



# Proud, visible, safe

**RESPONDING TO WORKPLACE HARM EXPERIENCED  
BY LGBTI EMPLOYEES IN VICTORIA POLICE**



Victorian Equal Opportunity  
& Human Rights Commission

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The Commission acknowledges present and former Victoria Police employees, members of the LGBTI community and their allies, who have led the way in making Victoria Police a safer and more inclusive workplace for LGBTI employees.

# Message from the Victorian Equal Opportunity and Human Rights Commissioner

The Victorian community looks to Victoria Police to uphold the values, rights and behaviours that enable us to live in a safe and harmonious society. In times of vulnerability and hardship, Victorians look to Victoria Police to act as leaders and role models. Because of this role it is imperative that Victoria Police and the community that it serves have a relationship of respect, equality and trust.

The relationship between Victoria Police and the LGBTI community has not always been one of trust. Victoria's LGBTI community lives with the memories and lasting impacts of discriminatory and homophobic policing practices. In particular, members of the LGBTI community remember the criminalisation of homosexuality, only repealed in the early 1980s, and the 1994 Victoria Police raid of the Tasty Nightclub.

Victoria Police has rightly publicly accepted responsibility for historic injustice and acted to restore trust with the LGBTI community. The 2014 public apology to the Tasty Nightclub victims, the impressive community work of Victoria Police's Gay and Lesbian Liaison Officers (GLLOs) and the Chief Commissioner's public support for marriage equality in 2017 have contributed to resetting the relationship between Victoria Police and the LGBTI community.

Victoria Police is also confronting its own legacy, by acknowledging the harm caused by discrimination, sexual harassment and prejudice towards LGBTI employees. For some police who do not conform to a heteronormative policing stereotype, the organisation has not been safe or inclusive. The impacts of this harm have been mental, physical and emotional detriment. In some cases, it has stifled or ended careers. It has made Victoria Police an untenable employer for some LGBTI people who aspire to a career in policing.

The Commission recognises the critical role of those brave women and men who challenged Victoria Police to recognise, respect and value LGBTI police. In 1995 Victoria Police's first gay and lesbian employee organisation, the Lavender Blues, faced significant resistance from their colleagues and from senior leaders. It took another 7 years for the first Chief Commissioner, Christine Nixon, to march alongside LGBTI employees in the 2002 Pride March.

In 2018, Victoria Police asked the Commission to conduct research into workplace harm experienced by LGBTI employees. Our research found that Victoria Police is now clearly committed to building an organisational culture of acceptance, inclusion and increased safety for LGBTI employees. It has a strong Pride Network and a fast-growing network of GLLOs across the state. It has an ambitious program of work to drive inclusion through the inaugural LGBTI Inclusion Strategy. We heard that there are workplaces in the organisation where LGBTI employees are safe and included.

However, homophobia, transphobia and a hypermasculine and heteronormative culture continue to drive workplace harm behaviours against some LGBTI employees. There are also significant barriers to reporting LGBTI-related workplace harm, including low confidence and trust in formal reporting pathways.

I know that the cultural and structural reforms required to address this workplace harm are challenging and that some in the organisation will be resistant to change. I commend Victoria Police Chief Commissioner Graham Ashton and the senior

leadership team for their commitment to listening with openness and empathy to the experiences of their employees and for their commitment to creating lasting and profound change in their organisation.

A truly safe, inclusive and proud organisation for LGBTI employees is one that is best placed to meet the policing needs of its community. It is one of policing excellence that can respond to all forms of family violence and prejudice and hate-motivated crimes against LGBTI Victorians. A safe, inclusive Victoria Police where homophobia, transphobia and discrimination are not tolerated is an employer of choice. It is an organisation that leads and upholds the standards of respect and equality that its community demands and one that is more capable of building a stronger relationship of trust with the LGBTI community.

I want to recognise and thank each participant who bravely shared their experiences with the Commission. We have listened to your hopes for a safer and more inclusive Victoria Police. I also want to recognise the Victoria Police Review team at the Commission, especially Cosima McRae, for the empathy and expertise they brought to this project.

Our recommendations are designed to realise a vision for an organisation where every employee feels respected and included and where LGBTI employees are proud, visible and safe.

Kristen Hilton  
Victorian Equal Opportunity  
and Human Rights Commissioner

# Message from the Chief Commissioner of Victoria Police

Victoria Police has made significant steps in recent years towards the inclusion of LGBTI employees, including through the establishment of the LGBTI Liaison Officers (or GLLOs) network, the development and implementation of the *LGBTI Inclusion Strategy and Action Plan 2018-2021*, the formation of the Victoria Police PRIDE network and delivery of the LGBTI awareness and ally training.

While I am proud of the substantial progress made, I accept and acknowledge that we still have work to do in ensuring that our LGBTI employees feel safe, included and respected in our workplace.

In early 2018, I commissioned the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) to conduct a review that focused on the experiences and impact of workplace harm on our LGBTI employees. The development of this subsequent report is the first item of the *LGBTI Inclusion Strategy and Action Plan 2018-2021*, and its publication accompanies the phase 3 VEOHRC report into gender-based workplace harm.

While the report recognises our dedicated efforts to become a truly inclusive workplace, the research has found that homophobia and transphobia are the drivers of the harassing and discriminatory behaviours that some of our LGBTI employees continue to face.

The report identifies areas for improvement, including reporting and workforce data, bystander behaviours, workplace harm reporting and training, messaging and communications and strong leadership. Victoria Police accepts all of the recommendations outlined in this report, and will work hard to see that they are implemented in full.

I want the Victoria Police that I lead – and the diverse community it serves – to be a workplace that celebrates diversity within its ranks, and supports the community in an informed and inclusive way. I want all employees, regardless of their gender identity or sexual orientation, to enjoy a full and rewarding career. There is no place for discrimination and harassment at Victoria Police. Those who believe otherwise will be identified and held accountable.

I would like to thank our present and former LGBTI employees and their allies who have been trailblazers in making Victoria Police a safer and more inclusive workplace, whether through formalised processes or localised efforts.

I would also like to thank Commissioner Hilton and the VEOHRC team for their continued work and guidance. This report has given a voice to our LGBTI employees and importantly provided us with an opportunity to learn from their lived experience and to create a workplace culture where all employees can thrive.

I am proud to lead the delivery and implementation of all recommendations outlined in this report, working to create a safe, inclusive and respectful workplace for all Victoria Police employees.

Chief Commissioner Graham Ashton AM

# Executive summary

Victoria Police have been increasingly visible in their support for lesbian, gay, bisexual, transgender and intersex (LGBTI) Victorians and meeting the policing needs of Victorians with diverse sexual orientations and gender identities. It is clear that Victoria Police is committed to building an organisational culture of acceptance and inclusion for its LGBTI employees.

The purpose of this report is to propel the work of Victoria Police toward a workplace culture that is inclusive of LGBTI employees. This report recognises and acknowledges the current and historical experiences of LGBTI employees in Victoria Police and aims to contribute insights that can further inform the positive work Victoria Police is already undertaking in line with its LGBTI Inclusion Strategy.

In our research we heard about a range of experiences, both positive and negative. The experiences documented in this report are presented to Victoria Police to illuminate LGBTI employees' experiences of workplace harm. These experiences shed light on why some employees are not willing or able to report workplace harm to their organisation, they identify the barriers that currently prevent them from reporting harm to managers, and they also provide insight into why bystanders do not feel motivated or empowered to stand up for their colleagues when they see harm.

The Victorian Equal Opportunity and Human Rights Commission (the Commission) was told by many participants about their desire to see changes to Victoria Police's workplace culture and the organisation's response to workplace harm. Participants told the Commission that in coming forward with their experiences, they hoped there would be action in their organisation to make it a safer and more inclusive one where workplace harm was not tolerated.

The Commission heard that current initiatives such as workplace harm training had improved the culture in their workplaces.

Over the last 12 months I have seen an improvement in VicPol of members being respectful of each other and with the LGBTI awareness training occurring it should continue to improve.  
(Participant)

The Commission also heard about workplaces that were known to be inclusive of their LGBTI employees. The Commission heard that a key factor in setting this workplace culture was strong leadership. Strong leadership meant managers who were inclusive of their LGBTI colleagues, such as supporting days of LGBTI significance in their stations, who wore rainbow lanyards or had rainbow flags and stickers in their offices. They also lead by example, modelling appropriate behaviour and intervening when they observed inappropriate behaviour occurring.

## Summary of findings

The Commission's key findings resulting from our research are that:

- Victoria Police has made significant steps in recent years toward inclusion of LGBTI employees, for example through the Chief Commissioner's public support of marriage equality in 2017, the Gay and Lesbian Liaison Officers (GLLO) Program and the celebration of LGBTI days of significance  
*See 2.2.2 Toward inclusion in the workplace*
- The current data collection methods of the organisation do not enable a robust understanding of the number of LGBTI employees  
*See 2.1 LGBTI workforce*
- Homophobia and transphobia are tolerated in some Victoria Police workplaces. This enables workplace harm to occur.  
*See 3.1.3 Homophobic and transphobic comments*
- LGBTI employees have, and continue to experience workplace harm including homophobic and transphobic comments, aggressive language, sexual harassment and discrimination.  
*See Chapter 3 Experiences of discrimination and sexual harassment*
- The drivers of these behaviours are homophobia, transphobia, a hypermasculine and heteronormative culture and a tolerance or acceptance of this culture in certain workplaces  
*See 3.3 Drivers*
- There are barriers to reporting LGBTI-related workplace harm, including: a lack of trust and confidence in internal reporting systems; a culture of not reporting workplace harm; fear of victimisation and reprisal; poor management responses to complaints from LGBTI employees; fear of being 'outed' and concern existing reporting pathways exclude LGBTI employees.  
*See 4.2 Barriers to reporting*
- Formal complaints of LGBTI-related workplace harm are low. In the previous 18 months, one complaint of LGBTI-related harm was reported to the centralised triage and case-management system OneLink, and six matters were made to Taskforce Salus, a unit within Victoria Police set up to investigate incidents of sexual harassment and sex discrimination. Professional Standards Command (PSC) did not receive any LGBTI-related complaints.  
*See 4.1 Low rates of reporting*
- Bystanders are generally unwilling to call out behaviours when they see them occurring, because they fear the repercussions for doing so, and there are challenges in calling out the behaviour of more senior employees.  
*See 4.2.2 A culture of not reporting harm*

# Summary of guidance

This report responds to our research findings by making recommendations in areas where Victoria Police can improve and strengthen its response to workplace harm experienced by LGBTI employees.

Taking action in these areas will help Victoria Police comply with its positive obligations under the *Equal Opportunity Act 2010* and to meet its strategic vision for a more capable police organisation.

The impacts of LGBTI-related workplace harm don't just affect Victoria Police employees. They also have implications for policing, including the ability of Victoria Police to respond to and prevent prejudice motivated crimes within the community. Creating a safer and more inclusive organisation for LGBTI employees in Victoria Police will make the workplace a fairer and safer place for all Victoria Police employees and strengthen the organisation's capability to better serve and protect all Victorians.

## 1. Workforce data

- Enable employees to voluntarily record their sexual orientation or gender identity, which will enable Victoria Police to understand its employee demographics for the purpose of better protecting and promoting the inclusion of LGBTI employees.  
*See 2.1 LGBTI workforce.*

## 2. Policies

- Review workplace harm policies (including policies on sexual harassment; bullying, discrimination and harassment; complaints and discipline; and complaint management and investigation). Policies should use inclusive language; include current definitions of discrimination; and provide clear guidance to employees, managers and supervisors on the complaints process, confidentiality, protections from victimisation, responsibilities to take complaints seriously, available supports and bystander action.  
*See 5.1.2. How to improve workplace harm policies.*

## 3. Workplace harm complaint processes

- Ensure there are clear and consistent complaints pathways to workplace harm units and non-action reporting options.
- Ensure workplace harm unit staff are trained to respond to sexual harassment and discrimination, including discrimination against LGBTI employees  
*See 5.2.2 How to improve complaints handling.*

## 4. Training

### ***Workplace harm training***

- Ensure employees in workplace harm units have LGBTI subject matter expertise.
- Provide training on LGBTI-related workplace harm and bystander action for managers and supervisors informed by LGBTI subject experts.  
*See 5.2.2 How to improve complaints handling and 5.4.2 How to improve bystander action.*

### ***LGBTI awareness training***

- Review curriculum materials for police and PSO recruits to address outdated content, inaccurate language and remove potentially prejudicial and harmful stereotypes
- Provide LGBTI awareness and inclusion training for instructors
- Expand the LGBTI Community Encounters session  
*See 5.5.2 How to improve LGBTI awareness training.*

### **5. Messaging**

- Promote awareness of workplace harm policies, including the processes for reporting or making a complaint
- Ensure organisation-wide messaging on workplace harm is clearly inclusive of LGBTI-related harm and that workplace harm reporting and complaint pathways are available for LGBTI-related workplace harm.
- Promote organisation-wide messaging that Victoria Police will not tolerate homophobia, biphobia and transphobia and will not tolerate LGBTI-related harm, such as discrimination and sexual harassment  
*See 5.3.2 How to improve workplace harm messaging.*  
*See also 5.1.2 How to improve policies and 5.2.2 How to improve complaints handling.*

### **6. Leadership**

- Leadership promote that Victoria Police will not tolerate homophobia, biphobia and transphobia and will not tolerate LGBTI-related harm, such as discrimination and sexual harassment
- Improve LGBTI visibility by expanding the number of senior leaders who are Pride Champions, including allies.
- Leadership promote LGBTI visibility by permitting employees to wear rainbow lanyards and badges
- Regularly share best practice examples of inclusivity and safe workplaces.  
*See 5.6.2 How to improve visibility and 5.7.2 How to improve sharing what works.*

# 1. Introduction

This report:

- describes the background to this project and our research (this chapter)
- describes Victoria Police's current LGBTI employees and Victoria Police's journey toward inclusion of LGBTI employees (Chapter 2)
- describes the nature, drivers and impact of the experiences of workplace harm reported to the Commission by participants (Chapter 3)
- describes the barriers to reporting workplace harm that were reported to the Commission by participants (Chapter 4)
- examines Victoria Police's current responses to LGBTI-related workplace harm and identifies areas for improvement (Chapter 5).

## 1.1 Background

In 2015, the Commission released the report of our Independent Review into sex discrimination and sexual harassment, including predatory behaviour, in Victoria Police.<sup>1</sup> We found that many current and former employees of Victoria Police had experienced sex discrimination and/or sexual harassment in the workplace.<sup>2</sup> The report had a particular focus on women's experiences of harm owing to our findings about the high levels of harm experienced by female employees.<sup>3</sup>

The Commission made 20 recommendations for reform to drive gender equality in Victoria Police. These included increasing the number of women in the organisation, promoting women to leadership roles, introducing a policy for flexible work in all roles and at all ranks, elevating the voices of women to drive strategic organisational change through the establishment of Women in Policing Local Committees and reviewing the inherent requirements of roles to remove unnecessary barriers preventing women from applying for and accepting roles.<sup>4</sup>

In 2015, Victoria Police accepted all of the recommendations and has since taken significant steps to improve its responses to workplace harm.<sup>5</sup> In 2017, the Commission's Phase 2 Audit found that Victoria Police has invested in implementing the recommendations.<sup>6</sup> Key changes include establishing a new Command to oversee the implementation of the recommendations, victim-centric workplace harm units, such as OneLink, and new governance structures such as the Independent Advisory Board, comprised of external experts who can provide guidance to senior leadership.

Through the Commission's work to audit Victoria Police for the Phase 2 of the Independent Review, the Commission learned about incidents of serious harassment and bullying of gay Victoria Police employees. This included the case of Michael Maynes, a gay man who took his own life in 2014, three years after resigning from Victoria Police due to bullying. A coronial inquest into his death found that while Mr Maynes did not take his life over the bullying, during his time as a new police officer in Melbourne's eastern suburbs he experienced 'unwarranted and inappropriate comments and behaviours by certain members of Victoria Police'.<sup>7</sup> This included nearly 400 alleged searches of his name, address and housemates by his colleagues in the Victoria Police database to try to find out whether he was gay, as well as homophobic taunts.<sup>8</sup>

Recognising the experiences shared with the Commission, there was an opportunity for us to provide Victoria Police further and more specific guidance in relation to

ensuring a more inclusive workplace culture for Victoria Police employees who identify as LGBTI – a workplace where LGBTI employees are proud, visible and safe.

Victoria Police has recognised the need to better understand the nature, drivers and impact of LGBTI-related workplace harm in order to improve the organisation's response to workplace harm and Victoria Police and the Commission agreed that the Commission would conduct an independent review of LGBTI experiences within Victoria Police and report on its research to Victoria Police's Executive Command.

The Commission's research examined reported experiences of discrimination, sexual harassment and victimisation among Victoria Police employees who identify as LGBTI and current organisational responses to these forms of workplace harm.

