



Research Brief

Victorian Attorney General's Office (VAGO)

Report: Sexual Harassment in Local Government

Introduction

Sexual harassment as defined in Victoria's Equal Opportunity Act (2010) includes any undesirable conduct of a sexual nature that makes a person feel offended, humiliated, and/or intimidated.

Sexual harassment can be verbal, written, or physical. Sexual harassment includes, but is not limited to behaviour such as:

- comments about someone's private life or appearance
- sexually suggestive behaviour, such as leering or staring
- brushing up against someone, touching, fondling, or hugging
- sexually suggestive comments or jokes
- displaying offensive images or objects
- repeated requests to go out on dates
- requests for sex
- sexually explicit emails, text messages or posts on social media
- sexual assault, indecent exposure, physical assault, and stalking (which are also criminal offenses) (Equal opportunity Act, 2010 (Vic.)).

The intention of the harasser is irrelevant. An isolated occurrence is deemed adequate for sexual harassment to be identified which is to say that a pattern of such behaviour is not necessary for sexual harassment to occur. Despite being unlawful, sexual harassment remains a significant and valid concern in workplaces.

This Research Brief examines the Victorian Attorney General's Office (VAGO) 2020 report on *Sexual Harassment in Local Government*. It examines the objective and the findings of the report including the prevalence, prevention and response of sexual harassment in local government in the state of Victoria.

Background

In December 2020, the Victorian Attorney General's Office (VAGO) released its findings on Sexual Harassment in Local Government. The overarching objective of the report was to explore if Victorian local councils were providing workplaces that are free from sexual harassment. The report was collated as a result of an audit process of five councils and a whole of local government survey throughout Victoria which was undertaken in June 2020, garnering responses from council employees and councillors alike. There are 79 councils in Victoria of which 75 provided responses to the survey (VAGO, 2020).

The importance of the audit must be noted as sexual harassment in the workplace has adverse ramifications for individuals, groups, organisations, and the broader community. Economically, it is estimated that workplace sexual harassment comes at a cost to the Australian economy of \$2.6 billion in terms of lost productivity and \$900 million in costs relating to legal fees, health, and investigations (AHRC, 2020). As sexual harassment in the workplace is unlawful under Victoria's Equal Opportunity Act 2010, it is an obligation of all employers to have embedded

robust but balanced and practical procedures and processes to eradicate sexual harassment in their workplaces.

Prevalence

It was found that the five audited councils did not have a mechanism in place in which to accurately garner data with regard to sexual harassment in their workplaces.

As a result, employees were not surveyed internally about any experience of sexual harassment within their workplaces and there was no system whereby complaints could be classified in order for prevalence of sexual harassment within the workplace to be ascertained.

This finding is problematic as the lack of data will impact on the ability of councils to meet their obligation under the Gender Equality Act 2020 (Vic). As of June 2021, councils must measure and report on their progress on seven markers of gender equality indicators and sexual harassment in the workplace is one of these. Local councils are defined entities under the Act which seeks to improve gender inequality and address issues such as systemic inequities and safety in the workplace which disproportionately affect women.

The VAGO survey revealed that of the 9,939 local council respondents to the survey, 28% had experienced sexual harassment in the workplace and only 2% had gone on to make a formal complaint (VAGO, 2020). These experiences of sexual harassment had taken place in the preceding 12 months to June 2020.

The survey also shows that particular cohorts were at a higher risk of experiencing sexual assault. These include lesbian, gay, bisexual, trans and gender diverse, queer, questioning, intersex and asexual (LGBTQIA+) people where 48% experienced sexual harassment, young women where 42% of women between the ages of 18 and 34 indicated they had experienced sexual harassment and lastly 41% of people living with a disability had experienced sexual harassment in the workplace (VAGO, 2020). Perpetrators were either at the same level or at a higher level than the victim with mental health, self-esteem, and confidence all adversely affected due to the experience of sexual harassment.

It was accepted by all councils that co-ordinated discussions take place with appropriate state government authorities and local government peak bodies in order to develop a methodology which can regularly evaluate the prevalence of sexual harassment across local councils in Victoria.

Prevention

Whilst not mandatory for councils, the Victoria Public Sector Commission's (VPSC) Model Policy for the Prevention of Sexual Harassment in the Workplace (2018) is a suitable policy for the local government sector as it provides the vital elements of a thorough sexual harassment policy. Again, the Victorian Equal Opportunity Act 2010, requires employers to take the necessary measures to prevent sexual harassment in the workplace, not merely respond to it once it has occurred.

Even though 90% of respondents expressed that they knew where to find their local council's sexual harassment policy, VAGO (2020) found that policies lacked correct and clear information and were cumbersome to traverse.

In an attempt to augment prevention strategies, councils do offer training on sexual harassment in the workplace. However, almost 25% of the respondents said they had never participated in such training and those in less secure work, such as casual positions were even less likely to partake in such training (VAGO, 2020).

