



# 7

## Responding to reports and complaints

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**Chapter 7 describes the structures, policies and processes that Ambulance Victoria has in place to support reports and complaints of unlawful and harmful workplace conduct. It analyses how Ambulance Victoria’s approach complies with the positive duty in the Equal Opportunity Act to provide a safe environment for employees and first responders to come forward with reports and complaints. It also details the Commission’s findings about the rates of reporting of discrimination, sexual harassment, bullying and victimisation in Ambulance Victoria, providing context for our findings regarding the adequacy of some measures to respond to unlawful and harmful conduct when it occurs.**

## → KEY POINTS

**The Equal Opportunity Act requires Ambulance Victoria to ensure there is a safe and supportive environment for members of the workforce to confidently speak out**

- The positive duty in the Equal Opportunity Act requires Ambulance Victoria to create robust report and complaint procedures and to establish monitoring and evaluation processes that support the identification of key trends, patterns and lessons to understand where changes or action may be necessary.
- Ensuring there is an effective and transparent response framework demonstrates that breaches of the Equal Opportunity Act will not be tolerated; this should complement and reinforce an employer's prevention approach.

**Ambulance Victoria has recognised the need to improve its report and complaint system and has taken steps to implement significant changes over the last five years**

- Since 2017, Ambulance Victoria has sought to enhance the consistency, transparency and fairness of its response to reports and complaints, including those relating to discrimination, sexual harassment, bullying and victimisation. A cornerstone of these changes was the centralisation of complaint handling in the Professional Conduct Unit.
- Ambulance Victoria has also recently recognised the need to improve the information provided to its workforce about complaint pathways, improve its communication with complainants and increase its capability to assess complaint trends and emerging issues; the organisation has taken steps to address these issues with the creation of the Specialist Support Unit.

## → KEY POINTS

**Some changes have improved the effectiveness of the report and complaint system, however, a number of gaps in compliance with the positive duty remain, which are integral to developing a system that is seen to be fair and will not cause further harm**

- Many of these gaps are critical to embedding a victim-centred approach and to proactively addressing potential barriers to reporting. These gaps include, for example, clearly identifying how the wishes of the complainant will be taken into account in resolving reports and complaints, timeframes for responses to complaints and specifically detailing how confidentiality will be maintained.
- The information available to employees and first responders does not consistently promote that there are multiple avenues available to make a report, including critically, those that are external to Ambulance Victoria and outside of direct management lines of responsibility. Some of the material currently available also contains out-of-date or inconsistent information, which reduces the effectiveness of new initiatives, such as the creation of SafeSpace and external anonymous reporting options.
- The ability of Ambulance Victoria to understand whether complaint processes and systems are working effectively, to analyse emerging trends and issues, and to intervene early, has been hampered by a lack of comprehensive data and clear, agreed indicators for performance that can be measured and tracked over time.

**The low levels of reporting discrimination, sexual harassment, bullying and victimisation at Ambulance Victoria indicate that the response measures are not creating a safe environment for employees and first responders to come forward with their experiences**

- The Commission's survey, reinforced by the interviews, submissions and data from Ambulance Victoria, shows that there are very low rates of reporting:
  - 15.3% of the 898 people who experienced discrimination and responded to the survey question made a formal complaint
  - 9.6% of the 335 people who experienced sexual harassment and responded to the survey question made a formal complaint
  - 15.9% of the 981 people who experienced bullying and responded to the survey question made a formal complaint
  - there have only been four formal complaints of victimisation recorded in Ambulance Victoria over the last five years.

# 7.1 Responding to unlawful conduct

## 7.1.1 The importance of responding effectively

Everyone deserves to feel safe and respected at work and to feel confident to speak out if they experience unlawful or harmful conduct. Ambulance Victoria and other employers must take steps to not just prevent unlawful or harmful conduct from occurring in the first place, but also to respond effectively if it does occur.

Report and complaint processes are a key plank in preventing and responding to workplace discrimination, sexual harassment, bullying and victimisation.<sup>1</sup>

The presence of a robust report and complaint process can:

- empower complainants
- act as a deterrent to unlawful behaviour
- be a key component in modelling leadership on workplace equality and setting expectations about what behaviour is, and is not, appropriate in the workplace.<sup>2</sup>

Ineffective or inadequate report and complaint processes can, however, compound harm and retraumatise complainants.<sup>3</sup> Where complaints are seen to not have been taken seriously or handled in a fair and timely way, trust is eroded, and the workforce can lose confidence in the report and complaint system. This, in turn, means the workforce are less likely to report unlawful or harmful conduct, which increases the potential for harmful behaviours to continue unchecked, or for respondents to feel emboldened to escalate their behaviour.

Respondents may also feel that processes lack fairness and can experience stress and uncertainty if complaints are not handled in a timely way.

For an organisation, reports and complaints provide an important source of information and intelligence that enable the organisation to act at the earliest opportunity on emerging risks and to continuously improve.<sup>4</sup>

Research suggests that workplace discrimination, sexual harassment and bullying are significantly underreported and there are a range of barriers that prevent people coming forward.<sup>5</sup> Creating systems that recognise and address these barriers is integral to ensuring a safe and effective report and complaint system.<sup>6</sup> Indeed, where people do come forward to make a report or complaint, they often tell of valuing the process of how their complaint is handled as much as the overall outcome; that is, complainants can find effective report processes to be empowering and support healing.<sup>7</sup>

## What do we mean when we talk about reports and complaints?

We asked participants to tell us about informal reports and formal complaints they had made about unlawful conduct they had experienced, witnessed or heard about.

- An informal report involves discussing the unlawful conduct with someone else at Ambulance Victoria without going through a formal process.
- A formal complaint involves reporting unlawful conduct via one of Ambulance Victoria's formal internal processes (for example, through the Professional Conduct Unit), or speaking to an external person or body that has the ability to act on or investigate the unlawful conduct (such as the police, a legal service or the Victorian Equal Opportunity and Human Rights Commission).

Across chapters 7, 8 and 9, the Commission uses the terms 'complainant' and 'respondent', rather than 'alleged victim-survivor' and 'alleged perpetrator'. This reflects our guidance to employers regarding language that can be used when responding to reports and complaints to ensure the processes are fair and impartial.

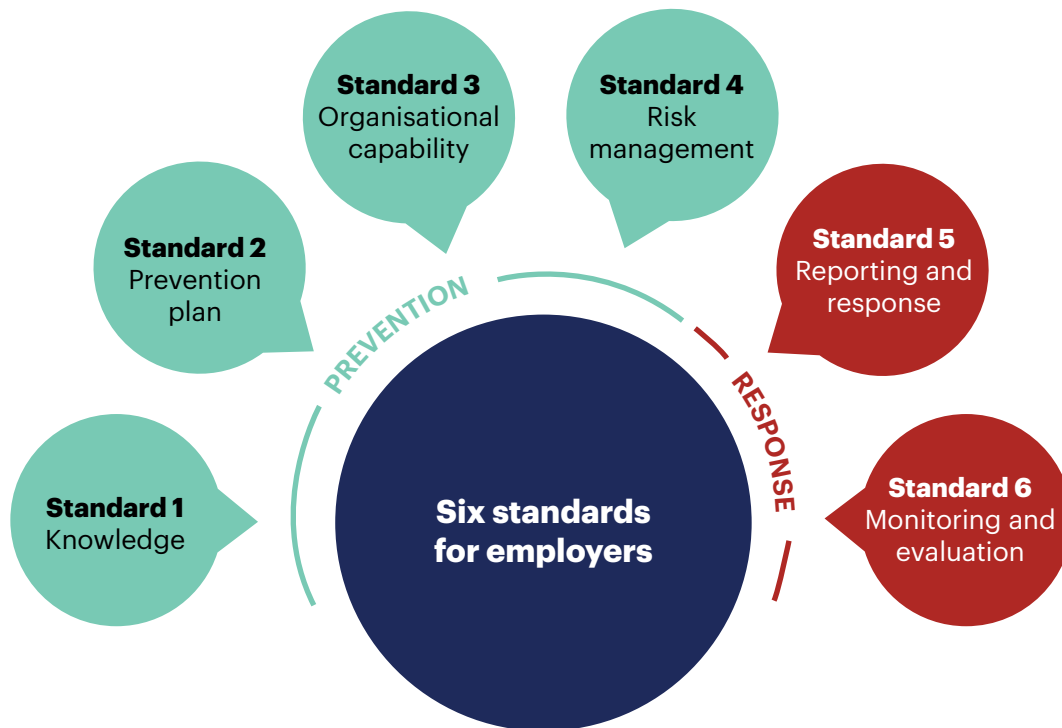
## 7.1.2 Obligations to respond effectively

As outlined in Chapter 3, the Equal Opportunity Act and the Occupational Health and Safety Act require organisations to create safe working environments that are free from discrimination, sexual harassment, bullying and victimisation. Failure to respond appropriately to reports and complaints of this type of conduct can result in an employer being found legally responsible ('vicariously liable') for the unlawful conduct of employees, unless it can prove that it took 'reasonable precautions' to prevent the conduct from happening in the first place.<sup>8</sup>

## 7.1.3 Leading practice approaches



As Chapter 4 explained, the Commission's guideline on preventing and responding to workplace sexual harassment sets out six minimum standards for complying with the positive duty in the Equal Opportunity Act, with the final two standards focused on response (see Figure 7A below). Importantly for this review, the minimum standards are broadly applicable to discrimination, bullying and victimisation, in addition to sexual harassment, and have been adapted here (as in Chapter 4) when considering Ambulance Victoria's response to this conduct.

Figure 7A – Minimum standards to comply with the positive duty



The two standards relating to response – reporting and response and monitoring and evaluation – are described in Figure 7B below.

Figure 7B – Minimum response standards

Standard	Outcomes
 <b>Standard 5:</b> Reporting and response  Unlawful and harmful conduct is addressed consistently and confidentially to hold perpetrators to account and responses put the victim-survivor at their centre	<ul style="list-style-type: none"> <li>• Employers develop fair and confidential report and complaint procedures in consultation with the staff, with complainants' wellbeing prioritised</li> <li>• Workers know how and where to make a complaint or report and are supported to do so</li> <li>• Responses to complaints are timely and consistent, with proportionate disciplinary outcomes</li> <li>• Employers ensure workers are safe and supported throughout a complaint process, including through identifying and avoiding victimisation</li> </ul>
 <b>Standard 6:</b> Monitoring and evaluation  Outcomes and strategies are regularly reviewed and evaluated for continuous improvement	<ul style="list-style-type: none"> <li>• Employers regularly collect and regularly assess report and complaint (and other) data for trends, patterns and lessons to drive continuous improvement</li> <li>• Employers are transparent about trends, patterns and lessons with workers, boards, and key stakeholders</li> <li>• Workers have confidence that unlawful and harmful conduct is being eliminated in their workplace</li> </ul>

In addition to considering whether Ambulance Victoria has taken steps that are aligned with the Commission's practice guideline, we have also had regard to other guidelines that provide instructive advice or identify leading practice approaches that can assist Ambulance Victoria to respond effectively. For example, WorkSafe Victoria has produced guidance that identifies two central elements of an organisation's response to workplace bullying: intervening early and responding effectively at both the individual and organisational levels.<sup>9</sup> Guidance provided by the (then) Victorian Government Department of Health and Human Services to promote a positive workplace culture to prevent bullying, harassment and discrimination also reinforces the standards identified by the Commission and WorkSafe Victoria.<sup>10</sup>

In addition, there has been extensive research to identify the foundations of effective complaint handling. A range of materials – including guidelines, principles and standards – has been developed to support organisations to embed good practice.<sup>11</sup>

An overview of the key features identified that support effective complaint handling are outlined in Figure 7C.<sup>12</sup> These features demonstrate the need to consider the report and complaint system from end to end, starting with creating environments that support complaints to be made and providing appropriate remedies, through to assessing how complaints are handled to identify improvements.

Figure 7C – **Features of effective complaint handling systems**



#### **Institutional culture**

Recognise a person's right to lodge a complaint. A commitment to resolving complaints effectively will benefit an organisation's reputation and administration.



#### **Transparency and access**

Ensure complaint handling procedures are well known and are easy to understand with clear lines of reporting. People should be aware of the right to make a complaint, how and where to do it and how it will be handled. Vulnerable persons should be helped to make a complaint, if needed.



#### **Responsiveness and feedback**

Acknowledge and respond to complaints promptly. Inform complainants of the expected timelines and keep them informed throughout the complaint process.



#### **Objectivity and fairness**

Address complaints objectively, fairly and impartially. Declare and appropriately resolve conflicts of interest and observe procedural fairness. Protect complainants from victimisation or harassment.



#### **Staff training and delegation**

Train staff in good complaint handling practices and develop their awareness of the need to manage complainant expectations. Support complaints staff in their handling of complaints



#### **Accountability**

Open complaint handling systems to scrutiny of clients, staff and governance and review bodies. Maintain a complaints register and keep transparent records of the management and outcome of each complaint



#### **Continuous improvement**

Analyse complaints and patterns of complaints to identify systemic issues and how the system can be improved.



#### **Right of review**

Make internal and/or external review of the complaint's outcome available. Make these avenues of review known to the complainant and respondent.



#### **Fair remedy**

Determine an appropriate remedy, if an investigation substantiates the complaint.

**Source:** Adapted from Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report: Improving Institutional Responding and Reporting, Volume 7 (Report, December 2017) 140.



Supporting those who have been sexually harassed to make a report or complaint requires recognition of the specific impacts of this type of conduct, as well as consideration of the potential sensitivities associated with complaints concerning alleged conduct of a sexual nature. Leading practices have identified the need for measures such as:

- victim-centred and trauma-informed processes
- reflecting, where possible, the opportunities for choice and control over processes
- establishing anonymous or other supported reporting mechanisms to address power imbalances within the workplace
- robust confidentiality protections.<sup>13</sup>

### **Victim-centred approaches**

A victim-centric approach gives priority to the victim-survivor's wishes, safety, and wellbeing in all matters and procedures. It seeks to ensure compassionate, sensitive and non-judgmental responses that engage the complainant in the process and minimise any re-traumatisation.<sup>14</sup>

## **7.2 How Ambulance Victoria responds to reports and complaints of unlawful conduct**

Section 7.2 describes Ambulance Victoria's report and complaint system and examines the extent to which this system complies with the Equal Opportunity Act. The Commission acknowledges that Ambulance Victoria has made a number of recent changes to its report and complaint system. Since the review began, Ambulance Victoria has made a series of changes to provide additional information and support, and established a Specialist Support Unit. As a result, the views expressed by participants in this chapter generally reflect the arrangements in place prior to the introduction of these changes. Recognising this, the Commission has been careful to also consider the new structures and procedures in light of leading practice but notes that there is more limited data arising from the review itself to analyse and understand their impact.

### **7.2.1 Report and complaint framework**

As set out in Chapter 4, Ambulance Victoria has a range of documents and guidance material on appropriate standards of behaviour in the workplace. Where these standards are not met, or there is a breach of a policy, employees can make a report or complaint about the conduct.

#### **Structure**

There are a number of units and areas within Ambulance Victoria that currently oversee or hold responsibility for managing complaints. The unit responsible and its role in the complaint process is determined by the content of the complaint, as outlined in Figure 7D below.

Complaints about unlawful and harmful conduct are generally initially received by the Professional Conduct Unit and referred to the Specialist Support Unit.

Figure 7D – **Ambulance Victoria units, the complaint types they receive and the role they play in the organisation’s complaint process**

Complaint type	Responsible unit	Role in complaint process
Complaints and misconduct	Professional Conduct Unit	<ul style="list-style-type: none"> <li>• Triage and assess complaints; this includes identifying complaints appropriate for resolution at a local level</li> <li>• Refer cultural, discrimination, bullying and harassment complaints to the Specialist Support Unit</li> <li>• Undertake internal investigations or oversee external investigations</li> <li>• Ensure welfare support is offered throughout complaint processes</li> <li>• Recommend appropriate sanctions for substantiated misconduct or restorative actions, as appropriate</li> </ul>
Culture, bullying, harassment and discrimination	Specialist Support Unit	<ul style="list-style-type: none"> <li>• Triage complaints and provide case management oversight of complaints involving cultural, discrimination, bullying and harassment</li> <li>• Refer allegations of misconduct to the Professional Conduct Unit</li> <li>• Oversee external investigations of complaints regarding cultural issues, discrimination, bullying and harassment</li> <li>• Ensure welfare support is offered throughout complaint processes</li> <li>• Create management action plans following complaints, with a focus on restorative practices</li> </ul>
Grievances and industrial claims	Workplace Relations Unit	<ul style="list-style-type: none"> <li>• Triage and resolve grievances relating to industrial instruments or employment standards</li> <li>• Refer allegations of misconduct to the Professional Conduct Unit</li> </ul>
Health and safety incidents	Health and Safety Unit	<ul style="list-style-type: none"> <li>• Review and investigate health and safety incidents</li> <li>• Refer allegations of misconduct to the Professional Conduct Unit</li> </ul>
Patient safety incidents	Patient Safety and Experience Unit	<ul style="list-style-type: none"> <li>• Review and coordinate with local clinicians (team managers or clinical support officers) patient safety incidents, analyse and recommend corrective actions, learning and improvements</li> <li>• Refer allegations of misconduct to the Professional Conduct Unit</li> </ul>

**Source:** Adapted from Ambulance Victoria’s ‘High Level Overview of Ambulance Victoria Complaints Pathways’.

### **Professional Conduct Unit**

The Professional Conduct Unit is currently comprised of a lead, a case manager, two operational area managers (who are seconded from their operational duties) and a part-time lawyer. Ambulance Victoria has advised that all employees in the unit are required to have suitable knowledge and experience, including investigation and/or industrial relations capability. In addition to on-the-job training, team members undertake workplace investigation training and a drafting allegations masterclass. Ambulance Victoria advised the Commission that paramedics who join the unit are chosen based on their skills, knowledge and expertise.<sup>15</sup>

### **Specialist Support Unit**

The Specialist Support Unit is comprised of a Director, three senior human resources specialists and a senior data analyst. Ambulance Victoria has advised that there is no specific additional training for those who have been appointed to the unit, and the appointment of members to roles takes into account their skills, experience and knowledge.

## **Key developments and changes**

The current structure supporting Ambulance Victoria's report and complaint system has been informed by developments and changes over recent years. In 2015, the Ambulance Performance and Policy Consultative Committee identified a need to reform the report and complaint process to ensure greater fairness and transparency.<sup>16</sup> The Committee highlighted that concerns had been raised about the lack of transparency of investigations, and that existing processes were resulting in issues not only being unnecessarily escalated, but also causing significant stress to those involved.<sup>17</sup> Following the committee's report, and the commencement of this review, substantial changes have been made to Ambulance Victoria's report and complaint system. Figure 7E provides an overview of these changes.

Prior to 2017	2017	December 2020
No centralised management or oversight of investigations <sup>18</sup>	<b>Establishment of the Professional Conduct Unit</b> to provide counselling and case management support to complainants, to develop preventative training initiatives, and to undertake investigations	<b>Establishment of the Specialist Support Unit</b> to case manage and provide oversight of complaints relating to unlawful conduct during the review
	<b>Centralised collation and management of data</b> on professional conduct matters and risks and develop programs to promote positive workplace relationships	<b>Focus on restorative actions and risk identification</b> informed by data collection by the Specialist Support Unit, as well as analysis of complaint trends and other information sources
	<b>Professional Conduct Policy and Procedure, Complaint Policy and Procedure, Misconduct Policy, Investigation Procedure, Suspension from the Workplace Procedure, Temporary Leave Arrangement Procedure and Performance Improvement Procedure</b> developed to provide a workforce behaviour conduct framework	<b>Recognition of the need to adopt 'human centric'</b> report and complaint processes and to embed a greater focus on communication
Internal or external investigation of complaints, process determined by People and Culture representative in consultation with a senior manager	<b>Professional Conduct Unit</b> oversight of investigations conducted internally or externally	<b>External investigation</b> of all complaints of discrimination, sexual harassment, victimisation and bullying
	<b>New complaint pathway</b> established to report directly to the Professional Conduct Unit	<b>A new independent service – Safe Space</b> – to provide advice and information about complaint pathways and support
		<b>An alternative external pathway</b> to lodge an anonymous complaint through Ambulance Victoria's law firm, Corrs Chambers Westgarth <sup>19</sup>
		<b>Development and communication of a complaint brochure</b> outlining internal and external options to make a report or complaint and available support services.

## 7.2.2 Policies and procedures

### Policy landscape

There are a number of interconnected policies and procedures that support Ambulance Victoria's report and complaint process (described in Figure 7F below). These documents are informed by and build on the processes for disputes and grievances, set out by enterprise agreements.<sup>20</sup>

Figure 7F – Overview of key report and complaint policies and procedures

Performance Improvement Procedure	Grievance Procedure	Professional Conduct Policy and Procedure	Complaint Policy and Procedure
Guides the process of addressing underperformance, including the steps for involving the Professional Conduct Unit if disciplinary action and potential termination of employment is considered where performance does not improve	Sets out the processes for complaints about issues relating to industrial instruments or to the National Employment Standards, which an employee believes is causing them injury, injustice or mistreatment (for example, promotion, transfer decisions, rostering arrangements)	Defines 'professional conduct', which includes unlawful conduct and the roles, responsibilities and expectations of all staff to maintain high standards in the workplace; encourages staff to take steps to address unacceptable behaviours	Sets out processes for complaints by employees, volunteers, and contractors about behaviour (including discrimination, sexual harassment, victimisation and bullying), misconduct and serious misconduct
Misconduct Policy	Investigations Procedure	Temporary Leave Arrangement Procedure	Suspension from the Workplace Procedure
Defines 'misconduct' and 'serious misconduct' and outlines how these behaviours may be investigated and subject to disciplinary outcomes	Outlines the processes that are used to investigate alleged inappropriate conduct or misconduct, including the roles of responsibilities of staff, managers and the Professional Conduct Unit	Outlines the processes and procedures to place an employee on temporary leave from the workplace to provide an alternative arrangement where it is not suitable to remain in the workplace	Outlines the processes and procedures for determining to suspend an employee from the workplace prior to, or during a formal investigation

These documents describe three kinds of behaviours, which in turn, impact how reports and complaints are handled and managed by Ambulance Victoria. For example, behaviour that falls within the definition of ‘misconduct’ are those that can trigger disciplinary processes provided under the enterprise agreements.

Figure 7G – **Behaviour definitions in Ambulance Victoria policies and procedures**

<b>Professional conduct</b>	No overarching definition, but describes a range of <b>‘unacceptable behaviours’</b> , including discrimination, harassment, vilification, victimisation and violence, as well as clinical issues, such as medication management, conflicts of interest and reasonable management action
<b>Misconduct</b>	Unacceptable and/or inappropriate conduct <b>that may justify a disciplinary outcome</b> , including termination, and may consist of a range of behaviours including failing to meet professional standards or breaches of policies or codes of conduct
<b>Serious misconduct</b>	Behaviours that are <b>inconsistent with the continuation of employment</b> or that cause serious and imminent risk to health and safety, or the reputation of the organisation (for example, theft, assault)

## Understanding report and complaint policies and procedures

Complaint processes should be easy to access and clear so that everyone throughout an organisation can understand and use the report and complaint system when needed.

As outlined above, Ambulance Victoria has a significant number of policies and procedures that describe the organisation’s report and complaint process. Key information – that is, information that may be critical to support staff to identify behaviours and what their responsibilities are – is spread across multiple documents. For instance, the *Complaint Procedure* highlights that complaints can be made about experiences of discrimination and harassment; however, a detailed definition of these behaviours is outlined in a separate document: the *Professional Conduct Procedure*.<sup>21</sup>

Ambulance Victoria’s policies and procedures describe different expectations and responsibilities for staff to act on and report behaviours they have experienced or witnessed. The *Professional Conduct Procedure* ‘strongly encourages’ staff to ‘to do something about unacceptable behaviour’. Separately, the *Code of Conduct* outlines that all employees and volunteers are required to report conduct that is in breach of the law, the Code or other policies or procedures. Whereas, the *Professional Conduct Policy* notes that Ambulance Victoria expects the workforce to lodge a complaint when ‘they believe they have witnessed/experienced significant unacceptable workplace behaviour’.<sup>22</sup>

The proliferation of policies and procedures may be increasing the risk that information is not presented consistently. The Commission is concerned that there also appear to be aspects of the report and complaint process that occur in practice but are not formally documented, which reduces transparency and can limit accountability. For example, Ambulance Victoria has advised that there is no specific formal process for complaints regarding senior members of staff; however, in practice, where a complaint of this nature is made, an external agency is engaged to review the complaint and ensure an independent and transparent process.



## Findings

- Since 2017, Ambulance Victoria has taken significant steps to create a number of policies and procedures to support the operation of the report and complaint system and support the organisation's workplace behaviour framework.
- However, the information across the policies and procedures often overlaps and, at times, is inconsistent (for example, there is inconsistent information about the organisation's expectations of employees and first responders to lodge complaints about behaviours they have experienced or witnessed).
- Strong policies play a critical role in building the confidence of those who experience harm and in ensuring that individuals and the organisation as a whole have absolute clarity and clear expectations about how reports and complaints are handled. Having a significant number of policies and procedures creates a greater risk of there being inconsistencies or gaps in the information; this may reduce the accessibility and transparency of the report and complaint system for the workforce. Inconsistent or outdated information can also affect the trust a complainant has in the report and complaint system.

### 7.2.3 Report and complaint pathways

#### Available report and complaint pathways

Ambulance Victoria has established a range of mechanisms and pathways for complaints to be made. Employees and first responders may also choose to report their concerns to an external agency. An overview of some of these key pathways is provided in Figure 7H.



Figure 7H – **Overview of key internal, external complaint and informal report pathways**

Internal complaint pathways	External complaint pathways	Informal report pathways
<ul style="list-style-type: none"> <li>• Direct manager or a more senior manager</li> <li>• Professional Conduct Unit</li> <li>• Health and safety complaint system</li> <li>• People and Culture division</li> </ul>	<ul style="list-style-type: none"> <li>• Australian Health Practitioner Regulation Agency</li> <li>• Corrs Chambers Westgarth (Ambulance Victoria's external law firm)</li> <li>• Independent Broad-based Anti-corruption Commission</li> <li>• WorkSafe Victoria</li> <li>• Victorian Equal Opportunity and Human Rights Commission</li> <li>• Victoria Police</li> <li>• Union or professional association</li> </ul>	<ul style="list-style-type: none"> <li>• The Commission has not been able to identify clear guidance to employees and first responders about how to informally resolve a report or complaint, either by themselves or with the assistance of another</li> </ul>

In certain circumstances, health practitioners (such as registered paramedics) must report certain conduct to the Australian Health Practitioner Regulation Agency. This includes if they hold a reasonable belief<sup>23</sup> that another practitioner has engaged in:

- sexual misconduct in the practice of the profession
- conduct that involves a significant departure from professional standards of practice and places the public at risk of harm.<sup>24</sup>

The purpose of mandatory reporting is to protect the public from risks of potential harm.<sup>25</sup> Employers of health practitioners, such as Ambulance Victoria, also hold the same mandatory obligation.<sup>26</sup>

### Information about report and complaint pathways

Effective report and complaint systems should promote multiple avenues to make a report or complaint and should support the workforce to clearly know how to access these pathways.

In different policies and information published by Ambulance Victoria, employees and first responders are directed to make formal complaints to either their manager or the Professional Conduct Unit, but there are inconsistencies in whether staff must first make a report to their manager.

Ambulance Victoria's *Complaint Policy* specifies that staff should make formal complaints to the Professional Conduct Unit, preferably in writing. By contrast, the *Misconduct Policy* encourages people to speak with their manager in the first instance about breaches or behaviour that might amount to misconduct, or to a more senior manager, if their concern is about their immediate manager. The Professional Conduct Unit's intranet page also advises employees and first responders to report to their direct line manager in the first instance, who will communicate with the Professional Conduct Unit as required.

Where a formal complaint is made to a manager, each of the policies requires the manager to act on the complaint and refer the matter to the Professional Conduct Unit for triaging.

The *Complaint Policy* also notes that confidential complaints relating to possible improper conduct can be lodged with an external agency, but it does not further describe what type of conduct should be reported to different agencies or how contact can be made.<sup>27</sup> Other complaints policies and procedures do not provide details of the external pathways available to employees and first responders.

In December 2020, Ambulance Victoria circulated a brochure providing information about four internal and 11 external complaint pathways. This brochure promotes the establishment of SafeSpace and provides contact details for support services, such as peer support. However, this, and other key information (such as the availability of anonymous reporting to Ambulance Victoria's external law firm) has not been comprehensively integrated into complaint policies and procedures.

The impact of inconsistent information about these pathways may be impacting the ability of employees and first responders to access these services. Data provided by Ambulance Victoria shows there has been a very low level of contact with SafeSpace – with only nine calls made following its establishment in December 2020 to March 2021.

Ambulance Victoria has advised that it intends to consider the inclusion of these services and pathways into policy and procedures following the Commission's review, and in the context of the need for any further changes arising from any related recommendations.



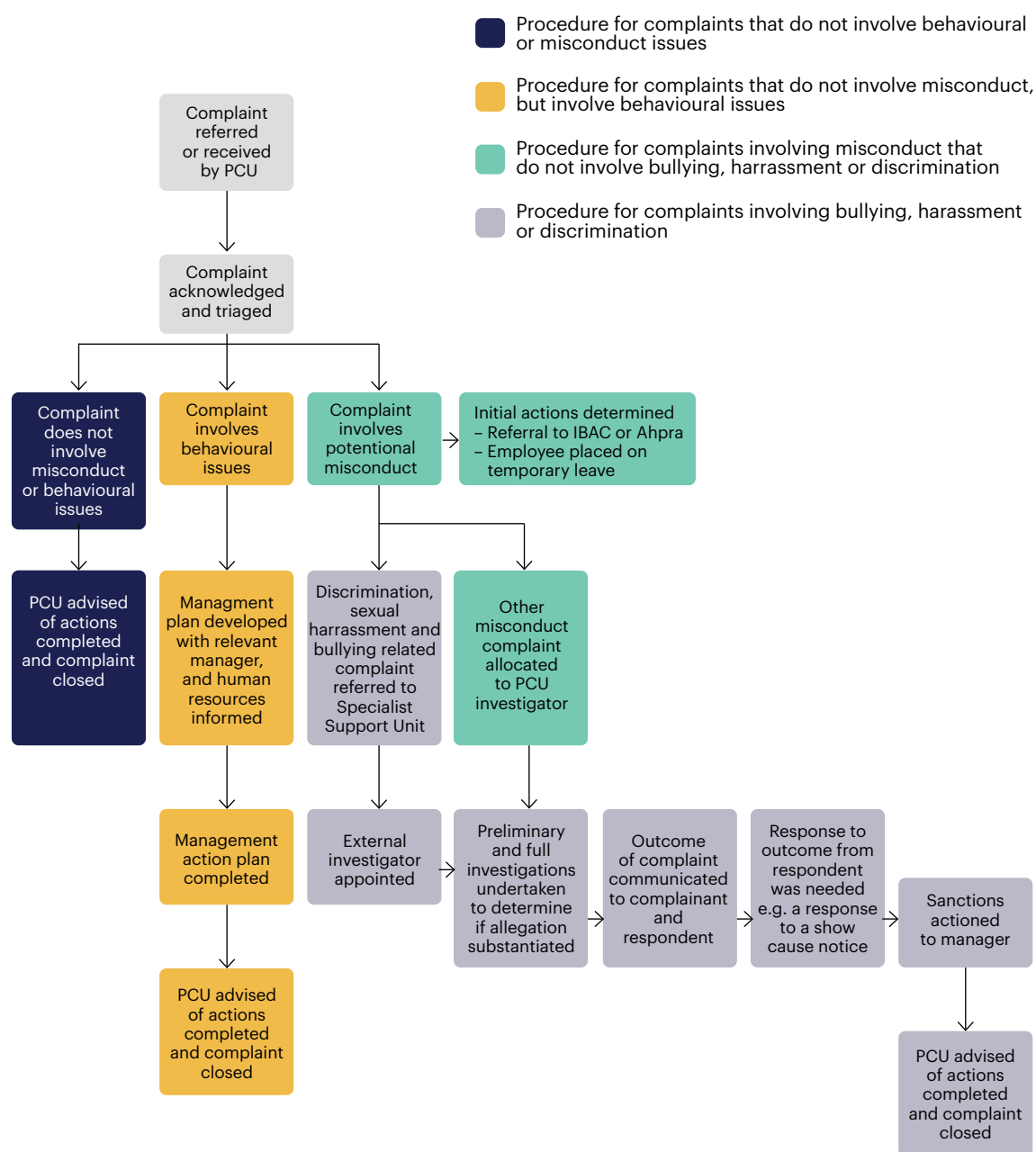
## Findings

- Ambulance Victoria's policies and procedures generally present two pathways for employees and first responders to make a report: reports can be made to their manager or to the Professional Conduct Unit. These documents do not promote multiple avenues that would allow greater choice for complainants to determine the pathway that best suits their needs, or that they are most comfortable with in the circumstances. For example, current policies and procedures do not reference a range of different internal representatives who a report or complaint could be made to, such as People and Culture representatives or health and safety officers.
- In Chapter 5, the Commission found that alleged perpetrators of discrimination and bullying were most often in a more senior position to the alleged victim-survivor; the two most common alleged perpetrators were described as holding a role of a senior manager or a direct manager or supervisor. These findings reinforce the critical importance of providing a range of alternative avenues for reporting outside of direct management lines of responsibility to better support complainants to feel safe to come forward.
- Information about the options available to report externally – including information about which agencies may be relevant in certain circumstances – is not outlined in detail. Information about where employees and first responders may access information and advice about the complaint pathways (for example from the recently established SafeSpace) – is also not detailed. The limited uptake of some of these new services – such as SafeSpace – may be affected by this lack of clarity and depth of information.
- Ambulance Victoria has recently developed a guidance document outlining internal and external pathways to make a report. This is a positive step to expand the information provided about the report and complaint process in a variety of formats. However, the effectiveness of this guidance is limited because of the lack of alignment and uniformity with the information provided in policies and procedures.
- It is positive that Ambulance Victoria has recently established an external anonymous report pathway through its external law firm. Anonymous reporting options can be a key tool to address power imbalances in workplaces. As the Commission has identified in Chapter 6, power imbalances are one of several mutually reinforcing drivers of unlawful and harmful conduct. However, we could not identify any policies, procedures or guidance that promote this external pathway, which both diminishes the transparency of the report pathway and its accessibility to employees and first responders.

## 7.2.4 Complaint process

The Professional Conduct Unit is the central unit that receives complaints in Ambulance Victoria. Where a formal complaint is made to a manager, they are directed to refer it to the Professional Conduct Unit for triaging.<sup>28</sup> Whether a complaint involves behavioural issues or potential misconduct is central to determining the relevant procedure and steps that may be taken to resolve the complaint, as outlined in Figure 7I below.

Figure 7I – **Overview of assessment, referral and investigation process**



## Assessment and triage

The Professional Conduct Unit uses a triage tool to support the assessment of complaints (see Figure 7J).

Figure 7J – Summary of complaint triage tool

Category	Type of conduct or behaviours	Suggested response
<b>Category 1</b>	<ul style="list-style-type: none"> <li>• Inappropriate interpersonal conduct</li> <li>• Inappropriate behaviour relating to minor management matters</li> <li>• Performance requiring improvement</li> </ul>	<ul style="list-style-type: none"> <li>• Address using performance management or dispute resolution process (for example, mediation or counselling); generally, not appropriate for extensive investigation</li> <li>• Repeated conduct should be considered for categorisation as Category 2</li> </ul>
<b>Category 2</b>	<ul style="list-style-type: none"> <li>• <b>Minor misconduct:</b> Conduct or behaviour that is inconsistent with standards expected of a public sector employee but is not wilful or malicious</li> <li>• Careless or negligent performance of duties, rather than unsatisfactory performance due to lack of skill</li> <li>• Ongoing or repeated Category 1 conduct</li> </ul>	<ul style="list-style-type: none"> <li>• Address using performance management or dispute resolution process (for example, mediation or counselling); generally, not appropriate for extensive investigation</li> <li>• Repeated conduct should be considered for categorisation as Category 2</li> </ul>
<b>Category 3</b>	<ul style="list-style-type: none"> <li>• <b>Serious misconduct:</b> Conduct or behaviour that is inconsistent with professional standards, conduct and practices expected of the public sector, and are wilful, reckless or malicious</li> <li>• Conduct that could warrant disciplinary processes or termination of employment</li> <li>• Conduct that is potentially criminal or involves a serious neglect of performance of duties</li> </ul>	<ul style="list-style-type: none"> <li>• Consider administrative action that can be undertaken alongside serious criminal cases</li> </ul>

In undertaking the triage and initial assessment of complaints, the Professional Conduct Unit considers a range of factors to determine the most appropriate resolution and priority of the matters; for example, the seriousness, complexity and urgency of the complaint, whether there are any potential risks to health and safety, and whether the behaviour or misconduct justifies disciplinary action. The *Complaint Procedure* outlines that the Professional Conduct Unit will consider how the complainant is being affected in its initial assessment; however, the

complainant's views and wishes are not specifically identified as a relevant factor that should be considered in how a complaint should be managed.<sup>29</sup>

The Professional Conduct Unit then determines whether a complaint will be internally or externally investigated, referred for a 'local level resolution' by a manager and human resources, or if no further action is required.

