management were under review.

The Review also notes that the intent of the PDA, which is to guide professional development, is compromised by its use as a mechanism to record inappropriate workplace behaviour where commensurate learning opportunities are not provided, or if there is an assessment that the incident(s) will not be resolved by professional development.

There were questions about its appropriateness as a recording device for a range of reasons:

With the PDA, you can only see it for two years. Also as soon as they transfer out you lose the ability to see it. It's professional development as opposed to ethical history. It's ongoing performance as opposed to incidents but it's good to have them linked to identify (executive interviewee).

Re-introduce a reporting database of complaints that ADRAC once had and not utilise the PDA system as the only tool/place to record behaviour (male survey respondent).

Documenting performance information

The Review observed a reluctance by local managers and supervisors to document discussions about inappropriate behaviour, complaints (whether formal or informal), and the outcomes of those discussions/complaints.

A number of managers currently use the PDA or the police 'blue diary' to document discussions with staff about inappropriate behaviour – whether or not they are the subject of a complaint. However, local managers do not have a consistent and accountable way of documenting information.

The Review notes the importance of Victoria Police having consistent documentation of workplace behaviour discussions to support managers to:

- manage performance and reward professional development progress
- inform promotions processes and ensure that all aspects of employee performance meet organisational values and capability requirements
- support seamless handover processes and good risk management practice (this should be considered as business management rather than performance management).



RECOMMENDATION 12

- Consistent with and feeding into the organisation-wide gender performance framework, performance in workplace equality and respect should be a compulsory performance field or performance appraisal and reward and incentive systems. This includes being a compulsory field of PDAs and executive management performance agreements.
- Inclusive management should be regarded as an area of continuous and ongoing professional development for all employees.
- Managers who do not have and record conversations to support equality and respect in staff PDAs should be assessed as not meeting KPIs.

- Introduce upward assessment processes for all supervisors and managers as part of the performance development process. Feedback from this process should inform ongoing training needs assessment and development of the supervision and management training curriculum to be developed by PDC.
- Performance development measures for executives should be implemented to support people development in the workplaces they manage. Measures should emphasise effectiveness over compliance. Consider processes that formally acknowledge executives assessed to be effective in developing people and building organisational capability, including those who pro-actively develop employees to reflect the intended diversity of the Victoria Police workforce at all levels.
- Victoria Police reweights the capability descriptors guiding performance assessment for supervisors and managers at all levels with additional focus on people management skills and demonstrated leadership in building a skilled and diverse workforce
- Victoria Police should review and identify the appropriate tracking and recording mechanism(s) for inappropriate workplace behaviours that warrant ongoing supervision and management.

In addition to recording information to enhance individual performance and alignment to organisational values, the Review notes that a separate workplace data recording mechanism should be established through the workplace harm model in Chapter 13 to collect de-identified data on the prevalence and nature of sex discrimination and sexual harassment across Victoria Police's workplaces.

Chapter 11

Workplace safety and welfare

Main findings

- Norms reflecting a hostile gender climate and expectations of resilience in Victoria Police workplaces mean there is a perception that there are 'bigger issues' for Victoria Police to deal with compared to workplace harm. Sex discrimination and sexual harassment have been minimised and side-lined.
- Sexism in the workplace is one of the key indicators of poor outcomes for women's health, performance and occupational wellbeing. The Review has generated significant evidence of women experiencing gender-based hostility when issues of gender equality are raised.
- Victoria Police has shown strong commitment to the health, safety and wellbeing of its employees; however the lack of alignment between initiatives, as well as a focus on volume measures over impact and harm may limit their overall effectiveness.
- A significant number of participants raised concerns about the different approaches to supporting internal victims and those in the community.
- Workplace safety initiatives have been slow to recognise experiences of sex discrimination and sexual harassment in a strategic way. While the drivers of sex discrimination and sexual harassment, including predatory behaviour differ from the drivers of other safety concerns such as operational safety and mental harm, the outcome is the same: an unsafe workplace.
- Although there are a range of support services in Victoria Police, there are ongoing issues with role delineation, and services are stretched beyond capability because of the need to 'fill gaps' on an ad hoc, rather than strategic basis.

Introduction

This chapter considers the prerequisites for creating a safe workplace, at the local workplace level. The Review heard consistently that in workplaces, there was a need to provide guidance to the organisation on the elements or 'environmental' factors that underpin safe and respectful workplaces.

This chapter also looks at the contemporary needs of Victoria Police to deliver safety and support to all employees. This includes an assessment of current needs, capacity and capability of welfare services. It focuses on a clarification of roles, the resourcing and specialist skills of welfare services, as well as their coverage.

PART ONE: Creating a safe workplace

Obligations

Victoria Police has a number of legal obligations to create and maintain safe workplaces, including:

- a positive duty under the Equal Opportunity Act to take proactive steps to eliminate sexual harassment, discrimination and victimisation;²⁸⁵ and an obligation under the Occupational Health and Safety Act to provide and maintain a work environment that is safe and without risks to the health of its employees and others.
- an obligation under the Occupational Health and Safety Act to provide and maintain a work environment that is safe and without risks to the health of its employees and others.²⁸⁶

²⁸⁵ *Equal Opportunity Act 2010* (Vic) s 15.

²⁸⁶ *Occupational Health and Safety Act 2004* (Vic) s 21.

The *Victoria Police Manual* contains an Employee Health Policy. It states:

*Victoria Police aims to promote safe work practices, provide a safe workplace for its employees and a professional, ethical, high performing service to the community. This aim is underpinned by having employees who are fit for duty in the workplace.*²⁸⁷

The policy contains information on eyesight screening, management of epilepsy, infection control, pandemic preparedness and management, and alcohol and other drugs. The Review was unable to find specific VPM policies on mental harm, including anxiety, depression and PTSD, and work-related stress or trauma. The Review is aware of a forthcoming Employee Mental Health Strategy.

Nature of policing

Victoria Police assumes an enormous responsibility for community safety – policing work can be demanding, dangerous and even life threatening. As discussed in Chapter 2, police employees who engaged with the Review, both men and women, described the importance of resilience, loyalty and strength. The Review frequently heard that employees are expected, or told to ‘toughen up’ or just ‘deal with it’.

A former employee described how job stress interacts with the internal gender hostile climate.

... when the bushfires were on, it was so awful for the police to have to go out and deal with that. I know that's their job but it must have an impact. I think the sworn members carry a lot of stress. It doesn't excuse sexist behaviour, but it's a loyal and tight environment. Sexist attitudes that are part of the cultural norm are minimised because there are bigger things to deal with (female interviewee).

The Review commonly heard that there are ‘bigger issues’ for Victoria Police to deal with compared to sex discrimination and sexual harassment. A practising psychologist told the Review:

²⁸⁷ Victoria Police, *VPM Policy Rules – Employee Health* (Updated 14/3/12) 1.

What's often the case with the exposure to the trauma of violence, is how it's dealt with, not only by the individual him/herself but also senior officers, small groups and the larger police group and how it's processed at the time ... or not. For example, if a member is supported by a small work group, the traumatic experience may not be problematic, although certainly there can be a cumulative effect over time with serial exposure to traumatic work involving violence and destructiveness (executive interviewee).

Expectations and norms across Victoria Police workplaces expressed to the Review about resilience and loyalty will be further tested by the heightened risk of terrorism, and the resulting introduction of additional safety measures for police employees.

What we know about gender hostile attitudes and behaviours in the workplace

We know that gender hostile attitudes and behaviours have a detrimental impact on individuals and workplaces. Broader research identifies sexism in the workplace as one of the key indicators of women's health, performance and occupational wellbeing.²⁸⁸ Studies have also shown that employees who experience sexual harassment in the workplace report lower job satisfaction, performance and commitment to the organisation, and higher levels of psychological and physical illness compared with those who are not sexually harassed.²⁸⁹

Recent research found that less severe, high frequency harmful workplace experiences and more severe, less frequent harmful

²⁸⁸ Victor Sojo and Robert Wood ‘Resilience: Women's fit, functioning and growth at work: Indicators and predictors’ (Briefing note, Centre for Ethical Leadership, The University of Melbourne, July 2012) 10 <http://www.researchgate.net/publication/251566430_Resilience_Women's_Fit_Functioning_and_Growth_at_Work_Indicators_and_Predictors>.

²⁸⁹ Darius K-S Chan et al, ‘Examining the job-related, psychological, and physical outcomes of workplace sexual harassment: A meta-analytic review’ (2008) 32 *Psychology of Women Quarterly* 362, 373.



workplace experiences have a similar effect on occupational wellbeing.²⁹⁰

The same research also found that harmful workplace experiences have a more harmful effect on co-worker and supervisor satisfaction (than with work satisfaction).²⁹¹ Further, the impact on mental health is striking.

*... All the facets of sexual harassment ... had stronger negative associations with women's mental health when they were working in male-dominated contexts than for women working in mixed settings.*²⁹²

Organisational safety strategies and initiatives

This section examines Victoria Police's prioritisation of workplace safety and how sexual harassment, predatory behaviour and sex discrimination align with these initiatives and strategies.

Most of our meetings start with safety now. We put safety front and centre. As part of the discussion on safety, we need to consider more sophisticated approaches to safety and remind staff about it (executive interviewee).

Of relevance to this Review is Victoria Police's commitment to effective police service delivery, as stated in the *Victoria Police Corporate Plan 2015–18 – Year 1*. Some of Victoria Police's priority projects include Family Violence Reforms and Frontline Practice Reform – which will “implement a cultural change program involving police members changing

their mindsets and practices.”²⁹³ The Review welcomes these projects, and expects their implementation will complement this Review's Action Plan.

Zero Harm Strategy

Victoria Police has shown strong commitment to the health, safety and wellbeing of its employees. Workplace safety has been recognised as an organisational risk in 2015–16.²⁹⁴ The Zero Harm initiative falls within the new Health and Safety Strategy 2015–18 and is a whole-of-organisation strategy that aims to measure incidents of harm as an early intervention tool,²⁹⁵ and

*... strives to ensure every Victoria police employee is personally committed to the health and safety of themselves, their fellow employees and the community in which they service.*²⁹⁶

The Review is aware the Victoria Police intranet contains Zero Harm guidance sheets for employees and resources for managers.

Victoria Police Command and Executive Command employees reflected generally positive assessments of the Zero Harm Strategy to the Review.

Zero harm – the idea is not achievable. But it was deliberately done for that purpose because we needed a mindset shift. Predatory behaviour is the same ... I understand it's a hazardous occupation however we should have zero tolerance to people getting hurt (executive interviewee).

The focus on physical safety was a concern to some participants, with some employees telling the Review:

The Zero Harm strategy has the right messages, but policing involves putting people in harm's way every day. There is a particular focus on physical

290 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly* <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>

291 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly*, 15 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

292 Victor E Sojo, Robert E Wood and Anna E Genat, 'Harmful workplace experiences and women's occupational well-being: A meta-analysis' (2015) *Psychology of Women Quarterly*, 18 <<http://pwq.sagepub.com/content/early/2015/08/21/0361684315599346.abstract>>.

293 Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 15.

294 Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 10.

295 Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 21.

296 Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 5.

safety – the safety focus needs to be integrated into business processes – it needs to be in the DNA of the organisation (executive interviewee).

Despite the emphasis on physical safety, the impact of workplace harms are being recognised as a fundamental part of the initiative.

I'd like to term it as anxiety and depression rather than cost and time lost. We always put it in the context of dollars and lost time rather than the individuals and the harm we've caused to them. At the moment, the Zero Harm strategy doesn't do that but we want to move towards how we measure it in the best way that our people getting hurt is not about lost time and WorkCover costs. It's the individual who gets harmed. That is the beacon for why we need to change things (executive interviewee).

Further discussion on the need to measure impact and harm can be found in Chapter 6.

Victim-Centric Service Delivery Strategic Approach

Released in 2015, the Future Directions for Victim-Centric Policing sets a vision to reduce victimisation, improve service delivery and capability in preventing crime, and be responsive to the diverse needs of victims in the community.²⁹⁷ The Approach prioritises victim support which includes an opportunity for the victim to be heard, be provided adequate and timely information and referrals to support services.²⁹⁸ Importantly, the policy recognises procedural justice as essential to the victim experience.

Often they will place greater importance on being treated fairly above effective action being taken by police in relation to their matter.²⁹⁹

²⁹⁷ Victoria Police, *Future Directions for Victim-Centric Policing* (2015); Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015).

²⁹⁸ Department of Justice and Regulation (2015) cited in Victoria Police, *Future Directions for Victim-Centric Policing* (2015) 5.

²⁹⁹ Victoria Police, *Future Directions for Victim-Centric Policing* (2015) 5.

The Review heard a generally positive response to this policy, although a number of participants raised concerns about the different approaches to supporting internal victims compared with those in the community.

A victim of sexual crimes in the community will trigger a specialist response. However, if a police member is the victim, an internal investigation kicks in because 'that's just the way it is done' (site visit).

The Chief Commissioner told the Review:

... It looks at how we deal with external victims. Our internal victims are still treated differently. How can we shape the narrative? We are leading the way in community victim centric policing. We are a team; we support each other, respect each other and work well together. We do this well in the community and then we go back to the station and these things happen. If a woman member is harmed at a demonstration, she will be protected and supported by her colleagues. But if something happens back in the locker room, the treatment she receives seems to be different (Chief Commissioner of Victoria Police).

In conversations with employees, there was a general sense that in the community, good progress is being made on victim centric models and support. However, it was noted that this work seems to have an external rather than internal focus. One employee told the Review that there have been changes with the way Victoria Police manage civilian sexual assaults. However, Victoria Police doesn't have the same process with assaults against police members (site visit).

The Review commonly heard that Victoria Police employees, particularly police members, do not identify as 'targets' or 'victims' of sex discrimination and sexual harassment in the workplace. This means the safety response to community 'victims' can be vastly different to the safety response to employee 'victims'.

Police are expected to be resilient, calm and decisive no matter what the situation ... (The Police Association Victoria).

Employee Mental Health Strategy

On the mental health side – there has been some work done on PTSD – the way it manifests for people at mid-end of their careers. The issue of conflict is a big contributor to those mental health issues. I think of those three things, physical and mental health and workplace conflict under safety – are the elements of a safe work environment (executive interviewee).

The Victoria Police Corporate Plan 2015–18 – Year 1 has committed to develop an employee mental health strategy.³⁰⁰

The Review commends this significant commitment.

In aligning the intent, accountabilities and implementation of efforts to develop effective change initiatives set out in Recommendation 3, Victoria Police should:

- consider contemporary concepts of resilience (see Chapter 2) being incorporated into the forthcoming Mental Health Strategy, including the need to focus on prevention as well as early intervention
- review current education material for recruits and managers within People Development Command and Human Resources to contemporise the notion of resilience and help seeking behaviour
- consider incorporating recognition of the negative impact on mental health arising from sex discrimination, sexual harassment and other forms of gender-based hostility in the workplace into the forthcoming Employee Mental Health Strategy.

The organisational levers to address the issue of mental health and the impact of workplace harm are common. All strategies and approaches seek to inform what employees know, how they use their knowledge and define the professional behaviours required of Victoria Police.

³⁰⁰ Victoria Police, *Victoria Police Corporate Plan 2015–18 – Year 1* (2015) 21.

Other key initiatives

The *Victoria Police Blue Paper: A Vision for Victoria Police in 2025* articulated the organisation's strategic goals and directions to better match resourcing with demand, to improve capability and collaborate more closely through partnerships.

Importantly, the Blue Paper emphasised the shift towards proactive policing and a greater focus on victimisation and the impact of crime. It recognises the importance of occupational health and safety, focusing on operational safety, lost time injury frequency rate and removing the stigma of reporting psychological injury.³⁰¹

Safe T Net is a new online, early intervention support system that aims to track the cumulative impact of mental health and wellbeing. It allows employees to allocate an impact rank of 1 to 5 for different critical events and encourages conversations between employees and managers. It is currently available in several stations and has allowed some stations to track the impact of certain stressors in the workplace. The Review has not been able to evaluate Safe T Net and its role in monitoring compounding trauma and high frequency, low level harm within the timeframes of the Review:

Any initiative should ensure that the on-going focus on safe workplace environments is not replaced or relegated to a position of less importance by a focus on incident-based measures.

There is definitely more work that can be done to make it clear that it's not just about the aftermath of critical incidents – this stuff compounds. Monitoring your mental health is really crucial. One of the critical things about Post Traumatic Stress Disorder (PTSD) is that it is incremental, it's not just one critical incident (male interviewee).

The Review anticipates that non-reporting is also an issue for a range of employee mental health issues, and is compounded by widely held notions of resilience. Tracking and recording of work-related 'incident' tools are important, but are not enough on their own to address workplace safety and wellbeing.

³⁰¹ Victoria Police, *Blue Paper: A vision for Victoria Police in 2025* (2014) 26–7, 45.

PRIORITISING SAFETY – PROJECT BEACON

During the 1990s, a series of police shootings underlined the need for cultural change around the use of firearms. One senior male police member recalled:

Everyone had to go through a five-day operational safety training (OSTT). It changed how everyone thought about critical incidents. People started to think about how we deal with the aftermath. I think that is when the culture started to change a bit (male interviewee).

One senior police member explained why this safety reform was so successful, and how the lessons can be used for other safety reforms.

It was driven from the top. The Chief was focused on it. There was a dedicated project team headed by an Assistant Commissioner. The communications were good. It involved the whole organisation. It was textbook in terms of a change piece. You need to maintain the focus and build it in or it will slide (executive interviewee).

Are sex discrimination and sexual harassment part of the 'safety' agenda?

Workplace safety initiatives have been slow to recognise experiences of sex discrimination and sexual harassment in a strategic way. In the past, safety initiatives have largely been concerned with physical harm or 'workplace conflict'. A shift in focus onto workplace harm and impact will be important in Victoria Police's approach to prevent and respond to the harmful impacts of everyday discrimination and gender harassment.

During a site visit, the Review team heard that sexual harassment still has a stigma attached to it: "It's not thought of as a safety issue. It's only considered as part of discipline or as a crime, not as a threat to staff safety".

The Review found there is general support for the Zero Harm initiative and other safety strategies to act as a vehicle for the safety concerns arising out of experiences of sexual harassment, predatory behaviour and sex discrimination.

[It needs to sit] ... with our safety work. It's part of creating a safe workplace. Safety must include mental health, physical injury and workplace behaviour. You need a safe workplace, with managers focused on safety and

driven by the Chief's Office (executive interviewee).

These behaviours must be viewed within the safety paradigm. While the drivers of sex discrimination, sexual harassment and predatory behaviour differ from the drivers of other safety concerns such as operational safety and mental harm, the outcome is the same: an unsafe workplace.

No one should have to work or associate with someone who is harassing them. We all have the right to a career and to be safe (female interviewee).

As discussed, sex discrimination and sexual harassment, can be extremely harmful, not only as a result of the actual experience, but also because they contribute to a situation where victims cannot trust their colleagues to keep them safe.

This section sets out principles to create a safe workplace for all employees, including:

- ensure employees know and trust management will be supportive
- drive a focus on equality and respect
- support positive workplace initiatives
- ensure safety is everyone's responsibility
- establish a safe and supportive workplace
- normalise safety and help-seeking
- ensure targets are safe.



Experience shows that there are certain environments in which inappropriate behaviours are more prevalent than others.³⁰² In a workshop convened by Taskforce Salus, participants were asked to consider the environmental factors that allowed sexually inappropriate behaviours to thrive. They produced the following list:

- Lack of strong genuine visible ethical leadership
- Lack of progressive leadership
- Ignorance of managers/leadership group – Not acknowledging problems/Denial for fear of being seen as ineffective
- Lack of effective management and supervision
- Lack of experienced supervisors/managers. Under-skilled or under-supported managers
- Standards are not properly set and modelled, are too low or are inappropriate
- People are not held accountable for breaches of standards. There is a lack of early intervention regarding behaviours
- The workplace is isolated and managed remotely with irregular face to face contact
- Gender imbalance at management/supervision levels
- Male dominated workplaces/low numbers of female staff
- General disregard for the value of women in the workforce
- Poor workplace culture exists from management down
- Cultural fear of speaking up
- Bystanders are unwilling or unable to act
- Poor attitudes towards family responsibilities (maternity leave/part-time policing, etc.)
- Lack of visible consequences for poor behaviour
- Lack of adherence to or knowledge of relevant policies
- Reward and recognition focuses on results irrespective of behaviour
- Blame culture rather than incentivising culture
- A culture of familiarity – inappropriate socialising
- Poor information sharing processes between managers/workplaces
- Workplaces with low morale
- Priorities focused on results rather than people.

(Taskforce Salus, September 2015)

Ensure employees know and trust management will be supportive

Strong, ethical and visible leadership is fundamental to ensuring a safe and supportive workplace. This means modelling best practice values, attitudes and behaviours, and holding the workplace to these standards.

Research shows that when people understand the impact of sexism and attitudes around men's violence against women, they are

able to provide better and safer responses to women experiencing harm.³⁰³ To create a supportive workplace, management must be supportive, and employees must be able to trust management will support them.

[My workplace is great] There are even numbers of males and females. ... I can speak freely and they are positive. I know I am adding value. They are also invested in my professional development (female interviewee).

³⁰² Studies have shown that sexual harassment is more prevalent in organizations characterised by larger power differentials between organizational levels and in male-dominated occupations and work contexts, than in balanced or female-dominated workplaces. R Illies et al, 'Reported incidence rates of work-related sexual harassment in the US: using meta-analysis to explain reported rate disparities' (2003) 56 *Personnel Psychology* 607. M McCabe and L Hardman, 'Attitudes and perceptions of workers to sexual harassment' (2005) 145 *Journal of Social Psychology* 719.

³⁰³ VicHealth, *Australians' attitudes to violence against women. Findings from the 2013 National Community Attitudes towards Violence Against Women Survey (NCAS)* (2014).

The role of managers in setting standards on respect is visited in more detail in Chapter 10. The role of bystanders is considered in more detail below and in Chapter 12.

Driving a focus on equality and respect

Research shows that increased gender diversity protects women against sexism and sexual harassment in the workplace.³⁰⁴ Participants reflected on the strengths of having more women in their workplaces.

... I had felt more relaxed in the unit regardless that I had always enjoyed the company of the men that I worked with and loved the work that we undertook. I had always felt very comfortable there but somehow having a female colleague around made me feel less alone I think, like I was not 'the' woman (female interviewee).

There are other females there. I am able to speak to them. I have respect. I have support of the inspector. I know my rights ... It is a nurturing environment. People want to help. They want people to be empowered. You need females in the workplace (female interviewee).

... there was a day when I was working alone in an upstairs office, when another female police officer arrived uninvited at the door. I had never met the woman before but she just stood standing there looking at me until I noticed her and looked up. She just started talking, speaking with me about the unit where she worked and the men she worked with ... She said she was the only woman at her unit and that it was nice to talk with another woman ... So we just chatted until she had to return to work. Years later, I would recall that woman when I myself became the only woman working within an all-male workplace (female interviewee).

Women are good for business in terms of how they problem solve. It's about bringing balance to a team (female interviewee).

The drivers of sex discrimination and sexual harassment in Victoria Police are gender inequality and attitudes that reflect unequal gender roles and stereotypes. While these attitudes are similar to those held in the broader community, they are compounded and amplified by strongly held norms about the personal attributes of police, the nature of police work and the life-long career that policing is for many police. Aside from gender-based hostility in the workplace driving reporting of sex discrimination and sexual harassment further underground, the Review has generated significant evidence of women experiencing hostility when issues of gender equality are raised. This includes employees being disparaged by their colleagues and their managers for 'playing the gender card', using their gender or sexuality to their advantage or told it's 'because you have a vagina'.

The Review has made recommendations in Chapter 6 on a whole-of-organisation vision and Gender and Diversity Strategy, to be underpinned by Command-based equity and diversity work plans that report progress to Executive Command annually. The quality and progress of these work plans will be considered in performance and leadership assessments.

It is essential that the organisation engages with women at all levels to develop these strategies and is informed by the expertise of women in the organisation. It is also important that the organisation engages men in a positive way. Ongoing expectations of managers will be to ensure that women in their workplaces are not subject to hostility, that they model expected values and that there will be no tolerance for gender based hostility.

Support positive workplace initiatives

The Review consistently heard and saw a range of workplace initiatives that supported a safe workplace. These included health/safety debriefs, peer support officers, localised initiatives, informal mentoring and safety messaging (for example, posters, readouts and divisional newsletters).

³⁰⁴ Victor Sojo and Robert Wood 'Resilience: Women's fit, functioning and growth at work: Indicators and predictors' (Briefing note, Centre for Ethical Leadership, The University of Melbourne, July 2012) <http://www.researchgate.net/publication/251566430_Resilience_Women's_Fit_Functioning_and_Growth_at_Work_Indicators_and_Predictors>.



There is no single answer to the 'safety' question in workplaces, particularly due to the varied work and work environments at Victoria Police. However, any initiatives should be underpinned by prioritising safety and respect.

Supporting initiatives that enhance women's safety in Victoria Police is an important way to create a strong workplace.

One manager described his experience mentoring a younger female member who was experiencing challenges in the workplace.

We met weekly and diarised ... I asked her what she wanted to do with her career ... I said I'd organise with someone I knew and suggested she do some courses [to get where she wanted to go] (male interviewee).

Establishing women's networks and mentoring was a common suggestion to improve safety and support.

When I joined ... It was tough. One member ... came up to me and said, "I will work with you and will help you" (female interviewee).

... Making that first phone call can be really hard. I was speaking to a sergeant in [another area]. She said it's the best thing, having more women. Maybe it's the retired women who can support us and tell people not to suck it up (female interviewee).

And you need to have mentors – women who are still junior enough to relate to trainees ... people who are still in the field and who are still going though it but people you can talk to about it and who understand – a better support network (female interviewee).

Some women, however, rejected the need for processes for women, noting that women did not need special help or did not want to raise the visibility of their gender in their workplace.

Many employees also commented on the need for positive role modelling for men:

For these guys, they're young, they've got a gun on their hip, and a new sense of power, mix that with inappropriate

role models. They need role models who will show them how to behave and that it's ok to treat the women you work with, with respect. (female interviewee).

Positive Policewomen's Program

The Review heard positive reports regarding a recent local initiative based in the regional centre of Bendigo. Referred to as the Positive Policewomen's Project (PPP), the initiative aims to promote better treatment of employees, particularly women in the workforce and to support a positive working environment.

While it is based in Bendigo, the program has representatives (including a male ambassador) in six stations throughout the Western Region including Shepparton, Warrnambool and Maryborough.

The Review understands the program uses a range of tools to achieve its aims including: mentoring; station ambassadors, a 'stop be positive' tool to call out negativity, career pathway workshops; as well as a newsletter and other printed materials. The program also intends to create an award to recognise individual efforts to support women in the workplace.

The Review is aware that other areas have programs and initiatives that aim to support women and provide collegiality through shared experience. Such programs are often effective in encouraging the sharing of expertise within regions about culture and safety. The PPP is advocating for an organisational strategy to govern these programs to ensure consistency across the state. We heard the PPP has received varying levels of support and sponsorship from senior Victoria Police leadership.

In addition, the Review was told about workplaces that shared good practice and learning from their workplace initiatives with other workplaces. This information sharing had positive outcomes on workplaces and employees.

The Review considers evidence-based programs that empower employees and promote positive attitudes towards women should be supported by Victoria Police.

Ensure safety is everyone's responsibility

Numbers go some way to build workplaces that are safe and respectful of women – but it is also about what we value, and whether we feel backed by our managers and leadership to call bad behaviour out – whether its jokes or comments about women, or more serious behaviour.³⁰⁵

Workplace safety is everyone's responsibility. Improving the ability of employees to intervene and 'call out' inappropriate behaviours is essential if all employees are to feel safe in their workplace.

No member of Victoria Police should be a bystander to misconduct – of any kind, and at any rank.³⁰⁶

Victoria Police has shown leadership on bystander intervention, including relying on community members who witness and report crime, Crime Stoppers and the recent Report Racism initiative.³⁰⁷ In addition, the Blue Paper states the importance of bystander intervention within Victoria Police.

What is most important, however, is for Victoria Police to change a culture that has made officers, and especially more junior officers, reluctant to challenge bad behaviour by their peers, even of a relatively minor kind (such as comments that vilify or disparage another person, or other disrespectful behaviour).³⁰⁸

305 Commissioner Kate Jenkins, 'Plenary: Shaping the future: Now it's up to you' (Speech delivered at the Australasian Council of Women and Policing Conference, Sydney, 3 September 2015).

306 Victoria Police, *Blue Paper: A vision for Victoria Police in 2025* (2014) 41.

307 Launched by the Victoria Equal Opportunity and Human Rights Commission in partnership with Victoria Police and the Victorian Aboriginal Legal Service, Report Racism is a third-party reporting mechanism for the Aboriginal community. Reports of race discrimination are accepted from victims, witnesses and community organisation reporting places. People can choose to report anonymously or make the report to a reporting place.

308 Victoria Police, *Blue Paper: A vision for Victoria Police in 2025* (2014) 41.

Participants often cited the positive shift to calling out other issues such as corruption or safety matters but also noted the disparity between this and calling out sexual harassment.

Also focus around bystander initiatives – people understand this about OHS and family violence – we can and should be able to target it in the area of sex discrimination and sexual harassment at work. In VicPol, we are starting to shift on things like reporting on OHS – the message is changing – it's not about dobbing in a colleague – we need to bring those cultural gains into this space (executive interviewee).

Bystanders can be empowered to identify inappropriate behaviours, understand the impact and harm, safely intervene and support the target or victim. The Review heard some positive examples of intervention, including:

I've noticed now when I say "Guys, that's someone we work with, have a bit of respect" the sexual banter stops while I'm around. The more people who we can get thinking and acting this way, the less common the sexualisation of female colleagues, will be (female interviewee).

Bystander reporting and responses are examined in detail in Chapter 12.

Establish a safe and supportive workplace

None of us should have to put up with this, and at Victoria Police, the organisation is looking for ways to take responsibility for women's safety and respect in the workplace.³⁰⁹

The focus on workplace safety should be on creating an environment where everyone is respected and valued. However, employees must also be empowered to intervene early if there is risk of, or actual, harm.

The consequences for inaction are severe.

Female members leave the station and the force. Some are suicidal or

309 Commissioner Kate Jenkins, 'Plenary: Shaping the future: Now it's up to you' (Speech delivered at the Australasian Council of Women and Policing Conference, Sydney, 3 September 2015).

depressed. Managers only see mental health issues at the pointy end rather than developing solutions at the start (female interviewee).

Creating a safe workplace requires **everyone** in the workplace to understand the drivers of sex discrimination and sexual harassment. People must also be aware of the meaning of sexual harassment and sex discrimination, its impact, and the consequences for perpetrating these behaviours.

The Review evidence suggests that there is an inconsistent understanding across the organisation of these behaviours. There also appears to be an unhelpful emphasis on profiling 'predators' and developing workplace indicators to identify 'predators', rather than creating safe workplaces.

They will be aware of predatory behaviour if it's clear cut, but they wouldn't identify everyday sexist behaviour as potential harassment as it's a normalised part of our culture ... (female interviewee).

Many participants spoke at length about this issue:

There's been a couple of people I worked with over the years who were repeat offenders. I had no visibility of it at all. I was surprised when reports ... came to my attention ... how can you stereotype an offender? They don't walk around in horn rimmed glasses with 'offender' written across their chest (male interviewee).

The workplace may be at risk and the member may be at risk ... where there is a high level of complaints against the member, a lot of 'assault police' charges, workplace injuries, there are indicators of risk to self and the organisation around behaviour. Yes you can identify some but you don't know if there's a correlation between that and predatory behaviour. We put interventions in place for example about how to handle critical incidents ... are there data indicators? (executive interviewee).

It is clear that workplaces provide the enabling environment for such behaviour to occur and thrive.

While it is important that employees who are engaging in harmful conduct should be stopped, there is a need to invest energy and resources in prevention efforts, which requires creating workplaces that enforce high standards of behaviour, and promote respectful treatment of women and a culture of safety. A senior public servant commented:

It is misleading to think you can identify a monster – [they] are normal people with normal lives. It is not as if there is a neon sign ...

... There is no simple answer to how we prevent predatory behaviour – you can't test for it per se. You may pick up attitudes or patterns of behaviour that are problematic, for example, attitudes towards women ... To identify who potential predators may be in the workplace is almost impossible –which means our best avenue for identification and management are about:

- *setting up environments where it is less likely to happen*
- *having good managers with good skills, development and on-going training*
- *good supervision*
- *clear and effective organisational practices*
- *a healthy culture that encourages reporting and help seeking*
- *a culture and organisation that is responsive to these issues*
- *processes that help people achieve resolution rather than processes laden with inefficiencies, excessive timelines, bureaucracy, and that are applied inequitably, and therefore cause unnecessary distress and harm to people (female interviewee).*

As discussed in Chapter 12, the Review found there is inconsistent practice and confidence in undertaking workplace intervention when issues have been suspected or informally raised, but no formal report has been made.

Often when a formal complaint is made about a member you will hear their colleagues saying things like they are “not surprised, that it was just a matter of time, that they have always been a bit creepy or sleazy”, etc (female interviewee).

Normalise safety and help-seeking

Employers have a legal obligation to ensure the health, safety and welfare of employees at work. As well as maintaining a working environment that is safe and without risks to health,³¹⁰ managers and supervisors must ensure that their employees have access to immediate and ongoing welfare and support where required. A good management team should also show genuine empathy, active listening and have an appreciation of harm from inappropriate workplace behaviours.

The Review heard about managers who are reluctant to or fail to consider the health, safety and welfare of their staff:

I was promoted to [another station] ... but when I got there, I don't think I was meeting standards, maybe because of what happened. But no one sat down with me to find out or help out (female interviewee).

Some managers feel funny about talking about welfare issues – their concerns are about privacy issues, legislation, so no one wants to ask (female interviewee).

Some participants told the Review that managers and supervisors need additional support and training to support the health, safety and welfare of employees:

As a sergeant, I also play a welfare role at the station but this isn't supported. Sergeants have a role in welfare but its ad hoc, untrained and not supported.

Some sergeants value that role more than others. Senior sergeants are supposed to support sergeants to do that role. There needs to be mandatory welfare training as part of the sergeants' training (female interviewee).

The Review also heard several positive reports about proactive managers who inquire into and regularly monitor employee health, safety and welfare. These practices facilitate police valuing and supporting each other:

When I first started in the job and attended my first job with a body, they set me up in a black humour kind of way, it was so awful. It was a really bad one. ... When we got back to the station, the senior sergeant followed me outside, and asked if I wanted to have a chat. He had my welfare at heart – that makes a huge difference to people. That body was bad, and he put me onto Welfare and I think that was great (female interviewee).

In our training, we do ask managers to ask how their staff are going or is there anything impacting on their performance. A lot of people will answer this question if they are asked. However the onus is on the member to disclose. If anything is disclosed managers will then implement welfare strategies (female interviewee).

We have a weekly sergeants' meeting, and one of the standing items is how everyone is travelling. It's not unusual to adjust the workload for that member, or put someone with them. There is no written structure that says if 'a' happens then 'b' happens. ... As a management group, we are quite vocal about if members are having problems, we will step in and take action (male interviewee).

³¹⁰ Occupational Health and Safety Act 2004 (Vic) s 21.

The Review also heard that some workplaces had a reputation for “doing welfare well”. Employees working in workplaces said to be safe and supportive often noted that “the bosses here are good”, “the bosses look after us” and “the bosses get it”.

Ensure targets are safe

Where the target or victim has reported, is considering reporting, or the workplace is aware they are or have experienced inappropriate behaviours, the first response must be meeting the target/victims immediate safety needs. This can include accessing support, ensuring they feel supported and ensuring there is no risk of ongoing inappropriate behaviour in, or outside, the workplace.

As an employer, Victoria Police has a responsibility to ensure that an employee is not punished or threatened with punishment because of making a complaint that they have been discriminated against or sexually harassed. Subjecting a person or threatening to subject a person to any detriment because they have made a complaint of discrimination or sexual harassment is victimisation, which is unlawful under the Equal Opportunity Act.³¹¹

Throughout the Review consultations, we heard many examples of sound bystander practices, many which involved the victim/target themselves or a colleague or bystander ensuring their safety and minimising the impact of the experience.