## 1.2 Why LGBTI workplace inclusion is important

As an employer, Victoria Police must comply with a number of legal obligations to ensure that discrimination and sexual harassment within its workforce are prevented.<sup>9</sup>

Under the *Equal Opportunity Act 2010*, Victoria Police must take reasonable and proportionate action to eliminate discrimination and sexual harassment.<sup>10</sup> This positive duty requires employers like Victoria Police to be proactive about discrimination and sexual harassment.<sup>11</sup>

Additionally, as a public authority, Victoria Police must act consistently with the rights enumerated under the Charter of Human Rights and Responsibilities (the Charter).<sup>12</sup> This includes providing every individual with protection from discrimination.<sup>13</sup>

Employees of Victoria Police also have responsibilities toward each other not to engage in harassment.<sup>14</sup>

Beyond compliance with human rights and equal opportunity laws, creating a workplace culture that is inclusive and supportive of LGBTI employees brings significant benefits. Inclusive workplaces are twice as likely to 'achieve, innovate, and provide excellent customer service' than non-inclusive workplaces.<sup>15</sup> Employees in inclusive organisations are also more engaged than those in other organisations, and are less likely to leave their organisations.<sup>16</sup>

LGBTI police who feel supported at work are more likely to be comfortable to be 'out', which enables them to focus their energy on police work, instead of feeling pressure to hide their identities.<sup>17</sup> They are also better able to innovate and excel than their peers who feel pressure to conceal their sexuality, gender identity or intersex status.<sup>18</sup>

Policing organisations with a workplace culture that is inclusive of LGBTI employees are better at serving their communities, including the LGBTI community. This is important given the critical role of Victoria Police in building a proud, visible and safe Victoria and meeting the contemporary policing needs of Victoria's LGBTI community, including responding to LGBTI family violence<sup>19</sup> and prejudice or hate-based crimes. Research on the measurable effects of specialised gay and lesbian units in Washington, District of Columbia in the United States and Wiltshire in the United Kingdom (UK) found an increase in the reporting of prejudice-related crimes, as well as timely and efficient solving of crimes, such as homicides.<sup>20</sup>

The benefits of gay and lesbian liaison officers to the community are well documented. Liaison officers are visible points of contact for the gay and lesbian community and often work to build mutual understanding between police and the community.<sup>21</sup> Liaison officers can also play a critical role in educating and training

other police about the needs of the gay and lesbian community and be engaged in investigations where their expertise is vital.<sup>22</sup> The Commission acknowledges that while this research is limited to gay and lesbian officers, there is a small body of research highlighting the benefits of liaison officers who are trained to respond to the policing needs of the transgender community.<sup>23</sup>

Research from the UK shows that police organisations who ‘get their own house in order’ are better able to support the LGBTI community through their policing work.<sup>24</sup> The connection between an inclusive internal culture and the ability of Victoria Police to respond to family violence in the community was also highlighted by some participants in this study. As one participant said:

At these stations there are no queer staff, or they are closeted or so quiet they don’t make a sound, which means that straight staff aren’t being exposed to LGBTI issues. So how can a straight police officer have any concept that family violence happens in an LGBTI home when they have no understanding whatsoever of the LGBTI world? It translates to a world where we are not meeting the needs of the community. (Participant)

### **Characteristics of an inclusive workplace culture**

Workplace cultures in policing organisations that are inclusive of LGBTI employees share common characteristics.

Inclusive policing organisations have specialised policing units, or officers with designated roles, meaning they can respond to prejudice-based crime, including hate crimes against LGBTI people.

Inclusive policing organisations value the role that their LGBTI officers can play in responding to the needs of the LGBTI community, as well as the needs of their organisation.

Police organisations that are inclusive of their LGBTI employees have visible LGBTI leaders and champion these people.<sup>25</sup> They have LGBTI employee networks that are able to connect with senior leaders and raise systemic workplace issues to drive change.<sup>26</sup> They celebrate LGBTI days of significance and promote the visibility of LGBTI employees and allies.<sup>27</sup>

Organisations must also directly respond to the experiences of workplace harm that affect LGBTI employees. Features of organisations that adequately address workplace harm experienced by LGBTI employees include:

- clear and specific policies that identify inappropriate language targeting LGBTI employees and clear expectations for respectful workplace conversations about LGBTI-related issues<sup>28</sup>
- senior leaders who clearly communicate these policies and expectations<sup>29</sup>
- a systematic approach to training all employees on these policies, with advanced training for employees with management or supervision responsibilities<sup>30</sup>
- a clear organisational stance against homophobia, biphobia, transphobia or intersex-phobia
- a clear organisational stance for acceptance and inclusion of LGBTI employees
- the addressing of particular barriers LGBTI employees experience when seeking to make complaints of workplace harm, for example acknowledging that homophobic and transphobic jokes and banter can amount to unlawful

discrimination and sexual harassment and can be an indicator of a 'sexually hostile' environment<sup>31</sup>

- formal complaints processes that respond appropriately and sensitively to LGBTI employees<sup>32</sup>
- an assurance that LGBTI employees who report workplace harm are supported with appropriate and targeted wellbeing and support services.

A sense of pride and visibility for LGBTI employees, combined with policies and mechanisms to ensure that LGBTI employees are safe, is critical to an inclusive workplace culture.

## 1.3 Methodology

This research for this report deployed a host of methods to gather information and insights from various sources. During the project, the Commission:

- received 32 written submissions from Victoria Police employees
- held 18 interviews with Victoria Police employees with expertise in workplace harm and/or LGBTI employee matters
- reviewed key Victoria Police policies covering workplace harm
- analysed complaints data from OneLink, Professional Standards Command (PSC) and Taskforce Salus
- reviewed curriculum material from the foundation police and Protective Service Officers (PSO) curriculum
- considered literature on LGBTI workplace harm in police organisations.

In addition, the Commission consulted with the Victoria Police Pride Network Council and the Manager of the Gay and Lesbian Liaison Officers (GLLO) Network, as well as members of Victoria Police's Command.

By agreement with Victoria Police the experiences of recruits at the Academy and, due to project scope, experiences of employees with the organisation's welfare and wellbeing services, were not examined as part of this research project. The protected disclosures regime and the current Victoria Police disciplinary process are also outside the scope of the research project.

The Commission does not make any findings related to the prevalence of workplace harm experienced by LGBTI employees in Victoria Police, as much of the data collected during the research was qualitative in nature. The Commission's forthcoming report on Phase 3 of the Independent Review will, however, provide Victoria Police with key data on the extent of workplace harm in the organisation. This will include harm experienced by employees who identify as LGBTI.

The Commission notes that no employees involved in this research project self-identified as bisexual, trans or intersex. Nevertheless, the Commission did hear about transphobia from participants who had witnessed this behaviour in their workplaces.

## 1.4 Key terms

In this report, the Commission uses the acronym '**LGBTI**' as an inclusive umbrella term to encompass those who identify as lesbian, gay, bisexual, trans and intersex, as well as other diverse genders and sexual orientations.<sup>33</sup>

Broadly speaking, LGBTI covers three groups of people.<sup>34</sup>

- *People whose sexual orientations include lesbian, gay, bisexual, queer and asexual:* The term 'sexual orientation' describes someone's romantic and/or sexual attraction to other people. There's a broad range of sexual orientations, and this group includes lesbian, gay, bisexual, queer and asexual people.<sup>35</sup>
- *People whose gender does not exclusively align with the sex recorded at their birth* (that is, trans and gender diverse people). Some are women, some are men, some are non-binary (outside the female/male binary), and some are agender (have no gender).
- *Intersex people* who are born with physical or biological sex characteristics (such as chromosomes, hormones or anatomy) that are more diverse than stereotypical definitions for female or male bodies.<sup>36</sup>

Within each of these broad groups, there are multiple communities, with different experiences and backgrounds. Furthermore, people may fall into more than one group, for example a bisexual trans woman or an asexual intersex man, but they are distinct groups with their own needs and priorities.

The term 'workplace harm' is used in this report to refer to the detrimental impacts of being targeted by the inappropriate behaviour of a colleague. For the purposes of this report, these behaviours are:

- discrimination on the basis of a person's sex, gender identity or sexual orientation
- bullying based on these attributes
- sexual harassment
- predatory behaviour.

As noted above, discrimination in employment and sexual harassment within the workplace are unlawful under the Equal Opportunity Act.<sup>37</sup> The Charter of Human Rights and Responsibilities also requires Victoria Police to act in accordance with individuals' rights to equality and freedom from discrimination.<sup>38</sup>

## 1.5 Documenting personal experiences

This report documents the experiences and perspectives of Victoria Police employees, as reported to the Commission. Some of the employees we heard from told us they identify as gay or lesbian, while others did not report their LGBTI status or told us that they are straight or cisgender allies.

The Commission conducted the research in a way that enabled employees to share their perspectives about how they have experienced workplace harm, decisions about whether or not to report the harm, and observations of how Victoria Police responded.

The stories provided to the Commission ranged from very recent to older experiences. We note that some participants told us when an incident occurred, while others did not. It is important to highlight that participants told us that the workplace harm they had experienced some years ago continued to impact their current

professional and personal lives. The Commission also heard about the cumulative impact of multiple incidents of workplace harm occurring over many years and the toll this has taken on them.

In this report the personal experiences and opinions of participants are attributed to 'Participant.' This includes participants who contributed to the report by providing a submission or participating in an interview and includes those who spoke to the Commission in their capacity as experts.

## 2. LGBTI employees

This chapter sets out information about what is currently known about the number of LGBTI employees in Victoria Police and the organisation's current approach to employee networks. It contextualises this by looking back at the history of LGBTI employee inclusion in Victoria Police as well as key moments in Victoria Police's engagement with the LGBTI community.

### 2.1 LGBTI workforce

Public sector organisations, including Victoria Police, should have an employee cohort that is representative of the community they serve. To determine this, an important first step is to identify the current number of LGBTI employees.

Recognising that some employees may not wish to disclose their sexual orientation, gender identity or intersex status, identifying the number of LGBTI employees will enable Victoria Police to better understand the size and, ultimately, experiences of its LGBTI workforce, for example, in terms of career progression.

Currently, Victoria Police does not have comprehensive data on the number of employees who identify as LGBTI. A key reason for this is that Victoria Police does not record data in relation to an employee's LGBTI status and asks only a binary male-female question of an employee who joins the organisation. Another is that some employees may not wish to disclose this information to their employer.

The Victorian Public Sector Commission's People Matter Survey 2017 provides some insights into the LGBTI make-up of Victoria Police. It found that 5 per cent of Victoria Police participants identified as gay, lesbian or bisexual. A further 12 per cent preferred not to state their sexual orientation.<sup>39</sup> The number of employees who identify as gay, lesbian or bisexual in Victoria Police is consistent with the number of Victorian Public Sector employees who identified as gay, lesbian or bisexual (five per cent).<sup>40</sup>

The collection of personal data, such as sex, gender or sexual orientation, must only be done if the collection of that data is for a specific purpose, and that this purpose will benefit staff in some way.<sup>41</sup> Examples of appropriate collection of personal data are to:

- enable the organisation to understand if people with a particular attribute have better or worse experiences at work
- understand the demographics of the workplace to determine if they are an inclusive employer or to meet any government targets (for example, targets around the number of women employed in the organisation).<sup>42</sup>

Research shows that the reasons that an individual may or may not wish to disclose their sexual orientation, gender diverse status or intersex status at work are complex, including a personal preference for privacy.<sup>43</sup> The single biggest factor determining whether employees feel confident in being out at work is an inclusive workplace culture.<sup>44</sup> Confidence in being out at work matters to LGBTI employees and is linked to increased job satisfaction and engagement, a better sense of community at work and reduced job stress.<sup>45</sup>

Under the 2018–2021 LGBTI Inclusion Strategy, Victoria Police has committed to introducing changes to current human resources systems to enable employees to record diversity information, including their sexual orientation, voluntarily. The Commission supports this initiative, which will allow Victoria Police to establish

baseline data about the number of employees who are gay, lesbian or bisexual. The Commission notes that an option to include transgender, gender diversity or intersex status would enable Victoria Police to understand more about these cohorts.

The Commission acknowledges that for some employees, both currently and historically, Victoria Police's workplace culture has made being 'out' at work impossible, and that for some employees anonymity has been critical to their safety, wellbeing and career prospects. The Commission emphasises that employees will only be confident to provide Victoria Police with information about their LGBTI status if they feel safe and included in their workplaces and that this information will not be used in any detrimental manner.

## **2.2 The journey to inclusion in Victoria Police**

### **2.2.1 Policing practices**

The relationship between Victorian police and the gay and lesbian community has been fraught historically.

This is due in part to the role of police in enforcing sodomy laws as well as discriminatory policing practices targeting the LGBTI community.<sup>46</sup>

In Victoria, police officers arrested and charged Victorian men with criminal offences until the repeal of the crime of sodomy in 1980.<sup>47</sup> Even after the repeal of the sodomy law, police targeted gay men at beats around Melbourne through discriminatory policing practices.

But systematically and organisationally there has been rampant discrimination in the past. When I graduated we were taught how to police beats. (Participant)

The discriminatory policing practices included arresting gay men on other charges, such as public indecency. The most infamous example of ongoing discriminatory policing occurred in 1994 when Victoria Police officers raided the Tasty Nightclub in Melbourne's CBD. Police arrested more than 400 patrons and detained them for seven hours, subjecting them to cavity and strip searches. The events prompted significant community backlash, as well as a class action against the organisation.

In 2014, on the twentieth anniversary of the Tasty Nightclub raid, Acting Chief Commissioner Lucinda Nolan issued an apology, stating that an apology was required to build a stronger relationship with Victoria's LGBTI community. 'The sins of the past need to be addressed if we really want to make this a strong relationship.'<sup>48</sup>

In recent years Victoria Police has undertaken considerable work to build strong relationships with the LGBTI community, through the GLLO program, as well through the work of the Priority Communities Division (PCD). This includes PCD's work with the LGBTI Portfolio Reference Group, which brings together members from peak Victorian LGBTI organisations to provide guidance on strengthening Victoria Police's work with Victoria's LGBTI community. Victoria Police has also demonstrated a recent commitment to increasing the trust in Victoria Police by young same-sex attracted and gender-diverse Victorians.<sup>49</sup>

## 2.2.2 Toward inclusion in the workplace

The journey toward inclusion of LGBTI employees in Victoria Police internally has been challenging. Victoria Police's journey to inclusion is consistent with the experiences of other police organisations around the world. Historically, LGBTI police employees have faced significant resistance and opposition from their colleagues, and from leadership followed by gradual acceptance and then support from their organisation over a number of years.<sup>50</sup>

While there is only a small amount of recent research on the experiences of transgender and gender diverse police employees, and this research is much more recent, the available research finds that transgender police employees report high levels of negative experiences at work, including threats of termination and threats of physical violence.<sup>51</sup> Participants told the Commission of an organisational culture in the 1980s and 1990s that was 'homophobic' and in which police who were openly gay were treated poorly.

There have been other men in the organisation that have been 'out' for longer than I have, and their experiences have been very poor.

Because I came 'out' as a Sergeant, I had the advantage of rank, but if you're a Constable 'out' in the 1980s it's harder. Some of them have had terrible physical treatment. (Participant)

When I first joined Victoria Police in 1996, there was an underlying homophobic culture. I believe this was probably a reflection of some of the community's views also. It would have been extremely difficult to be gay in Victoria Police back then. It took some brave individuals to come 'out' and try to change the culture of Victoria Police. (Participant)

The Commission heard that this culture meant that many police officers did not come 'out' to their colleagues, and had to hide a part of their identity.

I have a sense that my LGBTI colleagues have for so many years engaged in defensive practice and behaviour, bearing in mind that it's certainly within living memory that homosexual activity was a criminal offence and police were responsible for enforcing it. (Participant)

At the same time, the Commission was told of the bravery of Victoria Police members who, in the 1990s, fought for acceptance and recognition from their organisation despite the resistance of colleagues and the community.

At the time I was an executive member of GALPEN [the Gay and Lesbian Employee Network]. Three of us were targeted over a three month period. Victoria Police didn't want GALPEN to exist....didn't want police and gay to exist in same sentence. (Participant)

Like their colleagues around the world,<sup>52</sup> Victoria Police's gay and lesbian police have had to fight for recognition, acceptance and inclusion from their organisation.<sup>53</sup> In July 1995, the Police Lesbian and Gay Support and Advocacy Group (PLAGSAG), known as the Lavender Blues, announced their formation in Melbourne's gay newspaper the *Melbourne Star Observer*, with the stated intention of working with the Police Association and Victoria Police Command to provide advice and support to gay and lesbian police.<sup>54</sup> When PLAGSAG notified Victoria Police about their intention to establish as an employee group in October 1995, letters protesting the group from police colleagues were sent to Victoria Police Command.<sup>55</sup>

When the group changed their name to GALPEN in December 1995, they requested permission from Command to attend the Midsumma Carnival in January 1996, as part of a community relations exercise. Members were only permitted to attend Midsumma in an off-duty capacity and were not permitted to wear any signs or badges promoting GALPEN.<sup>56</sup>

Resistance to the inclusion of gay and lesbian officers also came from external sources. In 1997, then Victorian Police Minister Bill McGrath appeared on ABC Television's *7:30 Report*, saying:

I certainly have great reservations about gays and lesbians in our police force ... as Minister I wouldn't encourage it. So I have great reservations. I believe that if people want to carry these practices out in their private lives, that's their affair, but to use an agency as a means of progressing their lifestyle, then I do not support it. I have great reservations about a support network within the police force ... it's probably a practice that most of the community ... most of the community would ... frown upon or not support and therefore from my point of view as a Minister, I don't give a great deal of credibility or support to that practice being brought through into ... into their job profession.<sup>57</sup>

Since the 1990s, research on gay and lesbian police around the world has identified common experiences of significant harassment, including physical violence and discrimination in the workplace.<sup>58</sup> Research on the experiences of gay and lesbian police in Victoria Police in the 1980s and 1990s highlighted harmful experiences, including illegal searches of their houses, unfounded allegations of criminal behaviour, threats of violence, threats by colleagues that they would be 'outed', sexual harassment and bullying.<sup>59</sup> Recent research has also highlighted the mistrust of police by the transgender community due to negative interactions with police, including disrespect toward transgender people.<sup>60</sup>

In 2000, Victoria Police introduced its GLOO program and an increased focus on training recruits about the LGBTI community. The establishment of this program has gone some way to repairing the relationship between the organisation and the LGBTI community.<sup>61</sup> However, recent research suggests that there is a still strong mistrust of police by the Victorian LGBTI community.<sup>62</sup>

In 2002, then Chief Commissioner Christine Nixon allowed gay and lesbian members to wear uniforms in the annual Melbourne Pride March in St Kilda and became the first Chief Commissioner to march alongside gay and lesbian members.