## Options for resolution

The *Complaints Procedure* outlines a range of options to resolve complaints, which can include (but are not limited to):

- formal investigation
- referral to local management for the implementation of a performance management process
- workplace assessments or reviews
- mediation
- facilitated discussions
- training and education.

The Commission understands there are no further documents or guiding materials that provide additional information about these resolution options; such as, what the different options involve, the extent to which complainants are involved in decisions about what outcomes may or may not be appropriate and the types of complaints that are most suitable for each resolution option. Ambulance Victoria has indicated that it has identified the need for additional guidance about what the outcomes involve (for example, what is involved in 'local level resolution'). This information is currently in development.

Complaint policies and procedures also do not directly encourage or provide guidance to the workforce or managers about the practical steps they may take to resolve issues themselves, nor do these documents specifically identify informal reporting options. The impact of these issues on personal experiences of the report and complaint system is further explored in Chapter 8.

## Referral of complaints to external bodies

Complaint policies and procedures outline that some matters may also be reported to the police (including offences under criminal law) or be referred to the Independent Broad-based Anti-corruption Commission, or to the Australian Health Practitioner Regulation Agency. No further information is provided about the circumstances where this may occur, or to what extent the complainant will be involved in the decisions to refer a matter to an external body.

## Investigation

Where the issues in a complaint could fall within the definitions of 'misconduct' or 'serious misconduct', relevant enterprise agreements require particular processes to be followed.<sup>30</sup> The *Investigation Procedure* expands on these procedures, outlining that:

- a written notification should be made to an employee, detailing the allegations, the evidential basis and that the employee has a right to have a representative for any meetings

- there should be a reasonable timeframe for an employee to respond to the allegations, as well as to any findings, material and proposed disciplinary outcome arising from any investigation undertaken.<sup>31</sup>

At the conclusion of the investigation, the appointed investigator provides a report containing the findings they have reached, assessed on the balance of probabilities.<sup>32</sup> The *Investigations Procedure* notes that Ambulance Victoria then consider whether disciplinary action is necessary, considering the allegations, reasons, evidence, findings and responses and take into account:

- whether there are valid reasons justifying the proposed disciplinary action
- recommendations from an investigator about the appropriate disciplinary outcomes
- any responses of the respondent, including any mitigating circumstances.<sup>33</sup>

As noted earlier, all reports and complaints of unlawful and harmful conduct are currently externally investigated. However, complaint policies and procedures do not currently reflect this, nor contain guidance on when the use of an external investigation may be considered, such as where a complaint involves a senior member of staff.<sup>34</sup>

## Outcomes

If allegations of misconduct are substantiated, the enterprise agreement provides for a range of possible disciplinary outcomes, including (but not limited to) no action, performance management, warnings, restorative practices (such as training, mediation, apologies, personal development, coaching and mentoring) and termination of employment.<sup>35</sup>

As noted earlier, Ambulance Victoria is required to refer certain conduct to the Australian Health Practitioner Regulation Agency if its legal obligations are triggered. Over the last five years, two of the 32 notifications that Ambulance Victoria has made related to discrimination, sexual harassment, victimisation or bullying.

The Australian Health Practitioner Regulation Agency may then also undertake its own assessment and investigation and may take action to impose conditions on a practitioner's registration (for example, a Paramedic's registration), caution or reprimand the practitioner, and can seek to have a health practitioner's registration suspended or cancelled by a court or tribunal.<sup>36</sup>

## Complaint closure and record-keeping

Following consideration of the complaint and any investigation into the issue raised, the Professional Conduct Unit contacts the complainant to advise them of closure. The unit is also responsible for implementing and monitoring any outcomes and maintaining appropriate records.<sup>37</sup> No further information is provided about what information will be recorded, and what information may be shared.





## Findings

- Some aspects of Ambulance Victoria's report and complaint policies align with the Commission's minimum standards – such as a strong statement that victimisation is prohibited and will be acted on in the *Professional Conduct Procedure*. However, there are a number of key gaps, including:
  - a lack of a clear commitment that the report and complaint process will be victim-centric
  - clear descriptions of the outcomes available, such as what is involved in a 'local level resolution'
  - the factors that will be considered when determining how to resolve a report or complaint, including, crucially, how the wishes of the complainant will be taken into account
  - details about when Ambulance Victoria may be legally required to take action or formally escalate a report or complaint, including scenarios that make it clear when this may occur
  - clear timeframes for responses to complaints
  - an explanation of what information will be recorded and how confidentiality is maintained, including clear guidance about the scenarios in which information may need to be shared with others.
- The absence of a comprehensive victim-centred approach in policies and procedures means that Ambulance Victoria is not proactively addressing potential and known barriers to reporting.
- These gaps also reduce transparency and accountability and may be contributing to a reluctance to engage with the report and complaint system.

### 7.2.5 Awareness of the report and complaint process

To support awareness and understanding of the report and complaint process, Ambulance Victoria provides training courses and has published guiding materials.

As outlined in Chapter 4, Ambulance Victoria provides the following training:

- **Equal opportunity induction and biannual refresher training:** This training outlines the role of the Professional Conduct Unit and notes the first point of contact for a complaint should be a direct manager, but where this is not appropriate, to contact the Professional Conduct Unit.<sup>38</sup> Information about available support services – internal and external to Ambulance Victoria – is provided.
- **Bullying and harassment training for managers:** Aspects of this training highlight the importance of intervening early and the role of managers in supporting employees and first responders to resolve and address issues when they arise, including informal approaches.



In addition, Ambulance Victoria also has a range of information available to support employees and first responders to understand the report and complaint process, including:

- **A complaint brochure:** This brochure provides information about four internal and 11 external complaint pathways. It promotes the establishment of SafeSpace and provides contact details for support services, such as peer support
- **Ambulance Victoria's intranet:** Information on the organisation's intranet encourages reports and complaints to be made to a manager in the first instance, and outlines the role and process of the Professional Conduct Unit.

As outlined earlier in this chapter, a number of significant changes have been made to Ambulance Victoria's report and complaint system. While the Commission acknowledges that Ambulance Victoria has taken steps to promote the services of SafeSpace through email communications, this information is not integrated across all the documents and materials that are designed to inform staff of complaint processes and procedures. This means the information available contains incomplete or out of date information, particularly about the availability of complaint pathways and support services such as SafeSpace.



## Findings

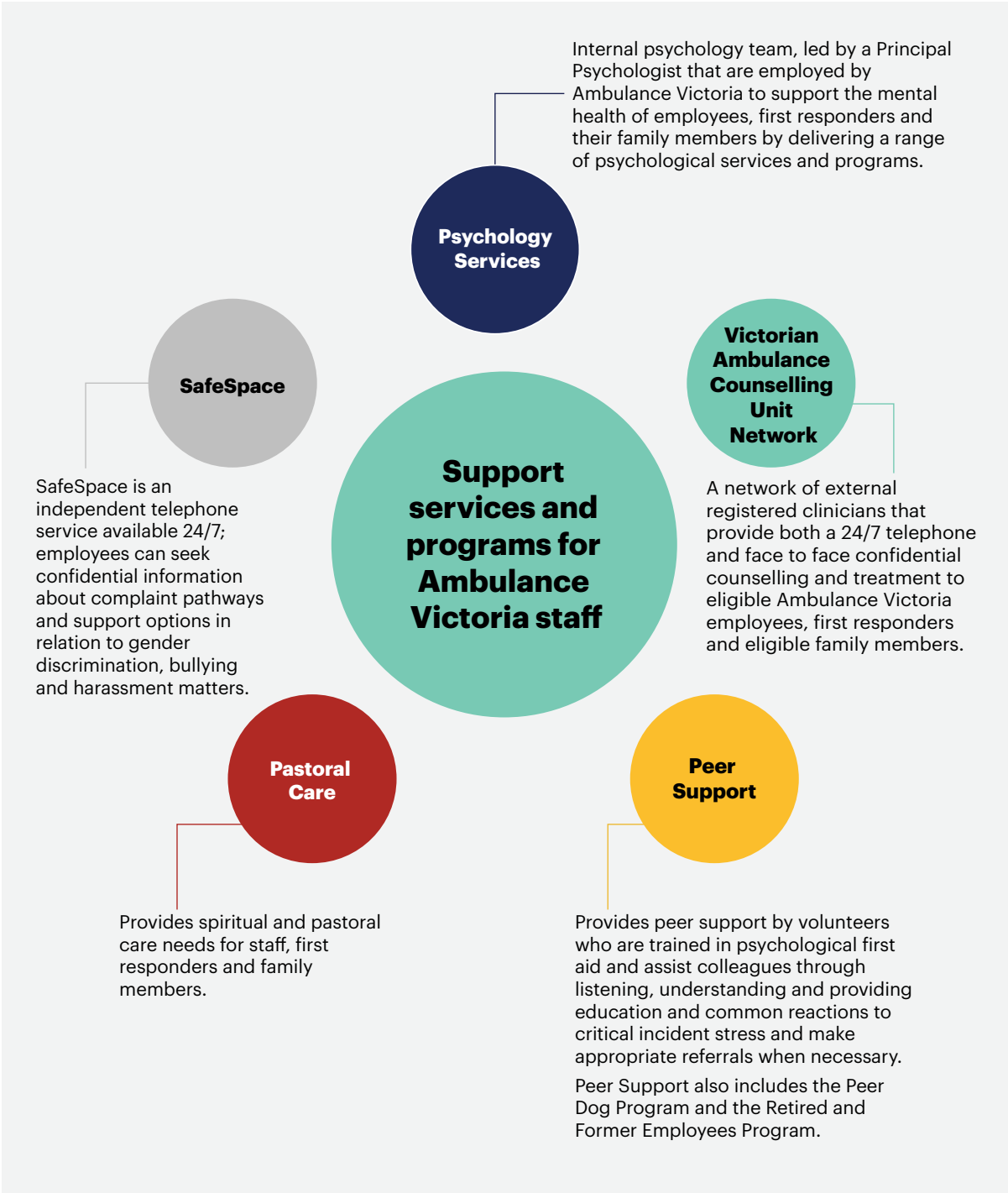
- The training and information available on Ambulance Victoria's intranet reflects the two report pathways (to a manager or to the Professional Conduct Unit) that are described in policies and procedures. As noted in the Commission's earlier findings, the lack of a comprehensive and consistent approach to detailing the available pathways to employees and first responders limits the effectiveness of recent changes (which were made to broaden the pathways available to seek information and advice) and reduces the choice and control of complainants; that is, by being able to choose a complaint pathway that best suits their needs, complainants have greater control over the complaint process.
- The bullying and harassment training recently rolled-out to some managers in Ambulance Victoria highlights the importance of early intervention and proactively resolving issues as they arise; this is consistent with the Commission's minimum standards that emphasise the importance of early resolution and informal reporting options to promote an emphasis on the complainant's safety, choice and control over the complaint process.
- However, the effectiveness of this training is limited by a lack of policy guidance that reinforces the messages and information provided in the training. This prevents managers (and employees and first responders) having a point of reference to return to following the training. There is also a lack of guidance about a range of response options that would support complainants to have flexibility to choose the pathway and response that is right for them, which may in turn, discourage reporting. It also reduces the clarity and transparency of the range of response options available through the report and complaint system and is limiting opportunities to informally resolve issues at the earliest opportunity.

# 7.2.6 Wellbeing supports

## Available support services

If an employee is considering making a report or complaint, Ambulance Victoria has a number of services and programs to support the health and wellbeing of staff. These are outlined in Figure 7K below.

Figure 7K – Support services and programs for Ambulance Victoria staff



The Wellbeing and Support Services Unit oversees the development and delivery of clinical care and wellbeing-based programs, including internal support services within Ambulance Victoria (for example, the Victorian Ambulance Counselling Unit and Peer Support Program). The unit may provide and connect an individual to support services, but it does not provide specific advocacy or advice about report and complaint processes.

## Awareness of support services

Ambulance Victoria's support services are outlined in the *Wellbeing and Support Services Policy*.<sup>39</sup> Some of these services are also identified on Ambulance Victoria's intranet – as well as external support services, such as Beyond Blue and Lifeline – and in the complaint brochure described earlier.<sup>40</sup>

Ambulance Victoria's policies and guidance provide different information about who is responsible for connecting individuals involved in complaints with wellbeing and support services. For example, the Professional Conduct Unit intranet page notes that it is a manager's responsibility to provide ongoing welfare support to any employees involved in a misconduct investigation, including any referrals to available support services.<sup>41</sup>

In contrast, the *Complaint Procedure* outlines that the Professional Conduct Unit will advise the complainant of wellbeing and support services.<sup>42</sup> The provision of support services has also been highlighted as a key role of the new Specialist Support Unit.<sup>43</sup>

In Chapter 8, the Commission explores employees and first responders' experiences of the report and complaint process, including access to support services. The Commission has been told that many complainants do not access support services within Ambulance Victoria, and there are gaps in the provision of supports to complainants.

## 7.2.7 Governance and oversight

Ongoing monitoring and evaluation of report and complaint systems is key to understanding issues that are emerging at the earliest opportunity and to strengthen and improve policies, procedures, training and communication that supports prevention approaches and can promote transparency. For example, tracking trends is vital to ensure organisations can understand whether conduct is being repeated (such as by a certain individual) or whether conduct is occurring across an organisation.

The work of the Professional Conduct Unit is directly overseen by an executive-level committee, as well as by the People and Culture Sub-committee of the Board, as part of its monitoring and oversight function, as outlined in Figure 7L below.

Figure 7L – **Monitoring and oversight of the Professional Conduct Unit**

Role		Information about complaint data provided
<b>Professional Conduct Committee</b>	Reviews decisions and respond to risks, identifies trends and proactively monitors the Professional Conduct Unit's work <sup>44</sup>	<p>Receives a quarterly report containing a range of data, including the category, location, outcomes and type of investigation (internal or external)</p> <p>A more detailed dashboard also tracks the overall number of investigations each quarter, as well as case type and location trends over a two-year period, case complexities, median timeframes for open and closed cases</p>
<b>People and Culture Sub-committee</b>	Monitors and provides advice and recommendations to the Board on the effectiveness of people-related strategies and oversees people and culture risks, trends and relevant emerging behaviours <sup>45</sup>	<p>Receives a quarterly report containing key data and measures mapped to the four strategic priorities outlined in Ambulance Victoria's <i>Strategic Plan</i></p> <p>The key data reported includes the types of complaints received, location and outcomes</p>

Ambulance Victoria advised the Commission that no formal key performance indicators currently apply to the Professional Conduct Unit; however, regular reporting and monitoring is undertaken by reporting to the CEO and the Board. The key information shared with these committees is outlined in Figure 7L above.

The quarterly reports and dashboard do not benchmark the data reported against agreed indicators; for example, service standards outlining the completion of actions, such as investigations within particular timeframes. There are also no supporting procedures that define specific data sets that should be reported and tracked on an ongoing basis to ensure that reports capture comparable data that can be monitored over time. There is also an absence of data about employee experience of the report and complaint system, and no formal process to obtain it on a regular basis (outside of the regular People Matter Survey).

The lack of an agreed baseline or targets that the performance of the report and complaint system can be measured against limits the capacity of these oversight committees to effectively assess if the system is meeting the needs of complainants and others who may be involved in complaint processes, as well as the organisation itself.

In addition, the reporting does not provide detailed analysis of identified root causes, or trends to inform measures and steps that may be taken to address either specific identified risks or those that are emerging. The assessment of report and complaint data (alongside other data sets) is a key function of the newly established Specialist Support Unit and is a positive recognition of the importance of this capability.

The Commission has been unable to identify any processes or procedures that are used by Ambulance Victoria to share information about trends, pattern or lessons arising from report and complaint data with its staff. For example, details about reports and complaints are not included in Ambulance Victoria's annual reports.

Ambulance Victoria has indicated that this issue has been identified as an action in its organisational culture risk treatment plan and further work on an approach is intended to be undertaken following the finalisation of the Commission's review.



## Findings

- The Specialist Support Unit, established in December 2020, has a key function to assess trends and patterns; this should increase Ambulance Victoria's capacity and ability to identify trends, patterns and lessons.
- The ability of Ambulance Victoria to effectively monitor and evaluate the performance of the report and complaint system has been limited by a lack of comprehensive data to support a detailed understanding of the experience of the report and complaint system by the workforce. Monitoring and evaluating the report and complaint system has also been hampered by a lack of clear, agreed indicators for performance that the system can be assessed against. This has also impacted Ambulance Victoria's ability to accurately identify and respond to key gaps and issues in the report and complaint system, and to take action at the earliest opportunity to adjust aspects of the system and continuously improve.
- Ambulance Victoria does not routinely or transparently share information about trends, patterns and lessons with its workforce. While the information that can be shared with the workforce must be carefully balanced with confidentiality and privacy concerns for those involved, Ambulance Victoria must more proactively consider what information can be shared, including in a de-identified and aggregated way.

## 7.3 Rates of reporting unlawful conduct

The Commission sought to understand whether Ambulance Victoria's workforce feels safe and supported to act on discrimination, sexual harassment, bullying and victimisation they experience or witness by making a report or complaint. As noted earlier in this Chapter, research tells us that workplace discrimination, sexual harassment and bullying are likely to be underreported; there are often compounding factors creating obstacles for people to come forward.

The experiences shared with us by employees and first responders were integral to supporting the Commission to deeply understand the organisation's efforts to respond to unlawful and harmful conduct and to assess whether these measures are effective. We asked participants to describe whether they had made a report or complaint about unlawful conduct they had experienced, witnessed or heard about.

We considered and contextualised what we were told against:

- similar surveys that have sought to understand Ambulance Victoria employees' experiences and willingness to make a complaint
- Ambulance Victoria complaints data from 2016–2017 onwards
- data and analysis on reporting unlawful conduct in similar organisations, and in the health and emergency services sectors, as well as relevant research and reviews.

In the past five years, Ambulance Victoria has had a strong and sustained focus on reforming complaint structures and maturing its processes and procedures. The Commission heard that these changes were a significant step forward and have increased the consistency of report and complaint processes. However, an apparent disconnect between the aims of these reforms and some of the workforce's experiences has generated significant distrust in the system.

The Commission's survey did not generally reveal significant differences in the experiences of different cohorts. Many of the responses to survey questions were consistent across gender, role type and location, among other demographics. Combined with the low reporting rates – and strong perceptions of dissatisfaction and feeling of a lack of safety – this suggests a widespread lack of confidence in the organisation's report and complaint system.

The Commission did, however, identify some differences for people who experienced sexual harassment, for younger employees, and for those who more recently commenced their employment with Ambulance Victoria (see below).



## Findings

- The Commission's survey, reinforced by interviews, submissions and data from Ambulance Victoria, shows that there are very low rates of reporting discrimination, sexual harassment, bullying and victimisation:
  - 15.3% of the 898 people who experienced discrimination and responded to the survey question made a formal complaint
  - 9.6% of the 335 people who experienced sexual harassment and responded to the survey question made a formal complaint
  - 15.9% of the 981 people who experienced bullying and responded to the survey question made a formal complaint
  - there have only been four formal complaints of victimisation recorded in Ambulance Victoria over the last five years.
- The rate of formal reporting of sexual harassment in Ambulance Victoria (9.6%) is lower than the national average of 17%.
- The rates of reporting by bystanders are also very low, with only 6.0% of the 1356 people who responded to the survey question indicating they made a formal report.
- The Commission's survey also indicates that there may be hesitancy to make a report or complaint if they experienced discrimination, sexual harassment, bullying and victimisation in the future: 26.5% of the 1911 people who responded to the survey question told us they definitely would not or probably would not make a report or complaint in the future.
- The low rate of engagement with Ambulance Victoria's report and complaint system indicates it does not currently facilitate a safe and supportive environment that encourages those who have experienced unlawful and harmful conduct and bystanders to come forward with their experiences; this must be improved.



## 7.3.1 Complainants

The Commission's survey asked how participants responded to the discrimination, sexual harassment or bullying they reported experiencing, including whether they informally discussed it with anyone or made a formal complaint. Participants could select more than one response.<sup>46</sup>

### Discrimination

The survey demonstrates that formal reporting of discrimination is very low in Ambulance Victoria. Of the 898 people who reported experiencing discrimination and answered a question about their response to it, only 15.3% (n=137) made a formal complaint.

Participants told us they were most likely to turn to others outside of Ambulance Victoria to discuss what had happened to them. Most commonly, participants reported having an informal discussion with colleagues, family members and friends about their experiences (63.0% or n=566), followed by 43.1% (n=387) of survey participants indicated they turned to Ambulance Victoria's representatives to have an informal discussion; and 22.0% (n=198) of survey participants reported taking none of these actions.

The result from the Commission's survey is slightly higher than the results reported in the People Matter Survey. In 2020, of the 14% (n=168) of those who reported experiencing discrimination, 9% (n=15) indicated they made a formal complaint.<sup>47</sup>

The low formal rates of reporting discrimination are also reinforced by data provided by Ambulance Victoria, which shows few internal formal complaints of discrimination have been made in the last five years (see Figure 7M).

Figure 7M – Internal formal complaints of unlawful conduct

Type of unlawful conduct	2016–2017	2017–2018	2018–2019	2019–2020	2020–2021
<b>Discrimination</b>	1	1	2	5	9
<b>Harassment</b> <sup>48</sup>	0	3	4	7	11

The 137 survey participants who described making a formal complaint is much higher than the number of internal complaints recorded by Ambulance Victoria (see Figure 7M). This pattern is consistent across all forms of unlawful conduct (see further below). This may be due to the survey capturing unlawful conduct experienced by employees and first responders in Ambulance Victoria at any point during their employment. Or, it may be due to differences in perception about when a formal complaint has been made (for example, where a report or complaint is made to a manager, but not acted upon).

However, the Commission has found that the vast majority of unlawful conduct reported occurred within the last five years (see Chapter 4). While the exact reason for this discrepancy is not clear, it does reinforce the views expressed by many participants that reports or complaints they made were at times, dismissed, not acted upon, or not responded to (see Section 8.1.1).



## Sexual harassment

Of the types of unlawful conduct examined by the Commission, participants were least likely to make a formal report of sexual harassment. Of the 335 survey participants who responded to a question describing what action they took after experiencing sexual harassment, only 9.6% (n=32) submitted a formal complaint.

Distinct from discrimination and bullying, fewer participants reported having informal discussions about their experiences of sexual harassment with people outside of Ambulance Victoria. A total of 50.4% (n=169) indicated they spoke with colleagues, friends or family, and only 22.1% (n=74) had an informal discussion with a representative of Ambulance Victoria; 37.3% (n=125) reported taking none of these actions.

The rate of formal reports of sexual harassment, while low, are higher than the rates reported through the People Matter Survey. Over the last five years, the rate of making a formal complaint of sexual harassment has ranged between 4% (n=4) in 2016 and 9% (n=12) in 2020.<sup>49</sup>

The low rate of engagement with the formal complaint system is further demonstrated by the number of internal formal complaints of sexual harassment. As outlined in Figure 7N below, the number of these complaints has been as low as one per year on some occasions over the last five years.

Figure 7N – Internal formal complaints of unlawful conduct

Type of unlawful conduct	2016–2017	2017–2018	2018–2019	2019–2020	2020–2021
Sexual harassment	1	8	1	8	7

The rate of formal reporting of sexual harassment in Ambulance Victoria is also lower than the national average. In 2018, the Australian Human Rights Commission found that around one in five people (17%) who were sexually harassed at work in the last five years had made a formal report or complaint.<sup>50</sup>

The low rate of formal reporting and seeking the assistance of family, friends and co-workers that is demonstrated in these data sources is also consistent with known literature and research, which suggest most individuals deal with experiences of sexual harassment on their own, or through more 'informal' ways within their networks.<sup>51</sup>

The Commission's survey did not reveal any significant difference between formal reporting rates for men and women; this is consistent with the findings of the Australian Human Rights Commission in 2018.<sup>52</sup>

This is also consistent with broader literature. Research seeking examining whether the individual characteristics of people who have experienced sexual harassment (such as age, marital status, sexual orientation or ethnicity) impact their willingness to report has had mixed results, with some studies suggesting impacts and others finding no strong evidence.<sup>53</sup> Willingness to report sexual harassment seems to be more strongly influenced by the circumstances surrounding the sexual harassment, such as the severity of the incident, and the impact of the organisational context, which are further examined in Section 8.2.

## Bullying

Of the 981 survey participants who reported experiencing bullying and who responded to this question, 15.9% (n=156) reported taking steps to submit a formal complaint.

The two most common responses reported were reaching out to colleagues, family and friends (59.8% or n=587), followed by discussing the experience with representatives of Ambulance Victoria (42.9% or n=421). A total of 22.1% (n=217) of survey respondents reported taking none of these actions.

The lack of engagement with Ambulance Victoria’s formal complaint process is consistently apparent from the responses to the People Matter Survey. Rates of submitting a formal report ranged from 13% (n=69) to 23% (n=71) over the last five years, with the most recent reporting rate recorded at 16% (n=48) in 2020.

In line with these data sources, over the last five years, Ambulance Victoria has consistently recorded very few formal complaints of bullying. However, over the last two years there has been a significant increase, as outlined in Figure 7O. This partly coincides with the announcement of the Commission’s review.

Figure 7O – Internal formal complaints of unlawful conduct

Type of unlawful conduct	2016–2017	2017–2018	2018–2019	2019–2020	2020–2021
Bullying	1	29	14	48	94

Low rates of formal reports of bullying were also identified in the health sector in the 2016 Victorian Auditor-General Office’s audit of bullying and harassment. Focus groups undertaken with staff members across different levels ‘overwhelmingly indicate high under-reporting’ including of bullying and harassment.<sup>54</sup>

## Victimisation

As outlined in Chapter 4, a significant proportion of respondents to the Commission’s survey indicated they had experienced victimisation or negative consequences for their career. In interviews and submissions, some participants also described being victimised after they spoke about their experiences, whether formally or informally:

**The standard you walk past is the standard you accept. That’s why I spoke up.... Because I didn’t want someone to kill themselves, and if I ignored it and someone killed themselves, I’d never live with myself. So I spoke up, and people saw that, I was [penalised].** Participant, Interview

**I was doomed from the start; from that minute that I put that complaint in for the sexual harassment, I was gone. I was finished at AV. The job was no longer mine.** Participant, Interview

**It's a thing with Ambulance Victoria that they don't appreciate people standing up to them and pointing out they've done something wrong or something's not appropriate. They like people just to do what they ask them to do and not complain.** *Participant, Interview*

The Commission's survey did not ask whether participants experienced victimisation if they made a further informal report or formal complaint about the victimisation they experienced. However, data provided by Ambulance Victoria about internal complaints of victimisation suggests they are incredibly rare, with only four complaints made in the last five years, as outlined in Figure 7P below.

Figure 7P – **Internal formal complaints of unlawful conduct**

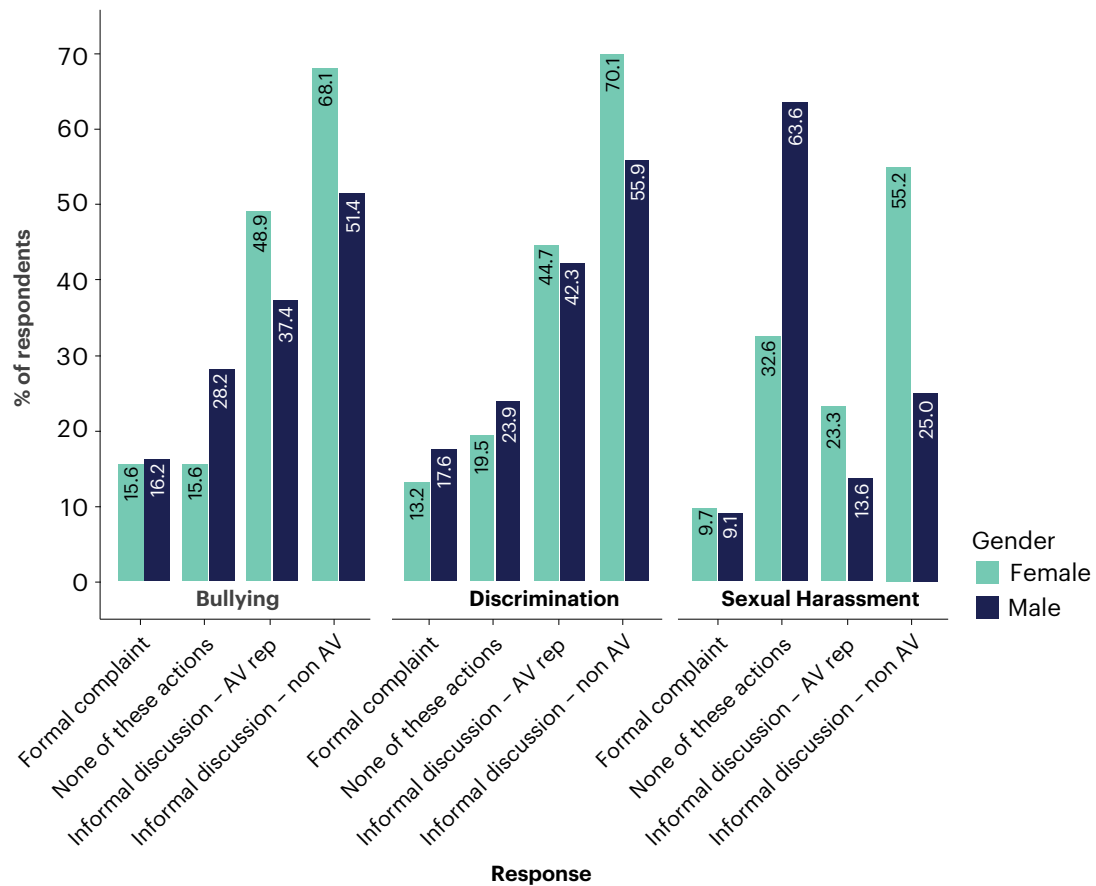
Type of unlawful conduct	2016–2017	2017–2018	2018–2019	2019–2020	2020–2021
Victimisation	0	0	0	4	0

### Gender

As noted earlier, the Commission's survey did not identify clear differences in formal reporting patterns across different cohorts. Men and women generally made formal reports of their experiences of unlawful conduct at similar rates. For example, of the 381 men who experienced discrimination and responded to the question about what actions they took, 17.6% (n=67) submitted a formal complaint as compared to 13.2% (n=61) of 461 women.

However, the Commission's survey data suggests that men are more likely not to take any action in response to unlawful conduct, particularly in relation to bullying and sexual harassment (see Figure 7Q). Of the 44 men who reported experiencing sexual harassment and responded to this question, 63.6% (n=28) described not taking any action, as compared with 32.6% (n=91) of the 279 women who responded.

Figure 7Q – **Actions taken after an experience of unlawful conduct (by gender)**

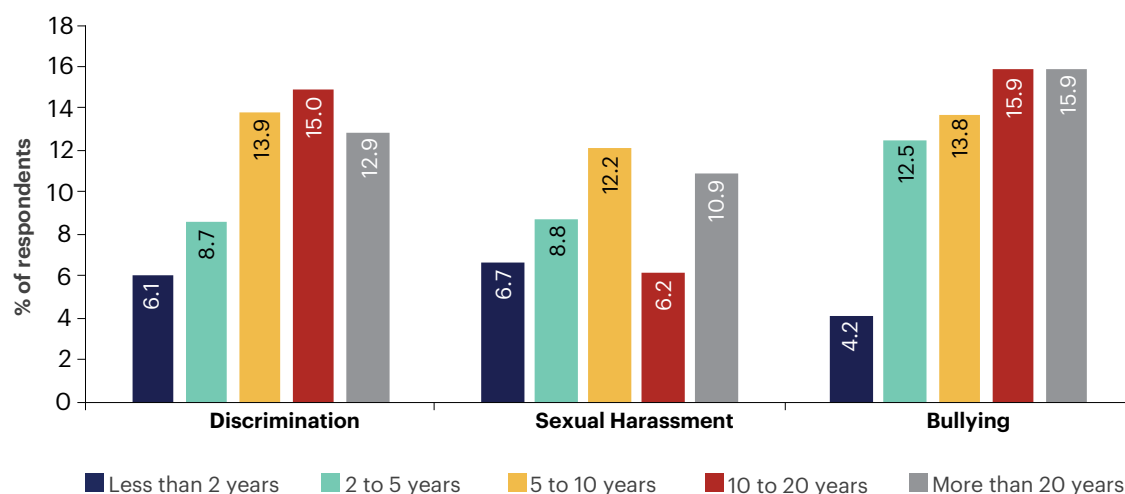


The Commission’s findings may be partly explained by some research on men’s experience of sexual harassment, which has uncovered a lower reporting rate by men as compared with women.<sup>55</sup> According to some research, men may face specific barriers to reporting due to the stigma associated with reporting experiencing such behaviour, and/or they may perceive certain behaviour that amounts to sexual harassment as less threatening or serious than women.<sup>56</sup>

### **Length of employment**

Participants who had more recently commenced employment with Ambulance Victoria were generally less likely to submit a formal complaint, as outlined in Figure 7R below.

Figure 7R – Rate of submitting a formal complaint by length of employment



This was particularly the case for participants who had commenced employment with Ambulance Victoria less than two years ago.<sup>57</sup>

These lower rates of formal reporting may be explained by the impacts of power imbalances and hierarchy within Ambulance Victoria, which pose particular challenges for employees and first responders early in their careers. In interviews and submissions, participants who had more recently commenced employment at Ambulance Victoria reported significant fears about making a report of bullying or discrimination, including fear that doing so would jeopardise what they hoped would be a long career with the organisation:

**Other qualified paramedics would offer me advice to not complain about being sworn at as that would ‘put a target’ on my back and further advice would be just get through [Graduate Ambulance Paramedic] year and then the alleged perpetrator would target future [Graduate Ambulance Paramedics]...I felt very trapped.** *Participant, Submission*

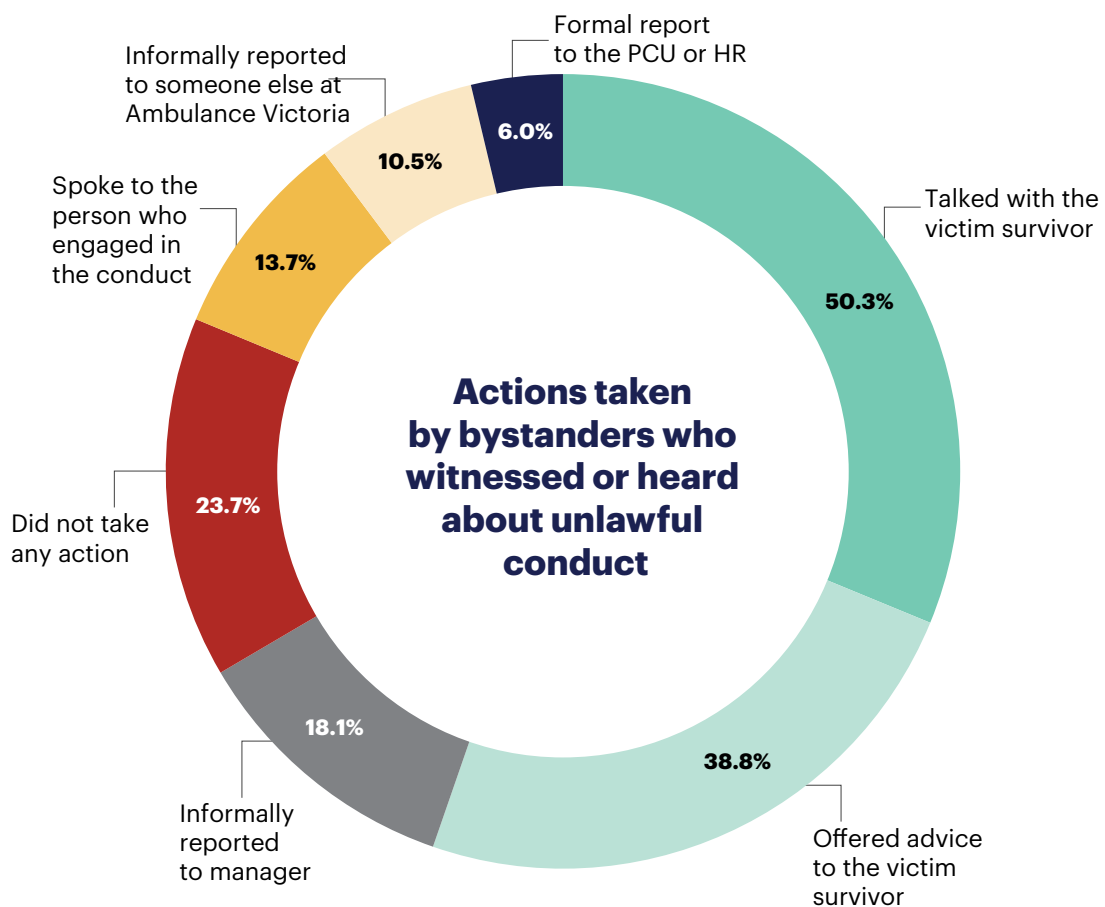
This is also consistent with the view of the Diversity Council Australia, which has highlighted that, in the context of sexual harassment, young people at the beginning of their careers tend to feel less power in organisations and may not want to speak out due to fears about jeopardising their careers.<sup>58</sup> The impact of this issue as a barrier to reporting is further explored in Section 8.2.