Without effective training across council bodies, there was less chance of people understanding the serious nature of sexual harassment and an even less chance of reporting it. In addition to this, there are missed opportunities to have profound conversations about sexual harassment in the workplace and a shared understanding of what sexual harassment entails. Training and appropriate policies can challenge myths surrounding what constitutes sexual harassment, minimise the trivialisation of sexual harassment and create confidence for reporting of sexual harassment incidents as they occur.

There is no doubt that training is an important part of the fight to eliminate sexual harassment in the workplace. However, training is not the panacea. CEOs, senior and executive teams, and leadership need to lead by example and create buy-in for their respective council employees. Without sound leadership on the issue of sexual harassment a shift in cultural change will not occur. Respectful behaviour cannot be brought about by training alone.

VAGO (2020) made recommendations to all councils in its December 2020 report that councils provide compulsory training on sexual harassment, revisit existing training to include face to face or online workshops for all staff and councillors and for this to occur once every two years with online modules to be undertaken within the 2-year period in an effort to maintain sustainability and knowledge on the topic of sexual harassment. The recommendation also highlighted the need for bystander training and for content to be aligned to council policy and procedures on sexual harassment. At the time of the report's release in December 2020, only the five audited councils had agreed to these recommendations.

If local councils are to challenge the issue of sexual harassment in the workplace and foster a culture of respect, they need to unequivocally espouse a zero tolerance to sexual harassment in the workplace.

Response

Any response from a council would need to ensure that the complaints process is easy to access, navigate and where the process is not onerous on the victim. The lack of encouragement of complaints and understanding of the issues more broadly reflect in the low complaint rate of 2 per cent (VAGO, 2020).

Survey respondents indicated that the two most common reasons for complaints not being made include that victims felt that the behaviour would not be seen as being serious enough and that nothing would come of the complaint (VAGO, 2020).

Complaint handling was found to be fraught with omissions during the audit of the five councils as part of the report. There was confusion as to the legal understanding of sexual harassment, not keeping complainants informed of the progress of their complaint, poor record keeping of complaints and lack of support for hesitant complainants when they expressed misgivings about continuing the complaints process (VAGO, 2020). Such omissions are significant as they can expose councils to litigation and have negative impacts on the wellbeing of victims.

All of the five audited councils accepted to encourage complaint options, including the option to make anonymous complaints, if need be, revisit documentation of sexual harassments complaints

for a more seamless process including all interactions and correspondence pertaining to individual complaints and clearly recording name and positions of personnel making decisions to submitted complaints. For non-anonymous complaints it was accepted that complainants have the right to be made aware of the outcome of the complaint made in a timely manner and that hesitant complainants would be guided by a process that would enhance confidence in the complaints process (VAGO, 2020).

Councillors

As the community facing members of council, councillors are not immune to sexual harassment and in fact experience sexual harassment at similar levels to other council employees, with the difference being that councillors have less access to support and are unsure of how to report sexual harassment incidents. Forty-one councillors across Victoria representing 30% of councillor respondents, expressed they had been sexually harassed at work in the 12 months preceding June 2020. Of these, 41% were female and 19% were male (VAGO, 2020). Whereas council employees mostly encounter sexual harassment from fellow council employees, councillor experiences demonstrated that perpetrators were either fellow councillors or a member of the public. Due to the nature of the work of councillors, not being official employees of the everyday council body, they are much less likely to receive sexual harassment training or know where to obtain assistance in the event of experiencing sexual harassment. Furthermore, non-resolution of sexual harassment matters may result in females not seeking re-election which further compounds the gender balance issue and equal opportunity as currently 44% of councillors in Victoria are women with thirteen out of 79 councils having one female councillor only (VAGO, 2020).

Local Government Act 2020

The Local Government Act 2020 is an ambitious undertaking which seeks to reform amongst other areas, local government organisational structures, codes of conducts and procurement processes (Local Government Act, 2020). With regard to sexual harassment the Local Government Act 2020 in conjunction with the Gender Equality Act 2020 will see councils commit to gender equality, inclusion, and diversity and for women in particular, levels of support to address disadvantage so as women can thrive in local council workplaces.

References

Australian Human Rights Commission. (2020) Respect @ Work: National inquiry into Sexual Harassment in Australian Workplaces, retrieved from <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

Equal Opportunity Act 2010 (Vic.) s. 4 (Austl.) <http://www.legislation.vic.gov.au/>

Gender Equality Act 2020 (Vic.) retrieved from http://classic.austlii.edu.au/au/legis/vic/num_act/gea20205o2020216/

Local Government Act 2020 (Vic.) retrieved from <https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020/008>

Victorian Attorney General's Office. (2020) Sexual Harassment in Local Government

Victorian Public Sector Commission. (2018) Prevention of Sexual Harassment in the Workplace

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For further inquiries:

[arts.monash.edu/gender-and-family-violence](https://www.monash.edu/gender-and-family-violence)
<https://www.monash.edu/arts/gender-and-family-violence/safe-and-equal-at-work-program>