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**VAGO**

Victorian Auditor-General's Office

# Sexual Harassment in Local Government

December 2020

Independent assurance report to Parliament  
2020–21: 10

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# Sexual Harassment in Local Government

Independent assurance report to Parliament

Ordered to be published

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9 December 2020

PP no 189, Session 2018–20

# VAGO

Victorian Auditor-General's Office

The Hon Nazih Elasmr MLC  
President  
Legislative Council  
Parliament House  
Melbourne

The Hon Colin Brooks MP  
Speaker  
Legislative Assembly  
Parliament House  
Melbourne

Dear Presiding Officers

Under the provisions of the *Audit Act 1994*, I transmit my report *Sexual Harassment in Local Government*.

Yours faithfully



Andrew Greaves  
*Auditor-General*

9 December 2020

The Victorian Auditor-General's Office acknowledges Australian Aboriginal peoples as the traditional custodians of the land throughout Victoria. We pay our respect to all Aboriginal communities, their continuing culture and to Elders past, present and emerging.

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# Support options

Sexual harassment can take many forms and result in physical and emotional harm. Our report discusses these issues. If you, or someone you know, have experienced sexual harassment or assault and want support, several options are available.

## **1800RESPECT—National sexual assault, domestic and family violence counselling service**

1800RESPECT provides information, referral and counselling services to people experiencing or at risk of experiencing sexual assault, domestic or family violence. It is also available to friends, family and professionals. 1800RESPECT provides a confidential service 24 hours a day, seven days a week.

Phone: 1800RESPECT (1800 737 732)

[www.1800respect.org.au](http://www.1800respect.org.au)

## **Employee assistance programs**

Local government employees may have access to employee assistance programs that provide free and confidential short-term counselling for workplace and personal issues. Staff can obtain details of the relevant employee assistance program from their council's human resources team.

## **Centres Against Sexual Assault**

Centres Against Sexual Assault are non-profit, government-funded organisations that provide support, counselling and crisis care to child and adult victims of sexual assault and their family. You can find your local centre by visiting [www.casa.org.au](http://www.casa.org.au).

[www.casa.org.au](http://www.casa.org.au)

## **Lifeline**

Lifeline is a national charity providing all Australians experiencing a personal crisis with access to 24-hour crisis support and suicide prevention services.

Phone: 13 11 14

[www.lifeline.org.au](http://www.lifeline.org.au)

# Making a sexual harassment complaint

This audit examines whether local councils provide workplaces that are free from sexual harassment. VAGO does not take or investigate individual complaints. You can make a complaint or seek further information from the following agencies.

## **Victorian Equal Opportunity and Human Rights Commission**

The Victorian Equal Opportunity and Human Rights Commission is an independent statutory body that has responsibilities under several pieces of legislation, including the *Equal Opportunity Act 2010*. You can contact the Victorian Equal Opportunity and Human Rights Commission to seek information or have your complaint heard.

The Victorian Equal Opportunity and Human Rights Commission may review complaints or refer them to the Victorian Civil and Administrative Tribunal.

Phone: 1300 292 153

[www.humanrights.vic.gov.au](http://www.humanrights.vic.gov.au)

## **Australian Human Rights Commission**

The Australian Human Rights Commission is an independent statutory organisation established under Commonwealth legislation. It promotes human rights in Australia and internationally and investigates complaints about discrimination and human rights breaches.

Phone: 1300 656 419

[www.humanrights.gov.au](http://www.humanrights.gov.au)

## **Victoria Police**

The role of Victoria Police is to serve the Victorian community and uphold the law. If you have experienced or witnessed a criminal offence, you should report it to Victoria Police via a local police station. In an emergency, dial 000.

[www.police.vic.gov.au](http://www.police.vic.gov.au)

## Victorian Civil and Administrative Tribunal

The Victorian Civil and Administrative Tribunal hears and decides civil and administrative legal cases in Victoria. Complainants can apply directly to the tribunal to have a complaint about sexual harassment heard.

Phone: 1300 018 228

[www.vcat.vic.gov.au/get-started/equal-opportunity](http://www.vcat.vic.gov.au/get-started/equal-opportunity)

# Audit snapshot

Are Victorian local councils providing workplaces that are free from sexual harassment?

## Why this audit is important

Sexual harassment in the workplace is unlawful and can cause significant harm to those who experience it. It can also be costly for employers, exposing them to legal liability and increasing staff turnover.

Under the *Equal Opportunity Act 2010*, employers must take reasonable and proportionate measures to eliminate sexual harassment in their workplaces.

## What we examined

We examined whether councils provide their staff and councillors with workplaces free from sexual harassment.

We looked at:

- the prevalence and nature of sexual harassment in councils
- councils' policies, training and communication
- the effectiveness of councils' complaint handling.

## Who we examined

We audited five councils as a spread of council type and size:

- Ararat Rural City Council
- Corangamite Shire Council
- Frankston City Council
- Latrobe City Council
- Moreland City Council.

We also conducted a sector-wide survey, which received 9 939 responses from council employees and councillors from across 75 councils.

## What we concluded

Councils are not providing workplaces that are free from sexual harassment. More than one in four survey respondents said they had experienced workplace sexual harassment in the last 12 months.

Although councils have the tools that could prevent these experiences, they do not use them to their full advantage. A lack of comprehensive policies, training and communication means councils rarely engage staff in meaningful conversations about sexual harassment and its drivers.

This creates a culture where victims lack confidence to report their experiences. For those who do report, complaint handling is undermined by poor documentation and councils' failure to encourage and support complainants.

## Key facts

In June 2020, 75 out of 79 councils took part in our voluntary survey, with 9 939 council employees and councillors responding.

In the last 12 months ...



Of whom:

90% said it happened during day-to-day work

23% said they were harassed by a member of the public

Only 2% made a formal complaint to their council

# What we found and recommend

We consulted with the audited agencies and considered their views when reaching our conclusions. The agencies' full responses are in Appendix A.

## Understanding sexual harassment in local government

Twenty-eight per cent of surveyed council employees and councillors experienced sexual harassment at work in the 12 months to June 2020.

Unless specified otherwise, the data in this report has a margin of error of  $\pm 5$  per cent or less at a confidence level of 95 per cent. This means we can be confident that our survey (VAGO LG Survey 2020) results reflect the experiences of council staff. However, as with any survey, it is important to understand results in the context of the methodology and response rate. Appendix E provides this detail.

### Employees at higher risk

Employees from all roles and levels said they had experienced sexual harassment. But based on our survey results, those at greater risk were:

- lesbian, gay, bisexual, trans and gender diverse, queer, questioning, intersex and asexual (LGBTQIA+) persons (48 per cent experienced sexual harassment)
- young women (42 per cent of women aged between 18 and 34 experienced sexual harassment)
- people with disability (41 per cent experienced sexual harassment).

### Context of experiences

Understanding the context of sexual harassment is important. It helps councils to identify the drivers behind it and the settings that present the most risks to employee safety. Our survey found that sexual harassment in councils was most likely to occur during day-to-day work. Ninety per cent of respondents who had experienced sexual harassment said it occurred in that context.

The types of sexual harassment that respondents experienced differed. In line with the findings of the Australian Human Rights Commission's (AHRC) 2018 report *Everyone's*

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The **margin of error** shows how far away results could be from the true value. If the margin of error is  **$\pm 5$  per cent**, this means the true value could be up to 5 per cent higher or lower than the value presented.

A **confidence level** shows how confident we are that the true value sits within the margin of error.

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The margin of error for respondents with disability is  $\pm 7$  per cent.

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*business: Fourth national survey on sexual harassment in Australian workplaces* (AHRC National Survey 2018), our survey found that the most common types were:

- intrusive questions about respondent's personal life or appearance
- sexually suggestive comments or jokes that made them feel offended
- inappropriate staring or leering that made them feel intimidated.

Regardless of the context, sexual harassment could have harmful impacts on those who experienced it:

- 25 per cent of respondents who experienced sexual harassment said it negatively impacted their mental health.
- 21 per cent said it lowered their self-esteem and confidence.

## Harassment from members of the public

Harassers were most likely to be a co-worker at the same or more senior level. However, sexual harassment from the public also poses a significant risk, especially for employees in customer-facing roles such as:

- aged-care workers
- customer service personnel
- library staff
- pool attendants.

Forty-five per cent of customer-facing employees who had experienced sexual harassment said that a member of the public harassed them.

Except Ararat Rural City Council (Ararat), audited councils' sexual harassment policies and complaint procedures do not mention harassment from customers or members of the public, and so do not address this risk. Additionally, some survey respondents said there is a culture of accepting harassment from the public as part of providing customer service.

## Collecting information about sexual harassment

The audited councils do not regularly collect information about the prevalence and context of sexual harassment in their workplaces. None of the five audited councils:

- regularly survey employees about their experiences of sexual harassment at work
- categorise complaints in a way that allows them to identify trends in sexual harassment.

Unlike in the Victorian public service, there is no regular sector-wide survey about sexual harassment or workplace conduct. As a result, aside from our survey, councils have no visibility over the sexual harassment that occurs in their workplaces. Without this information, councils cannot plan and implement the actions necessary to protect their employees or identify trends.

The lack of information will also make it difficult for councils to comply with their new obligations under the *Gender Equality Act 2020*. From June 2021, councils must measure and report on their progress on seven gender equality indicators, one of which concerns workplace sexual harassment.

To help participating councils address sexual harassment, we shared their de-identified survey results with their mayor and chief executive officer (CEO).

We did not audit Local Government Victoria (LGV). However, in consultation with LGV, we have directed a recommendation to LGV to help address the lack of sector-wide information about sexual harassment.

LGV is part of the Department of Jobs, Precincts and Regions. It works with councils to improve practices, provides policy advice to the Minister for Local Government and oversees relevant legislation.

## Recommendations about the prevalence of sexual harassment

### We recommend that:

### Response

All Victorian councils	1. use findings from the Victorian Auditor-General's 2020 <i>Sexual Harassment in Local Government</i> survey to identify and act on risk factors for council employees and workplaces (see Sections 2.1, 2.2 and 2.3)	<b>Accepted by all audited councils</b>
	2. collect information about the prevalence and nature of sexual harassment at least once every two years by: <ul style="list-style-type: none"> <li>• conducting workplace surveys</li> <li>• reviewing complaints information (see Section 2.6)</li> </ul>	<b>Accepted by all audited councils</b>
	3. address the risk of sexual harassment by members of the public by: <ul style="list-style-type: none"> <li>• ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public</li> <li>• regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public (see Section 2.4).</li> </ul>	<b>Accepted by all audited councils</b>
Local Government Victoria (Department of Jobs, Precincts and Regions)	4. coordinate discussions with relevant state government authorities, local government peak bodies and councils about the development of a regular data collection methodology to measure the sector-wide prevalence and nature of sexual harassment (see Section 2.6).	<b>Accepted</b>

## Preventing sexual harassment

Under the Victorian *Equal Opportunity Act 2010*, employers have a positive duty to prevent and eliminate sexual harassment in their workplaces. This means councils must take reasonable and proportionate steps to prevent sexual harassment occurring, rather than only respond after it occurs.

### Policies

In 2018 the Victorian Public Sector Commission (VPSC) released the *Model Policy for the Prevention of Sexual Harassment in the Workplace* (the model policy). Although it is not compulsory for councils, the model policy outlines the key elements of a comprehensive sexual harassment policy.

All audited councils have policies covering sexual harassment, but they are usually included within broader documents about bullying, appropriate workplace behaviour and discrimination. As a result, policies:

- miss key elements from the model policy that would make them more comprehensive, such as information on bystander interventions and online harassment
- do not provide all relevant information in one document, making them difficult for users to navigate.

Despite these gaps, councils make their policies accessible for staff. Across the sector, 90 per cent of respondents said they knew where to find their council's policy on sexual harassment.

## Training

Although all five audited councils provide training on appropriate behaviour, this training is not as effective as it could be because:

- most staff only complete online refresher courses, meaning they miss out on the open discussion and in-depth content of face-to-face training
- training materials do not cover how bystanders can intervene or challenge inappropriate behaviour
- four councils do not tailor training to reflect their own policies and procedures
- three councils do not provide training for managers on how to respond to complaints of sexual harassment.

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**Face-to-face training** does not require employees to meet in person. Live online sessions, where respondents can engage in conversation and ask questions, can achieve the same benefits.

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Across the sector, training is not reaching everyone who needs it. Almost one in four survey respondents said they had never received training on appropriate behaviour at their current council.

Casual employees were least likely to receive training. Providing training for casual employees at councils is important because the insecure nature of their employment may present a barrier to reporting.

## Impact of training

Without effective training, councils lack a critical tool to prevent sexual harassment and encourage reporting. Respondents who received training were more likely to:

- know how to make a complaint of sexual harassment (89 per cent of respondents who received training compared to 69 per cent of those who did not)
- believe their council takes sexual harassment seriously (83 per cent of respondents who received training compared to 60 per cent of those who did not).

Training is also a valuable tool to increase understanding of sexual harassment and challenge views that excuse or trivialise it. Our survey found that these views exist in councils. For example, 9 per cent of survey respondents did not believe that the unwanted behaviours listed in our survey were sexual harassment. In addition, some survey respondents described victims as being too sensitive.

## Leading a culture of respect

Training and policies are not effective if leaders do not visibly promote a culture of respect at the council. There is not enough communication from council leaders to promote this culture:

- None of the five audited councils could provide evidence of communication from senior council staff, CEOs or mayors about sexual harassment or inappropriate behaviours.
- Only 31 per cent of respondents across the sector said their council communicates to them annually about how it is addressing sexual harassment.

Survey respondents also gave examples of leaders not modelling respectful behaviour or calling out sexual harassment, reducing respondents' trust in their council. Almost one in four respondents did not believe, or did not know whether, their council takes sexual harassment seriously.

## Recommendations about preventing sexual harassment

### We recommend that:

### Response

We recommend that:	Response
<p>All Victorian councils</p> <p>5. introduce a standalone sexual harassment policy that:</p> <ul style="list-style-type: none"> <li>• aligns with the Victorian Equal Opportunity and Human Rights Commission's <i>Guideline: Preventing and responding to workplace sexual harassment—Complying with the Equal Opportunity Act 2010</i> and the Victorian Public Sector Commission's <i>Model Policy for the Prevention of Sexual Harassment in the Workplace</i></li> <li>• includes clear links to relevant council policies and procedures</li> <li>• covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public</li> <li>• is searchable on council intranet sites or cloud software, and available in hard copy to all staff (see Section 3.1)</li> </ul>	<p><b>Accepted by all audited councils</b></p>
<p>6. introduce mandatory training on sexual harassment, or improve existing training, so that at a minimum it:</p> <ul style="list-style-type: none"> <li>• includes face-to-face or live online sessions for all staff and councillors at least once every two years (in addition to online modules)</li> <li>• covers safe strategies for bystander interventions</li> <li>• is tailored to the council's policies, procedures and workplace risk factors (see Section 3.2)</li> </ul>	<p><b>Accepted by all audited councils</b></p>
<p>7. communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment (see Section 3.3).</p>	<p><b>Accepted by all audited councils</b></p>

## Responding to sexual harassment

### Encouraging complaints

All five audited councils have informal and formal pathways for sexual harassment complaints, allowing complainants to choose the option that suits them. However, these pathways are underutilised. Only 2 per cent of respondents across the sector who experienced sexual harassment made a formal complaint, and only 10 per cent told a manager.

The most common reasons respondents gave for not making a complaint are that they thought:

- the behaviour was not serious enough
- it would not make a difference if they reported it.

Victims may feel more comfortable reporting sexual harassment anonymously. Anonymous complaints provide useful insights on cultural and behavioural issues, even if councils often cannot complete a complaints process with them.

Despite this, only one of the audited councils—Ararat—now allows employees to make anonymous complaints. In response to our audit, Ararat introduced anonymous reporting to its Staff Grievances Policy in August 2020.

### Handling complaints

Consistent and fair handling of sexual harassment complaints is critical to meeting a council's positive duty to eliminate sexual harassment.

Three of the five audited councils had at least one documented sexual harassment complaint in the past five years. Each of these had elements of fair and effective complaint handling, including collecting witness statements and ensuring procedural fairness to respondents. However, we found gaps that undermined audited councils' complaint handling, including:

- not informing complainants of the outcome of their complaint
- investigators misunderstanding the legal definition of sexual harassment
- incomplete complaint documentation, including no records of decisions to discontinue an investigation
- failing to support reluctant complainants to continue with their complaint when they expressed reservations.

These gaps may have negative impacts on complainants and expose councils to liability if their decisions are challenged.

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In an **informal** process, parties resolve the issue through discussion or mediation. A **formal** process includes an investigation to establish what occurred along with documented findings and outcomes.

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## Recommendations about responding to sexual harassment

We recommend that:	Response	
All Victorian councils	<p>8. encourage reporting of inappropriate behaviour by:</p> <ul style="list-style-type: none"> <li>• promoting formal and informal complaint channels</li> <li>• allowing for anonymous complaints (see Section 4.1)</li> </ul>	<b>Accepted by all audited councils</b>
	<p>9. improve record keeping of sexual harassment complaints by:</p> <ul style="list-style-type: none"> <li>• keeping complete records of all interactions relating to a complaint</li> <li>• documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers (see Section 4.3)</li> </ul>	<b>Accepted by all audited councils</b>
	<p>10. review complaint procedures to ensure they include:</p> <ul style="list-style-type: none"> <li>• a requirement to inform the complainant of the outcome of the complaint</li> <li>• guidance on how investigators can support reluctant complainants (see Section 4.2).</li> </ul>	<b>Accepted by all audited councils</b>

## Councillors

Councillors experience sexual harassment at a similar rate to council employees, but they receive less support and have fewer options to report it. Forty-one councillors across the state, or 30 per cent of councillor respondents, said they had been sexually harassed at work in the last 12 months.

The margin of error for councillors is  $\pm 8$  per cent.

Compared to employees, councillor respondents were:

- more likely to be harassed by a councillor or a member of the public
- less likely to receive training
- less likely to know how to access their council's employee assistance program (EAP) for support.

Forty-four per cent of female councillors said they had been sexually harassed in the last 12 months, compared to 19 per cent of male councillors. This can contribute to a culture where women may not seek re-election, making it challenging to address their under-representation in councils. Prior to the October 2020 elections, only 38 per cent of councillors were women, and 13 councils had only one female councillor. This increased to 44 per cent in the October 2020 elections.

## Complaint pathways for councillors

At the time of our audit, councillors lacked access to the same informal complaint pathways as employees. Councillor Codes of Conduct at the audited councils were not suited to address sexual harassment because:

- except for Ararat, they require councillors to first attempt to resolve disputes between themselves, making it challenging if a councillor has a complaint against another councillor
- they do not advise councillors that they can make complaints to external bodies, such as the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) or Victoria Police.

Changes to local government legislation mean that councillors can refer any alleged breaches of the standards of conduct, including sexual harassment, to an independent arbiter without first attempting to resolve disputes between themselves.

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From the October 2020 council elections onwards, there are **standards of conduct** that all councils must include in their Councillor Code of Conduct. These standards prohibit sexual harassment.

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## Recommendations about councillors

### We recommend that:

### Response

All Victorian councils	11. ensure councillors receive training on sexual harassment at least twice per council term (see Section 3.2)	<b>Accepted by all audited councils</b>
	12. ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including: <ul style="list-style-type: none"><li>• the council's employee assistance program</li><li>• Councillor Code of Conduct dispute resolution processes</li><li>• external complaint bodies (see Section 4.1).</li></ul>	<b>Accepted by all audited councils</b>

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# 1.

## Audit context

Sexual harassment in the workplace is unlawful and can have significant negative effects on individuals and their employers. In some cases, sexual harassment is also a criminal offence.

The AHRC National Survey 2018 showed that sexual harassment is common in Australian workplaces. One in three people reported being sexually harassed at work in the past five years.

Under the *Equal Opportunity Act 2010*, organisations must take reasonable and proportionate measures to eliminate sexual harassment in their workplaces. This audit examines the effectiveness of those measures by Victorian local councils.

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### **This chapter provides essential background information about:**

- What sexual harassment is
  - Why this audit is important
  - The prevalence of sexual harassment in local government
  - Preventing sexual harassment
  - Responding to sexual harassment
  - The legislation, policy and guidance on sexual harassment for local government
-

## 1.1 What is sexual harassment?

The Victorian *Equal Opportunity Act 2010* defines sexual harassment as any unwelcome behaviour of a sexual nature that makes a person feel offended, humiliated, and/or intimidated.

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

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

Whether the harasser intended to offend is not relevant. What is important is whether a reasonable person would anticipate that the other person would be offended. A single incident can be enough to constitute sexual harassment; it does not need to be a pattern of behaviour.

## 1.2 Why this audit is important

Sexual harassment in the workplace has negative impacts for individuals, groups, organisations and the broader community. As part of the 2018 AHRC National Inquiry into Sexual Harassment in Australian Workplaces (AHRC National Inquiry), the Australian Department of the Treasury commissioned an independent study which estimated that workplace sexual harassment cost the Australian economy \$2.6 billion in lost productivity and \$900 million in other costs, such as to the health system, legal costs and agency investigations.