This data reinforces the importance of Ambulance Victoria’s report and complaint system being designed and monitored in light of how it is experienced by employees and first responders at all levels of the organisation.<sup>59</sup>

## 7.3.2 Bystanders

The Commission's survey asked participants what actions they took after their most recent experience of witnessing or hearing about unlawful conduct. Of the 1356 people who responded to this question, the three most common responses were to talk with or listen to a victim-survivor (50.3% or n=682) or offer advice (38.8% or n=526), around a quarter (23.7% or n=321) noted that they did not take any action.

Figure 7S – **Actions taken by bystanders who witnessed or heard about unlawful conduct**



The Commission's survey did not ask participants what action they took by type of unlawful conduct. However, some of the results align with aspects of the findings of the Australian Human Rights Commission's national survey on sexual harassment in Australian workplaces. For example, that survey also found the most common response of a bystander (71%) was to talk with or listen to a victim survivor.<sup>60</sup>

The Australian Human Rights Commission also found that around half of those surveyed (47%) indicated that they had reported the harassment to the employer; this is higher than the rates recorded in the Commission's survey, where 34.6% (n=471) informally or formally reported the conduct to their manager, someone else at Ambulance Victoria or the Professional Conduct Unit or Human

Resources.<sup>61</sup> Of the respondents to the Australian Human Rights Commission's survey, 40% indicated they spoke with the harasser, as compared to 13.7% (n=186). The differences between these results suggests that bystanders in Ambulance Victoria may not feel safe to make an informal or formal complaint about what they witnessed; and they may be more hesitant to directly intervene and challenge an alleged perpetrator.

In the 2020 People Matter Survey, 94% (n=1125) of survey respondents agreed that they always had a responsibility to take action if they witnessed inappropriate workplace behaviour, and 77% (n=922) agreed they would always take action to intervene. Only 6% (n=72) of respondents disagreed that they would always take action to intervene, and 17% (n=204) neither agreed nor disagreed.

Of the survey respondents, 76% (n=910) also agreed that they were confident that they had the skills to effectively intervene if they witnessed inappropriate workplace behaviour, with only 8% (n=96) disagreeing and 15% (n=180) neither agreeing nor disagreeing.

The results from the 2020 People Matter Survey point to a significant opportunity to harness a strong understanding and commitment within Ambulance Victoria's workforce to take responsibility and intervene. However, the difference between the results from the People Matter Survey and the Commission's survey, suggests that when employees and first responders are faced with the actual experience of witnessing unlawful and harmful conduct, they may not feel equipped or comfortable to respond to the situation.

The challenges faced by bystanders in intervening have also been identified in other contexts. For example, in 2015, VicHealth surveyed what action Victorians would take in racist incidents in social situations, workplaces and community-based sports clubs. In that study, an average of 23% of people identified they would feel uncomfortable, but would not do anything when they witnessed a racist incident.<sup>62</sup>

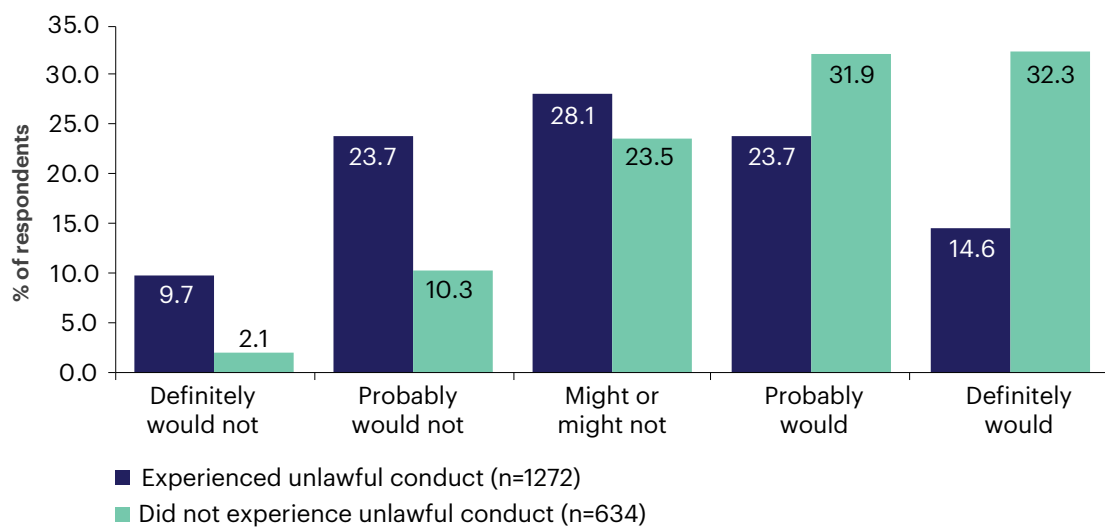
### ***Future intention to report***

The Commission's survey asked respondents to indicate that if they were to experience or witness discrimination, sexual harassment, bullying or victimisation in the future, how likely they would be to report it or to make a formal complaint.

Of the 1911 people who responded to this question, around one-quarter reported that they either definitely would not, or probably would not, make a report or complaint (26.5% or n=506). A total of 26.6% (n=508) indicated they might or might not make a report while just under half (47% or n=897) said they probably or definitely would make a formal complaint in the future.

There was a strikingly lower willingness to report unlawful conduct into the future among survey participants who had reported personal experiences of discrimination, sexual harassment, bullying and victimisation as outlined in Figure 7T.

Figure 7T – **Likelihood of making a report of unlawful conduct in the future**



In Chapter 5, the Commission found that much of the unlawful conduct reported to us took place in open areas – with an apparent sense from alleged perpetrators that conduct will be tolerated without consequence. This may, in part, explain this significant difference, as the experience of unlawful or harmful conduct in open environments where the behaviour was not called out is likely to contribute to a lack of confidence that any report would be taken seriously (this is explored in more detail in Chapter 8).



## Notes

1. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 14–15; Department of Health and Human Services, *Framework for promoting a positive workplace culture: Preventing bullying, harassment and discrimination* (State of Victoria, 2019) 1; WorkSafe Victoria, *A Guide for Employers: Workplace Bullying* (State of Victoria, 2020) 20–1.
2. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 14–15.
3. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 68; Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Improving Institutional Responding and Reporting, Volume 7* (Report, December 2017) 141.
4. See e.g. Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016) 16; Department of Health and Human Services, *Framework for promoting a positive workplace culture: Preventing bullying, harassment and discrimination* (State of Victoria, 2019) 12, 15.
5. No single study comprehensively considers reporting rates of the wide range of unlawful conduct considered by the Commission during the review. However, a range of literature and studies have consistently identified underreporting of discrimination involving protected attributes that featured prominently in the review; such as sex, age, disability and race discrimination, as well as other behaviours within the Commission's terms of reference: sexual harassment and bullying. In 2015, the Australian Human Rights Commission found that 27% of Australians aged 50 years and over reported experiencing age discrimination in the workplace. Of those who experienced age discrimination, 43% did not take any action, with only 14% raising it within their organisation (Australian Human Rights Commission, *National Prevalence Survey of Age Discrimination in the Workplace* (Report, 2015) 16). A 2019 survey exploring racial discrimination in the workplace that was undertaken by the New South Wales Nurses and Midwives Association of 1234 members found that of those culturally and linguistically diverse nurses and midwives who reported they had been discriminated against, 39% had not reported it, 21% did not feel confident to report it, and 4% did not know how to report it (New South Wales Nurses and Midwives Association, *The Culture Safety Gap: Experiences of New South Wales Culturally and Linguistically Diverse Nurses and Midwives* (2019) 17). In 2019, the Victorian Equal Opportunity and Human Rights Commission found that the number of reports of workplace harm against LGBTIQ+ employees in Victoria Police were low in the context of the number of experiences of workplace harm reported (Victorian Equal Opportunity and Human Rights Commission, *Proud, Visible, Safe* (State of Victoria, 2019) 36). Formal reporting of sex discrimination and sexual harassment was low in Victoria Police compared to the reported rates of harm: only 11% of survey respondents told the Commission they had experienced sexual harassment between December 2015 and October 2018 formally reported it to Victoria Police (Victorian Equal Opportunity and Human Rights Commission, *Independent review into sex discrimination and sexual harassment, including predatory behaviour, in Victoria Police: Phase 3 audit and review* (State of Victoria, August 2019) 15). See further, Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 18–19; Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 32–5; A Cooper, *Bringing Equality Laws to Life – 2018 Churchill Fellowship to Establish Best Practice for a Regulatory Framework to Create Equality through Discrimination Law – Sweden, United Kingdom, United States of America and Canada* (2019) 10.
6. Suzanne Goldberg, 'Harassment, workplace culture, and the power and limits of law' (2020) 70 *American University Law Review*, 420, 426.
7. Chris Wheeler, 'Ethics and integrity: Implications for investigations and complaint handlers' (Speech, National Investigation Symposium, 9 November 2012) 3 <[https://www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0020/8318/Justice-Theory-Presentation-Compliance-with-accepted-standards-of-conduct-and-decision-making-NIS-9-](https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0020/8318/Justice-Theory-Presentation-Compliance-with-accepted-standards-of-conduct-and-decision-making-NIS-9-)

November-2012.pdf>. See also: Bernard Walker and Robert Hamilton, 'Employee–employer grievances: A review' (2011) 13(1) *International Journal of Management Reviews* 40; Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Impacts, Volume 3* (Report, December 2017) 191–2.

8. *Equal Opportunity Act 2010* (Vic) s 109. 'Reasonable precautions' can include having a complaint handling policy or procedure, monitoring the workplace to ensure compliance with these policies, as well as careful and systematic investigation of complaints and disciplinary action where complaints are proven. See *Styles v Murray Meats Pty Ltd* [2005] VCAT 914; *Howard v Geradin Pty Ltd t/a Harvard Securities* [2004] VCAT 1518; *Coyne v P & O Ports* [2000] VCAT 657; *Richardson v Oracle Corporation Pty Ltd* [2013] FCA 102; *Johanson v Michael Blackledge Meats* [2001] FMC 6; *Korczak v Commonwealth of Australia* (Department of Defence) [1999] HREOCA 29.
9. WorkSafe Victoria, *A Guide for Employers: Workplace Bullying* (State of Victoria, 2020) 25.
10. Department of Health and Human Services, *Guide to Implementing the Framework for Promoting a Positive Workplace Culture: Preventing Bullying, Harassment and Discrimination* (State of Victoria, 2019) 7, 13–14, 29.
11. The publication of such guidance has often been led by Ombudsmen, who have significant expertise in complaint handling, and also by support organisations to embed good practice. See, eg, Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016); Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021).
12. In 2017, as part of its work to improve the reporting of child sexual abuse in institutional contexts, the Royal Commission into Institutional Responses to Child Sexual Abuse reviewed and distilled the guidance of federal, state and territory Ombudsmen regarding complaint-handling and investigation frameworks. It was also informed by, and reflects, international and Australian standards for complaint handling. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Improving Institutional Responding and Reporting, Volume 7* (Report, December 2017) 140.
13. See, e.g., Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 678–82; Purna Sen et al, *What Will It Take? Promoting Cultural Change to End Sexual Harassment* (UN Women, September 2019) 29–33; Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 67–8.
14. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 679–80.
15. Ambulance Victoria, 'Professional Conduct Unit Employee Education and Experience' (undated) 1.
16. Ambulance Performance and Policy Consultative Committee, *Victoria's Ambulance action plan: Improving services, saving lives; Final report* (State of Victoria, 2015) 57; Ambulance Performance and Policy Consultative Committee, *Working with Paramedics to End the Ambulance Crisis: Interim Report* (Report, 2015) 17.
17. Ambulance Performance and Policy Consultative Committee, *Victoria's Ambulance action plan: Improving services, saving lives; Final report* (State of Victoria, 2015) 57; Ambulance Performance and Policy Consultative Committee, *Working with Paramedics to End the Ambulance Crisis: Interim Report* (Report, 2015) 17.
18. Ambulance Victoria, 'Business Case for the Creation of the Professional Conduct Unit' (undated) 1.
19. Ambulance Victoria, 'Support Pathways for Staff, Family and Friends' (undated) 1.
20. As noted in Chapter 2, Ambulance Victoria's workforce operates under a number of enterprise agreements, including (but not limited to) the *Ambulance Victoria Enterprise Agreement 2020* and the *Ambulance Victoria* (Management and Administrative Staff) Enterprise Agreement 2020.
21. Ambulance Victoria, *Professional Conduct Procedure* (PRO/PAC/082) (State of Victoria, November 2018) 2.

22. Ambulance Victoria, *Code of Conduct: Our Way of Working* (State of Victoria, 2017) 7; Ambulance Victoria, *Professional Conduct Policy* (POL/PAC/002) (State of Victoria, November 2018) 5.
23. The Australian Health Practitioner Regulation Agency outlines that, 'Before making a mandatory notification, a notifier must form a reasonable belief that the incident or behaviour that led to a concern actually occurred and that a risk to the public exists. For example, you have direct knowledge, or a report from a reliable source about their experience or observations. A mandatory notification should not be made based on rumours or gossip' (Australian Health Practitioner Regulation Agency, 'Making a mandatory notification' (Web Page, 27 November 2020) <<https://www.ahpra.gov.au/Notifications/mandatorynotifications/Mandatory-notifications.aspx#:~:text=You%20must%20make%20a%20mandatory,intoxicated%20by%20drugs%20or%20alcohol.>>)
24. *Health Practitioner Regulation National Law (Victoria) Act 2009* (Vic), sch 1, ss 140, 141.
25. Australian Health Practitioner Regulation Agency, *Guidelines: Mandatory Notifications about Registered Health Practitioners* (Commonwealth of Australia, 2020) 2.
26. *Health Practitioner Regulation National Law (Victoria) Act 2009* (Vic), sch 1, ss 140, 142.
27. Ambulance Victoria, *Complaints Policy* (PRO/PAC/070) (State of Victoria, March 2021) 4.
28. Ambulance Victoria, *Complaints Procedure* (PRO/PAC/080) (State of Victoria, March 2021) 2.
29. Ambulance Victoria, *Complaints Procedure* (PRO/PAC/080) (State of Victoria, March 2021) 3.
30. See, eg, *Ambulance Victoria Enterprise Agreement 2020* cl 74; *Ambulance Victoria (Management and Administrative Staff) Enterprise Agreement 2020* cl 11.2.
31. *Ambulance Victoria Enterprise Agreement 2020*, cl 74.
32. 'Balance of probabilities' means that investigators must determine whether it is more likely than not that the conduct occurred.
33. Ambulance Victoria, *Investigations Procedure* (PRO/PAC/084) (State of Victoria, October 2020) 3.
34. Ambulance Victoria advised the Commission that there is no specific formal process for complaints regarding an executive staff member; however, in practice, where a complaint of this nature is made, an external agency is engaged to review the complaint and ensure an independent and transparent process.
35. *Ambulance Victoria Enterprise Agreement 2020*, cl 74.6.
36. Australian Health Practitioner Regulation Agency, 'Possible outcomes' (Web Page, 26 November 2020) <<https://www.ahpra.gov.au/Notifications/How-we-manage-concerns/Possible-outcomes.aspx>>; Australian Health Practitioner Regulation Agency, 'Investigating practitioners' (Web Page, 26 November 2020) <<https://www.ahpra.gov.au/Notifications/How-we-manage-concerns/Investigation.aspx>>.
37. Ambulance Victoria, *Complaints Procedure* (PRO/PAC/080) (State of Victoria, March 2021) 5.
38. Ambulance Victoria, 'Equal Employment Opportunity All Staff Training' (undated).
39. Ambulance Victoria, *Wellbeing and Support Services* (POL/PAC/064) (State of Victoria, February 2021) 1–5.
40. Ambulance Victoria, 'Support Available' (Web Page, 19 July 2) 1–2.
41. Ambulance Victoria, 'Information for Management' (Web Page, 11 February 2020) 1–2.
42. Ambulance Victoria, *Complaints Procedure* (PRO/PAC/080) (State of Victoria, March 2021) 3.
43. Ambulance Victoria, 'Visual representation of how employee-related complaints are processed throughout Ambulance Victoria' (paper prepared for the Audit and Risk Committee, May 2021) 5.
44. Ambulance Victoria 'Professional Conduct Committee Terms of Reference' (11 February 2021), 2, 3.
45. Ambulance Victoria, 'People and Culture Committee Terms of Reference' (December 2018) 1–2.

46. The Commission's survey asked participants about how they responded to their most recent experience of discrimination, sexual harassment or bullying.
47. The responses to the survey questions in the People Matter Survey are mandatory. The number of staff ('N') represented by the percentages have been calculated based on this. See, eg, Victorian Public Sector Commission, *Results Report, People Matter Survey 2016, Ambulance Victoria* (State of Victoria, 2016) 2: 'All percentages are of all respondents, unless stated otherwise'; Victorian Public Sector Commission, *Results Report, People Matter Survey 2017, Ambulance Victoria* (State of Victoria, 2017) 2; Victorian Public Sector Commission, *Results Report, People Matter Survey 2018, Ambulance Victoria* (State of Victoria, 2018) 2; Victorian Public Sector Commission, *Results Report, People Matter Survey 2019, Ambulance Victoria* (State of Victoria, 2019) 92, Victorian Public Sector Commission, *Results Report, People Matter Survey 2020, Ambulance Victoria* (State of Victoria, 2020) 47.
48. Ambulance Victoria describes harassment as 'uninvited and unwelcome behaviour that causes someone, or a group of people, to feel intimidated, insulted or humiliated. This may be a single, or series of incidents'. See Professional Conduct Procedure (PRO/PAC/082) (State of Victoria, November 2018) 3.
49. Victorian Public Sector Commission, *Results Report, People Matter Survey 2020, Ambulance Victoria* (State of Victoria, 2020) 43; Victorian Public Sector Commission, *Results Report, People Matter Survey 2016, Ambulance Victoria* (State of Victoria, 2016) 16–17.
50. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 32–5.
51. Paula McDonald, 'Workplace sexual harassment 30 years on: A review of the literature' (2012) 14(1) *International Journal of Management Reviews* 1, 9.
52. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 67.
53. Ganga Vijaysairi, 'Reporting sexual harassment: The importance of organisational culture and trust' (2008) 25 *Gender Issues* 43, 47, citing D Baker, D Terpstra and K Larntz, 'The influence of individual characteristics and severity of harassing behavior on reactions to sexual harassment' (1990) 22 *Sex Roles* 305–25; James Gruber and Lars Bjorn, 'Women's responses to sexual harassment: An analysis of sociocultural, organizational, and personal resource models' (1986) 67 *Social Science Quarterly* 814–26; Natalie Malovich and Jayne Stake, 'Sexual harassment on campus: Individual differences in attitudes and belief' (1990) 14 *Psychology of Women Quarterly* 63–81; David Terpstra and Susan Cook, 'Complaint characteristics and reported behaviors and consequences associated with formal sexual harassment charges' (1985) 38 *Personnel Psychology* 559–74.
54. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 18.
55. James Quick, M Ann McFadyen, 'Sexual harassment: Have we made any progress?' (2017) 22 *Journal of Occupational Health Psychology* 286, 291.
56. James Quick, M Ann McFadyen, 'Sexual harassment: Have we made any progress?' (2017) 22 *Journal of Occupational Health Psychology* 286, 291, citing Paula McDonald, 'Workplace sexual harassment 30 years on: A review of the literature' (2012) 14(1) *International Journal of Management Reviews* 1, 9.

57. The total responses are outlined below.

Length of employment	Experienced discrimination and made a formal complaint	Experienced sexual harassment and made a formal complaint	Experienced bullying and made a formal complaint
Less than two years	6.1% (n=2)	6.7% (n=1)	4.2% (n=2)
Two to five years	8.7% (n=9)	8.8% (n=3)	12.5% (n=17)
Five to 10 years	13.9% (n=23)	12.2% (n=9)	13.8% (n=27)
10 to 20 years	15.0% (n=45)	6.2% (n=8)	15.9% (n=48)
More than 20 years	12.9% (n=21)	10.9% (n=5)	15.9% (n=28)

58. Diversity Council Australia, Submission 282 to the Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020), 19.
59. Paula McDonald and Michael Flood, *Encourage. Support. Act! Bystander Approaches to Sexual Harassment in the Workplace* (Australian Human Rights Commission, June 2012) 40.
60. Paula McDonald and Michael Flood, *Encourage. Support. Act! Bystander Approaches to Sexual Harassment in the Workplace* (Australian Human Rights Commission, June 2012) 96.
61. Paula McDonald and Michael Flood, *Encourage. Support. Act! Bystander Approaches to Sexual Harassment in the Workplace* (Australian Human Rights Commission, June 2012) 96.
62. An average of 23% of people indicated they would feel uncomfortable, but not do anything when they witnessed a racist incident. This ranged between 13% and 34% depending on the scenario and setting. For example, the study found that there was a stronger willingness to act against racist jokes and slang at work than in social situations, with 34% of people indicating they would be uncomfortable but not do anything if they heard a racist joke in a social setting, as compared to 19% in a workplace. See VicHealth, *Choosing to Act: How Victorians Can Prevent Race-based Discrimination and Support Cultural Diversity* (VicHealth, 2015) 2,







# 8 Experiences of reporting

Chapter 8 details what the Commission heard about the workforce's experience of making a report or complaint of discrimination, sexual harassment, bullying and victimisation in Ambulance Victoria. It also describes the barriers that prevent people from coming forward. Chapter 8 also further analyses how Ambulance Victoria's report and complaint system complies with the positive duty in the Equal Opportunity Act.

## → KEY POINTS

- Over half of the reports or complaints of discrimination, sexual harassment, bullying and victimisation in Ambulance Victoria are made within three months of the conduct occurring. However, the responses to the Commission's survey reveal that close to one in five participants reported taking longer than six months to make a report or complaint. Combined with the Commission's earlier findings regarding the low rates of reporting, this suggests there is some hesitancy to engage with the report and complaint system.
- Informal reports of unlawful conduct were most commonly made to direct managers or to supervisors. Formal complaints were most commonly lodged with the Professional Conduct Unit or a more senior manager in Ambulance Victoria. We were told the experiences of disclosing experiences of discrimination, sexual harassment, bullying and victimisation were mixed: ranging from supportive, to dismissive, and in some instances, ignoring their concerns.
- While the timeframe for the resolution of formal internal complaints within Ambulance Victoria has substantially reduced following the creation of the Professional Conduct Unit, the Commission heard there is a strong sense that the report and complaint process routinely takes six months or longer. We were told of the toll that lengthy processes had on employees and first responders: from additional stress, negative mental health impacts and long periods of uncertainty.
- A lack of regular communication appears to be exacerbating concerns about timeliness. The Commission was frequently told that there are gaps in the information provided to complainants, including concerning, the outcome of their report or complaint.
- Our survey revealed that more than half of survey respondents reported that the most common outcome of making an informal report or a formal complaint was that there was no consequence. This was reinforced in interviews and submissions, where participants often told the Commission that appropriate disciplinary outcomes are not imposed for respondents, and there is a lack of independence in report and complaint processes.
- Restorative practices have not been a focus of the response to reports and complaints in Ambulance Victoria. The Commission was told there are few very follow-up arrangements in place that support people and workplaces to heal after a complaint process. This is creating lost opportunities to support complainants to heal and harness the individual and systemic changes that can flow from restorative practices.



## → KEY POINTS

- Participants who had made a formal complaint reported they were unaware of what they could expect of the process and were often not provided with sufficient support. Across all forms of unlawful conduct, our survey revealed very high rates of dissatisfaction with Ambulance Victoria's overall process of dealing with their formal complaint. Some participants told us they felt worse for having made a report or complaint, and in some instances, further traumatised.
- The Commission was told there is a range of significant organisational barriers preventing employees and first responders from coming forward with their experiences. Employees and first responders are reluctant to report unlawful conduct because of a widespread concern that nothing will be done and because they have real fears that they may be victimised. The Commission also heard there is a lack of confidence that confidentiality and privacy will be maintained and, particularly for those who have experienced sexual harassment, that they would be perceived as overreacting.
- Many of the barriers to reporting also operate as drivers or enablers of discrimination, sexual harassment, bullying and victimisation, creating a self-fulfilling cycle that is not being broken.
- The experiences of the report and complaint system and the barriers to reporting described to the Commission did not generally differ for different cohorts or groups. The combination of data examined by the Commission – including the low rates of reporting and a pervasive belief that it is not safe to make a report or complaint – suggests there is a widespread lack of trust in the report and complaint system.

# 8.1 Experiences of making a report or complaint

## Language to support fair and impartial report and complaint handling

Throughout chapters 7, 8 and 9, the Commission uses the term ‘complainant’ and ‘respondent’ rather than ‘alleged victim-survivor’ and ‘alleged perpetrator’. This reflects the Commission’s guidance to employers regarding language that can be used when responding to reports and complaints to ensure the processes are fair and impartial.

This section examines the experiences of complainants, bystanders and respondents to reports and complaints of discrimination, sexual harassment, bullying and victimisation. In considering these experiences, the Commission sought to understand:

- the pathways used by complainants to make a report or complaint (that is, who reports and complaints are made to) and when they are made
- how long it takes to address a report or complaint
- the outcomes of reports and complaints made in Ambulance Victoria.

The Commission has also contextualised what we learned with data and information from other surveys (including the annual People Matter Survey), complaints data and research undertaken across the health and emergency services sectors, while acknowledging that some data sets are not directly comparable with one another.

The Commission has considered whether different groups of people experience the report and complaint system differently, including the barriers they may face in making a report or complaint. Where clear differences have been identified, these are identified. However – largely consistent with the nature and extent of unlawful and harmful conduct (see chapters 4 and 5) – the Commission has not identified significant differences in the experiences of different cohorts. The combination of data examined by the Commission – including low rates of formal reporting and a pervasive and persistent lack of safety expressed by those who came forward to speak with us – suggests there is a lack of confidence in the report and complaint system.

## 8.1.1 When and how reports and complaints are made

### When

The Commission asked survey respondents to indicate the time period between when they experienced unlawful conduct and when they first reported it or made a complaint. Across all forms of unlawful conduct, over half of participants indicated that they made a complaint within three months of their experience.

As outlined in Figure 8A below, there is an indication that survey participants who reported experiencing sexual harassment were slightly more likely to make a report immediately, with 32.1% (n=27) of participants making a report or complaint on the same day.

Figure 8A – **Time to make a report or complaint**

Time to report	Discrimination (n=418)	Sexual harassment (n=84)	Bullying (n=458)
Same day or next working day	21.3% (n=89)	32.1% (n=27)	26.6% (n=122)
Less than 3 months	47.2% (n=197)	35.7% (n=30)	41.5% (n=190)
4 to 6 months	6.7% (n=28)	7.1% (n=6)	10.5% (n=48)
More than 6 months	18.4% (n=77)	19.0% (n=16)	17.7% (n=81)
Did not know	6.5% (n=27)	6.0% (n=5)	3.7% (n=17)

Of concern, these results reveal that close to one in five participants reported taking longer than six months to make a report or complaint of unlawful conduct; combined with other data sources this further suggests there is some hesitancy to engage with the report and complaint system. By contrast, in 2018, the Australian Human Rights Commission found that the majority of complaints (72%) of sexual harassment in Australian workplaces were made almost immediately, or in less than one month. A total of 5% of responses indicated a report was made in more than six months.<sup>1</sup>

## Who

In interviews and submissions, the Commission heard that participants' experiences of discussing unlawful conduct with colleagues and managers was mixed. The Commission heard responses to a disclosure of unlawful conduct ranged from supportive and sensitive responses, to a lack of knowledge about report and complaint processes through to active discouragement or dismissiveness.

**I wrote to the organisation to lodge my complaint [of bullying]. I felt that the complaint was very quickly dealt with, it was taken seriously. I felt supported in a whole range of different ways and the matter was quite quickly resolved with him actually receiving a warning for that behaviour. I felt very supported by my manager and it wasn't brushed under the carpet. I felt some level of satisfaction because the organisation did deal with it, and out of that he did receive a warning for that inappropriate behaviour.**

*Participant, Interview*

[The alleged perpetrator would] often abuse me at work ... and truly made life really difficult for me. Wouldn't talk to me at branch. Make outbursts, et cetera. I tried to speak to my manager ... and the response that I got was, "You're an adult, sort it out." *Participant, Interview*

All that we sort of get told is that if you have any sort of problem, you just go to your immediate Team Manager. ... And often they don't know the process. *Participant, Interview*

The poor experiences described by participants in their attempts to make reports and complaints to their direct managers, may in part explain the significant gap between informal and formal reporting rates in Ambulance Victoria. Research has identified that the quality of the first response to a disclosure of unlawful conduct can have a significant impact on an individual. Ineffective or ineffectual responses can further compound the harms and trauma already experienced and may substantially impact a person's trust and confidence in the report and complaint process.<sup>2</sup> Moreover, as described in further detail in Section 8.2, hearing about poor experiences of the complaint system also contributes to a pervasive sense throughout the organisation that it is ineffective; this in turn impacts the preparedness of employees and first responders to engage with the system with confidence.

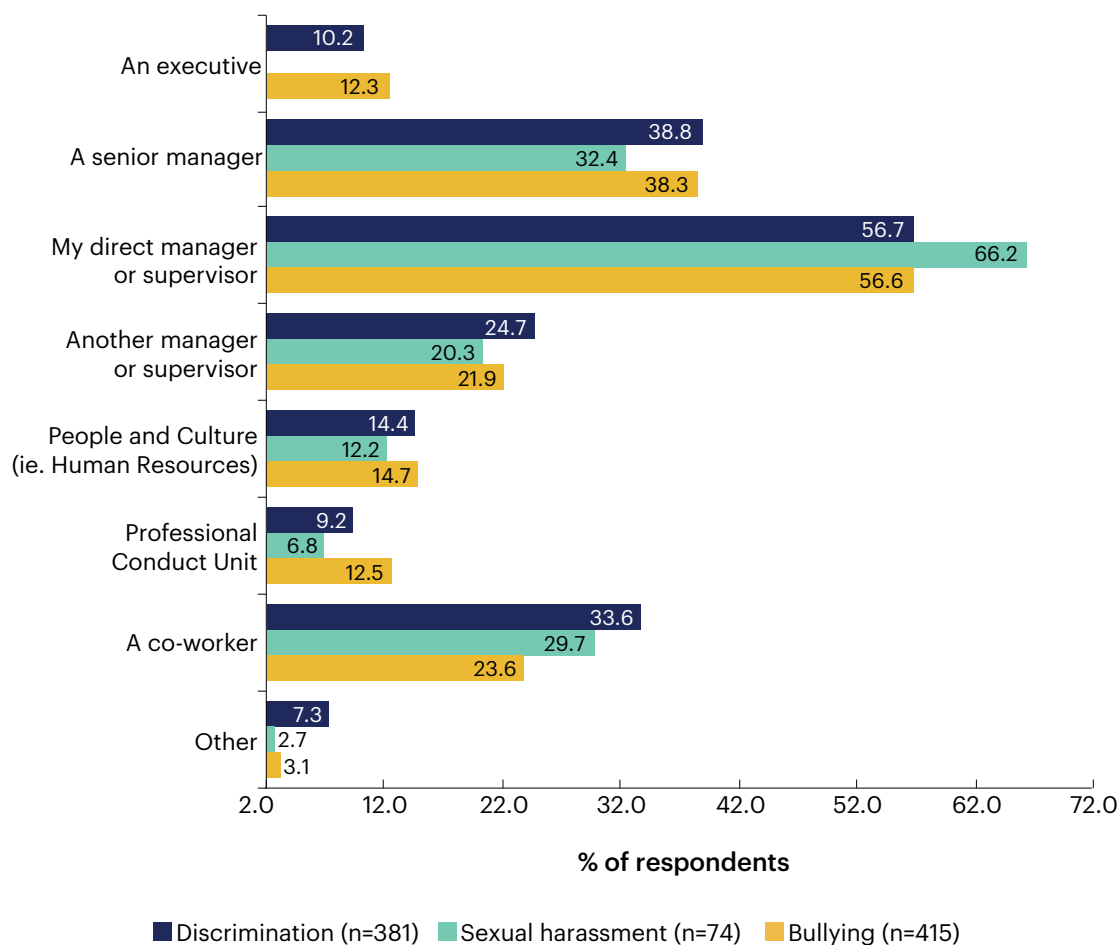
## Informal reports

The Commission's survey asked who participants approached to make an informal report. Consistent with the policies and procedures for reporting in Ambulance Victoria, across all forms of unlawful conduct, survey participants described most frequently reporting experiences to their direct manager or to a senior manager, as outlined in Figure 8B below.

For example, when making an informal report in relation to discrimination, of the 381 survey participants who responded to a question describing who a report was made to, more than half of participants (56.7% or n=216) reported to their direct manager or supervisor and 38.8% (n=148) to a more senior manager. This pattern of reporting was generally similar across all types of unlawful conduct. Of the 415 survey respondents who experienced bullying and made an informal report and responded to this question, 56.6% (n=235) also sought out their direct manager and supervisor, and 38.3% (n=159) a more senior manager.

Across all forms of unlawful conduct, survey participants indicated they had sought out co-workers to make an informal report more frequently than seeking out a representative of the People and Culture division, or a different manager or supervisor.

Figure 8B – Who informal reports of unlawful conduct were made to

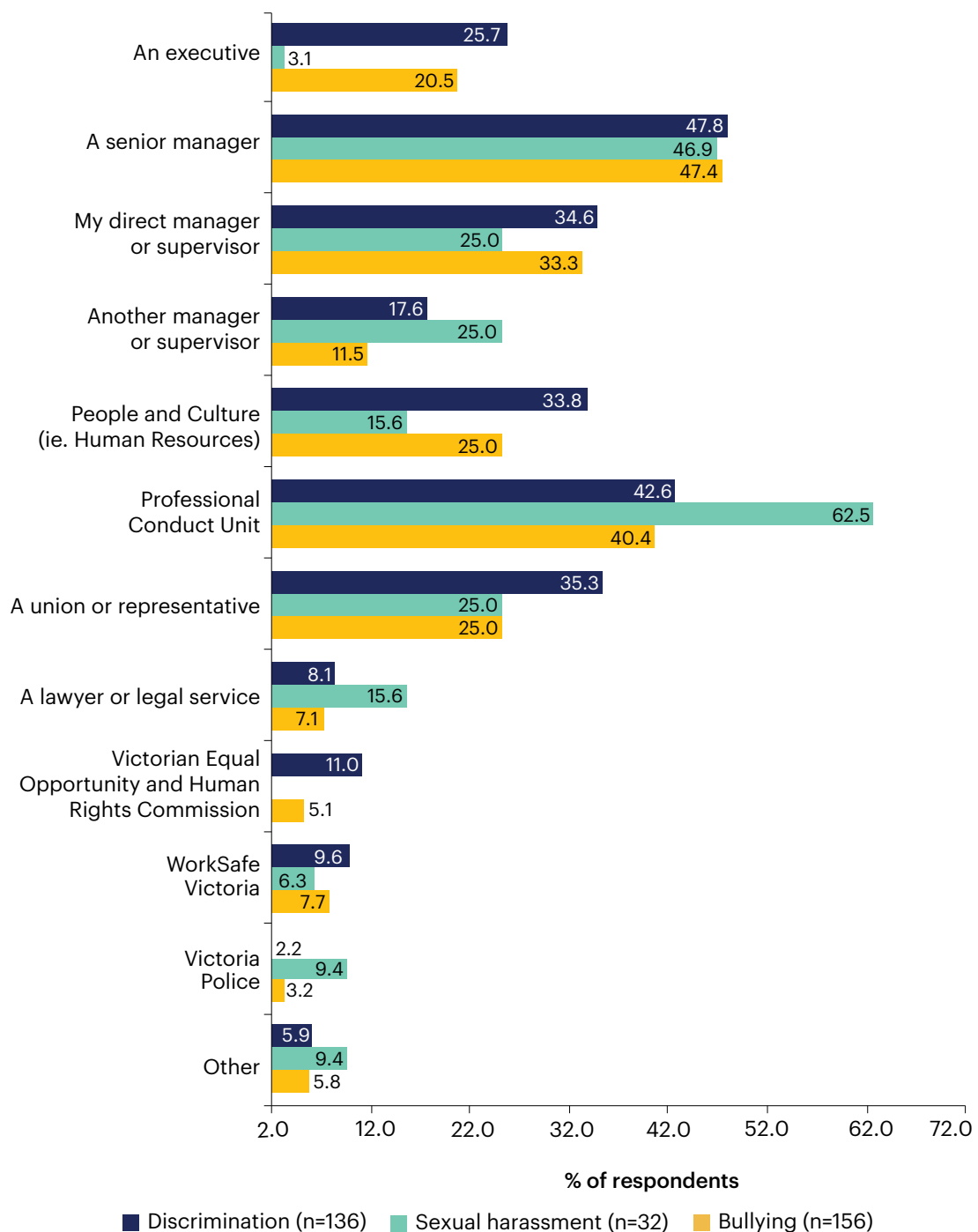


Note: this figure does not include responses below two percent

## Formal complaints

The Commission's survey asked who participants approached to make a formal complaint. Consistent with guidance provided by Ambulance Victoria (outlined in Chapter 7), participants most commonly described making a formal complaint of unlawful conduct to the Professional Conduct Unit (see Figure 8C).