The final straw came when I was scheduled for a night shift, and he changed himself onto my shift at the last minute. Another male colleague came to me and told me. I went shaky. This colleague had changed himself to cover me so I didn't have to work with the perpetrator (female interviewee).

Another male colleague, asked me if I was okay and told me that I should not have to put up with this, especially at work (female interviewee).

However, the Review also heard situations where the victim's safety was compromised. Participants frequently commented on cases where the victim was moved to a different location away from the perpetrator or was placed in uncomfortable and unsafe situations.

He was supposed to be moved ... but he refused to go so he stayed and I had to pass him in the corridors all the time. He would say “hi” to me when I walked past (female interviewee).

“ I know a woman who was sexually harassed. She [told management] and was guaranteed the behaviours would stop. They didn't. She was moved work locations but was still in contact with the harassers. So I guess, she was still being sexually harassed, but on a part-time basis (FEMALE INTERVIEWEE).

This meeting was not the best. The very first option given to me was that I get a transfer, this was the only option really presented throughout the process. This is typical ... The victims are moved on and the offenders are left to manipulate the workplace and create festering issues (female interviewee).

The Review heard managers are hesitant to make enquiries about the victim's safety because they don't see it as being part of their role (see Chapter 10). The Review heard several cases where management made decisions about the victim's capability, often to their detriment, because they were unaware of the threats to the victim's personal safety and their lack of support networks. The Review was told this often had consequences on the victim's work performance.

Part of making the target or victim feel safe, may also mean making appropriate support referrals.

³¹¹ *Equal Opportunity Act 2010* (Vic) s 103. The Equal Opportunity Act imposes a duty on Victoria Police to take reasonable and proportionate measures to eliminate victimisation as far as possible (s 15). See further Chapter 1.

Categorising workplace harm as workplace conflict



If you have people coming to you to make complaints or representing lower ranks, you can't be allowed to sweep it under carpet. Sometimes it is swept under the carpet by saying things like, it is 'interpersonal conflict' or it's 'just whingeing' because they can't deal with change, but those members are still out there doing their job, and they need help (FEMALE INTERVIEWEE).

The Review heard that sexual harassment, sex discrimination and predatory behaviour are often identified as 'workplace conflict' which can result in unsafe or inappropriate responses. Studies suggest that complaints of sexual harassment are frequently recast by managers as personality clashes or interpersonal difficulties, eroding employee trust in grievance procedures.³¹² Conflating workplace harm with conflict can exacerbate the negative impacts of the behaviours and can contribute to victim-blaming attitudes. It also distracts from the underlying drivers of the behaviours.

Categorising workplace harm as conflict also means that managers can fail to respond to and manage sex discrimination and sexual harassment in an appropriate, safe and supportive way.

These issues are discussed in more detail in Chapter 10.

Thinking about all employees when the workplace experiences harm

Prioritising the target's safety should be the priority in every instance. However, in most cases where there has been an experience of harm, the Review heard of gaps in support for colleagues and the broader workplace, a lack of transparency about processes or outcomes

and an over-emphasis on supporting the alleged harasser or perpetrator.

In one site visit, the Review team observed that the fallout and secondary trauma created by the offender was palpable, including among local leadership.

At another worksite, limited communication about the process or outcomes of a major investigation into sexual harm had resulted in the spread of misinformation about extremely serious behaviour that had caused a popular senior employee's departure. In that worksite, the popular member had retained the support of his former colleagues, as a 'good bloke' and employees often referred to a lack of trust in the overzealousness of management in pursuing the male employee for perceived 'minor' or 'harmless' interactions. In a similar situation, one survey participant remarked:

... the support given to the alleged offender (when he was clearly in the wrong) was far greater than that given to the victim. There were letters of support, references and all sorts of support when he had clearly demonstrated predatory behaviour ... Did these people who gave their reference and support clearly know what he was accused of doing? ... (male survey respondent).

The Review has made recommendations in Chapter 13 relating to a workplace harm unit and an HR business partnering model to support and assist managers and supervisors to undertake safe and healthy workplace interventions as necessary.

PART TWO: Welfare and support

There are good support networks in Victoria Police and TPA. More broadly, I'm not sure whether we fully appreciate the link between the job and stress (executive interviewee).

Victoria Police employees have access to a number of internal and external welfare and support options, including:

- Welfare Services

³¹² Lauren B Edelman, Howard S Erlanger and John Lande, 'Internal dispute resolution: The transformation of civil rights in the workplace' (1993) 27(3) *Law & Society Review* 497. G Vijayasiri, 'Reporting sexual harassment: The importance of organizational culture and trust' (2008) 25(1) *Gender Issues* 43.

- Internal Witness Support (to support internal complainants)
- Police Psychology
- Peer Support
- Chaplaincy (including around 70 volunteer chaplains)
- The Employee Assistance Program
- The Police Association

These supports are discussed in detail below.

Welfare Services, including Internal Witness Support

Welfare Services provides an information, support and referral service for all Victoria Police employees. As explained in Victoria Police's brochure on Employee Support Services, Welfare Services provides assistance for work-related and personal matters, including:

- referrals to Police Psychology, Chaplaincy, Peer Support and Injury management
- employees on long-term sick leave
- employees requiring hospital or home visits
- families in the event of an employee's death or serious injury
- submission of Provident Fund applications
- employees who are involved in the discipline process
- accommodation
- critical incident support.

Welfare services provide a broad range of supports for Victoria Police beyond the terms of reference for this Review. The commentary in this section pertains to people who have experienced sexual harassment or other workplace harm. The Review acknowledges that many police employees have been well supported by Welfare Services for a range of matters.

However, during the course of the Review, the Review heard that a lack of resources has an impact on the way that Welfare Services supports employees:

It's perceived by some employees as a bit of a band aid service because [there is] a lack of resources. We need more champions for welfare (male interviewee).

In addition, Welfare Services employees are not necessarily employed for specialist skills in providing welfare services to employees:

Welfare Services is not a counselling or psychology service however we do perform these roles informally. We are the conduit to these professional services. We support and encourage employees to engage with the specialists. We listen and then case manage to ensure an employee's support is co-ordinated and that they are linked to the most appropriate services. We get people in a lot of different states and our sworn background makes it easier to engage with employees as we have shared likeminded experiences and have a natural empathy ... (interviewee, gender not specified).

The Review heard that in some cases, employees struggle with the formality of Welfare Services. However, many employees spoke highly of the support they were able to receive from other sworn employees in Welfare services, who 'understood' the nature of the work and the pressures of the job for the sworn workforce, in particular.

If you ring Welfare Services, it's a big step and it's quite formal. Some people appreciate this. Others, like myself, like dealing with people they know (female interviewee).

Internal Witness Support

Internal Witness Support provides support to all Victoria Police complainants. It works on a victim-empowerment model with a focus on building rapport with employees:

In the IWSU role being able to engage with a client and build rapport quickly is essential ... There is also no doubt that meeting with a client face to face at the earliest opportunity ensures a much

better quality of support throughout what can often be a very long process from start to finish (female interviewee).

Part of its role is to liaise with local management about victimisation, act as an advocate for victims, and provide referrals to appropriate clinical supports. Internal Witness Support can also speak to employees to reassure them about the support available to report.

Internal Witness Support uses the term 'witness' to describe victim/targets of workplace harm because the person will have provided evidence or will be a witness in a brief. However, the Review considers that the use of the word 'witness' has the potential to undermine the impact of workplace harm on victim/targets.

It appears that Internal Witness Support has to some extent filled the gap around support for targets and victims not catered for by Welfare Services. This 'gap' appears to be a by-product of out-dated organisational structure that was designed to support a largely male workforce at a time when there was less focus on compounding harm and trauma.

With a broader systems focus on supporting external victims, the Internal Witness Support Unit appears to be a limited effort to ensure internal victim/targets are able to access the same supports as external victims of crime under the *Victims' Charter Act 2006* (Vic).

This includes the right to:

- be treated with courtesy, respect and dignity
- have your sex or gender identity taken into account
- be provided with clear, timely and consistent information about relevant support services, possible entitlements and legal assistance and if appropriate, referred to relevant support service
- be informed, at reasonable intervals, about the progress of their case from report to outcome
- the right to privacy, among others³¹³

These are essential factors in supporting employee wellbeing in what are often drawn out disciplinary and criminal proceedings.

... every employee who is a victim or potential witness in relation to criminality or misconduct by another VicPol member at least deserves a contact from us about our role and the offer of support. It doesn't matter what they have been involved in – it can be very stressful – the earlier the contact and support, the better (female interviewee).

At several site visits, the Review heard about the high regard employees have for Internal Witness Support. One employee told the Review, "Internal Witness Support of the victim was first class" (site visit).

They [Internal Witness Support] were there for us, they kept us up to date ... I wouldn't have had a clue about the process otherwise. I think it was easier to do because I was well supported (female interviewee).

Case management and support can help prevent escalating harm for a victim:

Providing welfare support to victims/witnesses is essential and may in some cases prevent or minimise impact to members' physical and psychological wellbeing. Having ongoing welfare support via meetings, phone and email contact through the entire process is preferable and having a dedicated welfare officer also goes a long way to ensuring support is consistent and valuable – it also goes some way to minimising the view that the organisation is just ticking the welfare box' (female interviewee).

The Review heard that Internal Witness Support also assisted managers to manage complaints, by providing support to targets and victims:

... After interview/statement I would discuss with the witness the support offered by [Internal Witness Support] and hand them a pamphlet setting out the services offered by the unit ... I would say that I am here for you but I would put them onto [Internal Witness Support] if possible. This took the support role off me to some extent

³¹³ *Victims' Charter Act 2006* (Vic) ss 6–11, 14.

which otherwise would have been a considerable time burden. [They] do a great job and have access to all the support networks (male interviewee).

The Review has made recommendations about supporting the role of case management and victim support in Chapter 13.

Resourcing for welfare and support services

The Review heard that Welfare Services and Internal Witness Support are under-resourced to effectively manage significant workloads. For example,

Approximately 2000+ staff a year have contact with Welfare Services. This might be a one off contact or we may create an ongoing file to manage our contact which can last months or even years. Welfare Services currently has 313 open files. Each staff member has a case load of approximately 30 to 50 files (interviewee, gender unknown).

Participants told the Review that the failure to adequately resource welfare and support services impacts on the quality of support offered:

The earlier we intervene, the more likely it is that we will have a positive influence. If our initial contact is delayed, it's sometimes perceived as a token effort and not a genuine offer of support. In these circumstances the employee is less likely to engage and utilise the support services that are available. Improved resourcing would minimise this issue (male interviewee).

Welfare Services triage calls, so you often get a call from a receptionist. But when people finally call welfare they are often at crisis point (female interviewee).

The Review heard that as a result of limited resourcing, there is also a perception that welfare and support services offer 'lip service' rather than genuine support:

When we go to a critical incident we all get an automatically generated email from [Welfare Services]. All the members who are involved in the

incident get this. It says that you can call Peer Support etc. It's a joke among us ... (female interviewee)

Peer support

The Review heard that, as with other areas providing support to members, Peer Support Officer roles were established to provide for a 'gap' in outreach support provided by the organisation, as well as with an intention to normalise help-seeking. Peer support officers are recruited and trained by Welfare Services.

A peer support officer is anybody who is willing to take on the role. It is an official role and there is training that goes along with it. Every workplace or area will have at least one. It came about as part of the change in thinking around not having to keep a stiff upper lip – to provide someone who members could go to with mental health issues, family problems, or if you are subjected to sexual harassment, bullying or discrimination (male interviewee).

Victoria Police's Peer Support Network was established in 2002 and has over 600 Peer Support Officers. Peer support is available to all Victoria Police employees.

Peer Support Officers provide confidential support to colleagues who may be experiencing personal and/or work-related issues. The officers assess their colleague's needs and provide options and referrals.³¹⁴

They can assist with work-related problems, workplace conflict, financial hardship, depression, anxiety, alcohol issues, gambling, illness and injury, PSC-related issues, suspension, bereavement and relationship issues.³¹⁵

Victoria Police's brochure on Peer Support explains that Peer Support Officers are:

volunteers who have been carefully chosen after submission of an application, nomination, psychological testing and interview before completion of a five-day training program. The program provides Peer Support Officers with the skills to listen to the concerns of

³¹⁴ Victoria Police, *Peer Support brochure* (n.d.).

³¹⁵ Ibid.

*others, share their experiences and refer colleagues to appropriate services.*³¹⁶

The Review's survey asked participants who had experienced sexual harassment whether they discussed the harassment with anyone in Victoria Police. The survey revealed that only 2.7 per cent of participants discussed the harassment with Peer Support Officers (compared to 50.4 per cent who discussed it with a workmate, 18.3 per cent who discussed it with an immediate supervisor, and 13 per cent who discussed it with a more senior manager).

The Review heard that Peer Support Officers had mixed levels of understandings about sexual harassment and sexual assault. Some views expressed to the Review team were very concerning, including views that women often make false reports of sexual assault, and they should be taken with 'a grain of salt'.

Other participants shared their concerns about the challenges accessing Peer Support Officers in regional areas.

The procedure for accessing Peer Support is pretty well understood but in reality in metro regions they are more readily available. They struggle in regional Victoria because they might have been promoted and replaced (executive interviewee).

The Review also heard concerns about the confidentiality and capability of peer support officers, including that:

They do have peer support. One time, one of them was standing there denigrating two members at the station. It is a joke. It is not very confidential (female interviewee).

I feel like management support [peer support]. You put in an expression of interest, which is management approved. But I see the individuals who are doing it and cross them off the list (female interviewee).

The Review found that there is a need to review the role and specialisation of Peer Support Officers in the context of recommendations outlined in Chapter 13.

³¹⁶ Ibid.

As part of implementing Recommendation 15, Victoria Police should review the ongoing role of Peer Support Officers in relation to workplace harm.

For other matters, Victoria Police should consider:

- the role and value of Peer Support Officers, including in the context of the new workplace harm model
- the selection process for Peer Support Officers
- the adequacy of training provided to Peer Support Officers to support other employees.

Police Psychology

Victoria Police's brochure on Employee Support Services explains that Police Psychology is a counselling and support service staffed by experienced social workers and psychologists who provide:

- a confidential counselling service for employees and their immediate families
- a 24 hour on call service for urgent matters involving employee wellbeing
- psychological testing and screening for new recruits and specialist squads
- a consultation service for managers seeking advice about employee wellbeing
- assistance to management regarding policies impacting on employee wellbeing.

Police Psychology previously conducted regular 'wellbeing checks' (an appointment with a psychologist every 6 or 12 months) for people who did 'high risk' work, such as undercover work or witness protection. The Review heard mixed reports about the value of mandated wellbeing checks:

The stigma might be removed if six or 12 month visits to psychologists were mandated and viewed as a normal part of the police support process (male interviewee).

People exposed to traumatic work should have access to professional supervision. In my experience, there is a culture in Victoria Police that supervisors do welfare checks with staff. The term 'supervision'

in the social care sector, however, has a very specific meaning, which many police members would be unaware of, and I think this type of supervision is missing in policing, but very necessary given the stresses of the job. Ideally staff would have access to external supervision, but given the volume and cost pressures this is probably not feasible; perhaps some training in this type of supervision would be helpful (female interviewee).

... Some places have used them to absolve themselves or their management responsibilities – they can tick the box and allocate it to the psychologists ... This is about good people management, good work unit practices – the clinical intervention and support should be coming after that (female interviewee).

The Review is aware that Police Psychology is trialling a 'trauma group'. It is formed of eight members who have been exposed to trauma in the course of their service who meet for 12 sessions in the year.

As with other Welfare functions in Victoria Police, there was a sense that the role of Police Psychology had morphed to address system gaps in support.

For example, Police Psychology implemented Manager Assist which enables managers to seek advice on a variety of issues with staff (both individual staff and the work unit as a whole), as well as advice on how to have difficult conversations.

The Review also heard concerns about the current structure and location of Police Psychology:

... all the health and wellbeing (and possibly some of the safety units) [should be] co-located, where the services and information are easily accessed and identifiable (female interviewee).

At the time of the Review, Welfare Services, including Police Psychology was being moved to the central Victoria Police Centre, having been located offsite previously. Many participants raised concerns about the discretion and privacy of seeking services in a high traffic workplace.

Employee Assistance Program

The EAP was fabulous. I had counselling through them for close to five years (female interviewee).

Victoria Police's Employee Assistance Program (EAP) is available to all Victoria Police employees and contractors. All requests for assistance are made to an intake worker who refers the employee to appropriate support. EAP is predominantly delivered by external service providers, although in some circumstances police are referred to Police Psychology.

Employees receive six free sessions per year, which can be reviewed and extended if a person needs further ongoing support. This entitlement can be extended if necessary. The Review heard concerns about access to support:

They only allocate six visits to a psychologist or psychiatrist. If a party is so damaged they are off on WorkCover, they outsource them to different psychiatrists, doctors, and psychologists. The problem is that you have to go over and over your story to prove to them that you need assistance (female interviewee).

We should get free counselling – as many sessions as we want. I personally believe that health insurance should be included in our employment package – such as they have in Defence (female interviewee).

Chaplaincy

Victoria Police's chaplaincy unit supports all Victoria Police employees and their families with spiritual support after critical incidents and in times of personal stress. The chaplaincy service has over 70 volunteer chaplains across the State.

The Review heard positive reports about the work of the chaplains:

The chaplaincy has bought joy to my life! They have been great. [The chaplaincy coordinator] is highly regarded and he is great with the diversity work (senior manager).

The Review did not consider the role of chaplaincy more broadly.

Accessing welfare and support

The Review heard about the historical welfare culture at Victoria Police. Some people told the Review that things had changed significantly while others believed it was the same today as it was twenty years ago:

We went to a scene, a suicide. There was a big mess. There was no debriefing, we were driving away and the boss told me to stop at the shops and he got out and bought us a Mars Bar and said, "I think we deserve this", and we sat there in silence eating them ... We could have a cot death, a rape and a murder by lunchtime and then just go home. If you said, "Oh gee, that was sad," they'd say, "Do you want to be a social worker or a copper?" (female interviewee).

The culture was that you don't talk about those sorts of things ... there was an expectation that you were strong, stiff upper lip, that you should harden up, you should deal with it by going to the pub and that was as far as it went. The risk of dealing with problems with that sort of approach are well known now. Now, it is encouraged to talk about it in an open environment, or if you want to deal with it in a more private way, you can. There is a greater emphasis on stopping people from falling apart in the first place now (male interviewee).

Many police employees told the Review about the long history of informal support among colleagues, often in the absence of formal supports. The Review heard from many participants about a practice of 'doing a welfare check' to check in on colleagues' well-being. The Review also noted a strong culture of informal support among colleagues outside the workplace, often over after work drinks or at social events.

On the whole, the perception within the organisation was that the emphasis has been on operational matters and outcomes and that:

The welfare of the person is secondary. If you could get them to change so that the welfare of the person is paramount, that would be ideal (male interviewee).

The Review heard that there are significant barriers to accessing welfare and support services at Victoria Police. These include:

- inadequate resourcing for welfare and support services
- a disproportionate lack of support for internal targets and victims
- inadequate access to welfare and support services for regional employees
- inconsistent referrals to internal welfare and support services
- reluctance to refer employees to external welfare and support services
- concerns about confidentiality
- the stigma attached to accessing welfare and support services
- a lack of information about available welfare and support services.

These barriers are discussed in more detail below.

It was also clear in the work of the Review that while there are a range of support services in Victoria Police, there are ongoing issues with role delineation and services that are stretched beyond capability because of the need to 'fill gaps' created both by the ill fit of historical models of support to contemporary needs, and by the under-resourcing of complementary models of support.

Support for targets/victims of workplace harm

We now have good welfare supports in place to support staff health and wellbeing connected to a critical incident. However, Victoria Police hasn't matured enough as an organisation to provide the same support for internal behaviours (male interviewee).

The Review heard that there can be a lack of immediate and ongoing support for targets

and victims of sexual harassment and sex discrimination:

When I was off they didn't ask how I was – they asked about the investigation all the time. There is no welfare culture. I can think of a small handful of people in this job who think with a welfare mindset ... There is a view that offering someone welfare support is admitting fault (female interviewee).

There needs to be more support out in the regions. There needs to be attachments, trained experts attached to regions to other areas so people don't have to make an appointment and come in to get help or fill in a form (female interviewee).

People might ask how you are, but they don't follow it up. They look at the consequences for themselves (female interviewee).

Part of establishing a supportive workplace is making it clear that help-seeking behaviour is part of the job and will be genuinely supported.

Anything that encourages people to talk about how things impact on their mental and physical health can only be a good thing. I have known two police officers who have committed suicide. I worked with both of them over a long period of time. The cost of that is immeasurable. If they had they been able to talk to someone, it might not mean that it wouldn't have happened, but it couldn't have hurt. The causation – were they being investigated, were they being bullied or sexually harassed – just doesn't matter. If people are encouraged to talk about what's going on with them, we could reduce so much harm ...

... I think there is lot of merit in really reinforcing to the junior member that they're not helpless in the situation. If you're experiencing this thing, there are processes in place that can support you (male interviewee).

Participants also told the Review about a lack of access to welfare and support services in regional areas:

I think there should be a dedicated specialist welfare team as a regional resource. There is no dedicated welfare support in the region, only in the CBD. But it would be easy to partner with local organisations to provide their support (female interviewee).

In some cases, the Review heard that there can be disproportionate support for perpetrators:

There was an instance ... where a member filmed a police woman in the change rooms covertly ... When it was discovered, there was support put around the victim but there was significant support put around the offender at the local level which was out of balance ... The number of people who came to the hearing in support of the member shocked me ... People were supporting him because he was a 'nice guy', a pillar of the church etc ... (executive interviewee).

When a member is suspended or investigated, they get the support and welfare not the victim (male survey respondent).

Welfare Services told us that in order to co-ordinate the support of all parties and avoid any conflict of interest their main focus tends to be towards supporting the alleged 'wrongdoer' whilst support of the victim or target is managed by the Internal Witness Support Unit:

We make an offer to provide assistance to members and they then choose whether or not to engage ... If they fail to engage with us, we rely on others to help monitor their welfare, they include peers, chaplains, managers and friends at the workplace. These people will let us know how the person is travelling, without divulging any personal information. This way we can monitor an ensure an employee is support until an investigation is concluded, even if the person has failed to engage with our service (interviewee, gender unknown).

Recommendations on these issues are considered below and in Chapter 13.

Referrals to welfare and support services

The Review heard at a number of site visits that police felt that ‘referrals are improving’. There was also a clear sense from many participants about the value of referral in ‘reducing the pressure so that we can stop wearing two hats (i.e. to investigate and to monitor welfare)’, while also acknowledging that ‘even if we make referrals, we are still responsible for a person’s wellbeing’ (site visit). The Review found that Victoria Police does not have a formal mechanism for referring internal targets and victims to welfare and support services (whether internal or external supports). Rather, referrals to welfare and support services are ad hoc and inconsistent. There is also some reluctance to refer employees to external specialist supports.

It is essential that local managers have the knowledge and commitment to refer employees to appropriate support services, in consultation and with the consent of the employee. Understanding and communicating the various options and support available is part of a manager’s duty.

Internal referrals

Victoria Police has an automatic referral process to Welfare Services for suspended or disciplined members. However, it does not have a similar referral process for targets or victims.

Referral of victim/witnesses for welfare support relies on investigators, managers, colleagues or the victim/witness themselves knowing the service exists and making that contact. For suspended members there is an automatic notification to Welfare Services but no such process exists for referral to welfare support when a member makes a complaint or statement re: conduct of another employee (female interviewee).

The Review heard that targets and victims are generally referred to:

- Internal Witness Support by Professional Standards Command or local management

- Welfare Services by self-referral, local management, investigators or identified whilst reviewing the incident fact sheet system.

Both Welfare Services and Internal Witness Support refer employees to other support services, including Police Psychology and TPA. Some workplaces reported having a trauma register which can trigger a referral to Welfare Services.

As part of Recommendation 5, the Review has recommended the introduction of guidance to managers on how to make a safe and appropriate referral for the target or victim making an internal report about sexual harassment, discrimination or victimisation (see Chapter 13).

This should form part of the suite of guidance to managers and supervisors developed as a result of this Review.

External referrals

The Review heard that there can be a reluctance to refer employees to specialist external supports (such as the Centre against Sexual Assault), and that there is a stigma associated with accessing external support:

You would never admit that you’d got help, especially outside the organisation (female interviewee).

In addition, many employees raised concerns about having to access local specialist support services, such as CASAs, when they worked closely with them in their policing work. This was raised with the Review on numerous occasions in relation to regional and rural access to support services.

The Review has made recommendation about the need for specialist expertise in supporting victim/targets of workplace harm in Chapter 13.

Information about welfare and support

The Review heard that information about processes relating to welfare and support options, or external services is inconsistent, or not available at all:

Sometimes, even though a victim/witness is an employee of Victoria Police and has access to tonnes of information over

the intranet, it seems that when you are the one who is the victim/witness the situation is very different – the stress levels are up, the ability to process information affected and the usual coping skills not as effective ... to be able to talk about process, legislation, protection from victimisation and other support services can often be very helpful (female interviewee).

Conversely, some participants considered that employees are aware of and encouraged to access welfare and support services:

On day one of recruit training, the TPA has a session with them. They go to the TPA rather than us sometimes. We offer them a menu of services they can access – police welfare, chaplaincy, TPA – they can pick one if there is an issue (executive interviewee).

Members are well aware that you can go to Welfare Services and the encouragement is there to go to it (male interviewee).

The Review considers that in implementing the recommendations from this Review it will be essential to ensure that clear referral pathways for help-seeking are clear, widely understood and available for all employees.

Confidentiality and privacy

The Review heard that many employees have significant concerns about the confidentiality and privacy of accessing internal welfare and support services:

... So people will say they're fine to [go to] VicPol and then call the Police Association as everyone knows your business in VicPol (female interviewee).

I could have accessed assistance but being in the area I was in, I knew most of those people – including injury management people, welfare, psychologists, etc, so that made it difficult (female interviewee).

Members' perception is if you go to Police Psychology, they will tell your boss. There have been examples of it going to the read out. The boss is told not to

let you have a gun. In some instances, it is handled well, in others in a ham-fisted way (The Police Association Victoria).

Separately, Welfare Services data capture and classification doesn't capture trends or prevalence of equal opportunity issues. The data system captures reports of sex discrimination and sexual harassment as 'relationship issues'. This is symptomatic of both attitudinal and systems-based obstacles to properly identifying sex discrimination and sexual harassment as a safety issue, and a lack of clarity in purpose in supporting targets, which may affect the assistance targets are able to receive.

The Review heard from participants that Welfare Services has a monthly report that identifies 'hot spot' workplaces. It was unclear to the Review the implications of this reporting on confidentiality of those seeking support. The Review has made recommendations in Chapter 13 about the need to ensure victim/targets own their information and be consulted about its use to allow them to assess whether and how to share the risks they perceive.

The Police Association also provides welfare support to its members:

The TPA provides substantial welfare support – more so than in other states. We offer different support to that provided by Victoria Police because we are not their employer. If you see Victoria Police Welfare Services, you are seeing your employer (The Police Association Victoria).

In relation to Police Psychology, one participant explained the tension between client confidentiality and the obligation to disclose information in limited circumstances:

Confidentiality dictates that [Police Psychology] maintain confidentiality unless there is imminent risk or harm to self or other; where there is a legal obligation to do so; or if the person gives consent.

The issue of confidentiality is one that Police Psychology battles with constantly, and it is unfortunate that members often receive information that

is in conflict with good practice. For example, being advised by someone from the TPA to not use their services, or being coerced to discontinue seeing a psychologist/counsellor through them because of a flawed belief they are 'less' confidential than other psychologists. This has the potential to put members at high risk if it means they do not reach out for help when they most need it (female interviewee).

Throughout the Review, participants noted that it was essential to have an independent and confidential way to talk to someone. Participants reflected on the Review as a good example of an independent mechanism for allowing people to seek help confidentially (who otherwise wouldn't) and learning about trends and issues (contained in the public report) that would be otherwise unreported. Many participants supported the establishment of an independent body and/or a confidential phone line:

Having someone to talk to without being obliged to formally complain is essential (executive interviewee).

For me, looking back on it now, had there been the anonymity of a phone conversation (where you didn't need to give them your name, rank, etc) and you could just get someone to help you or just hear you out – that would have been enormously beneficial ... When I look back, there should have been an opportunity for me to talk to someone about it then, so that I could put everything into perspective. In truth, the Victoria Police is a very secret society, for all the wrong reasons (female interviewee).

One good response I've heard about is the possibility of an external process where you are allocated a welfare person outside VicPol, so the chatter can't happen. It's costly and ad hoc but witnesses won't come forward in VicPol because they have no confidence that it stays protected. So a form of external support, like a hotline away from Victoria Police to report, knowing that your information is separated (female interviewee).

See Chapter 13 which recommends establishing an external confidential reporting mechanism.

Conflict of interest

The Review heard that welfare and support services appear to face real conflicts of interest when contacted by employees with opposing interests. The Review heard that these conflicts can be managed inconsistently, or at best on a 'first come first served' basis. For example:

Risk management for us is about appropriately weighing up our ethical responsibilities as psychologists, but also managing matters of organisational risk, and navigating the two is sometimes difficult. If we have conflicting roles, we go back to the ethical code, and make decisions after undertaking supervision and case conferencing in order to provide those checks and balances and benchmark that decision-making (female interviewee).

Police Psychology

Someone can be referred within Victoria Police for EAP assistance to the police psychologist. This is often viewed dimly. Reportedly, it is not seen as a smart thing to do, rather the opposite. It's a black mark against you. Some will not reveal that for fear of discrimination and denial of employment opportunities (external expert).

Half our members would say they would only speak to police psychologists as they understand the environment, the other half would say no way – which is reinforced by the TPA (female interviewee).

The Police Association

I was going to speak to the [TPA] as I had a lot of dealings with one of the welfare officers there for another matter but I was told that the sergeant had already engaged with her so I wasn't able to because there would be a conflict of interest (female interviewee).

The majority of members are in The Police Association but the perception out there is that they mostly support the person who has done the wrong thing ... People's general belief is that with the TPA, it is first in best dressed. They deny this – I still think that if it is alleged that you have done the wrong thing, they are there for you, but if you are a victim or a witness against another member, they are conflicted (female interviewee).

Role delineation and specialisation

The Review considers that the role and purpose of Welfare Support, including the role of Welfare services, Internal Witness Support and Police Psychology, in the organisation is a crucial one.

Beyond the role of Internal Witness Support, it was unclear to the Review the extent to which welfare supports provided by Victoria Police has specialist skills in working with people experiencing gender-based harm, including sexual harassment and abuse.

The Review has made recommendations about the need to provide specialist case management and triage in Chapter 13. The Review also recommends that the roles of Welfare Services and Police Psychology be reviewed to ensure their purpose and remit are clarified and to ensure they are properly resourced and skilled to undertake their core functions.



RECOMMENDATION 14

The roles of Welfare Services, including peer support, and Police Psychology be reviewed to ensure their purpose and remit are clarified and to ensure they are properly aligned, resourced and skilled to provide their core functions.

Stigma and consequences of accessing support

Stigma about reporting mental health concerns are not unique to Victoria Police:³¹⁷

I'm not sure whether it is because there is actually a stigma [attached to seeking help] or because the individual is concerned there is a stigma (executive interviewee).

However, as discussed in Chapter 2, there are a number of compounding factors about the nature of policing that appear to amplify the stigma.

The Review heard that there is a stigma and, at times, consequences for contacting and accessing welfare and support services:

I have in the past but I will not go to Welfare Services provided by the department. If I made an appointment and went there, everyone would know my business. I am a 'doubting Thomas' with regard to the confidentiality of their practices (female interviewee).

Someone looked at the roster and asked why I was on leave. He said "She is just another nuffy, a nutcase. She's had a mental breakdown and can't cope". This got around the office (female interviewee).

I felt comfortable to talk about my job and situation with one of the counsellors. However, I didn't mention it to anyone at work as there is a stigma around this (female interviewee).

Further discussion about the provision of safety and support to people experiencing workplace harm are considered in Chapters 12 and 13.

³¹⁷ See, for example, Victorian Equal Opportunity and Human Rights Commission, *Guideline: Mental illness – Complying with the Equal Opportunity Act 2010 in employment* (2014).



Chapter 12

First response, disclosure and reporting

Main findings

- There are significant organisational barriers to reporting sex discrimination and sexual harassment including a high tolerance for harmful workplace behaviours, a strong reporting stigma, an unsafe reporting environment and a perception that police employees cannot be victim/targets.
- For both men and women, the most common reason for not reporting sexual harassment is perceived negative consequences for reputation. For women, the next most common barrier is negative consequences for career. For men, the next most common reason is a belief that reporting would not make a difference. One in five targets did not report sexual harassment because they were concerned about negative consequences for the alleged perpetrator.
- Harassers use a range of strategies to minimise sexual harassment including covering it up, undermining the target's personal and professional reputation and reinterpreting the event such as claiming the behaviour was 'a joke'.
- Bystander intervention and reporting can be a powerful tool in establishing a safe, equitable workplace. However, the Review found bystanders show a strong reluctance to intervene and report. Many experience victimisation, including being ostracised, when they have overtly intervened.
- Victim/targets of sexual harassment most frequently disclosed the harassment to a workmate, followed by immediate supervisors and managers more senior than their immediate supervisor. Very few victim/targets disclosed to areas that deal with complaints. Men were far more likely than women to not discuss the harassment with anyone in Victoria Police.
- There is serious and chronic under-reporting of sex discrimination and sexual harassment in Victoria Police. Only 11 per cent of targets made a formal complaint or report about their experience of sexual harassment in the Victoria Police workplace. Men were less likely than women to have made a report.
- Safe reporting environments, supportive attitudes on first report, choice and control, as well as the overt support of bystanders, are fundamental to giving victim/targets the confidence to report.
- Victimisation, ostracism and negative consequences are frequently experienced by participants reporting harmful workplace behaviours.

Introduction

Like other forms of sexual violence, workplace sexual harassment remains seriously under-reported in many organisational contexts.³¹⁷ It has been estimated that only between five per cent and 30 per cent of targets file formal complaints in their workplace or to an external agency and less than one per cent subsequently participate in legal proceedings.³¹⁸

Under-reporting is closely associated with inadequate or ineffective reporting and complaint handling mechanisms which magnifies the asymmetrical power relationships which are often at the core of sexual harassment, especially in highly

317 Juanita M Firestone and Richard J Harris, 'Perceptions of effectiveness of responses to sexual harassment in the US military, 1988 and 1995' (2003) 10(1) *Gender, Work and Organization*, 43.

318 Tristin Wayte et al, 'Psychological issues in civil law' in James Ogloff (eds), *Taking psychology and law into the twenty-first century* (Springer, 2002); Juanita M Firestone and Richard J Harris, 'Perceptions of effectiveness of responses to sexual harassment in the US military, 1988 and 1995' (2003) 10(1) *Gender, Work and Organization*, 43.



masculinised work cultures.³¹⁹ There is clear evidence that effective complaint handling requires that the complainant perceives the process as fair and effective.³²⁰ The benefits of robust and safe reporting mechanisms for the individual and organisation are significant.

This chapter examines the disclosure, reporting and first response experiences of victim/targets and bystanders. It also considers strategies and principles to ensure a safe, supported and positive reporting experience.

Policies and procedures

Reporting mechanisms

Victoria Police provides several mechanisms for employees to report sex discrimination and sexual harassment. Victim/targets may choose to disclose or report through their colleagues, an immediate supervisor or senior manager. Within Victoria Police, victim/targets can also disclose to the various support services such as Welfare Services, Peer Support Officers, and to the Organisational Standards and Behaviours Branch or Professional Standards Command.