### Impact on individuals

Sexual harassment can make victims feel unsafe and affect their ability to participate in their workplace. Victims of sexual harassment can experience:

- harm to their mental health
- negative financial impacts
- negative impacts on personal and family relationships.

These impacts can be short or long term and can damage a person's career and livelihood. Bystanders and other impacted employees can experience vicarious trauma, stress or anxiety and 'burnout'.

### Impact on employers

Councils can experience economic loss and reputational damage as a result of sexual harassment through:

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**Vicarious trauma** is trauma experienced by those close to a victim or traumatic event from witnessing pain or fear.

**Burnout** is a state of physical or emotional exhaustion from work-related stress that involves a reduced sense of accomplishment and loss of personal identity.

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- litigation
- increased insurance premiums
- high staff turnover
- reduced productivity
- decreased faith in council management.

Sexual harassment can be both a symptom and a cause of poor culture, leading to lower staff morale and a less enjoyable workplace.

### 1.3 Prevalence

Understanding the prevalence of sexual harassment in a workplace is a key step in effectively eliminating it. This includes who is doing it, where it is happening and whether victims are reporting it.

The AHRC National Survey 2018 found that 39 per cent of women and 26 per cent of men had experienced sexual harassment at work in the previous five years.

### 1.4 Preventing sexual harassment

In Victoria, employers have a positive duty to prevent and eliminate sexual harassment in their workplaces under the *Equal Opportunity Act 2010*. This means employers must take proactive steps to stop sexual harassment occurring, rather than only respond after it occurs.

<b>Preventative measures include ...</b>	<b>so that employees understand ...</b>
comprehensive sexual harassment policies	<ul style="list-style-type: none"> <li>• their council's stance on sexual harassment</li> <li>• processes for making formal and informal complaints</li> </ul>
effective training	<ul style="list-style-type: none"> <li>• what sexual harassment is</li> <li>• their own responsibilities</li> <li>• how to identify and report sexual harassment</li> <li>• where to find policies</li> </ul>
communication from senior leadership	<ul style="list-style-type: none"> <li>• that the council has a culture of respect and will not tolerate sexual harassment</li> <li>• they should feel comfortable talking about and reporting sexual harassment</li> </ul>
addressing backlash to cultural change	<ul style="list-style-type: none"> <li>• changing culture has benefits for everyone.</li> </ul>

## 1.5 Complaint handling

It is essential that employees feel safe to make a complaint of sexual harassment. Different avenues to make complaints ensure victims have a choice about what process they want to use to resolve their complaint. The AHRC National Survey 2018 found that less than one in five people who had experienced sexual harassment had reported it.

It is important for councils to ...	in order to ...
handle complaints fairly	<ul style="list-style-type: none"> <li>• appropriately support the people involved</li> <li>• create an environment where people come forward</li> <li>• limit legal liability</li> <li>• prevent future sexual harassment.</li> </ul>
document the complaint and how they responded	<ul style="list-style-type: none"> <li>• ensure procedures are followed</li> <li>• demonstrate to external reviewers, if the outcome is challenged, that the council dealt with the complaint fairly</li> <li>• ensure appropriate evidence is available if the victim makes an insurance or legal claim</li> <li>• comply with the <i>Public Records Act 1973</i>.</li> </ul>

## 1.6 Relevant agencies

As employers, councils are responsible for preventing and responding to sexual harassment in their workplace. A range of government agencies and peak bodies support and guide councils, as outlined in Figure 1A.

FIGURE 1A: **Relevant agencies**

Agency	Responsibility	Activities
AHRC	Protecting and promoting human rights in Australia and internationally	<ul style="list-style-type: none"> <li>• runs sexual harassment surveys in the Australian workforce, including the AHRC National Survey 2018</li> <li>• conducts independent inquiries into human rights issues, such as the AHRC National Inquiry, which received 460 submissions and did 60 public consultations</li> </ul>
Australian Local Government Women's Association (ALGWA)	Furthering women's participation, knowledge and understanding of the function of local government	<ul style="list-style-type: none"> <li>• represents female councillors, such as in its 2019 submission to the AHRC National Inquiry</li> <li>• runs education campaigns to encourage women to run for local government</li> <li>• provides networking forums for female councillors to discuss systemic issues</li> </ul>

Agency	Responsibility	Activities
LGV (part of the Department of Jobs, Precincts and Regions)	Regulating and supporting councils on behalf of the state government	<ul style="list-style-type: none"> <li>works with councils to improve their business and governance practices</li> <li>provides policy advice to the Minister for Local Government and oversees relevant legislation, including the <i>Local Government Act 2020</i></li> <li>published the <i>Best practice guide for gender equity in local government</i> in 2018</li> </ul>
Municipal Association of Victoria (MAV)	Advocating for councils in Victoria as their peak body	<ul style="list-style-type: none"> <li>provides resources and forums for discussion and networking for gender equality initiatives</li> <li>delivers training for candidates for local government and councillors</li> <li>Ran the <i>Gender Equality and Preventing Violence Against Women Survey of Victorian Councils 2018/2019</i> (2019 MAV survey), which surveyed representatives from 64 councils about the training and policies they deliver on gender equality</li> </ul>
VEOHRC	Protecting and promoting human rights according to Victoria's human rights laws	<ul style="list-style-type: none"> <li>provides education resources, training packages and practice guidance regarding sexual harassment</li> <li>conducts investigations into potential systemic and serious matters of sexual harassment, discrimination or victimisation</li> <li>delivers a dispute resolution service for complaints about discrimination, sexual harassment, victimisation and racial or religious vilification</li> </ul>

Source: VAGO.

VPSC is a government agency that aims to strengthen the effectiveness, efficiency and capability of the public sector. Although VPSC does not oversee local councils, it provides valuable resources that councils can use, such as the model policy. VPSC also runs the People Matter Survey (PMS), an annual workforce survey of Victorian public service employees, which covers a range of workplace issues, including sexual harassment.

## 1.7 Legislation, policy and guidance

### Complying with the positive duty

In August 2020, VEOHRC updated its guidance on complying with the positive duty to eliminate sexual harassment. The *Guideline: Preventing and responding to workplace sexual harassment—Complying with the Equal Opportunity Act 2010* (VEOHRC Guideline) sets six minimum standards that employers should meet to fulfil their positive duty to eliminate sexual harassment. Those standards are for organisations to:

- understand their obligations under the *Equal Opportunity Act 2010*
- have a prevention plan

- build organisational capacity
- manage risks
- respond to sexual harassment reports consistently and confidentially, holding harassers to account and ensuring processes are victim-centric
- regularly review, evaluate and improve outcomes and strategies for preventing and addressing sexual harassment.

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Being **victim-centric** means giving the complainant a say in the process, ensuring they are properly supported and that they are not penalised for making a complaint.

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## The role of councillors

Residents and ratepayers elect councillors for their municipality every four years. Once elected, councillors are responsible for:

- setting the overall direction for the municipality through long-term planning and decision-making
- appointing the council CEO and managing their performance.

Sexual harassment by a councillor towards a fellow councillor or an employee of the council is unlawful under the *Equal Opportunity Act 2010*, just as for employees. However, as they are not contracted employees, councillors are not subject to the same internal disciplinary procedures as staff. For example, a CEO cannot dismiss a councillor.

The *Workplace Injury Rehabilitation and Compensation Act 2013* sets out how employees can access compensation for workplace injuries, including those caused by sexual harassment. This legislation considers councillors to be employees of the council who can access compensation for workplace injuries.

## Councillor conduct

In March 2020, the *Local Government Act 2020* came into effect, replacing the *Local Government Act 1989*. The new legislation aims to improve local government democracy, accountability and service delivery.

Under section 139 of the *Local Government Act 2020*, councils must approve a Councillor Code of Conduct within four months of a local government election. This code sets out expectations for councillor behaviour during each four-year term and may include any other matters that the council considers appropriate, such as internal dispute resolution procedures. From the October 2020 elections, these codes must explicitly reference sexual harassment and include mandatory standards of conduct for councillors. These standards specifically prohibit sexual harassment.

Divisions 5 and 7 of Part 6 of the *Local Government Act 2020* provide arrangements for dealing with councillor misconduct, including breaches of the Councillor Code of Conduct. Figure 1B summarises these.

FIGURE 1B: **Councillor misconduct processes**

Finding	Who can make a complaint	Who can make findings	Potential penalties
Misconduct	A councillor, groups of councillors or the entire council. They must make the complaint within three months of the alleged misconduct.	<ul style="list-style-type: none"> <li>An internal arbiter, appointed by the Principal Councillor Conduct Registrar (the Registrar). The Registrar administers councillor conduct issues across the state under the <i>Local Government Act 2020</i>.</li> <li>A Councillor Conduct Panel, appointed by the Registrar. The Panel is made up of two people, one of whom must be legal practitioner.</li> </ul>	<ul style="list-style-type: none"> <li>directed to apologise</li> <li>suspended for up to a month</li> <li>removed from positions representing the council and chairs of council-delegated committees.</li> <li>directed to attend training or counselling</li> </ul>
Serious misconduct	<p>A councillor, groups of councillors or the entire council. They must make the complaint within 12 months of the alleged misconduct.</p> <p>The Chief Municipal Inspector can also initiate the complaint. Their role is to investigate councils, council electoral matters, and possible breaches of the <i>Local Government Act 2020</i>.</p>	A Councillor Conduct Panel, appointed by the Registrar.	<ul style="list-style-type: none"> <li>reprimanded</li> <li>directed to apologise</li> <li>suspended for up to 12 months</li> <li>made ineligible to be chair of council-delegated committees until the end of council's term</li> <li>barred from mayor or deputy mayor positions for the rest of council term (minimum penalty if finding of serious misconduct made)</li> </ul>
Gross misconduct	Chief Municipal Inspector	Victorian Civil and Administrative Tribunal	<ul style="list-style-type: none"> <li>disqualified from being a councillor for up to 8 years</li> <li>removed from council</li> </ul>

Source: VAGO, from LGV and the *Local Government Act 2020*.

The *Local Government Act 2020* expands the definitions of:

- serious misconduct by a councillor to include sexual harassment of other councillors or council staff
- gross misconduct of a councillor to include 'egregious' sexual harassment but does not define this.

The *Local Government Act 2020* also outlines that the CEO of a council is responsible for managing interactions between staff and councillors.

### **Gender Equality Act 2020**

The *Gender Equality Act 2020* came into effect in February 2020. It aims to improve workplace gender equality in the public sector, including local councils. It introduces new responsibilities for public sector organisations to measure and improve gender equality, including by reducing sexual harassment.

From ...	Councils must complete ...
March 2021	gender impact assessments whenever they make or review a policy, program or service that has a large impact on the public.
June 2021	workplace gender audits every two years to measure progress on seven gender equality indicators, one of which is the prevalence of workplace sexual harassment.
October 2021	<p>Gender Equality Action Plans every four years that outline strategies for promoting gender equality based on the results of their workplace gender audits.</p> <p>progress reports every second year after submitting a Gender Equality Action Plan on any gender equality assessments and progress against their Gender Equality Action Plan.</p>

The *Gender Equality Act 2020* also established the role of Public Sector Gender Equality Commissioner, who will help organisations comply with their new obligations and monitor their progress.

# 2.

## Prevalence of sexual harassment

### Conclusion

Councils do not do enough to understand the prevalence and nature of sexual harassment in their workplaces.

We found that sexual harassment happens in every council, across all roles and levels. More than one in four respondents to our survey reported experiencing it in the last 12 months.

Experiences of sexual harassment differ. Some people are at greater risk, including young women and LGBTQIA+ people. Others face different risks because of where they work within a council. Customer-facing staff are the most likely to be harassed by a member of the public.

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#### This chapter discusses:

- How common is sexual harassment?
  - Experiences of sexual harassment
  - Risk factors
  - Sexual harassment from the public
  - Councillors and sexual harassment
  - Collecting information about sexual harassment
-

## 2.1 How common is sexual harassment?

As outlined in Figure 2A, our survey identified that 28 per cent of surveyed Victorian council employees and 30 per cent of surveyed councillors experienced sexual harassment while at work in the last year.

FIGURE 2A: Prevalence of sexual harassment in local government

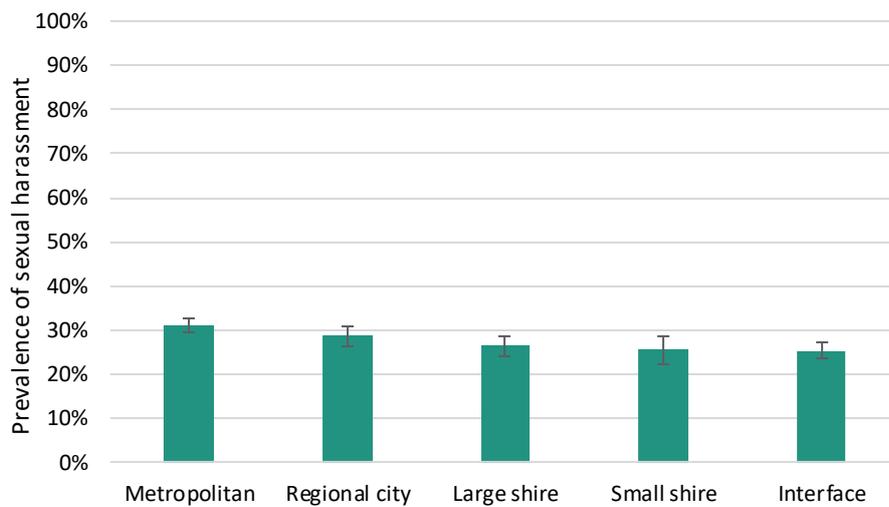


Note: The margin of error for councillors is  $\pm 8$  per cent. There were 237 respondents who did not outline whether they were staff or councillors. Of these, 76 (32 per cent) experienced sexual harassment.

Source: VAGO LG Survey 2020.

As shown in Figure 2B, we did not find a significant difference in the prevalence of sexual harassment at metropolitan, regional and rural councils. Although individual council results varied, this could be due to differences in response rate. Three quarters of councils had a prevalence rate between 20 and 35 per cent.

FIGURE 2B: **Prevalence by council category**



Note: Error bars show the margin of error for each category. See Appendix E for response rates for each category and Appendix F for de-identified individual council results. Interface councils are the municipalities that form a ring around metropolitan Melbourne.

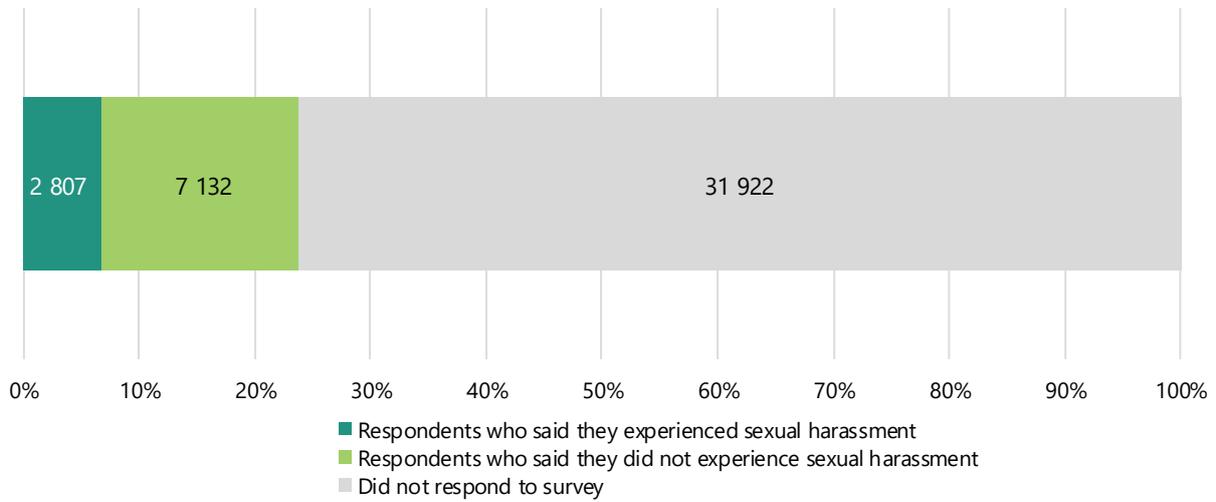
Source: VAGO LG Survey 2020.

## Understanding survey results

Although survey data is our best source for understanding the prevalence of sexual harassment, it is dependent on response rates. People who have experienced it may be more likely to complete an optional survey on the topic.

One way to account for this is to assume that everyone who did not do the survey did not experience sexual harassment. This is unlikely, but it helps us understand the minimum rate of sexual harassment in the sector. Based on our results and response rate, at least 7 per cent of the local government sector have experienced sexual harassment in the past 12 months, as outlined in Figure 2C.

FIGURE 2C: Survey results in sector-wide context



Note: Excludes employees from the four non-participating councils and employees without council email addresses.

Source: VAGO LG Survey 2020.

## Prevalence compared to other sectors

Our survey findings indicate that the rate of sexual harassment in local government is similar to comparable sectors, as outlined in Figure 2D.

FIGURE 2D: Prevalence of sexual harassment in workforce surveys

Sector	Year of survey	Survey specific to sexual harassment?	Prevalence of sexual harassment
Victorian local councils (VAGO LG Survey 2020)	2020	Yes	28%
Victorian public sector (PMS)	2019	No	7%
Victorian public sector (VAGO VPS Survey 2019)	2019	Yes	29%
Public administration and safety (AHRC)	2018	Yes	33%
Retail trade (AHRC)	2018	Yes	42%
All sectors (AHRC)	2018	Yes	33%

Note: PMS and VAGO VPS Survey 2019 results refer to departmental staff only; VPS = Victorian Public Service. AHRC survey results cover a five-year period.

Source: VAGO LG Survey 2020; VPSC PMS Survey 2019; VAGO Survey 2019; AHRC National Survey 2018. See Appendix E for more detail on these surveys.

Comparing the prevalence of sexual harassment across sectors is hard because sample size, design and response rates can impact the results. The 2019 PMS found that 7 per cent of employees in Victorian public sector departments had experienced sexual harassment, which is much lower than our results. However, the PMS is

broader than our survey, asking employees about a range of workplace issues as well as sexual harassment. This means there is less risk that the results over-represent the experience of sexual harassment.

VAGO also surveyed Victorian public sector employees in 2019, asking only about experiences of sexual harassment. This found that 29 per cent of surveyed employees had experienced sexual harassment in the previous 12 months. Our survey of local councils had a similar response rate and survey design, indicating that the prevalence of sexual harassment in local councils is similar to the Victorian public sector.

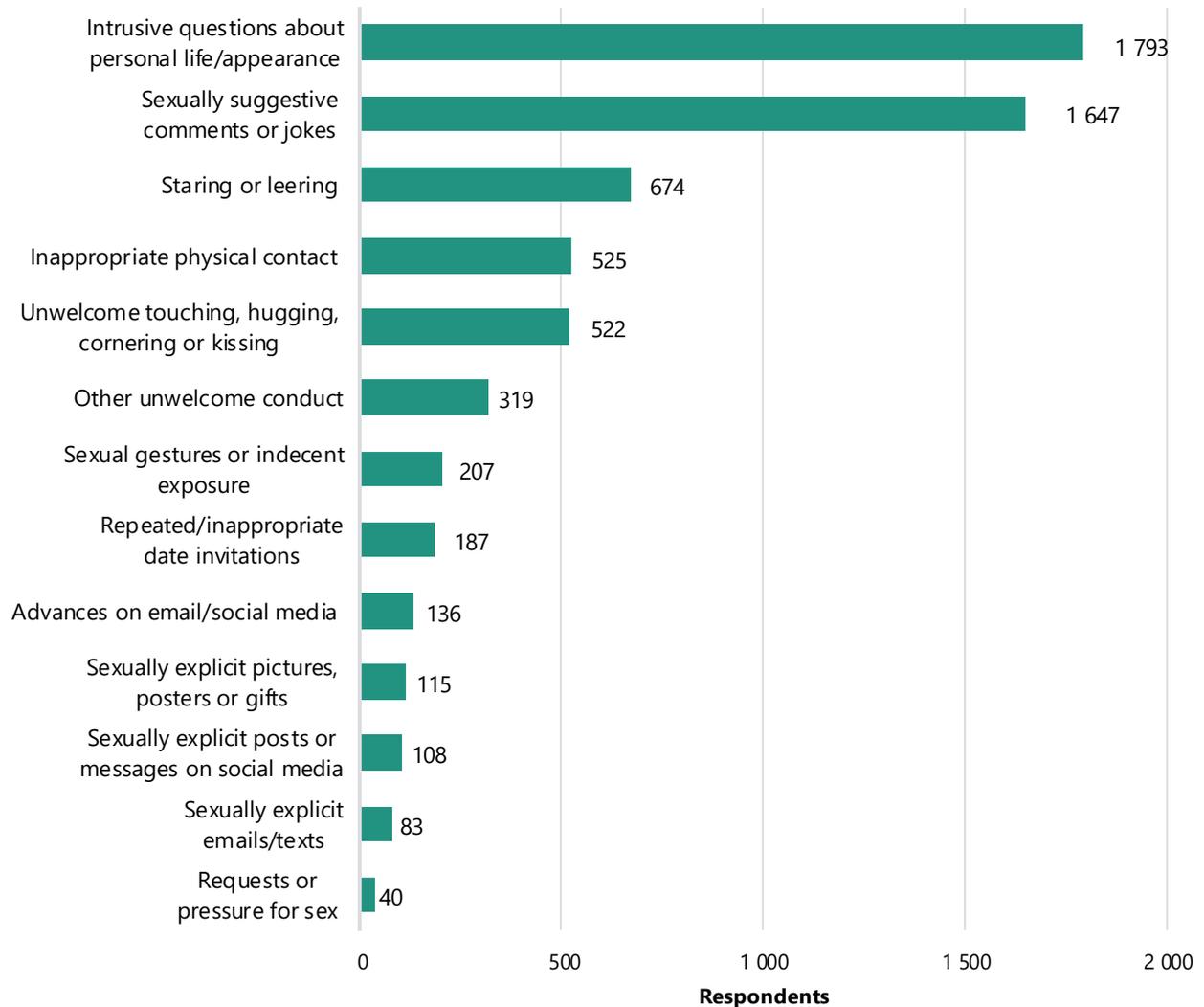
## 2.2 Experiences of sexual harassment

As shown in Figure 2E, the three most common types of sexual harassment experienced by respondents were:

- intrusive questions about their personal life or appearance
- sexually suggestive comments or jokes
- inappropriate staring or leering.