Figure 8C – **Who formal complaints of unlawful conduct were made to**



*Note: this figure does not include responses below two percent*

Of the 32 survey participants who experienced sexual harassment and responded to this question, more than half (62.5%, n=20) made a formal complaint to the Professional Conduct Unit. By contrast, of the 136 and 156 survey participants who made a formal complaint about the discrimination or bullying they experienced, 42.6% (n=58) and 40.4% (n=63) reported to the Professional Conduct Unit, respectively. This data suggest that those who experience sexual harassment are more likely to report their experiences to the Professional Conduct Unit, than those who experience discrimination or bullying.

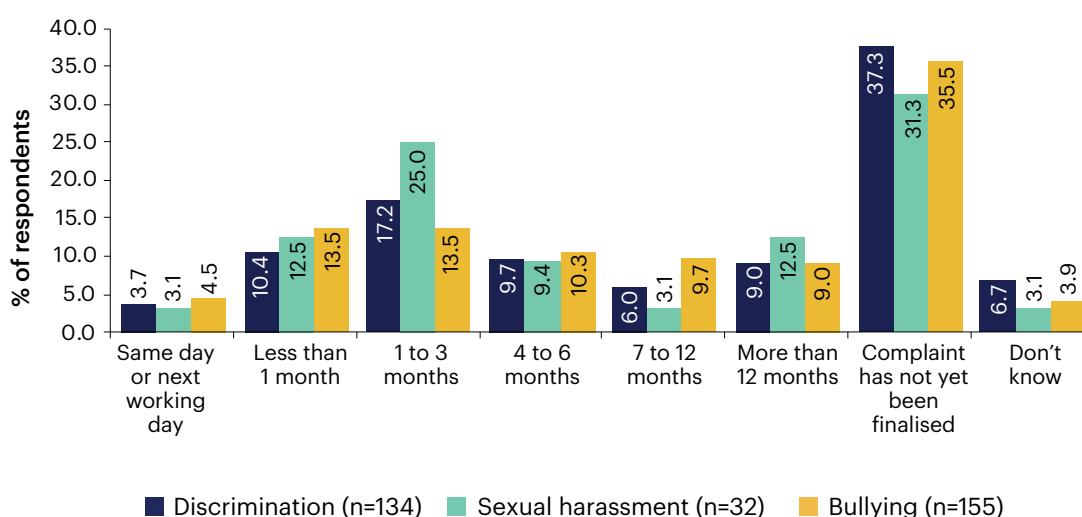
## Time to finalise

The timeliness of report and complaint processes has been described as a pillar of sound complaint handling practice.<sup>3</sup> Receiving, managing and resolving complaints in a timely way demonstrates that a report or complaint has been taken seriously and given immediate attention. Delays can lead to questions about the fairness of processes.

The Commission's survey asked participants how long it took to finalise their formal complaint. The timeframes reported by participants were generally consistent across all forms of unlawful conduct. As outlined in Figure 8D below, over one-third of survey participants described their complaint being finalised within three months. A further third reported that their complaint had not yet been finalised. We did not ask survey participants when their complaint was lodged, and as such, no conclusions have been drawn about this figure.

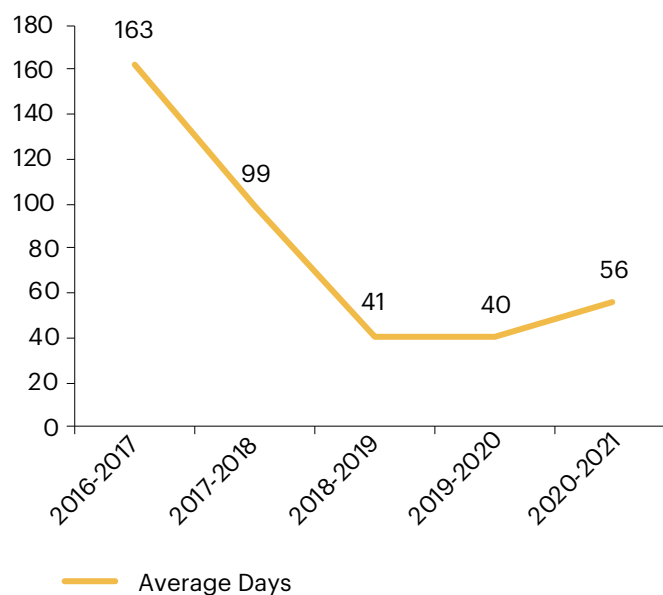
Of concern, around one in 10 survey participants reported a complaint (across all forms of unlawful conduct) taking longer than 12 months to finalise.

Figure 8D – **Time to finalise formal complaint**



Data provided by Ambulance Victoria demonstrates that timeframes for the resolution of formal internal complaints have reduced substantially since the establishment of the Professional Conduct Unit in 2017. As outlined in Figure 8E below, over the past five years, the average number of days to close an internal complaint has dropped from 163 to 56 days.

Figure 8E – Average time to closure of internal formal complaints



While significant strides have been made to reduce the timeframes for the resolution of internal formal complaints (as outlined in Figure 8E), the length of time to conduct investigations and finalise complaints was a common issue raised during interviews and in submissions. That the issue was raised frequently reinforces the centrality of timely approaches to the experiences of all those involved in a complaint, including both the complainant and the respondent.

Some participants reported experiences of investigation and complaint processes routinely taking longer than six months. There was also a widespread perception that investigation and complaint processes in Ambulance Victoria involved lengthy timeframes.

The impacts of timely processes were emphasised by participants during interviews and in submissions. For complainants, they spoke of the additional stress and negative mental health impacts of awaiting a resolution on their complaint for extended periods of time. They describe the difficulty of being able to move on while the complaint remained unresolved.

**[The complaint process] has nearly ended my marriage, I'm out of pocket upwards of \$50,000 due to lost wages and I'm a different person. I'm withdrawn, anxious, nauseated thinking about going to work, constantly on edge when at work and can't go near the room where my uniform is kept when on days off.** Participant, Written Submission

Across interviews and submissions, the Commission also heard about the negative consequences that can be experienced by respondents to complaints, particularly where investigation processes are lengthy. We were told that respondents have been stood down or removed from workplaces, sometimes without being told why. We heard lengthy investigation processes meant respondents who had been stood down faced months fearing for potential outcomes and consequences of a complaint for their careers. We were also told these delays could have a significant impact on their mental health.



The Commission heard and acknowledges that timeliness can be impacted by a range of factors. For example, the report and complaint process may be affected by complexity of the allegations, the number of parties involved, the need to collect or respond to requests for information to support investigation processes, the health and wellbeing of individuals involved to participate in processes and referral or consideration necessary by external agencies – such as the Fair Work Commission.

The Commission was also told by a handful of participants that timeliness can be impacted by the way that Ambulance Victoria, respondents and their representatives approach report and complaint processes and interact during report and complaint processes with one another.

In June 2019, an external review was undertaken by Peter Bull APM of the Professional Conduct Unit. This report highlighted that significant improvements had been made, including the establishment a greater level of independence, consistency and complaint management.<sup>4</sup> However, the review found that 40% of cases were taking more than three months to complete and some took longer than 12 months.

The report recognised that complaints made to the Professional Conduct Unit can involve significant allegations that take time to analyse and investigate. However, the review highlighted the reduction in complaint file timelines was the most significant identified risk of the review. It recommended a range of strategies to support the mitigation of this risk, including strategies such as increasing the capability of the Professional Conduct Unit to focus on early intervention, flagging the length of investigations and closely monitoring data on key measures, such as the length of time respondents are stood down as well as wellbeing needs.<sup>5</sup>

Long delays also jeopardise the restorative nature of processes, create frustration and chip away at trust in the organisation. There is an even more urgent need to follow up where complaint processes have been delayed clearly explaining the reasons why (as necessary), to ensure that delays do not add to any harm already caused.

## Communication

The concerns that the Commission heard regarding the length of time taken to resolve complaints appear to be exacerbated by a lack of communication, a lack of information about what to expect from a report and complaint process, and a lack of regular updates about the status of the matter.

In interviews and submissions, participants raised a range of concerns about their experience of communication throughout the complaint process, including:

- there was a lack of information about what the process was likely to involve
- there were failures to update complainants on the process of resolving a complaint
- information was not provided about how the complaint had been resolved or the outcomes imposed
- there was confusion about being able to access support or discuss matters as a result of the way confidentiality requirements were communicated.

Concerningly, the Commission heard instances where complainants were not provided with any details about the outcome of their complaint. Participants also described feeling confused about the processes and outcome and being disempowered after taking steps to lodge a complaint.

I was advised that [the investigation was now completed], and the case was now closed, so I requested an outcome. I was advised multiple times that the outcome had nothing to do with me, and that I would need to work out where I would be rostered to from henceforth. *Participant, Interview*

I'm still waiting on a reply from six months ago. So, they go on unresolved and then there's an underlying stress that goes with it. *Participant, Interview*

There was no transparency whatsoever regarding the outcome of [the] findings. I was not provided a basic letter, like any outcome of what they found to be deemed not their problem ... I certainly now have absolutely no faith in them whatsoever, nor would I go to them for any reason whatsoever now. I've completely lost complete faith in that. *Participant, Interview*

During the review, some participants in managerial positions also reflected on some of the challenges created by the different roles and responsibilities between the Professional Conduct Unit and managers throughout a complaint process, when managers are disconnected from investigations.

I think once it gets into being a full-blown [Professional Conduct Unit] case, that's when it is a very difficult process for everybody involved. It's very slow, no one at a regional level has any understanding of where it's at, yet you are the person who has got to speak to the people that are a part of that case, so they want to know detail, but you have no idea where we're at with it. I understand that from a confidential point of view, but then we shouldn't be that contact person for that person if we can't provide them any feedback or any consultation, and it's just a very drawn out, slow process and I think it's harming our staff. *Participant, Interview*

Similar concerns about communication during a complaint process, and particularly about the outcomes of complaints were echoed in the Victorian Auditor-General's 2019 audit of sexual harassment in the Victorian public sector. The audit found that Victorian Government departments gave complainants 'varying levels of information about the outcome of investigations due to concerns about privacy'.<sup>6</sup>

Communication with complainants during the report and complaint process is important to ensure procedural fairness. This can improve complainant satisfaction, even if the outcome is unfavourable, which decreases the risk of unnecessary escalation. Communication is also important for upholding transparency and encouraging better quality decisions to be made, as well as increasing trust in the organisation overall.<sup>7</sup>

## PERSONAL STORY

**Jamie's\* story:****The importance of communication for supporting complainants**

The alleged perpetrator came to our branch. We heard that they had been moved on from another branch because of bullying allegations. It seemed like he was just moved on – this is pretty commonly known in the workforce as something that happens in Ambulance Victoria.

At first it was fine, but then he started targeting me. There would be meetings where he dragged me into a bedroom to yell at me. He would be towering over me and wouldn't care if I said I was uncomfortable.

I applied for a training and development course and he called to get me kicked off, when questioned by the guy who ran it, his response was, "I just don't like her". I couldn't understand what I had done to make him hate me.

I asked about the possibility of extra training and he used that to say I was struggling clinically. All I did was say, "Can I have some help?" And I was punished. It was so humiliating.

During this time, he was promoted. He was so well connected I just didn't know where I could turn.

It turned out there were other people from my branch who had ongoing complaints about him, so they got an independent investigator.

I finally felt empowered to speak out, but then I got an email basically saying, "Thanks for your complaint. Not enough information was found". I was absolutely devastated. It wasn't even a phone call. Months of interviews and reliving all this over and over again for nothing.

I don't think he was ever held to account.

*\*Name has been changed to protect privacy.*



## Findings

- Informal reports of discrimination, sexual harassment, bullying and victimisation are most commonly made to direct managers and supervisors, while formal complaints are most commonly reported to either the Professional Conduct Unit or to more senior managers in Ambulance Victoria.
- The initial response to a report or complaint of unlawful conduct is critical to addressing any arising safety risks and ensuring trust and confidence in the reporting process. The Commission heard that the experience of disclosure among participants was mixed: ranging from supportive through to active discouragement from continuing with a report or complaint. It is critical that Ambulance Victoria ensures that those who may receive a disclosure are skilled and can respond sensitively and confidently.
- Over the last five years, the average time to close a formal complaint has improved significantly – from an average of 163 to 56 days. However, the Commission heard from many participants that there is a widespread perception that complaint and investigation processes in Ambulance Victoria involve lengthy timeframes. Around one in 10 respondents to the Commission's survey indicated their formal complaint had taken longer than 12 months to finalise. Long delays can diminish trust and confidence, create frustration and compound harms that may have been caused by the experience of unlawful conduct (or witnessing it).
- Concerns about timeframes to finalise complaints appear to be compounded by a lack of open and regular communication about progress to both complainants and respondents. The Commission was often told of poor experiences of communication, including failure to provide regular updates and details of the outcome not being shared with the complainant.
- Resourcing limitations of the Professional Conduct Unit were identified as a key constraint on communicating more regularly with those involved in a complaint process: this is a gap that the establishment of the Specialist Support Unit has sought to address.

### 8.1.2 Outcomes

As outlined in Chapter 7, Ambulance Victoria's *Complaint Procedure* outlines a range of options that may be used to resolve a complaint, including formal investigation, but also mediation or training and education. This section details what the Commission found about the outcomes of formal complaints in Ambulance Victoria.

The Commission notes that there are a range of factors that influence the outcomes of complaints processes, and has not reviewed individual complaint files, reflecting the systemic focus of the review.

## Complainants

The Commission asked survey respondents to indicate what happened to them within Ambulance Victoria as a result of making a formal complaint. As detailed in Section 4.3.4, across all data sources, a significant proportion of those who made an informal report or formal complaint of unlawful conduct described experiencing negative consequences. Very few participants reported a positive outcome, such as the behaviour stopping or receiving an apology or compensation.

Of the 232 people who made a formal complaint about discrimination, sexual harassment or bullying and who responded to this question, 15.1% (n=35) said the unlawful conduct stopped; 10.3% (n=24) said they received positive feedback for making the complaint; 3.0% (n=7) said they received an apology from Ambulance Victoria regarding its failure to prevent the conduct; and 0.9% (n=2) said they received compensation.

The Commission also asked participants whether anything happened at Ambulance Victoria because they had made a formal complaint. Of the 236 people who had made a formal complaint of unlawful conduct and responded to this question:

- 61.4% (n=145) indicated no changes had occurred
- 26.7% (n=63) indicated there had been no changes yet
- 19.1% (n=45) reported they did not know.

Very few participants reported systemic changes occurring as a result of formal complaints, with only 2.1% (n=5) reporting that training and education was implemented, and 2.1% (n=5) reporting that a policy, practice or procedure was developed or changed.

Of concern, the rates of systemic or organisational changes arising from formal complaints of sexual harassment are significantly lower than were found by the Australian Human Rights Commission in 2018. In that study, the Australian Human Rights Commission found 22% of complaints nationally led to the implementation of training or education in workplaces, whereas only 2.1% (n=5) of complaints resulted in education or training in Ambulance Victoria.<sup>8</sup> In the national survey, 19% of complaints led to changes in practice or procedure, and 17% led to a change in policy; whereas just 1.7% (n=4) of complaints led to a policy being developed or changed at Ambulance Victoria.

During interviews and in submissions, the Commission heard that resourcing limitations had affected the Professional Conduct Unit's ability to deliver a range of its intended functions, including refining and developing policies and procedures, as well as delivering training and education (detailed further below). The Commission also heard that information technology limitations had constrained the unit from undertaking data and trend analysis of the complaints received. These factors may partly explain the disparities between results of the Commission's survey and the Australian Human Rights Commission's national survey.

## Respondents

The Commission's survey asked participants to describe what happened to the person who engaged in the unlawful conduct after an informal report or a formal complaint was made.

Figures 8F and 8G below show the seven most common responses participants identified to their informal reports and formal complaints of unlawful conduct.

Figure 8F – **Top seven outcomes of informal reports**

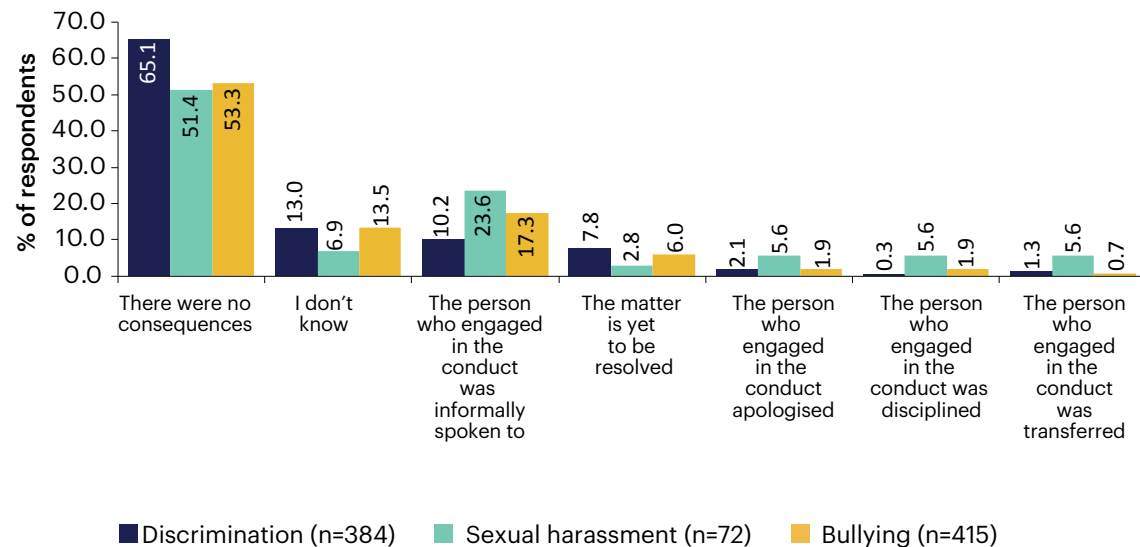
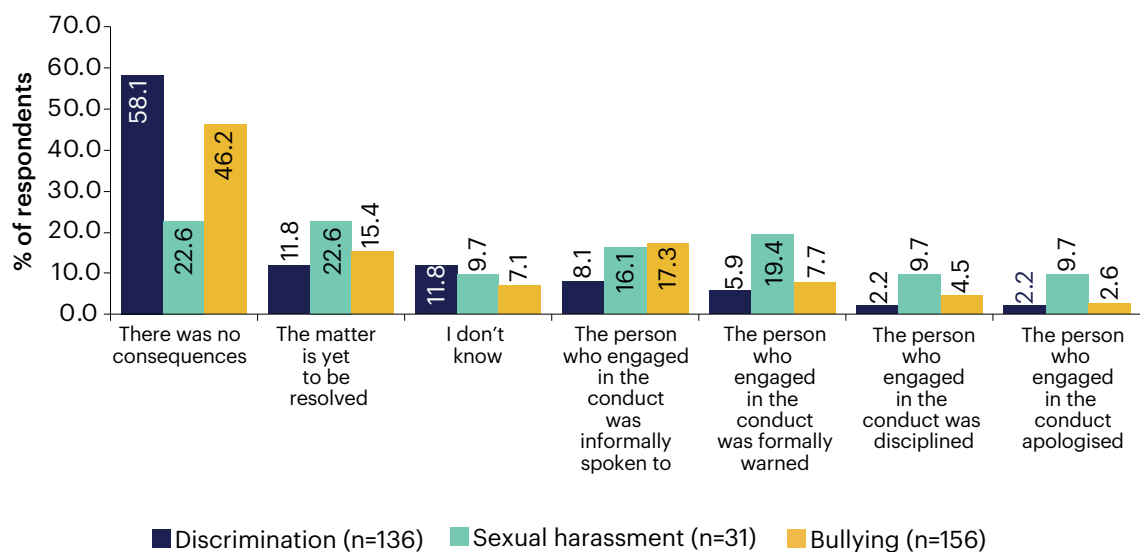


Figure 8G – **Top seven reported outcomes of formal complaints**



Thirty-three participants who experienced unlawful conduct and responded to these survey questions also noted in open-text responses that the respondent of the unlawful conduct was promoted following the informal report or formal complaint.<sup>9</sup>

Of concern, more than half of survey respondents reported that the most common outcome of making an informal report or a formal complaint was that there was no consequence.

A lack of consequences was less commonly reported by survey respondents who made formal complaints of sexual harassment. Of those 31 survey respondents, 22.6% (n=7) reported that there were no consequences. This is broadly consistent with the 2018 findings of the Australian Human Rights Commission, which found that in one in five cases (19%) there were no consequences for the alleged perpetrator as a result of a formal report or complaint being made.<sup>10</sup>

Almost one in 10 survey respondents reported that they were not aware of the outcome of their report or complaint. Of concern, for those who made either an informal report or a formal complaint of discrimination or bullying, not knowing what happened to the respondent was reported more commonly than outcomes such as apologies (ranging between 2.2% (n=3) and 1.9% (n=8), respectively), formal warnings (ranging between 5.9% (n=8) and 7.7% (n=12), respectively) or other disciplinary outcomes.

Through submissions and interviews, many participants told the Commission of their belief that there is a pervasive sense throughout the workforce that reports and complaints do not result in outcomes or changes. Participants described a range of issues, including perceptions that:

- reports and complaint processes and outcomes are interfered with
- there is insufficient capability and resourcing to conduct investigations effectively
- some alleged perpetrators can be protected or are 'untouchable'
- alleged perpetrators are moved away or promoted following a complaint
- outcomes are not proportionate to the seriousness of reports and complaints
- complaints are frequently referred back to managers to resolve.

Participants described how the pervasive sense that no consequences will arise from making a report or complaint affects the confidence of employees and first responders to engage with the report and complaint system.

**[/] [P]eople have very little confidence that their complaints will be addressed adequately. [V]ery often, the victim is the one that gets moved around, and it's seen that the perpetrator is either very mildly disciplined but remains in their workplace, or in managing people, or whatever it might be. But there's no consistency in that either.**

*Participant, Interview*

**When you think about everyone that has stuffed up, or put a foot out of line, or done the wrong thing, they are just moved.** *Participant, Interview*

A participant also reflected on the approach to local level resolution of complaints and perceptions that this can involve conflicts of interest.

**There's a lot of conflict of interest around the way things can be managed at a local level with relationships, and – being a manager myself, I'd rather just be able to support my staff and provide them with the support they need, rather than being judge, jury and executioner. So, to be able to hand the responsibility for a department or a person to do a transparent investigation while we just worried about staff welfare was certainly something I think is crucial. And I think historically we'd seen where things would be just covered up because the local manager was mates with a repeat offender.**

*Participant, Interview*

One participant reflected that a lack of open communication about the outcomes of complaints and the work of the Professional Conduct Unit contributes to the belief in Ambulance Victoria that no action is taken in response to reports and complaints.

**You don't actually have any sense that there are a number of people in the organisation that were investigated for poor behaviour and actually did leave. Because it does happen. But we don't share that even in de-identified ways.** *Participant, Interview*



## PERSONAL STORY

**Amanda's\* story:****Referring complaints to local areas**

I began to be bullied by my manager. He would question my judgement on cases and approached me out of work to threaten me both verbally and physically. More than once I thought about calling the police.

I contacted a more senior manager and he advised me to escalate the matter to the Professional Conduct Unit. I completed multiple incident report forms and a written complaint but I was later advised that it was not a significant enough event to involve them and would be returned to my management.

My new manager was good friends with my bully and I just knew nothing would get done.

I completely lost my confidence and was unable to attend work for fear that my bully would be there. I started experiencing intense anxiety whenever I even thought about work. This was the lowest point in my career and I seriously considered resigning.

Instead of attempting to help me, my manager would interrogate me about the complaint, stating it was just an issue with our 'relationship'. He offered to mediate a session between the two of us but it just seemed so ridiculous to me that no one could see the clear conflict of interest there.

During this time, I made multiple attempts to contact the Professional Conduct Unit regarding my ongoing concerns about management of this issue and suspected ongoing victimisation. But I was repeatedly told there was nothing they could do. I eventually attended a mediation session, but nothing really happened, it didn't achieve anything.

I've been told by other people that this isn't the first time this man has been called out on his behaviour and yet because he's connected, nothing changes. Management just don't know how to handle conflict resolution and provide support to their staff or workplace safety.

I find it hard to describe the deep grief this has caused me. My case is still open, and it just doesn't seem like anything will come of it.

*\*Name has been changed to protect privacy.*

Data provided by Ambulance Victoria indicates that the most common response to a formal complaint over the last five years was a referral to local area management, or human resources, as outlined in Figures 8H and 8I below.

However, the Commission is concerned that the most common outcome registered for complaints is a referral to another area for action. Since 2016–2017, Ambulance Victoria has responded to a total of 201 formal complaints; 91 (45.5%) of these responses involved a referral to another unit. Seventy-nine of these referrals were made in the last two years.

A high level of referrals, particularly back to local area management (when a manager may have already referred the complaint to the Professional Conduct Unit) may be contributing to the perception that no consequences arise from making a complaint, as it appears to end up back with the manager who received the complaint in the first place.

Figure 8H – **Outcomes of internal complaints at Ambulance Victoria**

<b>Outcome</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>Total</b>
Referred	1	3	8	39	40	91
No action	0	31	7	0	1	39
Unsubstantiated	0	0	1	13	13	27
Warnings <sup>11</sup>	1	2	2	10	2	17
Other <sup>12</sup>	0	2	2	2	2	8
Insufficient information	0	0	0	1	6	7
Resignation	1	1	1	1	1	5
Termination	0	2	0	1	2	5
Restorative outcomes <sup>13</sup>	0	0	0	1	1	2

Figure 8I – **Referral of internal complaints to other areas<sup>14</sup>**

<b>Responsible area</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>Total</b>
Local area management	0	3	7	38	37	85
People Services	0	0	1	6	5	12
Specialist Support Unit	0	0	0	0	4	4
Workplace relations	0	0	0	2	1	3

## Follow-up

The Commission also heard through interviews and submissions that there are few follow-up arrangements in place to support complainants, respondents and workplaces to recover and heal after a report or complaint has been made.

As noted earlier in this Chapter, an intention of the Professional Conduct Unit's establishment was to provide restorative outcomes, recognising the importance and impact that a report or complaint may have on a workplace environment, as well as the potential for these outcomes to have a positive impact on shaping organisational culture. However, the Commission heard that resourcing limitations have constrained the ability of the unit to deliver this function.

One participant described the impact of a lack of focus on restorative practices and measures.

**[There] was no resolution for colleagues and for leaders at all. It was very much – It was like throwing a grenade into a team and then walking away and asking them to look after themselves. *Participant, Interview***

It is also well documented in research and literature that a key element of addressing reports and complaints of unlawful conduct is that there is appropriate follow-up to address any potential ongoing issues. This may require interventions such as resetting acceptable standards of behaviours and routine monitoring for reoccurring issues in a workplace.<sup>15</sup>



## Findings

- More than half of survey respondents reported that the most common outcome of making an informal report or a formal complaint was that there was no consequence. This was reinforced in interviews and submissions, where participants often told the Commission that there is a pervasive belief in Ambulance Victoria that perpetrators are not held to account and complaints do not result in change.
- We were told that this common belief affects the confidence of staff to engage with the report and complaint system. Participants reflected that there are perceptions that report and complaint processes and outcomes are interfered with and that outcomes are not proportionate to the alleged conduct. This includes, in some instances, alleged perpetrators being moved or promoted following a complaint.
- Since 2016-2017, Ambulance Victoria has responded to a total of 201 formal complaints of discrimination, sexual harassment, bullying and victimisation. The two most common outcomes of these complaints involved a referral to another area within Ambulance Victoria (45.5%, n=91) or no action being taken (19.4%, n=39).
- There are a range of factors that can influence the outcomes of complaint processes – including some outside of the control of Ambulance Victoria. However, the high rate of referrals, particularly back to local area management, may be contributing to the perception that there are no consequences that follow a complaint being made. The high rates of referral for a local level resolution also indicate that there may be reports and complaints being made or referred to the Professional Conduct Unit that could have benefited from more flexible response, such as informal, early intervention approaches without the need for escalation into formal complaint processes.
- The use of restorative practices has been constrained due to resourcing limitations. The Commission was told that there is little follow-up after a report or complaint to support those involved and to assist the workplace to recover and heal. This indicates Ambulance Victoria's report and complaint system has an overreliance on formal processes, and limits opportunities to offer complaints more flexibly and victim-centred processes.
- The rates of systemic change following formal complaints are also very low, reinforcing what the Commission has heard earlier about a lack of focus on root causes and a lack of systemic trend analysis of report and complaint data. Of the 236 people who made a formal complaint of discrimination, sexual harassment or bullying, only 2.1% (n=5) reported Ambulance Victoria implemented training and education, and only 1.7% (n=4) indicated a policy was developed or changed.

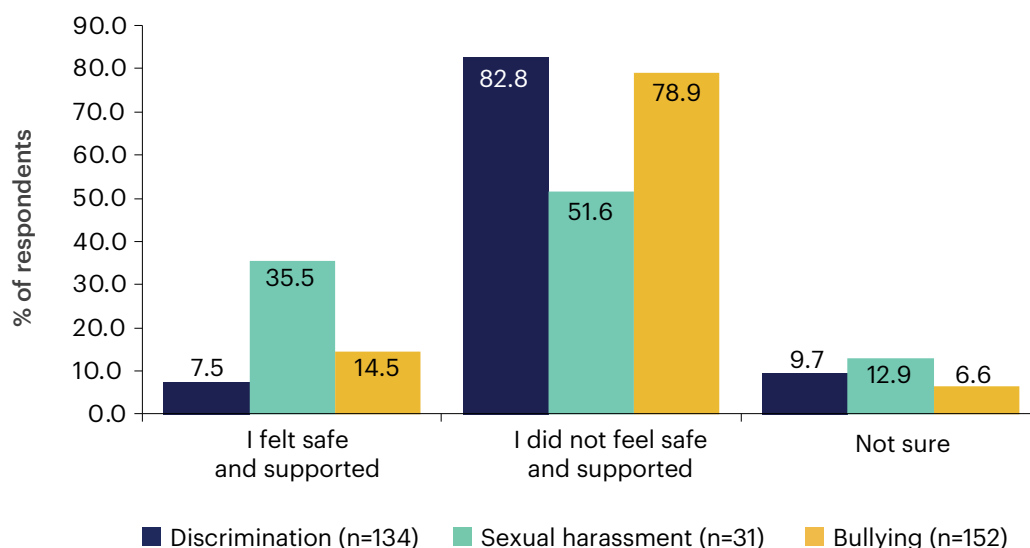
## 8.1.3 Safety and satisfaction

### How safe and supported complainants feel

As noted in Chapter 5, the impacts of experiencing unlawful conduct can be profound. Whether or not a report is made informally or formally, or is substantiated or not, there may be long-lasting effects on every aspect of a person's life. Accordingly, it is vital to ensure that those involved in report and complaint processes are safe and aware of supports available.

The Commission's survey asked participants whether they felt safe and supported during the formal complaint process. Participants often described feeling low levels of safety and support, particularly in relation to reports of discrimination and bullying, as outlined in Figure 8J below.

Figure 8J – **Complainants' feelings of safety and support during the formal complaint process**



There were some differences in the way men and women reported their feelings of safety and support during the formal complaint process. Men who had made a formal complaint about discrimination (n=66) less commonly reported feeling safe and supported: just 3.0% (n=2) reported feeling safe and supported, and 86.4% (n=57) reported not feeling safe and supported. In comparison, 10.2% (n=6) of women reported feeling safe and supported, and 81.4% (n=48) reported not feeling safe and supported.

The lack of feelings of safety and support described in the survey is reinforced by what the Commission heard during interviews and in submissions. Some participants described feeling deeply disappointed by their experiences of making a report or complaint, including feeling retraumatised by the process.



## **The opposite of safe and supported. Targeted, unheard, dismissed.**

*Participant, Interview*

**I will say that going through that process, it pretty much destroyed me. And I was just absolutely humiliated and crushed mentally.** *Participant, Interview*

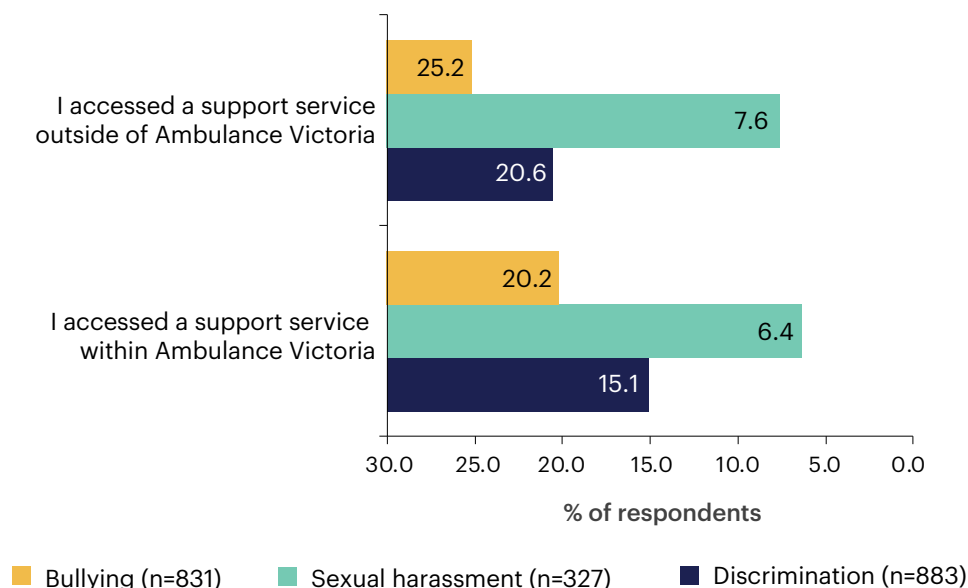
These findings are also broadly consistent with experiences reported to the Victorian Auditor-General's review into bullying and harassment in the health sector in 2016. In that report, a lack of support during and following a report or complaint was identified as a key shortcoming of report and complaint processes.<sup>16</sup>

The confidence a complainant has that their employer will support them has been identified as key to providing a safe environment that encourages reports to be made. For example, Safe Work Australia has highlighted that implementing certain measures – investing in support resources, providing workers with a range of accessible ways to report anonymously and confidentially as well as communicating the process clearly – are important to make employees feel safer and more supported in coming forward.<sup>17</sup>

### **Access to support and advice**

The Commission asked what actions survey respondents took following their experience of unlawful conduct, including whether they accessed a support service either within or outside of Ambulance Victoria. Across all forms of unlawful conduct, survey participants reported low levels of accessing support services within or outside of Ambulance Victoria, as outlined in Figure 8K. Concerningly, this was particularly the case for those who reported experiencing sexual harassment: only 6.4% (n=21) of participants who reported experiencing sexual harassment and who responded to this question accessed support services within Ambulance Victoria, and only 7.6% (n=25) sought support outside of Ambulance Victoria.

Figure 8K – Access to support services



In interviews and submissions, the Commission was also told of frequent gaps in the provision of support services to complainants after they made a complaint.

**There was no support offered. No support person offered. No-one to keep me informed.** *Participant, Interview*

**[I was given] no support. I wasn't allowed to talk to anybody about anything, and from then on nobody I worked with knew anything about it. No-one at the branch would talk to me, because they knew I reported him. It was just very difficult. And it went on for three years, nearly.** *Participant, Interview*

As detailed earlier in this Chapter, the Commission heard resourcing constraints on the Professional Conduct Unit have also been identified as a key limitation on its capacity and functions, including ensuring supports are provided to complainants and respondents; this is a gap that the creation of the Specialist Support Unit has sought to address.

During interviews, the Commission also heard participants reflect that the impact of the clarity and communication of messaging about support services for respondents can create barriers.

**I think the messaging around, "this is a confidential matter" is so strong. It takes from the message that you can call the psychologist if you need to.** *Participant, Interview*

The Commission also heard that while formal documentation refers individuals involved in a complaint process to wellbeing services, there are no formal processes or procedures established between the Professional Conduct Unit and the Wellbeing Support Services Unit to ensure that referrals are made, as needed.