In 2017, Chief Commissioner Graham Ashton spoke publicly in support of equal marriage,<sup>63</sup> ahead of the federal Australian Marriage Law Postal Survey.<sup>64</sup> The Chief Commissioner stated that, 'we think it's probably something that should've happened a while ago ... we've got a lot of officers who identify as LGBTI ... and we're supportive of them having the same rights as everyone else.'<sup>65</sup>

In February 2018, Chief Commissioner Ashton made a formal apology to current and former Victoria Police LGBTI employees for harm they had experienced at work, at an event to launch the VP Pride, the most recent iteration of Victoria Police's LGBTI employee network.<sup>66</sup>

In 2018, Victoria Police released its first LGBTI Inclusion Strategy. Supported by Victoria's Commissioner for Gender and Sexuality,<sup>67</sup> the LGBTI Inclusion Strategy is consistent with the Victorian Government's ongoing commitment to the awareness, acceptance and safety of LGBTI people.<sup>68</sup>

The LGBTI Inclusion Strategy aligns with three of the Victoria Police Capability Framework's transformational pathways of safety; leadership; and gender, diversity and flexibility.<sup>69</sup>

It progresses the commitment in Victoria Police's Diversity and Inclusion Framework 2017–2020 and the Victorian Government's Community Safety Statement 2018/2019 to increase Victoria Police's workforce diversity and achieve a more inclusive workforce.

The Community Safety Statement 2018/19 committed Victoria Police to releasing dedicated strategies and action plans for LGBTI people, as well as Aboriginal and Torres Strait Islander people; people with disabilities; and culturally and linguistically diverse people. It acknowledged that a safe and inclusive workplace culture at Victoria Police contributes to better policing:

'Victoria Police recognises and values the different experiences, capabilities and skills that each employee brings to the organisation. A diverse, inclusive and respectful workforce means Victoria Police personnel will be better equipped to respond to the needs of the local community'.<sup>70</sup>

The following timeline shows the history of key developments of Victoria's laws as well as key moments in Victoria Police's journey toward embracing and supporting its LGBTI employees.

**Table 1 – Key developments in Victoria Police’s LGBTI Inclusion journey**

Date	Event
1980	Victoria’s sodomy laws were repealed <sup>71</sup>
1994	Victoria Police raided Tasty Nightclub
1995	The Police Lesbian and Gay Support and Advocacy Group (PLAGSAG), known as the Lavender Blues is formed, facing resistance from senior members of Victoria Police
	PLAGSAG changed their name to Gay and Lesbian Police Employee Network (GALPEN)
1996	The Deputy Commissioner (Operations) approved GALPEN as an official police club GALPEN members were allowed to attend Midsumma in uniform, but were not allowed to be on duty, wear non-police badges, display posters or behave in a way that would bring the force into disrepute
	GALPEN’s constitution was approved and the Deputy Commissioner (Operations) allowed GALPEN to use the word ‘police’ in their title
1997	Police Minister Bill McGrath stated publicly that he had ‘great reservations about gays and lesbians in our police force’ and ‘as Minister I don’t think I’d be encouraging it’
	The Chief Commissioner declined GALPEN’s invitation to lead its members in the 1998 Pride March and only permitted them to attend if they were off duty and not in uniform or with badges
1999	The Chief Commissioner launched the five-year Equity and Diversity Strategy, which recognised ‘that a person’s sexual preference has no bearing on their ability to do a job’ and aimed to ‘safeguard equitable treatment for gay and lesbian members’ and ‘promot[e] more constructive relations with the gay and lesbian community generally’
2000	The Victorian Equal Opportunity Act was amended to prohibit discrimination based on sexual orientation and gender identity <sup>72</sup>
	The Gay and Lesbian Liaison Officer pilot program was launched, and Senior Constable Melinda Edwards was appointed as the first GLLO
2002	Chief Commissioner Christine Nixon allowed Victoria Police members to march in uniform in the annual Pride March and was the first Chief Commissioner to join them
2014	Acting Chief Commissioner Lucinda Nolan publicly apologised on behalf of Victoria Police for the 1994 Tasty Nightclub raids
2015	Individuals or a representative of a person who is deceased could apply to the Secretary of the Department of Justice and Regulation to expunge historical convictions for homosexual sexual activity
	The <i>Equal Opportunity Act 2010</i> was amended to prohibit discrimination on the basis of an expunged homosexual conviction. <sup>73</sup>
2017	Chief Commissioner Graham Ashton publicly supported the ‘Yes’ campaign for marriage equality during the national plebiscite debate <sup>74</sup>
	The Australian public voted ‘Yes’ for marriage equality
2018	Chief Commissioner Graham Ashton apologised on behalf of Victoria Police to LGBTI employees for the harm experienced by current and former Victoria Police employees at work and launched the Victoria Police Pride Network

Policing organisations around the world have come a long way in the past 20 years, and are increasingly diverse. Indeed, many participants who spoke to the Commission acknowledged that there has been a significant shift in culture in Victoria Police over the past 10 years.

While there has been a shift in Victoria Police's culture to one that is more inclusive and supportive of its LGBTI employees and with clear support from senior leadership, the Commission heard that not all LGBTI employees feel safe and included in their workplaces. In addition, research on the experiences of gay, lesbian, bisexual and transgender police employees – including here in Victoria – finds that they continue to face homophobia, discrimination and harassment because of their sexuality or gender identity at work.<sup>75</sup> At present, there is no research about the experiences of intersex police employees.

The vast majority of participants the Commission heard from expressed the view that Victoria Police is still on a journey toward inclusion:

From 2013 the organisation has really progressed, it has made significant inroads to make LGBTI a focus area. For example, there is the LGBTI Portfolio within Priority Communities Division. Victoria Police has also participated in Pride in Diversity starting in 2014, through AWEI [the Australian Workplace Equality Index]. It has been a journey of inclusion. (Participant)

The Commission heard that Victoria Police has a long organisational memory. For some employees this means that the experiences of harm and working in a far less inclusive culture early in their careers have stayed with them. These cumulative impacts are discussed below in Section 3.2.

## 2.3 Employee networks

There are currently two key employee networks in Victoria Police for employees who identify as LGBTI. The first is the Victoria Police LGBTI Employee Network (VP Pride), an internally focused network. The second network is the GLLO Network. This network is made up of LGBTI employees as well as allies, and has a specifically external, community focus.

The Commission also understands that there are a number of informal employee networks for gay and lesbian employees to support one another in a more social context. These networks play a critical role in enabling LGBTI employees to network, socialise and contribute to raising awareness of issues impacting LGBTI employees.

Research on gay and lesbian police employee networks and associations finds that these networks have been key in challenging and changing organisational attitudes and behaviours toward LGBTI employees.<sup>76</sup> For example, they have been able to challenge stereotypes about who ought to be a 'police officer' and have advocated for organisational support and recognition.<sup>77</sup>

### 2.3.1 Victoria Police LGBTI Employee Network (VP Pride)

As discussed above, since 1995 Victoria Police's gay and lesbian employee network has undergone a number of name changes. The latest iteration is Victoria Police's LGBTI network, VP Pride, which promotes LGBTI diversity and inclusion within Victoria Police by allowing staff to network, share experiences and information, and contribute to the increased inclusion of LGBTI employees. It provides a supportive employee forum where employees can raise concerns about the workplace culture

safely. It allows members to add value to workplace policies and to engage in ongoing advocacy for broader workplace awareness training.<sup>78</sup>

Network members contribute to LGBTI-focused initiatives that aim to improve the attraction, recruitment, progression and retention of members. The group provides a mentor network to support and connect LGBTI employees and allies and promote established and new LGBTI events, including advocating for increased support for and participation in LGBTI events across the organisation.

### 2.3.2 Gay and Lesbian Liaison Officer (GLLO) Network

GLLOs provide a critical point of contact for Victoria's LGBTI community and assist to build mutual understanding between police and the community.<sup>79</sup>

Victoria Police officers who identify as LGBTI or allies can elect to become GLLOs.

The GLLO Mission Statement is 'to contribute to the creation of mutual trust between police, lesbians, gay men, bisexuals, and transgender and intersex persons so they have increasing confidence in police through the provision of fair and equitable policing services'.

Victoria Police has one full-time GLLO working in metropolitan Melbourne and more than 230 portfolio GLLOs across the state. As a portfolio role, GLLOs have specific, additional duties to their regular operational duties including providing advice, assistance and recommendations to Victoria Police on the policing needs of LGBTI people.

Victoria Police also has an LGBTI Portfolio Manager in the PCD. The LGBTI Portfolio Manager works across Victoria Police as a subject matter expert, providing strategic advice and assistance on all matters relating to LGBTI communities, both internal and external to the organisation. The LGBTI Portfolio Manager coordinates the GLLO program through support and training.

### 2.3.3 Informal networks

Participants spoke positively about the fact that there were multiple networks, both formal and informal within Victoria Police. The Commission heard that this was a strong sign of inclusion, as well as providing multiple avenues for support for LGBTI employees.

There's not just one area or one LGBTI portfolio. You've got the VP Pride council now, there's [Diversity and Inclusion] in HRD (Human Resource Department), the informal communities of practice in the regions with the GLLOs. There's a lot of sharing of ideas and advice.  
(Participant)

### 3. Experiences of discrimination and sexual harassment

Chapter 3 details the experiences of workplace harm described to the Commission during the course of this research project. It describes the nature of the harm experienced by participants, the impact of these experiences and participants' views about the drivers of this harm.

Many of the experiences shared with the Commission were negative and often reflected structural discrimination. We heard that discrimination and sexual harassment have a profound and cumulative effect on those who experience it and that the impacts are often lasting.

At the same time, the Commission heard from some participants who spoke about positive experiences in Victoria Police. A number of participants described their current workplaces within Victoria Police as free from workplace harm, where they felt able to be themselves and be 'out' at work.

I have not seen any workplace harm, harassment or bullying directed toward any LGTBI members whatsoever in my workplace. As far as I have observed, as well as what the LGTBI members have informed me, the LGTBI members are treated exactly the same way as any other member. (Participant)

One participant who identified as gay and who joined Victoria Police in 2014 explained that:

My experience has been nothing but positive ... [in my previous job] there was a stigma attached to being gay and I was never comfortable in myself to come 'out' or be open with any work colleges. Only after joining the Police Academy in 2014, did I start to have the confidence to begin opening up to a few close friends. (Participant)

Historically, there has been limited analysis and understanding of the nature, extent, impact and drivers of discrimination and sexual harassment against LGBTI employees within Victoria Police.

The Commission's 2015 report provided some initial insights into workplace harm experienced by LGBTI employees in Victoria Police. It found that:

- 70 per cent of lesbian, gay, and bisexual employees who completed the survey had experienced negative gay commentary or jokes<sup>80</sup>
- 11 per cent had personally experienced bullying or harassment because of their sexual orientation in the previous year<sup>81</sup>
- regardless of their sexual orientation, more than half of the survey respondents reported witnessing negative comments or jokes at work about LGBTI people in the past year<sup>82</sup>
- almost 20 per cent had personally witnessed or been made aware of more serious LGBTI employee bullying or harassment at work.<sup>83</sup>

In 2015, Victoria Police employees participated in a Pride in Diversity survey, run by the Australian Workplace Equality Index. Providing further insights, it found that:

- more than half the participants had witnessed negative commentary or jokes targeting LGBTI employees<sup>84</sup>

- 11 per cent of lesbian, gay, and bisexual participants in the survey had been harassed or bullied because of their sexual orientation<sup>85</sup>
- only 56 per cent of lesbian, gay, and bisexual employees were 'out' at work and those who were not 'out' had a fear of the repercussions of this, being labelled or just not feeling comfortable to come 'out' at work.<sup>86</sup>

The stories shared with the Commission as part of this LGBTI-focused research project provide important further insights.

## 3.1 Nature

The Commission heard about a range of harmful behaviour experienced or witnessed by participants, including discrimination, sexual harassment, other forms of harassment and assault, homophobic and transphobic comments, and intrusive questioning. While some of the reported behaviour is overt, other behaviour is more insidious and therefore harder to identify.

### 3.1.1 Discrimination

Experiences of discrimination based on a person's actual or perceived sexual orientation were reported to the Commission. The majority of the experiences reported occurred recently, with a smaller number of participants reporting historical incidents.

Participants discussed discrimination in the context of progression and promotion, discriminatory workplace policy and intersectional discrimination.

#### *Discrimination in promotion and progression*

The Commission heard about experiences of discrimination that had occurred across one participant's career in Victoria Police to them personally, and to a colleague:

He said he wouldn't promote a poofter to [a commissioned officer rank]. You're going to have to wait until he moves on before you get a job. (Participant)

He got called in and told that the roster was being re-arranged because he needed a 'real man' on that shift. (Participant)

This participant also told the Commission that they were aware of similar incidents that occurred to other employees more recently:

Last year, a Senior Constable at a local station had a Sergeant pull him aside on a night-shift and tell him he wouldn't work with a poofter. (Participant)

This participant explained that while they thought things had improved recently in Victoria Police, they had current concerns that a person's sexuality may be raised during the promotional process, and that it may be an adverse factor for certain candidates.

I wouldn't hand on heart say there isn't bias ... They still discuss people's sexuality. I wouldn't have a level of comfort. (Participant)

These reflections raise the concern that a person's sexual orientation could impact their promotional opportunities if the person responsible for making the decision was homophobic.

### *Discrimination in policy*

The Commission recently heard about a proposed discriminatory workplace policy. Victoria Police had drafted and proposed the introduction of this policy around three years ago, in response to concerns that members may be placing the public at risk of transmission of HIV or other diseases when they interacted with members of the public.

At one point we developed a draft Victoria Police Manual Policy dealing with employees who may be HIV positive. It said that police do dangerous work, and you may bleed, and you have to tell your managers if you are HIV positive, cease operational duties, and get medically checked. (Participant)

The policy proposal was that all staff would have to disclose their HIV and Hepatitis B status to their line manager. (Participant)

Participants were incredulous that the policy had not been identified as discriminatory until a very late stage of its development, and that the organisation had not consulted with Victoria's peak AIDS organisation to understand whether such a policy would be discriminatory.

How can an organisation get right through to the end stage of policy development and something like that not raise an alarm bell as being totally discriminatory? (Participant)

How could it have gone all the way to HRD? Knowing what we know about HIV now, that it is not a death sentence? There is so much ignorance, but you would think that HRD would have at least, at the very least, gone to the Victorian AIDS Council ... to ask them. (Participant)

### *Intersectional discrimination*

The Commission was told by female participants that they had experienced workplace harm because they were lesbians, but also because they were women, meaning that their harm was intersectional.

It is important to recognise that lesbian women in Victoria Police may be particularly vulnerable to experiencing workplace harm. The intersection of different protected attributes (such as gender and sexual orientation) not only increases an individual's risk of harm, but compounds the impact of that harm when it occurs. Human rights bodies globally and in Australia recognise the cumulative harm that intersectional discrimination causes.<sup>87</sup> Such harm can be even further compounded, for example, if that employee is pregnant or has caring responsibilities, as one participant explained to the Commission:

The Senior Sergeant told me that he thought it was a joke that I was being offered a secondment because I was pregnant. He stated that if he had any say there is no way he would have allowed me to go. He told me that I had taken an opportunity away from 'one of the boys' and that me being pregnant and performing upgraded duties was an embarrassment to management at the station and that there was no way possible that I would be able to undertake the role successfully. He proceeded to tell me that pregnant women were useless ... I was then told that I would have only been selected as they 'need a lesbian' in the mix. (Participant)

This example is a strong reminder of why understanding the nature of workplace harm, and being aware of the potential for intersectional harm, is critical for Victoria Police in order to develop specific responses to it.

A UK review of the literature on the experiences of discrimination experienced by gay and lesbian police has found that studies on police globally find that between 25 and 66 per cent have experienced discrimination in their workplaces.<sup>88</sup> In policing or related sectors such as defence, studies, such as the Commission's 2015 report, emphasise that LGBTI police employees experience discrimination at far higher rates than their non-LGBTI colleagues.<sup>89</sup>

### 3.1.2 Sexual harassment

The Commission's 2015 report found that an employee's sexual orientation is a risk factor for sexual harassment in Victoria Police.<sup>90</sup> It found that gay men in Victoria Police are six times more likely than men overall in Victoria Police to have been sexually harassed by a colleague in the past five years.<sup>91</sup> The Commission's 2015 report found that for lesbian women in Victoria Police, rates of sexual harassment are a third higher than for women overall in Victoria Police.<sup>92</sup> The report did not make findings on the experiences of transgender or intersex people because the relevant data was unavailable.

In this research project, the Commission heard from a small number of female participants about an experience of sexual harassment, or the fear of being sexually harassed because of their sexual orientation.

The Commission also heard that sexualised language and homophobic language were present together in certain workplaces, suggesting a high workplace tolerance for both forms of inappropriate behaviour. For example, a participant described their experience in a previous workplace:

[In my] heavily male-dominated and masculine environment both sexualised and homophobic language was accepted at that time.  
(Participant)

The Commission also heard about male colleagues making aggressive comments toward lesbian police employees about their sexuality. This is illustrated by Maddie's case study in Section 3.2 below.<sup>93</sup>

The Australian Human Rights Commission's recent national survey on sexual harassment in the workplace helps to contextualise these experiences within Victoria Police. The survey found that across all Australian workplaces people who identify as gay, lesbian or bisexual<sup>94</sup> are more likely to have experienced sexual harassment (52 per cent) than their straight colleagues (31 per cent).<sup>95</sup> Survey respondents who identified as gender diverse were very likely (89 per cent) to experience sexual harassment in their lifetime.<sup>96</sup> Across all Australian workplaces, people with an intersex variation are also more likely to experience workplace sexual harassment (77 per cent) than those without a variation (31 per cent).<sup>97</sup>

In a related sector to policing, recent research into the experiences of US military employees found that LGBT service men and women are more likely to experience workplace sexual harassment (27.5 of women and 19.9 per cent of men) compared to non-LGBT men and women (18.3 per cent of women and 4.3 per cent of men).<sup>98</sup>

A 2013 study of transgender law enforcement officers in the United States, albeit drawing results from a small sample, found that 68 per cent of the transgender officers who participated had been verbally harassed, 43 per cent had been

threatened with violence and 18 per cent had been physically attacked by a colleague.<sup>99</sup>

Together, these studies indicate that in most workplaces an LGBTI employee is more likely to experience sexual harassment than a non-LGBTI employee. In policing or related sectors such as defence, studies – including the Commission’s own 2015 report – emphasise that LGBTI police employees experience sexual harassment at far higher rates than their non-LGBTI colleagues.