The AHRC National Survey 2018 also found these were the three most common types of workplace sexual harassment.

FIGURE 2E: **Types of sexual harassment experienced by VAGO LG Survey 2020 respondents**

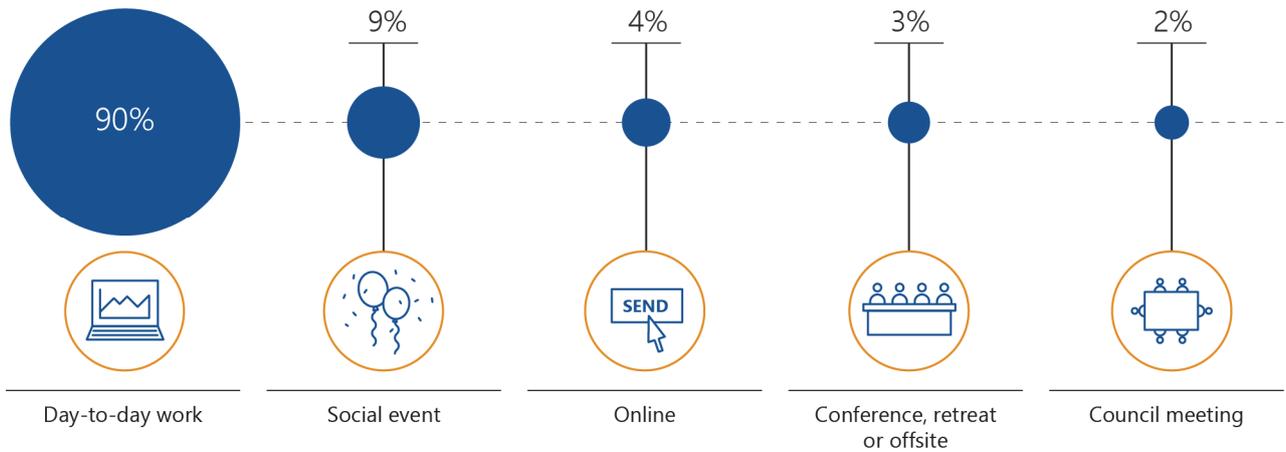


Note: 2 807 respondents said they had experienced at least one of these behaviours at least once in the last 12 months. Respondents could select more than one option.

Source: VAGO LG Survey 2020.

As shown in Figure 2F, most sexual harassment occurred during day-to-day work.

**FIGURE 2F: Where did the sexual harassment occur?**

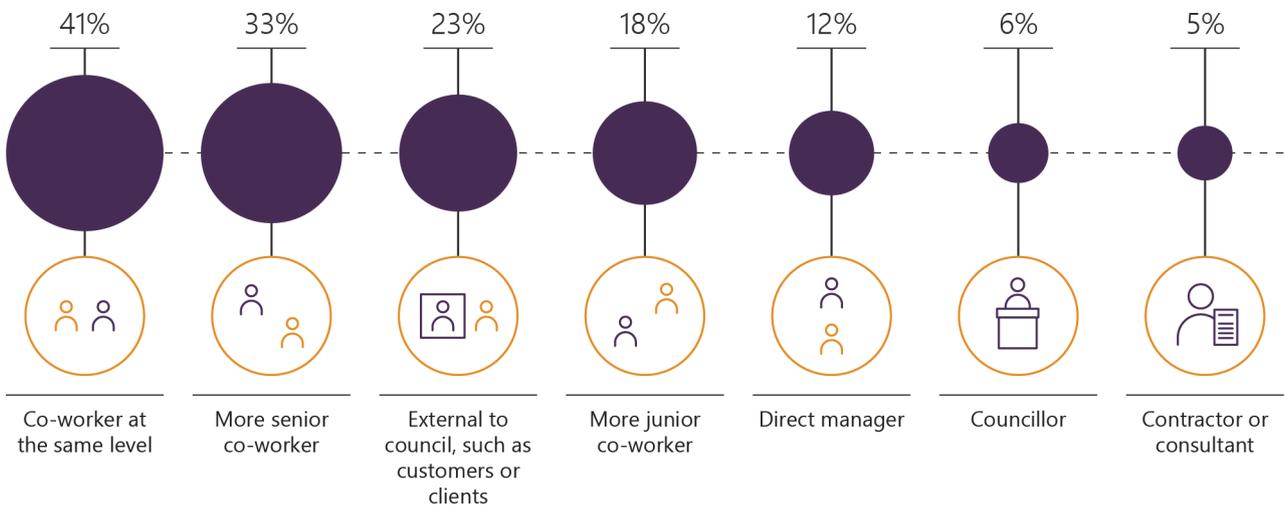


*Note:* Results shown as percentage of respondents who experienced sexual harassment (2 807). Results do not total 100 per cent because respondents could select more than one answer.

*Source:* VAGO LG Survey 2020.

Figure 2G shows that the harasser was most likely to be a co-worker at the same level or a more senior co-worker.

**FIGURE 2G: What best describes your workplace relationship with the person who sexually harassed you?**



*Note:* Results shown as percentage of respondents who experienced sexual harassment (2 807). Results do not total 100 per cent because respondents could select more than one answer.

*Source:* VAGO LG Survey 2020.

## Impacts of harassment

Regardless of the type or context, sexual harassment can have harmful impacts on those who experience it. Forty-five per cent of respondents who experienced sexual harassment said they were negatively impacted. Figure 2H shows the type of impact respondents said they experienced.

FIGURE 2H: **Impacts of harassment**

Impact	Percentage (%)
Impact on mental health	25
Lowered self-esteem and confidence	21
Impact on employment, career or work	4
Deterioration of relationships with partner, family and/or friends	2
Financial loss	1

*Note:* Results are shown as a percentage of respondents who said they experienced sexual harassment (2 807). Fifty-five per cent of respondents said that it had no impact. Results in table do not add up to 45 per cent because respondents could select more than one answer.

*Source:* VAGO LG Survey 2020.

Sexual harassment also affects employees' relationships with their council. Some survey respondents said that their experiences:

- worsened their working relationships
- made them lose respect for their colleagues and their council
- lowered their trust in the management at the council.

## 2.3 Risk factors

Anyone can experience sexual harassment, but some people are at a higher risk. Councils should use this information to better target strategies and communication so that they can give the right level of support to staff and councillors.

Respondents who ...	experienced sexual harassment at a rate of ...	compared to ...
identify as LGBTQIA+	48 per cent	27 per cent of respondents who did not identify as LGBTQIA+
have disability	41 per cent	28 per cent of respondents without disability

“ I left a fantastic position with higher pay and views of promotion for a lower paid position in a council far from home.

—Survey respondent

“ It made me feel like my work was not valued and was not important.

—Survey respondent

“ It makes me hesitate to take meetings alone.

—Survey respondent

“ Incredibly disappointing. I don't want to work with someone like that. The joy goes out of the job.

—Survey respondent

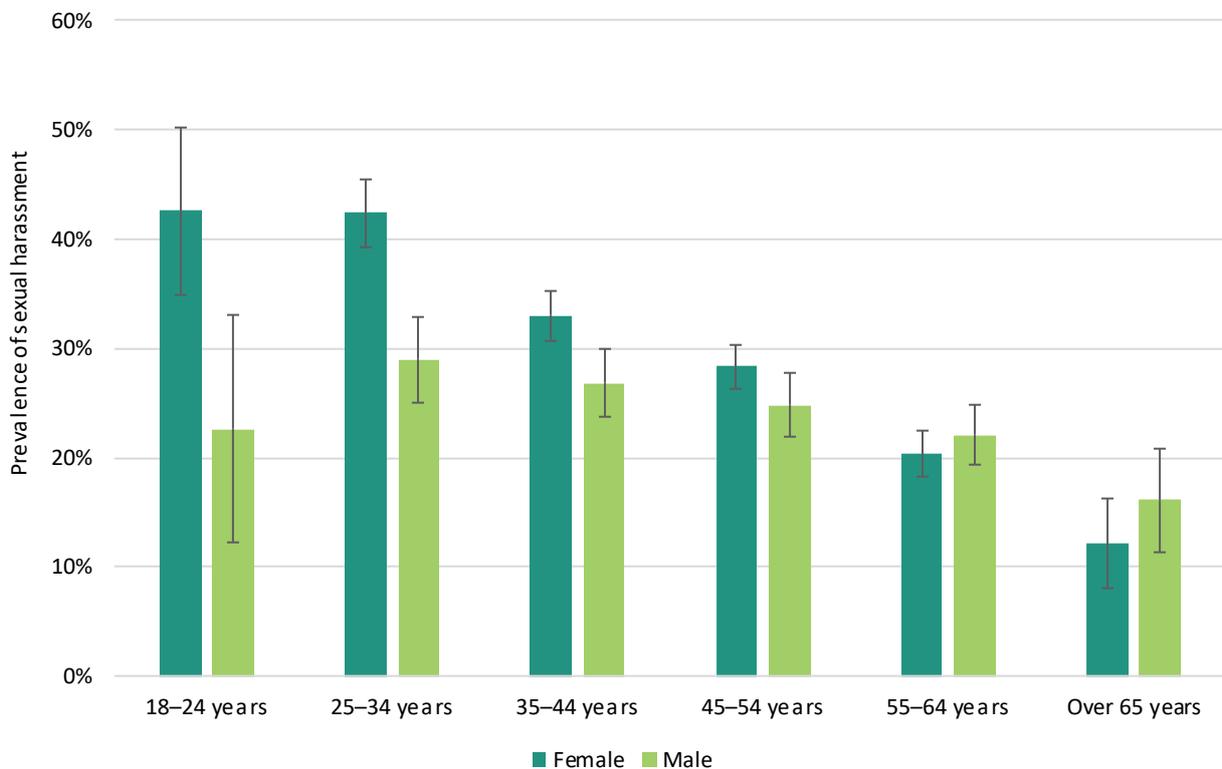
The margin of error for people with disability is  $\pm 7$  per cent and the margin of error for Aboriginal and Torres Strait Islander respondents is  $\pm 14$  per cent

Respondents who ...	experienced sexual harassment at a rate of ...	compared to ...
are aged 18 to 34	38 per cent	26 per cent of respondents aged 35 or over
are Aboriginal and Torres Strait Islander people	37 per cent	28 per cent of non-Aboriginal and Torres Strait Islander people
are women	30 per cent	25 per cent of male respondents

## Gender and sexuality

The AHRC National Survey 2018 found that women are at a higher risk of sexual harassment at work. This is true for local government as well. As shown in Figure 21, our survey found young women experienced sexual harassment at a greater rate than older and male employees. For respondents over the age of 44, there was no statistically significant difference between prevalence for women and men. We received too few responses from respondents with a self-described gender identity to report on levels of harassment for that cohort.

FIGURE 21: Age and gender



Note: 9 800 respondents identified as either male or female. Error bars show the margin of error for each cohort.

Source: VAGO LG Survey 2020.

Women were also more likely to suffer negative consequences from sexual harassment compared with men. Forty-nine per cent of women who experienced sexual harassment said it had an impact on them, compared to 33 per cent of men.

The higher rate experienced by young women reflects the gendered nature of sexual harassment. The VEOHRC Guideline notes that gender inequality is a primary driver of workplace sexual harassment. It creates stereotypes about how women and men should behave that can:

- permit sexist or demeaning language
- make women more vulnerable to harassment
- present a barrier to reporting.

One marker of gender inequality in the workplace is low numbers of women in senior leadership positions compared to men. According to MAV, in 2019, women made up 60 per cent of local government employees but only 40 per cent of organisational leaders. Only one sixth of local council CEOs were women. From March 2021, councils will be required to report on the gender make-up of all levels of the workplace and work to improve gender equality under the *Gender Equality Act 2020*.

Gender inequality and stereotypes can also put LGBTQIA+ individuals at higher risk of sexual harassment. Our survey found that almost half of all LGBTQIA+ respondents had experienced sexual harassment in the last 12 months. The VEOHRC Guideline notes that this harassment can stem from homophobic, transphobic or hyper-masculine work environments.

## 2.4 Sexual harassment from the public

Sexual harassment from members of the public—such as customers, clients or patients—is a significant risk for councils. Figure 2J shows that harassment from the public happens for all groups, but employees in customer-facing roles are at the greatest risk.

FIGURE 2J: Sexual harassment from members of the public

Role of person experiencing harassment	Results (%)
Customer-facing role	45
Councillor	34
Outdoor worker	27
Office/administration	13
<b>All roles</b>	<b>23</b>

Note: Results are shown as a percentage of respondents who experienced sexual harassment (2 807). Respondents could select more than one option. Because there are fewer councillors than staff, the margin of error for councillors is ±8 per cent.

Source: VAGO LG Survey 2020.

Sexual harassment from the public occurs in a variety of contexts, including in aged care, leisure centres and libraries. Survey respondents highlighted that councils do not

“Does anyone really think that a young female like myself feels comfortable telling my team about it? Especially when my team has often talked about how young people these days are sensitive, and about how women are emotional and can't do certain things.

—Survey respondent

“Another manager has made comments about childcare and that women should just stay home and then we wouldn't need to run childcare.

—Survey respondent

“[I was] assaulted by a member of the public and called a [homophobic slur]. In front of the team leader and a new employee, my manager laughed as he said, “How did he know?”

—Survey respondent

always take this type of harassment seriously, and that there is a culture of accepting harassment from the public as part of the job.

FIGURE 2K: **Sexual harassment from members of the public**

“ I was shown pornographic images by a customer after he placed his mobile phone down his pants, took a photo of his penis then displayed the image to me which I did not solicit. I was working in isolation at the time and there were two other males with him. When I reported it to my team leader his exact words were ... 'don't think I'm going to report this to the police.'

—Survey respondent

“ I spend a lot of time out in public alone conducting inspections. In doing so I am frequently wolf-whistled and glared at and feel extremely vulnerable.

—Survey respondent

“ I have experienced naked people at work and weird sexual comments from patrons. I have reported it in line with council procedures however I received no real debrief or response to the incidents. It seems to be simply seen as something we have to deal with in libraries and not worthy of discussion.

—Survey respondent

“ I have had patrons take photographs of me, make overt sexual comments to me and even touch me, sometimes quite inappropriately ... management staff in my sector tend to shrug off any mention of sexual harassment as 'not really that bad' or 'just part of dealing with the public'.

—Survey respondent

Note: We have edited quotes for clarity and brevity.

Source: VAGO LG Survey 2020.

Councils are legally responsible for providing a safe workplace for employees. This includes addressing the risk of sexual harassment from the public. Under the *Equal Opportunity Act 2010* councils must take reasonable and proportionate steps to prevent sexual harassment from occurring.

Except for Ararat, the audited councils could do more to include sexual harassment from third parties in policies and complaint procedures.

VEOHRC recommends ...	However ...
including sexual harassment by third parties in sexual harassment policies.	except for Ararat, the audited councils' sexual harassment policies do not cover third parties as potential harassers.
establishing formal procedures, including response actions such as calling the police, or banning a customer from the workplace.	while the audited councils have formal procedures for dealing with unreasonable customer behaviour, only Ararat's refers to sexual harassment.

The audited councils' unreasonable customer procedures focus on loud, rude and violent behaviour. However, as outlined in Section 2.2, the most common types of sexual harassment are not necessarily loud or violent.

As a result, staff may believe that they cannot challenge common forms of sexual harassment from the public because council procedures do not cover them.

Councils should also take proactive measures to prevent sexual harassment from the public, such as:

- putting up signs stating that sexual harassment is unlawful and will not be tolerated
- providing training to staff on dealing with members of the public
- ensuring customer-facing staff know they can refuse service if they feel uncomfortable or unsafe.

## 2.5 Councillors and sexual harassment

Forty-one councillors across the state, or 30 per cent of councillor respondents, said they had been harassed at work in the last 12 months. Although they experienced sexual harassment at a similar rate to council employees, Figure 2L shows that the context of this harassment was different.

In February 2019, the Victorian branch of ALGWA made a submission to the AHRC National Inquiry. The submission highlighted that female councillors were at risk of sexual harassment from constituents, council staff and fellow councillors, including those from other municipalities.

FIGURE 2L: **Context of sexual harassment—councillors and staff**

Harassment occurred	Councillors (%)	Staff (%)
by a councillor	71	5
during a council meeting	37	2
by a member of the public	34	22

*Note:* Results shown as percentage of respondents who experienced sexual harassment (41 councillors and 2 690 staff). Excludes respondents who preferred not to say their role at council. The margin of error for councillors is ±8 per cent.

*Source:* VAGO LG Survey 2020.

“ I have seen the rape threats and threatened violence against female councillors and I believe that this prevents women going into or staying in these roles.

—Survey respondent

“ As a female councillor ... I have experienced sexual harassment from residents and sexist comments, rather than council employees. There are not any measures to help in this example.

—Survey respondent

“ I will distance myself from local government and never run for election again.

—Survey respondent

Sexual harassment of councillors can contribute to a culture where women may not feel respected and safe. Forty-four per cent of female councillors, compared to 19 per cent of male councillors, reported experiencing sexual harassment. This is a wider gap in prevalence than for employees.

Higher rates of sexual harassment for female councillors present a challenge to addressing their under-representation on local councils. The Victorian Government's Victorian Gender Equality Strategy aims to achieve equal gender representation on local councils by 2025. In the 2016 council elections, only 38 per cent of elected councillors were women, and 13 municipalities elected just one female councillor. This increased to 44 per cent in the October 2020 elections.

Councillors' positions as elected officials mean they face different barriers to reporting sexual harassment, which we discuss further in Section 4.1.

## Councillors and staff

Across the sector, 132 surveyed employees said that a councillor had sexually harassed them in the last 12 months. Survey respondents told us that the power dynamic between staff and councillors makes it difficult to report sexual harassment.

FIGURE 2M: **Power dynamic between councillors and staff**

“ One councillor greeted women in council by kissing them on the lips ... Why would he think this is acceptable? Female council staff were obviously repulsed but could not say anything.

—Survey respondent

“ A certain councillor used to come in and would make very loud comments about my appearance, and call me things like 'hot stuff' ... it was hard when I was in the infancy of my career and it is difficult to be respected outright as you are bottom of the food chain.

—Survey respondent

“ In a previous Council I was in a position where a councillor crossed the line, CEO was advised of the incident but I don't believe it was raised [with council] as CEO's contract was up for renewal.

—Survey respondent

“ Often, with older male councillors, casual innuendo and uninvited touching is tolerated and seems harder to enforce from a conduct point of view within the organisation.

—Survey respondent

Note: We have edited quotes for clarity and brevity.

Source: VAGO LG Survey 2020.

Of the audited councils, only Ararat and Corangamite Shire Council (Corangamite) have sexual harassment policies that explicitly apply to councillors. As the other three councils' policies do not refer to councillors, staff may not know if or how they can report harassment from a councillor.

## 2.6 Collecting information about sexual harassment

To prevent sexual harassment, councils first need to understand how common it is and what is driving it in their workplaces. VEOHRC recommends employers carry out anonymous surveys or review exit interviews to gather this information.

### Understanding prevalence at a council level

The audited councils do not commonly use workplace surveys to identify rates of sexual harassment. Although all have conducted at least one workplace survey in the last five years, only Frankston City Council (Frankston) asked employees about sexual harassment.