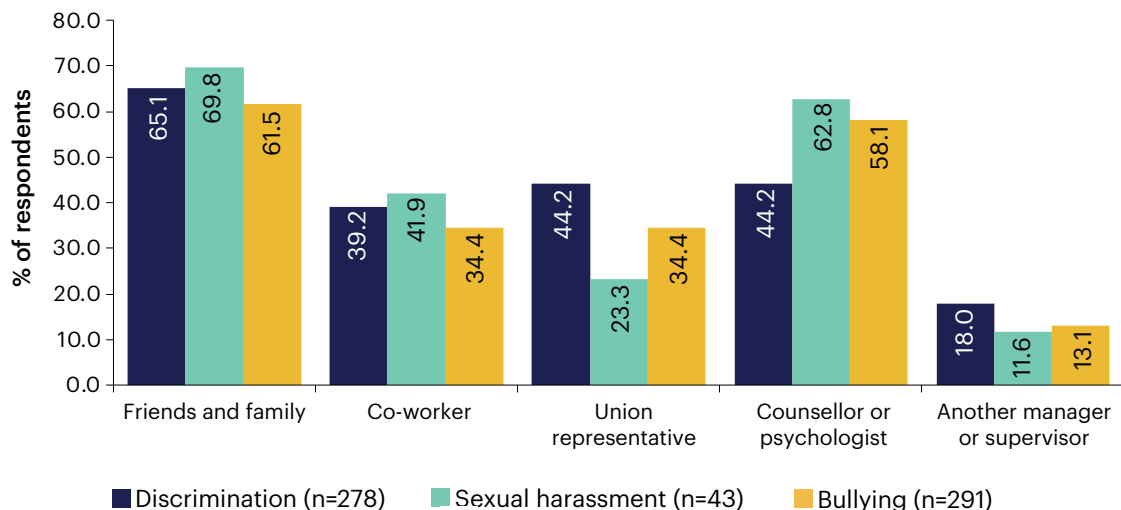
The AEAV also noted that, in its experience, employees and first responders found themselves with limited support, and that the lack of experience of team managers and health and safety representatives limited their capability to provide options or connections to support services.<sup>18</sup>

The Commission's survey also asked whether participants sought any other support or advice about their most recent experience of unlawful conduct. Of the 320 people who experienced sexual harassment and responded to this question, most (86.6% or n=277) reported that they did not seek further support or advice about their most recent experience of sexual harassment. Of the 833 and 922 survey respondents who reported experiencing discrimination or bullying, respectively, 66.4% (n=553) and 68.0% (n=627) did not seek any other advice or support.

Given the low levels of engagement with Ambulance Victoria's support services demonstrated above, it is concerning that the vast majority of participants who experienced unlawful conduct did not seek further support or assistance elsewhere.

The Commission asked survey respondents who they turned to for support and advice. The patterns are similar to those reported for informal reports of unlawful conduct outlined earlier in this Chapter; survey respondents most commonly reported seeking the assistance and support of family members and friends following their experiences, followed by counsellors and psychologists and co-workers.

**Figure 8L – Top five sources of support or advice about experiences of unlawful conduct**



These findings also highlight the key role played by unions and professional associations in the report and complaint process. For example, of the 291 survey respondents who experienced bullying and responded to this question, 34.4% (n=100) sought advice or support from a union or employee representatives.



The Commission's findings are reinforced by the patterns found by the Australian Human Rights Commission in 2018, which found people who experienced sexual harassment most commonly sought advice and support from friends and family (61%), followed by co-workers (31%).<sup>19</sup>

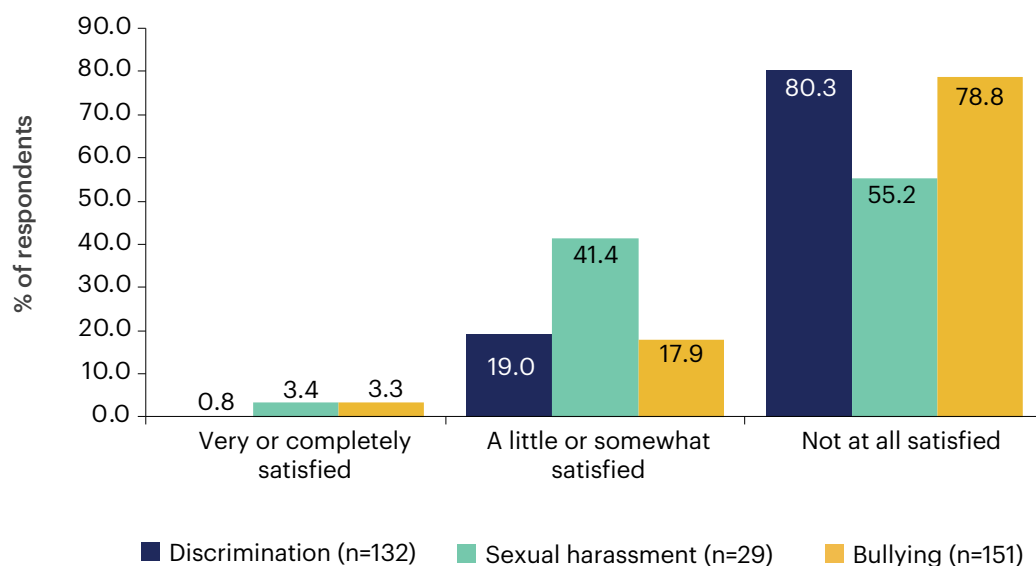
## Satisfaction with the process

Across all data sets, employees and first responders who came forward to the Commission told us they were profoundly dissatisfied with their experience of making a report or complaint. The rates of dissatisfaction are a distressing indication that the report and complaint process is not serving the needs of Ambulance Victoria's workforce.

The Commission's survey asked how satisfied respondents were with the overall process of dealing with their formal complaint. It is of significant concern that across all forms of unlawful conduct there were very high rates of survey respondents who reported feeling not at all satisfied with the overall process of dealing with their formal complaint of unlawful conduct, including:

- 80.3% (n=106) of those who experienced discrimination and made a formal complaint reported feeling not at all satisfied with the complaint process
- 55.2% (n=16) of those who experienced sexual harassment and made a formal complaint reported feeling not at all satisfied with the complaint process
- 78.8% (n=119) of those who experienced bullying and made a formal complaint reported feeling not at all satisfied with the complaint process.

Figure 8M – **Satisfaction with the formal complaint process**



The deep dissatisfaction with the complaint processes is consistent with reflections of participants during interviews and in submissions. Most participants reported feeling dissatisfaction with their experience, for a range of reasons, including those discussed above relating to a lack of communication about the outcome of their complaint, access to supports, timeliness and communication flows. In addition, the Commission was told of other reasons for poor experiences, including:

- victimisation and retaliation after lodging a complaint, including being socially isolated by colleagues, or stagnation of their careers
- breaches of confidentiality
- processes that made them feel retraumatised
- responses to reports and complaints that made complainants feel like the respondent was a greater priority.

Two participants described their experiences of these issues.

**The handling of that complaint could not have been worse. It not only didn't deal with the issue but made the conditions worse.** *Participant, Interview*

**I feel like the perpetrators have more rights than the victims. In the end.** *Participant, Interview*

Of concern, the rate of satisfaction with the complaint process for those who reported experiences of sexual harassment are also much lower than reported by the Australian Human Rights Commission in 2018 about Australian workplaces. In that study, 35% of those who reported the behaviour indicated that they were extremely satisfied with the process used to deal with the complaint, with 13% indicating that they were not satisfied at all.<sup>20</sup>

The Commission did hear from a small number of participants who had positive experiences of the report and complaint system. They described the importance of feeling that their concerns were taken seriously, that they were heard, and that timely actions were taken.

**I walked away pretty upset about the [derogatory comments I had witnessed being made], but I felt like it was handled okay because my comments were taken really seriously. The person that I spoke to in the Professional Conduct Unit sounded also offended by these comments. So, I felt like I had someone who really understood me. The action taken was quite fast.** *Participant, Interview*



## Findings

- Very high rates of survey respondents (reinforced by interviews and submissions) described that they did not feel safe or supported during a formal complaint process, particularly in relation to reports of discrimination and bullying. The provision of support to complainants and respondents appears to be inconsistent. Also, managers are not effectively equipped with the necessary information to ensure connections to support services are made when needed.
- More than three-quarters of survey participants reported feeling not at all satisfied with the process of dealing with the formal complaint of discrimination (80.3%, n=106) and bullying (78.8%, n=119).
- The reasons identified by participants were varied and included a lack of communication, gaps in access to support, delays, breaches of confidentiality and victimisation. These substantial rates of dissatisfaction indicate a report and complaint process that is not serving the needs of Ambulance Victoria's workforce.

## 8.2 Barriers to reporting

Research shows that experiences of workplace discrimination, sexual harassment and bullying can be underreported.<sup>21</sup> Research in the context of sexual harassment also indicates that organisational contexts – such as the way report and complaint systems are perceived by a workforce, and actual poor handling and experiences of complaint systems – also erode trust in procedures and future willingness to come forward.<sup>22</sup>

In the context of the health sector, widespread underreporting of inappropriate behaviours, including bullying and harassment has also been identified. A 2016 audit of bullying and harassment in the Victorian health sector undertaken by the Victorian Auditor-General found a range of causes for under-reporting these behaviours, including:

- beliefs and experiences that nothing will change as a result of reporting due to past inaction
- distrust of human resource departments
- a fear of negative consequences
- a high degree of normalisation of inappropriate behaviours.<sup>23</sup>

The Australian Human Rights Commission also made similar findings in 2018 in relation to barriers to reporting sexual harassment in Australian workplaces.<sup>24</sup> These barriers have also been identified in relation to sexual harassment and discrimination by the Victorian Equal Opportunity and Human Rights Commission during its review of Victoria Police.<sup>25</sup> Similar findings were also echoed in a 2018 New South Wales parliamentary inquiry into emergency services agencies, which observed there were high-levels of under-reporting throughout emergency services organisations in New South Wales. This inquiry found underreporting was due to a confluence of factors, including real or perceived conflicts of interest in the reporting system, perceptions that interpersonal issues should be dealt with by individuals, rather than the organisation and unclear procedures.<sup>26</sup>

Consistent with this research, the Commission heard there is a number of intersecting barriers that create obstacles for employees and first responders to make a report. Some of these barriers are more significant for women than men, or for certain types of unlawful conduct, such as sexual harassment, where participants were more likely to report concerns about how their complaint would be perceived.

Many of these barriers are also mutually reinforcing and intersecting drivers of unlawful and harmful conduct, as described in Chapter 6. For example, the Commission has found a general tolerance for incivility and unlawful conduct at Ambulance Victoria has meant these behaviours are brushed off or trivialised. In turn, this tolerance operates as a barrier to reporting, as it makes it more difficult to understand what conduct is unacceptable within an organisation and undermines confidence that a report or complaint will be taken seriously.

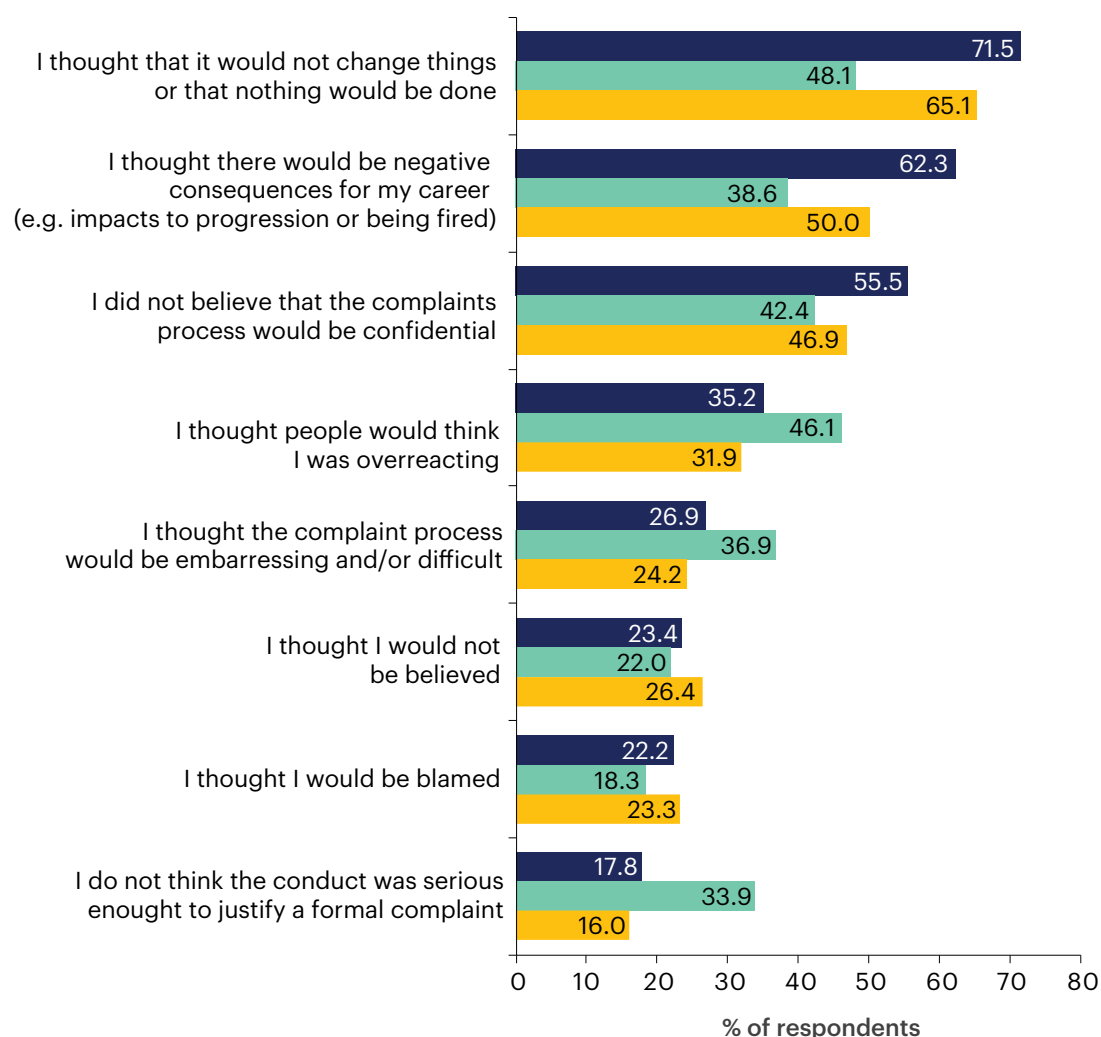
These findings are reinforced by a survey conducted in 2020 by Swinburne University that examined the workplace climate and wellbeing of Ambulance Victoria's workforce. This study did not directly seek information about the rates of reporting of unlawful conduct, but, in part, sought to understand how participants felt about speaking up about workplace issues. Researchers found there was strong support within the workforce for speaking about issues of concern. However, two-thirds of the respondents said they remained silent on workplace issues, mostly because they feared retribution or thought nothing would change.<sup>27</sup>

The Commission was also told there is a lack of options and capability to address low level conflict within the workplace, which can discourage reporting as a complainant may not wish to make a report and complaint in a formalised process. Further, participants identified that gaps in management capability create difficulties in having challenging conversations, as outlined further in Chapter 6.

The low rates of reporting (a clear impact of the barriers to reporting) are preventing Ambulance Victoria from understanding the nature and extent of unlawful conduct in the organisation. Underreporting is also inhibiting the ability of Ambulance Victoria to hold those who engage in these behaviours to account. In addition, the poor experiences of those who have engaged with the organisation's reports and complaint system appear to be having a chilling effect on the confidence of others to engage in the system. This, in turn, contributes to a sense that there is a tolerance throughout the organisation for unlawful conduct.

The sense that some within the workforce feel they are unable to speak up is apparent in the 2020 People Matter Survey, where only 59% (n=706) of those who participated indicated they agreed that people within their work area are able to bring up 'problems or tough issues', almost one-quarter of respondents (22% or n=263) disagreed with this statement.<sup>28</sup>

To better understand the barriers to reporting, we asked participants why they did not make a formal complaint about the unlawful conduct they experienced. Participants could select more than one response. The Commission was told there are a range of pervasive barriers to reporting, which are outlined in Figure 8N below.

Figure 8N – **Most commonly reported barriers to reporting**

Note: This figure displays the eight most common barriers reported by participants.

As Figure 8N demonstrates, similar barriers to reporting were described by survey participants who experienced discrimination and bullying, with close to three-quarters of survey participants reporting a fear that nothing would change or be done and that there would be negative consequences for making a report.

By contrast, those who experienced sexual harassment and responded to this question more commonly reported fears that they would be perceived to be overreacting, that the complaint process would be embarrassing or difficult, and/or that they did not think the conduct was serious enough to justify a formal complaint.

These results are broadly consistent with the findings of the Australian Human Rights Commission in 2018, which found the most common reason for not reporting workplace sexual harassment was that the victim believed people would think they were overreacting. Other common barriers included that the incident was not serious enough, or that nothing would be done.

The 247 women who experienced sexual harassment and responded to this question more commonly reported concerns about confidentiality (44.9% or n=111), as compared to the 37 men (24.3% or n=9); that nothing would be done (49.0% or n=121 versus 35.1% or n=13) and that there would be negative consequences (39.3% or n=97 versus 27.0% or n=10).

This is broadly consistent with the Australian Human Rights Commission's National Survey findings, which identified that women were more likely to report concerns about confidentiality and a fear that nothing would be done.<sup>30</sup> Contrastingly, the Australian Human Rights Commission found women were more likely than men to nominate a fear that they would be perceived to be overreacting, however, this distinction did not emerge from our survey.<sup>31</sup>

Positively, the Commission's survey did not reveal a lack of awareness of the complaint process or to whom a complaint should be made as barriers to reporting. Only 9.1% (n=68) of participants who experienced discrimination and responded to this question identified that they did not make a formal complaint because they were not aware of how the process worked.<sup>32</sup> Less than one in 10 survey respondents who had experienced unlawful conduct described not being aware of who to make a formal complaint to as a barrier to reporting the conduct.<sup>33</sup>

## 8.2.1 Fear of the consequences of reporting

### Fear that nothing will change or be done

The barrier to reporting most frequently identified by participants was a fear that no action or change would result from doing so. This barrier was reported most frequently by those who experienced discrimination and bullying, and by almost half of those who experienced sexual harassment. This includes:

- 71.5% (n=535) of the 748 survey participants who experienced discrimination and responded to this question
- 48.1% (n=142) of the 295 survey participants who experienced sexual harassment and responded to this question
- 65.1% (n=525) of the 806 survey participants who experienced bullying and responded to this question.

These responses were echoed during interviews and in submissions, where participants described to the Commission how a perception that there is little accountability for alleged perpetrators (as outlined earlier in this Chapter) contributed to a sense that no action will be taken in response to a complaint.

**[I]f you see people speaking up and reporting and doing what we're told to do, let us know so we know there's a problem but then no follow through or minimal repercussions, you get to a point where there's no faith in the system that there will be an appropriate response. Participant, Interview**

Participants reported that informal networks and spheres of influence created by friendships developed over long periods of time made them feel that there was little point complaining, and gave them a sense that there would be no

accountability for an alleged perpetrator. One participant described the impact of these close friendships on their view of making a report or complaint as follows.

**My direct supervisor was close friends with the group manager and also the area manager, so I felt that complaining by these channels was of no use.**

*Participant, Submission*

## A climate of fearing retribution

There was a widespread view among participants that there will be immediate negative consequences for someone who makes a report or complaint, as well as consequences throughout their career. These fears appear to be well-founded based on the Commission's understanding of the nature and extent of victimisation (explored in chapters 4 and 5).

Across all forms of unlawful conduct, survey participants identified the fear of retribution as a significant barrier, including:

- 62.3% (n=466) of the 748 survey responses to this question who had experienced discrimination
- 38.6% (n=114) of the 295 survey responses to this question who had experienced sexual harassment
- 50.0% (n=403) of the 806 survey responses to this question who had experienced bullying.

The Commission heard from participants that those who spoke up were not supported, suffered detriment in progression and development opportunities and were branded as someone who 'rocked the boat' and would not have their career supported over the long-term. Participants told the Commission that this is widely known throughout the organisation and generated a pervasive 'culture of silence'.

**There is a climate of fear that pervades the organisation where speaking out or complaining has consequences resulting in a culture of silence.**

*Participant, Written Submission*

**I've certainly heard informal discussions where people have – that if they've made too big a nuisance of themselves all of a sudden there's no opportunities for them. There's certainly a perception greater than just myself that if you do pursue the wrong thing for the wrong person, that that will be a career ending move. That was a significant contributor in not complaining formally about some of these matters.** *Participant, Interview*

**[If] you have a long and successful career ahead of you and the question is do you want to ruin it by continuing with this complaint because if you do follow down this complaint, then the advice that I've been given is that you'll never get on to MICA.** *Participant, Interview*

Similar findings of a culture of silence have also been observed in the context of other emergency service organisations, such as law enforcement, which in part is driven by fear of negative career consequences.<sup>34</sup>



## PERSONAL STORY

### Susan's\* story:

#### Feeling unable to make a complaint about parental and carer discrimination

After having a child, I was discriminated against because I was a parent and carer.

The discrimination took many forms, including the aggressive way that Ambulance Victoria negotiated my flexible work arrangement with me, as well as being denied opportunities for promotions and professional development due to my part-time work arrangements.

I have not reported or made a complaint about my experiences for several reasons.

My direct managers have always discouraged me from making complaints. I have felt unsure and unsupported about the process and that it's just a pointless endeavour. In the past I have been told by a direct manager that making a complaint would have a negative impact on my career and achieve nothing because the person I wanted to complain about was 'protected'. This mentality continues to be reflected in other actions displayed at AV and it appears that if you know the right person, hold a specific role, or are an 'untouchable', there are no apparent consequences for inappropriate behaviour, even if it is public, overt or repeated.

I have also spoken to other staff who have felt victimised and bullied after making complaints. This means I haven't felt safe to make a complaint without risking my career opportunities or becoming a target myself.

When staff raise broader issues at work, we are often reminded that if we do not like something, there is a long queue of graduates behind us that will happily take our place. There is an overwhelming feeling that we are completely expendable.

As a result of these experiences, I feel disheartened, of little value and not safe to make a complaint.

*\*Name has been changed to protect privacy.*

#### Fear of perceptions of overreacting

For participants who had experienced unlawful conduct, a fear that they would be perceived to be overreacting was raised as a barrier to making a formal complaint by:

- 46.1% (n=136) of the 295 survey responses to this question who had experienced sexual harassment
- 35.2% (n=263) of the 748 survey responses to this question who had experienced discrimination
- 31.9% (n=257) of the 806 survey responses to this question who had experienced bullying.<sup>35</sup>

The significance of this barrier may be partly explained by the Commission's findings of the extent of discrimination, sexual harassment and bullying in Ambulance Victoria and the existence of a general tolerance for everyday incivility

and disrespect (see chapters 5 and 6). In turn, this may be contributing to a belief that experiences may not be taken seriously or acted on (this is further explored in Section 8.2.2)

The frequency of this barrier being identified by individuals who have experienced sexual harassment in particular is consistent with research conducted by the Australian Human Rights Commission in 2018, which identified a fear of perceived overreaction as the most common barrier to reporting sexual harassment.<sup>36</sup> It is also consistent with broader research, which has found that a fear that a complainant will be perceived as ‘too sensitive’ is a key barrier to reporting.<sup>37</sup>

### Fear of blame or disbelief

Around one in five survey participants who responded to questions regarding barriers to reporting unlawful conduct described the fear of how their formal complaint would be received.

Figure 8O – **Barriers to reporting unlawful conduct**

Reason	Discrimination (n=748)	Sexual harassment (n=295)	Bullying (n=806)
I felt I would be blamed	22.2% (n=166)	18.3% (n=54)	23.3% (n=188)
I felt I would not be believed	23.4% (n=175)	22.0% (n=65)	26.4% (n=213)

As noted above, barriers to reporting can create multiple obstacles to engaging with the report and complaint system. One participant told the Commission about how these barriers to reporting can intersect with one another.

I didn't tell anyone at the time about it because I just felt this must be how everyone in the organisation feels, this must be how everyone is in the organisation. So, I didn't tell anyone, because I didn't think anyone would actually take me seriously. On top of that, the recruitment process for AV is so competitive, that I didn't want to – and it's such a small world, you don't want to do anything that will make you stand out in a negative way.

*Participant, Interview*

## 8.2.2 Organisational tolerance of unlawful conduct

In addition to an individual's perceptions and concerns about reporting and complaint processes, research has demonstrated that aspects of organisations can operate as barriers, such as internal power structures and whether the organisational culture is supportive of reporting, in the context of child sexual abuse.<sup>38</sup> While this research considered conduct of a different nature to the

subject of the Commission's report, similar principles and issues have emerged across the data sources.

Academic research has also identified that reports and complaints are unlikely to occur unless the conduct is more severe than that which is tolerated within an organisation, for both complainants and bystanders.<sup>39</sup> Similar findings were echoed by the Australian Human Rights Commission in its review of Gymnastics Australia, where an organisational tolerance of negative behaviours was found to have a 'dampening effect' on both informal and formal reporting.<sup>40</sup>

Consistent with this research, in interviews and submissions, the Commission heard that many employees and first responders experienced, witnessed and heard about unlawful conduct that was not acted on. Participants told us that a lack of action contributed to their sense that this behaviour was normal, tolerated and that those who engaged in the conduct were unlikely to be held to account for their behaviour.

As noted in Chapter 6, unchecked behaviours can, over time define the standard of accepted behaviour and the culture of an organisation. This can also create barriers to reporting as it becomes more difficult to discern what conduct is out of step with what becomes expected everyday experiences at work.

One participant simply put the impact of this cycle.

**Behaviour unchallenged is behaviour encouraged.** *Participant, Interview*

Participants also told the Commission about how experiences of managers engaging in unlawful conduct themselves or not proactively addressing behaviours created barriers to reporting conduct.

**There's just a lack of cultural understanding. And then for example, my Team Manager – I actually had a really good relationship with them. But we were working together for the month, and in the car, this song came on and they started saying the 'N-words', along with the song .... And it's just like, "you're my Team Manager. If I can't rely on you to understand what a racial slur is – I shouldn't have to explain to you why that's wrong". I couldn't say anything.**  
*Participant, Interview*

**But as much as there's a culture of management not actually addressing these problems, there's a culture of people also not really reporting it because of that.** *Participant, Interview*

As outlined in Chapter 5, participants told us that the most common perpetrator of bullying and discrimination was their direct manager. This can create profound challenges to reporting when reporting to your direct manager is the primary complaint pathway reinforced to employees and first responders at Ambulance Victoria in many documents, policies and procedures about making a report or complaint.

## PERSONAL STORY

**Mila's\* story:****Obstacles to making a complaint where management are perceived to be close to the alleged perpetrator**

I have experienced and witnessed bullying and sexual harassment on multiple occasions at my workplace. I have also witnessed discrimination on the basis of sexual orientation.

In each instance, my manager at the time was friends or closely associated with the alleged perpetrator(s) involved. On many occasions, the incidents occurred directly in front of management. Other times, I have had to bring it to my managers' attention.

After becoming aware of the issues, managers have responded in a very informal and light way and then that was the end of the conversation; there has never been formal discipline for the alleged perpetrators involved.

After seeing the way that my managers have handled these situations, I have not lodged any formal complaints. Managers should be the ones acting on these problems. They are not going to back me through a complaints process. If they were going to back me, they would have actually done something about the conduct in the first place.

Our workplace is a very insular environment where a lot of people have been working together for such a long time. I think you need to be able to draw a line between being friends with someone and being their manager. For many managers, these lines are blurred, and they are not able to manage their friends anymore.

*\*Name has been changed to protect privacy.*

**Perceptions of failures to hold perpetrators to account**

We were also told in interviews and submissions of a widely held view that perpetrators are not held to account for unlawful conduct. Concerningly, participants told us that this was the result of their experiences of certain individuals being 'passed off' as relics of history, or perceptions that certain individuals are 'untouchable'.

You're talking very archaic, like a manager of a branch still describing someone who [identifies as LGBTIQ+ in an offensive way]. Still using that language in the workplace to the team like in an unthreatened sort of way, not even behind closed doors but quite openly ... [It was] just written off as, "Oh, that's poor old such-and-such, he's a bit old school, don't worry about him, you just got to get used to him". *Participant, Interview*

People talk about selected individuals being protected, and it's a significant part of the unwritten culture. Before taking action to speak up, you really do pause to think about who do I want to go up against and challenge. You're talking about people who've worked together for 10, 20, 30 years, there's history there that you just can't fight, and you are explicitly told, "We'll just wait you out. I've worked here for years, and will for many more. I've seen four people go through your role, you'll be gone before I will." It's quite confronting and it makes it really difficult to then ask people to speak up about issues. *Participant, Interview*

[The alleged perpetrator] is notorious for it .... At one stage, when I spoke to [someone in HR] about it and they said that they had multiple complaints against him. And I said, "Well, what are you doing about it?" And she said, "There's not much we can do about it, we can't afford to pay him out", was her words. And I was stunned, to say the least. *Participant, Interview*

This is consistent with research that has demonstrated that whether managers and senior leaders appear to be supportive of speaking up – including by using formal and informal processes for raising issues within the workplace – affects the preparedness of individuals to make reports and complaints about issues they are experiencing.<sup>41</sup> More broadly, research has also demonstrated that feelings of risk and safety are important factors for taking steps to report and be a 'whistle-blower'. That is, people are more likely to report when they feel it will be supported within the organisation.<sup>42</sup> Research has also found that without regular, consistent messaging about the zero tolerance for conduct, combined with appropriately dealing with and handling inappropriate or unlawful behaviours where they arise, employees are unlikely to utilise reporting and complaint systems.<sup>43</sup>

## 8.2.3 Power imbalances

As discussed in Chapter 6, there are a range of power disparities across Ambulance Victoria that drive unlawful conduct. These power imbalances can also create barriers to reporting. The impact of power imbalances on people's willingness to speak up about unlawful conduct or mistreatment is consistent with known literature. Research has identified that, where power asymmetries exist, they create significant deterrents to reporting. For example, managers who exercise decision-making authority (such as through progression and promotion) can create a well-founded fear that this authority will be used to retaliate against a person who makes a complaint.<sup>44</sup>

Power imbalances that create barriers to reporting have also been identified within the wider health sector. For example, a 2015 report by the Expert Advisory Group on discrimination, bullying and harassment at the Royal Australasian College of Surgeons, found that hierarchy and power were central issues that impacted reporting and speaking out.<sup>45</sup> These impacts have also been identified in other sectors where dynamics of power arise from hierarchical environments, such as the legal sector and in parliamentary workplaces.<sup>46</sup>

Consistent with this research, the Commission was told in interviews and submissions that power imbalances within Ambulance Victoria can also impact the confidence of employees and first responders to use existing mechanisms to report because:

- hierarchical environments create expectations of deference to authority; this contributes to cultures in which people in authority, such as managers or those with higher levels of clinical skill are not to be questioned
- structures, such as the 'endorsement' process (see Section 6.1.5), that provide wide discretion to managers and others in positions of authority to determine training, progression and development create opportunities for these processes to be used against people who report
- Ambulance Victoria being the sole employer of paramedics in the state creates an additional fear of potential job security.

Three participants described how these imbalances lead them to feel powerless.

**People need to be supported and believed. And it came down to the [Senior Team Manager] didn't believe her. That's what it comes down to. Anyone in a lesser position is not believed.** *Participant, Interview*

**There is an inherent power dynamic. There's a clinical difference in hierarchy – from volunteers or first responders, to [Advance Life Support paramedics] and MICA, to MICA and the helicopters. There's always this power hierarchy, which is relevant clinically, but it should not be relevant behaviourally. Everyone should be able to have a voice.** *Participant, Interview*

**There's a big fear factor and a financial need to stay because you're going to have school fees and mortgages, so [you are] motivated not to rock the boat.** *Participant, Interview*

## 8.2.4 Inadequate complaint and reporting processes

The Commission heard that the way in which the report and complaint system operates can create barriers to reporting, including whether complainants could be confident that their confidentiality will be maintained.

### Difficult or embarrassing processes

A concern that the process of making a report or complaint may be difficult or embarrassing was raised more commonly by those who had experienced sexual harassment than by those who had experienced discrimination or bullying:

- 36.9% (n=109) of the 295 people who responded to this question and had experienced sexual harassment
- 26.9% (n=201) of the 748 people who responded to this question and had experienced discrimination
- 24.2% (n=195) of the 806 people who responded to this question and had experienced bullying.

The Commission heard that the common understanding of the complaint pathways in Ambulance Victoria, which is reinforced by policies and procedures, is that any concerns should be discussed with a direct manager (see Chapter 7). However, the high frequency of acting manager arrangements across the organisation was

identified as creating difficulties in employees and first responders accessing this complaint pathway. Discussing concerns and disclosing what they may have experienced is a sensitive and difficult conversation that some may not wish to have with a manager who they have not previously worked with, or who may be a former peer.

**So yeah, just talk to your Team Manager and like I said, that then becomes very dependent on who your Team Manager is. And often half the time it's someone just acting in the role and they're actually your peer. So they might be in the role for two months, but really they're just your peer and some of them you look at and go, "Oh, I'm not entirely sure I would trust you with something like this." Participant, Interview**

## **Mistrust of confidentiality protections**

Across all data sources, participants expressed significant concern about whether confidentiality would be maintained in a complaint process; this mistrust has created a strong barrier to making a report. Of the 748 survey respondents who experienced discrimination, 55.5% (n=415) identified fearing the process would not be confidential as a barrier to reporting. A total of 42.4% (n=125) of the 295 survey respondents who experienced sexual harassment also identified this as a barrier to reporting, along with 46.9% (n=378) of the 806 survey respondents who experienced bullying.

In interviews and submissions, the Commission heard that concerns about confidentiality arise for a range of reasons, including:

- the number of managers in acting roles, which creates a need for information to be shared with a greater number of people
- a 'gossip' or 'rumour' culture, where information is commonly and widely shared, including about complaints
- informal networks based on long-standing friendships creating an environment where complainants feel information is likely to be shared.

Two participants described how these concerns impacted their willingness to report.

**I think there is actually a bit more that is stopping people from reporting. I think it's the revolving door that is management. My manager changes month-to-month. So, anything that's recorded confidentiality, will go to the next Team Manager, will go to the next Team Manager, who is also a colleague because they act up. So I don't think people will report anything because there's no confidentiality, or everybody will know about everything. Participant, Interview**

**There's no confidentiality in Ambulance, and ... it doesn't matter what level you're working or what management title you hold; it's rife. Participant, Interview**



This issue is not isolated to Ambulance Victoria. An audit by the Victorian Auditor-General of bullying and harassment in the health sector also revealed inadequacies around confidentiality in the reporting system.<sup>47</sup> Further, a survey conducted by the Expert Advisory Group to the Royal Australasian College of Surgeons identified similar inadequacies in the complaints management process in the context of surgical practice, including a lack of procedural fairness, transparency and confidentiality.<sup>48</sup>

## **Lack of access and capabilities to support informal reporting and resolution processes**

During interviews and in submissions, the Commission heard that employees and first responders are directed to make reports and complaints about a broad range of conduct to the Professional Conduct Unit. Some participants reflected to the Commission that there is both a lack of training and capability within Ambulance Victoria to resolve issues as they arise. As a result, conduct that is less serious is either left unchecked and becomes more serious over time, or is unnecessarily escalated through formal processes.

**We don't actually empower people to have those conversations and to have the confidence to have those conversations or give them support to get the confidence to have those conversations, we just give them a complaint avenue at the other end of the line.** *Participant, Interview*

Another participant reflected that the lack of capability and feeling of safety to resolve a spectrum of issues and workplace conflicts that can arise made it more difficult for employees and first responders to be able to have the confidence and capability to take a significant step of making a complaint.

**[If we] are not even calling [low level incivility] out, how the heck are we going to address the big stuff? If someone doesn't feel safe to tell someone, "Don't make that comment", how are they going to feel safe to make a big complaint? And have managers that are willing to have those conversations and see it through; not just let stuff go because it's too hard.** *Participant, Interview*

The Expert Advisory Group to the Royal Australasian College of Surgeons has made similar findings in the broader health context of surgical practice. It noted that an equal focus on other opportunities to resolve complaints and concerns was needed to avoid the potential for over escalation of issues into formal report and complaint processes.<sup>49</sup>

## Limitations affecting the functions of the Professional Conduct Unit

In interviews and submissions, the Commission heard that the establishment of the Professional Conduct Unit was a positive step towards improving a previously inconsistent and, at times, unfair report and complaint process. We were also told that the establishment of the unit had increased Ambulance Victoria's ability to collect data about reports and complaints and inform a more systemic and comprehensive approach to reports and complaints.