The Commission heard about a small number of experiences of other forms of discriminatory harassment or abuse experienced by gay and lesbian employees.

I have been the GLLO for almost 2 years now and I am still ridiculed, harassed and mocked every shift ... it is simply what they perceive to be an acceptable way to interact with others. (Participant)

The Commission heard that this harassment could involve placing inappropriate pictures in lockers, or taking down pride material, such as flags.

The Commission also heard from a participant about a historical experience of physical violence because of their sexual orientation, which had occurred in a station during the 1990s. Another participant told the Commission about the experiences of gay men in Victoria Police in the 1980s and 1990s, which included physical violence because of their sexual orientation. The Commission notes that while these experiences are historical and not current, for some long-serving LGBTI employees these incidents form part of their experiences as employees in Victoria Police. As will be discussed below in section 3.2, the impacts of workplace harm can remain with an employee for many years after the incident occurs.

### 3.1.3 Homophobic and transphobic comments

The Commission heard from some participants that certain aspects of the homophobia that characterised policing culture in the 1980s and 1990s is still present in some Victoria Police workplaces and that there currently remains a tolerance for homophobic and transphobic comments in some workplaces.

The Commission was told about homophobic and transphobic comments and jokes in Victoria Police workplaces. We were told that this behaviour is currently normalised in certain workplaces, where it is seen as ‘banter’ between colleagues.

There is still a culture of ‘banter’ within the police force. I am often gobsmacked when members, who know I identify as a gay man, still have no issues using phrases like ‘cocksucker’ and ‘knob jockey’ around me. (Participant)

In the last year I was part of a briefing where an Inspector made a throw away transphobic comment, and the whole room of 100 people laughed at it. (Participant)

The Commission highlights that a culture that normalises homophobic and transphobic comments can enable other forms of workplace harm.

Participants told the Commission that homophobia was sometimes expressed by other members telling them they didn’t want to work with someone who was gay. The Commission was told about one participant’s experience of exclusion:

This Acting Sergeant ... began telling staff members that he doesn't like working with fags. The target was openly gay and noticed that this supervisor was quite evasive and eventually got to the point of the supervisor ignoring him and not even acknowledging his presence. (Participant)

The Commission learned that this could also manifest in hostility toward colleagues during LGBTI days of celebration or significance.

This Sergeant call the LGBTI communities 'faggots'. On the Colour Purple Day he threw a gold coin donation into the tin and said 'I don't support this cause at all but I want a sausage with sauce'. (Participant)

Participants told the Commission that the 'everyday homophobia' was part of an entrenched culture in certain workplaces. We were told that workplaces that were more male-dominated and where leaders did not call out inappropriate behaviour or address banter directly were more likely to have this entrenched culture.<sup>100</sup>

The Commission is concerned to hear that some incidents of workplace harm identified Sergeants, Senior Sergeants and Inspectors as the perpetrators. One participant told the Commission:

There are many Senior Sergeants, Inspectors and Superintendents who are causing massive personal damage to people, yet nothing is done. (Participant)

The Commission heard reports of recent incidents of aggressive homophobic comments directed toward gay Victoria Police employees, such as:

I would have taken you out the back and flogged you back in my day. (Participant)

One participant told the Commission about comments made in the presence of a number of employees, with no consequences for the perpetrator.

The Acting Senior Sergeant made reference to tasking the van crew to attend at Flagstaff Gardens. A junior member asked 'Why? Do you want us to go shooting possums?' The Acting Senior Sergeant replied 'No, I want you to go shooting homos and fags'. This was met with laughing from all present with the exception of myself. This Acting Senior Sergeant continues to be upgraded. (Participant)

Another participant told the Commission about an incident that took place when he visited another station, which occurred in the presence of others:

A Leading Senior Constable (LSC) looked me up and down in the muster room ... His exact comments were: 'In my day, we took people like you out the back of the station and beat you with a hose'. (Participant)

Another participant described comments made in a group conversation:

One member made his view clear that, 'All gays should be gassed in the chamber like the Nazis' and another said, 'they should be taken out the back of the station and shot in the head'. (Participant)

### 3.1.4 Intrusive questions

Participants also told the Commission about the frequency of intrusive questions about their lesbian, gay or bisexuality.

Comments like ‘Who’s your boyfriend?’ or ‘Who’s your girlfriend?’ That kind of intrusive and invasive questioning and obsessing around someone’s gender identity or relationship status or if someone’s not believed to be heteronormative or that sort of intrusive questioning. (Participant)

Such questioning highlights how a heteronormative culture enables or emboldens inappropriate questions by colleagues if a person is perceived to be ‘other’ than heterosexual.

As a GLLO I have had my sexuality publicly questioned by a Sergeant in front of other colleagues, asked if my partner was also bisexual in order to love me. (Participant)

The Commission learned that getting to know your colleagues is a central part of building trust in an operational environment. However, it is clear that for some gay and lesbian employees, questioning about their sexual or private lives is experienced in a different way to their straight colleagues and is intrusive and inappropriate. The nature of intrusive comments about sexuality are further highlighted through Eva’s story, in Section 4.2 below.

## 3.2 Impact

The impact of workplace harm experienced by LGBTI employees varies and is experienced differently by each person. Some people may be significantly harmed by a single incident, and for others the harm may accrue through multiple instances. For some LGBTI employees, the impacts of discrimination, sexual harassment and victimisation may be long lasting, staying with them throughout their career, and even after they have left the organisation.

These impacts of discrimination, sexual harassment and victimisation against LGBTI employees may be similar to the impacts felt by other employees who experience these behaviours but do not identify as LGBTI. However, they may also experience unique impacts attributable to their LGBTI status.

The Commission was told by a small number of participants about the long-lasting impacts of the serious incidents of abuse that had occurred in the past. One participant, Maddie,<sup>101</sup> told the Commission about the lasting impacts of the abuse that happened to her.

### **Maddie’s Story**

Maddie always wanted to join Victoria Police. When she was little she wanted to be a police woman on a horse. After she joined Victoria Police she heard from detectives about their work, and decided that was the career path for her.

Maddie is ‘out’ at work and comfortable with who she is. But an incident that happened to her early in her career is still with her today. She finds she can go for long periods of time where she doesn’t think about what happened, but when she remembers, it makes her upset.

Maddie was with her friends from work at the pub one night after work. She and her girlfriend were talking and dancing and having fun. A group of detectives from Maddie’s station were at the pub, too. Maddie’s friends heard them say, ‘all the fucking lesbians are here now’, when they saw her.

One of the detectives approached Maddie and her girlfriend. He walked up to Maddie and said, ‘just because you’re a lesbian, doesn’t mean you can have all the women’.

He turned to Maddie's girlfriend and said, 'I can't believe you're dating Maddie and I can't believe you're a lesbian. What a fucking waste'.

Then the detective went back over to his friends. Maddie thought that maybe it was the end of the abuse. But then the detective starting throwing food at her from across the bar. One of his mates approached her and said, 'Just remember when you want to report this, I'm the tall one and I've done nothing'. The manager of the pub asked the detective and his friends to leave. Another one of the detective's mates came up to Maddie and said, 'I can't believe we are getting kicked out, you're the fucking problem'.

The next day, the detective called Maddie, begging her not to report him to the newspaper. He told her that he wasn't homophobic and was married with kids.

Maddie made a complaint to her manager. The detective who abused her apologised, but Maddie didn't believe the apology was genuine. The detective's sanction for abusing Maddie was being banned from certain pubs close to the station. Maddie still had to work with the detective immediately after the incident.

As an aspiring detective, just out of the Academy, Maddie didn't feel able to pursue the matter against the detective further because she was worried it might impact her career. She thinks she would have taken the complaint further if she had been reassured and supported by a senior colleague when it happened.

Some years after the incident, Maddie is still affected by what happened. She wonders if the detective has ever thought about the impact of his actions. Every time she thinks about what happened, she hopes that the detective hasn't done this to anyone else.

The impacts of workplace harm can be cumulative and can compound over time through the exposure to ongoing or multiple incidents. The Commission heard in particular from gay men who had served in Victoria Police for many years, whose time in Victoria Police had been marked by workplace harm of varying forms in a manner that their straight colleagues would never experience.

Like most gay men in the organisation, I have experienced my fair share of poor treatment and behaviour from others in the organisation for being gay – everything from snide homophobic remarks to non-selection for promotion based on my sexuality. I've never been harmed, as far as physically harmed, but it takes a toll. (Participant)

Workplace harm has lasting impacts across a range of areas, including on victims' mental and physical health, engagement with work and colleagues, and their ability to trust and feel confident and proud. In the case of sexual orientation, the Commission heard that a profound impact is the confidence with which an employee feels they can come to work each day. For some employees, the harm resulted in a feeling that they needed to hide their true self.

Members of the LGBTI community who are made to feel anything other than human is disgusting and has a huge impact on mental health and people need to learn this. (Participant)

The Commission learned that the culture of homophobia in Victoria Police resulted in some members not feeling safe or confident to come 'out' at work, except to a few trusted colleagues.

The vast majority of males who are LGBTI are closeted within their workplace but discreetly open to other LGBTI members in the workplace. (Participant)

Whilst society has been more accepting in recent times, we still feel the stigma of being labelled and many of us, including myself, are not fully 'out' at work. (Participant)

The fear of being 'outed' or subjected to inappropriate behaviour because of one's sexual orientation or gender identity can take a mental and physical toll on an individual. The Commission heard that hiding the gender of a partner or hiding one's sexuality at work could be exhausting.

Studies of gay and lesbian police highlight that unlike their heterosexual colleagues, gay and lesbian police have to navigate decisions about who to come 'out' to at work based on a range of factors, including whether they feel safe to do so, and whether they think it will have negative repercussions for their careers.<sup>102</sup>

The Commission heard how important it is for employees to feel confident to bring their 'whole selves' to work, and to feel comfortable sharing their personal lives with colleagues. The Commission heard that bonding was an important aspect of building trust with colleagues, for example when working on the van and in frontline roles. Not feeling confident or safe to come 'out' at work for fear of experiencing workplace harm can be stressful and does not allow Victoria Police employees to be their authentic selves.

The Commission also heard from participants who expressed the view that they did not feel that their experiences and the impact of these were well understood by Victoria Police, and that there was an institutional blindness about the impact of workplace harm for LGBTI employees.

Many supervisors ... do not believe the LGBTI complaints hold the same value as that of a non-LGBTI complaint. (Participant)

### 3.3 Drivers

Research into the drivers of discrimination and harassment against gay and lesbian police officers highlights the key role that policing culture plays in enabling and normalising homophobic attitudes.<sup>103</sup> This culture can enable or empower those with prejudiced views to treat people who are not seen to conform to the norm, who are different and who 'threaten the fraternal membership' traditionally associated with policing.<sup>104</sup> This culture can also enable perceptions that gay and lesbian police officers are less able to police than their heterosexual colleagues, because they don't conform to the stereotypical concept of who is a police officer.<sup>105</sup>

Research into homophobia against gay men in policing identifies a number of key drivers. These include the legacy of the role that police played in arresting and charging gay men in the past,<sup>106</sup> and a prevailing culture of masculinity and heteronormativity that remains despite the significant changes to the demographics of police organisations, including Victoria Police.<sup>107</sup> This culture can create a strong 'us and them' mentality that positions gay men as outsiders.<sup>108</sup>

Recent research on the drivers of sexual harassment experienced by lesbian women who work in male-dominated workplaces or settings finds that lesbian women are more likely to be sexually harassed because they don't conform to 'traditional feminine expectations'.<sup>109</sup> This is both because they are working in a male-dominated environment and because they challenge heteronormative stereotypes.<sup>110</sup>

The Commission was told that there was a clear lack of understanding among some Victoria Police employees that homophobia was inappropriate and that such banter breaches expected standards of behaviour.

Alternatively, the behaviour was enabled by others who encouraged it, impeding the ability of others to directly address it or call it out.

A strong message from participants was that homophobia and prejudice were the drivers of discrimination and harassment in their workplaces. And, while many participants believed that homophobia and prejudice were becoming less prevalent, they also felt that:

This is an issue that will be ongoing for a very long time. Victoria Police still contains a lot of homophobic people. (Participant)

One participant explained that homophobia as a driver of workplace harm was not well understood, even by those who engaged in such behaviour.

I strongly believe that members often don't draw the link between underlying homophobic beliefs and general bullying of a particular member. (Participant)

The Commission heard that there are employees in Victoria Police who were more likely to have homophobic attitudes and to express these in the workplace.

Currently, those who are likely to make homophobic, transphobic or inappropriate comments with regards to one's sexuality are ... masculine males communicating with other masculine males, or 'old wood' [who are] otherwise known as old Leading Senior Constables, Sergeants or Senior Sergeants, who have outdated and old way of thinking. (Participant)

These insights are consistent with the reported incidents of harm concerning perpetrators at the rank of Sergeant and Senior Sergeant, who are responsible both for setting workplace culture and for responding to harm.

Where it bottlenecks is somewhere in the middle, the people with the power in the stations. So I think if you've got more of a traditional policing area and some career Sergeants or Senior Sergeants there, you'll find those kinds of environments can go unchecked for a long period of time depending on the leadership. (Participant)

The Commission identified that these behaviours were likely to occur in conjunction with sexist and racist attitudes.

That little microcosm ...where you've got a dominant culture of sexism, racism, homophobia. They usually go hand-in-hand. (Participant)

A recent and significant example of homophobia across Victoria Police workplaces was the response by some employees to the Chief Commissioner's support for marriage equality.

I had a Supervisor ... tell me that he voted no for LGBTI marriage. Why tell me? That's certainly a way lose respect for someone who outwardly makes working together uncomfortable. (Participant)

That debate here was quite topical because it polarised the community and us within Victoria Police. People wanted to be more visible and show their support (allies and community). That was a bit confrontational at times. If you were on the 'No' side, there were issues

with people getting put out that lanyards were being worn, flags being put up. (Participant)

While the marriage equality outcome was certainly worth celebrating and affirming, there remains this ongoing sniping and grasping for a right to continue holding jaundiced views about fellow human beings. (Participant)

Key mitigating factors that can reduce workplace harm are the seriousness with which an organisation treats workplace harm and the priority that the organisation gives to addressing that harm. These can set a cultural standard and expectation of what behaviour will or will not be tolerated. The Commission learned that a driver of inappropriate behaviours was a lack of understanding about the harm caused to LGBTI employees by the inappropriate behaviour of others.

We are stigmatised, we are mistreated, we are spoken about behind our backs, we have jokes made about us and a fair chunk of senior members have no idea how to treat us. (Participant)

This enabling culture is also a key barrier to employees reporting workplace harm, which is discussed in detail in Chapter 4.

## 4. Reporting workplace harm

Healthy workplaces are those where employees who experience or witness discrimination, sexual harassment or victimisation feel safe and confident to report it.

The Commission's 2015 report found a number of barriers prevented employees from reporting sex discrimination and sexual harassment. In this chapter, we report on the barriers identified through this project, noting that while some are the same as those identified in 2015, some are unique to LGBTI employees. Understanding both kinds of barriers is critical to strengthening Victoria Police's responses to workplace harm experienced by LGBTI employees.

### 4.1 Low rates of reporting

The Commission reviewed complaints data from OneLink, Taskforce Salus and Professional Standards Command (PSC) to determine the extent to which employees who experienced or witnessed harm related to sexual orientation, gender identity or intersex status formally reported it to Victoria Police.<sup>111</sup>

We focused on complaints data from January 2017 to July 2018. This is because we wanted to understand how harm is being reported under the organisation's current workplace harm complaints model, noting that it established OneLink in January 2017. The complaints data showed:

- seven matters reported to OneLink, Taskforce Salus and PSC between January 2017 and July 2018 were recorded as being LGBTI-related.
- OneLink was contacted once by a manager for advice on discriminatory behaviours against women on the basis of sex and sexual orientation.<sup>112</sup>
- Taskforce Salus investigated three complaints related to sexual harassment, assault and predatory behaviour against gay employees, two complaints of sexual harassment against lesbian employees and one complaint of predatory behaviour against a lesbian employee.<sup>113</sup>
- PSC received no complaints related to workplace harm against LGBTI employees.<sup>114</sup>

To put these numbers in context, between October 2017 and September 2018, OneLink received a total of 349 matters and Taskforce Salus opened a total of 163 cases.<sup>115</sup>

Employees can also report LGBTI-related harm to Victoria Police's wellbeing services and the external Safe Space counselling hotline. Incidents may also form a WorkCover claim.<sup>116</sup> The Commission is aware that complaints of workplace harm that are made at station or work unit level, for example to a line manager, may not be recorded automatically. The Commission is also aware that informal complaints that may be raised at this level are not captured centrally. This is a significant impediment to Victoria Police having a comprehensive data set on how many employees are making both formal reports to workplace harm units and informal reports directly to a manager.

The number of reports of workplace harm against LGBTI employees are low when considered in light of the number of experiences of harm reported during Phase 1 of the Independent Review and this research project. The Commission is therefore concerned that the data indicates significant under-reporting of the harm within Victoria Police.

In an important development that will help improve understanding of experiences of workplace harm among LGBTI employees, Victoria Police has committed to updating its human resources systems to enable employees to voluntarily record their sexual orientation, as well as other diversity data, and to ensure complaints of workplace harm adequately capture and record incidents related to a person's LGBTI status.<sup>117</sup>

Understanding the nature, extent, drivers and impact of LGBTI-related harm in Victoria Police's workplaces is critical to the organisation's ability to respond adequately to the harm, both to individual incidents and to prevent future harm.

## 4.2 Barriers to reporting

The Commission's 2015 report found a number of structural barriers in Victoria Police that prevented employees from reporting workplace harm. Common barriers for not reporting included a fear of reprisal, concerns about the impact on one's reputation or career prospects and a perception that nothing would happen if a report was made.<sup>118</sup> Another key finding was that there was a strong culture in Victoria Police of non-reporting, and a strong stigma around reporting workplace harm.<sup>119</sup> Key factors contributing to this culture were the strong emphasis placed on loyalty by employees and seeing colleagues have negative experiences when they chose to report workplace harm.<sup>120</sup>

To understand the barriers to reporting workplace harm for LGBTI employees, the Commission asked participants as part of this research project to explain what had prevented them, or would prevent them or their colleagues, from reporting harm.