In a 2020 survey, Frankston asked employees whether they agreed that their workplace was free from sexual harassment and gender-based discrimination. Eighty-nine per cent of staff agreed. However, the survey did not ask whether employees had experienced sexual harassment. As a result, it does not tell Frankston how common sexual harassment is, and who is most at risk.

In addition, none of the councils categorise complaints in a way that allows them to identify trends in sexual harassment, which we discuss further in Section 4.3.

Understanding the prevalence of sexual harassment will also help councils to meet the requirements of the *Gender Equality Act 2020*. From June 2021, councils must measure and report on seven gender equality indicators every two years. One of these indicators is the prevalence of workplace sexual harassment.

### Understanding prevalence across the sector

Prior to our survey, there was no sector-wide survey in the local government sector about cultural or workforce issues. None of the state agencies or peak bodies overseeing councils run surveys or collect comparative information about sexual harassment or workplace conduct.

Coupled with a lack of workplace surveys at individual councils, it means that the sector has no visibility of the sexual harassment that occurs in its workplaces. Sector-wide data on sexual harassment would allow councils to:

- understand the prevalence of sexual harassment and how well they are preventing and responding to it
- benchmark their performance against other councils
- track performance over time.

# 3.

## Preventing sexual harassment

### Conclusion

Councils are not doing enough to fulfil their positive duty to prevent sexual harassment. Although all audited councils have relevant policies and training, they are not comprehensive enough to be effective.

Audited councils' policies cover broader workplace issues and consequently lack elements that are unique to sexual harassment. Councils also mostly deliver their training through online modules, missing the opportunity to meaningfully engage with staff and challenge outdated views. Across the sector, training misses key groups, including councillors and casual employees.

Council leaders do not regularly promote a culture of respect that does not tolerate sexual harassment. This further undermines the effectiveness of policies and training and leads to reduced employee trust.

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### This chapter discusses:

- Sexual harassment policies
  - Training on sexual harassment
  - Leading a culture of respect
  - Addressing resistance and backlash
-

### 3.1 Sexual harassment policies

A comprehensive sexual harassment policy helps employees understand what sexual harassment is, and where to get help if they witness or experience it.

#### Adequacy of policies

When we began our audit, none of the audited councils had a standalone sexual harassment policy. Instead, they included their policies and procedures on sexual harassment within broader documents about bullying, appropriate workplace behaviour and discrimination.

Except for Ararat, audited councils' policies lack at least one key element from the model policy.

Of the audited councils ...	As a result, there is a risk that ...
only Ararat outlines that their sexual harassment policy also applies to online interactions.	victims of online harassment at the other councils may not know that they are able to use council complaint processes.
Frankston, Latrobe City Council (Latrobe) and Moreland City Council (Moreland) do not explain that sexual harassment is unlawful under the <i>Equal Opportunity Act 2010</i> in their policy.	employees may not be aware that sexual harassment can have legal consequences for the harasser and the council.
Frankston and Latrobe's policies do not clearly describe formal and informal processes for resolving complaints.	parties to a complaint do not have clear expectations of how the council will handle it. Victims or witnesses may not be confident to report sexual harassment.
Frankston lacks a clear policy statement that says that it will not tolerate sexual harassment.	employees may believe that the council may tolerate some level of sexual harassment and will not treat all complaints seriously.
Corangamite does not provide internal and external support options to victims in its policies.	victims may not know their support options when they experience sexual harassment.

In response to this audit, Ararat published a new standalone sexual harassment policy in August 2020 that complies with the model policy.

#### Accessibility and communication

Policies are only useful if employees and councillors can find them. Councils should ensure their employees can readily access information about how their council prevents and responds to sexual harassment.

## Finding sexual harassment policies

Across the sector, 90 per cent of survey respondents said they knew where to find their council's policy on sexual harassment.

All audited councils make their policies accessible:

- on internal networks such as shared drives or intranet pages
- in hard copy at work sites such as depots.

Latrobe, Frankston and Ararat also present their policies in a way that allows a user to search the term 'sexual harassment' on the council intranet or file system and find the relevant policy. This makes it easier for staff and councillors to find relevant information.

Except for Frankston, the audited councils spread information on sexual harassment across at least three documents. This increases the risk that staff will not find the right information about their obligations and rights.

## Communicating about policies

Audited councils do not regularly communicate to staff and councillors about how to find policies on sexual harassment.

Audited councils advised us that their staff learn about policies covering sexual harassment when they commence at the council. Only Frankston routinely communicates to staff and councillors about how and where to find sexual harassment policies. It does this by including information about the policies in its training, which runs every two years. However, as noted in Section 3.2, less than a quarter of survey respondents at Frankston received training at induction.

The 2019 MAV survey found that less than half of surveyed councils actively promote their sexual harassment policies. These results show that a lack of communication about policies is a problem across the sector.

More frequent communication would remind staff of their rights and obligations and ensure they know how to access information to support them if they experience or witness sexual harassment.

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“ After our last survey, CEO and other management provided an update that all sexual harassment should be reported. No information was provided about how to report it specifically or the process for how to report it, it was not very reassuring. —Survey respondent

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## 3.2 Training on sexual harassment

VEOHRC recommends that organisations take positive steps to train all employees on sexual harassment, including all executives, managers and senior staff, investigators and contact officers.

### Reliance on online compliance training

Four of the audited councils include sexual harassment training in a suite of online training modules covering employees' legal rights and obligations. For staff who do not have regular access to council IT platforms, such as staff in depots, these councils provide this training face-to-face. Latrobe provides staff with an online training module on appropriate behaviour, but this does not explicitly refer to sexual harassment.

None of the audited councils deliver in-depth face-to-face training on sexual harassment for all staff. Most staff only ever receive training in an online module format, missing out on the advantages of face-to-face training such as:

- more open discussion about appropriate standards of behaviour in the workplace
- a forum for leaders to reiterate expected values and demonstrate a commitment to preventing sexual harassment.

Online training is common across the sector. In the 2019 MAV survey, 53 per cent of councils said they delivered training specifically on sexual harassment. Forty-six per cent of these councils reported using online training methods. Other councils used internal or external trainers to deliver face-to-face training, such as regional women’s health services or external trainers.

### Training does not reach everyone

Twenty-four per cent of survey respondents said they had never received training on appropriate behaviour or sexual harassment at their council. People who were least likely to have received training on appropriate behaviour were:

- new employees
- councillors
- casual employees.

### Training for new employees

Figure 3A shows that survey respondents who had been at their council under a year were the least likely to have received training. However, there is still a portion of long-term employees who said they had never received training at their current council.

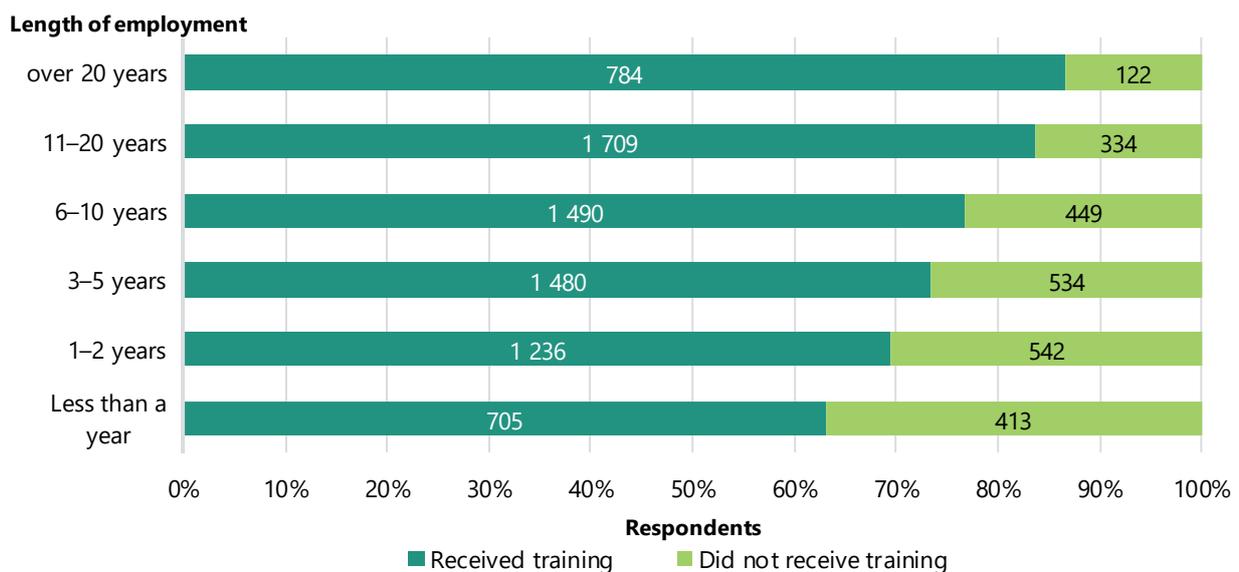
“The only sexual harassment “training” I was given was an online course I had to do between calls on the job. So it was just another box to tick, and the message I am left with is that council really doesn’t take these things very seriously.

—Survey respondent

“The mandated annual re-training on sexual harassment is just a tick box exercise that focuses on the extreme physical assaults, not the day-to-day degrading and demeaning behaviours that need to change.

—Survey respondent

FIGURE 3A: Sexual harassment training by employment length



Note: 9 798 people answered how long they have worked at their council and whether they have received training.  
Source: VAGO LG Survey 2020.

All five audited councils advised us that new starters must complete their online module on appropriate behaviour. Despite this, less than half of respondents reported receiving appropriate behaviour training at induction, as shown in Figure 3B.

FIGURE 3B: **Appropriate behaviour training at induction—audited councils**

Council	Percentage of respondents who completed training at induction (%)
Ararat	36
Corangamite	46
Frankston	23
Latrobe	41
Moreland	41

Source: VAGO LG Survey 2020.

This suggests that new starters either:

- do not receive training on sexual harassment at induction
- do not recall whether training they received as part of induction covered sexual harassment.

### Training for councillors

Councillors are not receiving the same amount of training on sexual harassment as employees. Sixty per cent of councillors said they had not received training on sexual harassment or appropriate behaviour from their council. LGV's *Best practice guide for gender equity in local government* recommends councils integrate training in gender equity, unconscious bias and bystander training into councillors' professional development.

The margin of error for councillors' is ±8 per cent.

Except Latrobe, audited councils require councillors to complete online training modules on sexual harassment. However, councils and stakeholders advised us that it is difficult to ensure councillors complete the training, as they are not contracted employees of the council. For example, at one council, only one councillor completed the training in 2018–19.

For councillors elected in the October 2020 elections and those in future years, the *Local Government Act 2020* outlines that they must receive induction training within their first six months as councillors. Councils are responsible for developing their own training, but in relation to sexual harassment it must include:

- serious and gross misconduct under the *Local Government Act 2020*
- gender equality, diversity and inclusiveness
- standards of conduct for councillors, which includes a prohibition on sexual harassment
- the internal arbitration and Councillor Conduct Panel processes (see Section 1.7)
- any practices, protocols or policies in relation to the interaction between members of council staff and councillors.

## Training for casual employees

Across employment types, casual employees were the least likely to have received training on sexual harassment. Figure 3C shows that employees on contracts were more likely to have received training than casual staff, but they still received it at a lower rate than ongoing employees.

FIGURE 3C: **Training by employment type**

Employment type	Received training at current council (%)
Ongoing (full and part-time)	77
Contract (full and part-time)	73
Casual	59

Note: Results shown as percentage of council employees who answered question on training. Because we received fewer survey responses from casuals, the margin of error for their result is  $\pm 6$  per cent. Casuals may have been less likely to do our survey because they have less access to council computers, and because of stand-downs related to COVID-19.

Source: VAGO LG Survey 2020.

Providing training for casual employees at councils is important, because the nature of their employment may make them less likely to make a complaint when sexual harassment occurs. The AHRC National Survey 2018 found young people in casual work in hospitality and retail were less likely to speak up about sexual harassment because of a fear of losing shifts or employment.

In our survey, casual staff reported experiencing sexual harassment at a lower rate than other employees. However, they were more likely to be:

- women, who experience a higher rate of sexual harassment (Section 2.3)
- in customer-facing roles, facing a risk of harassment from the public (Section 2.4).

Ensuring sexual harassment training reaches casual employees can help to address barriers to reporting and ensure they understand their right to a workplace free of sexual harassment.

### Monitoring training completion

All audited councils provided training attendance records for their online sexual harassment modules. In line with our survey findings, these demonstrated that not all employees had completed training. However, only Ararat's and Frankston's records noted reasons why employees had not done so. For example, Ararat's record noted where employees had not completed training because they were on parental leave.

More detailed training records would allow councils to monitor who has not completed required training.

### Content of training

Training should include enough detail for staff to understand what sexual harassment is and how to respond. Effective training gives employees the skills, knowledge and confidence to apply what they have learnt in the workplace.

“ My personal experience of harassment as a frontline worker included non-consensual touching of my bottom, unwelcome comments and body language and photos stealthily being taken of me without my consent ... As I moved into an administrative role it became clear the council has good policies on sexual harassment, but they were not trickling to the frontline workers.

—Survey respondent

Our survey suggests that training at councils covers the key elements necessary for comprehensive training on sexual harassment. Figure 3D shows that 96 per cent of respondents who received training said it covered acceptable standards of behaviour.

FIGURE 3D: **Coverage of sexual harassment in training content**

Content	Covered content (%)
Acceptable standards of behaviour and what behaviours are inappropriate	96
Where to seek help or support for myself or co-workers	90
What I should do if I witness sexual harassment	88
My council's workplace policy and procedures	88
Options for reporting sexual harassment	85

*Note:* Results shown as percentage of respondents who said they had received training at their current council (7 471).

*Source:* VAGO LG Survey 2020.

However, when we reviewed the training material at audited councils, we found key gaps that make training less comprehensive.

Of the five audited councils ...	This is a gap because ...
none cover bystander interventions in their appropriate behaviour training. Moreland has a separate training course for bystander interventions. However, this is not compulsory for staff and is not specific to sexual harassment.	encouraging bystanders to speak up when they hear or see sexual harassment can be a powerful tool in building a positive and safe workplace.
only Frankston tailors training to reflect council policies and procedures.	training should equip staff to comply with workplace policies and procedures. Tailored training can also provide detail about work settings that are unique to the council or the sector, such as depots and libraries.
Latrobe and Moreland do not provide training for managers on how to respond to complaints of sexual harassment.	managers play a key role in complaint handling and resolution. Eleven per cent of surveyed managers said they would not feel confident in their ability to respond effectively to a complaint of sexual harassment relating to a staff member they supervised.

### 3.3 Leading a culture of respect

Leaders at councils, including CEOs, mayors and councillors, play an important role in creating a respectful workplace that does not tolerate sexual harassment. Comprehensive policies and training are not effective if employees believe council leaders do not actually support them.

#### Modelling respectful behaviour

Leaders build a culture of respect by modelling respectful behaviour, including calling out inappropriate conduct. Survey respondents gave examples of leaders not modelling respectful behaviour, or failing to call out instances of sexual harassment, making staff lose faith that their council takes harassment seriously.

FIGURE 3E: **Leaders not modelling respectful behaviour**

“ I had a manager make inappropriate jokes towards a female colleague during a large meeting. I spoke with them after to let them know how it came across and how it made him look (degrading of women) and he was very apologetic. What concerned me was that his boss made no comment or reaction during the meeting, when it was clear by the murmurs and looks around the room, that most felt it was a joke gone too far.

—Survey respondent

“ I was involved with a conversation which occurred at a manager catch up where the CEO was present. [The conversation was] totally inappropriate and uncomfortable with snickering etc. Not one [executive team] member or CEO said anything.

—Survey respondent

“ I have experienced sexual harassment at another council, where the CEO acted inappropriately to myself and other staff. If the CEO behaves in this way then the tone is set for the rest of the organisation. People are unlikely to report if a decision maker is a perpetrator.

—Survey respondent

“ I believe that within my council, there is a councillor who is known to be inappropriate. It seems that this is known about and discussed within leadership. However, as this councillor is still in his role, it leads me to assume that leadership do not take this issue seriously.

—Survey respondent

Note: We have edited quotes for clarity and brevity.

Source: VAGO LG Survey 2020.

Conversely, strong leadership can make victims feel supported to make complaints of sexual harassment:

“ I approached the CEO and informed him of what had happened and was so very grateful to him of his support of me and of pushing human resources team to follow up on investigation with the ... allegations. The CEO was very supportive and for that I truly thank him.

—Survey respondent

## Communication from leaders

Communication from senior leadership builds awareness of how to report sexual harassment if it occurs. Only 31 per cent of survey respondents said their council communicates to them annually about how they are addressing or preventing sexual harassment.

None of the five audited councils could provide evidence of communication from senior council staff, CEOs or mayors about sexual harassment or appropriate behaviours. However, except Moreland, the councils advised that human resources (HR) representatives send emails to staff about appropriate behaviour prior to staff parties.

Communication prior to social events is useful, as it reiterates to staff that the council expects appropriate workplace behaviour to continue in a social setting. However, communication from leadership should reflect that sexual harassment happens in many different settings. As outlined in Section 2.2, victims of harassment were more likely to experience sexual harassment during their day-to-day work than during social functions.

## Staff confidence

Overall, 77 per cent of survey respondents believed their council takes sexual harassment seriously. However, survey respondents were more likely to believe their council takes sexual harassment seriously if:

- their council sent annual communications about how it addresses sexual harassment (94 per cent)
- they received training at their current council (83 per cent)
- they agreed their council communicated a message of zero tolerance (88 per cent).

## 3.4 Addressing resistance and backlash

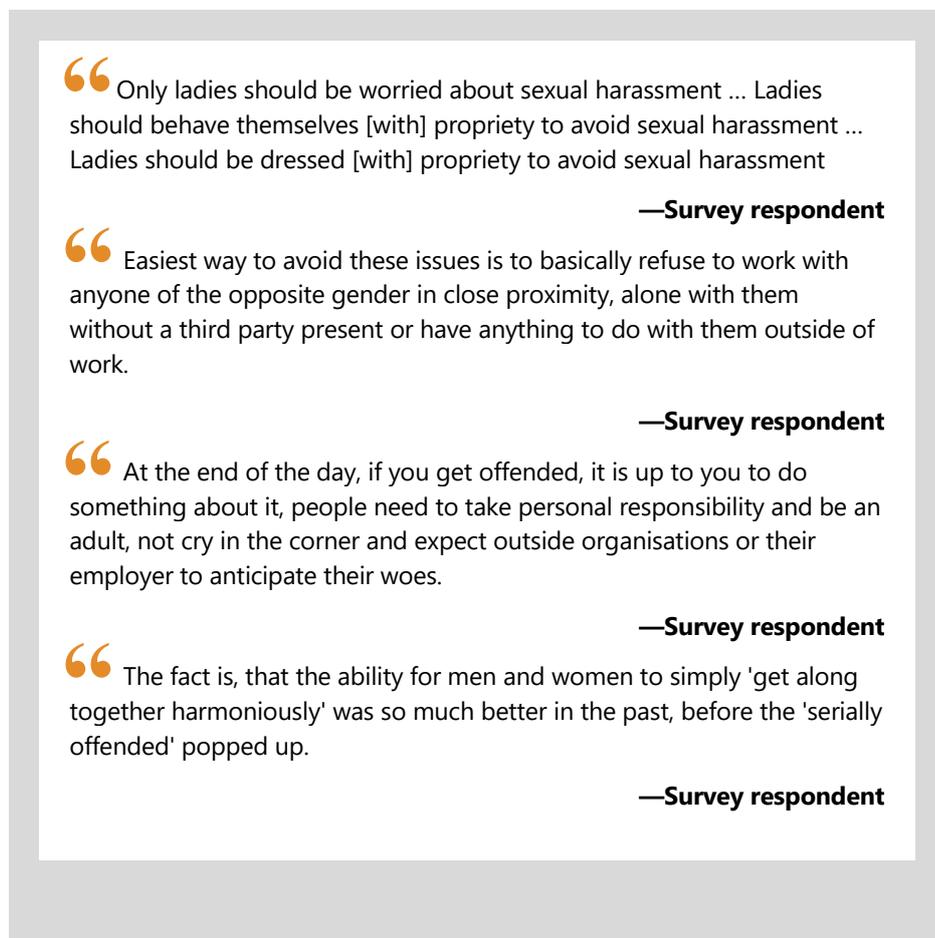
Organisations can face resistance or backlash from staff when acting to prevent sexual harassment. Examples of resistance include:

- denying sexual harassment exists
- undermining, bullying, or punishing people who raise concerns about sexual harassment
- disrupting training sessions or refusing to take part
- openly challenging workplace policies and complaint processes.

We found that 9 per cent of respondents did not consider the behaviours listed in Figure 2E in Section 2.2 to be sexual harassment. Thirteen per cent said they considered some of the behaviours, but not all, sexual harassment.

In addition, some survey respondents expressed views that excused or trivialised sexual harassment or described victims as being too sensitive.