While some participants reflected that the unit's establishment had resulted in positive improvements, many more participants reflected that the intended benefits had been hampered by a lack of training, resources, funding and information technology limitations. The Commission heard that these limitations had impacted all aspects of the unit's role, including being able to communicate regularly with those involved in a report or complaint process; developing and refining systems, processes, policies and procedures; analysing data on complaint trends; and undertaking restorative practices.

**[The Professional Conduct Unit] are getting so bogged down in stuff that really should never have gone there, because now it becomes nearly a default, "I will send it to them." There is certain stuff down here which may have a clinical basis. Just be clearer about what goes there. Resource it appropriately, as in the numbers, and with the appropriate staff.**

*Participant, Interview*

**There is [no role for the Professional Conduct Unit in promoting workplace equality]. The Professional Conduct Unit gets exposed to it, sees the inequality, discrimination, harassment and victimisation, but does not have input into how it is addressed. Their role is to investigate claims and hopefully come to some resolution.** *Participant, Interview*

The views expressed by participants echo those from a review of the first year of the Professional Conduct Unit's operations undertaken in 2018. That report found the unit appeared to be a positive initiative, seemed to be supported by the staff and could support culture and behaviour improvements through education activities.<sup>50</sup>

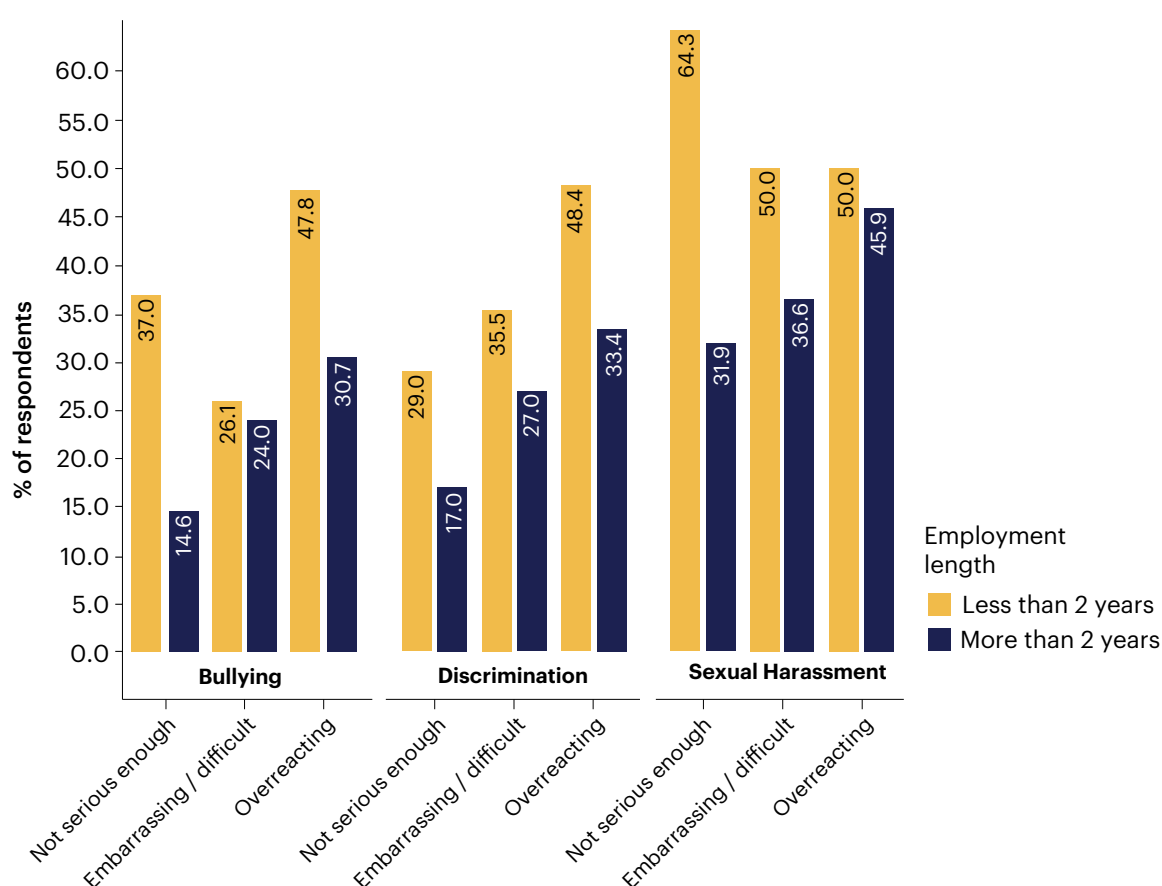
The review also noted that the Professional Conduct Unit had been constrained by several limiting factors, including the allocation of physical and human resources, a lack of analytical tools, the skill sets of the staff members, few training opportunities and the lack of a case management system. It recommended a further review be undertaken in 2020 to assess progress and gauge whether the expected benefits were realised.

Ambulance Victoria advised the Commission that this review was deferred to assess changes to clauses in the enterprise agreement that were agreed in 2020.

## 8.2.5 The significance of certain barriers to reporting for particular cohorts

When responding to questions in the Commission's survey about the reasons they did not make a report, those who had been employed by Ambulance Victoria for less than two years more commonly reported different barriers affected their willingness to report all forms of unlawful conduct than those who had been employed for longer periods of time. These key differences are set out in Figure 8P below.

Figure 8P – **Barriers to reporting identified by those employed by Ambulance Victoria for less and more than two years**



Three barriers were more commonly reported across all forms of unlawful conduct for those who had been employed for less than two years: doubt about whether the conduct was serious enough to justify a formal complaint; fear of being perceived to have overreacted; and embarrassing or difficult complaint procedures. Differences between those of different ages were apparent across all forms of unlawful conduct.

For example, of those who responded to this question who had been employed for less than two years and who had experienced discrimination, 29.0% (n=9) reported they did not make a formal complaint as they did not think the conduct was serious enough, as compared to 17.0% (n=107) of those who had been employed for longer than two years. Similar differences were also reported by

survey respondents who experienced sexual harassment, with 64.3% (n=9) for those employed for less than two years as compared to 31.9% (n=82). Similarly, for bullying, 37.0% (n=17) for those employed for less than two years as compared to 14.6% (n=100).

Similarly, survey respondents aged between 18–39 years who responded to these questions reported a fear that they would be perceived to be overreacting. Of the survey respondents aged 18–39 years, 43.0% (n=128) who experienced discrimination identified this as a reason they did not make a formal complaint, compared with 28.9% (n=113) of those aged 40 and above.

Survey respondents aged between 18–39 years also more commonly reported concerns about the confidentiality of the complaint process, at 59.4% (n=177) as compared with 52.2% (n=204) of those who experienced discrimination and responded to this question. There were similar differences in concerns about confidentiality with those aged 18–39 years who experienced sexual harassment (45.6%, n=73) as compared with those aged 40 and above, 36.3% (n=45) and bullying (52.6%, n=159) as compared with 40.9% (n=182).

These findings were reinforced with what the Commission heard during interviews and in submissions, where some participants described how it was challenging to speak up as someone who had more recently commenced with Ambulance Victoria.

**I felt like I could not speak up about her behaviour. I feared that no one would believe me, and that I would be seen as a difficult grad who couldn't get on with people. I had observed [the alleged perpetrator] was someone that had a lot of social connections, and I was concerned that if I said anything I would be ostracised.** *Participant, Written Submission*

**As a grad, I'm unallocated. If I'm causing trouble or seen to be causing trouble, they might choose to allocate me to Warrnambool or to Mildura or something. So that was the other reason, selfishly, that I kept my head down.** *Participant, Interview*

Specific challenges and barriers for those earlier in their career were also identified during a recent review of sexual harassment in Victoria's legal profession. That review identified a specific challenge to addressing sexual harassment; namely, the existence of a power dynamic between victims and perpetrators that creates a barrier to speaking up or reporting – particularly for those in the early stages of their career.<sup>51</sup>

A review of sexual harassment in the Victorian legal sector also found that those with less experience in the legal sector had higher rates of reporting barriers, including that they did not report because they felt it was a minor incident or that they did not want to confront the perpetrator.<sup>52</sup>

As outlined in Chapter 7, the Commission has found that there are very low levels of reporting by bystanders. The Commission's survey asked those who witnessed or heard about unlawful conduct why they did not take any action. Of the 293 responses:

- 28.7% (n=84) were worried about negative impacts for themselves
- 20.5% (n=60) did not want to get involved
- 19.1% (n=56) did not want to make things worse for the person who experienced the unlawful conduct.

A total of 25.3% (n=74) survey respondents who witnessed or heard about unlawful conduct indicated that there was 'some other reason' they did not take action.

These findings were reinforced by the experiences participants described during interviews and in submissions. Many participants reflected that the barriers that prevented employees and first responders from coming forward about their own personal experiences meant they did not feel empowered to speak up about conduct they witnessed.

**There's no way I'd call out [the alleged perpetrator's] behaviour because that would be the end of my career. If I said something, there were two people also at that table more senior than me that then would've made my life incredibly difficult. You're not empowered to speak out and in fact, you're completely disempowered to speak out.** *Participant, Interview*

Broader research in the health sector has also pointed to the multiple barriers that can intersect to prevent bystanders feeling safe and supported to speak up, including being fearful of perpetrators, a lack of confidence in the organisation's response and a sense of powerlessness.<sup>53</sup> Research on bystander intervention in the context of violence against women has also identified similar barriers to intervention: including fear of consequences by the perpetrator and being in a lower position in a hierarchy. In addition, research has also identified that organisational barriers (such as modelling of disrespectful behaviour by senior groups) can create barriers to bystanders taking action.<sup>54</sup>



## Findings

- There are significant organisational barriers in Ambulance Victoria that are creating an unsafe reporting environment for discrimination, sexual harassment, bullying and victimisation. Many of these barriers also operate as drivers of unlawful and harmful conduct, which, in turn, creates a cycle that is not being disrupted.
- The Commission heard that there is a widespread sense that no action will be taken in response to reports and complaints, that there is a high tolerance for unlawful and harmful conduct and there is a common belief that victimisation will follow from a report or complaint. All these factors are preventing employees and first responders from coming forward.
- The most common barrier identified – with close to three-quarters of survey participants who reported experiencing discrimination and bullying reporting this – was a fear that nothing would change or be done in response to a report or complaint.
- The Commission was told a culture of silence and fear permeate Ambulance Victoria. Some participants who had spoken up told us their careers suffered, or they faced social isolation and were branded as someone who ‘rocked the boat’. Others told us that it was commonly understood within the organisation that this type of response would follow a report or complaint, which meant people were fearful to come forward.
- Concerns that a complainant’s confidentiality would not be maintained was identified as a strong barrier to reporting in the Commission’s survey and was reinforced by interviews and submissions. Participants told us that structural and organisational cultural issues contributed to this fear, with a high number of acting managers creating a need for information to be shared with a wider group of people. Participants also reported a pervasive fear that the complaint process would not be confidential.
- In Chapter 6, the Commission found significant power imbalances create a heightened risk of unlawful and harmful conduct. We were also told that these imbalances make some people feel powerless; hierarchy creating expectations that staff will defer and not question authority figures; there are well-founded fears of potential victimisation resulting from the wide discretion provided to managers on promotion and development opportunities; that Ambulance Victoria being the sole employer of paramedics in the state creates concerns about job security.
- Participants reflected to the Commission that the establishment of the Professional Conduct Unit had improved the report and complaint system, modernising and providing a more consistent approach. However, many participants told us that a lack of training, resources, funding and information technology limitations have meant the unit has been unable to fulfil many of its intended functions. In turn, this has eroded trust and confidence in the Professional Conduct Unit and the organisation’s report and complaint system.
- Bystanders also reported the most significant barrier to taking action was a concern they would face negative impacts and described feeling disempowered to speak out about conduct they witnessed or later heard about.

## Notes

1. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 70.
2. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 686.
3. Timely responses to complaints are frequently cited by Ombudsmen as a key principle of complaint handling. See, eg, Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021) 4; Victorian Ombudsman, *Good Practice Guide to Handling Complaints* (State of Victoria, 2016) 14. The New South Wales Ombudsman has also noted that 'timeliness is the single most important driver in customer satisfaction across all services and levels of government' (New South Wales Ombudsman, *Complaint Management Framework* (2015) 5).
4. Peter Bull, *Ambulance Victoria Professional Conduct Unit: First Year Review (2017–2018)* (Report, 2019) 22.
5. Peter Bull, *Ambulance Victoria Professional Conduct Unit: First Year Review (2017–2018)* (Report, 2019) 11, 19.
6. Victorian Auditor-General's Office, *Sexual Harassment in the Victorian Public Sector* (State of Victoria, 2019) 49.
7. Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021) 30.
8. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (2018) 77.
9. Of the 384 survey respondents who experienced discrimination and made an informal report, 3.6% (n=14) indicated the alleged perpetrator was promoted. Of the 415 people who experienced bullying and made an informal report, 3.6% (n=15) indicated the alleged perpetrator had been promoted in open text responses to the survey. Of the 156 survey respondents who experienced bullying and made a formal complaint, 2.6% (n=4) indicated that the alleged perpetrator was promoted.
10. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 75.
11. This figure includes outcomes including first warnings, second warnings, first and final warnings and third and final warnings.
12. Ambulance Victoria has advised the 'other' category provides for various outcomes, which may include matters where allegations are withdrawn or not issued.
13. Ambulance Victoria has advised a restorative outcome is recorded where it does not accompany another outcome. Restorative actions or outcomes may be provided in addition to another outcome.
14. The Commission notes that the total number of complaints that were referred as an outcome (see Figure 8H) does not align with the number of internal complaints that involved a referral, year on year (see Figure 8I). In the time available, Ambulance Victoria has advised that due to complexities in reporting processes on the outcome of complaints and merging of reports, the reason for this difference is unable to be confirmed.
15. See, eg, WorkSafe Victoria, *A Guide for Employers: Workplace Bullying* (State of Victoria, 2020) 25.
16. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 18.
17. Safe Work Australia, *Preventing Workplace Sexual Harassment: National Guidance material*, (Commonwealth of Australia, 2021) 16.
18. Ambulance Employees Australia – Victoria, *Proposed Recommendations for VEOHRC Review into Ambulance Victoria* (June 2021) 4.
19. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 87.



20. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 83.
21. See, eg, Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 36; Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 67.
22. Ganga Vijaysairi, 'Reporting sexual harassment: The importance of organisational culture and trust' (2008) 25 *Gender Issues* 43, 54.
23. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 18.
24. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 86.
25. Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour*, in Victoria Police: Phase 1 Report (State of Victoria, 2015) 294–305; Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour*, in Victoria Police: Phase 3 Audit and Review (State of Victoria, 2019) 263–4.
26. Legal Affairs Legislative Committee, Parliament of New South Wales, *Inquiry into emergency services agencies* (Report, July 2018) 6.
27. Peter Holland et al, *Findings from the Survey on Workplace Climate and Wellbeing of Victorian Ambulance Workers* (vol. 1) (2020) 4. This survey was commissioned by the Victorian Ambulance Union Incorporated.
28. Victorian Public Sector Commission, Results Report, People Matter Survey 2020, Ambulance Victoria (State of Victoria, 2020) 27.
29. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 81–2.
30. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 82.
31. In the Commission's survey, of the 37 men who experienced sexual harassment and did not make a formal complaint, 51.4% (n=19) nominated that they thought people would think they were overreacting as a barrier to reporting as compared to 45.7% (n=113) of the 247 women who experienced sexual harassment and responded to this question. The Australian Human Rights Commission found women were more likely than men to nominate this reason for not making a report (51% and 45%, respectively) (Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 82.
32. A total of 7.5% (n=22) and 9.3% (n=75) of survey respondents who experienced sexual harassment and bullying (respectively) and did not make a formal complaint identified the reason was because they were not aware of how the complaint process worked.
33. A total of 11.9% (n=89) of survey respondents who experienced discrimination, 7.1% (n=21) of those who experienced sexual harassment and 10.3% (n=83) of participants who experienced bullying, and who did not make a formal complaint reported the reason was because they were not aware of who to make a formal complaint to.
34. A survey conducted by the Independent Broad-based Anti-corruption Commission in 2016 found that 46% of respondents felt 'they would experience personal repercussions' and 18% stated 'I could lose my job' if they reported corruption. The Independent Broad-based Anti-Corruption Commission noted that 'concern about the potential personal costs of reporting corruption may be a barrier to reporting'. Independent Broad-based Anti-Corruption Commission, *Perceptions of Corruption: Survey of Victoria Police Employees* (State of Victoria, December 2017) 4, 15; See, generally, Malin Wieslander, 'Learning the (hidden) silence policy within the police' (2019) 41(3) *Studies in Continuing Education* 308, 309–10.
35. These numbers only include participants who, in addition to experiencing the unlawful conduct in question, also responded to the survey question about barriers to making a formal complaint.

36. Australian Human Rights Commission, *Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (Report, 2018) 81.
37. Paula McDonald, 'Workplace sexual harassment 30 Years on: A review of the literature' (2012) 14 *Journal of Management Review* 1, 9.
38. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Improving Institutional Responding and Reporting, Volume 7* (Report, December 2017) 140.
39. Therese MacDermott, 'The under-reporting of sexual harassment in Australian workplaces: Are organisational processes falling short?' (2020) 40(4) *Legal Studies* 531, 535; Paula McDonald, Sara Charlesworth and Tina Graham, 'Action or inaction: Bystander intervention in workplace sexual harassment' (2016) 27(5) *International Journal of Human Resource Management* 548, 562–3.
40. Australian Human Rights Commission, *Change the Routine: Report on the Independent Review into Gymnastics in Australia* (Report, 2021) 80.
41. Brian Klaas et al, 'The determinants of alternative forms of workplace voice: An integrative perspective' (2012) 38(1) *Journal of Management* 314, 318–19.
42. Brian Klaas et al, 'The determinants of alternative forms of workplace voice: An integrative perspective' (2012) 38(1) *Journal of Management* 314, 319.
43. Therese MacDermott, 'The under-reporting of sexual harassment in Australian workplaces: are organisational processes falling short?' (2020) 40(4) *Legal Studies* 531, 540; Suzanne Goldberg, 'Harassment, workplace culture, and the power and limits of law' (2020) 70 *American University Law Review* 420, 465.
44. Brian Klaas et al, 'The determinants of alternative forms of workplace voice: An integrative perspective' (2012) 38(1) *Journal of Management* 314, 315.
45. Expert Advisory Group on Discrimination, Bullying and Sexual Harassment, *Report to the Royal Australasian College of Surgeons* (Report, 2015) 10–11.
46. Victorian Legal Services Board and Commissioner, *Sexual Harassment in the Legal Sector* (Report, 2020) 36; Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace* (Report, February 2021) 59–60.
47. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 35.
48. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 37.
49. Expert Advisory Group on Discrimination, Bullying and Sexual Harassment, *Report to the Royal Australasian College of Surgeons* (Report, 2015) 10–11.
50. Peter Bull, *Ambulance Victoria Professional Conduct Unit First Year Review (2017–2018)*, (June 2019) 4.
51. Dr Helen Szoke, *Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT* (Report, 2021) 48.
52. Victorian Legal Services Board and Commissioner, *Sexual Harassment in the Victorian Legal Sector* (Report, 2019) 55.
53. Megan Paull, Maryam Omari, Premilla D'Cruz and Burcu Guneri Cangarli, 'Bystanders in workplace bullying: Working university students' perspectives on action versus inaction' (2020) 58 *Asia Pacific Journal of Human Resources* 313, 321; Neill Thompson et al, 'Workplace bullying in healthcare: A qualitative analysis of bystander experiences' (2020) 25(11) *The Qualitative Report* 3993, 4004.
54. Ann Taket and Beth Crips, *Bystanders for Primary Prevention: A Rapid Review* (Report, 2017) 16–17.







# 9

## **Building a victim-centred and fair report and complaint system**

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**Chapter 9 identifies the steps that Ambulance Victoria should take to strengthen and rebuild its workforce's trust and confidence in the organisation's report and complaint system and provide a safe and supportive environment that encourages members of the workforce to come forward with their own experiences of unlawful and harmful conduct, or conduct they have witnessed or learned about.**

## → KEY POINTS

**Ambulance Victoria has made significant changes to its report and complaint system in recent years that have improved consistency and created opportunities to better use data to inform responses to unlawful and harmful conduct**

- The objectives of the recent reforms to Ambulance Victoria's report and complaint system include encouraging a 'speak up' culture, centralising complaint handling and management, and improving capability to monitor trends and emerging issues.
- However, these objectives have not been fully realised due to a lack of resourcing, investment and capability, along with information technology limitations. The changes have also not sought to comprehensively address and target the barriers and obstacles to reporting experienced by Ambulance Victoria's workforce. This, combined with other factors – such as poor experiences of the report and complaint system, including a lack of communication and inconsistent connection to support services has created a disconnect between the aim and intent of the reforms on the one hand and the workforce's experience of the report and complaint system on the other. This in turn, has eroded trust.

**A new organisational model for responding to unlawful conduct should be established to provide a specialist, victim-centred approach to managing reports and complaints**

- The Commission has found there are low rates of reporting discrimination, sexual harassment, bullying and victimisation in Ambulance Victoria. Many participants who shared their experiences with the Commission did not feel there was a safe and supportive environment at Ambulance Victoria that allowed them to come forward to report their experiences.
- Providing a safe environment to make a report is integral to rebuilding the workforce's trust and confidence – including through multiple internal, external and anonymous pathways that provide a supportive and trauma-informed response, for complainants and bystanders.

**The report and complaint system must be rebalanced, include better communication and access to support, and embed the victim at its centre**

- Ambulance Victoria must revise its policies and procedures to ensure that they proactively address the barriers to reporting unlawful and harmful conduct. These changes must take into account what is known about factors that prevent reporting unlawful and harmful conduct – including supporting more choice and control for complainants about how to resolve their concerns, address how their confidentiality will be maintained and increase accessibility.

**Greater transparency and accountability to the workforce is integral to rebuilding trust and confidence**

- There is a critical need for Ambulance Victoria to address the pervasive perception that nothing will change as a result of making a report or complaint. This should be addressed by sharing more information openly with the workforce about the performance of the report and complaint system including, crucially, aggregated and deidentified information about the outcome of reports and complaints.

Ambulance Victoria demonstrated that it understands the importance of report and complaint processes for creating a safe working environment when it made significant changes to its report and complaint system to modernise it and promote greater consistency. Yet, despite these reforms, underreporting of unlawful conduct remains a significant organisational issue, with few participants who reported experiencing this conduct to the Commission engaging with Ambulance Victoria's report and complaint system. Participants told the Commission that they do not feel safe and supported to speak up. Mutually reinforcing barriers are preventing employees and first responders from coming forward about their experiences, as well as about incidents they may see or later hear about it. This is limiting Ambulance Victoria's ability to identify those who engage in these behaviours and hold them to account.

Ambulance Victoria's approach to reforming the report and complaint system has at times lacked cohesiveness. There are gaps in foundational and enabling capabilities to ensure the reforms will be effective and there has been insufficient investment and resourcing to enable the system to meet individual and organisational needs. This confluence of factors has meant the intended benefits of the establishment of the Professional Conduct Unit and other system reforms have not reached their full potential.

Chapter 9 examines the significant opportunities for Ambulance Victoria to align its approach to responding to reports and complaints of unlawful and harmful conduct with leading practice and to its obligations under the Equal Opportunity Act.

In Volume II, the Commission will consider and assess other organisational processes and capabilities that will be integral to support the recommendations detailed in this chapter, including:

- management capability to respond effectively to reports and complaints, including to proactively respond to behaviours when they occur
- performance development and improvement processes as a key intervention point for addressing behaviours at the earliest opportunity.

### **Language to support fair and impartial report and complaint handling**

Throughout chapters 7, 8 and 9, the Commission uses the terms 'complainant' and 'respondent', rather than 'alleged victim-survivor' and 'alleged perpetrator'. This reflects our guidance to employers to use neutral language when responding to reports and complaints to ensure fairness and impartiality.







# 9.1 A new organisational model for responding to reports and complaints of unlawful conduct

Despite a significant number of employees and first responders reporting experiencing discrimination, sexual harassment, bullying and victimisation in Ambulance Victoria, few told us that they formally reported the conduct. Many of those who came forward and shared their experiences with the Commission overwhelmingly described feeling dissatisfied with the report and complaint system; many said they felt unsupported and, at times, retraumatised by their experiences with the system. In determining how Ambulance Victoria might best address these issues and create a safe environment that encourages people to come forward, the Commission considered:

- the experiences of the report and complaint process described to us by participants, as well as the barriers to reporting (see Chapter 8)
- the growing recognition of the important role of specialist, dedicated complaint handling units in responding to unlawful conduct (these units aim to be more responsive to complainants' needs, provide a specialist and trauma-informed approach, and reflect the principle of victim-centricity)<sup>1</sup> and subsequent analysis of their impact,<sup>2</sup> while acknowledging that structural changes alone are not sufficient<sup>3</sup>
- key principles that support effective report and complaint systems, drawn from the Commission's minimum standards and leading practice (these are summarised in Figure 9A).<sup>4</sup>



Figure 9A – **Key principles underpinning an effective report and complaint system**

 <p><b>Victim-centred</b></p>	<ul style="list-style-type: none"> <li>• The interests and safety of victims are protected and prioritised</li> <li>• Processes are designed to minimise harm to victims</li> <li>• Supportive processes are designed with the victim at their centre and, as far as possible, promote choice and control and maintain confidentiality</li> </ul>
 <p><b>Impartial and fair</b></p>	<ul style="list-style-type: none"> <li>• Everyone involved is treated objectively, respectfully and fairly</li> <li>• Processes, workplace actions and outcomes are, and are seen to be, consistent, proportionate and hold respondents to account appropriately</li> </ul>
 <p><b>Accessible</b></p>	<ul style="list-style-type: none"> <li>• Clear pathways mean that employees and first responders trust, understand and can easily access a range of internal and external pathways to make a complaint and resolve a dispute</li> <li>• Processes and the available outcomes are clear, easily understood and well communicated</li> </ul>
 <p><b>Flexible</b></p>	<ul style="list-style-type: none"> <li>• A range of reporting and response options are available, including informal and formal options</li> <li>• As far as possible, the approach is tailored to meet the needs of all those involved in a report and complaint process</li> </ul>
 <p><b>Timely</b></p>	<ul style="list-style-type: none"> <li>• Responses to reports and complaints should be timely and aim to resolve matters before they escalate</li> <li>• Everyone involved in a report or complaint is updated regularly</li> </ul>
 <p><b>Transparent and accountable</b></p>	<ul style="list-style-type: none"> <li>• The provision of open and accountable information about processes means that people know what they can expect</li> <li>• The reasons for action and the reasons for decisions are communicated to all those involved and are subject to appropriate oversight</li> </ul>

Having regard to all this information, the Commission has concluded that to create a safe environment that encourages people to come forward, Ambulance Victoria should establish a new organisational model for responding to reports and complaints of unlawful conduct, harnessing the work it has recently undertaken to embed more victim-centred approaches (for example, through the Specialist Support Unit).

A high-level overview of the Commission's recommended model for the organisation's response to reports and complaints of discrimination, sexual harassment, bullying and victimisation is outlined in Figures 9B and Figure 9C; a more detailed discussion of the intended functions of each unit is provided in the subsequent subsections. The recommended model seeks to separate the key functions of the report and complaint system more clearly: the model provides a safe space to seek support for those who have experienced unlawful and harmful

conduct; a dedicated, impartial and fair complaint handling unit for those who choose to formally report; and includes a formal investigation unit with specialist expertise.

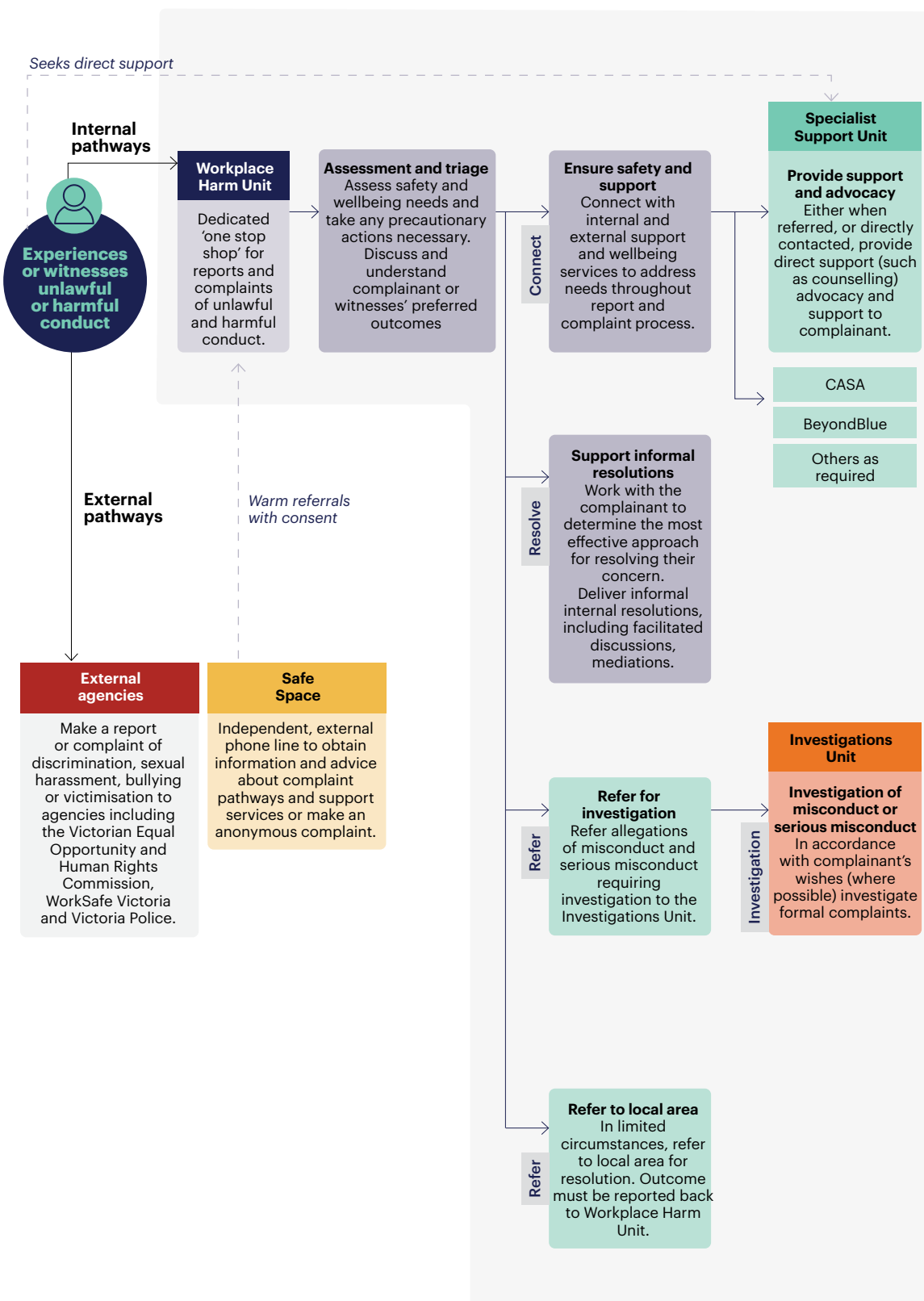
The Commission's recommended model is intended to operate in relation to complaints of unlawful and harmful conduct – reflecting the need for a specialist, trauma-informed, victim-centred approach to reports and complaints of this nature, and what the Commission has found about the current low rates of reporting.

The Commission acknowledges that reports and complaints may be made about a range of conduct, including relating to medicine mismanagement or other disciplinary matters and notes the organisational model will operate within the broader report and complaint system.

Figure 9B – **Recommended organisational model for unlawful conduct**

Chief Operations Officer		
Director		
Specialist Support Unit	Workplace Harm Unit	Investigations Unit
<i>Advocacy and support for those who experience unlawful and harmful conduct</i>	<i>Impartial, fair, objective resolution of reports and complaints</i>	<i>Specialist investigations expertise</i>
<ul style="list-style-type: none"> <li>Provides a central point of support and advocacy for those who experience unlawful and harmful conduct, whether or not they choose to make a report or complaint</li> <li>Provides information, advice and case management support for complainants throughout the report and complaint process</li> </ul>	<ul style="list-style-type: none"> <li>Triages and assesses reports and complaints of unlawful and harmful conduct</li> <li>Makes referrals to support services for those involved in report and complaint processes, such as legal advice and counselling</li> <li>Resolves reports and complaints, including through mediation or other flexible approaches tailored to the needs of the complainant and the circumstances of the complaint</li> <li>Refers reports and complaints to the Investigations Unit for formal investigation, where appropriate</li> <li>Oversees and promotes the objectives of the report and complaint system throughout the organisation</li> </ul>	<ul style="list-style-type: none"> <li>Determines whether to undertake internal or external investigations of misconduct or serious misconduct relating to unlawful conduct, in accordance with clear guidance</li> <li>Undertakes investigation of misconduct and serious misconduct relating to unlawful conduct</li> <li>Oversees external investigations relating to unlawful conduct</li> </ul>

Figure 9C – A new report and complaint process



## 9.1.1 Staffing, resourcing and structural independence

For many participants who came forward to the Commission, the current report and complaint system is not perceived to deliver fair, impartial and quick resolution of reports and complaints. Rebuilding trust and confidence in the system will be key to encouraging people to come forward, however this will take time to achieve. To support the restoration of trust and confidence, the Commission recommends that Ambulance Victoria take a range of steps to improve the perception of the independence of the report and complaint system, build capability and ensure the appropriate skills, expertise and experience can support the new model.

First, a dedicated director should be appointed to support the redesign and implementation of these recommendations; this director should be external to Ambulance Victoria.

Second, at least half the staff members involved in the new report and complaint system (across the three units that the Commission has recommended) should be recruited and appointed from outside of Ambulance Victoria.

- Staff members recruited from outside the organisation are less likely to hold pre-existing relationships and connections within and to the organisation – important in an organisation where people often spend most of their careers. Critically, this will enable the decisions and actions to be separated from perceptions of conflict and reinforce the impartiality of the report and complaint process. This is especially important for those involved in dispute resolution processes, who as highlighted by the Law Council of Australia's *Ethical Guidelines for Mediators*, must avoid potential conflicts of interest to ensure they can act independently and impartially.<sup>5</sup>
- This approach would also enable Ambulance Victoria to harness fresh perspectives, new energy and enthusiasm and greater diversity of experience.
- The new model will involve a greater emphasis on dispute resolution and restorative practices which have previously been constrained by resourcing limitations (see Chapter 8). External appointments will enable Ambulance Victoria to supplement and build internal capability and the specialist skills and expertise necessary to rollout the recommended reforms.
- Recruiting at least half of the staff members involved in the report and complaint system (including the director) externally may not be necessary as a permanent approach. However, we consider a blended internal and external staffing profile to be an important interim measure. It will enable the organisation to retain and harness existing corporate knowledge, while maximising the benefits of external appointments. Crucially, this approach will help to address perceptions within the workforce that the report and complaint system lacks independence and confidentiality. It will also reinforce the organisation's commitment to impartial and fair complaint handling.

Third, it is integral that all staff members involved in complaint handling (whether recruited internally or externally) hold specialist skills and expertise, as well as a range of personal attributes, that will equip them to deliver a trauma-informed and victim-centred experience. Those who are appointed should be professional experts in a range of disciplines, including human resources, equal opportunity

issues, bullying, dispute resolution and/or restorative approaches. They should also demonstrate key attributes that are essential to complaint handling practice, including resilience, empathy, integrity, patience, discretion, analytical thinking, creativity, good and ethical judgement and a demonstrable commitment to resolving issues raised by complainants.<sup>6</sup>

Fourth, the perception that Ambulance Victoria's report and complaint system is impartial would be enhanced by the new organisational model having direct accountability to the Chief Operations Officer, with a separate and distinct reporting structure outside of other organisational divisions. Specifically, we recommend that the new director (who oversees the three units involved in the report and complaint system) report directly to the Chief Operations Officer. Other organisations – such as Victoria Police, Airservices Australia and the Australian Federal Police – have long-established, or are moving towards professional standards and complaint handling units that operate outside of the structures of human resources and legal departments.<sup>7</sup> Recent steps to separate investigation units from other areas of the business have also been undertaken in the private sector at BHP.<sup>8</sup> Elevating the organisational response to reports and complaints in this way will support Ambulance Victoria to demonstrate the priority and important role of these units, and would proactively address concerns that the report and complaint system lacks independence.

Finally, it is also integral that the proposed new organisational response to unlawful and harmful conduct is sufficiently resourced. A lack of trust in the Professional Conduct Unit has been driven, in part, by a lack of resourcing to enable it to meet its objectives. The Commission strongly encourages Ambulance Victoria to ensure the recommended organisational model is appropriately resourced to undertake its work. Decisions about resourcing should involve robust forecasting and be informed by the scope and skill of the roles identified, the size of the workforce and should account for significant latent demand, given what the Commission has learned about the nature and extent of unlawful and harmful conduct in the organisation. Guidance on appropriate caseloads could also be drawn from the experiences of similar units, as well as from the Commission's own dispute resolution service.