The Commission identified a number of common barriers to reporting harm.

Some barriers are general in nature and not specific to employees' LGBTI status. These include a lack of trust and confidence in Victoria Police's reporting systems, an organisational culture that does not encourage workplace complaints and a fear of reprisals and victimisation.

Other barriers relate specifically to, or are compounded by, employees' LGBTI status. These include a fear of homophobic managerial responses, a fear of 'outing' oneself and a concern that existing reporting pathways do not cover LGBTI-related harm.

The Commission also heard about protective factors for employees who experienced workplace harm, specifically the role of supportive peer networks.

Understanding why LGBTI employees choose to report or not to report harm, and the barriers they can face when they do report, will help enable Victoria Police to address these barriers and better support victims who have experienced harm.

### 4.2.1 A lack of trust and confidence in internal reporting systems

A key finding of the Commission's 2015 report was there was a lack of trust and confidence in Victoria Police's internal systems for reporting workplace harm.<sup>121</sup> Participants reiterated this concern during the current research project.

The Commission heard that key reasons for a lack of trust were concerns that they would be further harmed by making a complaint because of the time required to resolve complaints and that their identity may become known by colleagues.

The Commission heard these concerns were generally held by employees in Victoria Police, not just those who identified as LGBTI.

I don't think there is a high level of trust. I think there's a lot of good mechanisms in place, but if you're in an environment where...it puts

you at risk to have the conversation, nobody's going to do that.  
(Participant)

I would not recommend that someone pursue a complaint internally. I don't have confidence that Victoria Police is mature enough, independent enough to deal with a complaint appropriately.  
(Participant)

The Commission heard, however, that an aspect of this lack of trust specific to LGBTI employees was the perception that perpetrators of harm who targeted LGBTI employees were not appropriately sanctioned, compared with perpetrators who engaged in other forms of workplace harm, for example, sex discrimination.

Until such time that those that treat LGBTI members poorly are properly disciplined, not just a 'talking to' there will always be mistrust in the organisation ... it's time to be better at treating our own better and that starts with some real examples being made of those that bully and mistreat. (Participant)

The Commission heard from a number of participants about the perception that Victoria Police now took complaints of sex discrimination and sexual harassment against women seriously, following the 2015 report. These participants told the Commission that they did not think the organisation treated harm experienced by LGBTI employees as seriously as the harm experienced by women.

Members of the LGBTI network within Victoria Police feel that they were overlooked in the findings in the VEOHRC [Victorian Equal Opportunity and Human Rights Commission] report. LGBTI members have traditionally experienced workplace harm and bullying, and continue to. (Participant)

I identify as lesbian and I have never spoken up. I have never spoken up as I have not felt that I will be taken seriously. In addition, in my experience, those responsible for the harm have been senior in rank to myself. I have felt like I've had nowhere to go. (Participant)

Similar to the concerns raised with the Commission by participants in the 2015 report, the Commission was told that there were serious concerns that complaints would not remain confidential.<sup>122</sup>

I have no faith that were someone to make a complaint, how on earth it would be confidential. (Participant)

Participants told the Commission that there was a widespread understanding that internal complaints were often leaked and that the identity of the victim would be known by employees who were not part of the complaint investigation process.

The more people that find out about it, the leakier the sieve gets. If you have a complaint against a manager or someone higher in the food chain, there are automatic notifications that go up the chain of command, particularly if you make a WorkCover claim or occupational health and safety report. I've raised this as it flies in the face of whistleblowing or protected disclosure provisions. (Participant)

## 4.2.2 A culture of not reporting workplace harm

The 2015 report found that there was a 'strong stigma' around reporting that was shaped in part by a negative association with complaining or 'telling on' another colleague and the sense of family and loyalty held among employees.<sup>123</sup>

Echoing this earlier research, participants told the Commission that the organisational culture in Victoria Police was a key barrier for LGBTI employees when deciding whether or not to make a complaint.

I still think we need to come a long way in relation to LGBTI employees feeling comfortable talking to management about workplace harm. Thinking about it, members, especially junior members are afraid to raise anything with management let alone the topic of LGBTI.  
(Participant)

This culture is scathing of employees who are seen as 'dobbing' on colleagues or being disloyal.

That the ideology is that 'dobbers are dogs'. People are getting better at challenging behaviour but rarely make a complaint with management. People try to manage it themselves. (Participant)

I know coppers protect their own, and me as a GLLO reporting that a member from CIU [Crime Investigation Unit] has said something inappropriate, when I know he 'has gay friends, so he can't be too homophobic' wouldn't go down well for me. (Participant)

The Commission was told by participants that there is currently a prevailing attitude of not 'causing trouble' by making complaints of workplace harm.

If you cause waves, the attitude is still that we will cause waves for you. (Participant)

The Commission heard that in an organisation where rank and hierarchy was paramount, for an employee to make a complaint about a person more senior to them could be intimidating. This is consistent with research into the barriers for reporting workplace harm in hierarchical environments.<sup>124</sup>

When I've been told from LGBTI victims about behaviour and language used by VicPol members senior to me, things that were upsetting to the victim; and upset me to hear it also ... I didn't go to the Senior Sergeant of a CIU and tell them this info. It's very, very intimidating.  
(Participant)

Recent research has found that the hypermasculine and hierarchical structure of certain organisations, such as the police and military, is a key predictor of sexual harassment.<sup>125</sup> Sexual harassment is about unequal power relations. The power held by senior members of such organisations can create barriers to reporting, thus reinforcing a culture of impunity. That is, many employees will decide not to report sexual harassment perpetrated by a senior colleague because doing so could jeopardise their career or reputation.

## 4.2.3 Fear of victimisation and reprisal

The Commission's 2015 report found that women chose not to complain about workplace harm because they had concerns about the adverse impacts it could have on promotional opportunities and being bullied by peers who found out about the

complaint.<sup>126</sup> Similarly, participants in this project told the Commission about experiences of victimisation and reprisal, or a fear of this as a result of reporting LGBTI-related harm in the workplace.

My experience has been pathetic and I found myself then being pinpricked, bullied and then I was discriminated against. (Participant)

One participant explained that while they felt confident to call out behaviour directly with the person, they did not think anything would change and that the perpetrator would then act with hostility toward them if they reported the behaviour to a manager.

I still don't report it higher because I don't think anything will be achieved. He will get spoken to, tell the boss he is sorry and then will continue to act the exact same way but be even more hostile to me. (Participant)

The Commission learned that a fear that managers would 'defend the culprit and ... demonise the victim'<sup>127</sup> prevented people from making complaints.

It's a barrier [to reporting], being victimised. (Participant)

Other participants told the Commission that LGBTI employees often reported workplace harm informally because they feared a complaint could impact on their career prospects or lead to victimisation.

They prefer informal channels because they don't want their career or enjoyment of work affected or to be targeted ... they might be several years in to the organisation but they still have career aspirations and want to enjoy coming to work. (Participant)

The Commission heard that there was a serious concern that a person could undermine their professional reputation or not be seen to be 'part of the team' if they came forward with a complaint.

I still think in this organisation it's that thing of wanting and needing to be part of a team. Your reputation is so much, you want to get on with everyone. For me, that's a real barrier for reporting. People are reluctant to rock the boat and be seen to be rocking the boat. (Participant)

#### 4.2.4 Poor management responses to complaints from LGBTI employees

The Commission learned that a key factor in the lack of trust and confidence in reporting incidents of workplace harm was seeing the fall out, or poor outcomes of other complaints processes. One participant shared their views about how the disciplinary system responded poorly to complaints generally.

These matters are dealt with poorly in the disciplinary space. There's low reporting to start with. The discipline process in Victoria Police is still a really complex process. My view has long been that through the discipline process that you punish and end up with a disaffected employee – you demote, move or fine them – and they stay and become a negative rock, or you separate them from Victoria Police. (Participant)

The Commission heard that while new workplace harm units had been established in the years following the 2015 report, the history of distrust in the organisation's response to workplace harm remained.

We tell people to go to OneLink, but how do we promote those pathways? We set up a unit, launch it, but there's no trust or confidence. (Participant)

The Commission heard that the poor handling of a workplace harm complaint can result in an outcome so unsatisfactory that the employee would have no other option but to transfer to a different workplace.

The person who raised the issue to me was scared of reprisals and possible career implications, [they] withdrew from any further engagement about the issue and instead asked to be moved to another work location rather than continue to work with that supervisor. (Participant)

When an employee's direct complaint is met with inappropriate or inadequate responses by a supervisor, the impact can be so distressing for the affected employee as to dissuade that individual, and others, from making future complaints.

We also heard about the ongoing impact of poor responses from management on employee's preparedness to make complaints of LGBTI-related harm.

When I felt I was being treated poorly by my Inspector I spoke to my Superintendent and he didn't want to hear about it and did nothing, so [the] lack of confidence that anything would be done would be a significant deterrent of taking their complaint to the next level. (Participant)

The Commission also heard that confidence in reporting is eroded when there are inconsistent responses to complaints. The perception of many participants was that complaints against senior ranking employees would be dealt with more leniently than those against junior employees.

What discipline? Unless you sexually harass or assault someone and you are below the rank of Senior Sergeant you are immune to any real punishment. (Participant)

Another participant explained that responses of managers varied between different work areas. They believed that inconsistent responses within police stations or specialist areas, as compared to workplaces in the Victoria Police Centre might, would result in a lack of support for a complainant.

As an LGBTI ally (GLLO), in the Command I work in, I believe workplace harm experienced by LGBTI employees would be reported. However, in a police station or specialist area I do not believe they would be supported. (Participant)

The Commission was also told about instances where employees had experienced workplace harm and made a complaint to local management, but the perpetrator had not been disciplined.

The impacts of inappropriate responses by managers are highlighted in Eva's story.<sup>128</sup>

### **Eva's Story**

Eva had always wanted to be part of the police force. She joined Victoria Police with an interest in being part of a specialist operations unit. After graduating she worked in a number of uniformed roles before joining a specialist unit.

Eva is a private person, and didn't want to tell anyone at work that she is a lesbian. She noticed that some of her colleagues were gossipy and liked to talk at length about their private lives, and those of their colleagues. Eva tried to deflect these conversations when they came up. She noticed that they kept coming up again and again when she and her colleagues were out on jobs, or riding in the van. Eva didn't feel confident that if she disclosed to her colleagues that she was a lesbian that they would be supportive.

Two years after joining the specialist unit, Eva was in the van with a colleague coming back from a job. Her colleague kept asking Eva to tell her who she was dating. Eva felt that she couldn't keep evading these questions any more. She told her colleague that she was a lesbian and was currently single.

The next week, Eva noticed a number of her colleagues treating her differently. They were rude and mean to her, and started to make derogatory comments about her. Two female colleagues said that they felt 'unsafe' being around a lesbian, and that she hadn't told them about her sexuality. Eva was devastated.

She raised the issue with her Senior Sergeant. He responded to the complaint by telling Eva she was causing trouble in the unit, and that the issue wasn't her colleagues, but her own performance. The Senior Sergeant started to bully Eva, yelling and swearing at her during her shifts over a period of a few weeks. This bullying and the way her complaint was handled has had a significant impact on Eva's health and wellbeing. She is no longer able to work in that specialist unit.

The Commission heard about a response from a manager where a homophobic comment did not result in the person being sanctioned, because it was regarded as someone's opinion.

I reported a matter during the Marriage Equality debate and had a really unsatisfactory response because the statement this person said was homophobic and I wanted it reported. The investigator said that was his opinion and he's allowed to give it. I said no when he's acted on behalf of Victoria Police and using that kind of terminology, it's entirely inappropriate ... When you're being challenged from that end, you do wonder who's looking after who. (Participant)

The Commission was told that one manager had responded to a complaint inappropriately and in a manner that is not consistent with the principles of victim-centricity.

[They] referred to the victim as a problem requiring address and 'work'. (Participant)

The Commission learned that inconsistent or inappropriate responses to complaints of workplace harm have a range of negative consequences. Firstly, they do not address the needs of victims or stop the behaviour of perpetrators. Secondly, they send a message to victims, perpetrators and others in the workplace and the organisation that making a complaint will not result in any change. If managers do not respond appropriately to each and every complaint raised, this contributes to a lack of trust in reporting.

#### 4.2.5 Fear of being 'outed'

As discussed above, and as is shown in Victoria Police's data from the AWEI Survey, not all employees feel safe and comfortable to be 'out' at work.<sup>129</sup> The Commission

heard that for these employees, a barrier to making a complaint is that this may necessitate 'outing' themselves in order to report discrimination or harassment.

You need to 'out' yourself. That is really hard. And even for someone who is, it's just another layer of complexity. (Participant)

The Commission also learned that even for employees who are 'out' to some of their colleagues, there may be concerns about the ramifications of raising one's sexual orientation or gender identity when making a complaint, such as whether this would remain confidential and only known by those investigating the complaint.

The Commission recognises that there are some employees who may not wish to disclose their sexual orientation, gender identity or intersex status at work under any circumstances. However, the Commission learned that a need to 'out' oneself in making a complaint of workplace harm and concerns about this act as a barrier.

It is important that Victoria Police creates and maintains a consistent workplace culture in which all employees feel comfortable to disclose and where all managers respond to complaints in an appropriate and sensitive manner, including by taking a strong organisational stance against homophobia, transphobia and intersex-phobia.

#### 4.2.6 Concern that existing reporting pathways exclude LGBTI employees

The Commission learned that there is a perception among some within Victoria Police that existing reporting pathways do not cover LGBTI-related harm. This is due in part to the omission of 'sexual orientation and gender identity' in the definition of workplace harm found in Victoria Police's messaging strategies.

When you read all the information about these services, nowhere does it mention sexual orientation discrimination. If you mentioned some forms of discrimination but not others then it implies that they are excluded. It fails to take into account that this particular cohort of employees is quite vulnerable. (Participant)

Participants suggested that clearer messaging from Victoria Police that workplace harm units, such as OneLink and Salus, are available to LGBTI employees, would help to improve reporting of LGBTI-related harm in the workplace.

Part of my conversation ... about the launch of the LGBTI Inclusion Strategy is to reinforce that it's part of what Salus is here for. It's not just about women, it's any employee. We do need to reinforce that messaging. It's part of our messaging and probably needs more emphasis ... I absolutely agree that our messaging needs improvement in that area. (Participant)

The Commission notes that barriers to reporting are typically not isolated, often co-exist, and can have a compounding effect for employees when they are determining whether to make a complaint about workplace harm.

### 4.3 Protective factors

Protective factors are structural and organisational mechanisms that can assist employees when they have experienced workplace harm. Examples include welfare and wellbeing services and peer support officers.

The Commission heard from participants that one key factor that increased their confidence in reporting harm was having peer support. Participants identified the role of employee networks, such as the GLLO and Pride Networks and less formal social peer networks in providing assistance when they or others experienced workplace harm.

Peer support networks could provide an employee with an assurance of safety and comfort:

There are members who are more comfortable talking to their colleagues who are GLLO liaison officers that can assist with reporting workplace harm instead of going straight to their supervisors or managers. Victoria Police's GLLO program is definitely a great program that is available for LGBTI members. (Participant)

Informal networks provide an opportunity to socialise and seek support from colleagues:

Most people use their informal networks to get the support they need. That works for them. I know for gay men in the organisation there is a network with a quite social group of men. It's through those more informal channels that people get the support they need, rather than coming in to welfare and psychological services to get organisational support. (Participant)

# 5. Strengthening responses to LGBTI-related workplace harm

Chapter 5 considers how Victoria Police has responded to LGBTI-related workplace harm and identifies how it can improve its response, in particular in relation to:

- workplace harm policies
- complaints handling systems
- workplace harm messaging
- bystander action,
- LGBTI awareness training,
- visible support for the LGBTI community and allies
- sharing best practice examples.

## 5.1 Workplace harm policies

Victoria Police has a number of key policies that set out the rights of employees and the obligations of managers to respond to complaints of workplace harm.

LGBTI employees who experience discrimination, sexual harassment or victimisation on the basis of their sexual orientation, gender identity or intersex status, should feel safe to come forward and report it knowing that that they will be empowered and supported to make a complaint, that their complaint will be taken seriously, there will be no adverse repercussions, and that there will be an appropriate response.

Policies should support this and reflect Victoria Police's understanding of the specific barriers to reporting experienced by LGBTI employees (see Section 4.2 Barriers to reporting).

Strong policies have a critical role to play in building the confidence of those who experience harm and for ensuring that both individuals and the organisation as a whole has absolute clarity on how to handle each and every complaint in a consistent and appropriate way. Organisations should also ensure that policies respond specifically to LGBTI-related workplace harm and ensure all employees understand their rights and obligations.<sup>130</sup>

### 5.1.1 Current approach

Victoria Police currently has a number of policies that cover the standards of behaviour expected of all employees, managers and supervisors, including policies on how to respond to complaints concerning sexual harassment, discrimination and bullying. These policies set out the rights of employees and the obligations of managers and supervisors in responding to behaviours if they occur. These policies are contained in the Victoria Police Manual.

**Table 2 – Victoria Police Manual policies**

<b>Policies</b>	<b>Date</b>
<i>Policy Rules: Sexual Harassment</i>	Sept 2014
<i>Procedures and Guidelines: Sexual Harassment</i>	Sept 2014
<i>Policy Rules: Bullying, discrimination and harassment</i>	Sept 2014
<i>Procedures and Guidelines: Bullying, discrimination and harassment</i>	Sept 2014
<i>Policy Rules: Complaints and discipline</i>	Feb 2018
<i>Procedures and Guidelines: Complaint management and investigations</i>	Nov 2017

### 5.1.2 How to improve workplace harm policies

Relevant policies should:

- use inclusive language
- provide clear and current definitions of discrimination and sexual harassment and outline behaviours that constitute it.
- set clear expectations about the responsibilities of managers and supervisors in relation to inappropriate behaviour and responding to complaints.