Reports of sex discrimination and sexual harassment may also be made to the Community and Public Sector Union and The Police Association Victoria. Misconduct can be reported to the Independent Broad-based Anti-corruption Commission. These formal processes and mechanisms are examined in Chapter 13.

Victoria Police Manual

The *Victoria Police Manual* requires all employees to treat other employees with respect and act in a professional manner which does not offend or adversely affect another employee's work performance, or lead to physical or emotional distress. Employees are not to engage in inappropriate workplace behaviours.³²¹

The *Victoria Police Manual* contains various policy rules, procedures and guidelines related to the reporting of sexual harassment and sex discrimination.³²²

The Review notes that in some sections of the *Victoria Police Manual*, including the Sexual Harassment Procedure and Guideline, victim safety principles are either absent or not prioritised. These principles include:

- ensuring the person reporting is safe and feels as safe as possible
- clarity
- respecting the privacy and confidentiality of the reportee and their matter.

The Review considers that all relevant policies and procedures should be updated to include victim safety principles.

Responses to sexual harassment

The Review sought to understand how targets, bystanders and harassers respond when they experience, witness or perpetrate sexual harassment and sex discrimination. The first response role of bystanders is particularly critical to the response and experience of targets and harassers. This first response is also a strong indicator of the organisational acceptance for these behaviours and the culture of disclosing and reporting.

319 Paula McDonald, Tina Graham and Brian Martin, 'Outrage management in cases of sexual harassment as revealed in judicial decisions' (2010) 34(2) *Psychology of Women Quarterly* 165; B Ragins and T Scandura, 'Antecedents and work-related correlates of reported sexual harassment: An empirical investigation of competing hypotheses' (1995) 32(7/8) *Sex Roles* 429.

320 Bernard Walker and Robert Hamilton, 'Employee-employer grievances: A review' (2011) 13(1) *International Journal of Management Reviews* 40.

321 Victoria Police, *VPM Procedures and Guidelines – Bullying, discrimination and harassment* (first issued 29/09/14) 2 (paraphrased); Victoria Police, *Victoria Police Manual Procedures and Guidelines – Sexual harassment* (updated 29/09/14) 2 (paraphrased).

322 For example, the *Victoria Police Manual* includes policies about bullying, discrimination and harassment, sexual harassment, complaints and discipline, workplace conflict, and equal opportunity.

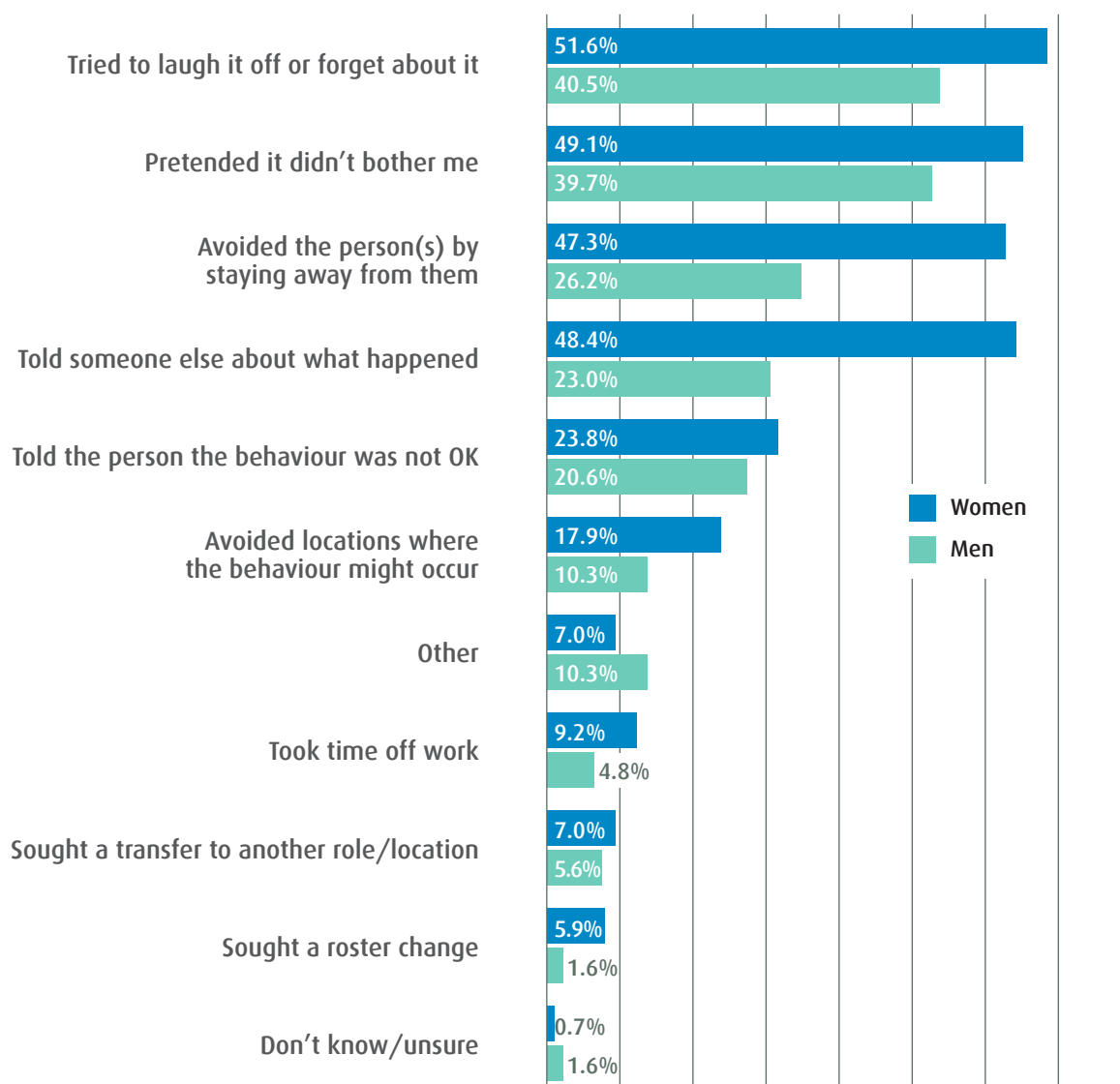
Target response

Survey participants were asked to identify a particular incident or episode of harassment that was the most difficult for them and answer a range of questions about it. Survey responses are presented below.

Target coping strategies

Survey participants who had experienced sexual harassment were asked how they responded to the harassment. The results can be seen in Figure 30. The most commonly reported strategies involved minimisation – laughing it off or forgetting about it (48 per cent) and pretending it didn't bother them (46 per cent). Both these strategies were used more by female participants than by male participants.

Figure 30: When the harassment happened to you, did you respond in any of the following ways?





One survey participant remarked:

Most of the times I've seen, the victim has tried to laugh it off, not wanting to cause a scene (female survey respondent).

Substantially more women than men reported avoiding the person (47 per cent versus 26 per cent respectively) and disclosing the harassment to someone else (48 per cent versus 23 per cent respectively)

Disclosure of harassment

When an individual is sexually harassed, others frequently become involved. These individuals include friends and partners, as well as co-workers, line managers, HR personnel and union advocates.³²³

Just under one third of participants did not disclose to anyone. Half the survey participants reported speaking to a workmate, with substantially more women than men doing so (58 per cent versus 35 per cent respectively). The next most common person to disclose to were immediate supervisors (20 per cent) and managers more senior than the immediate supervisor (15 per cent).

A small number of participants spoke with a Peer Support officer (3 per cent) or Welfare Services (4 per cent). Less than four per cent of people discussed the harassment with areas that have formal processes to deal with complaints (Human Resources and Professional Standards Command).

Men were far more likely than women to not discuss the harassment with anyone in Victoria Police (45 per cent versus 25 per cent respectively).

Expectations of disclosure

Survey participants who reported disclosing their most difficult incident or episode of sexual harassment to someone in Victoria Police were asked what they hoped would happen as a result of the disclosure.

The majority of participants who disclosed to a workmate were seeking emotional support (51 per cent) or advice on how to handle the

behaviour (42 per cent). The Review heard similar views through confidential interviews:

I did speak to an old squad mate about the perpetrator to get advice on what I could do. She told me that she had heard of someone who had been assaulted on the van. She encouraged me to report quickly before anything escalated (female interviewee).

I wouldn't have done anything if I hadn't have had that conversation with my friend who was working there (female interviewee).

The expectations of participants who disclosed harassment to their immediate supervisor varied for women and men:

- Women were most likely to be seeking the harassment to stop (54 per cent), to get advice on how to handle the behaviour (50 per cent) or for the harassment to be recorded without formal action (43 per cent).
- Men were most likely to expect disclosure to an immediate supervisor to result in the harassment stopping or for the matter to be recorded without formal action (both 38 per cent).
- Men were slightly more likely than women to expect emotional support from an immediate supervisor (25 per cent versus 22 per cent respectively).

When disclosing to a manager more senior than their immediate supervisor, participants had a higher expectation that the harassment would stop (64 per cent) compared to when they disclosed to an immediate supervisor (51 per cent).

There were also gender differences in expectations. Men were more likely than women to expect that formal action would be taken (50 per cent versus 29 per cent respectively).

Substantially more women than men expected to be safer (34 per cent versus 8 per cent) and to get emotional support (29 per cent versus 8 per cent).

The very low number of survey participants reporting disclosure to Human Resources (Workplace Standards) and Professional

³²³ Paula McDonald, Sara Charlesworth and Tina Graham, 'Action or inaction: Bystander intervention in workplace sexual harassment' (2015) *The International Journal of Human Resource Management* <<http://dx.doi.org/10.1080/09585192.2015.1023331>>.

Standards Command limit the interpretation of expectations of disclosure of these individuals.

Harasser response

Research confirms that harassers use a range of strategies to minimise the effect of sexual harassment, such as covering it up, claiming the behaviours were harmless or a joke, undermining the target and the target's personal and professional reputation, reinterpreting or denying events, blaming the harassment on a 'momentary lapse', and blaming external factors such as alcohol or relationship difficulties.³²⁴

The Review heard about a range of strategies that harassers use to minimise or justify sexual harassment. This section describes what the Review heard from targets and bystanders.

- Covering up their actions

The Review heard several distressing accounts of sexual harassment which were denied and covered up by alleged harassers:

It was interesting and horrifying learning the offender's version of that night. They made stuff up to cover themselves of course – he and a mate had everything worked out – very planned (female interviewee).

He told me he didn't recall any of the things I was talking about and told me that he was sorry I felt that way. ... It was very intimidating (female interviewee).

One female police member described a situation where a male police member sexually harassed her and then reinterpreted the events for his colleagues. She told the Review:

There's no going back from it – because that's what coppers do when they've done something wrong – they deny. They cover up. So you can't ever set the record straight (female interviewee).

- Devaluing targets

Harassers commonly seek to

³²⁴ Paula McDonald, Tina Graham and Brian Martin, 'Outrage management in cases of sexual harassment as revealed in judicial decisions' (2010) 34(2) *Psychology of Women Quarterly* 165; Greg Scott and Brian Martin, 'Tactics against sexual harassment: The role of backfire' (2006) 7(4) *Journal of International Women's Studies* 111; Hilary Gettman and Michele Gelfand, 'When the customer shouldn't be king: Antecedents and consequences of sexual harassment by clients and customers' (2007) 92(3) *Journal of Applied Psychology* 757; Rebecca Campbell, Emily Dworkin and Giannina Cabral, '(2009) 10(3) *Trauma, Violence & Abuse*, 225.

undermine targets' personal and professional reputation in an attempt to decrease their credibility.

... I know he said derogatory things about me to other staff, because they repeated it to me, but I didn't work with him directly again ... (female survey respondent).

A number of victim/targets the Review spoke to were made to feel like the sexual harassment was their fault:

This meeting was really just an attack job on my performance, or more specifically, my one error ... I felt hounded. The meeting was not a discussion; it was an attack on me, ... that I truly believe would not have happened if the problems with [the harasser] had not occurred (written submission).

As well as intimidating targets or witnesses, harassers also work to undermine the esteem and confidence of targets, often making them question their own judgement. This is consistent with research showing that harassers over-infer women's criticism and rejection and supports the view that sexual harassment is related to rejection rather than seduction.³²⁵ Many victim/targets told the Review that after they reported they were made to feel like they had 'big egos' or were 'too sensitive.'

Women will always feel like they will be punished for reporting it and be made to be the bad person by whomever is the sexual harasser/predator. You feel like you are accused of having a big ego if you think a male is making an advance that he most likely is but will deny as soon as you say anything. (female survey respondent)

I don't know how to fix it – the small things are pervasive – comments about women being promoted because of who they have slept with, homophobic comments, patronising comments about females, even comments about gender roles in marriages are disparaging towards equality and women, but

³²⁵ William Schweinle, Carol Cofer and Sandra Schatz, 'Men's empathic bias, empathic inaccuracy and sexual harassment' (2009) 60(1) *Sex Roles* 142.

commonly accepted. And if anyone speaks up or objects, they're being 'too sensitive', or don't have a sense of humour (female survey respondent).

- Reinterpreting events

Participants often described situations where the harasser told the target 'it was only a joke', 'no offence was meant', 'it wasn't that bad' or 'lighten up'. The Review heard from a bystander who intervened and described the response from the harassers:

... a supervisor arranged with another supervisor to have a brand new trainee constable ... presented to him so he could tell her about his role, when this was not done for any other trainees, who normally would not receive any attention from that rank of supervisor. [They were confronted] about it. ... [They] laughed it off as a bit of fun. I don't know if they continued with the conduct (survey respondent, gender unknown).

- Using organisational processes to slow down or minimise outcomes

... When I was in the meeting with the so called 'independent' inspector and the superintendent after I was forced to make a formal complaint, [the inspector] said, 'how dare I make an unsubstantiated claim against a [supervisor].' And "Who did I think I was?" ... [I was] shocked that this happened and I wasn't able to challenge it because my promotion was on the line ... It was implied that my sexual assault and sexual harassment claim was because I had performance issues (female interviewee).

- Intimidating or bribing people involved.

The Review heard, although less frequently, about direct threats and/or bribes being made to the target, including:

He was relentless, he kept saying "you give it up for the others, why not me?" He threatened me when I said I would report him. He reminded me that I was on two years' probation and could be sacked at any time (female interviewee).

... he came up to me and said, "I could get you kicked out of the unit just like that." (female interviewee).

These and other strategies used by harassers in response to being challenged, can prevent the naming and identification of sexual harassment, magnify the impact of sexual harassment, and encourage under-reporting by both targets and bystanders. Minimisation and reinterpretation is also part of the "practice of gendering" in organisations,³²⁶ which limits possibilities for effective prevention and response to sexual harassment.

Bystander response and intervention

You need to jump on these behaviours straight away. The behaviours that you walk past are the behaviours that you accept. It can be a tacit agreement that it's ok to act badly (male interviewee).

Bystander intervention is an effective way to stop sex discrimination and sexual harassment and to create an inclusive, safe and respectful workplace. It can stop conduct before disciplinary action is required and can also reduce harm to victims due to the implicit support of the bystanders.

The Review has established a strong evidence base on bystander responses and interventions in Victoria Police, including why bystanders do or do not intervene, how they intervene and the consequences of intervention. This section also considers strategies that Victoria Police can use to ensure bystanders can confidently and safely intervene.

The survey found that sexual harassment is most likely to occur in a station or office. This suggests that much of the behaviour occurred publicly in the presence of bystanders. Research confirms that "the ripple effects beyond the individual target,

³²⁶ Carol Bacchi and Joan Eveline, *Mainstreaming politics: Gendering practices and feminist theory* (University of Adelaide Press, 2009).

even in the absence of formal investigation and public scrutiny, are significant.”³²⁷

The survey asked participants to rate their agreement with the statement ‘I know what to do if I see someone or know someone is being sexually harassed at work’. Eighty per cent of respondents agreed they knew what to do while eight per cent disagreed. A lower proportion of women than men agreed that they knew what to do (75 per cent versus 84 per cent respectively). Similarly, a larger proportion of women than men disagreed with the statement (11 per cent versus 7 per cent respectively).

The survey also asked participants to rate their agreement with the statement ‘I am comfortable speaking up if I see someone being sexually harassed’. 78 per cent of respondents agreed they would feel comfortable speaking up while 11 per cent disagreed. The rates of agreement varied between genders, with a lower proportion of women than men agreeing they were comfortable to speak up (72 per cent versus 82 per cent respectively).

Survey participants who indicated they had either personally witnessed or been told about sexual harassment or predatory behaviour were asked what they did in response.

Narrative responses revealed a range of bystander responses, many positive, to sexual harassment:

In my work area, things go along quite well. Troops rally around the person who experiences inappropriate behaviour, and won't stand for it (male interviewee).

The reaction to calling stuff (gender vs professional) – there is a bit of nervous laughter. They're not quite sure what to do when they're pulled up on it. I might be viewed as over sensitive. I try not to make a big deal out of it, but do try to point it out (female interviewee).

While this is encouraging, the survey results show that one in five bystanders reported not taking any action.

³²⁷ Paula McDonald, Sara Charlesworth and Tina Graham, ‘Action or inaction: Bystander intervention in workplace sexual harassment’ (2015) *The International Journal of Human Resource Management* <<http://dx.doi.org/10.1080/09585192.2015.1023331>>.

Why don't bystanders intervene when witnessing sexual harassment and sex discrimination?

I am not sure whether we have the culture to support those individuals who call out the “good bloke” on their inappropriate behaviour (executive interviewee).

Overall, bystanders were often reluctant to intervene for similar reasons that targets do not report; because they fear retribution and reprisals, expect that the harasser will not receive any penalty and have low expectations of procedural justice.³²⁸ Male bystanders in particular may be reluctant to assist women in workplaces characterised by masculine norms and identities, especially if exclusively in the presence of other men, for fear of being seen as ‘unmasculine’, weak or gay by their male peers.³²⁹

Through narrative responses, survey participants explained why they chose not to intervene when another employee was sexually harassed. It is important to note that narrative responses indicated varying reasons for inaction including that the person was aware the matter had already been reported or investigated or the only evidence was hearsay.

Other participants told the Review they felt the target was not concerned or bothered by the harassment. As discussed earlier in this chapter, the Review found that targets of sexual harassment commonly use minimisation strategies – laughing it off, forgetting about it and pretending it didn't bother them. This may be one reason why bystanders believe that the incident did not bother the target. Misunderstanding harm and therefore not intervening can create an environment where escalating conduct is unchallenged.

It makes me uncomfortable stepping in to support a victim particularly when the victim does not react or express

³²⁸ Jocelyn Handy, ‘Sexual harassment in small-town New Zealand: A qualitative study of three contrasting organizations’ (2006) 13(1) *Gender, Work & Organization* 1; D Wear, J Aultman and N Borgers, ‘Re-theorising sexual harassment in medical education: Women students' perceptions at five US medical schools’ (2007) 19(1) *Teaching and Learning in Medicine* 20; P Hayes, *Taking it seriously: Contemporary experiences of sexual harassment in the workplace Research Report 2003/2004* (2004).

³²⁹ Melanie Carlson, ‘I'd rather go along and be considered a man: Masculinity and bystander intervention’ (2008) 16(1) *Journal of Men's Studies* 3.

discomfort verbally. I wonder about how much is welcome or unwelcome? Am I fighting someone else's battle? (female survey respondent).

The "victim" didn't seem to mind. She told me she thought it was funny (male survey respondent).

The Review heard that often bystanders intervene when the victim/target is visibly upset or offended rather than because the harasser breached policy or the behaviour was out of line.

The Review also heard from many employees who had witnessed bystander inaction as well as targets of sexual harassment when a bystander acted or did not take action.

The findings indicate a general reluctance for Victoria Police employees to respond when witnessing or being told about another employee being sexually harassed. This is consistent with recent research that suggests bystander inaction is the most common response to witnessing sexual harassment across a range of workplaces.³³⁰

Many participants put this down to a 'culture of silence' and reporting stigma, and cited many of the same reasons why victim/targets do not report:

Some members just don't want to get involved – I am sure there is some sentiment that if they reach out, it could reflect poorly upon them? (executive interviewee).

Other participants spoke about the culture of normalisation and acceptance of inappropriate behaviours as contributing factors to the lack of bystander response:

There is definitely a culture of acceptance of questionable behaviour across all levels of the organisation which in turn is complicit in the behaviour (female survey respondent).

The biggest disappointment came not from his actions (although he has

obviously been allowed to do this for a long period of time) but from the actions of [manager]. He did his best to make me feel that I had no real issue and almost that it was my imagination. He made me feel that him being forced to address things was my entire fault ... (written submission).

One male survey participant told the Review:

“ The challenge is to create an environment where victims – regardless of gender have the confidence to report inappropriate behaviours to avoid the floodgates opening when one person finally speaks up. In my recent experience, the affected members all knew who the predator was but no one spoke to supervisors until a civilian made a complaint. (MALE SURVEY RESPONDENT)

It is important to note that bystanders must consider their own safety when deciding whether to intervene. The Review heard a range of views about the risks of intervening:

“ It was none of my business. It's hard enough being a female police officer, if I get involved in someone else's business I'll get a reputation and end up [blocked] from any opportunities so I just come in, do my hours and go home. (FEMALE SURVEY RESPONDENT)

³³⁰ Paula McDonald, Sara Charlesworth and Tina Graham, 'Action or inaction: Bystander intervention in workplace sexual harassment' (2015) *The International Journal of Human Resource Management*, 14 <<http://dx.doi.org/10.1080/09585192.2015.1023331>>.

Fear of reprisals stopped me from saying anything, as I was also a victim of these behaviours (female survey respondent).

The times I saw it [sex discrimination], people had off the record discussions with me because if you speak up, you will be victimised (female interviewee).

The Review was made aware of an incident where a senior male police member made a disturbing and hateful comment to a female police member. She explained what happened after the incident:

The other person [the member] in the room was horrified but he didn't say anything. He used his eyes to express his disbelief, but didn't say anything ... People might ask how you are, but they don't follow it up. They look at the consequences for themselves. You, yourself, internalise it all. You don't forget it; you just have to move forward (female interviewee).

Several bystanders expressed a belief that the perpetrator/harasser would be supported if the matter was reported. This is a barrier commonly experienced by targets of sexual harassment and sex discrimination. One senior female police member explained:

Half of the people supporting me have backed out because they fear for their own jobs and wellbeing. Members are too scared that they will be victimised and then they will be moved. The offender can be quite scary and on a personal level, they are worried about him, he is quite intimidating. And within the organisation, you might get a lot of support at your own level, but not higher up – they just say it never happened. It is all about rank – they back each other (female interviewee).

Interestingly, several participants described feelings of guilt and shame for not intervening, including this female survey participant:

There is one incident involving the same male that I personally witnessed at a social event. No-one did anything to help this girl and I feel extremely guilty about it. She was fairly new and would've felt very isolated. ... I haven't seen her since (female survey respondent).

The health and wellbeing of bystanders requires further consideration for Victoria Police, and is a compelling reason to encourage a positive bystander culture.

Consequences of intervention

Survey participants who indicated they had responded to either personally witnessing or being told about sexual harassment or predatory behaviour were asked about any consequences. Previous research suggests that even observing or hearing about the sexual harassment of co-workers can result in 'bystander stress' and other negative consequences that parallel those of direct targets.³³¹

The majority of bystanders (69 per cent) reported experiencing no consequences. However, the Review notes that this question was also asked of participants who indicated they did not take any action. Nineteen per cent of bystanders reported that the harassment stopped as a consequence of their action.

Small proportions of participants reported experiencing negative behaviours from colleagues and the rates were higher for women than men (around 5 per cent versus around 3 per cent respectively). Around five per cent of bystanders reported experiencing negative professional outcomes such as loss of training or promotional outcomes.

Many participants reported being victimised, including being ostracised, when they overtly intervened:

331 K. Miner-Rubino & L. Cortina (2007), Beyond targets: consequences of vicarious exposure to misogyny at work, *Journal of Applied Psychology*, 1254-1269.

At a work location ... when I first arrived I was shocked when the other senior male members began leering at the new female members as they first came to the station. [My male colleagues] were talking to each other and saying things like “she is mine” and “You can have her first and then tell me if she is any good” etc. I told them that was not on and was told to ‘get f#\$&ed’ and that I wasn’t going to fit in. I then told the girls that were spoken about, about what was said. I was not looked upon too well ... after that point (male survey respondent).

If you take that person’s side, or are known to be friends with them, you will be lumped together, whether the matter was reported or not. I’ve been ostracised simply for being friends with a person who was sexually harassed ... (female survey respondent).

One participant told the Review about a work event where a police woman was allegedly sexually assaulted.

She was a new member and was said to be too frightened to report the incident. I then spoke with the EPSO (Ethical and Professional Standards Officer) but because no one was prepared to be a witness it was not taken any further. I was then approached by a [senior member] who told me not to spread rumours (male interviewee).

The Review heard that these experiences may prevent future bystander response to sexual harassment.

I helped a person who was harassed and as a result I was the subject of detrimental behaviours for ... years ... [I] would think twice about assisting someone in the future (female survey respondent).

How can Victoria Police encourage bystanders to safely intervene and respond to sexual harassment and sex discrimination?

It shouldn’t be a risk to your safety or your career to stand up for a colleague or call out or report inappropriate and sexist behaviour.³³²

Positive bystander responses can be a powerful tool in establishing safe and equitable workplaces. Consideration must be given to individual and workplace factors which contribute to bystander in/action.

VicHealth research summarised the individual enablers of bystander action:

- knowledge of what constitutes violence against women
- awareness of harm caused by violence against women
- perception of responsibility to intervene
- perceived ability to intervene – skills
- desire to educate the perpetrator/harasser
- empathy for and desire to support victim
- self-validation, catharsis – expressing anger, disapproval etc.³³³

These individual enablers are closely linked and reliant on workplaces being supportive of, and actively encouraging the positive role of bystanders. The enablers related to knowledge and awareness of harm of violence against women are addressed throughout this report.

Recent research based on a study of sexual harassment events that occurred in a variety of Australian workplaces, proposed four factors influencing the likelihood of bystander intervention: identification and similarity with target, fear of punitive responses, workplace norms and tolerance of gender-based

³³² Commissioner Kate Jenkins, ‘Plenary: Shaping the future: Now it’s up to you’ (Speech delivered at the Australasian Council of Women and Policing Conference, Sydney, 3 September 2015).

³³³ Anastasia Powell, ‘Review of bystander approaches in support of preventing violence against women’ (Victorian Health Promotion Fund, 2011) 21.

hostility, and proximity to the incident.³³⁴ The research supports the following approach:

- Consider the role of different bystanders within, and external, to the organisation, and how they can best intervene.
- Focus on bystanders who experience lower organisational and individual reprisals when intervening – for example, those at management level. This will assist in normalising bystander intervention.
- Develop strategies and an organisational mandate to ensure bystanders are safe, protected and supported to intervene and report. This involves addressing the barriers bystanders, as well as victim/targets experience when intervening and reporting sexual harassment.³³⁵

The Review considers that as Victoria Police implements the Action Plan, which contains mutually reinforcing strategies to improve workplace safety and respect, bystander reporting will increase as a natural consequence of workplaces becoming safer places for calling out harmful behaviours.

Based on this expectation and the Review's findings and contemporary bystander approaches, the Review recommends that Victoria Police focus on ensuring bystanders are safe and protected, and that they have confidence they will be supported by management and colleagues. This means ensuring that all employees are trained to identify harmful workplace behaviours, understand the impact and harm, feel supported to safely intervene, support the target or victim and know how to record/report harmful behaviour, with the consent of the victim/target.



There is always a risk that people won't come forward, and we can't force them to. All we can do is create an environment where people can come forward if they want to, and support them if they do (MALE INTERVIEWEE).

The Review suggests that consistent with academic governance recommendations, training should include best practice bystander intervention in sexual harassment and discrimination.

In addition, and consistent with recommendations on a whole-of-organisation strategy, Victoria Police should develop a clear organisational statement and expectation that all employees, regardless of rank or level, should 'call out' sexual harassment and discrimination if they feel safe to do so and that they will be supported by management.

As part of the HR Business Partnering Model (see Chapter 13), Victoria Police should include specific requirements for reporting on management responses to bystander intervention and reporting, and general feedback on employee confidence to undertake interventions, and suggestions on improvement.

Formal reporting

Survey participants were asked questions about making a formal complaint or report about their most difficult incident or episode of sexual harassment.³³⁶ The survey found only 11 per cent of targets made a formal complaint or report about their experience of sexual harassment in the Victoria Police workplace. Men were less likely than women to have made a report (9 per cent versus 13 per cent respectively).

³³⁴ Paula McDonald, Sara Charlesworth and Tina Graham, 'Action or inaction: Bystander intervention in workplace sexual harassment' (2015) *The International Journal of Human Resource Management*, 14–16 <<http://dx.doi.org/10.1080/09585192.2015.1023331>>.

³³⁵ Paula McDonald, Sara Charlesworth and Tina Graham, 'Action or inaction: Bystander intervention in workplace sexual harassment' (2015) *The International Journal of Human Resource Management*, 17–18 <<http://dx.doi.org/10.1080/09585192.2015.1023331>>.

³³⁶ Making a formal complaint is distinct from disclosing the incident or episode to someone else.



The majority of formal complaints were made to local management (70 per cent), followed by Human Resources (13 per cent) and Professional Standards Command (9 per cent). The survey also showed that men were less likely than women to report and disclose sexual harassment and seek advice from a colleague about the experience.

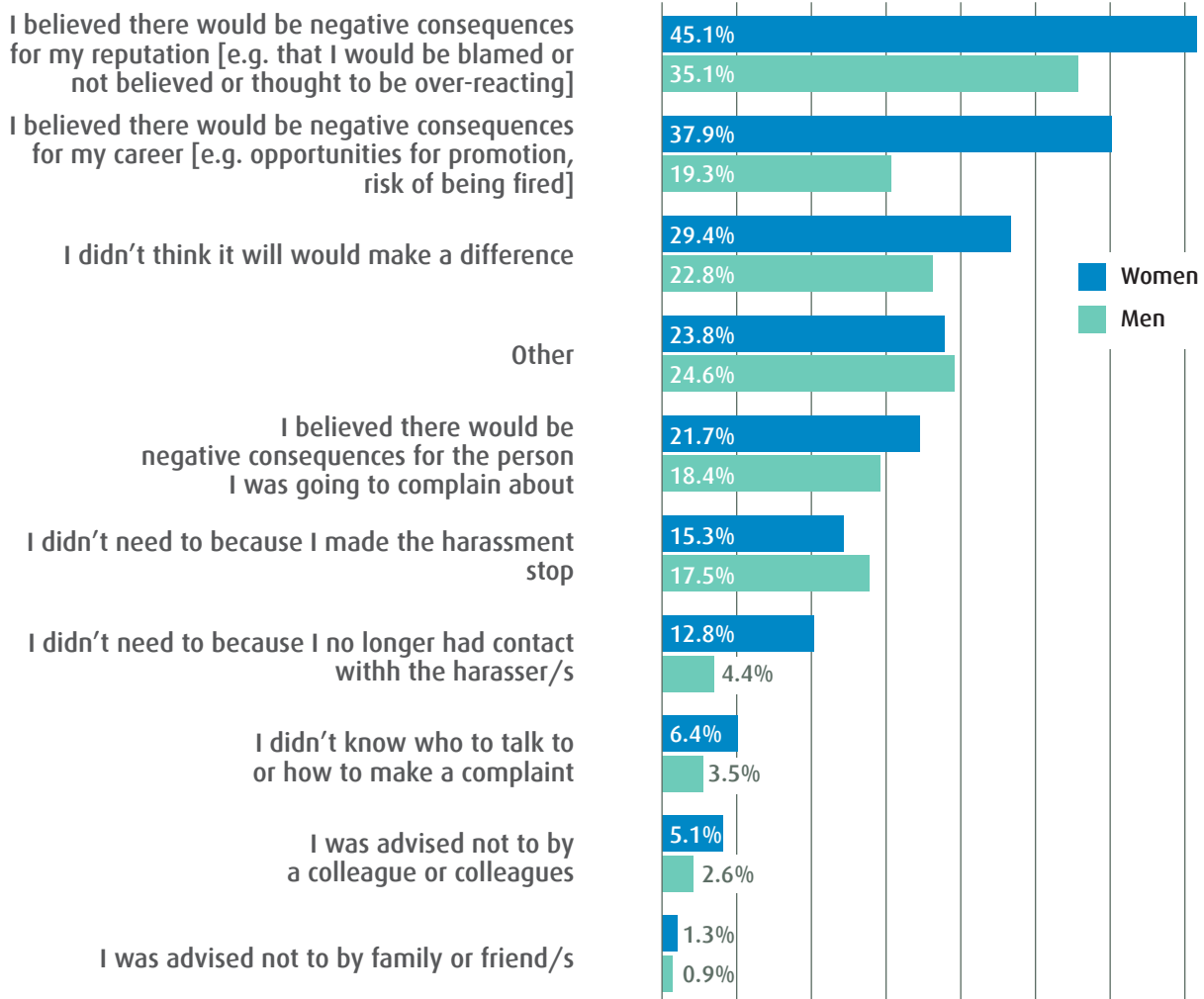
Looking at Human Resource Department data sources from 2006 to 2014, there were fewer than 700 matters of bullying, sexual harassment, victimisation and stalking recorded, and only around 100 complaints of sexual harassment.

This is additional evidence of significant under-reporting given the rates of sexual harassment reported by survey participants (see Chapter 3).

It is well-established that sexual violence, including sexual harassment, is under-reported.³³⁷ Within Victoria Police this is amplified by strongly held beliefs about what it means to be a resilient employee and the normalisation of inappropriate behaviours and importantly – employee perceptions on the prevalence, impact and importance of these issues, which promote the idea these issues are not worthy of reporting.

³³⁷ See, for example, Australian Human Rights Commission, *Working without Fear: Results of the Sexual Harassment National Telephone Survey 2012* (2012).

Figure 31: Please tell us why (you did not report)?



One senior public servant told us:

An external person reporting is perceived very differently to someone in the organisation reporting. There is not always confidence in the system due to concerns around confidentiality, the investigation or the potential for repercussion (female interviewee).

of barriers to reporting – reputation, impact on victim/witnesses' career, consequences for them personally and the workplace, being believed, victimisation etc ... it is a cultural thing (female interviewee).

The Review heard that reputation and loyalties form early in employees' service and remain with them throughout their careers. The long average service time, particularly for police is relevant – 14 years for female police, 23 years for male police, seven years for female public servants and eight years for male public servants.³³⁸ Several police members pointed out the difficulty in leaving Victoria Police because there is a lack of alternative employment (if they want to continue policing).

Barriers to reporting

Why don't victim/targets report?

I never told anyone at the time. If I had, it would have gone around like wild fire. I would have been forced to change work location and then eventually leave the job. My car would have been [vandalised], I would have been called a snitch ... and dobber. No one would trust me again. No one would want to work with me. No one would have talked to me. I would have been made out to be a liar (female interviewee).

The Survey revealed that 41 per cent of Victoria Police employees believed there would be negative consequences for their reputation if they reported, including being blamed, not believed or thought to be overreacting. These perceived negative consequences were greater for women compared with men. Participants told us:

Survey participants who indicated they did not make a formal complaint or report about their most difficult incident or episode of sexual harassment were asked why.

The most common reason for not reporting was potential negative consequences for reputation (45 per cent of women, 35 per cent of men) such as being blamed, not believed or thought to be over-reacting. The next most common reason for women was negative consequences for their career (38 per cent) such as losing opportunities for promotion, or risking being fired. The next most common reason for men not reporting was a belief that it would not make a difference (23 per cent).

20 per cent of targets did not report because they were concerned about negative consequences for the alleged perpetrator.

This section examines what the Review heard about the barriers to reporting. These barriers are discussed in detail below.

Damage to reputation and career

As an organisation we have made some steps forward but there are still a lot

It's like an unwritten rule that if you report inappropriate behaviour, you will damage your own career and your reputation will be tarnished. You would be known as a "rat" and it will follow you around your whole career. You just have to suck it up (female interviewee).