FIGURE 3F: **Resistance and backlash**



Note: We have edited quotes for clarity and brevity.

Source: VAGO LG Survey 2020.

These responses highlight the importance of regular training and communication from senior leadership. As outlined in Sections 3.2 and 3.3, the audited councils do not provide in-depth training or regularly communicate about sexual harassment. This makes it difficult for them to:

- understand the level of resistance or backlash among staff
- create opportunities for safe and open dialogue
- educate staff and councillors about sexual harassment
- counter myths or stereotypes about sexual harassment.

# 4.

## Responding to sexual harassment

### Conclusion

Councils do not always support and encourage staff to report their experiences of sexual harassment. Although they offer formal and informal complaint options, victims rarely use them.

When victims do speak out, councils do not always handle their complaints fairly or effectively. For instance, we found examples of councils excusing inappropriate behaviour when staff raised concerns about it. This reduces staff confidence in complaint handling and makes it challenging for victims to report their experiences.

Audited councils lacked full complaint documentation and failed to record why they had stopped investigating some complaints. This sends a message to victims that councils do not take their experiences seriously. It also puts councils at risk if employees challenge their decisions.

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### This chapter discusses:

- Encouraging complaints
  - Handling complaints
  - Recording complaint information
-

## 4.1 Encouraging complaints

Employers must support victims to make complaints of sexual harassment and ensure staff know how and where to make a complaint.

### Barriers to making complaints

Of survey respondents who experienced sexual harassment, only:

- 2 per cent made a formal complaint to their council
- 10 per cent told their manager
- 19 per cent told a colleague.

We asked respondents who experienced sexual harassment why they did not make a formal complaint. Figure 4A shows their responses.

FIGURE 4A: **Top reasons for not making a formal complaint**

Reason	Percentage of respondents (%)
Did not think the behaviour was serious enough	60
Did not think it would make a difference	25
Believed there would be negative consequences for their reputation or career	24
Did not need to, because the harassment stopped	14
Thought the complaint process would be embarrassing or difficult	13

*Note:* Respondents shown as percentage of those who experienced sexual harassment who did not make a formal complaint (2 753). Results do not total 100 per cent because respondents could select more than one option.

*Source:* VAGO LG Survey 2020.

The most common reason respondents gave for not making a complaint is that they did not think the behaviour was serious enough. However, sexual harassment does not need to be physical, or a criminal offence, to have negative impacts on individuals. In addition, the impacts of frequent low-level sexual harassment can build up over time and make employees feel unsafe at work.

Some respondents told us they were unsure if the unwanted behaviour was serious enough to be considered sexual harassment. This demonstrates the importance of:

- comprehensive training to educate staff on what is and is not sexual harassment (Section 3.2)
- communication from senior leadership that no form of sexual harassment is tolerated (Section 3.3)
- ensuring there are a range of complaint options to suit all forms of harassment (Figure 4B).

“ He was in a director’s position, therefore I didn’t report the numerous verbal advances he was making due to being fearful of not being believed by management and/or potentially losing my job.

—Survey respondent

“ No one wanted to report him because he was our manager and there were fears of reprisals if he kept his job. Also there was no middle ground for reporting, it was either a formal complaint/process or nothing.

—Survey respondent

## Complaint pathways

Coming forward with a complaint of sexual harassment, as a victim or a bystander, can be challenging. The VEOHRC Guideline outlines that organisations should allow for different reporting options, giving complainants the flexibility to choose the pathway that is right for them. Figure 4B outlines five main pathways.

FIGURE 4B: **Complaint pathways**

Complaint pathway	Description	Advantages	Disadvantages
Self-managed	Complainant is supported to resolve the matter on their own, for example, by raising the issue with the other person and asking them to change their behaviour.	<ul style="list-style-type: none"> <li>• Can resolve issues quickly and quietly</li> <li>• Builds respect and preserves working relationships.</li> </ul>	<ul style="list-style-type: none"> <li>• Complainants may not feel confident to use this pathway if there is a power imbalance between them and the harasser</li> <li>• Could result in victimisation or further harm or leave the complainant feeling isolated or unsupported.</li> </ul>
Anonymous	Complainant advises council of incident(s) of sexual harassment without identifying themselves.	<ul style="list-style-type: none"> <li>• Encourages staff to report</li> <li>• Enables systematic recording of incidents</li> <li>• Provides insight around cultural and behavioural issues.</li> </ul>	<ul style="list-style-type: none"> <li>• No outcomes for individual complaints.</li> </ul>
Informal	Parties resolve the issue internally, without a formal investigation. For example, a manager speaks to the person to raise concerns about their behaviour or facilitates a mediation.	<ul style="list-style-type: none"> <li>• Less intimidating than a formal complaint and can resolve issues quickly</li> <li>• Opportunity for education and to focus on working relationships.</li> </ul>	<ul style="list-style-type: none"> <li>• Employers cannot enforce outcomes</li> <li>• Loss of corporate knowledge about process and outcome if not recorded.</li> </ul>
Formal	Dealing with a matter using formal internal processes, with documented investigation.	<ul style="list-style-type: none"> <li>• Outcomes can be documented and enforced</li> <li>• May be necessary if the allegation is serious.</li> </ul>	<ul style="list-style-type: none"> <li>• Can take more time or resources</li> <li>• Can be demoralising for complainant if complaint is dismissed after a long process.</li> </ul>
External	Referring the matter to an external body such as VEOHRC or Victoria Police.	<ul style="list-style-type: none"> <li>• Independent</li> <li>• Outcomes may become legally enforceable.</li> </ul>	<ul style="list-style-type: none"> <li>• May take longer to resolve</li> <li>• Cannot be resolved without participation of the alleged harasser.</li> </ul>

Source: VAGO, based on VEOHRC Guideline.

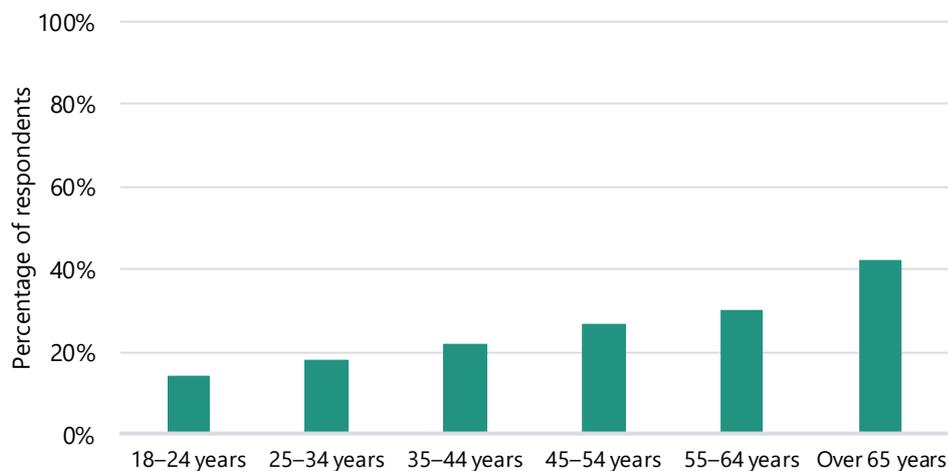
### Self-managed complaints

Across the sector, respondents were most likely to use self-managed complaint pathways. Twenty-four per cent of respondents who experienced sexual harassment said they told the person the behaviour was not okay. However, power dynamics mean this pathway is not equally accessible to all employees. As outlined in Figure 4C, younger respondents were less likely to respond to harassment this way.

“ The harassment had been noticed by many of my colleagues but I laughed it off because I found it humiliating, and I just wanted it to stop. I was also disappointed in myself for not calling it out, but it was always with an audience, and I just found it so embarrassing and I didn’t want to draw any attention to it.

—Survey respondent

**FIGURE 4C: Respondents who experienced sexual harassment who self-managed their complaint by age group**



*Note:* Results shown as percentage of respondents who experienced sexual harassment and provided their age (2 778). Results are comparative for each group, so do not add up to 100 per cent. Self-managed refers to respondents who reacted to experience of sexual harassment by telling the person the behaviour was not okay.  
*Source:* VAGO LG Survey 2020.

### Anonymous complaint channels at audited councils

All five audited councils have informal and formal pathways for sexual harassment complaints, allowing complainants to choose the option that suits them. When we began this audit, none allowed for anonymous complaints.

Although anonymous complaints make a proper investigation unlikely, they can:

- encourage complaints from employees who may not feel comfortable coming forward
- provide an avenue for staff to raise lower-level issues they consider not serious enough for a formal complaint.

As outlined in Figure 4A, 60 per cent of respondents did not think the sexual harassment they experienced was serious enough to make a complaint. Almost one quarter of respondents who did not make a complaint said it was because they were worried about negative consequences for their reputation or career.

Anonymous complaint channels can also provide useful insights on cultural and behavioural issues. In the absence of these channels, staff surveys can provide this insight. However, as discussed in Section 2.6, only Frankston uses staff surveys to ask about sexual harassment.

In response to this audit, Ararat reviewed its Staff Grievances Policy in August 2020 to allow for anonymous complaints.

## Complaint pathways for councillors

ALGWA's submission to the AHRC National Inquiry highlighted that barriers to councillors reporting sexual harassment include:

- fear of political retribution or victimisation
- the mayor being the harasser, as the mayor has a mandated role for resolving complaints
- the lack of impartiality in complaints resolution processes when Councillor Codes of Conduct require councillors to first decide among themselves if there has been a breach of the code.

Another barrier is that councillors lack access to the same informal and independent complaint options as staff. This is because dispute resolution processes in Councillor Codes of Conduct are not always appropriate for sexual harassment.

At the time of our audit, at all audited councils except Ararat, councillors had to first attempt to resolve disputes between themselves before accessing formal options. As outlined in Figure 4A, self-management of complaints is inappropriate in some circumstances. Codes of Conduct for the five audited councils also did not outline that, like employees, councillors can make complaints of sexual harassment to external bodies, such as VEOHRC or Victoria Police.

Councillors were also less likely than employees to know how to find support if they experienced sexual harassment. Twenty-nine per cent of surveyed councillors did not know how to access their council's EAP, compared to just 7 per cent of employees.

The *Local Government Act 2020* introduced new requirements for Councillor Codes of Conduct. These changes mean that councillors will not need to attempt to resolve complaints of sexual harassment between themselves. Councillors can refer any alleged breaches of the standards of conduct, including sexual harassment, to an independent arbiter appointed by the Registrar.

## Knowledge of how to make a complaint

Complaint pathways are only useful if employees know about them. Sixteen per cent of survey respondents across the sector said they did not know how to make a formal complaint of sexual harassment to their council. Knowledge of complaint pathways was not equal across employees. Respondents were less likely to know how to make a formal complaint if they:

- had never received training from their council (31 per cent did not know)
- were aged under 34 years (30 per cent did not know)
- had experienced sexual harassment (23 per cent did not know).

This highlights the importance of providing training to all staff and councillors and including detailed information about how to make a complaint (see Section 3.2).

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“ The process to stop bullying and harassment is too hard. ... Then people wonder why women do not have equal representation in politics. It's because they are sexually harassed and bullied until they can no longer take it.

—Survey respondent

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The margin of error for councillors is  $\pm 8$  per cent.

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## 4.2 Handling complaints

Consistent and fair handling of sexual harassment complaints is critical to meeting a council's positive duty to eliminate sexual harassment. It also:

- increases employees' faith in the system, in turn encouraging more people to report
- helps prevent matters escalating to legal proceedings.

Of the audited councils, three had at least one documented sexual harassment complaint in the past five years. Each of these had elements of fair and effective complaint handling, including that investigators:

- collected witness statements and evidence where possible
- offered support persons and EAP support to respondents and complainants
- provided respondents with details of allegations in writing
- documented the outcomes of complaints.

However, we found gaps in some complaints that undermined these councils' complaint handling.

Gaps	Examples
Not informing complainants of the outcome of their complaint	Only Moreland informed complainants of the outcome of their complaint. It was the only audited council to include this step in its complaint-handling procedures.
Minimising sexual harassment or misunderstanding its legal definition	<p>In one complaint, investigators told a respondent to 'think about putting [themselves] into a situation where claims like this may be made'. This statement shows bias towards the respondent by suggesting the victim did something to encourage the harassment.</p> <p>In another complaint, investigators described a respondent's unwanted advance on social media as 'unprofessional, not unlawful' and noted that the behaviour was only a problem if the recipient 'says no and [they] continue.' This is not accurate. Sexual harassment is unlawful under the <i>Equal Opportunity Act 2010</i> even if it does not amount to a criminal offence, and it does not need to be repeated.</p>

Using language that excuses or trivialises sexual harassment reduces staff confidence in complaint handling. As outlined in Section 4.1, the second most common reason respondents gave for not making a complaint was that they did not think it would make a difference.

Survey responses from across the sector illustrate that victims can lose faith in their councils when managers or co-workers excuse inappropriate behaviour.

FIGURE 4D: **Excusing behaviour**

“ A senior officer made an extremely inappropriate comment and gesture to me that made me feel incredibly uncomfortable ... After thinking it through over the following days, I told a few people who all responded, 'That's just what he's like'.

—Survey respondent

“ I have observed less extreme behaviours being acknowledged but not called out or addressed, for example male councillors calling female staff “dear, sweetie, legs, good lookin’”, touching their back guiding them into rooms. [This is] excused because they are old men from that generation, and they don't mean anything by it.

—Survey respondent

“ When I told a work colleague this person had made these comments, they said it was well known that this person talked to women like this and had done so for many years! This doesn't give you much hope when its well-known and still nothing happens to these offenders.

—Survey respondent

Source: VAGO LG Survey 2020.

## Reluctant complainants

As outlined in Section 4.1, a fear of negative consequences is a barrier for victims making complaints. Councils can begin to address this barrier by advising victims that they will support them through a formal complaint process.

In the complaints we reviewed, there was no evidence that audited councils encouraged reluctant complainants to continue with their complaint. In one case, a complainant said they were reluctant to proceed because they 'did not want to cause any trouble'. Although council HR staff then met with the alleged harasser, there is no evidence that they formally investigated the complaint.

None of the audited councils' complaint handling procedures consider situations where complainants are reluctant to participate in a formal process. This is partly due to the broadness of their procedures. They apply to a range of inappropriate behaviours, many of which do not have the same barrier to reporting. As part of effective complaint handling, councils should advise all complainants that they have a right to make a formal complaint and that the council will support them to do so.

## Criminal matters

Some types of sexual harassment may also be criminal offences, such as stalking, sexual assault and indecent exposure. The VEOHRC Guideline notes that a complainant has the right to decide whether to report criminal behaviour to the police and that employers should support them to do so.

Complaint handling procedures for all audited councils note that councils should refer potential criminal offences to Victoria Police. Moreland's procedure makes this compulsory. For the other four, investigators have discretion over whether to report, but their procedures offer no guidance on how to support victims who are reluctant to pursue their complaint. This is another example where broad inappropriate behaviour policies fail to reflect the different dynamics of sexual harassment.

### 4.3 Recording complaint information

Councils must keep accurate records of sexual harassment complaints for:

- external reviewers or courts if a party challenges the outcome of a complaint
- compliance with the *Public Records Act 1973*.

None of the sexual harassment complaints we reviewed at audited councils had complete files. Examples of missing documentation included:

- written responses from respondents
- records of meetings with respondents, including one to caution an employee on their behaviour
- summaries of investigation findings.

### Documenting decisions not to investigate

None of the audited councils documented their rationale when they stopped investigating a complaint. This is a critical gap, as it means future reviewers or courts cannot determine if the council's decision not to investigate was appropriate.

These gaps in documentation also cast doubt over whether audited councils record all the sexual harassment complaints they receive. In one instance, an audited council briefly noted on an employee's personal development plan that there had been two complaints against the employee. The council later explained to us that the complaints were from members of the public concerned about the employee's inappropriate behaviour towards women. The council did not record details of these complaints or investigate them.

### Systems for recording complaints

Four of the five audited councils have a centralised register for complaints. Corangamite is developing one in response to this audit.

Recording high-level complaint information in a centralised register allows councils to:

- track complaints over time
- identify emerging issues in different units within the council
- address underlying risk factors for sexual harassment
- ensure important information is available for future HR staff.

Even though they had complaint registers, HR departments at audited councils had difficulty providing context for some complaints, because they had not worked at the council when they occurred. Changes in HR staff can lead to a loss of knowledge

about the context of past sexual harassment complaints. A more detailed centralised register, along with complete documentation of all complaints, allows HR personnel to understand the history of complaints at the council.

## Categorising complaints

Complaint registers are most useful if they categorise complaints according to types of behaviour or misconduct. Without this, it is difficult to use registers to identify trends in workplace behaviour.

Except for Corangamite, the audited councils could not readily quantify the number of sexual harassment complaints they had received over the last five years. For example, Latrobe initially provided us with four complaints, only two of which were for sexual harassment. We later identified a further two complaints of sexual harassment on their register.

Frankston, Latrobe and Moreland categorise complaints in their register, but do not use sexual harassment as a category. Instead, they file complaints of sexual harassment under broader labels such as 'conduct' or 'harassment'.

Although Corangamite did not have a centralised register, HR staff could identify the number of complaints because their department was small and had not changed over the period we examined.

## Security of complaint documentation

Complaint documentation contains sensitive and confidential information about employees. We found two instances where audited councils did not keep this documentation secure:

- A previous HR employee at one council stored all complaint documentation on a USB device only, against council record management policy. The employee then took the device with them when they left the council. Although HR staff later retrieved the device, they cannot be certain that the employee did not share or duplicate the information.
- At another council, a 2019 internal audit found that filing cabinets full of employee information were not secure because the HR department kept the keys in a cup in their workspace. In response to the audit, the council provided keys for individual HR employees.

In both instances, the councils identified and corrected issues in information security. However, these examples highlight how individual actions can undermine policies and controls around keeping information confidential.

## APPENDIX A

# Submissions and comments

We have consulted with the Department of Jobs, Precincts and Regions, Ararat, Corangamite, Frankston, Latrobe and Moreland, and we considered their views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to those agencies and asked for their submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

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### Responses were received as follows:

Department of Jobs, Precincts and Regions .....	55
Ararat .....	58
Corangamite.....	62
Frankston.....	66
Latrobe .....	70
Moreland .....	74

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Department of Jobs, Precincts and Regions

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Ref: BSEC-2-20-8117  
File:

Mr Andrew Greaves  
Auditor-General  
Victorian Auditor-General's Office  
Level 31/35 Collins Street  
MELBOURNE VIC 3000  
[andrew.greaves@audit.vic.gov.au](mailto:andrew.greaves@audit.vic.gov.au)

Dear Mr Greaves

Thank you for your letter of 6 November 2020 regarding the VAGO Proposed Report - Sexual Harassment in Local Government.

I am pleased to receive the proposed report and note the important findings contained within it regarding sexual harassment in local government.

The Department of Jobs, Precincts and Regions appreciates the work your office has put into conducting this audit. The department accepts recommendation 4 of the report which proposes that Local Government Victoria coordinate discussions with relevant state government authorities, local government peak bodies and councils about the development of a regular data collection methodology to measure the sector-wide prevalence and nature of sexual harassment. Our formal response to the recommendation is enclosed.

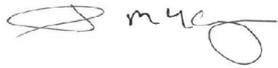
We will commence discussions with relevant state and local government agencies by March 2021 on the development of a response to recommendation 4. By June 2021, discussions will occur with the advisory committee on gender equality matters to be established by the Minister for Local Government. By December 2021, we will complete development of the action plan which will be implemented by June 2023.



Response provided by the Associate Secretary, Department of Jobs, Precincts  
and Regions—*continued*

If you require further information, please contact Colin Morrison, Acting Executive  
Director, Local Government Victoria, of the Department of Jobs, Precincts and Regions by  
telephone on 0413 276 911.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P McKay', written in a cursive style.

**Penelope McKay**  
Associate Secretary

Date: 17/11/2020

Enc: DJPR Response Action Plan and Timelines

OFFICIAL

Department of Jobs, Precincts and Regions action plan to address recommendation from report into sexual harassment in local government

No	VAGO recommendation	Action	Completion date
4	Local Government Victoria (Department of Jobs, Precincts and Regions) coordinate discussions with relevant state government authorities, local government peak bodies and councils about the development of a regular data collection methodology to measure the sector-wide prevalence and nature of sexual harassment.	<p>Discussion with relevant state and local government agencies on the development of a response to recommendation 4;</p> <p>Discussion of recommendation 4 with the advisory committee on gender equality matters to be established by the Minister for Local Government;</p> <p>Complete development of the action plan to support recommendation 4; and</p> <p>Complete implementation of the action plan.</p>	<p>By Mar 2021</p> <p>By June 2021</p> <p>By Dec 2021</p> <p>By June 2023</p>

## Response provided by the Chief Executive Officer, Ararat

Contact: Dr Tim Harrison  
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Your Ref: 34335 21



### Ararat Rural City

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20 November 2020

Mr Andrew Greaves  
Auditor- General  
Victorian Auditor-General's Office  
Level 31/35 Collins Street  
**Melbourne Vic 3000**

Dear Auditor-General,

Re: Audit Report on Sexual Harassment in Local Government

Thank you for your letter dated 6 November 2020 inviting submissions and comments in relation to the recommendations contained in the Audit Report on *Sexual Harassment in Local Government*.