The setting of clear expectations should be informed by an understanding of the specific barriers to reporting workplace harm experienced by LGBTI employees. Barriers include: a lack of trust and confidence in internal reporting system; a culture of not reporting workplace harm; a fear of victimisation and reprisal; seeing poor responses to complaints from LGBTI employees; a fear of LGBTI status being disclosed; and a concern that reporting pathways exclude LGBTI employees.

The policy framework should seek to address these barriers by specifying rights and responsibilities in a way that helps employees, managers and supervisors to act appropriately, including to describe:

- how employees can raise issues and make a complaint. This should identify all available reporting pathways
- the right of all employees to make a complaint without being victimised. This could be assisted with examples
- the responsibility of managers and supervisors to take complaints seriously and take appropriate action. This could be assisted with examples. This should clearly identify the process for responding to complaints and where a breach of the policy may result in management or disciplinary action
- the responsibility of managers and supervisors to protect the confidentiality of the employee making a report or complaint. This should clearly identify that breaching confidentiality or inappropriate disclosure of personal information is unacceptable. This could be assisted with examples
- describe available supports. The policy framework should clearly describe the supports available to employees, such as wellbeing supports<sup>131</sup>
- the role that bystanders can play in preventing sexual harassment in the workplace.

The following table identifies areas where policies can be improved in line with these criteria.

Victoria Police should consult with staff when drafting and amending policies to ensure complaint systems and procedures are genuinely accessible in practice.

**Table 3 – Policies: Areas for improvement**

Criteria	Findings and areas for improvement
<p>Inclusive language</p>	<p>Victoria Police’s LGBTI Inclusion Strategy states that Victoria Police will audit its policies to ensure LGBTI issues and inclusive language are addressed.</p> <p>Any audit of policies should include LGBTI subject-matter experts. This may include liaising with the Department of Premier and Cabinet’s Equality Branch, and if necessary assistance from the Minister for Equality’s LGBTI Taskforce or associated Taskforce Working Groups.<sup>132</sup> The Commission also recommends that Victoria Police engage with the members of the LGBTI Portfolio Reference Group to review and give feedback and guidance on the policies.<sup>133</sup></p> <p>Any amendments to policies should be made consistently with the Department of Premier and Cabinet’s LGBTI Inclusive Language Guidelines.<sup>134</sup></p>
<p>Clear and current definitions</p>	<p>The definition of discrimination in <i>Policy Rules - Bullying, discrimination and harassment</i> does not include the protected attributes of intersex status (protected under Federal discrimination law) or an expunged homosexual conviction (protected under Victorian law).<sup>135</sup></p> <p>The description of discrimination in Victoria Police policies should be amended to include these attributes so that it is both LGBTI-inclusive and inclusive of all attributes on the basis of which discrimination is currently unlawful under the <i>Equal Opportunity Act 2010</i> and federal discrimination law.</p>
<p>How to raise issues and make a complaint</p>	<p>The <i>Policy Rules: Bullying, discrimination and harassment</i> state that an employee may make a complaint by following the procedure in the <i>Procedures and Guidelines: Bullying, discrimination and harassment</i>, which also make reference to the <i>Policy Rules: Complaints and discipline</i>.</p> <p>The policies do not identify options to raise an issue or make a complaint of discrimination and sexual harassment within the framework of Victoria Police’s workplace harm model, which includes Taskforce Salus, OneLink and Safe Space.</p> <p>The policies should clearly identify all available options for employees to make a complaint and the process for doing this.</p>
<p>Victimisation</p>	<p>The Policy Rules and Procedures and Guidelines for sexual harassment and bullying, discrimination and harassment refer to employees’, managers’ and supervisors’ responsibilities to protect against victimisation. The Procedures and Guidelines for complaints and investigations also set out the responsibilities of managers to protect complainants.</p> <p>All policies should be clear that victimisation will amount to a breach of the policy that may lead to management or disciplinary action.</p> <p>The policies could set out of examples of victimisation to assist managers and supervisors to be alert and promptly address it.</p> <p>Examples could include:</p> <ul style="list-style-type: none"> <li>• retaliatory harassment by another employee</li> <li>• negative performance assessments, refusal to transfer or a promotional opportunity</li> <li>• requesting that an employee withdraw their complaint, including any intimidation to do so.</li> </ul> <p>These are examples only and not an exhaustive list.</p>

<p>Taking complaints seriously and taking appropriate action</p>	<p>The <i>Procedures and Guidelines: Bullying, discrimination and harassment</i> include the principle that supervisors and managers must treat all reported complaints as genuine.</p> <p>However the <i>Policy Rules: Bullying, discrimination and harassment</i> and <i>Policy Rules: Sexual Harassment</i> do not directly specify that managers should treat all complaints seriously and respond appropriately.</p> <p>The Policy Rules' description of managers' and supervisors' responsibilities should include that they are responsible for treating all complaints seriously and taking prompt and appropriate action to address them, and have a responsibility to intervene quickly and appropriately when they become aware of inappropriate behaviour.<sup>136</sup></p> <p>Recognising the concern that complaints of workplace harm relating to LGBTI employees may be minimised, the Procedures and Guidelines should reiterate the responsibility to treat all complaints seriously. They could include an example of inappropriate responses to a complaint. For example, by stating that managers and supervisors must treat all complaints seriously; and that it is inappropriate to:</p> <ul style="list-style-type: none"> <li>• tell the complainant that the complaint is not serious, or is 'banter' or a joke</li> <li>• minimise the behaviour (for example, stating that it is not serious)</li> <li>• minimise the impacts of the behaviour on the complainant</li> </ul> <p>Please note that these are examples of inappropriate behaviour in this context and not an exhaustive list.</p>
<p>Confidentiality and non-disclosure</p>	<p>The policies on complaints and discipline set out general principles for the confidentiality of complainants, including the protections provided in the <i>Protected Disclosures Act 2012</i>. However the policies on sexual harassment and on bullying, discrimination and harassment do not refer to confidentiality or a manager's obligations to protect the confidentiality of staff in relation to any complaint and not to inappropriately disclose personal information.</p> <p>All policies should state that complaints will be treated in confidence to protect an employee's privacy as much as possible and clearly outline where personal information may be shared. Policies should state that in some instances a manager or supervisor may need to share personal information, for example to escalate or refer a complaint, and specify the process for this.</p> <p>The policies on sexual harassment and bullying, discrimination, and harassment should make it clear that it is unacceptable to talk with other staff members about any complaint, and that breaching confidentially or inappropriate disclosure of personal information is a breach of the policies.</p>
<p>Supports available to employees</p>	<p>While the policies identify general welfare and wellbeing supports, as well as supports available through The Police Association of Victoria (TPAV) and the Community and Public Sector Union (CPSU), they do not specify other supports that are available to employees, including LGBTI employees, who wish to raise an issue or make a complaint.</p> <p>An up to date list of supports should be included in the Procedures and Guidelines, including specific supports available to LGBTI employees. This should include the VP Pride, the GLLO Network and external support providers, such as Switchboard.</p>
<p>The role of bystanders</p>	<p>The policies on sexual harassment do not identify the role bystanders can play to prevent sexual harassment.</p> <p>The policies could be strengthened with guidance about bystander action, in particular that employees who witness or are aware of sexual harassment can play an important role in preventing sexual harassment in the workplace, including by providing support to a colleague or by reporting sexual harassment. This should be accompanied with guidance on the process for this.<sup>137</sup></p>

## 5.2 Complaints handling systems

Victoria Police has established several units to respond to complaints of workplace harm. Employees can also make complaints to their manager or supervisor. Managers and supervisors have obligations under the workplace harm policies (outlined above) to respond to such complaints.

Complaints that are handled in a sensitive, victim-centric and timely manner can ensure that a victim of workplace harm is not re-victimised by the complaints system. It can also help a victim feel supported and acknowledged.

Conversely, complaints handling that is not conducted in this way can compound the detrimental impacts of workplace harm.

### 5.2.1 Current approach

The Commission's 2015 report found that there was chronic underreporting of workplace harm in Victoria Police. It also found significant concerns for employees who did formally report workplace harm, specifically around confidentiality and victimisation. The Commission recommended that Victoria Police establish a new organisational model and dedicated unit that could provide victim-centric responses to complaints of harm, as well as an external specialist counselling hotline to provide confidential victim support.<sup>138</sup>

In response to our recommendations, Victoria Police established a workplace harm model consisting of Taskforce Salus and OneLink as well as Safe Space. The functions of these units are described in Section 4.1.

As noted in Chapter 4, workplace harm complaints can also be made to PSC or Workplace Relations, which existed prior to the 2015 report.

It is a positive step that Victoria Police has adopted a 'no wrong door' approach to complaints, which means that any complainant can in theory be directed to the most appropriate unit for their particular matter, regardless of which unit the initial complaint is made to. However, participants told the Commission that the multiple entry points, coupled with the absence of a clear and widespread communications strategy, have led to some confusion about where to lodge a formal complaint. This was true for all complaints, and not just LGBTI-related harm.

Victoria Police now has multiple forms of receiving complaints. What hasn't happened is a step back to reflect on the process. (Participant)

As identified above, Victoria Police's policies do not identify all available options and processes for raising issues or making a complaint of discrimination or sexual harassment and do not refer to Taskforce Salus, OneLink or Safe Space.

The Commission also learned that some employees who made a complaint had been 'bounced' between units when there was internal organisational indecision about the unit best placed to address the complaint. The Commission heard from a participant about the impact of this experience:

A person reporting to Salus should not be making a sales pitch to fit within the terms of reference, if they don't fit the criteria the person who has taken the report should help them find redress, not simply turn them away with suggestions of what to do next. The harm is unnecessarily multiplied where a victim is required to repeat and repeat their story in seeking help. (Participant)

The Commission understands that Victoria Police is evaluating the effectiveness of the different units, particularly with a view to ensuring victim-centricity is embedded at every stage of the process regardless of where the complaint was made.

As an organisation we need to accommodate you as a victim, and different victims need different assistance. No matter who you are you need to have confidence without fear of being maligned or unsupported when you make a complaint. (Participant)

The Commission also heard that some matters that had come to OneLink had been marked by significant delay:

A matter sat with OneLink for 18 months and then was referred to PSC. A proper process has timelines. In 18 months, the harm is worsened. More harm is caused by the delay. You need to get on with complaints. (Participant)

We were told of the challenges that arise due to the different workplace harm units operating in isolation from another. For example, limited information sharing and not triaging complaints in a systematic way:

OneLink, HRD and PSC generally work separately due to issues created by legislation and policy. There is will to join the systems, but we can't get consistency. We wanted to create an environment where it is safe to complain. We can't do that in silos or in secrecy. HRD don't have the capability to investigate and resolve in the policing environment due to legislative limitations. There needs to be a balance between secrecy and efficiency. Confidence in reporting is being eroded due to the long time to resolve complaints or respond. (Participant)

The Commission notes that the 2018–2021 LGBTI Inclusion Strategy includes an action to ensure that the training and education managers to appropriately respond to workplace harm includes clear content on sexual orientation and gender/sexual diversity.

### 5.2.2 How to improve complaints handling

The Commission notes the perspectives of participants in this project about what they believed could assist in building confidence in the complaints handling process, thereby addressing a key barrier preventing the reporting of LGBTI-related workplace harm.

#### **Workplace harm complaints processes**

In the Phase Two Audit Report, the Commission reported that a Workplace Harm Unit should:

- provide specialist, victim-centric triage, case management and support to all employees who are the victims or targets of sexual harassment or sex discrimination
- have clear and consistent protocols to classify complaints about workplace harm
- have clear and consistent protocols with respect to confidentiality, referral pathways and information sharing
- employ specialist staff who are comprehensively trained to respond to sexual harassment and sex discrimination

The Commission reiterates that these principles are equally applicable for LGBTI-related workplace harm, and that a Workplace Harm Unit operating with these principles is likely to adequately address the concerns about complaints.

In this research project, the Commission heard that a more efficient mechanism to triage complaints of workplace harm across all workplace harm units would increase confidence among employees in reporting workplace harm, and would result in a more victim-centric approach to managing complaints.

Victoria Police should get its house in order and put misconduct under one roof. (Participant)

There is a need for case management collectively across the responsible Departments and Commands, where the relative subject matter experts' advice is given on the direction of a matter. Everyone is trying to do the right thing, but if we don't get this right, people will be lacking in confidence and the harm will continue. (Participant)

The Commission heard that confidence could be improved by ensuring that there are LGBTI subject-matter experts in each workplace harm unit. One participant explained to the Commission that they were surprised that a specific LGBTI contact in the form of GLLOs existed for members of the community when reporting a crime, but there was no internal equivalent for Victoria Police employees.

Having an identifiable contact person and position at both workplace relations division and Professional Standards Command that is akin to a GLLO. Why on earth wouldn't we have that internally? (Participant)

The Commission recommends that Victoria Police take steps to make sure complaints across workplace harm units and ensure there is subject matter expertise in responding to LGBTI-related workplace harm.

### **Non-action reporting options**

Participants told the Review that it was important for employees who experienced LGBTI-related workplace harm to be able to report and raise issues of homophobia and transphobia in their workplaces through non-action reporting, in order for Victoria Police to identify workplaces where inappropriate behaviour was occurring.

I really like the idea of non-action reporting. It's a really good way to take a pulse check ... It's just another way of working out where the hotspots are. (Participant)

The Commission recommends that options for non-action reporting be made clearer.

### **Education and training for managers and supervisors**

The Commission recommends that Victoria Police should, as a matter of priority, engage subject matter experts to develop specific training for Victoria Police employees with management or supervisory roles, with a particular focus on Senior Sergeants.

Employees with management responsibilities should undertake training that addresses the nature, drivers and impact of workplace harm for LGBTI employees in Victoria Police.

This training should clearly outline the obligations of managers to respond to workplace harm raised with or reported to them, or observed in their workplaces. This training should include:

**Table 4 – Workplace harm training: Areas for improvement**

Area of training	Content
<p>The nature and drivers of LGBTI-related workplace harm</p>	<p>The training should include actual factual scenarios, or case studies, of behaviour that constitutes LGBTI-related workplace harm. These examples should be detailed and identify both the nature of the behaviours (sexual harassment, discrimination and attribute-based bullying) and the enabling cultural factors that enable such behaviours to occur, including clear examples of:</p> <ul style="list-style-type: none"> <li>● everyday homophobia and transphobia, including ‘jokes’ or ‘banter’</li> <li>● derogatory comments about someone’s sexual orientation or gender identity</li> <li>● questions about a person’s sexual orientation, relationship status or gender identity.</li> </ul> <p>The training should clearly identify that the drivers of these behaviours are homophobia, transphobia, prejudice, a heteronormative worldview and gender stereotyping.</p>
<p>Obligations for managers to maintain safe and inclusive workplaces, including supporting the actions of bystanders</p>	<p>The training should include clear guidance about the obligations of managers to maintain a safe and inclusive workplace. The training should contain examples of what a safe and inclusive workplace is, including:</p> <ul style="list-style-type: none"> <li>● managers and supervisors clearly communicate the expectations for respectful workplace conversations and communicate the expectations for behaviour set out in workplace policies</li> <li>● a clear organisational stance against homophobia and transphobia</li> <li>● the role of managers in supporting bystanders when they call out inappropriate behaviour, including responding to any reprisals for bystanders who take action.</li> </ul>
<p>The impacts of LGBTI-related workplace harm</p>	<p>The training should include clear guidance with examples, including case studies, of the impacts of LGBTI-related workplace harm, for both individuals and the organisation, including:</p> <ul style="list-style-type: none"> <li>● impacts on individual health and wellbeing, highlighting that impacts can be cumulative</li> <li>● impacts on the organisation, including reduced capability to meet the policing needs of Victoria’s LGBTI community.</li> </ul>
<p>Appropriate management of complaints of LGBTI-related workplace harm, including the barriers to reporting</p>	<p>The training should clearly set out the obligations for managers as set out in workplace harm policies (described above in Section 5.1) and contain examples of the barriers to reporting workplace harm including:</p> <ul style="list-style-type: none"> <li>● a lack of trust and confidence in complaints handling</li> <li>● a culture of not reporting workplace harm</li> <li>● fear of victimisation and reprisal</li> <li>● fear of being ‘outed’</li> <li>● concern that reporting pathways exclude LGBTI employees.</li> </ul> <p>The training should also highlight the protective factors for LGBTI employees, including the GLLO and VP Pride networks and the importance of visible leadership support for LGBTI employees such as lanyards, badges and supporting LGBTI days of significance.</p>

## 5.3 Workplace harm messaging

Clear, evidence-based messaging helps ensure employees understand the nature, drivers and impacts of LGBTI-related workplace harm, the individual and organisational benefits of addressing this harm and the avenues available to address such harm. It also helps ensure employees understand their obligations related to discrimination, sexual harassment and victimisation.

### 5.3.1 Current approach

Victoria Police's VEOHRC Review Response 2018 Communication and Engagement Strategy (Communication Strategy) focuses on gender equality, the drivers of workplace harm against women and the actions set out in the Gender Equality Strategy and Action Plan (GESAP).<sup>139</sup> This is consistent with the Commission's previous advice encouraging Victoria Police to roll out a communications plan that sets out a compelling case for change to achieve gender equality.<sup>140</sup>

In communications about workplace harm Victoria Police currently uses the definition of workplace harm from the Commission's 2015 report, which is:

The detrimental effects of being targeted by inappropriate behaviour of work colleagues [and] includes sex discrimination (including gender based bullying), sexual harassment, predatory behaviour and victimisation.

This definition is used by Victoria Police in communications about workplace harm, including posters and other messaging. The Commission heard that this was a concern to some participants, who told us that some LGBTI employees perceived that this definition excluded sexual orientation and gender-identity discrimination.

We also need to ensure that our services, including workplace harm, are explicitly inclusive. Some of our policies are not explicitly inclusive of LGBTI. (Participant)

These concerns are related to the perception reported to the Commission and discussed previously in Chapter 4, that workplace harm experienced by LGBTI employees is not regarded as seriously as harm experienced by women.