The Review heard that women in Victoria Police face particular challenges having to 'manage their reputations', and the decision whether to report is made more complex by this consideration:

But if you speak out, then you lose everything. You just don't want to jeopardise all the time and effort you've put in to being in the job (female interviewee).

I talked with my friend about it, and we talked through what would happen if I told someone. She is a police member as well ... In the end, I couldn't let

³³⁸ Victoria Police Data – Separations, received 16 June 2015. Note: the relatively recent establishment of the transit PSO program means that it is too early to draw clear conclusions in relation to separations for this group.

myself feel responsible for anything that happened to his family because of a complaint I made. I knew that in situations like this, it is the woman who is seen as the home wrecker and 'at fault' and I didn't want my career to be defined by this one event (female interviewee).

One female police member told the Review why she chose not to report after being sexually harassed and propositioned for sex from a colleague in a police vehicle.

A big part of me not making a complaint is that I felt like it would be a roll of the dice. I was brand new, and no-one knew anything about me. He had been in the job for over a decade, was married with kids. If he had never had a complaint before and was well regarded by his colleagues then everyone would have taken his side, labelled me the trouble-maker and it would have followed me around for my career. However, if he had been known for that behaviour then people 'might' have believed me. Given this was my new career, I couldn't justify playing the odds with my reputation. I would rather put up with it and protect my reputation than risk being labelled a "bitch" or "untrustworthy" by my colleagues (female interviewee).

Confidential interviews with current and former employees revealed a strong negative relationship between reporting harmful behaviours and damage to career. One senior public servant reflected:

There is fear that if you do speak up, and this applies more to sworn than unsworn staff, then your career will suffer. There is a perception that if you blot your copybook – that's it for your career (female interviewee).

This view was also shared by numerous men the Review spoke to:

The one thing that keeps your self-esteem up is identity in the job. They're all frightened about what's on their file. For example, a police woman may

make a complaint and perhaps it is unsubstantiated. This may go on the file. This could reflect poorly on her. Say she goes into a selection panel, it might be the best man or best mate of the person accused of perpetrating the behaviours (external expert).

Several senior police told us about the experiences of younger relatives working for Victoria Police. The cases we heard about caused significant distress for the more senior relative:

I have a close female relative who joined the police force. I had to have an explicit conversation with her about the behaviours I thought she had to be careful of. At the station, it's sometimes a game of who can sleep with the female trainee first. It's shameful I had to have this conversation (female interviewee).

Some participants drew distinctions between types of harmful behaviours that are 'acceptable' to report.

If a sexual assault took place I would report it, but I am too scared to report sexual harassment/comments as it will adversely affect me in my role. (female survey respondent).

Other participants reflected on career status influencing the decision to report or not.

When I talk about barriers to reporting, they [recruits] say 'I have to go back at week such and such and I know what will happen if I report any of the bad behaviour, it is not worth my career.' The grape vine in this place ... They'll work out who it is. People will find out and there's a fear factor (female interviewee).

At that stage of my career, if I had made a complaint, I wouldn't have been able to work in the division. Not because of the formal process, more the informal stuff. I was just about to go on a temp, I couldn't have it following me around (female interviewee).

Fear of not being believed or blamed

The fear of not being believed or that others will think the target is over-reacting is a significant barrier to reporting harmful workplace behaviours. This was particularly evident for female employees.

*There also seems to be an attitude in Vic Pol that if a female reports sexual harassment or inappropriate sexual behaviour, there is an initial reaction that she must be lying.
(male survey respondent).*

Participants also questioned whether their behaviour led the harasser to perpetrate the poor behaviour. The Review heard several instances of this occurring.

The victim told me that they had reported the behaviour but that management told them that they were bringing the harassment upon themselves (male survey respondent).

... They are usually embarrassed and have questioned if their own behaviour has led the other person to think it is ok to behave in this manner (female survey respondent).

Some participants took a different view.

*If Victoria Police are worried about this situation occurring, maybe they need to teach members how to be assertive enough not to get into a situation like this in the work place.
(female survey respondent).*

While responses like these highlight the value placed on individual resilience, some participants adopted these victim-blaming attitudes which fail to consider the gendered reasons preventing many people from reporting.

Women don't feel comfortable reporting this because they are often times made to feel like it was their fault in the first place and fear the social isolation which would follow from making a complaint against, often times, married men with families (female survey respondent).

*[I felt] angry and ashamed as people may think I actually let him get away with trying to hit on me because I hadn't made a complaint
(female survey respondent).*

High tolerance for inappropriate behaviours

The Review spoke with many Victoria Police employees, at all ranks and levels and in all parts of the organisation who described the Victoria Police workplace as having a high tolerance for harmful behaviours. This reality does not reflect on all workplaces but was a general perception from participants engaged with the Review.

Due to the high tolerance of harmful behaviours, participants explained that people don't report because they don't recognise what they experienced or witnessed was inappropriate. In certain workplaces, harmful behaviours become normalised:

*People may say, "Oh, it wasn't that bad." In terms of jokes and casual conversations about women, mostly it isn't seen as really crossing the line
(female interviewee).*



**I have worked for Victoria Police for [many] years and when I first started I thought that Victoria Police had a sexist culture and treated women poorly, I believed that the organisation's attitude would change with the times and the rest of society but I found myself telling people that Victoria Police has actually got worse over the years. The behaviours that I experienced as a young constable have continued and sexist attitudes towards females in the force has got even worse and I found this very disheartening.
(FEMALE SURVEY RESPONDENT).**



One senior employee remarked:

Police also encourage an “Esprit de corps”. People won’t call out certain things until bad behaviours are extreme. People don’t want to rock the boat. This can make it difficult to get a true picture of the behaviours or encourage reporting (executive interviewee).

Many employees spoke to the Review about the persistent minimisation of sex discrimination and sexual harassment in the Victoria Police workplace. Participants told us the seriousness and impact of sexual violence is often minimised, and the prevailing attitude is to ‘not make a big deal out of it.’ This creates an environment where inappropriate behaviour can continue and escalate with impunity.

I didn’t want to deal with the drama – it simply wasn’t worth it (female survey respondent).

The comment was minor in the grand scheme of things, and could have had an alternative meaning (female survey respondent).

We spoke with a sworn member who described the cumulative effect of inappropriate behaviours.

Each layer as a standalone is probably not worthy [of reporting]. But layered, it is something worthy. The behaviour was getting stronger (female interviewee).

Some participants described confusion at whether the behaviour they experienced was inappropriate and questioned whether it was ‘below the line’.

The comment/s left me feeling confused as to the person’s meaning and intention as the comment could have had two meanings. When I explained the situation to friends/family, all felt that regardless of the intention, the comment was inappropriate (female survey respondent).

There is still a stigma for our members to report these behaviours. Also for some, it’s not clear what is

inappropriate behaviour; unfortunately some inappropriate behaviour has been normalised through our culture (executive interviewee).

The Review was disappointed to hear that in some workplaces managers and supervisors engage in, and in some cases, encourage the inappropriate behaviour.

Offender was encouraged by my supervisor. Both men had close links to the next person in chain of Command (female survey respondent).

Given their important role in setting workplace standards, this is particularly concerning. One male survey participant told us:

The behaviour was relatively low level and the ‘victim’ was not particularly concerned about the behaviour but it did involve inappropriate comments by a senior manager towards and about numerous female members of staff ... The problem as I saw it ... was that it demonstrated a poor and disrespectful culture fostered by the member in charge in which further inappropriate behaviours could flourish (male survey respondent).

This issue is discussed in more detail in Chapter 10.

Fear ‘for’ the harasser and fear ‘of’ the harasser

The survey found that 20 per cent of targets did not report sexual harassment because they were concerned about negative consequences for the alleged perpetrator. Other participants shared their reasons why they had concerns for the harasser:

I knew the harasser was married and I felt bad for his wife. I didn’t want to cause her pain and embarrassment (female survey respondent).

When things happened to me, I didn’t want to ruin the guys’ careers. I didn’t want to be the one to bring down good coppers. They made bad decisions. I understand why they take these matters seriously, but it left me powerless. The

consequences would have been so severe that I didn't want to make a complaint (female interviewee).

For some reason, I was always worried about his job, even though he had nearly killed me (female interviewee).

A number of employees minimised the harasser's behaviour, reflecting the deep sense of loyalty among Victoria Police employees. Through interviews and site visits, it appears this loyalty is more common among police compared with public servants and PSOs.

We also spoke with several people who did not report because they believed the harasser would make their work and personal life difficult.

Members were fearful of making a complaint as the predator would threaten to tell members' partners regardless of them accepting or denying the advances. (female survey respondent).

I thought he would be vengeful (female interviewee).

Perception that police employees cannot be targets or victim/survivors

A large number of Victoria Police employees with whom the Review spoke explained their primary role is to protect the community. We heard that being a victim/target of sex discrimination and sexual harassment is inconsistent with the expectations of individual resilience and strength:

I was reluctant to make a complaint because I didn't want to admit that I was a victim. I didn't believe this could happen to me. I don't want to be that person ... (female interviewee).

Some women described having to appear stronger and more resilient than their male counterparts. See Chapter 2 for more detail. One survey participant explained that making a report "would tarnish his [perpetrator's] perception of women in policing even more".

The emotional toll of reporting

Many participants reported feeling 'embarrassed' and 'awkward' about the prospect of reporting. Feelings of guilt,

regret and shame are also commonly felt by those who choose not to report, particularly when they know there are other targets or victim/survivors that may still be at risk:

I felt intimidated and embarrassed which is why I didn't say anything, but now that I know the person continued harassing other women once I put a stop to his behaviour with me, I wish I had spoken up (female survey respondent).

I feel guilty about not reporting these incidents, you leave other people exposed. But both times I had to think about the impact it would have on me (female interviewee).

This is a common experience of victim/survivors of sexual violence in the broader community. At the same time, many women told us they felt they 'owned' the problem and had a responsibility to report and felt guilt when they hadn't. While Victoria Police has made significant progress in changing community attitudes through sexual assault and family violence reforms, it also has a responsibility to dispel this attitude within Victoria Police.

Deciding whether to report harmful workplace behaviour is a difficult and stressful decision. Targets and victim/survivors are the best judges of their own safety and wellbeing, and their decision must be respected.

Strong reporting stigma

The Review heard about the 'culture of silence' and reporting stigma. Part of this stigma is related to the fear of victimisation:

It's easier to not say anything and not become a target yourself. You won't necessarily become a target for sexual harassment, but bullying, gossip, segregation. ... (female survey respondent).

One senior employee described the culture of reporting in their workplace:

They are very reluctant to do anything – they don't want to be seen as whining or whinging. They don't want to be fingered as the person who blew the whistle. These women don't have a lot of confidence. Many of them don't like to speak in meetings. They fear the repercussions of having other people know what happened to them; like they might be judged. They just want it to go away (female interviewee).

The Review also spoke with people who had such poor experiences reporting that their colleagues were reluctant to report:

People in my PSA won't make complaint. They say 'we have seen what happened with you.' It's an environment that leaves people vulnerable (female interviewee).

One of the strongest cultural assets to Victoria Police is the sense of family and loyalty among employees. Belonging or being part of a team had significant personal and professional value for police employees:

The members fancy themselves as having professional behaviour and attitudes ... They're all here to do the right thing – they rely on each other – reporting inappropriate behaviour is seen as going against that though (executive interviewee).

However, if a target or witness reports inappropriate behaviours, it is seen as going against the 'family.' We consistently heard that those who report harmful behaviour are considered 'snitches', 'dogs' and 'rats.'

... There was a high profile example a while ago ... She [the victim/survivor] reported it and exposed this [perpetrator]. She was frowned upon by her peers, and basically disowned by all those around her. She was on her own (female interviewee).

The organisation doesn't necessarily look favourably upon police who make complaints about other police (female interviewee).

That is why I didn't complain. If I say he came on to me in the van you have to think 'What is going to happen to me in that station?' My 'work family' would most likely turn against me. You would get reprisal through social isolation from the group (female interviewee).

The survey asked participants to rate their agreement with the statement 'My colleagues would support me if I made a complaint of sexual harassment'. 59 per cent of participants agreed their colleagues would support them while 12 per cent disagreed. The rates of agreement in women and men were similar (61 per cent versus 58 per cent respectively). A slightly larger proportion of women than men disagreed their colleagues would support them if they made a complaint (15 per cent versus 11 per cent respectively).

The survey also asked participants to rate their agreement with the statement 'My colleagues would support me if I was accused of sexual harassment'. 35 per cent of participants agreed their colleagues would support them while 22 per cent disagreed.³³⁹ The rates of agreement in women and men were similar (37 per cent versus 35 per cent respectively).

This represents a relatively high level of support for alleged harassers which may contribute to the reticence of targets to report sexual harassment.

Target does not feel safe to report

The Review heard that the decision of a target or victim/survivor to report harmful behaviours is dependent on the actual or perceived safety of the workplace.

It is treated a bit like a joke by the members. If someone is a sleaze it's a joke and nothing ever really happens. (female survey respondent)

The Review heard distressing accounts of people who did not have a safe place to disclose, and if they did report, their safety was not prioritised:

³³⁹ A smaller proportion of women than men disagreed that their colleagues would support them if they were accused (20% versus 24% respectively).

We all went to a work event, [and I was] indecently assaulted. I felt so violated and angry ...

He denied it ever happening ... I contacted Welfare. I needed to see someone because what had happened was still playing on my mind ... When I returned to work, there was a new PDA entry about an incident where he was trying to bait me. I was hauled into a meeting with the boss and the supervisor. I told the boss I didn't feel comfortable with my supervisor. I told him what happened. He made me tell the entire story in front of the guy who did it. He didn't ask the supervisor to respond to anything. The boss looked at me and said that I should have reported it when it happened. The boss completely dismissed it. I was crying but he didn't stop.

I was encouraged by colleagues to make a complaint. It was an awful experience. I wish I hadn't made a complaint.

The supervisor was upgraded. I was moved to a different workplace. Everyone knew why even though I didn't tell anyone. ... I reported for an outcome. In the end, he was upgraded and my career has been destroyed (female interviewee).

We commonly heard statements such as 'I hoped it would just stop' and targets 'waiting out' the sexual harassment and sexist comments. Evidence collected in the Review clearly shows that Victoria Police employees continue to face these significant safety risks.

Concern about rank

The Review was told complaints processes were less likely to be effective against a perpetrator when the harasser had a senior position or had powerful connections with the organisation.³⁴⁰ The Review heard about a range of views related to rank which act as barriers to reporting. These include the harasser's seniority, the target's lower rank and the discomfort of 'jumping' the chain of command if the line manager is the harasser:

It probably made me more uncomfortable than anything and powerless. Another subordinate was in the room as well. We were both uncomfortable. I didn't know how to respond/ behave as I was fearful of potential repercussions from the supervisor (female survey respondent).

CASE STUDY

I've been in the job for many years. I have a younger relative who also works in the job. She was sexually harassed by one of her bosses. I was so angry and disappointed when she told me.

When I said she should make a complaint, she steadfastly refused. He is very popular and she thought that would be the end of her career – she thinks they will stop her progressing if they find out. She is right. I don't care what picture they paint now, it has been like that the whole time I have been in the force.

Win, lose or draw, she is the one that would suffer. There would be a process of him denying it, of them both being interviewed and investigated. They would be able to prove she was not on night shift – that he had put her on night shift, which was highly unusual, but he could make up any number of excuses – say it was a role and it was fine and she misconstrued it. She would suffer. I was saying as family that she should report, but as a colleague I could see all the risks for her. He would have so many people who would be his allies. She is new (male interviewee).

³⁴⁰ M Rowe, 'Dealing with sexual harassment' in M Stockdale (ed), *Sexual harassment in the workplace: Perspectives, frontiers and response strategies* (Thousand Oaks, Sage, 1996).



The Review asked one senior male police member whether rank structure is a barrier to reporting.

There are some people you just wouldn't go to with a complaint – they have a reputation of covering things up, sometimes even to run away and leave it to others to deal with.

In this case, his position of power and authority was the primary reason the victims of his inexcusable behaviour were not prepared to formally report the incidents.

[Question to interviewee] What gave you the confidence to do that? Did you develop that as you moved up the ranks?

... My philosophy is to do what is right not what is easy. That being said, it is often difficult to exhibit that same level of courage when you are at lower levels of management in the force, when the offending party is a significantly more senior person (male interviewee).

The reporting process is unclear, takes too long and doesn't get outcomes

The last thing I want when I'm feeling like a victim is to be further victimised by a complaints process (female interviewee).

The Review heard that the prospect of reporting harmful behaviour was a barrier in itself. Participants expressed a sense of apathy about the reporting process and potential outcomes, remarking that 'nothing would be done', 'nothing would change' and it's 'not worth the hassle.'

People don't have confidence in the complaints process. We need substantial change in how complaints are managed. It's about confidence in our management, and believing that they will handle it in a way that won't hurt us (female interviewee).

Participants told the Review there wasn't enough information about making a complaint:

We've come a long way but there's a long way to go and if you were to ask a uniformed member 'who do I go to or 'what line do I ring?' ... There's a number for when you're exposed to bodily fluids but complaint channels need more visibility (executive interviewee).

Target/victim took action against the harasser themselves

The Review heard that some people did not report the inappropriate behaviour because they dealt with it themselves:

I told the person not to touch me. That's that. Problem fixed. (male survey respondent).

I took direct action and told the person (very forcefully) to stop touching me (female survey respondent).

Some participants felt it was a safe option to take action against the harasser themselves, however this is not the case for everyone.

Experiences of and principles of victim support

The Review identified a variety of serious and significant barriers to reporting sex discrimination and sexual harassment including predatory behaviour in Victoria Police. For those Victoria Police employees who do report, there still remain substantial barriers to a safe and effectual reporting experience. Positive reporting experiences lead to better outcomes for victim/targets, increased occupational wellbeing and safer workplaces.

Of the 11 per cent of survey participants who made a report or formal complaint about sexual harassment, many of these participants described their experience of reporting, the first response to the report and any consequences of reporting. These personal accounts from the survey are accompanied by a large amount of data collected through qualitative interviews and written submissions.

Drawing on the experiences of victims and bystanders, the Review has developed a set of critical principles, reflecting Victoria Police's external victim-centric approach, to ensure a safe and supported reporting experience. Those principles include:

- **Principle 1:** Victim/target is safe and supported to report.
- **Principle 2:** Let the victim/target talk openly, express emotion and take them seriously.
- **Principle 3:** Confidentiality and choice of victim/target is fundamental.

As discussed earlier in this chapter victim/targets most commonly disclosed sexual harassment to work colleagues followed by supervisors and managers (more senior than immediate supervisor). The vast majority of formal complaints were made to local management, followed by Human Resources and Professional Standards Command.

You'd like to think you could always go to your supervisor – but the reality is that often you have to hand pick who you report to. So it is a cultural thing and we need to reshape our culture with respect to this (male interviewee).

These findings indicate the need to focus on improving the first response and reporting capability of work colleagues (or bystanders) and local management.

Principle 1: Victim/target is safe and supported to report

We need people to know they are safe to report, that we have an organisation which will not tolerate or turn a blind eye to this type of behaviour (on duty or off duty) and provide support to them (male interviewee).

The Review heard that when victim/targets feel safe and supported, they are more confident and are more likely to report sexual harassment and sex discrimination.

... I have only been able to talk about this in the last [few] years. I felt safe and strong enough to report the matters because I have a couple of friends supporting me. I'm older, mentally stronger, a bit wiser, and feel so strongly aggrieved by the crime. I thought it would help my recovery. I hope it helps other women in the force ... (female interviewee).

... the Chief Commissioner sent everyone out an email in relation to sexual and predatory behaviours in the workplace and I took note ... when I saw the email, I decided I would do something about it. The email showed me there was a bit more support for members and this type of behaviour would not be tolerated. I decided to make a complaint and since then I have had an enormous amount of support from my superiors and most other members (female interviewee).

Victims/targets report that supportive attitudes on first report, as well as the overt support of bystanders as fundamental to giving them confidence to report. The Review heard several positive examples of bystander intervention and supported reporting, including:

[I] confronted the person, supported the victim, reported the matter and discussed expectations with work force (male survey respondent).

Another member had got wind of it ... and thought it was totally outrageous and whistleblawed for me ... I had

opportunities to tell people up the chain but I didn't know what alliances people had. It was an unsafe environment to tell anyone anything (female interviewee).

Meeting the victim/target's immediate safety and support needs, validating the experience of the victim/target, showing genuine empathy and making appropriate support referrals, is fundamental to the victim/target's experience of reporting. A former senior employee told the Review:

... Whether you have got evidence or not, when dealing with a member of the community, you have someone who needs to feel safe and be provided with safety. Whether the issue can be proven at that point or not, they need to know they are believed and they know that police will make them safe. Victoria Police don't necessarily do this internally ... Victims just want it to stop; they don't want to be re-traumatised ...

... In family violence, you find them therapeutic/welfare support and intervene if necessary. You go criminal if you need to and can ... I have spoken to so many victims who want it acknowledged, believed and are more likely to be able to process what has occurred. They just want it to stop not necessarily going to a punitive result ... Sometimes they do want a criminal justice response and that should be an option ... I think police need to get their head around this (former executive).

Addressing the consequences of harm enhances the victim/target's sense of safety when reporting. One participant told the Review about a distressing and prolonged experience of harm perpetrated by a male member. In this case, insuring immediate safety was vital to her and her family.

When PSC knew, I was petrified he would come after me (female interviewee).

The victim/target should have access to confidential, independent support to recover or to process harm, or to assist in addressing

any subsequent harm from being involved in the process (for example, re-traumatisation). This could involve emotional support, financial support and victims of crime support (if they need locks changed, etc.). The victim/target should also be provided with avenues for independent advice and advocacy for example, legal advice, union, the Victorian Equal Opportunity and Human Rights Commission.

A support person can be engaged before, during and after the process (for example, the victim/target should have the option of having someone with them in interviews). In these matters, the gender of the person taking the report is important to some people and will make a difference to disclosure and progression – choice is important.

Several participants shared their perspectives on disclosing to other women supervisors or managers.

Women tend to confide in you when you go in as a temporary Senior Sergeant. They tell you they can't get (or they feel they can't get) upgrading because they're female, they don't get the opportunities because they have children, they experience degrading comments, have feeling of isolation and lack of support (female interviewee).

Recipients of disclosure should ensure victim/targets know the various options/avenues available and can make an informed choice about reporting. This includes letting the person know that the organisation may need to act on the person's disclosure even if they decide not to proceed with the complaint. The Review heard about many situations where the victim/target made a disclosure but did not want the matter to be on-reported.

One senior police member described witnessing a female personal assistant being verbally abused by her boss.

I telephoned her a few minutes later on her mobile to check to see if she was ok, then I left the office to catch up with her, talk to her and provide support. She was adamant that she did not want to formally report the behaviour or for me to initiate action. She advised me

that she would deny the incident took place if I took it further. I continued to check on her welfare post that time. Notably she exited Victoria Police a few months later (male interviewee).

It is important to ensure that people know that in some cases they can withdraw individual complaints from the process up to a point (as for sexual assault survivors in the community), and, where necessary, support that decision regardless of frustration (it is a reflection of a failing in the system or process, not necessarily of the individual/s involved). This issue is discussed in more detail in Chapter 13.

Principle 2: Let the victim/target talk openly, express emotion and take them seriously

Victims/targets report that supportive attitudes on first report are fundamental to giving them confidence to report. Conversely, unsupportive attitudes on first report can have a serious and harmful impact on victim/targets:

I had the impression it was a formal process. He used lots of big words, but he didn't name the behaviour ... I got the impression that I was wasting his time and he was just doing it so he wouldn't get in trouble if he didn't handle it properly ... I would have liked for him to say "I will fight for you, you don't have to fight." I was put through the ringer every day (female interviewee).

Good practice involves listening and taking the victim/target seriously, and believing that they have been harmed if they say they have. The Review notes that empathising with the victim/target is separate and does not conflict with objective judgement. Professional distance can seem like rejection to someone who thinks that they will likely be doubted or not believed.

... I was introduced to the [manager]. He really wants to make a difference. I trusted him. I agreed to speak to him, and sound him out. I told him about the concerns for my safety. He was appalled. He acknowledged my concerns and validated them (female interviewee).

Good practice also involves allowing the victim/target to give a full account – to produce complete and accurate evidence, and for the person to feel satisfied with the process. Being flexible about how and when people share their experience is helpful. Be as accommodating as possible to suggested changes to process.

We spoke with a very junior constable once – sat with her for nearly three hours – let her talk and ask questions – she was very fragile, she looked like she was listening, but you could see she was traumatised. She was new and very frightened but because I was able to go that very first day to offer support – she could ring with any concerns or questions at any stage (female interviewee).

Ensure that people do not need to repeat their story multiple times, by having consistent contacts where possible.

What annoys me and other people in this space is that people should only have to tell their story once. You need to build the confidence so people come to you (senior manager).

The Review heard some commentary on the temporal association between the incident and the report being made. Research suggests that delaying reports beyond an immediate response or within a few days threatens the victim's credibility and the likelihood of a successful legal claim.³⁴¹ However, this is not evidence of whether someone is telling the truth. The multifaceted and complex barriers to reporting can mean it may take the victim/target many weeks, months or years to

³⁴¹ Patricia Eastel and Kezia Judd, "'She said, he said': Credibility and sexual harassment cases in Australia' (2008) 31(5) *Women's Studies International Forum* 336.



report the incident. In fact, most participants the Review spoke with, did not report the incident at all, despite significant evidence.

This issue underscores the importance of respectful language. It also means avoiding language of collusion or victim blaming (for example, saying ‘why didn’t you report?’, as opposed to ‘why didn’t you feel like you could report?’) which can inadvertently minimise someone’s experience.

A small minority of participants told us that often victim/targets have an ulterior motive for reporting, including this survey participant.

Just because a male or female reports sexual harassment or a similar incident, it doesn’t necessarily mean that they are telling the truth. I have seen many minor incidents blown out of proportion by the ‘Victim’ as there are ulterior motives for the complaint [to] destroy or question someone’s credibility in order to progress your own career ...
(male survey respondent).

The Review did not find any evidence of vexatious claims in relation to sexual harassment or sex discrimination. The Review does not rule out the possibility of vexatious complaints being made (on various grounds including bullying), however given the significant barriers and negative consequences associated with reporting sexual harassment and sex discrimination, it seems highly unlikely an employee would take these risks to, for example, gain promotion and seek a transfer. Rather, as this Review has made clear, under-reporting of even very severe sexual harassment and assault is a much greater concern in Victoria Police.

One senior male police member commented on this issue, and the danger it poses for victims, both within Victoria Police and in the community.

I had truly hoped that as organisation we had moved on from automatically not believing victims of sexual assault/harassment. Even if you thought it was a false report ... if you presume every report of sexual assault is false until you prove the otherwise, how do you then get the legitimate people who have been sexually assaulted to have any faith that you will

investigate it properly, professionally objectively? ... (male interviewee).

Based on this Review’s evidence, if the target/victim does report, it is likely they have overcome a range of barriers and experienced negative consequences as a result of reporting. The matter must be taken very seriously. Challenging out-dated attitudes and assumptions about reporting must be a key focus for Victoria Police.

Principle 3: Confidentiality and choice of victim/target is fundamental

It needs to be safe, supported and with the victim in control (executive interviewee).

Victim/targets should be made aware of how the information they provide will be shared in the future, for example, with Professional Standards Command, managers, Human Resources or colleagues (for example, when other individuals in the workplace will be interviewed). Victim/targets often perceive grievance processes to be lacking in confidentiality, creating fear and anxiety and further undermining their confidence in reporting.³⁴²

The Review spoke with a manager about how he prioritises choice and control of the target/victim:

When someone comes to you with these problems you need to be honest about how these things manifest themselves so they can make an informed decision about what they want done. Offer to talk to the person, and highlight that the possible outcome is they could stop, it might not change or it could get worse (male interviewee).

Victim/targets should control their own information and all potential options for escalating the matter should be informed by the victim/target:

We recently had contact with a woman who had spoken to her manager about an issue which was then on reported – she is now furious, won’t engage

³⁴² Anna-Maria Marshall, ‘Idle rights: Employees’ rights consciousness and the construction of sexual harassment policies’ (2005) 39(1) *Law & Society Review* 83.

and wants it off the table ... without a complaint or information it is now very difficult to deal with the issue properly. When members raise issues of concern there needs to be clear, consistent information about processes and options – victims need to be included and kept in the loop about any proposed actions (female interviewee).

In some limited circumstances, the matter may reach a high enough threshold to leave the victim's hands. This must be informed by the victim/target's safety and must be a transparent decision. This is unusual and in most cases, the matter can be resolved at the workplace level with the consent of the victim/target. This issue is considered in detail in Chapter 13.

Impacts of reporting and victimisation

Through an examination of survey and qualitative data, the Review found evidence that many participants were victimised, ostracised or experienced negative consequences as a result of reporting harmful workplace behaviours.

The survey asked participants if they had experienced any of a range of outcomes following the reporting, and a number of participants indicated that whilst the behaviour stopped they continued experiencing negative consequences.

For 46 per cent of people, the reporting led to the behaviour stopping. The next most common consequences were victimisation in the form of being ostracised or ignored by colleagues (18 per cent), being labelled a troublemaker (18 per cent), other negative outcomes such as being denied training or promotion (18 per cent), and being bullied or victimised by colleagues (13 per cent). Further, just over 10 per cent of participants reported having their duties, roster or location changed in a way that was detrimental to them.

Just over one quarter of participants did not report any of the consequences that were listed (including the harassment stopping). This could be for several different reasons.

However, it is concerning that for some participants the harassment did not stop.

Participants described the significant impact of ostracism and isolation after they reported.

A lot of people who I thought were my friends dropped off. When I got to my new station as the result of me choosing to transfer ... I felt that my old boss had smeared my reputation. (female survey respondent).

They made no attempts to have it stopped, only to move the victim. I made a complaint to the local Inspector, who said "what do you expect after you made complaint against a whole station? (female interviewee).

A large number of participants told the Review that after reporting they were transferred to another workplace. See Chapter 11 for a detailed discussion on this issue. This was often without the victim/target's informed consent and had negative consequences in their personal and professional lives.

I was interviewed and transferred from my workplace and chastised by workplace management. (male survey respondent).

I was moved to a different location. The supervisor then circulated rumours regarding my competency in my role. The manager continued to be intimidating, rude and exclusionary. The manager is still in charge of female staff (female survey respondent).

In many of these cases, reporting had a detrimental impact on the victim/target's career progression, performance, financial situation and reputation:

I feel my career may be affected ... I feel that people judge me for my actions of standing up for myself. It affects my life everyday ... I will never be the same again and it's a long road to mentally and emotionally feeling normal within myself (female survey respondent).

I probably didn't work to my regular capacity during the time because I

felt uncomfortable and was distracted when he was looking at me (female survey respondent).

For some participants, the victimisation they experienced after reporting often had the effect of silencing their concerns. Continuing through the reporting process became stressful and emotionally demanding. Some participants withdrew their report due to reprisals and/or fear of reprisals.

Direct reprisals from the harasser were reported less frequently. However, of the situations the Review heard about, most victim/targets felt at risk. One participant told us:

I was then subjected to direct abuse from this [supervisor], with swearing, sexual connotations and physical outburst of violence that the other [supervisor] in the office stood between me and the angry [supervisor]. This abusive [supervisor] blamed me for his demise as I had advised and reported the behaviour he displayed (female interviewee).

The Review did also hear some positive experiences of reporting. One senior police woman told the Review about her experience making a complaint years ago.

There were definitely negative consequences for making complaints. It's only long term I look back and am pleased I made the complaint ... At some point I had to make a choice and let go and move on and they moved me to a different department but the boss was fantastic ... So it was something good from something bad (executive interviewee).

A related and equally important consideration is the harm caused by how the issue was managed after the matter was reported.³⁴³ One current police member told the Review:

The Workcover processes ... created a new type of trauma for me. It occurred at a time when I was frankly struggling to maintain my actual sanity. ... The harassment that followed that Workcover claim form categorically compounded

the trauma I was already responding to, by adding a new trauma for me to deal with when I was barely coping with the first (female interviewee).

The Review has not considered the role of WorkSafe and worker's compensation claim process. The Review is aware that the Victorian Ombudsman has recently commenced an 'own motion' investigation into the handling of worker's compensation in Victoria, particularly whether Worksafe agents have unreasonably denied liability or terminated entitlements for people who have suffered injuries in the workplace.³⁴⁴ The Worksafe agents that will be investigated include, among others, Gallagher Bassett, who at the time of this Review, serviced Victoria Police.

³⁴³ See *McKenna v State of Victoria* [1998] VADT 83.

³⁴⁴ Victorian Ombudsman, *Ombudsman launches investigation into handling of workers compensation claims* (5 November 2015) <<https://www.ombudsman.vic.gov.au/News/Media-Releases/Media-Alerts/Ombudsman-launches-investigation-into-handling-of->>.



Chapter 13

Actions and outcomes of formal processes

Main findings

- The primary measure of effective response to sexual harassment is ensuring the behaviour stops, yet the findings of the Review demonstrate that organisational responses to formal reporting have limited effectiveness achieving this. Of equal concern is the victimisation and other negative consequences reported by participants who lodge formal complaints.
- Around half the survey participants who reported a sexual harassment matter were dissatisfied or very dissatisfied with aspects of the organisational response to their complaint.
- Just over half the complaints reported by survey participants were finalised within one year, however a notable proportion were protracted as a consequence of the investigation and/or court processes.
- Multiple, overlapping definitions in the Victoria Police Act and other relevant legislation, as well as a lack of policy guidance mean that sworn personnel may arguably fail to act on complaints when they should act on them.
- Different legislative provisions covering problematic conduct for police, PSOs, public servants and executive officers creates confusion regarding responsibilities for reporting and responding. There is a lack of guidance in policy instruments about how to report and respond to complaints regarding executive level personnel.
- In recent years, Human Resource Department work units responsible for responding to reports of sex discrimination and sexual harassment have not been adequately resourced. This has contributed to insufficient and sometimes ineffective responses to complaints.
- The discipline system for police and protective services officers is complex, time consuming and more akin to a criminal rather than civil process. It is also inconsistent with employment practices for public servants and broader employment law principles.
- The organisational policies and processes for responding to sex discrimination and sexual harassment do not have a consistent victim-centric approach and recommend using practices which are potentially harmful and distressing for targets of these behaviours.
- There is contradictory information regarding the organisational responsibilities for managing complaints of sexual harassment and sex discrimination.
- The shift to a single dedicated hearing officer appears to be a positive development in terms of consistency of decision-making. However, the effectiveness of the function will be dependent on the skills of the individual in the role.
- The Professional Standards Command tasking of complaint investigations leaves regions responsible for around 90 per cent of files without dedicated resources. This is a significant burden on the individuals responsible and is a disincentive for thorough, effective investigations.
- Further reform to Victoria Police's disciplinary system may help to streamline and simplify its response to sex discrimination and sexual harassment.

Introduction

This chapter considers the Victoria Police responses to formal complaints, including disciplinary processes. The Review considers that formal responses are critical to enforcing standards set by senior personnel around gender equality, respect and safety in the workplace.

In particular, the chapter considers the legal, policy and industrial framework for response and organisational structures and processes.

It also considers participant experiences with the response to formal reports, issues with response to formal reports; and proposed changes for addressing workplace harm.

The chapter also outlines proposed options to reform the disciplinary system.

Legal, policy and industrial framework

The legal, policy and industrial framework for responding to inappropriate workplace behaviour includes a complex range of laws, policies and agreements, which is different for public servants and police and protective services officers. This includes:

- *Victoria Police Act 2013* (Vic)
- Victoria Police Force Enterprise Agreement 2011
- Victorian Public Service Workplace Determination 2012
- *Public Administration Act 2004* (Vic)
- *Independent Broad-based Anti-corruption Commission Act 2011* (Vic)
- *Protected Disclosure Act 2012* (Vic)
- *Equal Opportunity Act 2010* (Vic)
- *Sex Discrimination Act 1984* (Cth)
- *Fair Work Act 2009* (Cth)
- *Fair Work Regulations 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)

Policy instruments

Victoria Police Manual:

- Policy rules – Workplace conflict; Sexual harassment, Bullying, harassment and discrimination; Professional and ethical standards
- Guidelines – Workplace conflict, Sexual harassment, Bullying, harassment and discrimination

Code of Conduct for Victorian Public Sector Employees of Special Bodies 2015

Victorian Public Service Executive Employment Handbook 2010

Requirements for reporting and acting

As discussed in Chapter 5, there are different statutory instruments governing the employment of police, PSOs, public servants and executive officers and these include provisions for complaints, discipline and other performance management. The relevant provisions are briefly summarised below.