It is pleasing to note that Council officers have engaged proactively with your audit team to ensure that discussions were beneficial to both parties and that timeframes and milestones were met.

Council appreciated the opportunity to be a part of this audit and has identified and implemented a number of policy updates and organisational changes. The actions identified from the recommendations through the audit process are outlined in the attached Action Plan.

Council is committed to being a leader of change and recognises that by embedding a zero tolerance to sexual harassment within our organisation, we can also influence change across the community.

Council will continue to focus on ensuring that the actions identified in relation to the prevention of sexual harassment both internally and externally are regularly reviewed and implemented.

Thank you for the opportunity to respond to the report and Council welcomes your continued feedback as we implement the actions from the recommendations.

If you have any further questions, please contact myself or Jenny Woolcock on 5355 0261 or email [jwoolcock@ararat.vic.gov.au](mailto:jwoolcock@ararat.vic.gov.au)

Yours sincerely,

**Dr Tim Harrison**  
Chief Executive Officer

Our communities, Our opportunities



Response provided by the Chief Executive Officer, Ararat—continued

Ararat Rural City Council action plan to address recommendations from Audit Report – Sexual Harassment in Local Government

No.	VAGO recommendation	Action	Completion date
1	Use findings from the Victorian Auditor-General's 2020 Sexual Harassment in Local Government survey to identify and act on risk factors for council employees and workplaces (see Section 2.3).	Council is currently developing a comprehensive Equality, Diversity and Inclusion Policy.  Further measures will be included in the 6-monthly OHS Risk Assessment form to address potential risks relating to gender, race, disability and sexuality.	February 2021  30 June 2021
2	Collect information about the prevalence and nature of sexual harassment at least once every two years by: • conducting workplace surveys • reviewing complaints information (see Section 2.6).	To identify the prevalence of sexual harassment in the workplace Council will develop an employee survey that includes a question regarding individual employee experiences.  The data from the survey will be used to track performance over time and identify trends. It is proposed that this survey will be carried out every two years.  Council have developed a Complaints Register which clearly categorises and captures the type and details of all complaints, including sexual harassment for ex-employees.  A new Human Resource Management System will capture these complaints for current employees utilising the same categories.	30 June 2021  19 October 2020  30 March 2021
3	Address the risk of sexual harassment by members of the public by: • ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public • regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public (see Section 2.4).	Council adopted the Prevention of Sexual Harassment Policy (Councillors), and a Prevention of Sexual Harassment in the Workplace Policy (employees) was also approved which explicitly include client behaviour towards Councillors, staff and the public encountered in Council building and facilities.  The Complaints Handling Policy was reviewed to include third parties to Council operations and reference to the Prevention of Sexual Harassment Policy.  In addition to Council's annual online compliance training, Council will arrange specific training around the prevention of sexual harassment every two years for Councillors and employees.  The Prevention of Sexual Harassment Policy (Council) is available on Council's website. It was also placed on Council's 'Have your say' section of the website for public comment prior to its endorsement.  Council is arranged for posters to be displayed throughout all Council facilities that promote a zero tolerance to any form of sexual harassment.	15 September 2020 and 18 August 2020  27 August 2020  March 2021 and March 2023  10 September 2020  29 January 2021

Response provided by the Chief Executive Officer, Ararat—continued

4	<p>Introduce a standalone sexual harassment policy that:</p> <ul style="list-style-type: none"> <li>aligns with the Victorian Equal Opportunity and Human Rights Commission's Guideline: Preventing and responding to workplace sexual harassment, Complying with the Equal Opportunity Act 2010 and the Victorian Public Sector Commission's Sexual Harassment Model Policy</li> <li>includes clear links to relevant council policies and procedures</li> <li>covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public</li> <li>is searchable on council intranet sites or cloud software, and available in hard copy to all staff (see Section 3.1).</li> </ul>	<p>A Prevention of Sexual Harassment in the Workplace Policy was developed that applies to Council staff, clients and other third parties. This policy was endorsed by the Consultative Committee and the Safety Committee prior to being approved by the Chief Executive Officer.</p> <p>Further Council adopted a Prevention of Sexual Harassment Policy specifically for Council, the Councillors and its clients.</p> <p>Both policies were based on the Victorian Public Sector Commission's Sexual Harassment Model Policy. These policies identify the related policies, procedures and legislation.</p> <p>All Administration and Council Policies are available electronically. Councillors have access to Council policies electronically.</p> <p>Hardcopies have been provided in staffrooms at Councils two main offices for those who do not have access to devices. The location of the hardcopy policies have been posted throughout Council buildings.</p>	<p>18 August 2020</p> <p>15 September 2020</p> <p>10 September 2020</p>
5	<p>Introduce mandatory training on sexual harassment, or improve existing training, so that at a minimum it:</p> <ul style="list-style-type: none"> <li>in addition to online modules, includes face-to-face or live online sessions for all staff and councillors at least once every two years</li> <li>covers safe strategies for bystander interventions</li> <li>is tailored to the council's policies, procedures and workplace risk factors (see Section 3.2).</li> </ul>	<p>In addition to Council's annual online compliance training, Council will arrange specific training in relation to the prevention of sexual harassment and active bystander every two years for employees.</p> <p>Also, Council has incorporated two prevention of sexual harassment training and separate active bystander training for Councillors in its Councillor training schedule for the 2020-2024 Council term.</p> <p>New staff members must complete mandatory induction training on commencement, which includes all policies.</p>	<p>March 2021 March 2023</p> <p>Within 6 weeks of employee commencing</p>
6	<p>Communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment (see Section 3.3).</p>	<p>The Councillor Code of Conduct details the principles of behaviours which Councillors must adhere to. A review of the Councillor Code of Conduct is currently being undertaken. As part of the review a community engagement process will be undertaken.</p> <p>Staff Code of Conduct details respectful behaviour extensively and the need for supervisors/managers to lead by example.</p> <p>The Prevention of Sexual Harassment in the Workplace Policy will be incorporated into the annual review process to ensure regular communication of the policy.</p>	<p>24 February 2021</p> <p>30 June 2021</p> <p>30 June 2021</p>
7	<p>Encourage reporting of inappropriate behaviour by:</p> <ul style="list-style-type: none"> <li>promoting formal and informal complaint channels</li> <li>allowing for anonymous complaints (see Section 4.1)</li> </ul>	<p>Council reviewed its Staff Grievances Policy to incorporate informal, formal or anonymous complaint reporting.</p> <p>The Prevention of Sexual Harassment in the Workplace Policy informs staff of the process to making an informal, formal or anonymous complaint.</p>	<p>18 August 2020</p>

Response provided by the Chief Executive Officer, Ararat—continued

8	<p>Improve record keeping of sexual harassment complaints by:</p> <ul style="list-style-type: none"> <li>• keeping complete records of all interactions relating to a complaint</li> <li>• documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers (see Section 4.2).</li> </ul>	<p>A complaint reporting register was created in excel which has the ability to sort entries into the type of incident. All ex-employee data is contained within this register.</p> <p>A new Human Resource Management System will capture these complaints for current employees utilising the same categories.</p> <p>A Workplace Investigations Guideline was developed and approved by the CEO for the receipt and investigation of any reports of sexual harassment. These were developed referencing the <i>IBAC Investigations Guide</i>.</p>	<p>19 October 2020</p> <p>30 March 2021</p> <p>20 October 2020</p>
9	<p>Review complaint procedures to ensure they include:</p> <ul style="list-style-type: none"> <li>• a requirement to inform the complainant of the outcome of the complaint</li> <li>• guidance on how investigators can support reluctant complainants (see Section 4.2).</li> </ul>	<p>The Complaints Handling Policy was reviewed to include a requirement that the decision-maker will respond to the complainant and respondent with a clear decision.</p> <p>Council's Workplace Investigations Guideline details how to support reluctant complainants. This was developed referencing the <i>IBAC Investigations Guide</i>.</p>	<p>27 August 2020</p> <p>20 October 2020</p>
10	<p>Ensure councillors receive training on sexual harassment at least twice per council term (see Section 3.2).</p>	<p>In addition to Council's annual online training, Council has incorporated two Prevention of Sexual Harassment training sessions for Councillors in its Councillor training schedule for the 2020-2024 Council term.</p>	<p>March 2021 and March 2023</p>
11	<p>Ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including:</p> <ul style="list-style-type: none"> <li>• the Council's Employee Assistance Program</li> <li>• Councillor Code of Conduct dispute resolution processes</li> <li>• external complaint bodies (see Section 4.1).</li> </ul>	<p>Councillors have access to Council's Employee Assistance Program as well as staff members. Councillors have been provided with the relevant information and contact details for this program.</p> <p>Councillors were forwarded a copy of the current Councillor Code of Conduct, which outlines the dispute resolution procedures and complaints process.</p> <p>The Councillor Code of Conduct is currently being reviewed and will include the provisions prescribed in the <i>Local Government Act 2020</i>.</p> <p>The Council's Prevention of Sexual Harassment Policy outlines external support and complaint agencies. These include the Equal Opportunity and Human Rights Commission, VCAT and Victoria Police.</p>	<p>11 November 2020</p> <p>6 November 2020</p> <p>24 February 2021</p> <p>15 September 2020</p>



Mr Andrew Greaves  
Auditor General  
Victorian Auditor-General's Office  
Level 31/35 Collins Street  
**Melbourne Vic 3000**

Dear Mr Greaves

**Re: Performance Audit Report - Sexual Harassment in Local Government**

Thank you for your letter dated 6 November 2020, enclosing the proposed report on sexual harassment in local government, and for the opportunity to provide submissions or comments.

Corangamite Shire Council is very keen to strengthen its organisational culture to ensure sexual harassment is not tolerated. The recommendations contained in the report are accepted.

Enclosed with this letter are Council's responses and proposed actions in relation to each of the recommendations. We will present the Report and Council's Action Plan to Council's Audit and Risk Committee at its December meeting. The Committee will monitor progress against each of the recommendations.

We would like to thank the Audit Team for their constructive and collaborative approach in undertaking this audit.

Yours sincerely

Andrew Mason  
**Chief Executive Officer**

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Response provided by the Chief Executive Officer, Corangamite—*continued*

No.	VAGO recommendation	Action	Who	Completion Date
1.	Use findings from the VAGO 2020 <i>Sexual Harassment in Local Government</i> survey to identify and act on risk factors for council employees and workplaces	Results of the survey will be used to inform future policy development, particularly in making them more accessible and providing greater clarity on how to report.	CEO	Ongoing
2.	Collect information about the prevalence and nature of sexual harassment at least once every two years by: <ul style="list-style-type: none"> <li>• Conducting workplace surveys</li> <li>• Reviewing complaints information</li> </ul>	The biennial employee engagement survey will include specific questions about staffs' experience of sexual harassment and other inappropriate behaviours.	MHRR	December 2021
3.	Address the risk of sexual harassment by members of the public by: <ul style="list-style-type: none"> <li>• Ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public</li> <li>• Regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public</li> </ul>	The next policy review will address these factors. Staff will also be advised how they can report instances of sexual harassment. Councils Customer Service Charter will also be reviewed to incorporate the recommendation.	MHRR MGE	November 2022
5.	Introduce a standalone sexual harassment policy that: <ul style="list-style-type: none"> <li>- aligns with the Victorian Equal Opportunity and Human Rights Commission's <i>Guideline: Preventing and responding to workplace sexual harassment, Complying with the Equal Opportunity Act 2010</i> and the Victorian Public Sector Commission's <i>Sexual Harassment Model Policy</i></li> <li>• includes clear links to relevant council policies and procedures</li> <li>• covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public</li> <li>• is searchable on council intranet sites or cloud software, and is available in hard copy to all staff</li> </ul>	During the next cyclical review of the Equal Opportunity Policy, sexual harassment will be included in a dedicated policy aligned with the Commission's Guideline.  We will investigate, but currently the intranet does not have the capacity for searchable docs and Council has limited resources for upgrades. Policies are also available on Council's EDMS which does have the ability to search on document content.	MHRR	November 2022

Response provided by the Chief Executive Officer, Corangamite—*continued*

No.	VAGO recommendation	Action	Who	Completion Date
6.	<p>Introduce mandatory training on sexual harassment, or improve existing training, so that at a minimum it:</p> <ul style="list-style-type: none"> <li>• in addition to online modules, includes face-to-face or live online sessions for all staff and councillors at least once every two years</li> <li>• covers safe strategies for bystander interventions</li> <li>• is tailored to the council's policies, procedures and workplace risk factors.</li> </ul>	<p>Council currently provides annual online training for staff and councillors. We will introduce biennial face-to-face training to complement the current online training, covering the minimum requirements as recommended</p>	MHRR	July 2022
7.	<p>Communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment.</p>	<p>Staff are regularly reminded of their obligations with regard to respectful behavior. This will be strengthened to incorporate sexual harassment. The Council and Employee Codes of Conduct require respectful behavior of all individuals, including leaders. The Employee Code of Conduct prohibits sexual harassment. Council will include similar clauses when reviewing the Councillor Code of Conduct</p>	CEO	December 2020
8.	<p>Encourage reporting of inappropriate behaviour by:</p> <ul style="list-style-type: none"> <li>• promoting formal and informal complaint channels</li> <li>• allowing for anonymous complaints</li> </ul>	<p>At its next review, the Complaints, Grievance and Dispute Procedure will provide for anonymous complaints.</p> <p>The staff newsletter will promote the Procedure and also formal and informal complaint channels.</p>	MHRR CEO	July 2022 Ongoing
9.	<p>Improve record keeping of sexual harassment complaints by:</p> <ul style="list-style-type: none"> <li>• keeping complete records of all interactions relating to a complaint</li> <li>• documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers</li> </ul>	<p>Council has commenced the implementation of a register for complaints and also a process for recording for capturing complaints from members of the public.</p>	MHRR	December 2020
10.	<p>Review complaint procedures to ensure they include:</p> <ul style="list-style-type: none"> <li>• a requirement to inform the complainant of the outcome of the complaint</li> <li>• guidance on how investigators can support reluctant complainants</li> </ul>	<p>Council will incorporate the recommendation in in next review of the Procedure</p>	MHRR	July 2022

Response provided by the Chief Executive Officer, Corangamite—*continued*

No.	VAGO recommendation	Action	Who	Completion Date
11.	Ensure councillors receive training on sexual harassment at least twice per council term	Councillors currently complete online sexual harassment training annually.	CEO	June 2021
12.	Ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including: <ul style="list-style-type: none"> <li>• the council's Employee Assistance Program</li> <li>• Councillor Code of Conduct dispute resolution processes</li> <li>• external complaint bodies</li> </ul>	CEO to discuss as part of review of Councilors Code of Conduct. The options will be included in the Code as well.	CEO	February 2021



**Frankston City Council**

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20 November 2020

M Andrew Greaves  
 Auditor General  
 Victorian Auditor-Generals Office  
 Level 31 / 35 Collins St  
 MELBOURNE VIC 3000

Dear Mr Greaves

**PERFORMANCE AUDIT REPORT - SEXUAL HARASSMENT IN LOCAL GOVERNMENT**

I am writing in response to your letter of 6 November 2020 in which you provided the proposed report on Sexual Harassment in Local Government. Frankston City Council takes sexual harassment seriously and we welcome your findings and feedback on how we can improve our approach to dealing with Sexual Harassment in our organisation.

I have discussed the results with my Manager People & Culture, and while we are surprised by the results we are committed to implementing stronger actions to both prevent sexual harassment and to deal with complaints in an appropriate manner. The lack of complaints and the positive results from our most recent staff survey (June 2020) have led us to believe that there were performing well in this area, however your data indicates otherwise.

In response to your survey, we are committed to taking the following actions:

Item	VAGO recommendation	Frankston City Council's response
1.	Use findings from the Victorian Auditor-General's 2020 Sexual Harassment in Local Government survey to identify and act on risk factors for council employees and workplaces.	Council is committed to reducing the risk factors for sexual harassment in the workplace
2.	Collect information about the prevalence and nature of sexual harassment at least once every two years by: <ul style="list-style-type: none"> <li>• conducting workplace surveys;</li> <li>• reviewing complaints information.</li> </ul>	FCC conducts bi-annual staff culture surveys, we will ask additional questions related to sexual harassment in our future surveys to better understand the prevalence of sexual harassment and any barriers to reporting.

Response provided by the Chief Executive Officer, Frankston—*continued*

Item	VAGO recommendation	Frankston City Council's response
3.	<p>Address the risk of sexual harassment by members of the public by:</p> <ul style="list-style-type: none"> <li>• ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public;</li> <li>• regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public.</li> </ul>	<p>We will update our policies, procedures and training to cover processes for dealing with sexual harassment by members of the public. We will develop specific communications from the CEO to express the organisations zero tolerance for sexual harassment, to be released by end of November 2020.</p>
4.	<p>Introduce mandatory training on sexual harassment, or improve existing training, so that at a minimum it:</p> <ul style="list-style-type: none"> <li>• in addition to online modules, includes face-to-face or live online sessions for all staff and councillors at least once every two years;</li> <li>• covers safe strategies for bystander interventions;</li> <li>• is tailored to the council's policies, procedures and workplace risk factors.</li> </ul>	<p>We are developing an on-line training program for all staff and Councillors to be released in November that includes how to make a complaint and actively encourages complaints.</p> <p>We will develop a face to face course for managers and coordinators on responding to Sexual Harassment complaints from staff and clients. This course will be run between December 2020 and March 2021 and will also form part of our regular training calendar. Both courses include bystander interventions.</p>
5.	<p>Introduce a standalone sexual harassment policy that:</p> <ul style="list-style-type: none"> <li>• aligns with the Victorian Equal Opportunity and Human Rights Commission's Guideline: Preventing and responding to workplace sexual harassment, Complying with the Equal Opportunity Act 2010 and the Victorian Public Sector Commission's Sexual Harassment Model Policy;</li> <li>• includes clear links to other relevant council policies and procedures;</li> <li>• covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public;</li> <li>• is searchable on council intranet sites or cloud software, and available in hard copy to all staff.</li> </ul>	<p>We have developed a stand-alone Sexual Harassment Policy based on the Vic Gov model policy that includes; how to make a complaint, how the complaint will be handled, and dealing with sexual harassment from customers and members of the public. This policy covers all employees and Councillors. All Frankston City council Policies and procedures are available on our intranet site.</p>

Response provided by the Chief Executive Officer, Frankston—*continued*

Item	VAGO recommendation	Frankston City Council's response
6.	Communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment.	We will be continually reinforce our organisational values – Kinder, Smarter, Fairer – and ensure these are role modelled by all Councillors and senior staff.
7.	Encourage reporting of inappropriate behaviour by: <ul style="list-style-type: none"> <li>• promoting formal and informal complaint channels;</li> <li>• allowing for anonymous complaints.</li> </ul>	We will advertise on our intranet methods of making a complaint and we have engaged an external anonymous reporting service, Stop-line, to enable anonymous reporting of sexual harassment.
8.	Improve record keeping of sexual harassment complaints by: <ul style="list-style-type: none"> <li>• keeping complete records of all interactions on a complaint;</li> <li>• documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers.</li> </ul>	We will design a centralised register to capture complaints, actions taken and resolution.
9.	Review complaint procedures to ensure they include: <ul style="list-style-type: none"> <li>• a requirement to inform complainant of the outcome of the complaint;</li> <li>• guidance on how investigators can support reluctant complainants.</li> </ul>	Our complaint procedures have now been updated and include a requirement to inform the complainant of the outcome. We will training our people managers on how to respond to both formal and informal complaints and to support complainants.
10.	Ensure councillors receive training on sexual harassment at least twice per council term.	We will be developing an on-line training program for all staff and Councillors to be released in November 2020, this forms part of their induction program. A Further face to face session will be delivered early in 2021. All training includes how to make a complaint and actively encourages complaints.
11.	Ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including: <ul style="list-style-type: none"> <li>• the council's Employee Assistance Program</li> <li>• Councillor Code of Conduct dispute resolution processes</li> <li>• external complaint bodies</li> </ul>	Councillors will be provided information through our newly develop Councillor Portal that includes the EAP, Councillor Code of Conduct and our newly appointed external reporting service through Stop-line.

Seaford » Frankston » Langwarrin » Karingal » Skye » Frankston South » Frankston North » Carrum Downs » Langwarrin South » Sandhurst

Frankston City Council is committed to improving our organisational culture and eliminating sexual harassment is a key element of that improvement. We welcome VAGO periodic review of our progress in implementing these recommendations. This program of work will be presented to the incoming Council to seek their commitment to a positive outcome for all staff and Councillors.