While the current communications plan does not include a focus on LGBTI-related workplace harm, Victoria Police has committed, through its LGBTI Inclusion Strategy, to expand its messaging about workplace harm<sup>141</sup> to include sexual orientation and gender identity discrimination as forms of workplace harm. In addition, Victoria Police's Communication Strategy indicates that there may be a program of work to promote its LGBTI Inclusion Strategy, but does not provide further details.<sup>142</sup>

### 5.3.2 How to improve workplace harm messaging

The commitment to expand messaging about workplace harm and the anticipated program of work to promote the strategy and action plan are key opportunities to strengthen Victoria Police's messaging on responses to LGBTI-related workplace harm.

The Commission encourages Victoria Police to engage an expert in LGBTI-related workplace harm to help it deliver this work and for Victoria Police's approach to workplace harm messaging to be informed by the nature, drivers and impact of LGBTI-related workplace harm and a compelling and cohesive case for change, including the benefits of a safer and more inclusive Victoria Police for LGBTI employees.

Victoria Police should communicate:

- a strong organisational stance against LGBTI-related workplace harm
- that workplace harm pathways, such as OneLink and Taskforce Salus, are available for LGBTI-related harm
- amend the current definition of workplace harm (which is used for example on workplace harm posters in Victoria Police workplaces or on the intranet) which currently only includes sex discrimination, to include reference to discrimination on the basis of sexual orientation and gender identity.

The language in communications should reflect the Department of Premier and Cabinet's LGBTI Inclusive Language Guidelines.

The Commission highlights that this approach and messaging is complementary to and consistent with Victoria Police's messaging that has focused on addressing gendered harm in the workplace.

There is considerable overlap between the drivers of gendered harm and LGBTI-related harm. These include a dominant masculine culture, a high tolerance for sexist, homophobic and transphobic comments and gender stereotyping.

Further, participants in this project identified the relationship between everyday sexism and everyday homophobia and identified intersectional discrimination.

## 5.4 Bystander action

Bystanders play an integral role in calling out individuals who harm colleagues, and in doing so can play an important role in preventing inappropriate behaviour such as sexual harassment.<sup>143</sup> Calling-out inappropriate behaviours in highly hierarchical organisations such as policing can be challenging, particularly where the behaviour comes from a more senior colleague. It is therefore important that Victoria Police cultivates an environment in which employees feel that calling-out behaviours will not result in reprisal, for them or the target of the behaviours, and that they will have the full support of their managers and supervisors.

### 5.4.1 Current approach

Some participants told the Commission that there is increasing confidence among employees to identify and intervene in situations involving homophobia, which has had a positive impact on workplace culture.

People are becoming more confident – I had an example the other day of bystander intervention in a meeting context ... and one person in the room made homophobic remarks. Another person in the room stopped the meeting and said that they had a real problem with what they said, and reminded them that is not the way you talk about other people – in front of the whole meeting. That's something that people have only understood recently, that you can have an enormous impact by calling people out. (Participant)

Still, most participants who spoke about the role of bystanders expressed the view that Victoria Police employees do not call out LGBTI-related workplace harm.

Transphobic comments are rarely called out in the workplace, significantly less than homophobic comments are. (Participant)

There is a culture of silence of bystanders which is very enabling. I don't know what the answer is but it's going to take time. (Participant)

The Commission heard that a failure to intervene even occurred at a management level.

I have had ongoing issues in my own workplace for the past 12 months. It's only been in the past few weeks that one of the Acting Sergeants mentioned to me that they were aware of the issues I've had but did nothing to assist. No support whatsoever. (Participant)

Some participants explained that even when they had called out inappropriate behaviour, this didn't necessarily result in action or a change in the attitudes or behaviour of that person.

I have had a public argument with a Sergeant for saying 'faggot' and I told him I didn't want to hear this language in my workplace. Since then this Sergeant ignores me. I don't think his behaviour has or will change. (Participant)

The Commission learned that some bystanders do not feel confident to call out behaviours, but instead attempt to divert a conversation away from homophobic comments or jokes.

The closest I've seen to 'calling it out' is members changing the topic of conversation due to feeling awkward or similar. (Participant)

The Commission heard that bystander intervention in Victoria Police is challenging in a cultural climate that is hierarchical. Participants identified that bystanders are far less likely to call out inappropriate behaviour of a more senior employee. This creates a significant challenge for employees in Victoria Police to feel empowered to call out bystander behaviour 'up' when it involves a senior member.

[The perpetrator] was working with a probationary constable (PCET) who was sitting next to him. The PCET was visibly horrified [at the comments], but remained silent. I don't blame him for that; it's often a difficult in these situations to call out those behaviours from the bottom of the ladder. (Participant)

The Commission also learned that some employees who call out behaviours have experienced reprisals, as Adam's story shows.<sup>144</sup>

### **Adam's Story**

Adam became a GLLO a few years ago, because he saw the importance of GLLOs for responding to the needs of the LGBTI community. Since becoming a GLLO, Adam's colleagues have harassed him.

They ask intrusive comments, such as, 'are you suddenly gay yourself?' They make comments like, 'you're a queer, and you're pink'. One of Adam's supervisors said, 'there are no gays here' and questioned why they needed a GLLO at the station. Adam received a lot of backlash from people at his station when he attended the annual GLLO conference.

Sometimes Adam talks to colleagues who have been subjected to workplace harm. They've been targeted with inappropriate comments or had offensive pictures put in their lockers. When people talk to Adam, they are grateful for the support, but they don't want to make a complaint. They tell Adam that making a complaint will make things worse, and that they just want to keep their heads down, do their job, and go home.

When Adam calls out inappropriate language directed toward LGBTI people in his station, his colleagues tell him to 'pull his head in' and that 'it's what we always do,'

and they say that he is being too sensitive. Adam believes in sticking up for people, but he does worry about what people will say about him when he leaves the room.

Adam thinks that as much as people say that Victoria Police is one big, happy family, when people complain about inappropriate behaviour or call out their colleagues, things get worse for them. Adam thinks that the masculine culture and the culture of not calling out workplace harm is pervasive in Victoria Police.

Recommendation 9 of the Commission's 2015 report emphasised the need for face-to-face workplace harm training on managers' responsibilities to support bystander action and create safe and healthy workplaces.<sup>145</sup> In our 2017 report, we reiterated that this training was critical and its implementation should be supported by bystander experts through governance structures, such as the Academic Governance Board and the Independent Advisory Board.<sup>146</sup>

In August 2018, the Commission observed face-to-face workplace harm training delivered to senior VPS staff at VPS 5 level and above (who have supervisory and management responsibilities) by the external provider En Masse. We note that this pilot training did not include a dedicated section on bystander interventions or the role of managers in creating safe and healthy workplaces.

#### 5.4.2 How to improve bystander action

The Commission encourages Victoria Police to ensure there is policy guidance on bystander action (see above at 5.1.2) and to ensure that workplace harm training emphasises the importance of bystander interventions for addressing LGBTI-related workplace harm (as well as gendered workplace harm).

We also encourage Victoria Police to ensure that promotional training and qualifying programs for managers and supervisors address their responsibilities to create safe and healthy workplaces where bystanders feel empowered to speak out against LGBTI-related workplace harm. Training programs should be informed by LGBTI subject-matter expertise.

### 5.5 LGBTI awareness training

Police and PSO recruits must be equipped with the skills and understanding to respond to the policing needs of Victoria's LGBTI community. This includes an understanding of the:

- benefits of a diverse police organisation where LGBTI employees are safe and included
- nexus between a safe and inclusive workplace culture and the ability of Victoria Police to meet the needs of the LGBTI community.<sup>147</sup>

#### 5.5.1 Current approach

Since the release of the Commission's 2015 report, Victoria Police has introduced a range of reforms to its foundation training for police and PSO recruits. This includes training about workplace harm and professional boundaries.

As part of this research project, the Commission considered current training materials, which were not updated in response to the Commission's 2015 report, for:

- police recruits, specifically 'Community Diversity', 'Prejudice Motivated Crime', and 'What is Policing?'
- PSO recruits, specifically 'Diversity – LGBTI Communities'.

We were not provided with the materials relating to internal training for recruits regarding workplace harm and the organisation’s expectations for behaviour in the workplace.

The Commission notes there are some positive messages included in the training materials. For example, the training materials for ‘What is Policing’ acknowledge that policing is about ‘responding to complex social needs’ and is ‘more than catching criminals.’ The training materials for PSOs for ‘Diversity – LGBTI Communities’ include a statement that responses to LGBTI victims should be open and non-judgmental.

The Commission has identified a number of ways in which the training materials could be improved.

**Table 5 – Training material: Areas for improvement**

Training material	Issue
Community diversity	Outdated and inaccurate content, the language is inconsistent with the Department of Premier and Cabinet’s Inclusive Language Guide <sup>148</sup> and sexual orientation and gender identity are not delineated clearly
What is Policing PSO Course: Diversity-LGBTI Communities	The ‘Oral Sex Bandit’ scenario stigmatises homosexuality, perpetuates harmful stereotypes about gay men and does not address the contemporary policing needs of the LGBTI community, including prejudice-motivated crime or family violence
PSO Course: Diversity-LGBTI Communities	Offensive and outdated terminology used, perpetuation of harmful stereotypes, such as ‘transvestites, gender identity disorder’ and hermaphrodites and language that is inconsistent with the Department of Premier and Cabinet’s Inclusive Language Guide <sup>149</sup>
Prejudice motivated crime	The scenario that is included about offender Paul Denyer transitioning from Paul to Paula after a murder conviction perpetuates harmful stereotypes about transgender people. The materials are likely to further stigmatise transgender and gender diverse people. There is no reference in the materials to the common prejudice-motivated crimes that actually impact Victoria’s LGBTI community.

The Commission is concerned that the training materials for police and PSO recruits do not adequately give them the skills and understanding they need to respond to the policing needs of the LGBTI community. For example, they do not address homophobic hate crimes, LGBTI family violence,<sup>150</sup> prejudice motivated crimes against LGBTI people, or the barriers to reporting crimes against LGBTI people.<sup>151</sup> We are further concerned that the materials perpetuate harmful stereotypes and prejudices about people who identify as LGBTI and therefore undermine Victoria Police’s efforts to create a safe and inclusive workplace.

The Commission also reviewed materials relating to the Community Encounters education session for police and PSO recruits and involves members of Victoria’s priority communities, including the LGBTI community, attending the Academy and talking to recruits about their interactions with police and community needs.

The Community Encounters material is consistent with the Department of Premier and Cabinet’s Inclusive Language Guide<sup>152</sup> and free from prejudice and harmful stereotypes. The education sessions are also important for recruits with limited experience with the LGBTI community, helping to challenge views and stereotypes.

Some people have never had any interaction with a transgender person, it can be confronting for them. But they need to be challenged

and feel safe about being able to openly talk about what their challenges are, what their biases may be, what other people's may be.  
(Participant)

The Commission also heard positive reflections about the Academy, but was made aware that Priority Community training for recruits had been condensed to cover all communities in one day. This does not allow for a nuanced discussion of each community.

### 5.5.2 How to improve LGBTI awareness training

To equip recruits with the necessary skills and understanding, training for recruits should assist them to understand the contemporary policing needs of the LGBTI community and that all training sessions and materials are consistent with the Department of Premier and Cabinet's Inclusive Language Guide.<sup>153</sup> The contemporary policing needs of the Victorian LGBTI community will require recruits to have an understanding of:

- the nature and extent of homophobic hate crimes and family violence for LGBTI members of the Victorian community<sup>154</sup>
- how to identify prejudice motivated crimes perpetrated against LGBTI people, as well as the barriers that may prevent LGBTI people from reporting crimes<sup>155</sup>
- how to treat LGBTI victims with respect, guidance on avoiding misgendering and offensive questions<sup>156</sup> and understanding how heteronormative biases may impact their responses to victims<sup>157</sup>
- the nature, drivers and impact of workplace harm in Victoria Police for LGBTI police employees
- Victoria Police's expectations for behaviour in the workplace and the obligations for all employees to maintain safe and inclusive workplaces
- how to identify and challenge homophobic, transphobic or other prejudice-motivated bullying, harassment or discrimination in their workplaces<sup>158</sup>
- how 'everyday homophobic and transphobia' impacts others and how it enables homophobia, transphobic or other prejudice-motivated bullying, harassment or discrimination

Training instructors who are required to present on LGBTI-related issues should complete LGBTI inclusion and awareness training.<sup>159</sup>

The Commission also encourages Victoria Police to seek expert advice on how to bring its training material in line with best practice, including the Department of Premier and Cabinet's Inclusive Language Guide.<sup>160</sup> Consistent with best practice, it will be important to ensure that the material is free from prejudice and harmful stereotypes. For example, Victoria Police could liaise with the Department of Premier and Cabinet's Equality Branch, and through the Equality Branch seek guidance about the materials in the training sessions if necessary from the Minister for Equality's LGBTI Taskforce or associated Taskforce Working Groups.<sup>161</sup>

Further, the Community Encounters session and syndicate presentation, where recruits work together to give presentations for the LGBTI community outlining how they would respond to LGBTI victims of crime, should be extended to a full day.

## 5.6 Visibility of LGBTI community and allies

Visibility of Victoria Police's LGBTI community is key for connecting LGBTI employees and demonstrating organisational support. Visibility of LGBTI employees, through badges or other insignia, as well as allies, can send a powerful message to other employees about an organisation's values. Making LGBTI employees and their allies, particularly at the manager and supervisor level, more visible can also ensure that employees who experience workplace harm can easily recognise supportive colleagues.

### 5.6.1 Current approach

Participants told the Commission of about a number of activities and initiatives that improve the visibility of LGBTI employees and allies. These included the Pride Champion role, currently held by Assistant Commissioner Neil Paterson, the celebration of days such as International Day Against Homophobia, Biphobia, Intersexism and Transphobia (IDAHOBIT) in stations and the Victoria Police Centre, and the participation of the Chief Commissioner and members in the annual Pride March.

### 5.6.2 How to improve visibility

The Commission was told that despite the celebration of days of LGBTI significance, there were barriers to greater visibility of LGBTI members and allies. One barrier is the decision of the Uniform Advisory and Equipment Committee to prohibit sworn employees from wearing rainbow lanyards or badges or other insignia, except on select days, including IDAHOBIT, Pride and Wear it Purple.<sup>162</sup> Another barrier is the absence of identifiable badges for GLLOs.<sup>163</sup>

The LGBTI Inclusion Strategy 2018–2021 includes actions to increase the visibility of LGBTI employees and allies through the use of insignia, such as lanyards and badges on all days of the year, as well as the importance of organisational recognition and support for LGBTI days of celebration, remembrance and significance.

While the visibility of Victoria Police's LGBTI employees and their allies has increased, additional steps are needed to ensure greater visibility at all levels.

I am critically aware that having senior people outwardly and visibly express their support for LGBTI members is a particular piece that we can and ought to do. (Participant)

The Commission encourages Victoria Police to expand the number of senior leaders who are Pride Champions, including allies. We also encourage Victoria Police to reconsider the decision of the Uniform Advisory and Equipment Committee not to permit rainbow lanyards to be worn other than on designated days, which will enable the anticipated action in the LGBTI Inclusion Strategy to wear insignia on every day of the year. We note that rainbow lanyards are common across the Victorian Public Sector, including at the Commission, and are a powerful symbol of inclusion.

## 5.7 Sharing what works

Sharing what works can help workplaces like Victoria Police to understand the existing practices that have helped to make workplaces safer and more inclusive for LGBTI employees.

### 5.7.1 Current approach

As detailed in Chapter 3, the Commission heard from a small number of participants regarding stations that are inclusive and where members feel confident and safe in being 'out' about their sexual orientation. We are not, however, aware of any initiatives to promote these best practice examples of inclusivity and safe workplaces to the rest of the organisation.

### 5.7.2 How to improve sharing what works

The Commission encourages Victoria Police to share best practice examples of inclusivity and safe workplaces whenever possible, including through:

- workplace harm training for managers and supervisors, for example the Senior Sergeant and Inspector Qualifying Development programs
- internal police communication forums, including the Police Gazette and employee intranet
- presentations to diversity and inclusion forums, such as those run by the STAND Practice Leaders Network.

# Notes

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<sup>1</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour in Victoria Police: Phase One Report* (2015) ('*Independent Review into Victoria Police: Phase One Report*'); Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Sex Discrimination and Sexual Harassment, Including Predatory Behaviour, in Victoria Police: Phase Two Audit* (2017) ('*Independent Review into Victoria Police: Phase Two Audit*').

<sup>2</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 13.

<sup>3</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 13–16.

<sup>4</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1.

<sup>5</sup> The extent to which Victoria Police has implemented the Commission's recommendations will be further examined in our phase 3 report, due to be released in July 2019.

<sup>6</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase Two Audit*, above n 1.

<sup>7</sup> Tammy Mills, 'We Are Deeply Sorry': Victoria Police Apologises for What Happened to Michael Maynes', *The Age* (online), 17 January 2018 <<https://www.theage.com.au/national/victoria/we-are-deeply-sorry-victoria-police-apologises-for-what-happened-to-michael-maynes-20180116-h0iw19.html>>.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Equal Opportunity Act 2010* (Vic) ss 6, 7, 15, 16, 18, 93, 94; *Charter of Human Rights and Responsibilities Act 2006* (Vic) ss 1(d), 8, 38; *Sex Discrimination Act 1984* (Cth) ss 14, 28B.

<sup>10</sup> *Equal Opportunity Act 2010* (Vic) s 15(2).

<sup>11</sup> Victorian Equal Opportunity and Human Rights Commission, *What Is the Positive Duty?* <<https://www.humanrightscommission.vic.gov.au/the-workplace/employer-responsibilities/positive-duty#what-is-the-positive-duty>>.

<sup>12</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 38.

<sup>13</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 8(3).

<sup>14</sup> *Equal Opportunity Act 2010* (Vic) ss 93, 94; *Sex Discrimination Act 1984* (Cth) s 28B.

<sup>15</sup> Diversity Council of Australia, *Out at Work: From Prejudice to Pride* (August 2018) 15.

<sup>16</sup> *Ibid.* 14.

<sup>17</sup> Alice Ashworth, Stonewall, 'Protecting Lesbian, Gay and Bisexual People: A Practical Guide for Police Forces' (2017) 23 <[http://www.stonewall.org.uk/sites/default/files/police\\_guide\\_web\\_final.pdf](http://www.stonewall.org.uk/sites/default/files/police_guide_web_final.pdf)>.