For police and PSOs

Legislative provisions relevant to complaints about police and PSOs are contained in Part 9 of the Victoria Police Act. This part defines *conduct and misconduct*. A major difference between conduct and misconduct is that where a police officer or PSO has a reasonable belief regarding conduct of another member it *may* be reported, but misconduct *must* be reported.

The assessment of conduct and misconduct trigger different requirements of police, PSOs and the IBAC in acting on complaints. The main differences are:

- When police or PSOs receive a complaint about the conduct of a colleague they are not required to inform anyone else about that conduct unless they believe it qualifies as misconduct. If they have reason to believe that another officer or PSO is guilty of misconduct then they must make a complaint to a member of a more senior rank or to IBAC.³⁴⁵

³⁴⁵ *Victoria Police Act 2013* (Vic) s 167(3).

- Such complaints must then be referred by the member of more senior rank to the Chief Commissioner (delegated to Professional Standards Command).
- Disclosures under Part 2 of the Protected Disclosure Act about the Chief Commissioner must be made to IBAC.³⁴⁶

The role of IBAC is discussed in more detail in Chapter 5 (External context and regulation).

For public servants

Under the Victorian Public Service Workplace Determination 2012, there are requirements for employers to respond to alleged misconduct.³⁴⁷ There appears to be no requirements for employees or employers to report alleged misconduct to other parties other than provisions of the Protected Disclosure Act discussed below

For executive officers

Executive officers are senior public servants appointed under the Public Administration Act and their employment terms are covered by contract. The *Victorian Public Service Executive Employment Handbook 2010* provides that executive officers who are found to have engaged in 'serious misconduct' as defined in the Public Administration Act (s 22) can be immediately dismissed without notice, counselling or warning.³⁴⁸

Protected disclosures

Protected disclosures are discussed in Chapter 5.

Issues with statutory requirements

As it stands, there is insufficient information available to all Victoria Police personnel to assist them in acting appropriately in response to information about problematic conduct of their colleagues. The information gaps include:

- There is no definition of a complaint in the Victoria Police Act, nor is there any guidance in policy instruments. This means some

reports, particularly those made verbally or by a third party, may not be acted on appropriately.

- The definitions of *conduct* and *misconduct* as defined in the Victoria Police Act (s 166) share three of four of the same provisions:
 - conduct which constitutes an offence punishable by imprisonment; or
 - conduct which is likely to bring Victoria Police into disrepute or diminish public confidence in it; or
 - disgraceful or improper conduct (whether in the officer's official capacity or otherwise).

The conduct definition contains an additional provision:

- an act or decision or the failure or refusal by the officer to act or make a decision in the exercise, performance or discharge, or purported exercise, performance or discharge, whether within or outside Victoria, of a power, function or duty which the officer has as, or by virtue of being, a police officer or protective services officer.

These shared provisions create major definitional confusion with a resultant risk of people 'interpreting down' misconduct complaints as conduct. This has significant consequences because statutory requirements to act on misconduct do not exist for conduct, meaning members may fail to act on harmful behaviours.

- Lack of guidance for police and PSOs in assessing *whether a person has a 'reason to believe' that another officer is guilty of misconduct* (s.167(3)) creates a similar risk.
- Different legislation and policy covering problematic conduct for police, PSOs, public servants and executive officers creates confusion regarding responsibilities for reporting and responding. This confusion is exacerbated by the multiple terms used in legislation to refer to problematic conduct in Victoria Police personnel.
- There is a lack of guidance in policy instruments about reporting of, and responding to, complaints regarding executive level personnel.

³⁴⁶ Protected Disclosure Act 2012 (Vic) s 14.

³⁴⁷ As defined in cl 19.3

³⁴⁸ Victorian Public Service Executive Employment Handbook 2010, App. E.



Chapter 10 considers other reasons why managers and supervisors fail to act on harmful workplace behaviours and local reports about those behaviours.

Together with the findings from the previous chapter Recommendation 5 details the need for comprehensive work to review and update policies with respect to victimisation and employees behaving in ways that cause workplace harm.



RECOMMENDATION 5

Review and update all relevant policies and procedures to ensure they are compliant with legal obligations and provide clear direction for managers to respond effectively to workplace harm and build gender equitable and diverse workplaces. This includes:

- Ensure that the legal tests for sexual harassment, discrimination and victimisation are accurate and that current policies and procedures ensure remedial action.
- As part of the workplace harm model, develop clear and detailed guidelines for managers and supervisors on their roles and responsibilities to responding to employees internal reports of sexual harassment, sex discrimination or victimisation and complaints in a fair, safe and supportive way. This should include clear indication of victim safety principles and reference to the Victims Charter.
- Introduce a structured handover process for rotating management positions for inspector rank and above.
- Victoria Police strengthens its Conflict of Interest Policy to define sexual relationships that can be regarded as a conflict of interest, and provides guidance for managers to respond appropriately.
 - The policy should include an explicit list of behaviours and define the proximity of working relationships at which conflicts should be declared. For example, sexual relationships between employees and anyone who has formal supervisory

responsibility for them, as well as anyone within their chain of command, should be considered a conflict of interest, irrespective of the status of their relationship.

- There should be additional, clearly stated requirements for all teaching staff, mentors, supervisors and field coaches to refrain from improper use of their power over recruits and probationary constables. This includes participating in any sexual relationships with recruits and probationary constables.
- Victoria Police provide further practical and coordinated policy guidance to all personnel on the interpretational criteria for the:
 - Victoria Police Act terms conduct, *misconduct* and *reason to believe*
 - Protected Disclosure Act terms – *improper conduct*, and *detrimental action*: and
 - Independent Broad-based Anti-corruption Commission Act term – *corrupt conduct*. (See also Recommendation 16).
- The *Victoria Police Manual* be amended to provide information regarding complaint processes related to executive level personnel.

Organisational structures and processes

Complaints and reports of sexual harassment, sex discrimination and predatory behaviour may be made by targets/victims, bystanders or other third parties such as supervisors. Depending on the nature of the matter, reports may be received at one of a number of points:

- Local area management
- Human Resource Department
- Professional Standards Command
- Taskforce Salus (established in late 2014 for three years)
- Independent Broad-based Anti-corruption Commission

- Other external bodies including the Victorian Equal Opportunity and Human Rights Commission

The response of local area management has already been covered in Chapter 10. Accordingly this section will summarise existing policy and processes for responding to complaints made to the relevant central work areas of Victoria Police – Human Resource Department (HRD), PSC (formerly Ethical Standards Department, ESD) and Taskforce Salus.

Human Resource Department (HRD)

For some time the Human Resource Department had a work unit which provides a specialist response to workplace conflict and inappropriate behaviours such as bullying, harassment and discrimination as well as employee grievances. Successive

iterations of this work unit have been named, tasked and resourced differently.

History of HRD work units

Prior to the recently established unit – Organisational Standards and Behaviours Branch (OSBB) – the HRD work units responsible for resolving issues of sex discrimination and sexual harassment (as well as other issues including bullying and workplace conflict) were:

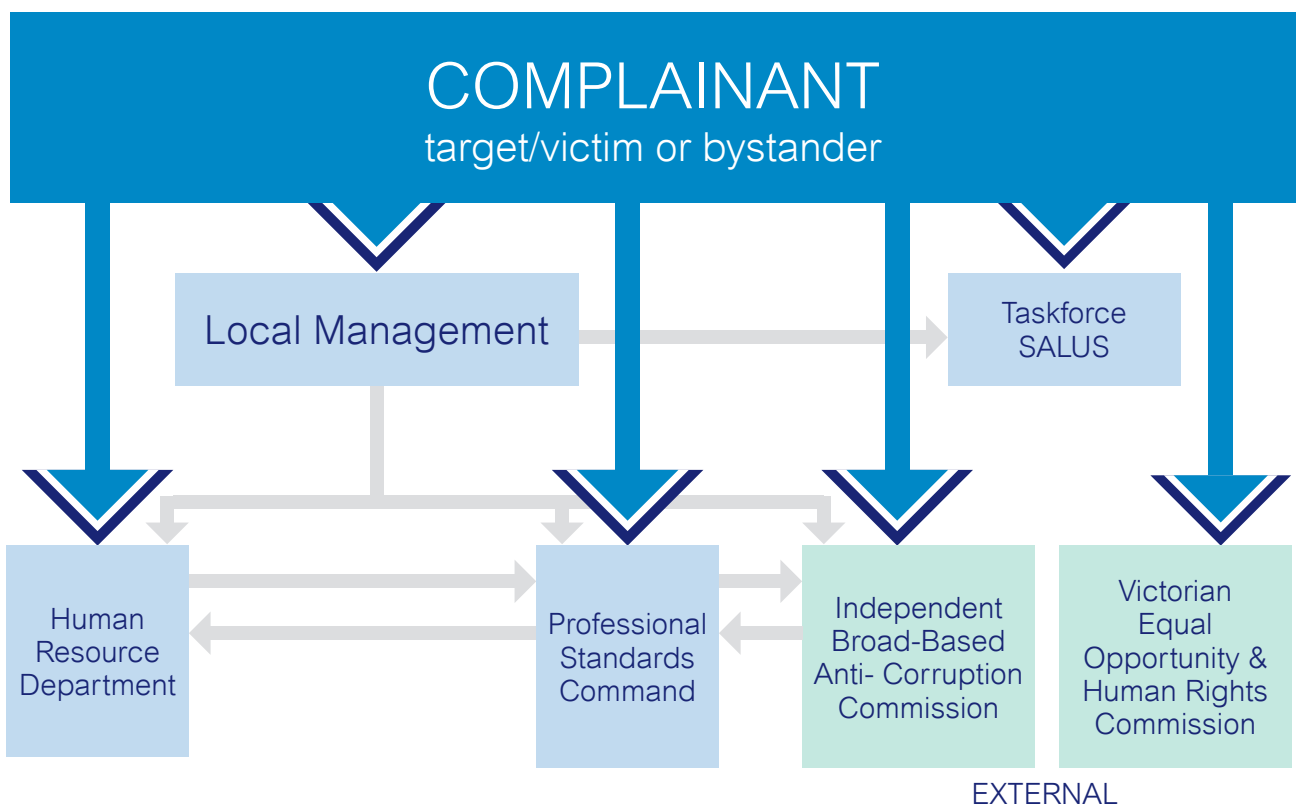
2010–2015: Workplace Standards (WS)

2008–2010: Alternative Dispute Resolution Advisory Centre (ADRAC)

2004–2008: Equity and Conflict Resolution Unit (ECRU)

2003–2004: Equity and Diversity Unit (EDU)

Figure 32: Formal reporting pathways for sex discrimination and sexual harassment





Organisational Standards and Behaviours Branch (OSBB)

The Workplace Standards operating model began transitioning in 2015, and in September 2015, was renamed Organisational Standards and Behaviours Branch. OSBB is a reengineering of the former Workplace Standards designed to reduce the focus on investigations and punitive interventions. The remit of the OSBB is to respond to:

- workplace conflict and grievances (excluding matters which constitute discipline or criminal offences) for all Victoria Police personnel
- misconduct by public servants

The model is built on training and engagement with local area managers to facilitate interventions for resolution. The OSBB will also provide telephone advice and has access to external contractor specialists for particularly complex matters.

As at October 2015, the OSBB staffing included: one VPS6, one VPS5 and two VPS4.

Workplace Standards

Workplace Standards operated from 2010 to September 2015 with a remit of:

- responding to bullying, harassment (including sexual harassment), discrimination, workplace conflict and grievances for all Victoria Police personnel
- misconduct by public servants.

The unit was staffed by an inspector manager and a VPS4.

Alternative Dispute Resolution Advisory Centre (ADRAC)

The establishment of ADRAC saw a shift in focus to alternative dispute resolution. The Review heard that the unit trained police and public servants to be mediators in addition to their core duties, however Victoria Police told the Review this was not the case. ADRAC also had a strong focus on training including training on sexual harassment, discrimination, victimisation, and resolving conflict.

Equity and Conflict Resolution Unit

ECRU was responsible for equal opportunity complaints, workplace conflict referrals, bullying complaints and related training and organisational support – including advice and support to workplace and senior managers. The Review was told that ECRU also represented Victoria Police at the then Equal Opportunity Commission Victoria, Victorian Civil and Administrative Tribunal and the then Australian Industrial Relations Commission (now the Fair Work Commission).

Assessment of complaints

Once a complaint is received by either HRD or PSC, assessment is required to classify the matter for further action. The Review observed that the level of detail in different policy instruments related to assessment of complaints varies substantially. As assessment is heavily dependent on the interpretation of legislation and other policy instruments, the supporting guidelines, particularly those around definition, are critical.

The Review was advised that the OSBB did not, at the time of the Review, have standard operating procedures or guidelines

Figure 33: Human Resource Department processing for sex discrimination and sexual harassment complaints



for assessment, and was advised that complaints which appear to be discrimination or harassment were forwarded to PSC for assessment and intervention.

Initial actions

Once a complaint is classified, OSBB will:

- Refer the matter back to the employee's region or department for further appropriate management action
- Refer the matter to internal investigation or management. This may include -
 - PSC, for matters that constitute criminality or serious misconduct
 - Grievance Registrar, for matters that may be dealt with in accordance with the *Victoria Police Manual VPMP Grievances*
 - Refer the matter to external investigation/management; or
- Undertake investigation as deemed necessary.

Investigation

OSBB has commenced contracting external providers to investigate/review complaints received by HRD.

Intervention

OSBB has developed two training packages for delivery in workplaces – Workplace Conflict Resolution and Professional and Respectful Behaviours. Under the Review recommendations, training in these capabilities would be designed and overseen by Professional Development Command (see Chapter 9).

Strengths and weaknesses of human resource department models

At the time this Review commenced, the existing unit was Workplace Standards. As a result, the views of participants expressed in this report are relevant to that former unit (and in some cases earlier HRD units). HRD has now reengineered Workplace Standards into OSBB with a view to address some of the evident gaps. Nonetheless, the Review findings are summarised here.

Resourcing

A number of participants expressed concern about the inadequacy of the Workplace Standards resourcing, one inspector and one public servant HR practitioner, to manage the workload for an organisation of over 17,000 people.

Some participants also discussed the importance of having services delivered by appropriately qualified professionals with expertise in conciliation, mediation and conflict resolution.

For example, one participant noted that:

There is a current gap in equity, diversity and in conflict management. We need professional staff, and to have a structure for it ... There were and are inherent problems with the current Workplace Standards area being staffed by a sworn member ... This area in particular needs a structured set up with appropriately qualified professionals (female interviewee).

The Review heard that since the closure of the ADRAC in 2010, there has been a wider capability gap in early intervention:

Since ADRAC went, things escalate more quickly – there are no levels between an informal grievance and things becoming a disciplinary issue, so we have no mechanisms for early intervention and resolution (female interviewee).

Advice for targets/victims

Participants talked about the importance of having an independent and confidential means through which to seek advice regarding reporting sexual harassment and sex discrimination. Some participants suggested that this should include an external reporting mechanism:

Having someone to talk to without being obliged to formally complain is essential. ADRAC was a great example (executive interviewee).



Support to manage matters locally

The Review heard from many participants that since the closure of ADRAAC in 2010, there has been a lack of advice and support for managers to deal with sex discrimination and sexual harassment locally. This is considered a critical gap and is discussed in more detail in Chapter 10.

The Review heard that there were many positive aspects to previous human resources models, including that they provided better support for targets and managers:

Having someone to talk to without being obliged to formally complain is essential. ADRAAC was a great example. When I was a superintendent, they were fantastic. They came out and were invaluable in supporting me to manage my staff. I had significant people issues with a lot of litigious members ... They were great (executive interviewee).

... managers could call them for help. They would come out ... and be part of the process. There is no one to do this now (senior manager).

The Review also heard mixed views on the efficacy of these units:

Why did [ECRU] fall over? Partly, there was too much of a load on a few staff as part of a centralised service. There should have been a decentralised or outreach aspect to lighten the load. In other words, more responsibility needed to be placed on local management to take action and own the resolution of cultural issues when they arise (executive interviewee).

We used to have [ADRAAC]. Issues did not seem to be drawing to a conclusion, so no files were closing. Some matters went on for years and the non-closure was damaging to people ... (senior manager).

ECRU had an unusual role, some would say conflict of roles, where if matters couldn't be resolved, they went to the Equal Opportunities Commission Victoria. It represented the

organisation after initially dealing with the complainant. There were conflicts in the model ...

... There was no accreditation, aptitude screening or scrutineering of those roles (senior manager).

Use of alternative dispute resolution

Victoria Police has used alternative dispute resolution (ADR), specifically mediation and conciliation, to resolve workplace conflict and other issues, including sexual harassment and sex discrimination. ADR has been provided by units such as ECRU and ADRAAC, by local managers, and by external contractors.

The Review heard that Victoria Police does not allocate budget for a specialist ADR capability. Thus local work areas that are seeking to, or instructed to, use mediation or conciliation to address workplace issues must fund external contractors themselves. The Review also heard concerns about the use of mediation internally, including the need for appropriate expertise, processes, independence and outcomes:

Personally I don't think any conciliation/mediation in Victoria Police has been good or appropriate, and I have only ever heard horror stories – about the people doing it, their skills, the process and the outcomes. ... They had people without expertise, where a whole lot of expertise is required (female interviewee).

A number of participants were also concerned about the appropriateness and safety of local managers conducting mediation and conciliation. In particular for attempting to 'resolve' complaints of sexual harassment or discrimination as 'workplace conflict', or as early intervention for such complaints.

The following week, two of the supervisors called me into an office and asked me if it was true. They pointed out to me that it was a serious allegation. I burst into tears. They asked me what I wanted to do about it. One of them said, "the options are I can go talk to him, or we can bring him up and you can confront him". They were my choices. I had a panic attack when one of the supervisors went to get the [the

perpetrator]. ... The supervisor who had gone to get him was his best mate. [the perpetrator] walked in and I froze. It was an awful feeling. I forgot what I was going to say. He said he had got a run down on the allegations ... He told me he didn't recall any of the things I was talking about and told me that he was sorry I felt that way. While this discussion was happening, the two blokes were sitting on the other side of the table facing me. It was very intimidating (female interviewee).

The Victoria Police Act allows for the Chief Commissioner to attempt to resolve complaints made to a police officer or protective services officer about a police officer or protective services officer by conciliation.³⁴⁹ Also, the Independent Broad-based Anti-corruption Commission Act allows for the IBAC to attempt to resolve a 'police personnel conduct complaint' by conciliation.³⁵⁰ While noting these provisions, the Review considers that conciliation and mediation should not, under any circumstances, be used for resolving complaints of sexual harassment.

ADR should only be provided by independent trained experts in appropriate circumstances. Mediation or conciliation should not be provided by local managers or parties involved in other complaint response processes such as investigation to address sexual harassment.

The use of mediation and conciliation is considered below as part of the proposed Workplace Harm Model.

Since the closure of ADRAC in 2010, the Review heard that there has been a gap in providing a centralised unit with the capacity and resources to effectively triage reports, provide advice to staff and managers, and link employees with appropriate supports.

The Review notes that the newly configured OSBB and the outsourcing of complaint reviews to external investigators goes toward addressing some of the capability gaps.

³⁴⁹ *Victoria Police Act 2013* (Vic) s 170(2).

³⁵⁰ *Ibid* s 64(2).

However the Review is recommending significant reform to prevention and response detailed later in this chapter.

Lack of transparency

The failure of HRD units responsible for responding to harmful workplace behaviours to develop and use standard operating procedures and other tools (for example, classification and assessment matrices) has been concerning. This creates risk of inconsistency in procedure and decision-making aspects of response, leaving those involved open to questions of bias. The Review heard from participants who were unhappy with the outcome of their matter but were unable to get information about how decisions had been made. The lack of transparent process left them with no option for appeal or review, which is particularly concerning in cases involving misconduct in public servants.

Professional Standards Command

PSC is the central area responsible for ethical health and integrity in Victoria Police. PSC provide the following services:

- intake and assessment of complaints about Victoria Police personnel from internal and external parties
- investigation of criminal behaviour in police personnel, intelligence and integrity testing
- advisory, consultancy and review of local area investigations, critical incidents, complaint management and employee management
- proactive, intelligence based identification and response to probity issues, and strategic research
- development of reference materials, standard operating procedures, policies and training that support professional standards
- primary point of contact within Victoria Police for external agencies regarding the above.

Structure

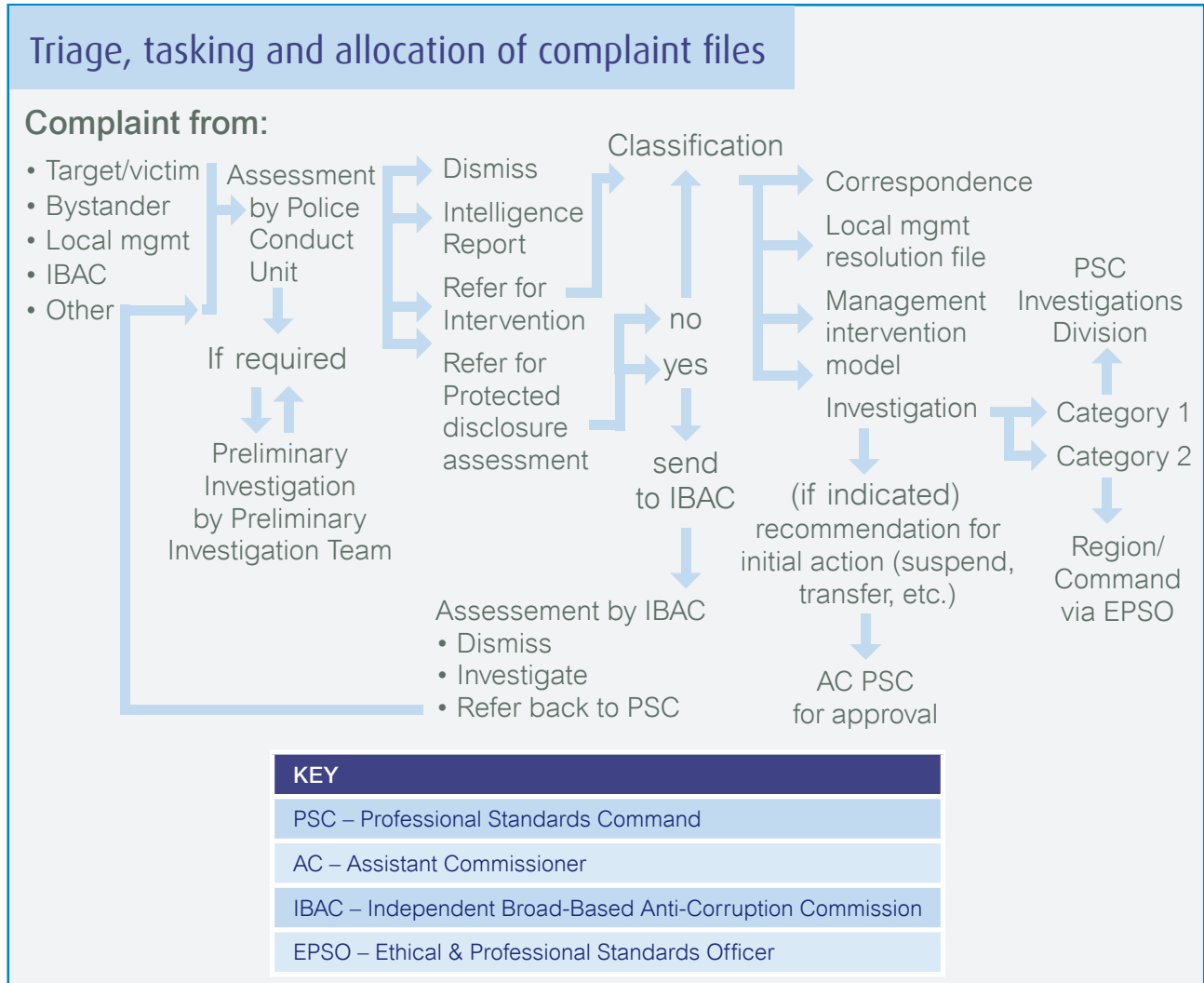
The current structure of PSC includes eight divisions:

- The Office of Assistant Commissioner oversees PSC operations and the Assistant Commissioner holds the Chief



Figure 34

Professional Standards Command processes



Commissioner’s delegation for disciplinary matters.

- The Conduct and Professional Standards Division (CPSD) manages the intake and assessment of all complaints. It includes the Ethics & Professional Standards Officer (EPSO) network which provides liaison with regions/commands. CPSD also manages protected disclosure referrals from the IBAC, through the Ombudsman.
- The Investigations Division investigates serious corruption/criminality and misconduct. It includes the Discipline

Advisory Unit (DAU), which manages a range of functions relevant to the discipline process including preparation for and attendance at discipline hearings.

- The Intelligence Division provides tactical and strategic intelligence support to the Investigation Division, PSC and regional investigators and commands. It is also responsible for the IT infrastructure associated with data related to complaints, serious incidents and probity assessment of Victoria Police employees.

- The Support Services Division provides investigative support and integrity testing. This includes telecommunications and data monitoring and human source management.
- The Risk Mitigation Division provides advice, analytical support, strategic research and project management on ethical health issues and risks.
- The Police Integrity Initiatives Division develops integrity initiatives and educational packages to improve the complaint management and investigative process and promote ethical health.
- The Forensic Investigations Division provides financial and information technology support to PSC and other Victoria Police investigations.

Resourcing

At the time of writing, PSC had a staffing profile of just over 184 FTE employees for around 200 FTE positions, with an 80:20 ratio of police to public servants.³⁵¹

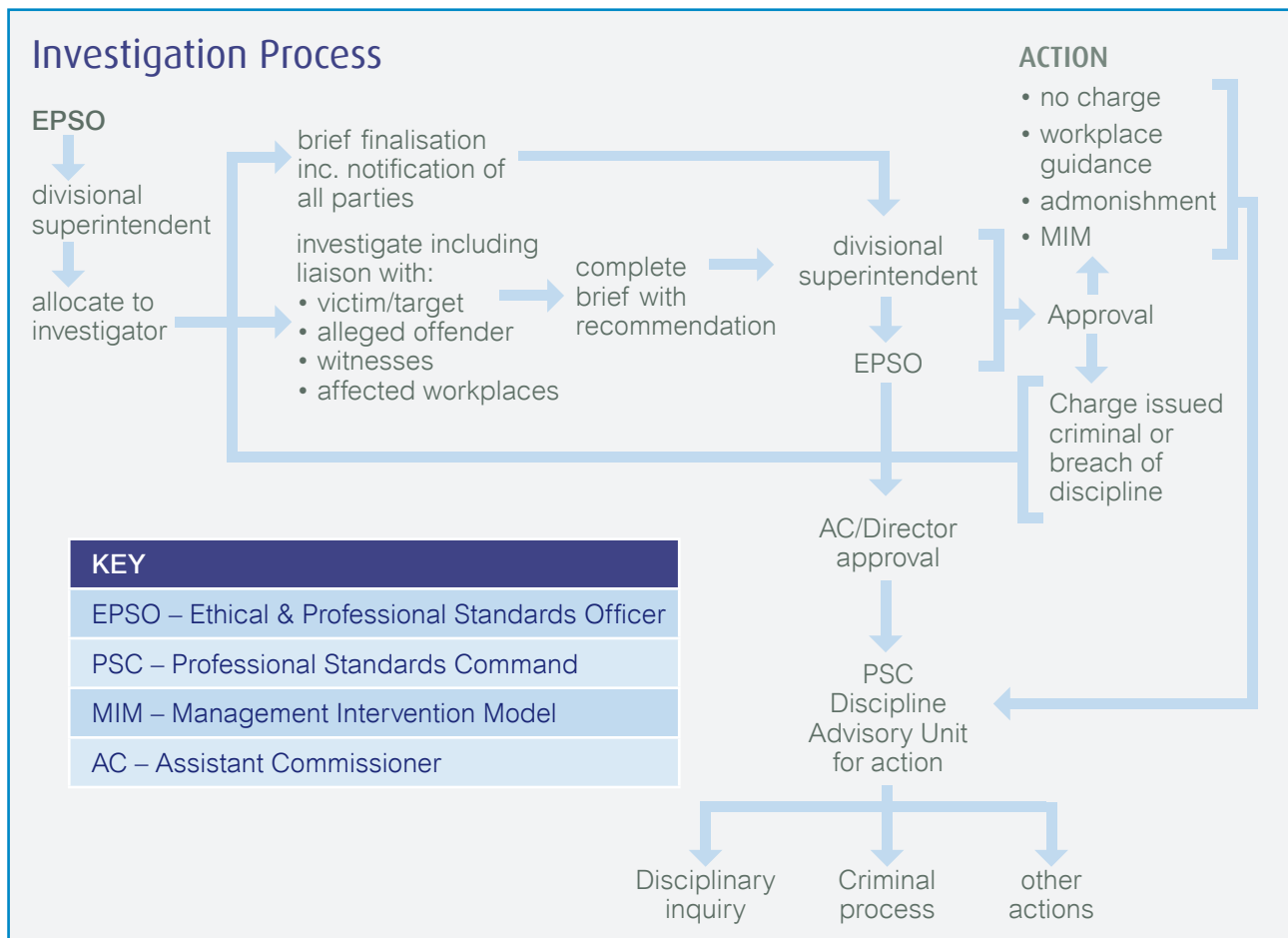
Taskforce Salus

Taskforce Salus was established at the same time as this Review. It was set up as a standalone taskforce to investigate allegations of sex discrimination, sexual harassment and predatory behaviours by members of Victoria Police with a view to taking criminal or disciplinary action where appropriate. Salus has been established with the following objectives:

- investigate predatory behaviour committed by Victoria Police personnel

Figure 35:

Divisional investigations



351 Professional Standards Command workforce establishment dated 17 September 2015 provided via email communication from the Office of the Assistant Commissioner PSC.

- investigate sex discrimination and sexual harassment committed by Victoria Police personnel against current and former Victoria Police personnel
- identify, review and further investigate reported matters initiated from 1 January 2011
- analyse, profile and understand the environment that enabled these behaviours.

In order to assist in protecting the confidentiality of people who wish to report, Salus is located away from any Victoria Police premises in a commercial office complex in inner Melbourne.

As at October 2015, Salus employed 21 staff, including 11 investigation staff, five intelligence operatives, a victim/witness welfare support person, HR, business and information support staff.

Assessment of complaints

The complaint handling is represented in Figure 34. Once a complaint is received by PSC, assessment is required to classify the matter for further action. The Review observed that the level of detail in different policy instruments related to assessment of complaints varies substantially. As assessment is heavily dependent on the interpretation of legislation and other policy instruments, the supporting guidelines, particularly those around definition, are critical.

PSC receives complaints from the community, other agencies as well as from within Victoria Police. The Police Conduct Unit (PCU) of PSC is responsible for the assessment and classification all incoming complaints.

The PCU use a number of locally developed processes and guidelines for assessing complaint files. These include the Complaint Classification Matrix which provides guidance on classifying complaints into one of three categories based on the nature of the matter and the action required. There are also guidelines to assist in identifying matters which must be referred to IBAC for consideration as a protected disclosure. These guidelines contain working definitions of conduct and misconduct and *reasonable belief*.

Where additional information is needed before classification can be made, the PSC Preliminary Investigation Team is tasked with gathering relevant intelligence.

Previously complaint files were subject to a tasking and coordination process following initial assessment to confirm classification; however files are now classified by PCU team members and reviewed by supervisors before being progressed for action. This has enabled more timely processing.

The Review was advised that complaints regarding sex discrimination, sexual harassment and predatory behaviour are now provided to Task Force Salus for assessment. If Salus deems the matter to be within its scope, then responsibility for initial actions and investigation remains with Salus.

Initial actions

The initial actions taken by PSC in regard to complaint files depend on how the matter is categorised. One group of files does not require further investigation are referred to work area managers for interventions including Local Management Resolution or Management Intervention Model. These LMR and MIM files, require a response to PSC from local managers within a timeframe, and are returned to PSC following completion.

Files requiring investigation are allocated according to the PSC Accountability and Resource Model (ARM) which is used to determine response to complaint files which require investigation. This ARM is subject to revision on an annual basis and utilised two main categories:

- Category 1 files, which make up around ten per cent of all files, are investigated within PSC by the Investigations Division.
- Category 2 files are allocated to regions or commands (at divisional level) for investigation by their personnel. EPSOs act as liaison between the divisional commander and investigator in the region/command, and PSC.

Under the 2015/16 ARM “allegations of contravention of equal opportunity, anti-discrimination and/or equity and diversity legislation within a work unit are in category

2.” The ARM also states that for these matters “notification must be made to HRD Workplace Standards Division.”

The Review notes that this ARM did not take into account Task Force Salus; and it is understood that current practice is to refer all matters within the scope of Salus to it for consideration.

Category 2 files, which may include criminal or breach of discipline matters,³⁵² are forwarded to regions/commands through the EPSO. It is up to the divisional commander to allocate the file for investigation. Around 90 per cent of investigations are undertaken by regional/command personnel; however there are no dedicated positions for such investigations. As well as this capacity issue, specialist capability is also a problem. Sometimes these personnel do not have investigator training, let alone specialisation in sexual offences.

A two day course, the Integrity Management Program (formerly the field investigator’s course), is available to personnel (sergeant and above) who may undertake these investigations; however it is not mandatory.

When allocated a file for investigation, there is an onus on the divisional investigator to declare any conflict of interest.

Divisional investigators are required to undertake the discipline investigation in addition to their normal duties. While EPSOs act as liaison their capacity to provide support is very limited, both because of the burden of the role, but also because there has been no dedicated training required to undertake the role.

To assist, PSC has recently introduced teams of PSC investigators who can be made available to assist divisional investigators.

The divisional investigator is responsible for communication with victims and alleged perpetrators regarding the course of the investigation.

At completion of the investigation the file and recommendation for outcome goes to the investigators’ divisional commander and the EPSO for review and endorsement. Possible recommendations include: No action; Workplace guidance; Admonishment;

Management Intervention Model; breach of discipline charge, criminal charge.

A number of participants discussed the heavy burden of these investigations, additional to their usual duties, including being victimised and ostracised themselves:

It was only because I was being proactive about the case that anything got done (there are competing local priorities which affects the investigation response). With that sort of investigation, if you don’t look, you don’t get. Others may not have followed up all the avenues of enquiries (The quality control of investigations varies greatly). There are no incentives to do the work well as there are other core business priorities.

I work with his ... colleagues, and would bump into him when I was getting a coffee – it was terrible. Some people won’t talk to me anymore. People who get allocated this work have these pressures put on them, but there’s no support from anywhere (male interviewee).

Participants also expressed concerns about conflicts of interest and quality assurance.

The Review heard from a number of dedicated investigators, noting that many of them had specialist training in sexual offences:

The SOCIT work provide[s] me the experience and knowledge for working with victims, understanding the harm, and doing these sexual behaviour internal investigations comprehensively (male interviewee).

The Review also heard instances of ineffective and potentially harmful practices.

I got a letter saying that my complaint was unsubstantiated, but I had never even spoken to the investigator. He had spoken with the harassers, but not with me (female interviewee).

Reports made by members as victims of sexual offences are not treated as confidential within the workplace. Investigation was incomplete; victim

³⁵² As defined in *Victoria Police Act 2013* (Vic) s 125.

did not ever meet Informant, and victim statement was never obtained. Even when SOCIT notified, all members of the station were aware within days. Victim (i.e. VicPol employee) became subject to bullying and isolation. ... (female survey respondent).