Yours faithfully



Phil Cantillon  
**CHIEF EXECUTIVE OFFICER**



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SP:SA

23 November 2020

Mr Andrew Greaves  
Auditor General  
Victoria Auditor General's Office  
Level 31/35 Collins Street  
MELBOURNE VIC 3000

Dear Mr Greaves,

### **PERFORMANCE AUDIT REPORT SEXUAL HARASSMENT IN LOCAL GOVERNMENT**

I refer to your request dated 6 November 2020 regarding Latrobe City Council's response to the recommendations of the proposed audit report regarding the recent VAGO audit into Sexual Harassment in Local Government.

With regard to the recommendations listed in the report, council formally advises of the following actions that will be taken to address these recommendations. Our response to each of these points is as follows:

**1. Use findings from the Victorian Auditor-General's 2020 Sexual Harassment in Local Government survey to identify and act on risk factors for council employees and workplaces (see Section 2.3).**

Council will further analyse this data to better identify the areas of our workforce in which sexual harassment is at risk of not being reported.

The findings of this work will better inform our actions to ensure that our policies, training and reporting lines are relevant to all facets of our workforce.

**2. Collect information about the prevalence and nature of sexual harassment at least once every two years by:**

- **conducting workplace surveys**
- **reviewing complaints information (see Section 2.6).**

Council will continue to ensure that this information is collected as part of our annual engagement and alignment survey,

Moe 1-29 George Street

Morwell 141 Commercial Road

Churchill Hub 9-11 Philip Parade

Traralgon 34-38 Kay Street

**3. Address the risk of sexual harassment by members of the public by:**

- **ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public**
- **regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public (see Section 2.4).**

Council will ensure that our patron code of conduct / guidelines reiterate the expectation of our community to treat our employees and volunteers with respect and that sexual harassment from the community will not be tolerated.

Our internal reporting policies will be updated to ensure that our workforce is aware they can report this behaviour internally.

**4. Recommendation 4,**

Council has not provided a response to this point as it is a recommendation for Local Government Victoria only.

**5. Introduce a standalone sexual harassment policy that:**

- **aligns with the Victorian Equal Opportunity and Human Rights Commission's Guideline: Preventing and responding to workplace sexual harassment, Complying with the Equal Opportunity Act 2010 and the Victorian Public Sector Commission's Sexual Harassment Model Policy**
- **includes clear links to relevant council policies and procedures**
- **covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public**
- **is searchable on council intranet sites or cloud software, and available in hard copy to all staff (see Section 3.1).**

Council commits to the implementation of a standalone sexual harassment policy in accordance with the requirements listed above.

**6. Introduce mandatory training on sexual harassment, or improve existing training, so that at a minimum it:**

- **in addition to online modules, includes face-to-face or live online sessions for all staff and councillors at least once every two years**
- **covers safe strategies for bystander interventions**
- **is tailored to the council's policies, procedures and workplace risk factors (see Section 3.2).**

Council has already taken steps to ensure that our existing modules of training will be revised to ensure we have standalone sexual harassment content in line with our updated policies and procedures.

This content will form part of our mandatory training suite and will be re-taken by staff on a two yearly basis.

**7. Communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment (see Section 3.3).**

Council currently ensures that leaders actively demonstrate Council's values and act in line with the code of conduct. In addition to this, we will embed the above requirement into our annual code of conduct related content, to ensure that leaders are reiterating this message across our workforce.

**8. Encourage reporting of inappropriate behaviour by:**

- **promoting formal and informal complaint channels**
- **allowing for anonymous complaints (see Section 4.1).**

As previously noted, a review of our policy and procedure will ensure we have formal, informal and anonymous reporting avenues to assist our entire workforce to be able to report sexual harassment in the workplace.

**9. Improve record keeping of sexual harassment complaints by:**

- **keeping complete records of all interactions relating to a complaint**
- **documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers (see Section 4.2).**

We currently maintain confidential records on complaints of this nature and will ensure that this continues in line with the findings of the audit and our updated policies in this space.

**10. Review complaint procedures to ensure they include:**

- **a requirement to inform the complainant of the outcome of the complaint**
- **guidance on how investigators can support reluctant complainants (see Section 4.2).**

This information is part of our overall Grievance Management Procedure and will be incorporated into the standalone sexual harassment procedure that will be developed in accordance with previous comments above.

**11. Ensure councillors receive training on sexual harassment at least twice per council term (see Section 3.2)**

As part of the implementation of the sexual harassment standalone mandatory training for employees identified previously Council will ensure that this content is part of the Councillor mandatory training suite also.

**12. Ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including:**

- the council's Employee Assistance Program
- Councillor Code of Conduct dispute resolution processes
- external complaint bodies (see Section 4.1).

Council will ensure that Councillors are aware of our policies and procedures regarding sexual harassment and the supports and options available to them if they experience sexual harassment. This will be reflected in our updated procedure regarding the management of sexual harassment.

If you require further information, please contact Sam Amaira, Acting Manager People and Culture on 0419 359 233 or email [Sam.Amaira@latrobe.vic.gov.au](mailto:Sam.Amaira@latrobe.vic.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steven Piasente', with a long horizontal line extending to the right.

STEVEN PIASENTE  
**Chief Executive Officer**

**Moreland Civic Centre**  
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Coburg Victoria 3058  
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Mr Andrew Greaves  
Auditor General  
Victorian Auditor General's Office  
Level 31, 35 Collins Street  
Melbourne VIC 3000

Doc No D20/491141

Dear Mr Greaves,

**RE: Proposed Performance Audit Report Sexual Harassment in Local Government**

Thank you for your letter dated 6 November 2020 providing the proposed report on Sexual Harassment in Local Government in accordance with the *Audit Act 1994* and inviting submissions and comments for inclusion in the final report.

Moreland City Council is committed to providing a positive and safe workplace that is free of sexual harassment which is reflected in our values, training and processes to deal with such matters and welcomes all the recommendations contained in the report. Your report has identified some actions that will further enhance our culture and protect our staff and Councillors from sexual harassment.

In response to the report's recommendations, an action plan has been developed. This includes ensuring all staff and councillors are appropriately trained on their responsibilities to prevent, respond to and report sexual harassment. Specifically, Moreland City Council will improve sustained engagement and embedded organisational approaches including:

- Increasing the accessibility and communication of our policies;
- Refining the way in which we handle, document and categorise complaints of sexual harassment;
- Ensuring Councillors receive appropriate training in sexual harassment;
- Ensuring relevant managers are trained to handle sexual harassment complaints;
- Incorporating our existing bystander training into the compulsory training program;
- Updating policies as recommended in the report.

This paper is 100% recycled

Response provided by the Chief Executive Officer, Moreland—*continued*

We would like to acknowledge the constructive engagement between the VAGO audit team and staff at Moreland City Council.

Again, thank you for the opportunity to respond to the draft report and we thank the VAGO office for its audit and valuable contribution to this important issue for the sector.

Your sincerely,



Cathy Henderson  
**Chief Executive Officer**

23/11/ 2020

Cc: Mayor Annalivia Carli Hannan

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**Moreland City Council action plan to address recommendations from Performance Audit Report Sexual Harassment in Local Government**

No.	VAGO recommendation	Considerations/Action	Completion date
1	<p>Use findings from the Victorian Auditor-General's 2020 <i>Sexual Harassment in Local Government</i> survey to identify and act on risk factors for council employees and workplaces (see 2.3)</p>	<p>Consider all findings and work with the Executive and Branch managers to identify and act on risk factors. As a first step, the action items below demonstrate a willingness to strengthen Councils commitment in ensuring provision of a positive workplace for all employees and councillors.</p>	Ongoing
2	<p>Collect information about the prevalence and nature of sexual harassment at least once every two years by:</p> <ul style="list-style-type: none"> <li>• conducting workplace surveys</li> <li>• reviewing complaints information (see 2.6)</li> </ul>	<p>Human Resources Unit to work with Organisational Performance Branch to collect information about sexual harassment at work least once every two years by:</p> <ul style="list-style-type: none"> <li>• Incorporating relevant questions into staff culture or staff engagement surveys and exit surveys</li> <li>• Reviewing complaints information to identify trends.</li> </ul> <p>Explore ways councillors can be incorporated for survey question of this nature.</p>	Biannually (first staff engagement survey to be conducted by 30 June 2021)
3	<p>Address the risk of sexual harassment by members of the public by:</p> <ul style="list-style-type: none"> <li>• ensuring sexual harassment policies, procedures and training explicitly cover sexual harassment from the public</li> <li>• regularly communicating to customers and staff that the council does not tolerate any form of sexual harassment from the public (see Section 2.4).</li> </ul>	<ul style="list-style-type: none"> <li>• Human Resources Unit to update relevant policies, procedures and training to explicitly cover sexual harassment from the public.</li> <li>• Human Resources Unit to work with Communications Unit to prepare regular communication to customers and staff messaging that council does not tolerate any form of sexual harassment from the public.</li> </ul>	<ul style="list-style-type: none"> <li>• 31 May 2021 (update of relevant policies and procedures) and ongoing (i.e. training)</li> <li>• 31 December 2020 (communications to customer and staff will form part of communications plan)</li> </ul>

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4	<p>Introduce a standalone sexual harassment policy that:</p> <ul style="list-style-type: none"> <li>aligns with the Victorian Equal Opportunity and Human Rights Commission's <i>Guideline: Preventing and responding to workplace sexual harassment, Complying with the Equal Opportunity Act 2010</i> and the Victorian Public Sector Commission's <i>Sexual Harassment Model Policy</i></li> <li>includes clear links to relevant council policies and procedures</li> <li>covers the applicability of council policies to different roles and workplace settings, including councillors, customer-facing staff and members of the public</li> <li>is searchable on council intranet sites or cloud software, and available in hard copy to all staff (see Section 3.1).</li> </ul>	<ul style="list-style-type: none"> <li>Human Resources Unit to work with the Executive to consider a standalone sexual harassment policy.</li> <li>Notwithstanding the above, the Human Resources Unit will update relevant policies and training to ensure it is understood that sexual harassment is unlawful under the Equal Opportunity Act 2010. Human Resources Unit to update Council relevant policies and to ensure training informs employees and councillors that sexual harassment may have legal consequences for the harasser and Council by referencing that sexual harassment is unlawful under the Equal Opportunity Act 2010 in our policy and training.</li> <li>Update intranet in a way that allows a user to search the term 'sexual harassment' on Council's intranet.</li> </ul>	<ul style="list-style-type: none"> <li>31 May 2021</li> <li>31 May 2021</li> <li>31 May 2021</li> </ul>
5	<p>Improve existing training, so that at a minimum it:</p> <ul style="list-style-type: none"> <li>in addition to online modules, includes face-to-face or live online sessions for all staff and councillors at least once every two years</li> </ul>	<p>Human Resources Unit to work with key stakeholders to review training methods and develop a plan for delivery in 2021 (and ongoing) to better utilise and/or offer alternative training methods to promote Councils Appropriate Workplace Behaviour Policy and other relevant policies.</p>	<p>28 February 2021</p>

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	<ul style="list-style-type: none"> <li>covers safe strategies for bystander interventions</li> <li>is tailored to the council's policies, procedures and workplace risk factors (see Section 3.2).</li> </ul>	<p>Moreland has a separate training course for bystander interventions, however, this is not compulsory for staff and is not specific to sexual harassment. Human Resources to consider further promotion of bystander training and updating content to include sexual harassment. Consideration for mandatory training for people leaders.</p>	30 June 2021
6	<p>Communicate a culture of respect in the council by ensuring leaders model respectful behaviour at all times and communicate to all staff at least annually that the council does not tolerate sexual harassment (see Section 3.3).</p>	<p>Communication specific to sexual harassment to come from senior members of staff as a way of role modelling respectful behaviour.</p> <p>Human Resources Unit to work with Communications Unit to consider ways of communications to staff and councillors about how and where to find sexual harassment policies outside of the mandatory training, which is conducted every two years.</p> <ul style="list-style-type: none"> <li>i.e. standard agenda items in team / organisation wide meetings.</li> <li>Communication to also come from senior members of staff on a more regular basis including before staff wide or local level functions.</li> </ul> <p>Human Resources Unit to work with key stakeholders to develop an annual communications plan to more effectively communicate Appropriate Workplace Behaviour Policy and other related policies as they relate to EEO and sexual harassment.</p>	31 May 2021 and ongoing annually
7	<p>Encourage reporting of inappropriate behaviour by:</p> <ul style="list-style-type: none"> <li>promoting formal and informal complaint channels</li> <li>allowing for anonymous complaints (see Section 4.1).</li> </ul>	<p>Regularly communicate to staff and councillors about our policies on sexual harassment and promote complaint channels.</p> <p>Provide training for managers on how to respond to complaints of sexual harassment.</p> <p>Human Resources Unit to work closely with Organisational Performance Branch to ensure people managers are trained in their ability to respond effectively to a complaint of sexual harassment relating to a staff member they supervised.</p> <p>Human Resources Unit to consider updating relevant policies i.e. dispute resolution policy to allow for anonymous complaints.</p>	<p>30 June 2021</p> <p>All people supervisors trained between December 2020 and June 2021</p> <p>30 June 2021</p>

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8	<p>Improve record keeping of sexual harassment complaints by:</p> <ul style="list-style-type: none"> <li>• keeping complete records of all interactions relating to a complaint</li> <li>• documenting decisions to not investigate complaints or to stop investigations, including the rationale for the decision and the name and role of decision makers (see Section 4.2).</li> </ul>	<ul style="list-style-type: none"> <li>• Human Resources Unit to update internal central registry with specific categories to easily identify complaints of sexual harassment in lieu of filing complaints of sexual harassment under broader labels such as 'conduct' or 'harassment' this will assist Council to identify trends in sexual harassment.</li> <li>• Human Resources Unit to improve processes for keeping complete records of complaints through to resolution including documenting rationale for not investigating complaints or not continuing with an investigation.</li> </ul>	<ul style="list-style-type: none"> <li>• 31 January 2021</li> <li>• 1 December 2020 and ongoing</li> </ul>
9	<p>Review complaint procedures to ensure they include:</p> <ul style="list-style-type: none"> <li>• a requirement to inform the complainant of the outcome of the complaint</li> <li>• guidance on how investigators can support reluctant complainants (see Section 4.2).</li> </ul>	<p>Human Resources Unit to update complaint procedures to ensure the complainant is provided with an outcome of the complaint and provide further guidance on how investigators can support reluctant complainants.</p>	<p>31 May 2021</p>
10	<p>Ensure councillors receive training on sexual harassment at least twice per council term (see Section 3.2)</p>	<p>Human Resources Unit to work with the Corporate Governance staff responsible for organising training for new councillors to ensure sexual harassment training is delivered at least twice per council term. Councillors to receive training link to update their training in sexual harassment.</p>	<p>Nov 2020 – 31 May 2021</p>
11	<p>Ensure councillors are informed of their internal and external options for sexual harassment support and complaints, including:</p> <ul style="list-style-type: none"> <li>• the council's Employee Assistance Program</li> </ul>	<p>Human Resources Unit to work with the Corporate Governance to ensure Councillors are informed of their internal and external options for sexual harassment support and complaints in line with the training above.</p>	<p>Nov 2020 – 31 May 2021</p>

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	<ul style="list-style-type: none"><li>• Councillor Code of Conduct dispute resolution processes</li><li>• external complaint bodies (see Section 4.1).</li></ul>	
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## APPENDIX B

# Acronyms, abbreviations and glossary

### Acronyms

AHRC	Australian Human Rights Commission
ALGWA	Australian Local Government Women's Association
CEO	chief executive officer
EAP	employee assistance program
HR	human resources
LGBTQIA+	lesbian, gay, bisexual, trans and gender diverse, queer, questioning, intersex and asexual
LGV	Local Government Victoria
MAV	Municipal Association of Victoria
PMS	People Matter Survey
VAGO	Victorian Auditor-General's Office
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VPS	Victorian Public Service
VPSC	Victorian Public Sector Commission

### Abbreviations

2019 MAV survey	The Municipal Association of Victoria's <i>Gender Equality and Preventing Violence Against Women Survey of Victorian Councils 2018/2019</i>
AHRC National Inquiry	The Australian Human Rights Commission's National Inquiry into Sexual Harassment in Australian Workplaces

## Abbreviations

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AHRC National Survey 2018	The Australian Human Rights Commission's <i>Everyone's business: Fourth national survey on sexual harassment in Australian workplaces</i>
Ararat	Ararat Rural City Council
Corangamite	Corangamite Shire Council
Frankston	Frankston City Council
Latrobe	Latrobe City Council
the model policy	<i>Sexual Harassment Model Policy</i>
Moreland	Moreland City Council
the Registrar	Principal Councillor Conduct Registrar
VEOHRC Guideline	The Victorian Equal Opportunity and Human Rights Commission's <i>Guideline: Preventing and responding to workplace sexual harassment—Complying with the Equal Opportunity Act 2010</i>

# APPENDIX C

## Scope of this audit

Who we audited	What we assessed	What the audit cost
<ul style="list-style-type: none"><li>Ararat Rural City Council</li><li>Corangamite Shire Council</li><li>Frankston City Council</li><li>Latrobe City Council</li><li>Moreland City Council</li></ul>	<p>We assessed whether councils:</p> <ul style="list-style-type: none"><li>have effective measures to prevent sexual harassment</li><li>effectively respond to, monitor and report on complaints of sexual harassment.</li></ul>	<p>The cost of this audit was \$560 000.</p>

### Our methods

As part of the audit we:

- audited five councils, including reviewing their:
  - policies on sexual harassment
  - training materials and records
  - complaint procedures
  - sexual harassment complaints from the past five years.
- conducted a sector-wide survey (see Appendix E).

We selected the five councils as a representative spread of council types and sizes.

We conducted our audit in accordance with the *Audit Act 1994* and ASAE 3500 Performance Engagements. We complied with the independence and other relevant ethical requirements related to assurance engagements. We also provided a copy of the report to the Department of Premier and Cabinet.

## APPENDIX D

# Legislation, policy and guidance

FIGURE D1: **Legislative framework**

Source	Type	Requirements/guidance
<i>Equal Opportunity Act 2010</i>	Victorian legislation	Makes it unlawful to sexually harass anyone in an employment situation. Creates a positive duty for employers to prevent and eliminate sexual harassment in their workplaces.
<i>Sex Discrimination Act 1984</i>	Commonwealth legislation	Makes it unlawful to sexually harass anyone in an employment situation.
<i>Local Government Act 2020</i>	Victorian legislation	Outlines that sexual harassment by a councillor can constitute misconduct, serious misconduct or gross misconduct. Makes it compulsory for Councillor Codes of Conduct to prohibit sexual harassment (from 2020 elections onwards).
<i>Occupational Health and Safety Act 2004</i>	Victorian legislation	Obliges employers to provide a safe workplace for employees and anyone attending their workplaces.
<i>Equal Opportunity Act 2010, Preventing and responding to workplace sexual harassment (2020)</i>	Better practice guide	Outlines six minimum standards for employers to comply with their positive duty. Employers should: <ul style="list-style-type: none"> <li>• understand their obligations under the <i>Equal Opportunity Act 2010</i></li> <li>• have a prevention plan</li> <li>• build organisational capacity</li> <li>• manage risks</li> <li>• respond to sexual harassment reports consistently and confidentially, holding harassers to account and centring victims</li> <li>• regularly review, evaluate and improve outcomes and strategies.</li> </ul>
<i>Model Policy for the Prevention of Sexual Harassment in the Workplace (2018)</i>	Better practice guide	VPSC published a model policy on sexual harassment to drive better practice and consistency across the public sector. Sets out key features of a good sexual harassment policy.

Source: VAGO.

# APPENDIX E

## Survey methodology

We conducted a survey about sexual harassment in local government. Our survey asked about:

- individual experiences of sexual harassment
- why respondents did or did not complain
- sexual harassment policies and training
- views on council communication and prevention.

To help participating councils address sexual harassment, we shared their de-identified results with their mayor and CEO.

### Interpreting data in this report

Although survey data is the best source we have for understanding the prevalence of sexual harassment, it is limited by response rates. It may not capture all staff who experience sexual harassment. It may also over-represent the prevalence of sexual harassment, as those who have experienced it may be more likely to complete an optional survey on the topic.

Unless specified otherwise, the data in this report has a margin of error of less than plus or minus 5 per cent at a confidence level of 95 per cent. The margin of error on the overall prevalence of sexual harassment was less than 1 per cent.

### Employees without email addresses

Across the participating councils, approximately 8 500 employees did not have council email addresses, equalling approximately 17 per cent of the total workforce. These employees were primarily casual staff or outdoor workers such as crossing supervisors.

We could not directly email the survey to these employees, so we provided councils with an open survey link to distribute to them. However, we received too few responses from these employees from each council to use in our analysis.

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A **margin of error** shows how far away results could be from the true value.

A **confidence level** shows how confident you are that the true value sits within the margin of error.