## 9.1.2 Role of the Specialist Support Unit

Experiences of discrimination, sexual harassment, bullying and victimisation can have wide-ranging impacts that may affect almost every aspect of a person's life. The impact of experiencing this conduct on some current and former employees and first responders has been profound (as the Commission had found in Chapter 5). The trauma that can follow from the experience of unlawful conduct – as well as poor responses to disclosures or complaints of workplace harm – makes it essential for organisations to provide appropriate and safe avenues for the workforce to seek support.<sup>9</sup> It is of critical importance that a complainant can confidentially access trauma-informed advice and support (such as counselling), whether or not they wish to make a report or complaint.

The purpose of the Specialist Support Unit will be to provide a dedicated, safe space for employees and first responders to seek confidential information, advice, support and counselling after experiencing or witnessing unlawful and harmful conduct. This support will be available at all stages of the process and, where required, the Specialist Support Unit can provide ongoing advocacy and

support for individual complainants throughout the report and complaint process. This may include, for example, discussing potential strategies that an individual may choose to pursue, empowering individuals to have a say in decisions that affect them and providing direct support or referral to external supports, such as counselling services. Through this unit, complainants can receive ongoing support that may be necessary after a report or complaint process is finalised, reflecting that the impact of the conduct may be long lasting.<sup>10</sup>

In contrast to the Workplace Harm Unit – which is required to assess and resolve complaints in an impartial manner and to support all parties – the Specialist Support Unit will be a dedicated advocate and support for complainants. The Unit will provide a confidential avenue to obtain support, advice and assistance that centres on, and is driven by, the wishes of the individual complainant. Importantly, the Specialist Support Unit will provide information, and will support employees or first responders to decide whether or not they wish to make a report or complaint to the Workplace Harm Unit, and will help them understand what the implications of doing so may be.

The need for a separate unit to provide this support outside of the Workplace Harm Unit is driven by the high rates of underreporting in Ambulance Victoria. Accordingly, it is important to ensure that there is an avenue separate from the unit with responsibility for complaint handling so that employees and first responders can access support, where they may choose not to engage with the report and complaint system directly. Research has demonstrated that being able to access informal advice and support is vital to building confidence to utilise policies and procedures to respond to sexual harassment.<sup>11</sup>

The Commission notes that the Wellbeing and Support Services division currently coordinates and provides a range of wellbeing programs within Ambulance Victoria (such as the chaplaincy program and a team of internal psychologists). The Specialist Support Unit is intended to complement and work cohesively with this unit (through, for example, warm referrals and close working relationships) to ensure complainants can access the services provided by the Wellbeing and Support Services area, and also to provide additional advocacy and direct support services.

### **9.1.3 Role of the Workplace Harm Unit**

The role of the Workplace Harm Unit (see Figure 9D) is to provide the first point of contact for reports and complaints of unlawful and harmful conduct. It will provide a centralised and trauma-informed, specialist response and ensure that any safety and wellbeing issues, any potential risks, are identified and acted on early. It will offer complainants flexible and informal options for responding to their reports and facilitate quick, effective resolutions.



Figure 9D – Key functions of the proposed Workplace Harm Unit





## Assessment and triage

As the intended first and central point of contact for reports and complaints of unlawful and harmful conduct, the Workplace Harm Unit should have primary responsibility for assessing and triaging reports and complaints when they are received. The triage process should build on existing tools and explicitly include guidance on the following:

- consideration of the need for any precautionary actions to be taken (pending potential investigation or referrals to external authorities) to avoid further harm or to comply with legal obligations, based on a risk assessment and centred on the complainant's wishes
- any internal or external connections to support or wellbeing services for the complainant, respondent(s) or others involved in a report or complaint (such as witnesses)
- discussions about the outcomes the complainant is seeking, whether they are available and what a successful resolution of the complaint looks like for them.

Moving to victim-centred approaches to complaint handling requires clear recognition and actions that support the complainant to lead and have control over the process and to decide on the steps that are right for them.<sup>12</sup>

### **What can be done to respond to unlawful or harmful conduct, where a complainant does not wish to make a complaint or has made the complaint anonymously**

Complaint handling policies and procedures should clearly address and articulate the process for making a report or complaint and in what circumstances this information may need to be shared or acted upon, including, for example, by notifying an external authority.

The Commission's guideline on preventing and responding to workplace sexual harassment guides employers on how to respond when a person discloses an experience of harassment without making a report or complaint.<sup>13</sup> These principles are broadly applicable to other types of unlawful conduct.

- A report (including those made anonymously) should be a trigger for action. It is crucial that Ambulance Victoria respects the person's privacy and wishes, but these do not override the positive duty to eliminate discrimination, sexual harassment and victimisation from the workplace or any other relevant legal obligations to disclose or act (discussed further below).
- Ambulance Victoria must consider the risk to others and take action to eliminate, or minimise, that risk as far as possible. There are several steps Ambulance Victoria can take without identifying the complainant or the respondent (if known) or disclosing that an incident has been raised. For example:
  - recording the report in a de-identified way while ensuring the complainant's anonymity
  - reiterating to the workforce Ambulance Victoria's policy around various types of misconduct, complaints procedure and available supports, and inviting employees and first responders to make complaints

- monitoring the alleged respondent's behaviour (if the person is known) and intervening if new issues arise
  - speaking with other members of the respondent's team (if known) to identify whether there is a cultural issue or pattern of conduct, or surveying employees and first responders more broadly
  - monitoring closely to ensure victimisation does not occur and intervening where issues arise
  - having a system to collect de-identified information and data provided by disclosures, while maintaining confidentiality
  - implementing new procedures or work systems that reduce the likelihood or opportunity for further misconduct.
- Ambulance Victoria should offer the person referrals to counselling or other support and communicate the options for making a formal or informal complaint at a later time. Having simple, transparent, well-communicated processes will significantly increase the likelihood of people making a complaint if they believe misconduct has occurred.
  - Ambulance Victoria should consider whether the incident raises broader cultural or systemic problems in the workplace and investigate those issues as well as the efficacy of the strategies, policies and procedures currently in place.
  - Some more serious issues may warrant immediate escalation to a formal process, regardless of the complainant's preference, particularly if they are serious, constitute certain criminal behaviour or pose a risk to the health and safety of others. To ensure complainants are aware of the potential for this to occur, clear guidance and scenarios should be included in report and complaints procedure and communicated to all employees and first responders. Examples of where there may be obligations to disclose are highlighted below.
  - **Certain criminal conduct** (such as rape, sexual assault, stalking, obtaining a sexual act by threat or fraud or cases of severe bullying) may constitute an indictable offence under criminal law.<sup>14</sup> There is generally no requirement under the Crimes Act for an employer to report a crime to the police. However, it is a criminal offence to impede the apprehension, prosecution, conviction or punishment of someone you believe to have committed an indictable offence, or to accept a benefit to withhold information that may be of assistance in securing the prosecution or conviction of a person who has committed a serious indictable offence (such as rape, sexual assault, etc.).<sup>15</sup>
  - Under the **Occupational Health and Safety Act**, employers must provide and maintain a working environment that is safe and without risks to health. Employers can be prosecuted and penalised for failing to do so. Employees must take reasonable care of their own safety as well as the safety of other people who may be affected by their behaviour at work and can also be penalised for not complying with this duty.
  - Under the **Health Practitioner Regulation National Law**, Ambulance Victoria must notify the Australian Health Practitioner Regulation Agency that a health practitioner (for example, a Paramedic) has engaged in sexual misconduct in the practice of the profession or has engaged in conduct that involves a significant departure from professional standards of practice and places the public at risk of harm.<sup>16</sup>

## Referrals

The intention of the new proposed organisational model is that the Workplace Harm Unit provides a comprehensive and centralised response to reports and complaints of unlawful conduct in Ambulance Victoria. However, there will be some instances where it is appropriate for the Workplace Harm Unit to refer a report or complaint received to another area for consideration and resolution (see Figure 9C). The Commission considers this should only occur in a limited set of circumstances to minimise double handling, in recognition of the frustration this can cause complainants and the potential this has to increase the time to resolve a report or complaint.

First, where a formal complaint process or investigation is determined to be appropriate (having considered the complainant's wishes and alternative options, as outlined in further detail below), the Workplace Harm Unit should refer the complaint to the Investigations Unit. The Specialist Support Unit would continue to provide support and advice to the complainant and provide a continuous point of support throughout any investigation processes. Where a decision is made to investigate against the complainant's wishes, it is imperative that this is clearly and sensitively communicated to the complainant and care is taken to connect the complainant with relevant supports and to protect them against victimisation.

Second, as provided in Ambulance Victoria's current complaint policies and procedures, there may be limited circumstances where it is appropriate for the Workplace Harm Unit to refer a report or complaint back to a local area to be resolved. This may include, for example, where:

- steps have not yet been taken to resolve the matter locally
- it is safe and appropriate to resolve the matter at a local level
- a resolution may be achieved more quickly at a local level.

For example, this could include the referral of a matter for local level resolution where the issues relate to good faith miscommunications or misunderstandings between two members of the workforce and the involvement of a relevant manager would facilitate a resolution and promote effective ongoing working relationships.

The factors listed above will not be appropriate for every report and complaint, and local level resolutions may not be appropriate in some instances (for example, where there are power imbalances or safety risks).

To support these processes and ensure a consistent and transparent approach is taken, standard operating procedures should be developed and made available to the workforce. In addition, the Workplace Harm Unit should have close and clear connections between other relevant units, such as the Investigations Unit, to ensure warm referrals and appropriate information flows are established, with appropriate measures in place to ensure confidentiality and privacy.

## **Intake, case management and response**

A key function of the Workplace Harm Unit will be to facilitate and provide options to resolve disputes and support complainants to determine the most appropriate and effective approach for resolving their concerns. The process for resolution should be flexible, and include a range of mechanisms and outcomes, such as apologies, agreed and documented protocols for managing relationships into the future, or formal complaint and investigation processes.

This approach aligns with emerging best practice that emphasises positive relationships and strong communication so that – where safe and in line with the complainant’s wishes – issues are managed early, at the lowest possible level by the people directly involved, and with the most appropriate response.<sup>17</sup> This approach also recognises that even where a report or complaint is unsubstantiated or where a person chooses not to make a formal report or complaint, there may be issues or concerns that can and should be resolved.

Flexibility in resolving disputes must be carefully balanced against the need for certainty and consistency in the outcomes available; this is to ensure that the fundamental principles of fairness drive the organisational response. As such, in accordance with our recommendations, the complaint policy should clearly outline the parameters of the outcomes available through the report and complaint process, the outcomes should be widely accessible to the workforce, and the outcomes should be regularly monitored through governance structures.

To date, Ambulance Victoria’s capacity to deliver restorative practices and outcomes<sup>18</sup> has been limited. A dedicated, well-resourced Workplace Harm Unit will ensure appropriate priority and specialist expertise is allocated to this important element of complaint handling.

## What are restorative practices?

Restorative practices are strategies that focus on healing the harm caused by wrongdoing (such as discrimination, sexual harassment, bullying, victimisation or other harmful conduct) and preserving productive working relationships. Restorative practices respond to evidence that formal complaint procedures can serve to entrench conflict, generate new grievances, penalise and re-traumatise complainants, all of which can compound to prevent complainants from coming forward.<sup>19</sup>

Rather than formally investigating a matter with a legalistic focus on determining whether policies have been breached and whether the alleged conduct meets the requisite legal threshold, restorative practices can be more informal, flexible and victim-centred. They typically centre on:

- supporting the complainant to tell their story, feel heard and believed and discuss what they need to make the situation better
- enabling respondents to understand the impact of their behaviour and show remorse
- repairing (or healing) the harm
- addressing systemic issues to prevent the issue from arising again in the future.<sup>20</sup>

Restorative practices have been found to generate more meaningful engagement by all involved and, therefore, engender more meaningful behavioural and cultural change than traditional compliance-based complaint systems.<sup>21</sup> They can also support rebuilding trust in the workplace.<sup>22</sup>

In some instances, the focus will be on the relationship between the complainant and respondent. This will only be appropriate in certain circumstances; for example, where the parties are willing, there are no insurmountable power imbalances, the harm was unintended, and there is genuine acknowledgment or wrongdoing and willingness and capacity to change.<sup>23</sup> In other instances – such as where there are safety risks or the unlawful conduct is more serious or recurrent – the emphasis may be on preserving the relationships between the complainant and the employer or manager such that the complainant can be supported to continue and thrive in their position, while the respondent is disciplined or transferred.

When delivered skilfully and effectively, restorative practices can be profoundly healing for complainants and can be a powerful force for individual and systemic change.<sup>24</sup> However, there are considerable risks if these practices are not delivered appropriately. These practices should become a feature of Ambulance Victoria's report and complaint system through the Workplace Harm Unit; however, ensuring the appropriate capacity, capability and safeguards are in place is crucial.<sup>25</sup>

The Commission has recommended (see Recommendation 2) that an independent restorative engagement scheme is established (following a co-design process) to support current and former employees and first responders to tell their stories, have their past experiences acknowledged and to support cultural change at Ambulance Victoria.

The restorative engagement scheme is intended to focus on addressing and acknowledging past harms. Ambulance Victoria must also ensure a focus on restorative practices is more deeply embedded into its complaint handling practice into the future. This should form a key part of the approach to resolving disputes delivered through the Workplace Harm Unit.

It will be crucial to ensure that the Workplace Harm Unit is sufficiently skilled and supported to undertake this complex work in line with a broader victim-centric and trauma-informed approach. In particular, staff members will need to be attuned to power imbalances within the workforce and safeguards will need to be in place to ensure that all complaint processes, including restorative practices, do not retraumatise the complainant or create additional barriers to reporting.

Risks need to be managed proactively, including those arising from inadvertently minimising serious workplace harm, causing a misapprehension that complainants will be required to self-manage their complaints or otherwise face their perpetrators, or creating perceived or actual pressure on complainants to follow through with a complaint or restorative process when they do not feel safe or ready to do so. The Workplace Harm Unit must be equipped to provide information to complainants about their options, including a range of formal and informal pathways. This should also include options for individuals who do not wish to make a formal report or complaint but simply want to feel heard or to assist Ambulance Victoria in minimising the risk of harm to others.

## Policy review and analysis

As the unit with central responsibility for managing reports and complaints of unlawful and harmful conduct, the Workplace Harm Unit should also hold responsibility for capturing key data and information to inform the organisation's prevention and response approach.

Reports and complaints provide an important and rich source of information for an organisation to understand the systemic issues that may drive unlawful and harmful conduct that should be addressed holistically – for example, through training or other development initiatives.<sup>26</sup> Reports and complaints also provide detailed information that can support the identification of any repeated issues or patterns of behaviour and inform future responses or interventions; this also allows the organisation to understand how internal policies, procedures or processes could be improved.<sup>27</sup>

To support this key function, the Workplace Harm Unit should be equipped with a fit for purpose information technology system that allows the classification and recording of complaints and how they are resolved. Managers who receive and resolve informal reports and complaints about unlawful conduct should notify the Workplace Harm Unit to ensure this data is captured. The system should contain appropriate measures to safeguard the information from unauthorised access, use, changes or disclosure.

Key trends and drivers should be appropriately shared within the People and Culture division, by capturing more comprehensive data and sharing it in accordance with the governance arrangements recommended by the Commission later in this chapter, so that it informs education and training throughout the organisation, ongoing monitoring and evaluation, as well as risk management strategies.



## 9.1.4 Role of the Investigations Unit

To support the implementation of the Workplace Harm Unit, the Commission recommends that an Investigations Unit is established and tasked with the specialist role of investigating formal complaints of misconduct or serious misconduct, where this is warranted as a result of the seriousness of the allegations.

The Commission considers this distinction will better demarcate the gradation and different responses that may be appropriate to reports and complaints throughout the organisation and ensure the skills, expertise and resources are best targeted to the responsibilities of each unit within the new organisational model. The Investigations Unit should primarily focus on potential disciplinary matters involving formal investigation. As such, the Commission considers that minimum requirements for staff members who are appointed to roles in the unit – such as a recognised qualification in government investigations (for example, a Certificate IV in Government Investigations) – would support this primary function and would contribute to the rebuilding of trust and confidence in the report and complaint system.

It is integral that the person investigating a complaint is impartial and is perceived to be so by all those involved. They must also hold the necessary skills and expertise to investigate. Appointing independent investigators to undertake investigations of sexual harassment, in particular, can generate greater trust in the process and mitigate potential concerns about conflicts of interest.<sup>28</sup> Independent investigators can be beneficial where there are complex and systemic issues, where internal investigators lack the necessary expertise, where there is a real or perceived conflict of interest with internal investigators, where the matters involve criminal behaviours, or where the respondent is a senior manager or figure within the organisation.<sup>29</sup>

However, the appointment of internal investigators can also be beneficial, as they hold corporate knowledge and can have deeper understandings of the nuances of Ambulance Victoria that may support a comprehensive understanding of the context and circumstances relevant to a complaint.<sup>30</sup> Internal investigations process can reinforce the primary responsibility and direct accountability for acceptable behaviour and any actions that may be needed to address unlawful and harmful conduct when it occurs.<sup>31</sup>

The primary responsibility of Ambulance Victoria for acceptable conduct is reflected both in the law (with respect to the positive duty and that the organisation can be legally responsible for the unlawful conduct of its employees and for failing to respond appropriately to complaints, as discussed in chapters 3 and 7), as well as in the features of an effective complaint system described in Figure 9A (which recognises the importance of a workplace culture where the organisation is itself committed to resolving complaints effectively).

To support clarity and transparency in decision-making on the use of internal and external investigators, in Section 9.2, the Commission recommends further guidance should be detailed in Ambulance Victoria's complaint policies and procedures about the factors that will guide the use of internal or independent investigators.



## 9.1.5 Role of Senior People Partners

Senior People Partners play a key role in engaging with and providing support to managers and staff members to resolve interpersonal issues and other workplace conflict. In turn, these roles also support intervention at the earliest opportunity, assist to avoid conduct escalating to unlawful conduct and facilitate the resolution of disputes. The Commission does not make any formal recommendations to reform the role of Senior People Partners and notes that further consideration will be given to the resourcing of corporate services within Ambulance Victoria in Volume II.

### Recommendation 13

#### A victim-centred and fair report and complaint system

Ambulance Victoria should establish a new organisational response to reports and complaints of unlawful and harmful conduct that consists of:

- (a) a Workplace Harm Unit that:
  - (i) provides the first point of contact for reports and complaints of unlawful and harmful conduct to be made
  - (ii) provides impartial, confidential, timely information and advice about the report and complaint system, including about complaint pathways, processes and procedures
  - (iii) assesses and triages reports and complaints, taking necessary steps to ensure the safety and wellbeing of those involved, including through formal referral mechanisms to appropriate internal or external providers and agencies and escalating more serious matters for formal action as necessary
  - (iv) facilitates informal resolutions using flexible dispute resolution and restorative practices
  - (v) ensures that all relevant report and complaint policies, procedures, information and communications available to staff are up-to-date
  - (vi) collects and analyses data to identify trends and emerging risks that are assessed and compared with available data from the health sector and shared with the Chief Executive Officer, the Executive Committee and the Board on a quarterly basis, together with any actions implemented to respond to trends of concern
  - (vii) is an advocate for leading practice complaint handling and standards within Ambulance Victoria
- (b) a Specialist Support Unit to provide advocacy and direct support for those who have experienced unlawful and harmful conduct
- (c) an Investigations Unit that consists of specialist investigators and is responsible for the investigation of complaints.

The new organisational response should be developed in consultation with the workforce, and with relevant unions and professional associations.

## Recommendation 14

### Enhancing perceptions of independence and supporting capability for the new organisational response to reports and complaints of unlawful conduct

In establishing the new organisational model to respond to reports and complaints of unlawful conduct, Ambulance Victoria should:

- (a) develop position descriptions for key roles within the new organisational model that reflect the key attributes, skills and expertise necessary for staff in complaint handling roles
- (b) ensure that the staff appointed have a range of skills and experiences – such as professional experts in human resources, equal opportunity issues, bullying, discrimination, dispute resolution and restorative approaches, as well as data analytics and investigations expertise – and are a blend of internally and externally appointed staff
- (c) ensure sufficient resourcing is available to meet demand and established service standards (see Recommendation 20)
- (d) create a distinct reporting structure outside existing operational divisions that reports directly to the Chief Operations Officer.

## 9.2 Providing a safe, supportive report and complaint process

Ambulance Victoria has recognised the need to embed a ‘human-centric’ approach to managing complaints. This includes an increased focus on wellbeing, support and providing more open, transparent and regular communications. It has also recognised the need to provide for greater guidance to the workforce about what is involved in certain processes, such as local level resolutions.

The Commission welcomes these steps, while acknowledging that gaps in the complaint policies and procedures are limiting the extent of a victim-centred approach. These include the absence of detailed information on the range of available internal and external complaint pathways (including anonymous pathways), what and how information is collected and shared, and how the complainant’s choice and control inform outcomes and resolutions.

## 9.2.1 Anonymous reporting

Anonymous reporting systems are a powerful way of encouraging reporting, addressing power imbalances and barriers to reporting, and understanding the true nature and scale of unlawful conduct within an organisation that may otherwise remain hidden.<sup>32</sup> For large organisations, anonymous (or supported) reporting processes are an important element of leading practice report and complaint systems.<sup>33</sup>

Ambulance Victoria's *Complaints Policy* provides that its workforce can make 'confidential complaints'; these are defined as complaints that are lodged directly with, and case managed by, the Professional Conduct Unit or an external agency (rather than first being made to the complainant's manager).<sup>34</sup> This definition is likely to cause confusion given that:

- managers should also handle reports and complaints in a confidential way
- there are limits to the confidentiality of all complaints (see Section 9.1)
- the definition does not appear to include anonymous reporting.

A paper prepared for the Audit and Risk Board Committee in March 2021 indicates that complaints can be made to the organisation's external law firm, including anonymously. However, this complaint pathway is not identified in Ambulance Victoria's complaint policies or procedures and has not been widely promoted to the workforce as an option. Furthermore, while there are benefits in retaining an external anonymous reporting pathway, the current situation of directing anonymous complaints to the organisation's law firm of choice may create further barriers to reporting and missed opportunities for systemic change; that is, if this information does not become available to the organisation as a result of the workforce not feeling comfortable to utilise it as a pathway. For example, given this firm is regularly engaged by Ambulance Victoria, employees and first responders may perceive it to have a conflict of interest or, alternatively, they may erroneously assume that reporting to a law firm will lead to a litigious or punitive response.

Integrating anonymous reporting into Ambulance Victoria's own systems and responsibilities will ensure that anonymous reports can be an immediate trigger for action where they indicate serious or imminent risk; it also means reports can be addressed promptly. This will also enable Ambulance Victoria to monitor risks and trends emerging from anonymous reports to inform prevention, response and continuous improvement. Guidance on how to respond to anonymous reports is in Section 9.1.

The Commission considers that an alternative external option would be to create an anonymous reporting pathway to SafeSpace. SafeSpace is sufficiently independent, yet connected to, Ambulance Victoria to balance the benefits and drawbacks of an external system. It has – or could relatively easily acquire – the relevant expertise to operate an anonymous reporting scheme and it does not carry the same adverse workforce perceptions as a law firm retained by the organisation.

The use of online or app-based reporting tools to support anonymous reporting of sexual harassment has proven to be increasingly effective in a number of different organisations.<sup>35</sup> For example, BHP has recently developed a centralised confidential reporting tool that is available 24/7 to all employees and contractors and allows concerns to be raised anonymously.<sup>36</sup> The Victorian Legal Services

Board and Commissioner has also introduced an online tool for reporting sexual harassment by lawyers, with the data from reports intended to be used to more closely monitor and, where possible, take action on areas of concern.<sup>37</sup>

Whatever anonymous reporting model is selected, it is crucial that Ambulance Victoria communicate and promote this avenue to the workforce. It will also be important to provide clear information about how anonymous reports will be responded to, and the limitations of organisational responses to anonymous reports; for example, where insufficient information is provided in an anonymous report and it is not practical to investigate.

### **Recommendation 15**

#### **Supporting staff to confidently report through anonymous pathways**

Ambulance Victoria should introduce internal and external anonymous reporting pathways and communicate and promote these avenues to staff within three months of the publication of Volume I of this final report.

## **9.2.2 Embedding victim-centred procedures**

A victim-centred complaint process is one where policies and procedures are designed to recognise the need to make it easy for people to make reports and complaints of unlawful conduct, including by proactively addressing potential and known barriers to reporting.<sup>38</sup>

Ambulance Victoria has taken important steps to embed approaches that are more victim-centred. The recently established Specialist Support Unit is currently reviewing the expansion of restorative management actions, including establishing training arrangements and procedures. Importantly, the unit has a key emphasis on ongoing communication with complainants, explaining complaint processes and timeframes.

We commend Ambulance Victoria on implementing these measures; however, as the Commission found in chapters 7 and 8, there are a number of key gaps that are impacting experiences of the organisation's report and complaint system. These include a lack of clarity about the multiple pathways available to make a complaint, and how a complainant's choice and control are supported through the process. Together, these factors appear to be contributing to employees and first responders in Ambulance Victoria being less willing to report their experiences.

Strong policies are vital to ensure that both individuals and the organisation have clear expectations and clarity about how reports and complaint are handled.<sup>39</sup> They support other organisational responses, such as training and behavioural documents, including Codes of Conduct, to help employees and first responders understand behaviour that can constitute unlawful conduct and what they should do if they experience, witness or receive a complaint about unlawful conduct.

There are opportunities to reform Ambulance Victoria's complaint policies and procedures to better embed a victim-centred approach, including by:

- proactively addressing the identified barriers to reporting, by more clearly outlining the measures put in place to address these concerns, such as by promoting the multiple avenues available to make a report or complaint (including those internal and external to the organisation) and the circumstances where a complaint will be investigated externally
- promoting a clearer shared understanding of what can be expected and achieved from these processes.

In integrating victim-centred approaches into its procedures, Ambulance Victoria should also consolidate the number of policies and procedures relating to the complaint processes and procedures into a single document to reduce overlap and to promote greater accessibility. Detailed and transparent processes will also support complainants to understand how their complaint will be handled and the procedures that will be used to manage their complaint. It will also support complaints handlers to have fair and reasonable interactions.<sup>40</sup>

In revising its complaint policies and procedures, Ambulance Victoria should ensure the information presented is consistent and transparently outlines critical aspects of the report and complaint process. The Commission has also observed there is inconsistent and at times, conflicting information across policies, procedures and supporting documents. For example, while Ambulance Victoria's recent creation of new services – such as SafeSpace – are positive and provide more flexible options to seek advice and assistance, relevant details are not currently embedded consistently in complaint policies or procedures. Inconsistent or outdated information can affect the trust of a complainant in the report and complaint system. As noted in Chapter 7, the Commission is concerned that there also appears to be aspects of the report and complaint process that occur in practice but are not formally documented, which limits the transparency and accountability of aspects of the complaint process.

Ambulance Victoria should ensure that it addresses the elements in Figure 9E in its complaint policy to ensure alignment with the Commission's minimum standards and leading practice, as detailed in Chapter 7 and in the Victorian Ombudsman's model complaint policy.<sup>41</sup>

Figure 9E – Elements to be address in Ambulance Victoria’s revised policy

<b>Principles of effective complaint handling</b>	<ul style="list-style-type: none"> <li>• Embed principles of fair and sensitive complaint handling, including explicitly articulating that the complaint process is victim-centric and impartial, and that any necessary workplace action will be reasonable, proportionate and hold the perpetrator to account</li> </ul>
<b>Role of bystanders</b>	<ul style="list-style-type: none"> <li>• Articulate the role of bystanders in preventing unlawful conduct and outline practical steps that can be taken to intervene and support victims</li> </ul>
<b>Clear definitions</b>	<ul style="list-style-type: none"> <li>• Provide clear scenarios to support definitions of unlawful conduct, including description of potential behaviours that may give rise to discrimination, sexual harassment, bullying and victimisation</li> </ul>
<b>Roles and responsibilities</b>	<ul style="list-style-type: none"> <li>• Define the responsibility of managers, supervisors and others in positions where they may receive complaints (such as those in the People and Culture division) to take complaints seriously and to take appropriate action, including discussing potential options for resolution</li> </ul>
<b>Victimisation</b>	<ul style="list-style-type: none"> <li>• Clearly articulate the responsibility of employees and first responders, managers and supervisors to protect people against victimisation and that victimisation may result in disciplinary action</li> </ul>
<b>Internal and external complaint pathways</b>	<ul style="list-style-type: none"> <li>• Describe all available internal and external complaint pathways; these include, managers, Senior People Partners and others where the complaint involves a manager or a senior member of staff, the Workplace Harm Unit, the Commission, WorkSafe Victoria and any newly established anonymous reporting system</li> </ul>
<b>Timeliness</b>	<ul style="list-style-type: none"> <li>• Set out timeframes for the acknowledgment of complaints, indications of the expected length of an investigation, and regular intervals where all involved in the complaint will be updated on progress, and trigger points for notification of any delays</li> </ul>
<b>Investigations</b>	<ul style="list-style-type: none"> <li>• Outline when investigations will be conducted and the factors taken into account, which should include the wishes of the complainant</li> <li>• Provide guidance on the factors that will inform when internal and external investigators may be used, such as where a complaint involves a senior member of staff</li> </ul>
<b>Outcomes</b>	<ul style="list-style-type: none"> <li>• Outline the different informal and formal processes for responding to complaints, and the factors that will be considered when determining how to resolve a report or complaint, including, crucially, how the wishes of the complainant will be taken into account</li> <li>• Describe the potential outcomes, processes and interventions that are available to handle complaints and concerns, emphasising early intervention and informal resolution should be utilised, where appropriate</li> <li>• Outline scenarios and conduct that may result in disciplinary action</li> <li>• Clearly outline the circumstances in which Ambulance Victoria may be required to escalate reports and complaints into formal processes, or to make notifications and referrals to external agencies, such as Victoria Police</li> </ul>

<b>Information, record-keeping and confidentiality</b>	<ul style="list-style-type: none"> <li>• Describe what information will be recorded, including what information will be shared and provided to those involved in a complaint</li> <li>• Outline the responsibility of managers, supervisors and all employees and first responders to protect the confidentiality of a complainant</li> </ul>
<b>Monitoring and evaluation</b>	<ul style="list-style-type: none"> <li>• Describe how the organisation monitors complaint handling and investigators to ensure policies and procedures are applied properly and consistently, including what data is captured and why</li> </ul>

## Recommendation 16

### Embedding a victim-centred approach to processes and procedures

Ambulance Victoria should amend and consolidate its complaint handling policies and procedures into a single policy that, at a minimum, covers:

- (a) a comprehensive list of how, where and to whom a complaint can be made, including the available internal and external reporting options
- (b) information about the availability and role of support services
- (c) the multiple options available to resolve a report or complaint, from informal resolutions through to formal reports and complaints
- (d) how a complaint will be managed, the steps involved, the roles and responsibilities of key staff and service standards that clearly set out what to expect
- (e) the range of outcomes that may be achieved
- (f) guidance about when a complaint will be immediately escalated to a formal complaint process or referred to an external agency, such as Victoria Police
- (g) guidance on when internal and external investigators may be appropriate, including for complaints about senior staff member
- (h) how information will be recorded or taken and the confidentiality safeguards in place
- (i) information about victimisation, including a clear statement that it is unlawful
- (j) how the performance of report and complaint system will be monitored.



## 9.2.3 Providing a range of response options to support choice and control

Ambulance Victoria's complaint policies and procedures primarily encourage complaints to be made to a direct manager, or to the Professional Conduct Unit. In turn, managers are directed to refer reports and complaints they receive about unlawful and harmful conduct to the Professional Conduct Unit. As outlined in Chapter 7, informal reporting options are not clearly identified and – while Ambulance Victoria has recently taken steps to provide training to managers that highlights the importance of early intervention – the effectiveness of these options is limited in the absence of clear processes and procedures to reinforce these response options.

Research tells us this is a common approach of employers, particularly to reports and complaints of sexual harassment; that is, it is often considered or assumed that a formal investigation is the most appropriate response.<sup>42</sup> For all reports and complaints – but particularly those relating to bullying – research acknowledges that unresolved disputes can escalate through a continuum of bullying behaviours, which can create increasingly complex, harmful experiences. In turn, this can create additional challenges to short-term and long-term resolution.<sup>43</sup>

Ambulance Victoria's overreliance on formal processes has the effect of funnelling less serious reports and complaints through a single formal complaint process, which is not appropriate in all instances. This can create the perception that all reports and complaints are subject to a potentially punitive disciplinary process, which may discourage complainants from coming forward. It also limits opportunities to offer more flexible options to resolve complaints and may mean complainants are less likely to engage with a report and complaint process that does not appear to meet their needs.<sup>44</sup>

The high rates of referral of complaints for a local level resolution identified in Chapter 8 also appears to indicate that there are reports and complaints being made or referred to the Professional Conduct Unit that could have benefited from an informal, early intervention approach.

Reports and complaints within a workplace can arise for a range of reasons, from misunderstandings between colleagues through to more serious forms of misconduct that may require formal investigation and a disciplinary outcome. To reflect this diversity, reporting systems should be multi-faceted, offering a choice of procedures and mechanisms to address issues, that are flexible and tailored to the particular conduct and circumstances.<sup>45</sup> This approach also reflects the spectrum of interventions that can and should be used to address behaviours at the earliest opportunity. It also better recognises and considers the barriers to reporting that may exist, such as the impact of power imbalances and supports choice and control of complainants to determine the approach that best suits their needs and desired outcomes.<sup>46</sup>

## A range of response options for reports and complaints

The Commission's sexual harassment practice guideline outlines response options that can be embedded in report and complaint policies.

- **Self-management:** The complainant is supported to resolve a matter on their own, if they are confident and feel safe to do so. For example, a complainant directly approaches another person to ask them to change their behaviour.
- **Informal (internal) management:** A matter is resolved without a formal response or investigation. For example, a manager speaks to a worker about their behaviour after receiving a complaint and facilitates a discussion or mediation.
- **Formal (internal) complaint:** A matter is dealt with using a formal internal process, with documented findings. For example, a written statement is made to someone in a position of authority or to a complaint unit, which is impartially investigated.
- **External complaint:** A complaint is made directly or referred to an external authority. For example, a complainant makes a complaint to the Commission and all those involved agree to participate in a confidential dispute resolution process.<sup>47</sup>

Ambulance Victoria's report and complaint procedure should allow complainants to choose the most appropriate pathway from a range of different response options. In developing these options, Ambulance Victoria must be carefully attuned to the potential risks arising from different response options and their use in certain contexts (such as sexual harassment) and environments that may involve power imbalances.

Research has demonstrated that those who experience sexual harassment in male-dominated industries are less likely to make a formal report through internal procedures.<sup>48</sup> Encouraging direct confrontations without organisational support can create or exacerbate risks to complainant (and bystander) safety or contribute to perceptions of organisational tolerance for harmful behaviours.<sup>49</sup>

To support the management of these risks, clear guidance should be developed to inform the implementation of these options, including scenarios depicting the suitability of different options. Guidance should also support managers to understand the risks arising out of power imbalances and help them understand where organisational processes may better support the safety of the complainant.

While providing early intervention and a range of response options aligns with victim-centred approaches by promoting an emphasis on the complainant's safety, choice and control, the availability of formal reporting processes must still be made clear.<sup>50</sup> Further, specific information should also be available (in accordance with the Commission's recommendation later in this chapter) about the circumstances where Ambulance Victoria may be required to formally respond to or investigate. The information should explain that this depends on the seriousness of the concerns and should detail what actions can be taken that may still promote a complainant's wishes, while addressing necessary risks.

In this chapter, the Commission also recommends the establishment of an Expert Advisory Group to support the implementation of reforms to the report and complaint system. This advisory group is intended to provide an important source of authoritative expertise and guidance on the implementation of this recommendation, and work through the appropriate measures and safeguards that may be required.

As noted earlier in this chapter, the skills and capabilities of managers to support informal resolutions and to identify matters that require escalation will be integral. In Volume II, the Commission will consider how Ambulance Victoria supports the skills and capabilities of its workforce, and any necessary improvements.

### **Recommendation 17**

#### **Supporting choice and control and addressing harm at the earliest opportunity**

Ambulance Victoria should:

- (a) develop options to support people to resolve reports of unlawful and harmful conduct informally
- (b) document in its complaint policies and procedures guidance for complainants and managers on when an informal resolution is safe and appropriate.