Issues with investigations

Civil standard of proof

Breaches of discipline operate in the civil jurisdiction and as such the burden of proof is the balance of probabilities. In a law enforcement organisation that regularly applies the criminal standard of 'beyond reasonable doubt', operating with this 'lower' standard in employment matters presents challenges.

The Review heard that some investigators and PSC personnel struggle to shift their reasoning and decision-making regarding evidence to be consistent with the civil standard.

Application of the Briginshaw rule

An additional complication is the application of the Briginshaw 'rule' regarding consideration of the nature and consequences of the facts to be proved when applying the balance of probabilities.³⁵³ According to the Office of Police Integrity (OPI), Victoria Police has misapplied the Briginshaw rule in dismissal circumstances, creating a standard of proof close to the criminal standard. The OPI cited advice from the VGSO explaining that Briginshaw in fact relates to the 'requisite strength (or standard) of evidence'.³⁵⁴

This is particularly crucial in investigating and considering matters of sex discrimination and sexual harassment under the Equal Opportunity Act, which do not require a criminal standard of proof to be found unlawful.

³⁵³ *Briginshaw v Briginshaw* (1930) 60 CLR 336.

³⁵⁴ Office of Police Integrity Victoria, *A Fair and Effective Victoria Police Discipline System – Appendix Three – Advice about the standard of proof from the Victorian Government Solicitor* (October 2007) 96.

Decision making on investigation outcomes

Following consultation with the EPSO, if a breach of discipline³⁵⁵ or criminal charge is approved to proceed, the file is returned to the investigator to compile the brief and to notify the subject member and complainant of the outcome. The completed brief is reviewed by the divisional commander and EPSO before being approved by the regional commander/departmental director then forwarded to the Discipline Advisory Unit (DAU) of PSC.

The Review notes that while there are supervision and quality assurance imperatives around this process, it both prolongs the time taken to finalise investigations and increases risks to the confidentiality of the process.

You have three months to do the investigation, then it goes up the line in your own division, to the superintendent, then to the EPSO, then PSC will review it and consider interim actions, then it goes to the disciplinary conduct unit, they sort out the disciplinary hearing and let you know what witnesses have to attend ... Having it go through your own chain of command compromises the confidentiality. At one point, the Superintendent was supervising the person [that was being investigated] (male interviewee).

Once a person has been charged with a breach of discipline or criminal offence, the Chief Commissioner has the power under the Victoria Police Act to take the following interim actions: transfer them to other duties; direct them to take accrued leave or; suspend them with or without pay.³⁵⁶

Role of the Director of Public Prosecutions

There are legislative requirements for Victoria Police regarding consultation with the Director of Public Prosecutions (DPP) on some decisions to proceed with breach of discipline charges.

³⁵⁵ *Victoria Police Act 2013* (Vic) s 125 sets out the conduct that may amount to a breach of discipline. Depending on the circumstances, this may include sexual harassment or sex discrimination.

³⁵⁶ *Victoria Police Act 2013* (Vic) ss127(4) and 135(2).

Where there is a reasonable belief that a member has committed one or more specified criminal offences, PSC must consult the DPP before charging the member with a breach of discipline.³⁵⁷ For any other offence, PSC may consult the DPP before charging with a breach of discipline.³⁵⁸ These provisions are intended to ensure that the police discipline system is not used instead of the criminal justice system.³⁵⁹

Although not a legislative requirement, for any criminal offence, regardless of whether the alleged offender is a Victoria Police employee or not, Victoria Police (PSC) can prior to charging, seek advice from the DPP as to whether the Director would prosecute the charge(s) or not.³⁶⁰ This consideration is made by the Crown Prosecutor and is based on two factors – a reasonable prospect of conviction; and being in the public interest. The factors considered in the exercise of this prosecutorial discretion are articulated in a policy document available on the Office of Public Prosecutions' website.³⁶¹

The Review heard from a number of participants who believed the DPP were unwilling to prosecute cases in which the alleged offenders were police.

OPP need to be more prepared to go out on a limb and prosecute. It does not look good for VicPol when a brief is approved by numerous departments (including PSC and Sex Crimes) but the OPP recommends it not proceed. They need to be prepared to take a risk (female survey respondent).

However, the Review is aware of a number of current and recent cases involving police as alleged offenders that have been approved for prosecution by the DPP with charges subsequently laid.

Scheduling criminal and disciplinary processes

In cases of alleged misconduct by a public servant that are subject to a criminal investigation or proceedings, Victoria Police is not required to delay or cease the disciplinary process, but may exercise its discretion to do so.³⁶²

However, for police and protective services officers, Victoria Police has a practice of delaying disciplinary processes until any criminal proceedings are finalised. This practice often leads to long delays in determining disciplinary charges, during which an officer may be suspended with or without pay.³⁶³ The delay and uncertainty can have a significant impact on targets/victims of inappropriate workplace behaviour, as well as the accused person.

Under this practice alleged offenders may be found guilty of a criminal offence and appeal the finding before the disciplinary process even begins. This can take up one or more years during which time the person has been on leave with or without pay.

Coercive powers

The Review heard that one of the reasons for delaying discipline proceedings until criminal proceedings are finalised was related to the coercive powers for disciplinary investigations.

Under the Victoria Police Act, the Chief Commissioner may direct a police officer or protective services officer to provide information, produce any document or answer any question relevant to a complaint of a possible discipline breach.³⁶⁴

The report of the *Inquiry into the command, management and functions of the senior structure of Victoria Police*, noted that the practice of delaying discipline proceedings until criminal matters are finalised is 'due to a concern to avoid any risk of interfering with members' concurrent rights to silence, to

357 Ibid s 127(2), with relevant offences listed in sch 4.

358 Ibid s127(3).

359 Victoria Police Bill 2013 (Vic), explanatory memorandum, 51.

360 Director of Public Prosecutions Victoria, *Directors Policy Prosecutorial Discretion*, 24 November 2014 (www.opp.vic.gov.au/getattachment/5b830306-a17b-4ada-9078-6982539d44ac/2-The-Prosecutorial-Discretion.aspx).

361 Ibid.

362 Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl 19.14.

363 *Victoria Police Act 2013* (Vic) s 135.

364 *Victoria Police Act 2013* (Vic) s 171(1).



be presumed innocent and to receive a fair hearing'.³⁶⁵

However the Review notes that while a failure to comply with a direction to provide information is a breach of discipline in itself, any answer provided is not admissible as evidence in criminal proceedings.³⁶⁶ It also does not abrogate the privilege against self-incrimination.

Standard of proof

As noted previously, the civil standard of proof in disciplinary matters (on the balance of probabilities) is not the same as the criminal standard of proof (beyond reasonable doubt). This means that a disciplinary charge may be proved, and a person may be dismissed, even if a criminal prosecution is not successful.³⁶⁷

In 2011, the OPI reiterated its earlier concerns about Victoria Police not pursuing discipline outcomes until criminal proceedings are finalised:

OPI observed in 2007 that the practice in Victoria Police was not to pursue discipline outcomes for incidents where criminal proceedings were underway until the criminal proceedings were finalised.

Reasons given in support of the practice included that it is an 'abuse of process', that the discipline subject's rights at trial would be prejudiced and that pursuing both disciplinary and criminal outcomes would constitute 'double jeopardy'.

In OPI's view, an employer is often required to address the behaviour of an employee, even where that behaviour is also the subject of criminal action. Taking action in response to a suspected criminal act does not constitute double jeopardy. Double jeopardy is being tried or sentenced twice for the same offence. The rule does not apply in the civil jurisdiction, let alone the administrative employment environment.

Unfortunately, the practice of conducting discipline hearings as quasi-criminal trials encourages the perception of double jeopardy because of the appearance that the discipline proceeding is a form of court hearing.

In 2007, OPI recommended that, following consultation with the Director of Public Prosecutions to ensure the criminal trial would not be prejudiced, Victoria Police should proceed to address substandard conduct rather than delay action until the criminal trial is complete. OPI considered that if Victoria Police had reason to believe the conduct of a police member required attention, then the organisation had a duty to address that conduct expeditiously.³⁶⁸

Issues with current practice

The Review considers the Victoria Police practice of delaying disciplinary processes until criminal processes are finalised:

- creates unnecessary delay and uncertainty for targets/victims and accused (thereby causing additional harm)
- entrenches the misconception that disciplinary matters must be proved beyond reasonable doubt
- causes additional unnecessary cost where a person is ultimately dismissed but has been on a lengthy period of leave with pay
- is out of step with broader practice in the Victorian public and private sectors.

The Review considers that like other employers, it is imperative for Victoria Police to immediately address disciplinary issues. The starting point should be to pursue disciplinary matters concurrently with criminal processes unless there is a *real risk* that doing so will prejudice a criminal proceeding.

As included in Recommendation 16, following consultation with the Director of Public Prosecutions, Victoria Police should pursue and conclude disciplinary charges concurrently with

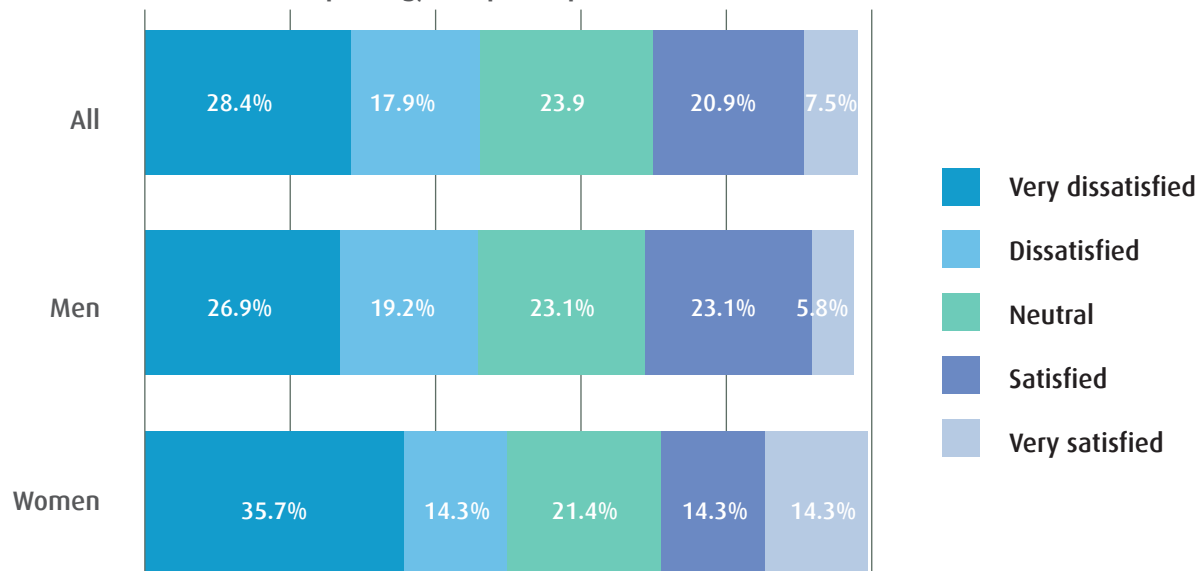
³⁶⁵ State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (November 2011) 35.

³⁶⁶ *Victoria Police Act 2013* (Vic) s 171(3).

³⁶⁷ Office of Police Integrity Victoria, *A Fair and Effective Victoria Police Discipline System* (October 2007) 66.

³⁶⁸ Office of Police Integrity Victoria, *Improving Victoria Police discipline and complaint handling systems: A progress report* (2011) 18. Also see *Psychology Board of Australia v Ildiri* (Occupational and Business regulation) [2011] VCAT 1036 [33]-[34], which found that the double jeopardy right under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) is not engaged in disciplinary proceedings.

Figure 36: Satisfaction with reporting/complaint process



criminal investigations/proceedings unless there is a real risk that the disciplinary matter will prejudice the criminal proceeding.

Discipline inquiries

Victoria Police conducts its own discipline inquiries.³⁶⁹ Previously assistant commissioners and deputy commissioners were authorised by the Chief Commissioner to act as inquiry officers. For some time there were concerns with consistency in the determination of discipline charges and sanctions. In 2014, a Dedicated Hearing Officer (DHO) model was introduced with a commander appointed to the position.

Feedback from participants regarding the change to the DHO model has been largely positive in terms of consistency of outcomes. However there is a view that to ensure the rights and safety of victims are prioritised, anyone who undertakes this role should have specialist training in responding to sexual assault including its impact on victims.

Under the Act the procedure of the inquiry is at the discretion of the DHO but they are bound by rules of natural justice.³⁷⁰

The person charged may appear at the inquiry or be represented by someone but not a

lawyer.³⁷¹ TPAV provides their members with discipline advocates for this purpose. The Chief Commissioner is represented by the Discipline Advisory Unit. The Review notes the Victoria Police Act does not include provision for the representation or support of victims or witnesses in disciplinary inquiries.

Criminal hearings

Criminal proceedings against Victoria Police members are progressed through the normal court processes for these matters.

Sanctions

For criminal charges found proven, the court determines a penalty.

In addition, Victoria Police as the employer, has the power to impose a sanction for proven charges of breach of discipline and proven charges of criminal offences punishable by imprisonment.³⁷² The same sanctions, with one minor difference, are available for both:

- Reprimand
- Fine
- Period not eligible for promotion or transfer up to 2 years
- Reduce rank or seniority

³⁶⁹ Victoria Police Act 2013 (Vic) ss 129–30.

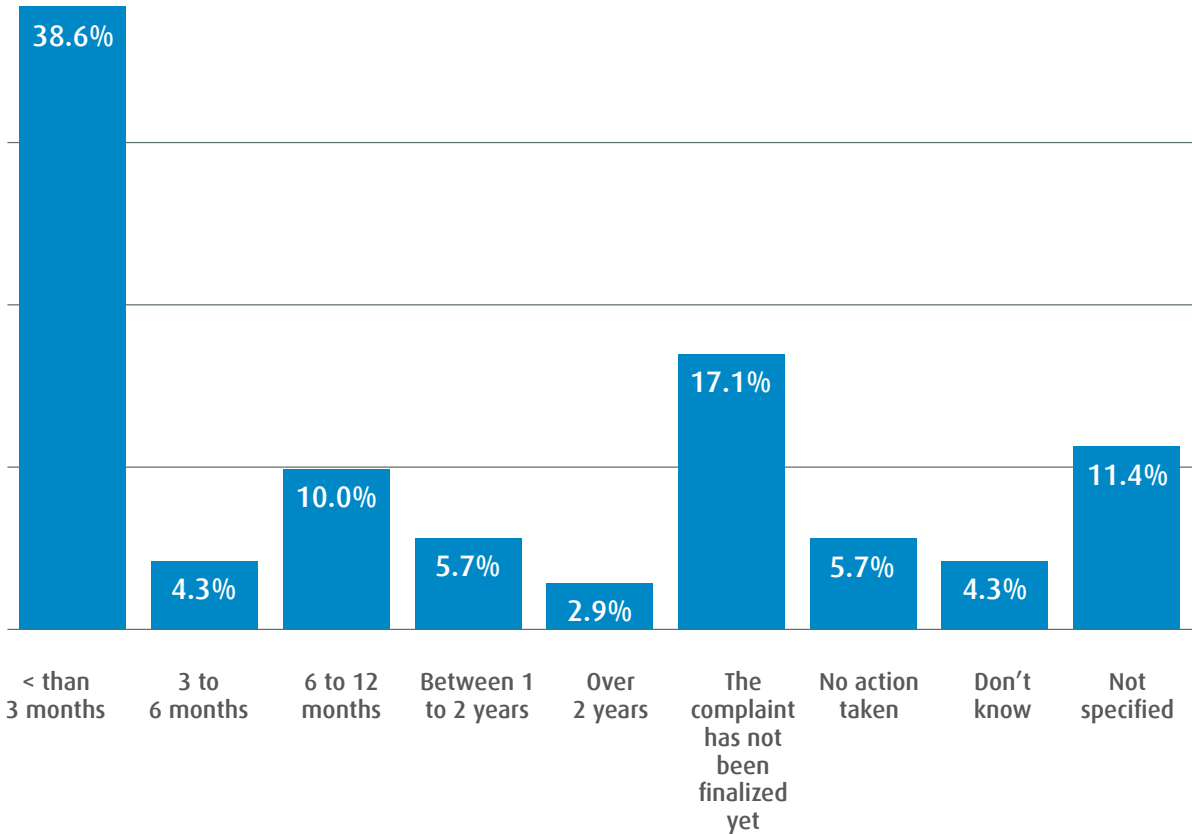
³⁷⁰ Ibid s 131.

³⁷¹ Ibid s 131(1).

³⁷² Victoria Police Act 2013 (Vic) s 136.



Figure 37: Approximately how long did it take to finalise the complaint form when it was first reported to being notified of the outcome?



- Reduce remuneration
- Transfer to other duties
- Dismiss

The difference is that for proven charges of breach of discipline, the hearing of the inquiry may be adjourned together with a good behaviour condition for up to 12 months or any other condition; whereas for proven charges of criminal offences punishable by imprisonment, the determination may simply be made for the good behaviour condition for up to 12 months or any other condition.

The 2007 OPI review recommended that all discipline sanctions other than dismissal/ termination be removed due to their ineffectiveness in compelling good behaviour.

Punitive action will only be taken if the conduct of the police member is such that the person should no longer remain in Victoria Police. This may be

*because the conduct is dishonest, criminal or corrupt or because remedial action has been tried but been proven ineffectual.*³⁷³

The Review has been made aware of perpetrators of sexual harassment and other sexual offending who have remained in the organisation following disciplinary processes.

Experiences with the response to formal reports

In the previous section, the Review described the current organisational processes for resolving complaints of sex discrimination and sexual harassment, including predatory behaviour. The Review also sought to understand how these processes work in practice from the

³⁷³ Office of Police Integrity Victoria, *A Fair and Effective Victoria Police Discipline System* (October 2007) 54.

victim/target's perspective. The Review asked a number of questions of survey participants who had made a formal complaint or report about sexual harassment. The questions covered timelines, outcomes and the overall process. The findings are discussed below.

Satisfaction with the reporting / complaint process

When the sexual harassment was the subject of a formal complaint, survey participants were asked to rate their satisfaction with the process.

Around 28 per cent of participants were satisfied or very satisfied with the overall process, while 46 per cent were dissatisfied or very dissatisfied. Rates of satisfaction and dissatisfaction were similar across genders.

These satisfaction levels compare unfavourably to those found in ADF members, where 40 per cent of women and 51 per cent of men were satisfied or very satisfied with the overall complaint process.³⁷⁴

Timelines for responses

The Review found that in nearly 40 per cent of cases, complainants were advised of an outcome within three months.

However many interview participants identified slow resolution of discipline matters as a significant issue for targets/victims, accused people and workplaces. Also a number of interview participants spoke of waiting more than a year before being advised of an outcome of their complaint. One participant told the Review:

The time it takes to resolve matters, so far [that case has] been 2+ years and matter is still unresolved for everyone involved (female survey respondent).

As can be seen in Figure 37, around nine per cent had waited more than a year for the outcome.

These findings indicate that while just over half the complaints were finalised within one year, a notable proportion were protracted either by investigation and/or court processes. It is also concerning that a number of participants were

not advised of the outcome of their complaint, with some believing that no action was taken in response.

Satisfaction with timelines

Survey participants were also asked to rate their satisfaction with the time taken to resolve the complaint.

Around 40 per cent of participants were dissatisfied or very dissatisfied with the resolution time. Dissatisfaction was highest in men (50 per cent versus 37 per cent for women). Satisfaction rates were similarly low across genders with only 26 per cent of women and 21 per cent of men rating themselves as satisfied or very satisfied with the complaint resolution time. Dissatisfaction with timeliness of complaint resolution was frequently cited by participants.

Timeliness of any interaction needs to be immediate. Victoria Police does not have a clear process which only adds to the time it takes for action to be taken (female survey respondent).

But some people only had a handful of emails, they had to wait 12 months for their hearings, there was no welfare support for them and people were torn apart (female interviewee).

Increase the speed of investigations (male survey respondent).

Outcome of reporting

The outcomes and impact of reporting for targets/victims is discussed in Chapter 12.

Survey participants whose sexual harassment was the subject of a formal complaint or report were also asked to indicate if their harassers experienced any of a range of outcomes from the reporting. Twenty two per cent of participants indicated there were no consequences for the alleged perpetrator.

The most common outcome of the reporting for the alleged harasser was being spoken to (63 per cent). Other sanctions included: formal warning (13 per cent); discipline (10 per cent); criminal charges (6 per cent); dismissal (5 per cent) and demotion (2 per cent). Other

³⁷⁴ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force – Phase 2 Report*, app N: *Sexual Harassment Prevalence Survey, Prevalence and Nature of Sexual Harassment in the Australian Defence Force* (2012) 508.



outcomes included transfer (9 per cent) and changes to duties or roster (6 per cent). In ten per cent of cases the alleged perpetrator resigned or retired. Nine per cent of participants indicated the alleged perpetrator was supported by colleagues following the formal complaint.

Survey participants' rates of satisfaction with the outcome of their complaint was low overall. Satisfaction varied across genders with 14 per cent of men and 29 per cent of women satisfied or very satisfied with the outcome of the reporting / complaint process. There was little difference between genders in the levels of dissatisfaction (47 per cent for women and 50 per cent for men).

The above measures, in particular whether reporting led to the harassment stopping, are appropriate indicators for Victoria Police to use in measuring effectiveness of their response to reports of workplace harm.

The need to evaluate the effectiveness to the organisational response to reports of workplace harm is considered within the context of a workplace harm model discussed later in this chapter. It should include as a minimum: outcome categories like those used in the Review survey; time to finalisation; and target/victim satisfaction.

Issues with responses to formal reports

Considering both the organisational response to formal reports and the victim/target's experiences of these processes, the Review has established a clear picture of the structural issues associated with formal reporting. These issues include elements of policy, practice and culture.

Independence

There were strong views about the ability of police to be impartial when investigating other police:

It is not just about sexual or predatory behaviour. Police should NOT investigate police (male survey respondent).

Stop internal investigations against those with a badge looking like a cover up (ie: nothing is ever thoroughly investigated against a sworn member when it is conducted by another sworn member) (male survey respondent).

Concerns with impartiality were strongest for investigations and other responses undertaken by local management:

Complaints should not be handled at station level. If a person wants to report such instances then it should be via an entirely independent section within Victoria Police, but not ESD. Station OIC's are sometimes part of the problem, and sweep complaints under the carpet as they don't want their station flagged ... (female survey respondent).

Remove the investigations from Victoria Police members. The first thing most supervisors who get one of these files to investigate think about is how it affects them. There is little independence in these investigations when conducted at a more local level and the likelihood of an outcome in the complainant's favour is next to zero (male survey respondent).

However there was also distrust in the discretion exercised by some senior managers responsible for endorsing investigation outcomes:

They do initial investigation. Sometimes won't call it an investigation ... If the outcome they're looking for is not found ... they don't want to find [it] because it reflects up the line ... and the person puts in a grievance, then they bring in independent mediator. Most of the mediation companies are run by ex-police. The majority they don't find proven (male interviewee).

Information management

A number of participants spoke of barriers to effective response created by an inability to access historical data on employees' past performance, especially regarding sexual

harassment, sex discrimination and other inappropriate behaviour.

The information systems of ADRAC, ECRU and Workplace Standards were standalone databases. The PSC information system ROCSID does not hold all complaints received. PSC have adopted a more recent practice of recommending people submit information reports regarding these and other behaviours which are not subject to formal complaints into the intelligence system Interpose.

There is also Victoria Police policy in place that the Professional Development Assessment (PDA) system is not used by supervisors to record management interventions around inappropriate behaviours.

Thus unless a complaint has resulted in a formal disciplinary sanction or criminal charge, there is no history of inappropriate behaviour available for probity, intelligence, investigation or disciplinary purposes.

... there was one case that has stuck with me. There was a senior sergeant who was sexually harassing women. I wanted him to get the sack. He got demoted. I couldn't understand why it wasn't predatory behaviour. I had a few independent reviews with a forensic psychologist, They said there was no history of predatory behaviour. But I knew he was a predator. He had hidden his past and it got lost. The thing that hampered me from doing what needed to be done was the hidden history of this person (executive interviewee).

Transparency

There was strong support for publishing aggregate data on complaints and their outcomes. Some participants also suggested publishing de-identified case studies, a practice which has been used historically.

Bring it out more into the open the extent of the problems and the frequency they occur for others to see so that people stop saying its not a problem and they realise it is and hopefully more people can more actively support those being subjected to it ... (male survey respondent).

More open and transparent. The department appears to try and sweep things under the carpet, afraid they will look bad. More worried about public image than protecting its workers (male survey respondent).

The need for transparency around workplace interventions and investigations is an important factor in ensuring accountability at all levels.

In implementing the workplace harm model set out in Recommendation 14, Victoria Police, informed by the Workplace Harm Unit, should:

- publish aggregate data on complaints including information about the types of behaviour and outcomes on the Victoria Police intranet.
- reinstate use of de-identified discipline case studies as learning tools (ensuring materials are reviewed by victims and targets for de-identification).
- use the Workplace Harm Unit and HRD to ensure affected workplaces receive timely, independent and transparent information on investigations and outcomes to the extent possible.

Treatment of targets/victims

Many participants shared their observations regarding differing treatment of alleged perpetrators and internal targets/victims. The impression is that alleged perpetrators are provided with strong support in terms of advocacy, legal assistance and welfare. Whereas for targets/victims, there is little assistance:

Our job as police is to investigate, if we treated victims of crime the same way we treat our own victims of sexual harassment then there would be public uproar! It is a pathetic and flawed system that has let down victim after victim and Victoria Police has no idea the ongoing negative effects and impact this has on so many lives. We are voiceless and powerless, and when we do speak up, we get moved just to make life harder and punish us for speaking out in the first place and the harasser gets to stay in the workplace like nothing ever happened, it's disgusting (female survey respondent).

Vic Pol needs to be supportive of victims of complaints of this nature. ... I see it time and time again where it is known that a member is a predator with multiple victims and the victims are too scared of the ramifications if they make a complaint (male survey respondent).

This issue is discussed in more detail in Chapter 11.

Insufficient response options

A number of participants described the organisation's response to formal complaints as overly 'punitive' and 'adversarial'. This appears to be both a reflection of the legislated discipline process being akin to a military court martial system and the current lack of alternative HR-oriented interventions.

Along with the treatment of victim/targets discussed above, this is likely to be a driver of underreporting. The Review's findings from the previous chapter were that 20 per cent of survey participants who had experienced sexual harassment did not report because they were concerned about negative consequences for the alleged perpetrator. Some participants told the Review that they would have preferred a response that was 'formal' in that matters were recorded and the alleged perpetrator was spoken to, but did not involve a discipline investigation and potential charge.

When you are encouraging people to report, they look for a balanced response in proportion to the offending. The whole workplace and peers see this – they see the management intervention was reasonable ... This is true especially at early stages where people can see that you have intervened early and people can see the intervention and the attitudinal change. This encourages reporting. They see they haven't sacked him, they have clearly supported the victim – and it demonstrates management and organisational commitment (executive interviewee).

This issue was previously raised in the Office of Police Integrity report³⁷⁵ which recommended the Victoria Police discipline system use remedial or rehabilitative responses for all but the most serious discipline matters.

... you need to challenge behaviour with consistency and accountability. If behaviour is not serious enough to warrant sacking someone, you need to think about how to improve their behaviour. It's about rehabilitation if they remain in the organisation. We often don't have a plan to deal with inappropriate behaviour and you also need to know how to test the plan – how do you know if it's working? (executive interviewee).

As noted elsewhere in this report, a focus on less adversarial process and restorative justice does not preclude holding people to account for their behaviour and taking clear and serious action, including criminal action.

Lack of consistency

There is a widespread view that discipline processes are not applied equally across all sectors of the workforce, with higher ranks/grades appearing to be immune to discipline and sanction.

If a junior member commits predatory behaviour management seem to deal with it but when management are committing bullying/sexist behaviour towards females it seems to be swept under the carpet (female survey respondent).

... the higher ranks will be virtually untouchable unless an independent unit is formed that is not overseen by high ranking officers. Many years ago I was told by ... that no-one over the rank of superintendent could be touched if a complaint was made. I have no reason to believe anything will have changed (male survey respondent).

A number of participants also talked of an apparent phenomenon of rewarding or compensating senior personnel who had been subject to investigation for complaints. Such 'rewards' included promotion, upgrading and transfer to more desirable roles.

³⁷⁵ Office of Police Integrity Victoria, *A Fair and Effective Victoria Police Discipline System* (October 2007) 51.

CASE STUDY

The Review heard a senior constable at a metropolitan station was investigated for sex offences against multiple women, including community members and police members. Some years earlier the senior constable had transferred from another metropolitan station following complaints about his behaviour there. The new workplace was not advised of this history, nor was it recorded in any Victoria Police systems. The Review does not know if any formal intervention occurred at the former workplace prior to the senior constable's transfer.

The senior constable, who was described as 'charismatic' and an 'informal leader', had close relationships in the workplace. The Review was told that some station supervisors had been told of specific incidents of inappropriate behaviour by the senior constable however it was not until a community member made a formal complaint that the full scope of his offending was revealed.

PSC undertook an investigation and compiled a brief of evidence for criminal charges including indecent assault. This brief was sent to the Director of Public Prosecutions for advice on whether charges, if laid, would be prosecuted. The advice received from the DPP was that the Crown Prosecutor would not proceed with prosecution of the charges. On this basis, PSC did not lay criminal charges against the senior constable. Instead he was charged with breach of discipline.

These charges were heard by the Victoria Police Dedicated Hearing Officer. Prior to finalisation of the discipline process, the senior constable resigned. The resignation was accepted by the Chief Commissioner.

The senior constable received his full benefits on resignation. His exit from the organisation is listed in the *Victoria Police Gazette* simply as a resignation (various interviewees).

The impression that senior personnel are protected from due process, whether accurate or not, is a significant issue for Victoria Police. It significantly reduces the credibility of, and confidence in the organisation's senior managers and executive. It also serves as an implicit driver of inappropriate behaviours and thus promotes underreporting.

Movement of personnel as an intervention

Many participants identified the mobility provisions in the Victoria Police Force Enterprise Agreement 2011 as a blocker in being able to effectively manage problematic conduct in sworn members.

Transferring alleged offenders

Managers have limited scope to remove personnel from workplaces where problematic conduct is occurring unless they are being formally investigated or have been charged with a breach of discipline or criminal offence.³⁷⁶

Police and public servants can be directed to work at rank/grade in another workplace within

their division for a limited period of time.³⁷⁷ PSOs can be directed to work in any part of the State.³⁷⁸ However such transfers can incur significant cost to management if the workplace is further than the distance limits set in the relevant industrial instrument. Thus there is a financial disincentive to undertake this action.

The Review understands that transfer of personnel is appropriate under certain circumstances for example, while an investigation is underway to help ensure the safety of a target/victim in the workplace. However, there is significant concern with relocating personnel who display inappropriate behaviour.

The Review was made aware of perpetrators who were transferred following sexual harassment and other inappropriate behaviour, to continue their offending in the new workplace and in some cases targeting community members.

³⁷⁷ Victoria Police Force Enterprise Agreement 2011, AE889678 (19 December 2011) cl 23; Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl 13.2.

³⁷⁸ Victoria Police Act 2013 (Vic) s 44.

³⁷⁶ Victoria Police Act 2013 (Vic) s 126(2), 127(4).

This sergeant moved to a country location. I have no doubt he will be a problem up there. What does this say about our approach? The accountability is shifted. ... The Sergeant [had sexually harassed and threatened women in his workplace]. All he got was workplace guidance (executive interviewee).

In the cases the Review was informed about, the new workplace was not made aware of the problematic conduct and instead given positive references about the person. This process was referred to by more than one participants as 'dressing them up for export'.

Safety of target/victims during investigations

Many participants told the Review of having to wait for long periods to get outcomes of investigations and the distressing uncertainty this created. In some cases, the alleged perpetrator remained in the workplace during this time, despite there being powers for the Chief Commissioner to transfer, direct or suspend alleged offenders during investigations.³⁷⁹ For some targets, this created significant fear, further exacerbating the harm and distress from the incident. Some talked of having to take paid and unpaid leave or make WorkCover claims for stress related to the incident to enable them to get away from the perpetrator.

As outlined in Chapter 12, many victim/targets felt that their report had taken on a life of its own, and had created a 'juggernaut' effect that they had little control over. For many there was significant concern regarding potential breaches of confidentiality, which was exacerbated by a lack of awareness about the progress of their complaint.

Treatment of police in the justice system

A number of participants put forward the view that it is difficult to charge and successfully prosecute police for criminal matters.

We need to have a bias towards and be proactive about, authorising criminal briefs of evidence in relation to predatory behaviour, where it is appropriate to do so (male survey respondent).

³⁷⁹ Ibid s 126(2).

The reasons offered for this theory were:

- The substantial TPAV Legal Representation Fund making trials extremely expensive to prosecute
- A bias in juries against finding police guilty of crimes.

The Review did not obtain data on the number of briefs of evidence considered for criminal charges, the proportion approved or the proportion successfully prosecuted to be able to test this hypothesis.

Resignation while under investigation

Under the Victoria Police Act, a police officer or protective services officer may resign by giving written notice to the Chief Commissioner.³⁸⁰ However, there is no requirement for the Chief Commissioner to authorise a resignation.³⁸¹

The OPI considered this issue in its 2007 report, *A fair and effective Victoria Police discipline system*.³⁸² As explained by a member of Command:

The Office of Police Integrity (OPI) looked long and searchingly at systems regarding when and how to dismiss. [OPI] came to the view that it is better to accept a resignation at, or prior to, hearing. The test is what is in the public interest. If it is in the public interest to get the perpetrator out of the organisation then you may settle to get that result. However, this leaves you with victims who are denied their day in court.

The only comfort is that the person is no longer in a position to cause harm to others. The issue is time – hearings and appeals could take two years, whereas resignation can be quick. As a hearing officer, I have accepted resignations. I have conducted a directions hearing and been upfront with member about where I think things are headed, with an eye to the public interest of securing separation if that's

³⁸⁰ Victoria Police Act 2013 (Vic) s 65.

³⁸¹ Note Police Regulation Act 1958 (Vic) s 14 previously included a requirement to authorise resignations.

³⁸² Office of Police Integrity, *A fair and effective Victoria Police discipline system* (2007) 68.

what the evidence indicates. This creates a challenge in explaining to the victim (and the workplace) about why a resignation was taken as enough. In these circumstances (and all the time) we need to put resources and time into support for the victim (executive interviewee).

The Review heard that a number of personnel who were subject to discipline inquiries for sexual harassment and sex offences have recently resigned while under investigation. On resigning, these people receive all their entitlements (superannuation, long service leave etc.) which also occurs if they are dismissed.

The Review notes that currently the Victoria Police HRD does not have guidelines for the release of information about former personnel. HRD advised that if a potential employer contacts Victoria Police them for a pre-employment check, the organisation does not disclose information about the person's employment history (such as disciplinary or criminal processes), or the basis for cessation of their employment (for example, resignation, retirement, termination, dismissal).

The Review understands that members who resign under investigation are not provided with the customary certificate of service, rather they may be issued with a statement of service.

These practices serve to send perpetrators out into the community with the credibility of a career in policing and almost no means of a future employer or other interested party (for example, volunteer organisations) being made aware of the fact they resigned under investigation.

This informs Recommendation 17 that Victoria Police considers revising classifications for end of service to include 'resigned under investigation' and this be used in the Gazette and statements of service in cases within the remit of this review.

Proposed workplace harm model

Given the issues with formal responses detailed in this chapter, the Review is recommending Victoria Police establish a new model of

responding to harmful workplace behaviours. This model aims to address some of the issues raised including: complicated, overlapping processes; a lack of victim focus; practices that contribute to underreporting and; failure to prevent further harm.



RECOMMENDATION 13

The Review recommends establishing a workplace harm model that includes:

- Immediate establishment of an external 'safe space' service to provide confidential support to victims/targets of workplace harm
- An internal victim-centric workplace harm unit to triage and case manage internal complaints about workplace harm
- An Independent Advisory Board (IAB) to provide expert advice and support to the Workplace Harm Unit
- An expert human resources business partnering model to support local management.