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## Response rate

The survey was open to staff at 75 of 79 Victorian councils. Four councils did not participate:

- Greater Geelong City Council
- Maribyrnong City Council
- Moorabool Shire Council
- Northern Grampians Shire Council.

The survey was open to councillors from all 79 councils. We sent the survey directly to participants, except at two councils that opted to distribute the survey themselves.

The survey was open for four weeks in June 2020 and received 10 344 responses. We removed responses from employees without email addresses, bringing our response total to 9 939. Our overall response rate was 24 per cent, but at individual councils this ranged from 8 per cent to 64 per cent.

FIGURE E1: **Council participation and response rate by council category**

Council category	Participating councils	Number of responses	Response rate (%)
Metropolitan	21/22	3 969	20
Interface	9/9	2 269	25
Regional cities	10/11	1 357	24
Large rural shire	18/19	1 561	28
Small rural shire	17/18	783	38
<b>All</b>	<b>75/79</b>	<b>9 939</b>	<b>24</b>

*Note:* Response rates do not include staff without council email addresses. The survey was open to all councillors, even at the four councils that did not open the survey to their staff. We received two responses from councillors at non-participating councils.

*Source:* VAGO LG Survey 2020.

## Survey design

Our survey did not directly ask participants if they had experienced sexual harassment. Instead we measured the prevalence of sexual harassment by:

- providing respondents with a list of unwelcome behaviours that are likely to constitute sexual harassment (see Section 2.2, Figure 2E)
- asking them how often they had experienced these behaviours in the past 12 months (to June 2020).

Respondents may be unsure if their experiences count as sexual harassment. By specifying behaviours, we did not rely on respondents understanding the legal definition of sexual harassment.

This approach is in line with the AHRC National Survey 2018 and the Australian Bureau of Statistics' *Personal Safety Survey*, which it conducts every five years.

## Other surveys on sexual harassment

The surveys we used to compare to ours also measured prevalence by listing behaviours, rather than directly asking respondents if they experienced sexual harassment. Figure E2 outlines the methodology and response rates for these surveys.

FIGURE E2: **Survey methodologies of related workforce surveys**

Survey	Prevalence of sexual harassment (%)	Methodology and response rate
VPSC's 2019 PMS	7	<ul style="list-style-type: none"> <li>• Response rate of 56 per cent of workforce (in departments).</li> <li>• Survey is broader than sexual harassment, asking questions about employees' views and experiences on a range of workplace issues. As a result, there is less risk that this survey over-represents sexual harassment, as can occur with optional surveys.</li> </ul>
VAGO's survey of Victorian public sector employees 2019	29	<ul style="list-style-type: none"> <li>• Response rate of between 10 and 26 per cent of each department, except for the Department of Jobs, Precincts and Regions and the Department of Transport, whose responses were excluded due to low response rates.</li> <li>• Optional survey on sexual harassment with 4 729 responses.</li> </ul>
AHRC National Survey 2018	33	<ul style="list-style-type: none"> <li>• Optional online and telephone survey on sexual harassment.</li> <li>• Sample size of 10 272 employees from across Australia.</li> <li>• Survey specific to experiences of sexual harassment.</li> </ul>

*Note:* AHRC survey results cover a five-year period.

*Source:* VAGO.

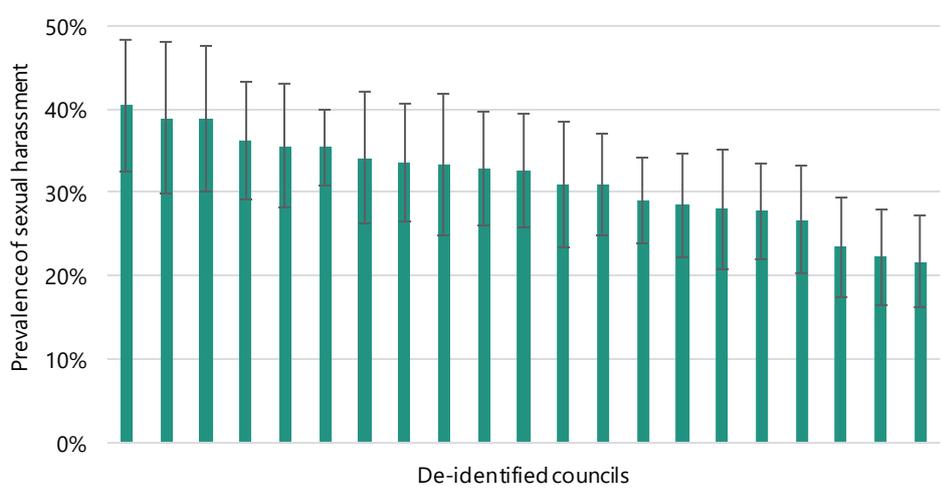
# APPENDIX F

## Survey data

This appendix contains detailed data from our survey. You can also view this on our data dashboard on our website at [www.audit.vic.gov.au](http://www.audit.vic.gov.au).

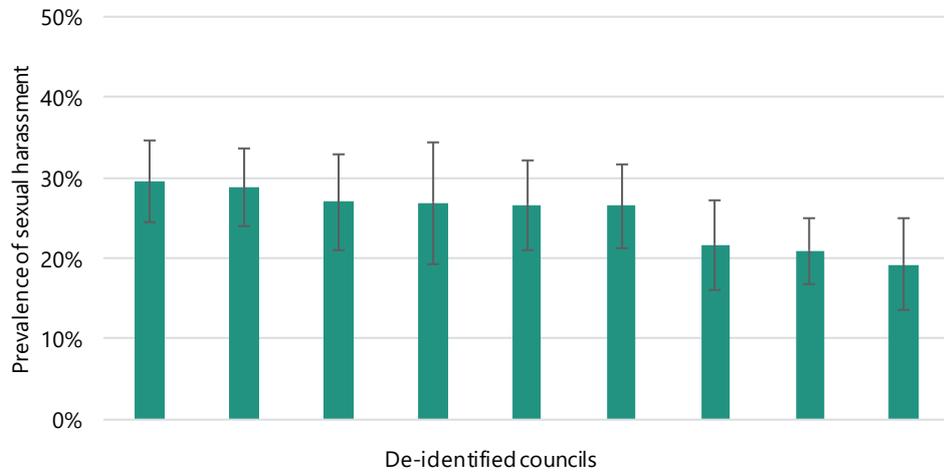
### Prevalence of sexual harassment

FIGURE F1: **Metropolitan council prevalence of sexual harassment**



Note: Error bars represent the margin of error.  
Source: VAGO LG Survey 2020.

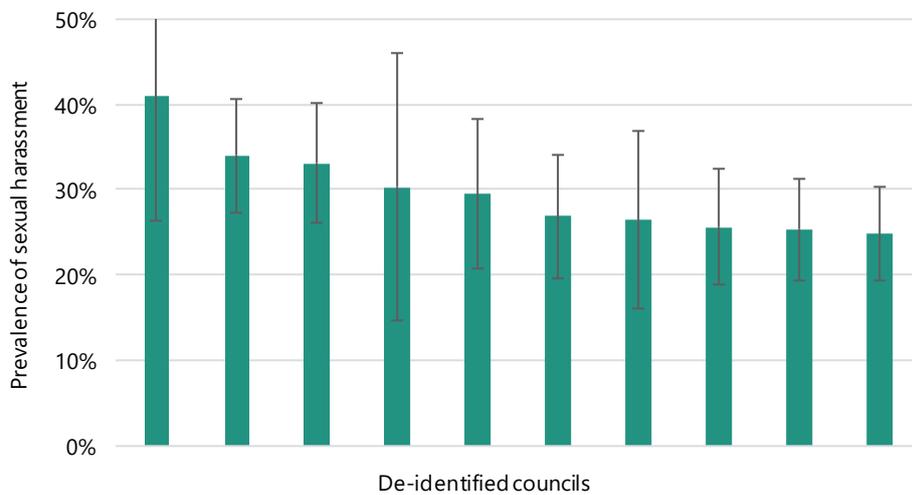
FIGURE F2: **Interface council prevalence of sexual harassment**



Note: Error bars represent the margin of error.

Source: VAGO LG Survey 2020.

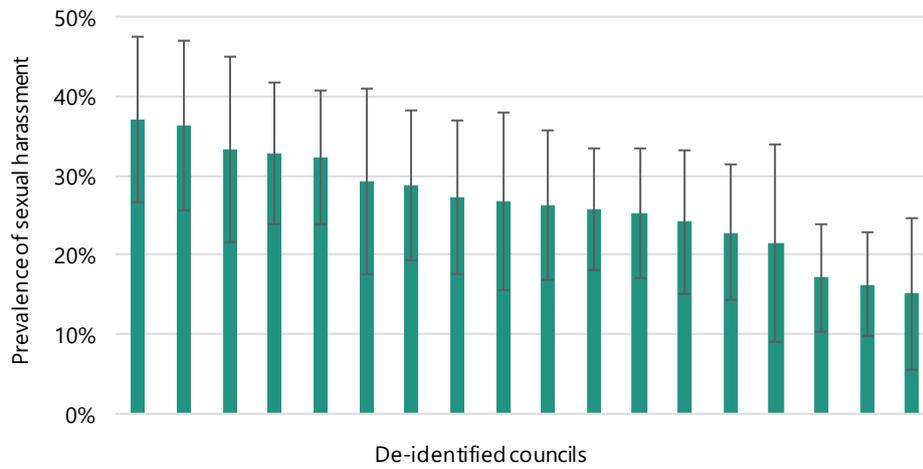
FIGURE F3: **Regional city council prevalence of sexual harassment**



Note: Error bars represent the margin of error.

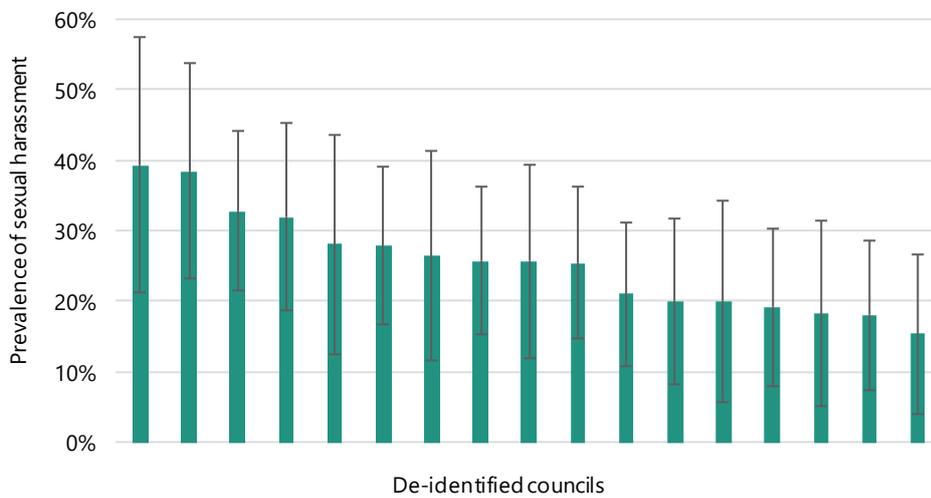
Source: VAGO LG Survey 2020.

FIGURE F4: **Large shire council prevalence of sexual harassment**



Note: Error bars represent the margin of error.  
Source: VAGO LG Survey 2020.

FIGURE F5: **Small shire council prevalence of sexual harassment**



Note: Error bars represent the margin of error.  
Source: VAGO LG Survey 2020.

FIGURE F6: **Prevalence by role type**

Role	Number who experienced sexual harassment	Percentage who experienced sexual harassment (%)
Councillor	41	30
Customer-facing	653	28
Outdoors/depot	291	28
Offices/administration	1 746	28
<b>All respondents</b>	<b>2 807</b>	<b>28</b>

Note: 237 respondents did not give their role type.  
Source: VAGO LG Survey 2020.

## Experiences

FIGURE F7: **Sexual harassment behaviours experienced by role type**

Type of sexual harassment	All respondents	Councillor	Customer-facing	Offices and administration	Outdoor or depot
Intrusive questions about personal life/appearance	1 793	26	456	1069	185
Sexually suggestive comments or jokes	1 647	26	369	1023	184
Staring or leering	674	12	181	394	63
Inappropriate physical contact	525	10	147	301	47
Unwelcome touching, hugging, cornering or kissing	522	11	144	302	46
Other unwelcome conduct	319	8	87	179	29
Sexual gestures, indecent exposure or inappropriate display of body	207	3	62	103	35
Repeated/inappropriate date invitations	187	6	56	94	23
Advances on email/social media	136	2	29	84	15
Sexually explicit pictures, posters or gifts	115	2	25	50	29
Sexually explicit posts or messages on social media	108	6	20	48	26
Sexually explicit email/text	83	2	16	43	20
Request or pressure for sex	40	2	9	16	11

Note: Respondents could select more than one type of harassment.  
Source: VAGO LG Survey 2020.

FIGURE F8: **Workplace setting of sexual harassment by role type**

Setting	All respondents	Councillor	Customer-facing	Offices or administration	Outdoors or depot
Day-to-day work	2 531	28	600	1573	259
Social event	243	9	40	166	21
Online	110	3	25	68	12
Other	94	3	19	56	13
Conference, retreat or off-site	86	6	15	54	8
Council meeting	66	15	11	35	3

Note: Respondents could select more than one setting.

Source: VAGO LG Survey 2020.

FIGURE F9: **Relationship between harasser and the victim by role type**

Relationship to the harasser	All respondents	Councillor	Customer-facing role	Offices or administration	Outdoors or depot
Same level co-worker	1 161	0	227	778	124
Senior co-worker	925	3	156	655	82
Member of the public	632	14	292	227	78
Junior co-worker	503	1	89	322	80
Direct manager	340	2	74	214	37
Councillor	165	29	20	107	5
Contractor/consultant	152	0	32	93	21

Note: Respondents could select more than one relationship.

Source: VAGO LG Survey 2020.

## Impact

FIGURE F10: Impacts of sexual harassment for men and women

Impact	All respondents	Female	Male
No impact	1 547	994	530
Impact on mental health	706	534	150
Lowered self-esteem and confidence	584	441	126
Other	396	320	66
Impact on employment	100	55	40
Deterioration of relationships	58	42	16
Financial loss	30	20	8

Note: Respondents could select more than one impact. We received too few responses from respondents with a self-described gender identity to report on levels of harassment for that cohort.

Source: VAGO LG Survey 2020.

## Complaints

FIGURE F11: Responses to sexual harassment by role type

Response	All respondents	Councillor	Customer-facing	Offices or administration	Outdoors or depot
Pretended it didn't bother me	1 204	19	280	770	108
Tried to laugh it off or forget about it	1 047	11	245	676	89
Avoided the person(s)	762	12	202	457	68
Told the person the behaviour was not OK	685	13	174	382	89
Told a co-worker	529	2	144	322	45
Told a friend or family member	351	6	98	199	39
Told my manager	291	1	93	165	23
Avoided places behaviour might occur	261	4	74	151	21
Other, please specify here	213	10	42	132	23
Took time off work	62	2	15	34	6
Made formal complaint to council	54	1	18	18	14
Asked for transfer (e.g. role, location, roster)	30	0	14	15	0
Made formal external complaint	20	2	6	7	4

Note: Respondents could select more than one response.

Source: VAGO LG Survey 2020.

FIGURE F12: **Barriers to making a formal complaint by role type**

Reason for not making complaint	All respondents	Councillor	Customer-facing	Offices or administration	Outdoors or depot
Didn't think it was serious enough	1 651	15	382	1086	134
Didn't think it would make a difference	677	10	174	405	66
Believed there would be negative consequences for me	661	12	147	398	74
Harassment stopped	393	5	108	238	34
Thought complaint process would be embarrassing or difficult	367	8	94	218	34
Other	358	6	75	230	37
Didn't want negative consequences for harasser	260	1	61	169	23
No longer had contact with the person(s)	171	4	62	84	16
Didn't know how	80	0	23	42	12
Told not to by co-worker	30	1	9	16	1
Told not to by family or friends	12	1	3	6	1

Note: Respondents could select more than one barrier.

Source: VAGO LG Survey 2020.

FIGURE F13: **Knowledge about reporting sexual harassment and accessing support by role type**

Know how to ...	All respondents (%)	Councillor (%)	Customer-facing (%)	Offices or administration (%)	Outdoors or depot (%)
make a formal complaint of sexual harassment	84	88	83	84	89
access employee assistance program	93	70	93	95	86
get help if I or a co-worker experienced sexual harassment	92	89	92	92	94

Source: VAGO LG Survey 2020.

## Training

FIGURE F14: **Training rates and manager confidence by role type**

Role type	Respondents that completed training at induction (%)	Managers confident in handling sexual harassment complaints (%)
All respondents	40	89
Councillor	21	Not applicable
Customer-facing	38	88
Offices/administration	40	89
Outdoors/depot	45	92

Source: VAGO LG Survey 2020.

FIGURE F15: **Training rates and manager confidence by employment type**

Employment type	Percentage of respondents that completed training at induction (%)	Percentage of managers confident in handling sexual harassment complaints (%)
Casual	34	85
Full-time (contract)	50	94
Full-time (ongoing)	41	89
Part-time (contract)	41	88
Part-time (ongoing)	31	83

Source: VAGO LG Survey 2020.

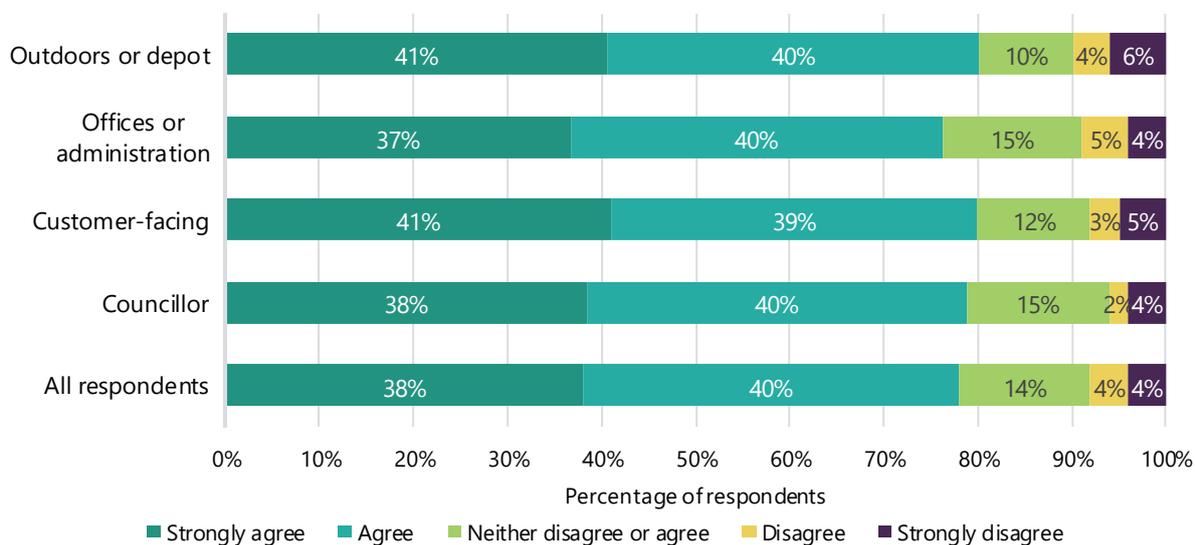
FIGURE F16: **Induction training rates and manager confidence by length of employment**

Length of employment	Respondents that completed training at induction (%)	Managers confident in handling sexual harassment complaints (%)
Less than a year	53	91
1–2 years	51	88
3–5 years	42	88
6–10 years	39	89
11–20 years	31	90
Over 20 years	19	89

Source: VAGO LG Survey 2020.

## Leadership and communication

FIGURE F17: Does your council communicate annually about how it is addressing sexual harassment?



Source: VAGO LG Survey 2020.

FIGURE F18: Views on council performance by role type

Role type	Do you believe that sexual harassment is not a problem at your council? (%)	Do you believe that your council is taking sexual harassment seriously? (%)
All respondents	61	77
Councillor	68	84
Customer-facing	55	76
Offices/administration	64	78
Outdoors/depot	63	81

Source: VAGO LG Survey 2020.

# Auditor-General's reports tabled during 2020–21

## Report title

Rehabilitating Mines (2020–21: 1)	August 2020
Management of the Student Resource Package (2020–21: 2)	August 2020
Victoria's Homelessness Response (2020–21: 3)	September 2020
Reducing Bushfire Risks (2020–21: 4)	October 2020
Follow up of Managing the Level Crossing Removal Project (2020–21: 5)	October 2020
Early Years Management in Victorian Sessional Kindergartens (2020–21: 6)	October 2020
Accessibility of Tram Services (2020–21: 7)	October 2020
Accessing Emergency Funding to Meet Urgent Claims (2020–21: 8)	November 2020
Auditor-General's Report on the Annual Financial Report of the State of Victoria: 2019–20 (2020–21: 9)	November 2020
Sexual Harassment in Local Government (2020–21: 10)	December 2020
Systems and Support for Principal Performance (2020–21: 11)	December 2020

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