## **9.2.4 Increasing accessibility**

Providing accessible information about a report and complaint system and processes can encourage reporting by making it easier for individuals to understand how to make a report or complaint, by promoting a complainant's choice and control, by clearly articulating what outcomes are available to support complainants to resolve their concerns, and by explaining what can be expected from the process.<sup>51</sup> Providing this information in a range of formats – including fact sheets and information brochures – can promote greater accessibility by making the information easy to find and understand.<sup>52</sup>

As noted in Chapter 7, Ambulance Victoria has demonstrably recognised the benefit in providing key information in this way, and has recently prepared and distributed a brochure describing the internal and external pathways to make a complaint. This is an important step, and the Commission encourages Ambulance Victoria to continue to build on this, and to expand the information provided about the report and complaint process in a variety of formats.

In Chapter 8, the Commission outlined that complainants and respondents had indicated they did not have a clear understanding of what was likely to happen during a complaint process, there was confusion about what supports services they could access, and there were gaps in connection to these services.

In addition, the Commission heard from complainants and respondents that they had significant concerns about, and were dissatisfied with, the information they were provided during a report and complaint process. Some participants reflected that they knew to make a report or complaint to their manager or to the Professional Conduct Unit, but they were unsure what happened after this step.

In particular, we were often told that complainants were not made aware of the outcome of their complaint.

Addressing this view is also integral to dispelling the pervasive perception within Ambulance Victoria that nothing will change as a result of a complaint being made. What information and how much can be shared following an investigation can be complex, due to the need to balance the privacy rights of the respondent and other persons involved in a complaint.

The Commission considers that providing more detailed information about what can be expected from report and complaint processes would help to create more transparent processes and would support all of those who may be involved to better understand what the process may involve, how they can obtain support and what information they will receive. This would provide Ambulance Victoria with an important opportunity to demonstrate its commitment to encourage a safe and supportive environment to make complaints and to support them to do so.

### **Recommendation 18**

#### **Developing resources to support accessibility of the report and complaint system**

Ambulance Victoria should:

- (a) develop information guides and fact sheets that clearly outline:
  - (i) the internal and external pathways to make a complaint
  - (ii) the support services available to all those involved in report and complaint processes, including complainants, respondents and witnesses
  - (iii) what complainants, respondents and witnesses involved in a complaint process should expect, such as timeframes, what information they will receive, expected standards of service and how their information will be handled
  - (iv) the outcomes available through a report or complaint process
- (b) ensure that the information guides and fact sheets are available across workplaces, including electronically and as physical hard copies, and updated annually.

## 9.3 Supporting bystanders to speak up

Ambulance Victoria has recognised the importance of creating a ‘speak up’ culture and supporting bystanders to encourage action when a staff member sees or later learns about unlawful or harmful conduct. Encouraging and supporting bystander action is an important measure to support prevention through the positive impact on setting acceptable standards, for example, by challenging those who engage in unlawful and harmful conduct.

In addition, bystanders form an important part of an organisation’s response to unlawful and harmful conduct. Bystanders provide an opportunity for unlawful and harmful conduct to be addressed at the earliest point, remove the burden on victim-survivors to report the conduct, and provide Ambulance Victoria with more opportunities to address discrimination, sexual harassment, bullying and victimisation. The recommendations to support Ambulance Victoria to embed a more strategic, integrated approach to encouraging a ‘speak up’ culture in Chapter 6 will ensure bystander interventions support the organisation’s prevention and response measures.

## 9.4 Standard setting and driving accountability by sharing information

### 9.4.1 Publishing de-identified case studies

Sharing the outcome of complaints – for example, through properly deidentified case studies – can be an important way to reinforce acceptable standards of workplace conduct and to provide greater visibility of perpetrators being held to account. It also provides an important illustration of what unlawful and harmful conduct looks like in the context of Ambulance Victoria.

Such transparency has also been recognised as ‘an effective and relatively low-cost mechanism for engineering positive change’<sup>53</sup> in relation to workplace sexual harassment. In the context of gender equality, targeted measures for reporting are known to drive behavioural change.<sup>54</sup>

Currently, Ambulance Victoria does not appear to routinely share information with the workforce about the outcome of complaints and disciplinary processes (see Chapter 7). The Commission urges it to introduce greater transparency. It could, for instance, consider regularly developing and publishing case studies, similar to the Australian Health Practitioner Regulation Agency and the Victorian Legal Services Board and Commissioner. These organisations publish information on their websites and in annual reports regarding regulatory and disciplinary outcomes following substantiated findings of misconduct.<sup>55</sup>

The publication of deidentified case studies will require a careful balance to be struck between confidentiality and privacy on the one hand and transparency on the other, while grounding decision-making around the views of the complainant.

The views of the complainant should be at the centre of decision-making and their preferences respected; their clear consent to the publication of a de-identified case study should be obtained. Any information that the organisation proposes to publish should first be shared with those who may be affected to ensure it has been appropriately deidentified.

In addition to sharing more information publicly with the workforce, the Commission urges Ambulance Victoria to ensure it is providing information to complainants about the outcomes of their complaint. This is integral to addressing a key issue that was regularly raised with the review – that complainants were often not made aware of the outcome of their complaint.

Providing greater information to complainants about the outcome of their complaint would also support the organisations' efforts to counter the pervasive perception that no actions are taken in response to complaints. It would also help to address the impression that certain individuals in the organisation are protected; these perceptions significantly undermine trust and confidence in the report and complaint system and contribute to a sense of organisational tolerance for unlawful conduct.

Existing guidance related to discrimination and harassment complaints highlights the importance of providing complainants with general information about the outcome of their complaint, so that this can inform whether they choose to progress their complaint to an external agency.<sup>56</sup> The Commission's sexual harassment guideline also reinforces the need to communicate relevant details of the outcome of a complaint to the complainant and respondent.<sup>57</sup>

The Office of the Victorian Information Commissioner's *Guidelines to the Information Privacy Principles* provide some guidance about the disclosure of information to complainants following an investigation, and highlights that:

**[it] is reasonably expected that the organisation would provide sufficient information to the complainant to show the investigation of [the] complaint and outcome were fair. This ensures organisations that deal properly with complaints are seen to do so.**

The Victorian Public Sector Commission's *Common Policy for the Management of Misconduct* also contains some instructive guidance on how complaint policies and procedures can clearly outline what information a complainant can expect. This policy notes that, if reasonably practicable and appropriate, the following information should be provided to a complainant following an investigation: whether an investigation was conducted, if the matter was not investigated and why not, if the matter was investigated and whether a discipline outcome was applied.<sup>59</sup>



## 9.4.2 Publishing de-identified complaints data

In addition to sharing de-identified case studies with the workforce, the Commission recommends that Ambulance Victoria share aggregated and de-identified information with the workforce about reports and complaints of unlawful and harmful conduct. This would further promote transparency and align with leading practice and minimum standards for report and complaint handling.

The publication of this information would also build on Ambulance Victoria's new obligations arising from the Gender Equality Act, to regularly collect and report data on gender equality in the workplace through workplace gender audits.<sup>60</sup> This audit includes collecting and reporting of data against workplace gender equality indicators, including workplace sexual harassment.<sup>61</sup> In addition, Ambulance Victoria is encouraged to share and seek feedback with the Board, the workforce, unions and other relevant persons in relation to the results of any gender equality audits it conducts.<sup>62</sup>

Ambulance Victoria must report on several workforce data measures in relation to workplace sexual harassment in an audit year. This includes the number of sexual harassment complaints, the number of complaints that were handled internally and externally, the outcomes of complaints including any settlement and/or non-disclosure agreements.<sup>63</sup> This data should be broken down by intersectional attributes including gender and Aboriginality, age, disability, ethnicity and race, religion, and sexual orientation. Ambulance Victoria must also report on any actions it has taken to prevent future incidents of workplace sexual harassment, and the overall level of complainant satisfaction with the outcome.<sup>64</sup>

This data will be included in Ambulance Victoria's Gender Equality Action Plan, along with strategies and measures designed to address and prevent workplace sexual harassment.<sup>65</sup> The obligations arising from the Gender Equality Act are critical mechanisms to support oversight and accountability and are important levers to support transparency and accountability; the feedback loops also show how the organisation has listened and acted on the information received when consulting. These obligations provide Ambulance Victoria with an opportunity to strengthen its approach to sharing information with the workforce and the public. Ambulance Victoria could harness the processes it is putting in place to support these new obligations to report on all forms of unlawful conduct more comprehensively. The Commission encourages Ambulance Victoria to publish complaints data publicly; for example, on its website or in yearly annual reports, in addition to the requirement to publish its Gender Equality Action Plans publicly on its website.<sup>66</sup> Not only would this further contribute to transparency and accountability but would provide an important opportunity to highlight the organisational priority given the effective delivery and performance of the report and complaint system; this is equal to that of the publication of operational performance, such as response times that are currently publicly available (see Chapter 6).



## Recommendation 19

### Supporting transparency and developing learning tools

Ambulance Victoria should:

- (a) regularly create and publish de-identified case studies of the outcomes of reports and complaints, to create better understanding among the workforce of the steps it takes to address unlawful and harmful workplace conduct and as learning tools to educate all employees and first responders on acceptable standards of behaviour
- (b) regularly publish information about the performance and complaint system against the benchmarks recommended (see Recommendation 20) to the workforce and public.

## 9.5 Driving continuous improvement

### 9.5.1 Measuring system performance

The work of the Professional Conduct Unit is currently monitored by the Professional Conduct Committee and the Board's People and Culture Committee. While data prepared for these committees canvass a range of matters, information shared with the Commission indicates that the focus of this reporting is directed towards data about the type of behaviour complained about (for example, bullying, clinical issues), the location and outcomes, with changes tracked over time. This reporting does not analyse the root causes of the behaviour or detail trends over time, resulting in missed opportunities to address the drivers and risk factors, and to prevent harm in future (notwithstanding the risk management approach recently applied by the Board, discussed in Chapter 4).

Ongoing monitoring and evaluation of an organisation's report and complaint system – supported by specific benchmarks related to measures of timeliness, outcomes, remedies and causes – is key to ensuring compliance with the Equal Opportunity Act and adhering to leading practice.<sup>67</sup> Research also shows that providing information to a workforce that outlines effective and timely responses of the complaint and report system can mitigate some potential barriers to reporting.<sup>68</sup> In addition, in 2016, the Victorian Auditor-General highlighted opportunities to harness and use a health-sector wide approach to preventing and responding to inappropriate behaviour (including bullying and harassment), including through the development of indicators to collectively monitor and reduce risk.<sup>69</sup>

Understanding people's experiences of a report and complaint system – for example via satisfaction surveys – is a vital quality indicator. Indeed, research suggests that evaluating whether report and complaint systems are effective can be best measured by whether they are perceived to be fair, which provides a better measure than other potential indicators.<sup>70</sup> Given the significant concerns raised about victimisation by its workforce, Ambulance Victoria should seek specific feedback from complainants about whether they experienced any negative consequences as a result of making a complaint.

## Lessons from the Victorian and Commonwealth Ombudsmen for measuring performance

In the last two years, the Victorian and Commonwealth Ombudsmen commissioned independent surveys to assess satisfaction of complainants with the services provided. Consistent with the research identified earlier in this chapter, the surveys sought to understand key points of data including perceptions of fairness of the processes, service satisfaction, how easy complainants found it was to have their complaint considered, and the time taken to deal with complaints.<sup>71</sup> The survey results of both Ombudsmen highlighted the importance of feedback from people who have used the Ombudsmen's services to learn and improve the quality of services.

The Commission calls on Ambulance Victoria to both improve the complaint data it collects and identify and embed indicators and benchmarks to measure the performance of its reports and complaints system. Critically, this needs to include feedback from people with actual experience of the report and complaint system. In this regard, it could build on the approach taken in its *Managing Client Feedback (Wellbeing and Support Services) Policy*, which details the pathways for the provision of feedback on wellbeing and support services, including setting out how feedback will be actioned, the process and minimum timeframes.<sup>72</sup>

It should also rely on external data – like the emerging body of evidence that suggests bullying and harassment is a serious problem across the health and emergency services sectors (see Chapter 4) – to support and develop its understanding of common issues experienced across the health and emergency services sectors and to contextualise its own data.

## Recommendation 20

### Understanding how the report and complaint system is working

Ambulance Victoria should establish agreed benchmarks to measure the performance of its report and complaint system that include:

- (a) timelines for key steps and actions in the report and complaint process, including
  - (i) acknowledgment of receipt
  - (ii) resolution of 'simple' reports or complaints
  - (iii) resolution of urgent or priority reports or complaints
  - (iv) trigger points for notification of delays
- (b) satisfaction of the report and complaint process and outcomes for those involved (including complainants, respondents and witnesses)
- (c) quality measurements, such as the ease of using the report and complaint system, the fairness of the process, and the clarity of communication.

In establishing these benchmarks, Ambulance Victoria should, with the assistance of the Department of Health, seek to consult with and, where possible, agree on common benchmarks to measure performance throughout the health sector.

## Recommendation 21

### Learning lessons and improving service delivery at the earliest opportunity

Ambulance Victoria should:

- (a) develop standard processes for seeking feedback from all parties involved in a complaint, with a view to identifying and intervening against any victimisation and informing practice and service improvements
- (b) provide guidance to those who manage and handle complaints on the factors that should inform analysis of organisational and systemic issues
- (c) ensure that staff members with complaint handling and management responsibilities hold relevant skills, training and expertise to undertake root cause analysis of organisational and systemic issues.

## 9.5.2 Improving data collection and capability

Positively, Ambulance Victoria has recently focused on enhancing its capability to assess trends in emerging issues, including those from report and complaint data, with assessing data and trends a key function of the recently established Specialist Support Unit.

To better identify systemic issues and trends, Ambulance Victoria should address key data gaps and information technology limitations. For example, the Commission understands that data is not currently recorded detailing the reason a complaint is transferred to another unit or referred back to a manager for local resolution and Ambulance Victoria does not keep central records of informal reports of unlawful conduct (these are documented locally).

A number of government agencies have highlighted the importance of recording key information about the report and complaint process to promote transparency, accountability and ensure reliable data about reports and complaints can be analysed. The Commission is concerned that data gaps regarding decision-making on reports and complaints reduces the transparency of the process and may prevent complainants from having information about how their report or complaint was handled. This, in turn, can diminish their perception of a fair process and limits opportunities to ensure appropriate oversight of the reporting and complaint system's performance.

Noting the capability limitations of the current Professional Conduct Unit in being able to systematically capture and analyse data, it is important that when implementing the new report and complaint model, Ambulance Victoria maps its data limitations to:

- ensure that the information technology system put in place is equipped to capture the data needed to inform performance monitoring of the report and complaint system
- determine what is needed to inform the monitoring of Ambulance Victoria's prevention and response to unlawful conduct, such as any input necessary for risk management purposes.

## Recommendation 22

### Creating and maintaining records and data to improve analytical capability

Ambulance Victoria should ensure that:

- (a) its policies and procedures clearly require the creation and appropriate maintenance of records of all incidents, complaints, responses and decisions related to unlawful and harmful conduct, including those reported informally
- (b) the Workplace Harm Unit, the Specialist Support Unit, and the Investigations Unit are equipped with a single, centralised and secure information technology system that adheres to best practice information management requirements.

## 9.6 Monitoring, evaluation and oversight

### 9.6.1 Monitoring and evaluation

The Commission's recommendations aim to deliver a fair and impartial report and complaint system, embed victim-centred approaches and provide greater transparency and accountability to the workforce. The scope of these recommendations is significant and some will require detailed consideration during implementation.

A report commissioned by the Royal Commission into Institutional Responses to Child Sexual Abuse in 2015 considered, in part, how internal structures, stakeholder engagement and monitoring processes can influence the successful implementation of recommendations made by inquiries.<sup>74</sup> While this report considered recommendations relating to child abuse, some of the broad principles relating to the factors that can influence successful implementation are instructive and applicable more broadly in other contexts. In particular, the report found that stakeholder engagement and a collaborative approach throughout implementation processes were integral; noting that this supported early identification of potential barriers and shared ownership of problems and proposed solutions.<sup>75</sup> External assistance in implementation was highlighted as being beneficial in certain circumstances, including 'in the rollout of complaints processes for reporting sexual harassment'.<sup>76</sup>

Noting these findings and the nature of the recommendations in this chapter, the Commission considers that a dedicated Expert Advisory Group should be established to support their implementation through the provision of expert advice and guidance.<sup>77</sup> The availability of a regular forum from which the organisation can obtain expert advice would be beneficial to support the implementation of more complex aspects of the recommendations, including the development of informal reporting processes, which need to be carefully considered in certain contexts, such as sexual harassment. The Expert Advisory

Group should be time-limited, focusing on supporting the implementation of the Commission's recommendations to the report and complaint system, with long-term governance and oversight provided by the Professional Conduct Committee (see Section 9.6.2).

In addition to including subject matter experts in complaint handling, unlawful conduct and/or restorative practices, in line with leading practice and the broader literature, it will be important that the advisory group include representative members of the workforce. This will help to ensure that the design and development of the reforms are informed by the needs of the workforce, and the barriers they face. Involving employees and first responders in the development of the organisational model also means they are more likely to have trust in the procedure, including that complaints will be handled fairly, sensitively and confidentially.<sup>78</sup>

Unions play an important role in the report and complaint system and are an important voice to include on the advisory group. Indeed, as the Commission's survey demonstrates, many employees and first responders seek the advice of a union following an experience of unlawful conduct. Furthermore, the expertise and responsibilities of unions can inform the design of the report and complaint system and can also be harnessed to drive confidence in that system.

**[W]hen union representatives show a serious and supportive attitude towards complainants and witnesses, this can build confidence amongst the workers. Furthermore, unions can cooperate with the employer to ensure a fair complaint and dispute resolution process for both complainants and respondents.<sup>79</sup>**

Involving union representatives and the workforce would promote effective consultation and engagement approaches that would in turn demonstrate their input and views are valued and foster greater cooperation and collaborative relationships.

## Recommendation 23

### Supporting the effective delivery of reporting and complaint reforms

Ambulance Victoria should establish an Expert Advisory Group to:

- (a) provide advice and support on the implementation of reforms to its report and complaint system, including key developments such as establishing self-resolution and informal reporting processes
- (b) support the development of revised procedures and processes to ensure their continued alignment with leading practice
- (c) be comprised of subject matter experts in complaint handling, unlawful conduct and/or restorative practices, as well as nominated representatives from relevant unions and the workforce.

## 9.6.2 Governance and oversight

Once the new organisational model is in place, the current Professional Conduct Committee that oversees the work of the current Professional Conduct Unit should continue. Its current role is to proactively monitor, mentor, challenge and support the Professional Conduct Unit on its progress; it also responds to issues, risks and identified trends.

The new organisational model will see units working together and making connections to ensure the effective handling of reports and complaints to provide a specialist response to first disclosure of unlawful and harmful conduct through to investigations and disciplinary processes. An overarching governance framework and body will be needed to facilitate and ensure effective information-sharing and support the identification of risks, patterns, trends and consider proposed preventative solutions.

Further, the Commission considers the existing governance structure could be enhanced through more specifically articulated responsibilities for the Professional Conduct Committee to monitor the performance of the report and complaint system in accordance with identified performance measures that should be established pursuant to other recommendations. The Committee should also provide an escalation point for performance issues, such as where a complaint has taken longer than six months to resolve. This will enable Ambulance Victoria to more comprehensively understand any risks or emerging issues.

As noted earlier in this chapter, there is a substantial trust deficit in the report and complaint system. To support the rebuilding of trust and confidence and to provide a source of ongoing expertise and advice, Ambulance Victoria should also consider whether it would be beneficial to use the expertise of expert advisers to support the Professional Conduct Committee. The advisers should be experts in complaint handling and victim-centred approaches and able to provide expert advice on the performance of the report and complaint system; in particular, they could support the committee in the consideration of continuous improvement measures.

### Recommendation 24

#### Enhancing accountability of the reporting and complaint system

Ambulance Victoria should revise the Terms of Reference of the Professional Conduct Committee to:

- (a) ensure a unified approach to data collection and analysis of the handling of reports and complaints
- (b) regularly review of reports and complaints data to identify patterns, trends, systemic issues and measures to continuously improve efforts to prevent and respond to unlawful conduct
- (c) monitor the performance of the report and complaint system against a range of benchmarks, including timeliness, quality and satisfaction.



## Notes

1. In 2014, the Commission recommended the establishment of a Workplace Harm Model to address gaps in Victoria Police's organisational response to sex discrimination and sexual harassment (building on the establishment of a similarly dedicated unit, which was designed to address the significant underreporting found in the Australian Defence Force). See Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment Including Predatory Behaviour in Victoria Police: Phase 3 Audit and Review* (State of Victoria, 2019) 223–4. Similar recommendations have been made in other contexts, including the Australian Federal Police, Airservices Australia, New Zealand Police and South Australia Police. See, Elizabeth Broderick and Co, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police* (Report, 2016) 13; Debbie Francis, *Independent External Review: Systems and Processes for the Prevention and Management of Bullying at New Zealand Police* (Report, 2020) 27–8; Elizabeth Broderick and Co, *A Review of Culture at Airservices Australia* (Report, 2020) 67; South Australian Equal Opportunity Commission, *Independent Review: Sex Discrimination, Sexual Harassment and Predatory Behaviour in South Australia Police* (Report, 2016) 122.
2. Subsequent analysis has sought to understand the impact of the introduction of these units. Some improvements in supporting the organisational response to workplace harm have been found, including employees taking greater advantage of supports and engaging with the new units. See Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase 3 Audit and Review* (State of Victoria, 2019) 333–4; South Australian Equal Opportunity Commission, *Final Report: Change in Perceptions, Experiences and Practices that Support Gender Equality and Cultural Change in SAPOL* (Report, 2020) 13–14.
3. However, as the Commission has noted in chapters 3 and 4, organisational responses must be holistic and comprehensive, and changes to structures and models alone will not be sufficient to meaningfully deliver a safe environment for reports and complaints to be made. For example, in 2019, the Commission found that the impact of report and complaint reforms in Victoria Police had been limited by a lack of resourcing. See Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase 3 Audit and Review* (State of Victoria, 2019) 333–4. A follow-up assessment of progress and change in South Australia Police found that further promotion of reporting avenues and rebuilding trust and confidence was vital to addressing continued significant underreporting. Accordingly, the Commission's recommended changes to Ambulance Victoria's organisational model must be accompanied by an equal focus on all aspects of the system – from policies, procedures, practices, staffing, communications through to resourcing. See South Australian Equal Opportunity Commission, *Final report: Change in perceptions, experiences and practices that support gender equality and cultural change in SAPOL* (Report, 2020) 13–14.
4. The Commission has carefully considered and been guided by the extensive research and practice guidance identifying the key characteristics and features of effective report and complaint systems. The publication of such guidance has often been led by Ombudsmen, who have significant expertise in complaint handling and who also support organisations to embed good practice. See, eg, Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016); Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021).
5. South Australian Equal Opportunity Commission, *Independent Review: Sex Discrimination, Sexual Harassment and Predatory Behaviour in South Australia Police* (Report, 2016) 120 citing Law Council of Australia, *Ethical Guidelines for Mediators* (Law Council of Australia, 2011) 4–5. See also, Law Council of Australia, *Ethical Guidelines for Mediators* (Law Council of Australia, 2018) 3–4.
6. New South Wales Ombudsman, *Complaint Management Framework* (State of New South Wales, 2015) 8; Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016) 5.
7. Elizabeth Broderick and Co, *Cultural Change: Gender Diversity and Inclusion in the Australian Federal Police* (Report, 2016) 13; Victoria Police, 'Structure' (Web page, 27 August 2021) <<https://www.police.vic.gov.au/structure>>; Elizabeth Broderick and Co, *A Review of Culture at Airservices Australia* (Report, 2020) 67.



8. Allegations of sexual harassment have been investigated by a centralised investigations team since early 2019. The unit reports to the Ethics and Compliance Business Unit, which is also separated from other organisational structures. BHP has noted that 'this change was introduced in recognition of the need to enhance our investigation processes in order to improve reporting and increase the confidence of, and support for, impacted persons in our investigations.' BHP, Submission No 00071 to Community Development and Justice Standing Committee, Parliament of Western Australia, *Inquiry into Sexual Harassment Against Women in the FIFO Mining Industry* (18 August 2021) 6.
9. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 683.
10. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 683.
11. Paula McDonald, Sara Charlesworth and Tina Graham, 'Developing a framework of effective prevention and response strategies in workplace sexual harassment' (2015) 53(1) *Asia Pacific Journal of Human Resources* 41, 46.
12. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 77.
13. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 81.
14. See *Crimes Act 1958* (Vic) ss 21A, 38, 40, 41, 43–48.
15. See *Crimes Act 1958* (Vic) ss 325–326.
16. *Health Practitioner Regulation National Law (Victoria) Act 2009* (Vic) sch 1, ss 140, 142.
17. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 710; Victorian Public Sector Commission, *Developing Conflict Resilient Workplaces: A Report for Victorian Sector Leaders* (State of Victoria, 2010) 10.
18. 'Restorative outcomes' are those that restore working relationships, promote mutual understanding and cultural change. Examples include agreements to stop or change behaviour, an apology, a payment of restitution, preventative action or systemic change, or restoring the complainant's position where they have been wrongfully demoted, fired or turned down for a promotion. They can also involve disciplining or otherwise holding the respondent to account for their behaviour. These outcomes can be the result of any kind of complaint process but are most likely achieved through informal processes with an explicitly restorative focus. 'Restorative practices', described in some settings as restorative justice practices, are specific strategies that focus on healing the harm caused by the alleged conduct rather than formally investigating and determining if unlawful conduct has occurred and meting out punishment.
19. F Dobbin and A Kalev, 'Why sexual harassment programs backfire and what to do about it' (May–June 2020) *Harvard Business Review* 48–49; M P Koss and M Achilles (2008), 'Restorative justice responses to sexual assault' (Briefing Paper, 2011); RMIT Centre for Innovative Justice, Submission to the Victorian Ministerial Taskforce on Workplace Sexual Harassment, *Addressing Sexual Harassment in Victorian Workplaces* (August 2021) 3.
20. For a discussion of applying restorative justice principles in the context of workplace harm, see D T Eisenbeg, 'The restorative workplace: An organizational learning approach to discrimination' (2009) 50 *University of Richmond Law Review* 487, 516; M Hutchinson, 'Restorative approaches to workplace bullying: Educating nurses towards shared responsibility' (2009) 32 *Contemporary Nurse* 147–55; Australian Association for Restorative Justice, 'Restorative practices: Workplaces' (Web Page, 4 October 2021) <<https://www.aarj.org.au/restorative-practices/workplaces/>>; RMIT Centre for Innovative Justice, *Submission to the Victorian Ministerial Taskforce on Workplace Sexual Harassment* (Submission, August 2021) 1; S Julich & N Cox, 'Good workplaces: Alternative dispute resolution and restorative justice' in Jane Parker (ed.), *The Big Issues in Employment: HR Management and Employment Relations in NZ* (2013) 18–20.
21. RMIT Centre for Innovative Justice, Submission to the Victorian Ministerial Taskforce on Workplace Sexual Harassment, *Addressing Sexual Harassment in Victorian Workplaces* (August 2021) 1; RMIT Centre for Innovative Justice, *Innovative Justice Responses to Sexual Offending: Pathways to Better Outcomes for Victims, Offenders and the Community* (Report, May 2014) 24–7; C Lambert et al, *Building Restorative Relationships for the Workplace: Goodwin Development Trust's Journey with Restorative Approaches* (Report, June 2011) 41, 46, 48–55.

22. D L Kidder 'Restorative justice: Not "rights", but the right way to heal relationships at work' (2007) 18(1) *International Journal of Conflict Management* 1, 4–22.
23. D T Eisenbeg, 'The restorative workplace: An organizational learning approach to discrimination' (2009) 5 *University of Richmond Law Review* 487, 551–6; S Jülich and N Cox 'Good workplaces: Alternative dispute resolution and restorative justice' in Jane Parker (ed.), *The Big Issues in Employment: HR Management and Employment Relations in NZ* (2013) 20–2.
24. The interim restorative engagement scheme delivered by the Commission to Victoria Police as part of our independent review into sex discrimination and sexual harassment, including predatory behaviour yielded powerful and positive feedback from participants and a permanent scheme has now been funded and established by the Victorian Government. See also, J Bolitho and K Freeman, *The Use and Effectiveness of Restorative Justice in Criminal Justice Systems Following Child Sexual Abuse or Comparable Harms* (Report, Royal Commission into Institutional Responses to Child Sexual Abuse, 2016); Centre for Innovative Justice, *It's healing to hear another person's story and also to tell your own story: Report on the CIJ's Restorative Justice Conferencing Pilot Program* (Report, 2019).
25. D T Eisenbeg, 'The restorative workplace: An organizational learning approach to discrimination' (2009) 5 *University of Richmond Law Review* 487, 551–2.
26. Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021) 16. See also, *Safe Work Australia, Guide for Preventing and Responding to Workplace Bullying* (Resource, 2016) 20.
27. Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021), 21–2; Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016) 21.
28. Australian Human Rights Commission, *Respect@Work: into Sexual Harassment in Australian Workplaces* (Report, 2020) 704.
29. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020), 84–5; See also Independent Broad-based Anti-corruption Commission, *Managing Corruption Risks Associated with Conflicts of Interests in the Victorian Public Sector* (Report, 2019), 42–4.
30. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 705.
31. In law enforcement contexts, it has been argued there are advantages to policing agencies holding the primary responsibility for integrity and misconduct issues to reinforce the accountability to set expectations, standards and hold individuals to account for their behaviour. See, eg, United Nations Office on Drugs and Crime, *Handbook on Police Accountability, Oversight and Integrity* (United Nations, New York, 2011) 14.
32. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report 2020) 698; Dr Helen Szoke, *Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT* (Report, 2021) 63; Department of Prime Minister and Cabinet, *Review of the Parliamentary Workplace: Responding to Serious Incidents* (Commonwealth of Australia, 2021) 32; Victorian Auditor-General's Office, *Sexual Harassment in the Victorian Public Sector* (State of Victoria, 2019) 37, noting 'Various Ombudsman complaint handling guides state that it is good practice to accept anonymous complaints. Research into sexual harassment and assault in Australian universities supports this view... centralised and anonymous complaint channels enable systematic recording of incidents and can encourage staff to report sexual harassment'; Suzanne Goldberg, 'Harassment, workplace culture, and the power and limits of law' (2020) 70 *American University Law Review* 420, 484.
33. Victorian Equal Opportunity Commission, *Guideline: Preventing and responding to workplace sexual harassment* (State of Victoria, 2020) 68, 81; WorkSafe Victoria, *A Guide for Employers: Workplace Bullying* (State of Victoria, 2020) 22. *Safe Work Australia, Workplace Sexual Harassment – Advice for Workers* (Commonwealth of Australia, undated) 2, notes that '[an] employer must provide a safe physical and online work environment. In addition, [an employer] should also provide all workers with ... an accessible and user-friendly process to report sexual harassment informally, formally, anonymously and confidentially'.
34. Ambulance Victoria, *Complaints Procedure* (PRO/PAC/O80) (State of Victoria, March 2021) 5.
35. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 698.

36. BHP, Submission No 00071 to Community Development and Justice Standing Committee, Parliament of Western Australia, *Inquiry into Sexual Harassment Against Women in the FIFO Mining Industry* (18 August 2021) 6.
37. Victorian Legal Services Board and Commissioner, 'New tool for reporting lawyer sexual harassment' (Web Page, 16 September 2021) <<https://lsbc.vic.gov.au/news-updates/news/new-tool-reporting-lawyer-sexual-harassment>>.
38. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 70. See further the discussion of UN Women's nine core elements of a victim-centred approach to addressing sexual harassment in Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 679–80.
39. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 72.
40. New South Wales Ombudsman, *Effective Complaint Handling Guidelines* (3rd edn) (State of New South Wales, 2017) 28.
41. Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, 2016) 24–30.
42. Australian Human Rights Commission, *Respect@Work: into Sexual Harassment in Australian Workplaces* (Report, 2020) 688.
43. Evelyn Field, *Bully Blocking at Work: A Self-help Guide for Employees, Managers and Mentors* (Australian Academic Press, 2010) 9. See also, Lizzie Barmes, *Bullying and Behavioural Conflict at Work: The Duality of Individual Rights* (Oxford University Press, 2015) 195.
44. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 710.
45. RJ MacCoun, 'Voice, control and belonging: The double-edged sword of procedural fairness' (2005) 1 *Annual Review of Law and Social Science* 171, 185.
46. Suzanne Goldberg, 'Harassment, workplace culture, and the power and limits of law' (2020) 70 *American University Law Review* 420, 460.
47. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 74.
48. Paula McDonald, 'Workplace sexual harassment 30 years on: A review of the literature' (2012) 14 *Journal of Management Review* 1, 9.
49. Paula McDonald, 'Workplace sexual harassment 30 years on: A review of the literature' (2012) 14 *Journal of Management Review* 1, 9.
50. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 711.
51. New South Wales Ombudsman, *Applying the Commitments to effective complaint handling – guidance for agencies* (Web Page) <<https://www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/state-and-local-government/applying-the-commitments-information/applying-the-commitments-to-effective-complaint-handling-guidance-for-agencies>>.
52. New South Wales Ombudsman, *Applying the Commitments to effective complaint handling – guidance for agencies* (Web Page) <<https://www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/state-and-local-government/applying-the-commitments-information/applying-the-commitments-to-effective-complaint-handling-guidance-for-agencies>>.
53. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 628.
54. Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (Report, 2020) 628.
55. See, eg, Australian Health Practitioner Regulation Agency, *Annual Report 2019-2020* (Report, 2020) 105; Victorian Legal Services Board and Commissioner, *Annual Report* (Report, 2020), 21, 23.
56. Australian Human Rights Commission, *Good Practice Guidelines for Internal Complaint Processes* (Commonwealth of Australia, 2014) 4.
57. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020), 79.

58. Office of the Victorian Information Commissioner, *IPP 2: Use and Disclosure* (State of Victoria, 2019) 18.
59. Victorian Public Sector Commission, *VPS Enterprise Agreement Common Policies: Management of Misconduct* (State of Victoria, September 2021) 18.
60. *Gender Equality Act 2020* (Vic) ss 11, 19.
61. See Commission for Gender Equality in the Public Sector, 'Workplace gender auditing', (Web Page, 25 October 2021) <<https://www.genderequalitycommission.vic.gov.au/workplace-gender-auditing>>.
62. Commission for Gender Equality in the Public Sector, *Gender Equality Action Plan 2021–2025: Guidance for Defined Entities* (State of Victoria, 2021) 9.
63. Commission for Gender Equality in the Public Sector, 'Workplace gender auditing', (Web Page, 25 October 2021) <<https://www.genderequalitycommission.vic.gov.au/workplace-gender-auditing>>.
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65. *Gender Equality Act 2020* (Vic) s 10(1).
66. *Gender Equality Act 2020* (Vic) s 12(3).
67. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 92–3; Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, February 2021), 21–2; Victorian Ombudsman, *Complaints: Good Practice Guide for Public Sector Agencies* (State of Victoria, September 2016) 21.
68. Suzanne Goldberg, 'Harassment, workplace culture, and the power and limits of law' (2020) 70 *American University Law Review* 420, 466.
69. Victorian Auditor-General's Office, *Bullying and Harassment in the Health Sector* (State of Victoria, 2016) 44.
70. Paula McDonald, Sara Charlesworth and Tina Graham, 'Developing a framework of effective prevention and response strategies in workplace sexual harassment' (2015) 53(1) *Asia Pacific Journal of Human Resources* 41, 50, citing Brian Bemmels and Janice Foley, 'Grievance procedure research: A review and theoretical recommendations' (1996) 22(3) *Journal of Management* 359–84.
71. Victorian Ombudsman, *Annual Report 2019–2020* (Report, 2020) 90–1; Commonwealth Ombudsman, *Annual Report 2019–2020* (Report, 2020) 16.
72. Ambulance Victoria, *Managing Client Feedback (Wellbeing and Support Services)* (PRO/PAC/100) (State of Victoria, 2021) 5.
73. The Commonwealth Ombudsman outlines that complaint databases should record key information including when and how complaints are made, the complainant's personal details, the nature of the complaint, how it was resolved and all actions, decisions and interactions. Commonwealth Ombudsman, *Better Practice Complaint Handling Guide* (Commonwealth of Australia, 2021) 16. See also, *Safe Work Australia, Guide for Preventing and Responding to Workplace Bullying* (Resource, 2016) 20.
74. Parenting Research Centre, *Implementation of Recommendations Arising from Previous Inquiries of Relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse* (May 2015).
75. Parenting Research Centre, *Implementation of Recommendations Arising from Previous Inquiries of Relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse* (May 2015) 134, 140.
76. Parenting Research Centre, *Implementation of recommendations arising from previous inquiries of relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse* (May 2015) 134.
77. For a discussion of our recommendations regarding the governance structure that should oversee the whole reform program, see Section 6.2.7.
78. Victorian Equal Opportunity and Human Rights Commission, *Guideline: Preventing and Responding to Workplace Sexual Harassment* (State of Victoria, 2020) 67.
79. UN Women and International Labour Organization, *Handbook: Addressing Violence and Harassment against Women in the World of Work* (2019) 73.

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