The internal workplace harm unit and the HR business partnering model should both sit in HRD, with clear pathways between both.

Principles

- Victim-driven
- Specialist/expert
- Safe
- Confidential (based on consent of victim/target at all points)
- Evaluated based on harm and victim satisfaction

Note: For the purposes of this model, the term 'workplace harm' includes discrimination and sexual harassment as well as victimisation or detrimental action against a person in response to them making a complaint about these behaviours. . The term 'conflict' should not be used to refer to such behaviours as it implies both parties have some level of fault.



External 'safe space' service

Proposal: Victoria Police immediately identify/establish an external service to provide confidential support to victims/targets of contemporary and historical workplace harm.

The service must have the capacity and capability to provide safety, advocacy, confidentiality and specialist support to address workplace harm, including sex discrimination and sexual harassment.

The service must be managed independently of Victoria Police regardless of any commercial arrangements made to establish it.

The service should:

- Ensure the immediate safety and wellbeing of the victim/target.
- Be skilled in specialist responses to workplace harm, including responding sensitively and ethically to victims of sexual harm.
- Provide specialist support to address workplace harm – either through direct service delivery and/or by developing formal referral mechanisms with other external support services (such as CASA).
- Provide advice and advocacy on options, including support, formal reporting, redress to victims/targets.
- Enable victims/targets to report workplace harm informally and confidentially if they choose to do so.
- Support victims/targets to make a formal complaint to Victoria Police if they choose to do so (noting that in some cases victims/targets are required to report misconduct).³⁸³
- Provide equitable support to all personnel
 - public servants, PSOs and police alike
 - regardless of where they live or work (metropolitan or rural).
- Develop a formal mechanism to share de-identified data with Victoria Police with the explicit consent of victims/targets, including protection from pressure from Victoria Police to share identifying information or data.

The proposed service should support any restorative processes undertaken by Victoria Police to address historical harm and be promoted broadly by Victoria Police.

The service should be developed/established *in parallel* with other actions by Victoria Police to build a safe, victim-centric response. The aim of this work should be to build confidence and capacity for those victims that may report if the organisation is able to prove it is mature and safe in dealing with these matters.

This should be complemented by a broad range of mutually reinforcing organisational strategies to prevent harm and build respect and diversity as outlined in the Action Plan.

CASE STUDY: SeMPRO

Following the release of the Australian Human Right Commission's *Review into the Treatment of Women in the ADF – Phase 2 Report* in late 2012, the Australian Defence Force (ADF) established a dedicated Sexual Misconduct Prevention and Response Office (SeMPRO).

The SeMPRO provides victim-focused care to defence personnel who have been affected by an incident of sexual misconduct. SeMPRO operates in a 'trauma-informed' manner to deliver best-practice support to those affected by sexual misconduct, as well as those who are supporting them.³⁸⁴ It can help to provide immediate safety and support, as well as ongoing support and access to professional services.

According to the SeMPRO website:

A 'trauma-informed' service creates a place of safety for those who have been sexually assaulted; responding on every level with an understanding of the effects of trauma and recognising the potential for the existence of trauma. The five key principles of trauma-informed care are: safety, trustworthiness, choice, collaboration and empowerment.

SeMPRO allows a person to make an unrestricted (formal) report, as well as a restricted (confidential) disclosure to

³⁸³ Victoria Police Act 2013 (Vic) s 167(3).

³⁸⁴ Department of Defence, *About SeMPRO* <<http://www.defence.gov.au/sempro/about/default.asp>>.

encourage ADF members to report sexual misconduct, who may not otherwise report the incident. This allows members to report misconduct in a safe environment and gain access to support services, while considering whether to make a formal report. SeMPRO provides 24/7 support, including a hotline that members can call. It is responsible for:

- providing a timely response and support to victims
- providing advice and guidance to commanders and managers
- implementing education and prevention strategies
- being the single point of contact for reporting, to analyse prevalence data and trends
- developing policies, practices and procedures, and monitoring compliance.

In 2014, the Australian Human Rights Commission audited the Phase 2 Report. The Audit report commended the ADF for establishing SeMPRO – the “swiftness in establishing SeMPRO is testament to senior leadership’s strong commitment to ensuring that victims of sexual misconduct are appropriately and sensitively supported.”³⁸⁵ However, the Audit raised concerns about the limited awareness and knowledge of SeMPRO among ADF personnel and the restricted scope of SeMPRO to only consider sexual misconduct rather than sexual harassment and sex discrimination.³⁸⁶

The Audit expressed serious concerns that the lack of engagement and referral pathways to external service providers (as an alternative to internal support services), compromised victims self-management of trauma and safety.³⁸⁷ In response, the ADF noted it is working towards establishing referral mechanisms to external support services.³⁸⁸

³⁸⁵ Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force Audit Report* (March 2014) 170.

³⁸⁶ *Ibid* 171.

³⁸⁷ *Ibid* 172

³⁸⁸ *Ibid*.

Workplace harm model

To address current gaps in the organisational response to sex discrimination, sexual harassment and predatory behaviour, the Review recommends establishment of a new model for addressing these issues. This model, which is represented in Figure 38 includes a specialist unit and an independent board to oversee the operations of this unit and related initiatives.

Independent Advisory Board

Proposal: Establish an Independent Advisory Board (IAB) to provide expert advice and support to the Workplace Harm Unit (discussed below).

The Board should consist of people with expertise in equal opportunity issues, bullying, violence against women, discrimination and restorative intervention, and secondary victimisation. HRD should be represented on the IAB (with cross over with academic governance arrangement in PDC to be considered).

The IAB should advise Victoria Police on setting practice standards and guidelines, determining referral pathways and information sharing protocols. The IAB should report to the Deputy Commissioner, Capability.

The IAB should advise Victoria Police on recruitment of organisations and individuals to the workplace harm unit and develop and implement quality assurance mechanisms to ensure best practice and minimum standards are adhered to.

Workplace Harm Unit

Proposal: Establish a victim-centric Workplace Harm Unit to triage and case manage all internal complaints about workplace harm.

This unit would be a repurposing of the current HRD response to a victim-centric *triage and case management* model. The proposed unit would be the first contact point for all internal complaints about workplace harm.

The purpose of the unit would be to provide a safe, victim-led internal response to complaints about workplace harm. It would



be based on victim safety and support as the primary consideration in all organisational responses to workplace harm. Any investigation of complaints would be a secondary consideration.

The unit would need to be staffed by professional experts in HR, equal opportunity issues, bullying, violence against women and restorative intervention.

The Workplace Harm Unit should be empowered to make decisions and recommendations on outcomes of complaints. If local management does not agree with the decision, it should be referred to the HRD Director or deputy commissioner.

Response functions

The proposed unit should ensure the immediate safety and wellbeing of the victim/target while allowing them to control their own information.

Any response should be informed by:

- The victim/target's wishes
- Advice from specialist staff with experience in HRD and violence against women/victim safety experts for triage and review.

The proposed unit should have a formal relationship with HRD, particularly HR business partners to inform workplace interventions and support where necessary, including proactive evidence-based initiatives.

Case management and triage options

Building on the function of Internal Witness Support, the Workplace Harm Unit should comprise/include ongoing case management, support and advocacy. The role of case managers should be based on an empowerment model, acknowledging a shift in emphasis from targets/victims as 'witnesses', to targets/victims as owners of the process.

This function should be available to all targets for as long as they need it, and could contain a mix of specialist experts and sworn members with relevant skills and experience (for example, a minimum of SOCIT-trained staff with case management experience).

The proposed unit should have the following triage options, informed by the victim/target's wishes as well as by professional experts:

- Specialist support to address workplace harm – by developing formal partnerships and clear referral mechanisms with services, including:
 - Internal services such as Welfare Services, Internal Witness Support, Police Psychology
 - External services such as CASA, family violence services and the Police Association welfare services.
- Safe, independent external service (as discussed above).
- Advocacy and advice
- Workplace interventions – triaged into the HR business partnering model to manage issues locally (discussed below).
- Investigations (discussed below).

The safety and welfare of a target/victim must be the primary consideration when a person makes a complaint of sexual harassment or discrimination. Any threshold for taking the complaint out of the victim/target's hands would need to be informed by the victim/target's safety requirements, with the victim/target's prior knowledge.

The target should be considered an expert in assessing their own safety needs and this information should inform the organisation's intervention and response once the victim no longer has control over the direction of the process.

Obligation to act on sexual harassment and discrimination

Victoria Police's obligation to provide and maintain a safe and healthy workplace includes taking proactive steps to prevent sexual harassment and discrimination, as well as protecting the safety and wellbeing of targets/victims of these unlawful behaviours when they happen.

To ensure the safety and wellbeing of a target/victim of sexual harassment or discrimination:

- the safety and wellbeing of the target/victim should be the immediate and primary consideration
- where possible, the target/victim should be given the option to talk to someone confidentially before deciding to make a complaint
- Victoria Police should provide clear guidance to its staff about the criteria for acting on an individual complaint against a target/victim's wishes
- if Victoria Police is required to act on a complaint against a target/victim's wishes, ensure that the target is safe (this should be informed by the targets own assessment as well as the organisations) and supported throughout any process that follows.

These factors are considered below.

Legal obligations

Victoria Police has legal obligations to provide and maintain a safe and healthy workplace. This includes:

- an obligation to provide and maintain a work environment that is safe and without risks to the health of its employees and others, as far as reasonably practicable;³⁸⁹
- a positive duty to eliminate sexual harassment, discrimination and victimisation as far as possible ³⁹⁰
- a duty of care to take reasonable care for employees' safety.³⁹¹

These laws require Victoria Police to:

- take proactive steps to provide and maintain a safe and healthy workplace that is free of sexual harassment and discrimination
- take appropriate remedial action if a complaint is made about sexual harassment or discrimination
- protect the safety and wellbeing of targets/victims of sexual harassment or discrimination.

Failing to act on sexual harassment or discrimination can amount to a breach of

³⁸⁹ *Occupational Health and Safety Act 2004 (Vic)* ss 20–21, 23.

³⁹⁰ *Equal Opportunity Act 2010 (Vic)* s 15.

³⁹¹ For example, see *Swan v Monash Law Book Cooperative* [2013] VSC 326; *Trolan v WD Gelle Insurance and Finance Brokers Pty Ltd* [2014] NSWDC185.

occupational health and safety laws, Victoria Police's duty of care, and the positive duty. It can also result in vicarious liability for Victoria Police if it failed to take reasonable precautions to prevent sexual harassment or discrimination by its staff.³⁹²

Mandatory complaint requirements

As discussed earlier, police officers and PSOs also have obligations under the Victoria Police Act to complain about another police officer or PSO if they have reason to believe the other officer is guilty of misconduct.³⁹³

Victoria Police should provide clear guidance to personnel about legal obligations to act on complaints of sexual harassment and discrimination, as well as behaviour that may amount to misconduct. This guidance should provide clarity around the criteria for making complaints in cases where a target/victim has not given consent for the complaint to be made.

It is important that personnel are aware of the considerations for acting without a target/victim's consent (for example, to respond to a protected disclosure, imminent risk or alleged crime). In most cases, local workplace interventions can address sexual harassment and discrimination without having to act on a target/victim's complaint against their wishes.

Balancing the interests of targets/victims with legal obligations

The Review heard concerns about balancing the interests of targets/victims with legal obligations to act on/report complaints about sexual harassment or discrimination against a person's wishes.

The safety and wellbeing of a target/victim should be the primary consideration when a person makes a complaint about, or Victoria Police becomes aware of, sexual harassment or discrimination. The immediate response to every complaint about sexual harassment or discrimination should be to:

- ensure the immediate safety of the target/victim, including valuing the expertise of the target/victim in assessing their own risk and informing risk management strategies

³⁹² *Equal Opportunity Act 2010 (Vic)* s 109.

³⁹³ *Victoria Police Act 2013 (Vic)* s 167(3).

- ensure that the target/victim has access to/is referred to appropriate supports
- ask the target/victim how they want to proceed before taking any action.

Where possible, the person receiving the complaint should also tell targets/victims that they may have a legal obligation to act on a complaint before the person makes the complaint. The target/victim should be given the option of talking to someone confidentially before they decide to make a report to Victoria Police.

Where a target/victim does not want to proceed with a formal complaint process, Victoria Police should undertake appropriate and prompt workplace interventions. Regional HR business partners should provide support to management to undertake local interventions (see proposed partnering model below).

Where Victoria Police has a legal obligation to act on a complaint, the safety and wellbeing of a target/victim should still be the primary consideration. In addition to the steps listed above for all complaints, Victoria Police should:

- notify the target/victim about its intended action before taking any action
- explain that the organisation has a legal obligation to act
- assure the target/victim that the Equal Opportunity Act prohibits victimisation and if the complaint is a protected disclosure, the Protected Disclosure Act prohibits detrimental action.

Investigation / review

The recommended model for responding to complaints of workplace harm that require investigation/review is as follows:

- All targets/victims of complaints are case managed by the Workplace Harm Unit
- All relevant complaints made directly to PSC should be referred to the Workplace Harm Unit for triage and case management.
- Investigation of complaints that may constitute a breach of discipline or criminal offence, are conducted by Taskforce Salus/PSC (centrally) by SOCIT trained investigators.
- Investigation of other workplace harm incidents are conducted by external specialist investigators.

Workplace harm incidents *should not* be allocated to regional investigators in any circumstances.

Specialist referral mechanisms should be established with the Workplace Harm Unit where the Chief Commissioner receives a protected disclosure from IBAC, given legislative restrictions on disclosure.

Workplace conflict

The purpose of the unit will be to address workplace harm. It is important that this is differentiated from workplace conflict which should be managed separately. The management of workplace conflict could be supported by HR specialists using an HR business partnering model (discussed below).

Evaluation

The Workplace Harm Unit should be evaluated from its inception using the principles of victim satisfaction and harm reduction, with an evaluation expert involved in its establishment.

Data classification and analysis

As the first triage point for all complaints about workplace harm, the unit should be the central location for collecting data on workplace harm. It should develop clear and consistent protocols to classify and record complaints about workplace harm, consistent with relevant legal definitions, and informed by the IAB.

The unit would collect and analyse de-identified data to:

- assess prevalence and nature of workplace harm
- identify trends and drivers
- inform education and policy development by HRD and People Development Command (PDC)
- inform local workplace interventions (in partnership with the HR business partnering model).

The proposed unit should also develop a formal mechanism to collect de-identified data from the external 'safe space' service with the explicit consent of victims/targets.

Trend data should be reported quarterly to the IAB and to Executive Command.

Business partnering model

Proposal: Centralised and elevated HR model

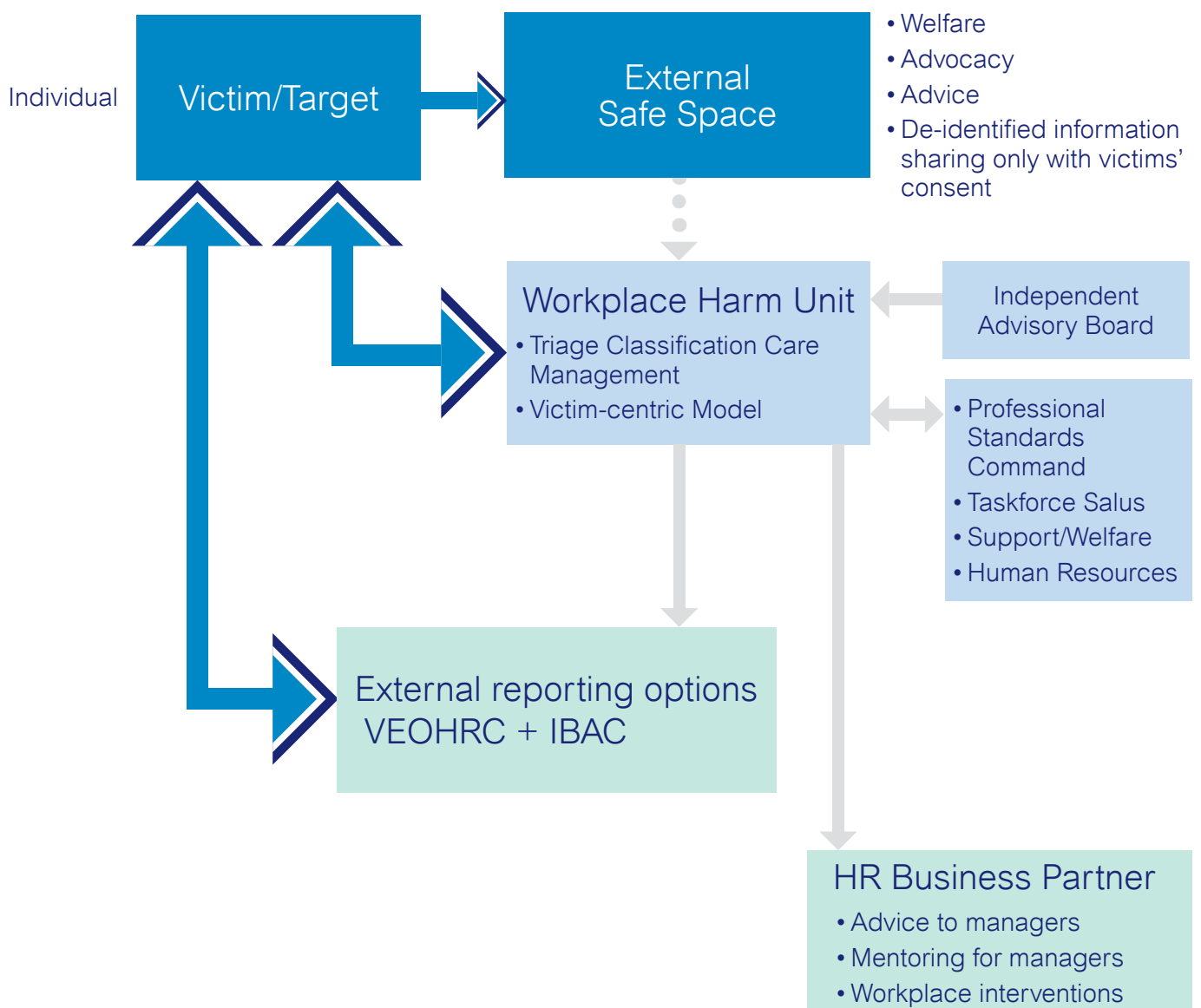
Establish/enhance HR business partnering model to mentor and build the capacity of local managers to manage their staff. HRD would develop clear information sharing arrangements, communication channels between the harm management model and business partnering specialists.

The proposed model would:

- Provide specialists employed under HRD to support the regions to mentor and build the capacity of managers to manage their staff (rather than manage issues on their behalf).
- Involve specialists who are senior HR practitioners recruited for expertise in conflict resolution, including mediation and conciliation (where deemed appropriate for example, not sexual harassment matters) as well as training and professional development.

Figure 38:

Response to workplace harm – a new approach



- Work with the proposed workplace harm unit to support managers with local workplace interventions to address identified workplace harm.

The business partnering specialists would work across the region to support local workplaces as required. HRD would develop communications processes and a work plan with PDC to inform training and professional development processes, and integrate current practice into all Foundation, in-service and promotional training.

External reviews

External reviews of Victoria Police decisions about discipline, promotions and transfers are different for police officers and public servants.³⁹⁴ In particular, the Fair Work Commission:

- hears unfair dismissal claims by public servants and determines whether a dismissal was ‘harsh, unjust or unreasonable’;³⁹⁵ and
- determines disputes arising under the Victorian Public Service Workplace Determination 2012, including disputes about disciplinary outcomes (other than dismissals), transfers, and promotions.³⁹⁶

The Police Registration and Services Board (PRSB) reviews decisions about disciplinary outcomes (including dismissals), promotions and transfers for police officers and protective services officers (discussed in detail below).³⁹⁷

A member of Command queried the necessity of having separate external review mechanisms for police, PSOs and public servants:

I favour using the Public Administration Act because this creates an appeal function that is essentially an administrative review. That is, you apply the rules that would apply to any other

termination of employment. When you reflect on how the Fair Work Act applies ... they have a better track record than the Victoria Police review board (executive interviewee).

The *Inquiry into the command, management and functions of the senior structure of Victoria Police* similarly considered that:

public servants in Victoria Police are subject to a fair and simple discipline process, leading to a determination by the Chief Commissioner. For a public servant, Fair Work Australia is the arbiter for unfair dismissal claims and the ultimate step in the dispute resolution process for lesser disciplinary matters. By contrast, a police member who is disciplined may seek review of the outcome by the Police Appeals Board [since replaced by the PRSB]. The Inquiry considers it anomalous that disciplinary decisions made in relation to public servants may be reviewed by Fair Work Australia while sworn police members only have access to a review tribunal dealing exclusively with Victoria Police sworn members.³⁹⁸

³⁹⁴ In 1996, Victoria referred its industrial relations powers to the Commonwealth with the exception of matters pertaining to probation, promotion, transfer from place to place or position to position, physical or mental fitness, uniform, equipment, discipline or termination of employment of law enforcement officers (including police officers, police reservists, police recruits and protective services officers), see *Commonwealth Powers (Industrial Relations) Act 1996* (Vic) s 5(1)(b) (since repealed). A new referral was made in 2009, see *Fair Work (Commonwealth Powers) Act 2009* (Vic) s 5(2)(b).

³⁹⁵ *Fair Work Act 2009* (Cth) s 385.

³⁹⁶ Victorian Public Service Workplace Determination 2012, AG895510 (23 July 2012) cl 11.

³⁹⁷ *Victoria Police Act 2013* (Vic) s 146.

³⁹⁸ State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police*, (November 2011).

The Police Registration and Services Board

The Review heard concerns of participants about the exercise of the PRSB's review function, including its appeal function (discussed in the Chapter 13).

These concerns included the make-up of the PRSB, its processes and the outcomes of hearings:

Why do we have an appeals system? Why are they setting the culture and standards of Victoria Police? It is the same with selections and promotions. They decide for us. It's bizarre (executive interviewee).

... We have had examples of the worst kind of racism and pornography on our systems and the appeals board doesn't address it (former executive).

The PRSB should have a set of policy guidelines rather than make decisions on their own (executive interviewee).

The Review also heard concerns about a culture of taking discipline decisions for review:

The TPA has a history of advocating strongly for their membership within the discipline area. With respect to dismissal outcomes, the members have nothing to lose and can take the matter to the [PRSB] (executive interviewee).

If you dismiss a person for disciplinary reasons, it always goes to the [PRSB] who overturn most dismissals (site visit).

In addition, the Review was made aware of concerns that the PRSB did not have consistent practices around incorporating material on victim impact in the review process and has faced challenges with making consistent decisions.

Reviewing dismissal decisions

The PRSB must affirm a decision to terminate or dismiss an officer unless the Board is satisfied that the decision was 'harsh, unjust or

unreasonable'.³⁹⁹ The Fair Work Act also uses the phrase 'harsh, unjust or unreasonable' in relation to whether a person has been unfairly dismissed.⁴⁰⁰

The Fair Work Act sets out criteria that the Fair Work Commission must take into account in determining whether a dismissal was harsh, unjust or unreasonable – including whether there was a valid reason for the dismissal, and a range of procedural fairness requirements such as whether the person was notified of that reason and whether the person was given an opportunity to respond.⁴⁰¹

Section 152 of the Victoria Police Act requires the Board when considering a review to have regard to the public interest (including the interest of maintaining the integrity of, and confidence in, Victoria Police) and the interests of the applicant (no similar public interest considerations apply under the Fair Work Act).

The PRSB applies the general approach in workplace relations law that the words 'harsh, unjust or unreasonable' should be given their ordinary meanings.⁴⁰² The Board also 'relies on its own precedents'.⁴⁰³

If the Board is satisfied that a decision was harsh, unjust or unreasonable, it has the power to set aside the decision and either make a substitute decision or refer the matter to the Chief Commissioner for determination.⁴⁰⁴

For most forms of review of dismissal or termination, the Board also has the power to order the Chief Commissioner to reinstate the applicant or pay the applicant compensation.⁴⁰⁵

The Review was informed that the Board may order up to 12 months' salary in compensation, while the Fair Work Commission may order a maximum of six months' (the higher maximum reflecting that employment options for police

399 *Victoria Police Act 2013* (Vic) s 152(2). This requirement was introduced by the *Police Regulation Amendment Act 2012* (Vic).

400 *Fair Work Act 2009* (Cth) s 385.

401 *Ibid* s 387.

402 *Bostik (Australia) Pty Ltd v Gorgevski (No 1)* (1992) 36 FCR 20, approved by the High Court in *Byrne v Frew and Australian Airlines* (1995) 185 CLR 410.

403 The Review notes that in a recent published decision on 28 August 2015 (A207.2014), the PRSB made reference to the criteria set out in the *Fair Work Act 2009* to determine whether a dismissal was harsh, unjust or unreasonable.

404 *Victoria Police Act 2013* (Vic) s 152(3).

405 *Ibid* s152(3)(iii)–(iv).



	2011/12		2012/13		2013/14		2014/15	
	Heard/ finalized	Upheld	Heard/ finalized	Upheld	Heard/ finalized	Upheld	Heard/ finalized	Upheld
Dismissal	6	33%	7	100%	13	54%	12	83%
Termination	4	75%	0		1	100%	5	80%
Reduce rank or seniority	0		2	100%	2	50%	2	50%
Reduce remuneration	0		1	100%	2	100%	0	
Transfer to other duties	3	100%	1		0		3	100%
Fine	0		0		0		0	

Table 3: Number of discipline sanctions reviewed and proportion confirmed 2011/12 to 2014/15

officers may be more limited, meaning an unfair dismissal may have greater economic consequences upon an employee).

The following page contains a summary of discipline sanction reviews undertaken by the PRSB and its predecessor, the Police Appeals Board over the last four years. For dismissals, the proportion of reviews which upheld or confirmed the decision of Victoria Police varied substantially over the period from a low of 33 per cent in 2011/12 to a high of 100 per cent in 2012/13.

Since there are no published statements of reason for most of these decisions, it is unclear why, for example, the applicants were dismissed and if they were reinstated, on what basis.

There have been concerns raised about PRSB failing to properly consider and apply the public interest consideration. The Review notes that the PRSB has recently issued a statement and procedural directions seeking submissions, including from the Commission, on the potential identification of complainants, informants and witnesses to police misconduct or other breaches of police discipline. The Review acknowledges the Board’s proactive approach to this important issue.

Both Victoria Police and review applicants may seek judicial review of decisions made by the PRSB in the Supreme Court.



RECOMMENDATION 19

- PRSB members should be provided with contemporary training in equal opportunity and human rights law, as well as the impact of sexual harassment and discrimination on victims. This should occur at induction for new members, immediately for current member, and then every two years.
- That the PRSB work with specialist partners to develop guidelines on Equal Opportunity and Human Rights and victim impact in decision-making

The Review notes that the PRSB has recently issued a statement and procedural directions seeking submissions, including from the Commission, on the potential identification of complainants, informants and witnesses to police misconduct or other breaches of police discipline. The Review acknowledges the Board’s proactive approach to this important issue.

External review in comparative jurisdictions

South Australia and Tasmania are the only other Australian jurisdictions to rely exclusively on specialist police tribunals to review discipline outcomes.⁴⁰⁶ The Fair Work Commission can review dismissals for members of the Australian Federal Police and the Northern Territory Police Service; however the Northern Territory Police Service also has its own Disciplinary Appeal Board which can review dismissal decisions.⁴⁰⁷ Members of the remaining state police forces have access to state tribunals and commissions.⁴⁰⁸

The Review findings present an opportunity for the Victorian Government to consider whether enlarging the referral of Victoria's industrial relations powers to the Commonwealth would be an effective way to streamline and simplify external reviews by enabling the Fair Work Commission to review decisions about discipline, termination, promotion and transfer for the entire Victoria Police workforce. The Review notes that the *Inquiry into the command, management and functions of the senior structure of Victoria Police* recommended:

That the Government consider enlarging the referral of Victoria's industrial relations powers to the Commonwealth to enable Fair Work Australia to hear unfair dismissal applications by police and to deal with disputes about transfer, promotion and discipline decisions concerning police. This reconsideration should occur in conjunction with the review of the Police Appeals Board recommended by the Office of Police Integrity in its report Enabling a flexible workforce for policing in Victoria (2011).

406 See, *Police Act 1998* (SA) pt 8, div 1; *Police Service Act 2003* (Tas) s 60.

407 *Australian Federal Police Act 1979* (Cth) s 28; *Police Administration Act* (NT) s 94; the Northern Territory Police Service is a 'national system employer' under the *Fair Work Act 2009* s 14(1).

408 State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011) 37.

CASE STUDY: SHIELDS V CHIEF COMMISSIONER

In 2006, a male police member employed at a suburban station was dismissed under s.68(1) of the then *Police Regulation Act 1958*. The dismissal order listed findings of multiple offences going back 12 years including: prolonged sexual harassment of a female police member; persecutory, intimidatory and bullying behaviour toward others; aggression toward a member of the public and; misuse of authority in favouritism toward a junior colleague with whom he was having a personal relationship.

The dismissal was reviewed by the then Police Appeals Board who confirmed the decision. Shields then applied to the Supreme Court for judicial review of the dismissal on the basis that the dismissal was unlawful and the application was dismissed.⁴⁰⁹ An application was then made to the Supreme Court to review of the Police Appeals Board decision quashed on the basis of errors of law and this was granted.⁴¹⁰ A subsequent order was made for the Police Appeals Board (with different membership) to re-hear the review.⁴¹¹

The legal costs incurred by this member in challenging his dismissal were paid out of The Police Association Victoria's Legal Representation Fund. The costs incurred by Victoria Police in defending these appeals included over a quarter of a million dollars in legal fees.

Reforming the discipline system

At the end of the day you have to ask yourself – why is it that if a shopkeeper finds a staff member with their hand in the till you can sack that worker on the spot, but the Chief Commissioner

409 *Shields v Chief Commissioner of Police* [2008] VSC 2 (30 January 2008).

410 *Shields v Overland & Anor* [2009] VSC 550 (3 December 2009).

411 *Shields v Overland & Anor (No 2)* [2009] VSC 589 (10 December 2009).

of Police can't sack someone who commits serious misconduct without first prosecuting them through the criminal courts and only then seek to dismiss them under the discipline process? (executive interviewee).

Victoria Police has separate disciplinary systems for police officers and PSOs, and public servants. The discipline system for police and PSOs is set out in Part 7 of the Victoria Police Act, while the process for managing misconduct and unsatisfactory work performance for public servants is set out in the Victorian Public Service Workplace Determination 2012.

The disciplinary process for police officers and PSOs is complex, time consuming and more akin to a criminal rather than civil process. It is also inconsistent with the simpler disciplinary process for public servants that is better aligned with ordinary employment practices.

A participant told the Review that:

The existing disciplinary process arises from an archaic High Court decision ... [which] means that police members are not employees in the same sense that Victorian Public Service (VPS) police staff are, or other public servants. As a result, the Chief Commissioner doesn't have the same sorts of employer obligations and power as other employers.

This is an anachronism in modern policing. ... Through culture, training and leadership we should be able to bring change but there will always be people, who, because of their conduct, need to be exited from the organisation. So, the pathway needs to be clear and be something that managers cannot wash their hands of because it seems too hard to navigate.

One of the costs of having an ineffective/paramilitary style disciplinary process is that it gives poor managers an excuse to not take a proactive approach. The (disciplinary) hearing officer makes the decision;

therefore the line manager absolves themselves of the responsibility. For as long as that pathway is there it will operate as a significant cultural barrier to get managers to show leadership, manage well and model behaviours.

In my view the central question is – why can't the misconduct provisions that apply to any other public servant in Victoria apply to police officers? We need the organisation to go back to government and say if you have (reasonable) expectations of performance and behaviours then you need to have same for all agencies.

It is crazy that in an organisation of 17,000 people we have sworn staff covered by one set of rules and public servants covered by another set of rules. Given that a lot of this conduct can involve sworn staff against young female public servants, this dual track just creates confusion (executive interviewee).

While the Review acknowledges the unique role and powers of policing, the Review considers that the distinction between police and public servants for the purposes of discipline may be confusing and reinforce attitudes about the value and capability of public servants in Victoria Police.

The recent *Inquiry into the command, management and functions of the senior structure of Victoria Police* found:

[w]ithin some sections of Victoria Police the strongly held view that police are unique, a contention largely based around the sworn officer possessing the powers and responsibilities of the office of constable. The Inquiry acknowledges the importance of this office as the foundation of an independent police force. Whilst many of the qualities of Victoria Police flow from the independent office of constable, which requires police to exercise their own judgment in difficult and sometimes dangerous situations, some police interpret the office in a way that is productive of insularity and

*conservatism. This manifests itself in a general way as a resistance to change and disinclination to accept external review. The acknowledgment of the importance of the office of constable is not a bar to necessary change and reform.*⁴¹²

As set out earlier in this chapter, participants raised a number of issues with the disciplinary process for police officers and PSOs, including: the misapplication of a criminal standard of proof to disciplinary matters in some matters; delaying disciplinary processes until any criminal proceedings are finalised; concerns about the ability of police to be impartial when investigating other police; and concerns about a lack of safety and support for victims/targets.

The Review considers that the Victoria Police discipline system requires reform to ensure that sex discrimination, sexual harassment and predatory behaviour are managed in a fast, effective and streamlined way. A strong and effective organisational response to harmful workplace behaviours would help to ensure that Victoria Police maintains a safe and healthy workplace, and alleviates any ongoing harm experienced by victims/targets of these behaviours.

The Review understands Professional Standards Command is currently examining alternative processes to reduce the time taken to resolve certain complaints. In cases where the alleged perpetrator has made a full admission there may be scope to finalise the process without a full investigation.

Such an initiative could improve timeliness of relevant investigations, as well as decrease periods of uncertainty for the involved parties. It could also serve to reduce the resource burden of investigations where they are unnecessary.

The Review notes that any reform of the discipline system should be aligned with the proposed workplace harm model discussed earlier.

⁴¹² State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011) 16.



RECOMMENDATION 20

The Victorian Government and Victoria Police should streamline and simplify Victoria Police's existing discipline system by considering and implementing the detailed recommendations for reform in:

- the Office of Police Integrity report, *A fair and effective Victoria Police discipline system* (2007)
- the Office of Police Integrity report, *Improving Victoria Police discipline and complaint handling systems* (2011); and the State Services Authority report, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011)⁴¹³

In particular, the Review endorses the principles underpinning the 2007 Office of Police Integrity report as the basis of any reform, including:

- reducing or eliminating the differences between the discipline arrangements for police and other employees
- reducing the number of sanctions and increasing performance development with a focus on rehabilitation
- increasing local decision-making and responsibility for discipline matters
- linking the discipline system with the performance management system
- reducing complexity and speeding up the processes
- streamlining dismissal processes
- streamlining and simplifying review and appeal rights.

The Review notes that following the 2007 OPI report:

- a Bill was introduced and defeated in 2008 to implement the recommendations of the 2007 report to reform the discipline system⁴¹⁴

⁴¹³ State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011) 31–39.

⁴¹⁴ *Police Regulation Amendment Bill 2008* (Vic).