<sup>18</sup> Diversity Council of Australia, above n 15, 16.

<sup>19</sup> Ben Bjarnesen, *To Enhance the Police Response to LGBTI Domestic Violence* (Winston Churchill Memorial Trust of Australia, 2018) 31.

<sup>20</sup> Roddrick Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing* (Lynne Rienner Publishers, 2012) 101-102.

<sup>21</sup> *Ibid.* 97.

<sup>22</sup> *Ibid.*

<sup>23</sup> T Israel et al, 'Evaluation of Police Training on LGBTQ Issues: Knowledge, Interpersonal Apprehension, and Self-efficacy' (2013) 29 *Journal of Police and Criminal Psychology* 57, 60.

<sup>24</sup> Ashworth, Stonewall, above n 17, 21.

<sup>25</sup> Bjarnesen, above n 19, 30-31.

<sup>26</sup> Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 15.

<sup>27</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021* (2018) 14.

<sup>28</sup> Diversity Council of Australia, above n 15, 60.

<sup>29</sup> *Ibid.*

<sup>30</sup> Ashworth, Stonewall, above n 17, 22.

<sup>31</sup> Australian Human Rights Commission, *Jokes and Banter* <<https://www.humanrights.gov.au/quick-guide/12057>>.

<sup>32</sup> Diversity Council of Australia, above n 15, 60.

<sup>33</sup> The Commission's use of this term is consistent with the Victorian Government inclusive language guidelines. Victorian Government, *Victorian Public Sector: Inclusive Language Guide* (June 2016) 4.

<sup>34</sup> Australian Human Rights Commission, *Resilient Individuals: Sexual Orientation, Gender Identity & Intersex Rights* (National Consultation Report, 2015) 5.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

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- <sup>37</sup> *Equal Opportunity Act 2010* (Vic) ss 6, 7, 15, 16, 18, 93, 94.
- <sup>38</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 8(3).
- <sup>39</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 6.
- <sup>40</sup> Victorian Public Sector Commission, *The Victorian Public Sector: 2016-2017 By The Numbers* (2017) 4.
- <sup>41</sup> See, for example, Victorian Department of Treasury and Finance, *Policy and Standard Model for Collecting and Reporting on Staff Gender Information in the Victorian Public Sector* (2016) 1.
- <sup>42</sup> See, for example, *ibid* 2.
- <sup>43</sup> Jaigris Hodson et al, 'Between the Corporation and the Closet: Ethically Researching LGBTQ+ Identities in the Workplace' (2018) 37 *Equality, Diversity and Inclusion: An International Journal* 283, 286.
- <sup>44</sup> Diversity Council Australia, above n 15, 9.
- <sup>45</sup> *Ibid* 11.
- <sup>46</sup> Angela Dwyer et al, 'Exploring LGBTI Police Liaison Services: Factors Influencing their Use and Effectiveness According to LGBTI People and LGBTI Police Liaison Officers' (Report to the Criminology Advisory Council, July 2017) 4.
- <sup>47</sup> On 18 December 1980, Victoria passed an amendment to the *Crimes Act 1958*, the *Crimes (Sexual Offences) Act* (Vic), No 9509/1980.
- <sup>48</sup> Tony Nicholls, 'Victoria Police Apologise for 1994 Raid on Tasty Nightclub 'To Make Up for Sins of the Past'', *ABC News* (online), 5 August 2014 <<https://www.abc.net.au/news/2014-08-05/victoria-police-apologise-for-1994-tasty-nightclub-raid/5649498>>.
- <sup>49</sup> William Leonard and Bianca Fileborn, 'Policing for Same Sex Attracted and Sex and Gender Diverse (SSAGD) Young Victorians' (Monograph Series No 110 GHLV@ARCSHS, La Trobe University: Melbourne, 2018) iv.
- <sup>50</sup> Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 136; Matthew Jones and Matthew L Williams, 'Twenty Years On: Lesbian, Gay and Bisexual Police Officers' Experiences of Workplace Discrimination in England and Wales' (2015) 25(2) *Policing and Society* 188, 191-193.
- <sup>51</sup> Christy Mallory, Amira Hasenbush and Brad Sears, 'Discrimination Against Law Enforcement Officers on the Basis of Sexual Orientation and Gender Identity: 2000-2013' (The Williams Institute at the UCLA School of Law, November 2013) 2.
- <sup>52</sup> Jones and Williams, above n 50, 189; Marc Burke, 'Cop Culture and Homosexuality' [1992] (January) *The Police Journal* 30; Marc Burke, 'Homosexuality as Deviance: The Case of the Gay Police Officer' (1994) 34(2) *British Journal of Criminology* 192; Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 11-22.
- <sup>53</sup> Zoe Gunn, *The Thin Lavender Line: A History of the Gay and Lesbian Police Employee Network in Victoria* (Criminology Masters Thesis, University of Melbourne, 2001) 49-55.
- <sup>54</sup> *Ibid* 94.
- <sup>55</sup> *Ibid* 49.
- <sup>56</sup> *Ibid* 49-50.
- <sup>57</sup> ABC Television, *7:30 Report*, 19 February 1997 (Bill McGrath, Victorian Police Minister).
- <sup>58</sup> Jones and Williams, above n 50, 189; Burke, 'Cop Culture and Homosexuality', above n 52; Burke, 'Homosexuality as Deviance: The Case of the Gay Police Officer', above n 52.
- <sup>59</sup> Gunn, above n 53, 45-55.
- <sup>60</sup> Toby Miles-Johnson, 'Policing Diversity: Examining Police Resistance to Training Reforms for Transgender People in Australia' (2016) 63 *Journal of Homosexuality* 103.
- <sup>61</sup> Dwyer et al, above n 46.
- <sup>62</sup> Leonard and Fileborn, above n 49.
- <sup>63</sup> Neil Mitchell, Interview with Graham Ashton, Chief Commissioner of Victoria Police (3AW Radio, 10 October 2017).
- <sup>64</sup> Australian Electoral Commission, 'Enrolment Processing for the Marriage Survey' (Media Release, 30 August 2017).
- <sup>65</sup> Mitchell, above n 63.
- <sup>66</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 5.
- <sup>67</sup> *Ibid* 1.
- <sup>68</sup> See, for example, Victorian Government Department of Premier and Cabinet, *Promote, Educate, Engage: LGBTI Inclusion Plan 2017-2018*.
- <sup>69</sup> Victoria Police, *Victoria Police Capability Plan 2016-2025: Capability Framework* (September 2016) 42–43; see also, Victoria Police, *Victoria Police Blue Paper: A Vision for Victoria Police in 2025* (May 2014).
- <sup>70</sup> Victorian Government, *Community Safety Statement 2018/2019* (April 2018) 58.
- <sup>71</sup> On 18 December 1980, Victoria passed an amendment to the *Crimes Act 1958*, the *Crimes (Sexual Offences) Act* (Vic), No 9509/1980.

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- <sup>72</sup> *Equal Opportunity (Gender Identity and Sexual Orientation) Act 2000* (Vic).
- <sup>73</sup> *Sentencing Amendment (Historical Homosexual Convictions Expungement) Act 2014*, passed by Parliament in October 2014 and came into operation on 1 September 2015.
- <sup>74</sup> Mitchell, above n 63.
- <sup>75</sup> Roddrick Colvin, 'Shared Workplace Experiences of Lesbian and Gay Police Officers in the United Kingdom' (2015) 38(2) *Policing: An International Journal of Police Strategies & Management* 333, 348; Jones and Williams, above n 50, 188-190; Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20.
- <sup>76</sup> Roddrick Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 97.
- <sup>77</sup> *Ibid* 97.
- <sup>78</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 5.
- <sup>79</sup> Roddrick Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 97.
- <sup>80</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 91.
- <sup>81</sup> *Ibid*.
- <sup>82</sup> *Ibid*.
- <sup>83</sup> *Ibid*.
- <sup>84</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 7.
- <sup>85</sup> *Ibid*.
- <sup>86</sup> *Ibid*.
- <sup>87</sup> Sandra Fredman, 'Intersectional Discrimination in EU Gender Equality and Non-discrimination Law' (Report of the European Network of Legal Experts in Gender Equality and Non-discrimination, May 2016) 7-8; Victorian Equal Opportunity and Human Rights Commission, *Submission on the Gender Equality Bill Exposure Draft* (October 2018) 14; Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 47th sess, UN Doc CEDAW/C/GC/28 (16 December 2010) 4 [18]; *Report of the Committee on the Elimination of Discrimination against Women: Thirtieth Session; Thirty-First Session*, UN GAOR, 59th sess, Supp No 38, UN Doc A/59/38 (2004) annex I ('General Recommendation No 25, on Article 4, Paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on Temporary Special Measures') [12].
- <sup>88</sup> Colvin, 'Shared Workplace Experiences of Lesbian and Gay Police Officers in the United Kingdom', above n 75, 334.
- <sup>89</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 70.
- <sup>90</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1.
- <sup>91</sup> *Ibid*.
- <sup>92</sup> *Ibid*.
- <sup>93</sup> Not her real name.
- <sup>94</sup> Including those who identify as pansexual, queer, asexual, aromantic, undecided, not sure, questioning or other, Australian Human Rights Commission, *Everyone's business: Fourth National Survey on Sexual Harassment in Australian Workplaces* (September 2018) 28.
- <sup>95</sup> Including those who identify as pansexual, queer, asexual, aromantic, undecided, not sure, questioning or other, Australian Human Rights Commission, *Everyone's business: Fourth National Survey on Sexual Harassment in Australian Workplaces*, above n 95, 28.
- <sup>96</sup> Australian Human Rights Commission, *Everyone's business: Fourth National Survey on Sexual Harassment in Australian Workplaces*, above n 95, 21, noting that the survey does not include workplace experience figures for gender diverse people.
- <sup>97</sup> Including those who identify as pansexual, queer, asexual, aromantic, undecided, not sure, questioning or other, Australian Human Rights Commission, *Everyone's business: Fourth National Survey on Sexual Harassment in Australian Workplaces*, above n 95, 28.
- <sup>98</sup> United States Department of Defence, *Annual Report on Sexual Assault in the Military, Fiscal Year 2016* (May 2017) 15.
- <sup>99</sup> Mallory, Hasenbush and Sears, above n 51, 5.
- <sup>100</sup> The role of bystanders and leaders to call out and address behaviours is dealt with in section 5.4.
- <sup>101</sup> Not her real name.
- <sup>102</sup> Joshua C Collins and Tonette S Rocco, 'Rules of Engagement as Survival Consciousness: Gay Male Law Enforcement Officers' Experiential Learning in a Masculinised Industry' (2015) 65(4) *Adult Education Quarterly* 295, 304; Christine M Galvin-White and Eryn Nicole O'Neal, 'Lesbian Police Officers' Interpersonal Working Relationships and Sexuality Disclosure: A Qualitative Study' (2016) 11(3) *Feminist Criminology* 253, 273.

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- <sup>103</sup> Colvin, *Gay and Lesbian Cops: Diversity and Effective Policing*, above n 20, 15; Bethan Loftus, 'Dominant Culture Interrupted: Recognition, Resentment and the Politics of Change in an English Police Force' (2008) 48 *British Journal of Criminology* 756, 757.
- <sup>104</sup> Jones and Williams, above n 50, 190.
- <sup>105</sup> Ibid 191; A Belkin and J McNichol, 'Pink and Blue: Outcomes Associated with the Integration of Open Gay and Lesbian Personnel in the San Diego Police Department' (2002) 5(1) *Police Quarterly* 63, 90.
- <sup>106</sup> Burke, 'Homosexuality as Deviance: The Case of the Gay Police Officer', above n 52.
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- <sup>108</sup> Roddrick Colvin, 'Shared Perceptions among Lesbian and Gay Police Officers' (2009) 12 *Police Quarterly* 86, 96.
- <sup>109</sup> Alex Krivkovich et al, *Women in the Workplace 2018* (October 2018) McKinsey and Company <<https://www.mckinsey.com/featured-insights/gender-equality/women-in-the-workplace-2018>>.
- <sup>110</sup> Ibid.
- <sup>111</sup> OneLink is a system established in 2017 and is designed to be a centralised triage and case-management model for victims and targets of sexual harassment, sex discrimination and predatory behaviour. Taskforce Salus is a unit within Victoria Police set up to investigate incidents of sexual harassment and sex discrimination. Professional Standards Command is an organisational unit of Victoria Police responsible for ethical health and integrity management.
- <sup>112</sup> OneLink record demographic details if they are provided voluntarily.
- <sup>113</sup> Demographic details are captured on Interpose, the complaints data management system used by Taskforce Salus, as LGBTI, then categorised as a particular attribute if known or identified
- <sup>114</sup> The Record of Complaints and Serious Incidents Database (ROCSID) used by Professional Standards Command does not specifically capture or classify complaint data where a victim, complainant or employee identifies as LGBTI. However, comments can be recorded in the database if the reported behaviour is a result of bias against LGBTI persons.
- <sup>115</sup> Figures contained in VEOHRC Review Implementation Steering Committee (VRISC), *Workplace Harm Report - September 2018* (October 2018).
- <sup>116</sup> The Commission did not seek complaints data from Safe Space or WorkCover, as these are both independent entities and this is beyond the scope of this project.
- <sup>117</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 11.
- <sup>118</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 294.
- <sup>119</sup> Ibid 298.
- <sup>120</sup> Ibid 298-299.
- <sup>121</sup> Ibid 327-328.
- <sup>122</sup> Ibid.
- <sup>123</sup> Ibid 299.
- <sup>124</sup> Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force: Phase 2 Report* (2012) 261-262; Marianne Cooper, 'The Three Things That Make Organizations More Prone to Sexual Harassment', *The Atlantic* (online), 27 November 2017 <<https://www.theatlantic.com/business/archive/2017/11/organizations-sexual-harassment/546707/>>.
- <sup>125</sup> Nicole T Buchanan et al, 'A Review of Organisational Strategies for Reducing Sexual Harassment: Insights from the U.S. Military' (2014) 70(4) *Journal of Social Issues* 687, 688-689.
- <sup>126</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police: Phase One Report*, above n 1, 293.
- <sup>127</sup> Interview with participant.
- <sup>128</sup> Not her real name.
- <sup>129</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 7.
- <sup>130</sup> Ashworth, Stonewall, above n 17, 22.
- <sup>131</sup> Including welfare supports, Onelink, Safe Space, external supports including The Police Association of Victoria (TPAV) or the Community and Public Sector Union (CPSU) and Work Safe, and formal and informal networks including GLLO and Pride Networks.
- <sup>132</sup> For details about both the Taskforce and Working Groups please see: <https://www.vic.gov.au/equality/lgbti-taskforce.html>
- <sup>133</sup> The members of this group are representatives of the following organisations: Anti-Violence Project, Bisexual Alliance Victoria, Australian GLBTIQ Multicultural Council, GASP Geelong (supporting LGBTIQ+ young people between ages 12-25), Gay and Lesbian Health Victoria (GLVH), Gay and Lesbian Switchboard, Minus 18, No to Homophobia, Organisation Intersex Internationale, Transgender Victoria, the Victorian Equal Opportunity and Human Rights Commission, Victorian AIDS Council and the Victorian Gay and Lesbian Rights Lobby.

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- <sup>134</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>135</sup> *Equal Opportunity Act 2010* (Vic) s 6(pa).
- <sup>136</sup> See, for example, Victorian Public Sector Commission, 'Model Policy for the Prevention of Sexual Harassment in the Workplace' (2018) 9 <<https://vpsc.vic.gov.au/resources/prevention-sexual-harassment-workplace/>>.
- <sup>137</sup> See, for example, *ibid*.
- <sup>138</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police, Phase 2 Audit*, above n 1, 220.
- <sup>139</sup> Victoria Police, *Gender Equality Strategy and Action Plan 2017-2020* (2017).
- <sup>140</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police, Phase 2 Audit*, above n 1, 88.
- <sup>141</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 12.
- <sup>142</sup> Victoria Police, *VEOHRC Review Response 2018 Communication and Engagement Strategy* (October 2018) 29.
- <sup>143</sup> Ann Taket and Beth R Crisp, 'Bystanders for Primary Prevention: A Rapid Review' (Knowledge Paper, VicHealth, September 2017) 21; Paula McDonald and Michael Flood, Australian Human Rights Commission, *Encourage. Support. Act! Bystander Approaches to Sexual Harassment in the Workplace* (2012) 5; Zachary Russell et al, 'Choosing to act: Bystander Action to Prevent Race-based Discrimination and Support Cultural Diversity in the Victorian Community' (Research Report, Victorian Health Promotion Foundation, 2013) 20.
- <sup>144</sup> Not his real name.
- <sup>145</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police, Phase 2 Audit*, above n 1, 175.
- <sup>146</sup> Victorian Equal Opportunity and Human Rights Commission, *Independent Review into Victoria Police, Phase 2 Audit*, above n 1, 39-40.
- <sup>147</sup> Victorian Government, *Community Safety Statement 2018/2019*, above n 70, 13.
- <sup>148</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>149</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>150</sup> Ashworth, Stonewall, above n 17, 10.
- <sup>151</sup> *Ibid* 24.
- <sup>152</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>153</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>154</sup> Ashworth, Stonewall, above n 17, 10.
- <sup>155</sup> *Ibid* 24.
- <sup>156</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>157</sup> Ashworth, Stonewall, above n 17, 24.
- <sup>158</sup> *Ibid*.
- <sup>159</sup> Conducted by a relevant body with subject matter expertise, such as Minus18, Gay and Lesbian Health Victoria, or the Victorian Equal Opportunity and Human Rights Commission.
- <sup>160</sup> Victorian Government, *Victorian Public Sector: Inclusive Language Guide*, above n 33.
- <sup>161</sup> For details about both the Taskforce and Working Groups please see: <https://www.vic.gov.au/equality/lgbti-taskforce.html>
- <sup>162</sup> Victoria Police, *LGBTI Inclusion Strategy and Action Plan 2018–2021*, above n 27, 14.
- <sup>163</sup> *Ibid*.

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