- the State Services Authority inquiry endorsed:

the conclusion reached by the OPI in its earlier reports that Victoria Police's outmoded discipline system should be replaced with a less adversarial, more developmental and ultimately more effective model. The Inquiry agrees with the recommendations made by the OPI for reform of the discipline system for sworn police members, and recommends their full implementation. This would assist in addressing the wide divergence in employment arrangements for sworn police and public servants, which the Inquiry considers contributes to the cultural division between these two groups of Victoria Police employees.⁴¹⁵

The Review notes that the Victorian Government may want to explore whether further reform to Victoria Police's disciplinary practices may help to streamline and simplify its existing discipline system. This could include considering whether the Chief Commissioner should be provided with a statutory summary dismissal power to terminate police or protective services officer's employment. The summary dismissal power could be used at the Chief Commissioner's discretion and be subject to normal employment law safeguards such as procedural fairness.⁴¹⁶



RECOMMENDATION 16

Victoria Police should advocate for changes to its operating context and environment, and take interim actions where possible to enhance its flexibility to build diversity, set and enforce Victoria Police values and behaviours. This includes:

- Victoria Police provide further practical and coordinated policy guidance (Recommendation also 5 refers),

readily available to all personnel on the interpretational criteria for the:

- Victoria Police Act terms *conduct, misconduct and reason to believe*
- Protected Disclosure Act terms – *improper conduct, and detrimental action*: and
- Independent Broad-based Anti-corruption Commission Act term – *corrupt conduct*.
- The *Victoria Police Manual* be amended to provide information regarding complaint processes related to executive level personnel.
- Victoria Police considers revising classifications for end of service to include 'resigned under investigation' and this be used in the Gazette and statements of service in cases within the remit of this review.
- The Victorian Government consider whether there are any legislative barriers in the *Victoria Police Act 2013* and *Protected Disclosure Act 2012* which prevent disclosure of the subject matter of a protected disclosure or assessable disclosure by Victoria Police personnel or Victoria Police work units to support services and to WorkSafe Victoria. If so, the Victoria Government should consider the most appropriate legislative amendment to enable disclosure in those circumstances.
- Victoria Police should consult with the Director of Public Prosecutions and pursue and conclude disciplinary charges concurrently with criminal investigations/proceedings unless there is a real risk that the disciplinary matter will prejudice the criminal proceeding.

⁴¹⁵ State Services Authority Victoria, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011) 32.

⁴¹⁶ The Review notes that since 2000, most members of the Australian Federal Police are initially engaged as 'AFP employees'. The Commissioner of the Australian Federal Police has all the rights, duties and powers of an employer in respect of AFP employees and has the power to terminate the employment of an AFP employee outside of the discipline system.



Appendices



Appendix 1

Recommendations

Recommendation 1: Redress Scheme and public acknowledgement of harm

Based on contemporary best practice, Victoria Police, supported by the Victorian Government should develop a redress scheme for Victoria Police personnel that includes a:

- restorative engagement initiative
- reparation scheme – financial and non-financial
- public acknowledgement of harm.

Recommendation 2: The Executive Command establishes an appropriate, independent advisory structure to guide the intent and implementation of the Review's recommendations.

The advisory structure should include senior, external expertise that reports directly to Executive Command and meets quarterly with the Chief Commissioner as the strategy is developed.

It should provide guidance in the areas of:

- best practice responses to working with men and women to build awareness of gender inequality, gender identity and role stereotypes, and of the link between gender inequality and violence against women
- best practice restorative justice processes
- best practice victim empowerment models of addressing workplace harm, with specific expertise in sexual harm, sexual assault and sexual harassment as well as secondary victimisation
- best practice responses to sex discrimination and sex-based hostility
- best practice bystander actions to build gender equality
- organisational development and change.

Recommendation 3: Victoria Police develops a whole-of-organisation Gender and Diversity Vision and Strategy linked to the organisational performance and capability framework to drive cultural and practice change. This vision and strategy should be owned by and accountable to the Chief Commissioner.

It should:

- articulate the Victoria Police vision to build gender equitable workplaces in clear and unequivocal terms. This will be a first step and require consistent, visible leadership at the most senior levels. The Review notes that time spent consulting and engaging employees in this work will build a platform for all recommendations in this Review
- identify and leverage the interdependencies among current and emerging workplace and community facing strategies
- sustain commitment and work to build whole-of-organisation knowledge and understanding of the relationship between gender equality and healthy, safe and respectful workplaces
- align the intent, accountabilities and implementation of efforts to implement responses to this Review alongside other key change initiatives
- develop a formal policy and process review mechanism to ensure gender equity principles are embedded in all organisational initiatives
- ensure gender impact analysis is embedded in policy and strategy development and review processes

Recommendation 3 (continued)

- develop an organisation-wide **gender performance framework and annual monitoring**. Organisational performance objectives and measures should be linked to safe and respectful workplaces if the vision and effort to achieve a safe and respectful workforce is to be sustained. These measures should embed proactive data, process and outcome measures and cascade down to the performance and capability requirements of all managers and employees. They should include employee insight and satisfaction of the shifting workplace climate
- prioritise safety and wellbeing of employees who have experienced workplace harm. For people engaging in inappropriate behaviours, a range of swift and appropriate management and policing responses are needed, depending on the nature of the behaviour
- establish, develop and implement an equity and diversity workplan and report progress to Executive Command bi-annually. The quality and progress of these workplans should be considered as part of Command performance and individual performance assessments of leadership. These in turn should be supported by performance assessment recommendations
- resource and coordinate women in policing committees for all female employees across all regions, including rural areas. These forums should provide expertise to inform Command/Departmental Equity and Diversity Strategies.

Recommendation 4: That Victoria Police develops a comprehensive communications and employee engagement strategy, informed by organisational change principles to:

- build awareness of the rationale for diversity
- redefine the notion of 'merit' and increase understanding of the existence of structural barriers to recruitment, retention and advancement
- champion senior men and women who access flexible work arrangements, including

part time and parental leave

- reinforce that performance and accountability of employees must align with the vision, values and strategy
- support learning and professional development across the workforce about sex discrimination and sexual harassment, including predatory behaviour, its drivers, impacts and implications.
- develop a clear organisational statement and expectation that all employees, regardless of rank or level, should 'call out' sexual harassment and discrimination if they feel safe to do so and that they will be supported by management.

Recommendation 5: Review and update all relevant policies and procedures to ensure they are compliant with legal obligations and provide clear direction for managers to respond effectively to workplace harm and build gender equitable and diverse workplaces. This includes:

- ensuring that the legal tests for sexual harassment, discrimination and victimisation are accurate and that current policies and procedures ensure remedial action
- as part of the workplace harm model, develop clear and detailed guidelines for managers and supervisors on their roles and responsibilities to responding to employees internal reports of sex discrimination and sexual harassment, or victimisation and complaints in a fair, safe and supportive way. This should include clear indication of victim safety principles and reference to the Victims Charter.
- introducing a structured handover process for rotating management positions for Inspector rank and above.
- strengthening Victoria Police's Conflict of Interest Policy to define sexual relationships that can be regarded as a conflict of interest, and provides guidance for managers to respond appropriately.
 - > The policy should include an explicit list of behaviours and define the proximity of working relationships at which conflicts should be declared. For example, sexual relationships between employees and

anyone who has formal supervisory responsibility for them, as well as anyone within their chain of command, should be considered a conflict of interest, irrespective of the status of their relationship.

- > Additional, clearly stated requirements for all teaching staff, mentors, supervisors and field coaches to refrain from improper use of their power over recruits and probationary constables. This includes participating in any sexual relationships with recruits and probationary constables.
- providing further practical and coordinated policy guidance to all personnel on the interpretational criteria for the:
 - Victoria Police Act terms *conduct, misconduct and reason to believe*
 - Protected Disclosure Act terms – *improper conduct, and detrimental action*: and
 - Independent Broad-based Anti-corruption Commission Act term – *corrupt conduct*. (See also Recommendation 17).
- > Amending the *Victoria Police Manual* to provide information regarding complaint processes related to executive level personnel.

Recommendation 6: Victoria Police review recruitment and exit processes including:

- recruitment practices to ensure they align with best practice in screening to ensure the attitudes and expectations of all future recruits align to the values and vision of the organisation, including an emphasis on respect and diversity.
- physical employment standards to ensure they are aligned with role requirements and consistent with Victoria Police's OHS obligations.
- offering support to potential police and PSO recruits at no fee to meet any physical standards associated with general recruitment as well as recruitment to specialist roles within the organisation.

- collecting and monitoring information about reasons for attrition at all stages of recruitment processes as part of broader monitoring under the Equity and Diversity Strategy.
- instituting exit interviews for all resignations and retirements and collect and monitor data in relation to reasons for leaving and attrition of particular groups by gender, rank/level and work type.

Recommendation 7: Victoria Police review and amend all arrangements relating to flexible work including:

- identifying mechanisms and processes to ensure backfill for paid and unpaid parental leave and light duties is implemented.
- reviewing and standardise policy and processes relating to flexible work arrangement and particularly the parental leave cycle, (Indicator) reflecting best practice in relation to preparing for leave, staying connected while on leave, reintegration into the workplace and career acceleration.
- ensuring data collection and monitoring captures access to flexible employment options for both women and men and the reasons for not accessing any entitlements in this area.
- ensuring all of its supervisors are trained in dealing with flexible working requests and what it means to refuse someone on reasonable business grounds.

Recommendation 8: Victoria Police review and improve arrangements relating to promotion pathways for women including:

- through central and localised Equity and Diversity strategies and workplans regularly review gender disaggregated data relating to key promotion criteria on who is accessing upgrade and transfer opportunities.
- training to be developed by PDC about utilising clause 63.6 of the Agreement to allow progression for constables who have taken a period of unpaid parental leave and do not have 12 months' salary payment at their current progression point, but otherwise

meet the performance and capability criteria for promotion.

- designing and implementing employee career planning and support, which includes clear pathways and support for women to pursue professional development and training in leadership and non-traditional roles and formal sponsorship.
- Under academic governance guidance, reviewing the Senior Management Leadership Program and learning support mechanisms to ensure alignment with the contemporary requirements and needs of women for leadership.

Recommendation 9: In relation to learning and professional development, Victoria Police should review its training and education functions to align learning intent and future capability needs as expressed in the Education Master Plan with organisational processes. These include:

- the funding and training delivery model
- PDC will establish an academic governance structure that includes independent expert(s) with a primary focus in the field of gender, sex discrimination and sexual harassment to advise on academic policies and all curricula and to guide teaching and learning activities that support respectful and safe gender relationships on a life-long learning continuum.
- ownership and funding for the review and development of all training curricula will reside with PDC and be informed by academic governance processes, which will include external expertise.
 - > Under academic governance guidance, review the Senior Management Leadership Program and learning support mechanisms to ensure alignment with the contemporary requirements and needs of women for leadership.
 - Within 18 months, women's access to leadership training is at least proportional to their representation in the overall, relevant workforce (police, PSO, public service). Within three years, 50 per cent of all senior

management training opportunities are accessed by women. Where there is not a sufficient pool of women to draw from, managers will nominate women with demonstrated people management capabilities and leadership potential.

- Contemporary, evidence-based management and supervisory training should be developed and incorporated into all Foundation, promotional and professional development training.
- The content and face-to-face delivery of the training should be developed and delivered in partnership with expert advisors/specialist external training provider that has expertise in workplace management of harms based on sexual harassment, sex discrimination and gender equality.
- This training will include the rights and administrative responsibilities of employees and employers in the workplace and contextualised for each learner cohort. Training will incorporate:
 - definitions and meanings of sexual harassment, sex discrimination and victimisation and their drivers and impact.
 - their responsibilities to prevent and respond to incidents of sexual harassment, gender based hostility and sex discrimination, including positive duty and liability under the Equal Opportunity Act.
 - appropriate responses to the target of those behaviours to minimise the harm they experience and enhance their safety in the workplace
 - appropriate responses to the alleged perpetrator(s).
 - competence to refer/access informal and formal options available to the target/victim.
 - understanding manager's role in classification and recording issues and the appropriate place to do this.
 - understanding of manager's rights and responsibilities in considering requests for flexible



work arrangements and strategies to establish and manage them.

- understanding managers' responsibilities to support bystander action and create safe and health workplaces.
 - understanding and promoting workplace diversity, in particular gender equality, and practical applications of this through use of management processes, including performance management.
 - the need to provide managers with guidance on making safe and appropriate referrals.
 - best-practice bystander intervention in sexual harassment and sex discrimination.
- Participation in face-to-face training will be compulsory for all managers and supervisors annually.
 - All other employees should participate in training biannually.

Recommendation 10: People Development Command strengthens management of risks associated with the Academy environment by:

- reviewing and updating the Professional Boundaries course by the recommended academic governance structure to further focus it on issues of sexual harassment, sex discrimination and predatory behaviour, as well as to introduce gender equity and equality concepts to instructors.
- maximum time in position is instituted for police teaching staff in People Development Command.
- further tightening of the selection of field coaches with explicit regard for Victoria Police values, including respect and equality for women and men alike.
- further prescription of the management steps taken by the Academy to manage risks and victim/target safety detected, including through the Evaluation Strategy or Learner Surveys of sexual harassment or gender based discrimination

Recommendation 11: That Victoria Police reviews the inherent requirements for roles to ensure they reflect the tasks required.

Recommendation 12:

- Consistent with and feeding into the organisation-wide gender performance framework, performance in workplace equality and respect should be a compulsory performance field or performance appraisal and reward and incentive systems. This includes being a compulsory field of PDAs and executive management performance agreements.
- Inclusive management should be regarded as an area of continuous and ongoing professional development for all employees.
- Managers who do not have and record conversations to support equality and respect in staff PDAs should be assessed as not meeting KPIs.
- Introduce upward assessment processes for all supervisors and managers as part of the performance development process. Feedback from this process should inform ongoing training needs assessment and development of the supervision and management training curriculum to be developed by PDC.
- Performance development measures for executives should be implemented to support people development in the workplaces they manage. Measures should emphasise effectiveness over compliance. Consider processes that formally acknowledge executives assessed to be effective in developing people and building organisational capability, including those who pro-actively develop employees to reflect the intended diversity of the Victoria Police workforce at all levels.
- Victoria Police reweights the capability descriptors guiding performance assessment for supervisors and managers at all levels with additional focus on people management skills and demonstrated leadership in building a skilled and diverse workforce
- Victoria Police should review and identify the appropriate tracking and recording

mechanism(s) for inappropriate workplace behaviours that warrant ongoing supervision and management.

Recommendation 13: Victoria Police establish a workplace harm model that includes:

- immediate establishment of an external ‘safe space’ service to provide confidential support to victims/targets of workplace harm
- an internal victim-centric workplace harm unit to triage and case manage internal complaints about workplace harm
- an Independent Advisory Board (IAB) to provide expert advice and support to the Workplace Harm Unit
- an expert HR business partnering model to support local management.

Recommendation 14: The roles of Welfare Services, including peer support, and Police Psychology be reviewed to ensure their purpose and remit are clarified and to ensure they are properly aligned, resourced and skilled to provide their core functions.

Recommendation 15: Establish a specialist human resource business partnering model to:

- coach and mentor managers and supervisors throughout the business to enhance their supervisory and management skills
- provide secondary human resource consultations to managers where specific issues had been perceived or identified, including sexual harassment, predatory behaviour and sex discrimination
- support divisional engagement with the workplace harm model and provide expert guidance preventative (gender diversity) and interventions for workplaces that were at risk of, or impacted by inappropriate behaviour.

Recommendation 16: Victoria Police should advocate for changes to its operating context and environment, and take interim actions where possible to

enhance its flexibility to build diversity, set and enforce Victoria Police values and behaviours. This includes:

- providing further practical and coordinated policy guidance, readily available to all personnel on the interpretational criteria for the:
 - > Victoria Police Act terms conduct, misconduct and reason to believe
 - > Protected Disclosure Act terms – improper conduct, and detrimental action: and
 - > Independent Broad-based Anti-corruption Commission Act term – corrupt conduct.
- amending the *Victoria Police Manual* to provide information regarding complaint processes related to executive level personnel
- considering revising classifications for end of service to include ‘resigned under investigation’ and this be used in the Gazette and statements of service in cases within the remit of this review
- consulting with the Director of Public Prosecutions to pursue and conclude disciplinary charges concurrently with criminal investigations/proceedings unless there is a real risk that the disciplinary matter will prejudice the criminal proceeding.

Recommendation 17: That Victorian Government work with ESSS to undertake a gender impact analysis of the defined benefit scheme, and undertake comparison with other schemes. This analysis should be used as evidence to review the appropriateness of the scheme in supporting contemporary career patterns, flexible work, and wellbeing of all Victoria Police sworn personnel.



Recommendation 18: The Victorian Government consider whether there are any legislative barriers in the *Victoria Police Act 2013* and *Protected Disclosure Act 2012* which prevent disclosure of the subject matter of a protected disclosure or assessable disclosure by Victoria Police personnel or Victoria Police work units to support services and to WorkSafe Victoria. If so, the Victorian Government should consider the most appropriate legislative amendment to enable disclosure in those circumstances.

Recommendation 19

- Police Registration and Services Board (PRSB) members should be provided with contemporary training in equal opportunity and human rights law, as well as the impact of sexual harassment and discrimination on victims. This should occur at induction for new members, immediately for current member, and then every two years.
- That the PRSB work with specialist partners to develop guidelines on EO and HR and victim impact in decision-making

Recommendation 20: The Victorian Government and Victoria Police should streamline and simplify Victoria Police's existing discipline system by considering and implementing the detailed recommendations for reform in:

- the Office of Police Integrity report, *A fair and effective Victoria Police discipline system* (2007)
- the Office of Police Integrity report, *Improving Victoria Police discipline and complaint handling systems* (2011)
- the State Services Authority report, *Inquiry into the command, management and functions of the senior structure of Victoria Police* (2011)



Appendix 2

Victoria Police Force Enterprise Agreement 2011 – Gender Equity Impact Assessment

Victoria Police commissioned the Victorian Equal Opportunity and Human Rights Commission (Commission) to undertake an Independent Review into Sex Discrimination and Sexual Harassment, including Predatory Behaviour, in Victoria Police (Review). The Review's task is to examine the nature, prevalence and impact of sex discrimination and sexual harassment, and identify the drivers and workplace enablers of sex discrimination and sexual harassment in Victoria Police.

Gender Equity Impact Assessment

As part of this process, the Review conducted a gender equity impact assessment on the *Victoria Police Force Enterprise Agreement 2011 (Agreement)* in order to determine whether on its terms, or in its application or interpretation, it might discriminate directly or indirectly against Victoria Police employees on the basis of sex, pregnancy, parental or carer status, or characteristics of those protected attributes. The Review also considered whether there are any matters that could usefully be included in the Agreement, or other action that could be taken in relation to application of the Agreement, which would support compliance by Victoria Police with their obligations as an employer duty-holder under the *Equal Opportunity Act 2010 (Vic)* including to take reasonable steps to eliminate discrimination, sexual harassment and victimisation as far as possible. The evidence gathered during the Review has assisted with the identification of issues within the Agreement.

The gender equity impact assessment was completed between August and October 2015, in the context of the current enterprise

bargaining negotiations to replace the existing Agreement which nominally expires on 29 November 2015. Review team staff met with industrial relations teams for Victoria Police, and the Police Association Victoria, to discuss the headline issues that arose during our assessment and potential solutions to those issues. Former Fair Work Commissioner Dianne Foggo also provided advice.

There are five headline proposals the Review identified from the gender equity impact assessment of the Agreement and subsequent consultations and interviews:

1. Including a statement of intent to provide an equitable and flexible workplace, and to take reasonable measures to prevent discrimination, sexual harassment and victimisation
2. Providing clarity around what flexible or family friendly clauses are contained within the Agreement and improving those clauses and practices
3. Including additional leave for employees experiencing family violence
4. Considering disadvantage that might arise from the transfer and promotion processes.
5. Reinforcing, through progression criteria in the Agreement, that personnel ought to demonstrate a commitment to Victoria Police values.

The recommendations, which relate to these five areas, focus primarily on changes that can be made to the Agreement, either in terms of additions or amendments which may reduce the potential for discrimination to arise out of interpretation of the Agreement, or which will assist with Victoria Police complying with



their positive obligation in section 15 of the Equal Opportunity Act to take reasonable and proportionate steps to eliminate discrimination, sexual harassment, and victimisation as far as possible.

The need for complementary support for and training of employees and managers in equal opportunity law, negotiating flexible options, moving to light duties and the provision of meaningful work, and seeking transfer to a safe job or returning from parental leave, will be the subject of the broader Review report. Similarly, the need for education and information for employees and managers about options available for internal reviews of flexible work requests (including requests for part-time work) that have been refused, is also considered in the Review report.

Recommendations arising out of the Assessment

Statement of Intent

Recommendation 1: Incorporate a statement of intent into the Agreement to provide a safe, equitable and flexible workplace.

This will send a strong message that Victoria Police is committed to complying with its obligations in the Equal Opportunity Act and will provide managers and decision-makers with guidance on the intention of the parties in agreeing the various flexibility terms within the Agreement.

Providing clarity around flexible work arrangements

Recommendation 2: Create a summary flexibility clause which cross-references clauses relating to flexible work practices in the Agreement. This can be located with the statement of intent.

This will provide ease of reference for those seeking to understand their entitlements.

Recommendation 3: Provide examples in the Agreement of the types of flexible work practices that can be requested or negotiated, subject to reasonable business grounds (in

accordance with clause 15 of the Agreement and section 65 of the Fair Work Act). For example, increasing or decreasing hours of work, changing the employee's pattern or location of work on their request, allowing for fixed hours or patterns of work, job share arrangements or working from home. Some examples are already included in VPM 302-1 (such as use of leave or part-time work) but these and others (discussed below) could be included in the Agreement for ease of reference and to provide clarity and authority to managers on the full range of options available.

Improving flexible work entitlements

Recommendation 4: Include clauses providing for paid IVF leave and breastfeeding breaks. IVF leave would allow an employee (with medical evidence) to take time off to attend IVF-related appointments without reducing their personal leave entitlement. Breastfeeding breaks would allow an employee to take additional breaks with appropriate facilities in order to breastfeed or express breast milk.

Recommendation 5: Extend the entitlement in clause 150 of the Agreement of reimbursement for childcare arrangements (where the employee is required to perform duties in response to an unforeseen emergency situation where there is no pre-existing child care arrangement) to other unexpected changes to working hours. At the very least this should include an equivalent entitlement to clause 36 of the *Victorian Public Sector Determination 2012* of reimbursement of reasonable childcare costs where an employee is required to work overtime with less than 24 hours notice (which we understand is currently located in policy only).

Recommendation 6: Include a clause providing the ability for employees to apply for job share or home based work, where their work is amenable to that type of arrangement. Any application for a job share or home based work should be subject to reasonable operational requirements and appropriate safeguards for the employee to return to full-time work (for example through the use of two positions worked part time, rather than two employees sharing one full-time position with the same

position number). These arrangements should be open for negotiation by any employee, but should particularly be targeted at senior female staff to address the low numbers of women in senior roles at Victoria Police.

Recommendation 7: Expand the EOI process in clause 18 to apply to part-time and/or temporary job openings such as parental leave backfill roles. Clause 31.1 may need subsequent amendment to allow for an employee to work part time where they are selected for an advertised position, have applied to work part time and the employer has agreed, or where they have been transferred to a part-time position under clause 18.

This will provide an additional mechanism for those currently working part time or on flexible arrangements to be able to move locations without fear of being required to return to full-time work and then re-negotiate flexible arrangements, in order to transfer. It ensures the benefit of transferring locations is not limited to those working full time.

Supporting and protecting employees experiencing family violence

Recommendation 8: Include additional paid family violence leave in the Agreement, as a standalone entitlement. This entitlement should take into account the additional confidentiality requirements that might be required due to the nature of the Victorian Police Force, and provide immunity to members of Victoria Police against disciplinary charges where they do not comply with mandatory obligations that require reporting of family violence against themselves or a staff member.

The Review acknowledged the need to develop a comprehensive family violence policy to underpin the entitlement to family violence leave in the Agreement, tailored to the circumstances of Victoria Police.

Considering disadvantage arising out of transfer, promotion and progression

Recommendation 9: Under clause 63 of the Agreement, explicitly provide that all periods of paid parental leave (whether at full or half pay, however described) count towards the four year period of service required for in situ promotion from constable to senior constable, and the service requirements for movement through progression points.

While this might be current practice, the Agreement is ambiguous as to whether paid leave is included, and this amendment will clarify the position and reduce disadvantage that might be caused by any alternative interpretation such as personnel being disqualified for promotion or progression due to taking parental leave entitlements.

Demonstration of Victoria Police Values

Recommendation 10: Consider amending clauses 63.8 and 63.10 of the Agreement to provide that suitability for progression will be assessed against the agreed policing capabilities for the employee's progression level (63.8) or requirements for Superintendent progression (63.10) and satisfactory demonstration of Victoria Police values and behaviours, to the appropriate level for the officer's rank and responsibilities.

This recommendation is aimed at addressing those who have potentially problematic attitudes that contribute to sex discrimination and sexual harassment in the workplace. Changing the clause to include these performance and behavioural measures would bring it into alignment with the "progression criteria" for unsworn employees of Victoria Police, as set out in clause 22.3.2 of the *Victorian Public Sector Determination 2012*. This includes achieving performance targets, demonstrating public sector values and behaviours, and applying learning and development. Victoria Police would be able to ensure that the appropriate standard is set for each rank and responsibilities. This could reflect the importance of ethical leadership at more senior levels, such as Inspector and above. This is a focus of broader Review recommendations.



Conclusion

By examining these broader structural and policy frameworks, the gender equity impact assessment provides an opportunity to focus on some of the direct and underlying causes of sex discrimination and sexual harassment in Victoria Police. The Commission considers that making these amendments to the Agreement and supporting actions, in addition to implementing the Action Plan soon to be provided by the Review, Victoria Police will have ample guidance on how to take reasonable steps to eliminate discrimination, sexual harassment and victimisation within the workplace.

This advice was forwarded to the Police Association Victoria and Victoria Police on 19 November 2015.



Appendix 3

Victoria Police rank and classification structure

Police

Chief commissioner
Deputy commissioner
Assistant commissioner
Commander
Superintendent
Chief inspector
Inspector
Senior sergeant
Sergeant
Senior constable / Leading senior constable
Constable
Recruit
Reservist

Protective services officers

PSO Senior supervisor
PSO Supervisor
PSO Senior
PSO First class
PSO

Public servants

Executive Officer Grade 1
Executive Officer Grade 2
Executive Officer Grade 3
Senior Medical Advisor
Senior Technical Specialist Grade 7
Victorian Public Servant Grade 6
Victorian Public Servant Grade 5
Victorian Public Servant Grade 4
Victorian Public Servant Grade 3
Victorian Public Servant Grade 2
Victorian Public Servant Grade 1
Forensic Officer Grade 7
Forensic Officer Grade 6
Forensic Officer Grade 5
Forensic Officer Grade 4
Forensic Officer Grade 3
Forensic Officer Grade 2
Forensic Officer Grade 1

Other

Senior pilot
Line pilot
Check and training pilot

Appendix 4

Glossary

ADF - Australian Defence Force	The military organisation responsible for the defence of Australia. It consists of the Royal Australian Navy, Australian Army, Royal Australian Air Force.
ADRAC - Alternative Dispute Resolution Advisory Centre	Work unit of Human Resources Department active from 2008 to 2010, responsible for resolving issues of sexual harassment and sex discrimination.
Benevolent sexism	Sexism that may appear positive but may be damaging to the individual and work against achieving gender equity more broadly. Such sexism is often based on the notion that women need men's protection.
Bystander	A person who witnesses sexual harassment or sex discrimination.
CASA - Centres against Sexual Assault	A network of fifteen non-profit, government funded organisations that provide support and intervention to women, children and men who are victim/survivors of sexual assault.
Command	Has various meanings within Victoria Police. Used to refer to: one of three types of second tier organisational units, along with region and department; senior leadership group comprising assistant commissioners and directors and; a management style (as in command and control) involving directing, with authority, the employees and resources to perform the required roles and tasks.
CPSU - Community and Public Sector Union	Federal union with representation in every state and territory which covers Victorian public servants.
Dedicated training workplace	Designated 24 hour police stations where probationary constables work during their Foundation Training program.
Detrimental action	Has the same meaning as in the <i>Protected Disclosure Act 2012 (Vic)</i> and refers to negative action taken or threatened to be taken against a person in reprisal for a report made under the Act. Examples of detrimental action included in the Act are (a) action causing injury, loss or damage; (b) intimidation or harassment; (c) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action. (See also 'victimisation').
ECRU - Equity and Conflict Resolution Unit	Work unit of Victoria Police within the Human Resources Department in operation from 2004–2008, responsible for resolving issues of sexual harassment and sex discrimination.
ESSS	Emergency Services and State Super
Executive Command	The executive body of Victoria Police comprising the Chief Commissioner, three deputy commissioners and two executive directors.

Executive interviewee	In reference to participants in this Review, this means a person in Victoria Police Executive Command or Victoria Police Command (senior leadership group comprising assistant commissioners and directors).
External expert	In reference to participants in this Review, this means a person not employed by Victoria Police who has specialist experience or knowledge in a relevant area.
Fair Work Commission	The Commonwealth industrial relations body that has powers to hear certain disputes related to Victoria Police public servants, police and protective services officers.
Female interviewee	In reference to participants in this Review, this means a woman who participated in a confidential interview.
Former executive	In reference to participants in this Review, this means a past employee of Victoria Police at the police ranks of assistant commissioner, deputy commissioner or chief commissioner or a public servant of the level executive officer 2.
HRD - Human Resource Department	A department within Victoria Police that sits within the Business Services arm of the organisation.
Gender equality	Means equality between men and women, entails the concept that all human beings, both men and women, are free to develop their personal abilities and make choices without the limitations set by gender identity stereotypes, gender roles and prejudices, social norms and structures. Gender equality means that the different behaviour, aspirations and needs of women and men are considered, valued and favoured equally. It does not mean that women and men have to become the same, but that their rights, responsibilities and opportunities will not depend on whether they are born male or female.
Gender equity	Means fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but which is considered equivalent in terms of rights, benefits, obligations and opportunities. Gender equity leads to equality.
Gender-based hostility	In reference to this Review, this means attitudes or norms that are unfriendly, intimidating or potentially threatening to a person because of perceptions about their gender.
IBAC - Independent Broad-based Anti-corruption Commission	Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. IBAC may also investigate serious corruption and police misconduct.
LGBTI	Lesbian, gay, bisexual, transgender and intersex. The Review also uses 'LGB' in certain contexts.
Male interviewee	In reference to participants in this Review, this means a man who participated in a confidential interview.
OSBB - Organisational Standards and Behaviours Branch	Recently established work unit of Victoria Police Human Resource Department which manages workplace issues within the organisation.



Participants	People who contributed to the Review through participating in an interview, providing a written submission, completing the survey or speaking with the Review team on site visits.
People Matter Survey	The People Matter Survey is an annual employee opinion survey run by the Victorian Public Sector Commission (VPSC) for Victorian public sector organisations. Victoria Police participates in the survey.
PRSB - Police Registration and Services Board	An independent statutory body that provides for external appeal and review of certain Victoria Police decisions affecting police and protective services officers
Positive duty	Refers to the duty of employers under Part 3 of the <i>Equal Opportunity Act 2010</i> (Vic) to take positive action to eliminate discrimination, sexual harassment and victimisation.
Predatory behaviour	Within the survey predatory behaviour was defined as people “misusing their authority or position to manipulate circumstances or people to gain sexual or other personal gratification for themselves or others”. Within the scope of this project, predatory behaviour refers to behaviour that falls within the definition of sexual harassment and specifically targets and aims to exploit others.
Primary prevention	Adapts the meaning of primary prevention used in public health. Primary prevention in the sexual harassment and sex discrimination domains has the goal to limit the incidence of harassment and discrimination and their consequences by measures that eliminate or reduce their causes or determinants.
PDC – Professional Development Command	Organisational unit of Victoria Police responsible for education and training.
PSC - Professional Standards Command	Organisational unit of Victoria Police responsible for ethical health and integrity management.
Protected disclosure	Previously known as ‘whistleblower complaints’, a protected disclosure has the same meaning as section 3 of the <i>Protected Disclosure Act 2012</i> (Vic).
PSO - Protective services officer/s	Protective services officers are sworn officers of Victoria Police who have fewer powers than police. Their legislated functions are protection of (a) persons holding certain official or public offices; and (b) the general public in certain places; and (c) certain places of public importance. They have specified powers to apprehend, arrest, search and fine people within 'designated places'.
Public servant/s	Personnel of Victoria Police who are not sworn officers, being Victorian Public Service (VPS) personnel, forensic officers, senior medical advisors, and (unless specifically excluded) executive officers.
ROCSID - Register of Complaints, Serious Incidents and Discipline	Information system used by Professional Standards Command of Victoria Police to manage allegations and investigations of complaints regarding unethical behaviour of Victoria Police personnel.
Senior manager	In reference to participants in this Review, this refers to police ranks of inspector and superintendent, public servant grades of VPS6, VPS7 and EO3, protective service officer rank of PSO.

Sex discrimination	Has the same meaning as the <i>Equal Opportunity Act 2010</i> (Vic) s 7, Treating, or prosing to treat a person unfavourably because of their sex or characteristics associated with their sex. For example, carer responsibilities, pregnancy and breastfeeding.
Sexual harassment	Has the same meaning as the <i>Equal Opportunity Act 2010</i> (Vic) s 92: 'a person sexually harasses another person if he or she— (a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or (b) engages in any other unwelcome conduct of a sexual nature in relation to the other person— in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. There is a range of behaviours that may constitute sexual harassment, from intrusive questions about someone's private life or the way they look, sexually suggestive behaviour, such as leering or staring or offensive gestures, brushing up against someone, touching, fondling or hugging, sexually suggestive comments or jokes, through to criminal offending such as assault and sexual assault as well as predatory behaviour.
SOCIT - Sexual Offences and Child Abuse Investigation Team	Team of specialist detectives within Victoria Police who are trained to respond to and investigate sexual assault and child abuse.
Supervisor	Refers to police ranks of sergeant and senior sergeant; PSO rank of supervisor and senior supervisor
Sworn member/s	Police and protective services officers.
Target or target/victim	Person who has experienced some form of sexual harassment or predatory behaviour. The word victim may be problematic in this context as it may perpetuate stereotypes about lack of agency or resilience for people targeted by these behaviours.
TPAV - The Police Association Victoria	The union representing Victorian police and protective services officers.
Victimisation	Has the same meaning as the <i>Equal Opportunity Act 2010</i> (Vic) s 104 and refers to subjecting or threatening to subject a person to detriment because they have asserted their rights under the Act, for example making a complaint or giving evidence in connection with a matter. The term is also used informally in this report to refer to negative actions taken against a person in retaliation for making a complaint about sex discrimination or sexual harassment including predatory behaviour. (see also 'detrimental action').
Victim/survivor	Used to describe people who have experienced sexual assault, consistent with its usage by the Centres against Sexual Assault (CASA) and Victoria Police SOCIT.
Victoria Police personnel	Includes police, protective services officers, public servants and executive officers. The term 'personnel' is used interchangeably with 'employees' and 'staff'.



VPS - Victorian Public Service	The acronym VPS is often used to refer to public servant/civilian personnel, although 'public servant' is a broader category (see also 'public servant').
VPSC - Victorian Public Sector Commission	This body, headed by a Commissioner, was established in 2014 with a number of legislated functions. These include to strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services and to maintain and advocate for public sector professionalism and integrity.
Workplace harm	Refers to the detrimental effects of being targeted by inappropriate behaviour of work colleagues. For the purposes of this Review such inappropriate behaviours include sex discrimination (including gender-based bullying), sexual harassment, predatory behaviour, and victimisation; however a broader definition would include detrimental effects resulting from all forms of inappropriate behaviour by colleagues.
WorkSafe Victoria	Victorian statutory body responsible for managing: health, safety and welfare in the workplace under the Occupational Health & Safety Act 2004 (Vic); workers' compensation and the rehabilitation of injured workers under the <i>Accident Compensation Act 1985</i> (Vic) and the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (Vic) and; employer insurance and premium under the <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> (Vic).



Appendix 5

Site visit summary

Eastern Region

- Bairnsdale police station
- Box Hill police station
- Wangaratta police station

North West Metro Region

- Broadmeadows police station
- Fitzroy police station
- Melbourne East police station
- Melbourne West police station

Southern Metro Region

- Caulfield police station
- Dandenong police station
- Frankston police station
- Prahran police station

Western Region

- Ballarat police station
- Bendigo police station
- Geelong police station
- Mildura police station
- Sunshine police station
- Warrnambool police station

Central

- Crime Command
- Human Resource Department (various work units)
- Office of the Chief Commissioner
- Professional Development Command (various work units)
- Professional Standards Command (various work units)
- Road Policing Command (various work units)
- Task Force Salus
- Transit & Public Safety Command (various work units)

