



**SOUTH AUSTRALIA POLICE**  
KEEPING SA SAFE

14 February 2019

Ms K Jenkins  
Sex Discrimination Commissioner  
Australian Human Rights Commission  
GPO Box 5218  
Sydney  
NSW 2001

Dear Ms Jenkins

In response to the national inquiry into sexual harassment in Australian workplaces and attendance at a consultative session on 17 October 2018, South Australia Police provides a submission in response to the terms of reference, specifically measures and good practice being undertaken by employers in preventing and responding to workplace sexual harassment.

In April 2016, South Australia Police (SAPOL) Commissioner Grant Stevens commissioned the Equal Opportunity Commission (EOC) of South Australia to conduct an independent and transparent review to examine the nature and extent of sex discrimination, sexual harassment and predatory behaviour in South Australia Police.

In December 2016, the EOC review report was publicly released containing 38 recommendations covering key areas including leadership, workforce management, training and development, flexible workplace culture, dispute resolution and wellbeing and support.

The findings in the report provided compelling evidence that sexual harassment, sex discrimination and predatory behaviour was occurring in SAPOL. It showed that some staff did not feel safe, respected or supported in the workplace. The Commissioner unreservedly apologised, in an open letter to staff for the inappropriate behaviour and harm those in our organisation have endured and is committed to making every effort to repair the harm already done and prevent any further damage.

Project Equitas was established to address the EOC report recommendations and set the foundation to enhance SAPOL as an inclusive organisation where all people are safe, respected and supported to reach their potential – this aim contributes to SAPOL's vision of providing a visible, responsive police service for all South Australians.

Project Equitas is an enabler for SAPOL's long term culture change effort to support our employees



**Government  
of South Australia**

in feeling safe and respected in the workplace.

Many of the recommendations contained in the EOC report are identified measures to address sexual harassment in the SAPOL workplaces.

SA Police would like to provide examples of such measures to the national inquiry to enable other organisations to learn from and gain understanding about approaches that are enabling our culture to reform towards one of respect and safety for all employees.

### **SA Police Diversity and Inclusion Strategy 2018-2020**

In order to show clear strategic intent, SAPOL created and implemented a Diversity and Inclusion Strategy with a defined aim of 'SAPOL aims to be a diverse and inclusive organisation where all people are safe, respected and supported to reach their potential'.

Within that Strategy SAPOL identified 6 goals being:

1. SAPOL leaders will have the necessary capability, confidence and commitment to enhance SAPOL as a diverse and inclusive organisation.
2. SAPOL is an employer of choice with the best talent attracted, recruited, developed, promoted and retained at all levels.
3. SAPOL employees have equal access to training and development opportunities. Talent is full leveraged and employees are supported to reach their potential.
4. Flexible Working arrangements are valued, normalises and equally accessible across the organisation in line with our ability to deliver our services.
5. SAPOL will focus on achieving gender parity in recruiting police officers and a balanced representation of women and men in promotion selections and skills development.
6. All employees have timely access to a variety of pathways to wellbeing services to support them when needed.

Within each goal there are priority focus areas and a descriptor of what success will look like. Sitting beneath the strategy are six actions plans relating to Gender Equality, Generational, Disability Access and Inclusion, CALD, ATSI and LGBTIQ.

SAPOL has underpinned this strategy to date with a range of initiatives including;

- Developing and implementing a Diversity and Inclusion Advisory Group with external representation to enable best practice approaches to be included into our organisational reforms
- Developing and implementing a Gender Equality Action Plan
- Developing and implementing a Diversity and Inclusion Representatives program
- Incorporating Key Performance indicators within the business planning process
- Developing and implementing a new Exit Management Strategy to assist SAPOL in retaining diligent and ethical employees
- Adopting a new approach to Flexible Working Arrangements (FWAs) namely an 'If Not, Why Not' approach and providing specialist support to achieve greater acceptance of FWAs. Our approach to flexible working arrangements was most recently reported as a 'seismic' shift by the Equal Opportunity Commission in their second independent monitoring report.

Key initiatives that are specific to sexual harassment include:

### ***Restorative Engagement Program***

This unique, independent initiative was developed by the EOC for current and former SAPOL employees who have worked at SAPOL at any time in a specified 10 year period and have experienced sex discrimination, sexual harassment and/or predatory behaviour. The Restorative Engagement Program (REP) offers a way for employees to safely and confidentially have their story of the harm heard and acknowledged by a specially-trained and selected SAPOL leader through a process of restorative engagement.

The model of Restorative Engagement adopted by the REP (the REP model) drew from the approaches developed by the Truth and Reconciliation Commission of South Africa, the Defence Abuse Response Taskforce (DART) response to institutional abuse within the Australian Defence Force (ADF), and a number of abuse redress facilitation models for religious institutions.

The REP model was designed to be underpinned by the values of restorative practice, alongside transformative and narrative mediation practice. These approaches have been recognised for their innovative way of responding to, and addressing, alleged wrongs in a complainant-centric way.

To be eligible to participate in the REP complainants have to be:

- a) A current or former SAPOL employee, who had worked for SAPOL at any stage between 1 December 2006 and 31 December 2016. The incident(s) of the alleged sex discrimination, sexual harassment and/or predatory behaviour must have occurred between 1 December 2006 and prior to 31 December 2016; and
- b) Over the age of 18 years.

The definition of current or former SAPOL employee encapsulated all staff, including sworn members and public service employees, protective security and volunteers.

The primary presenting matter in the complaint had to be sex discrimination, sexual harassment and/or predatory behaviour as defined by the Sex Discrimination Act (Commonwealth) (1984) and Equal Opportunity Act (SA) (1984).

Specifically out of scope for the REP were:

1. The REP did not engage with, or investigate, the alleged perpetrator/s of the sex discrimination and/or sexual harassment. The alleged perpetrator/s did not take part in any aspect of the REP.
2. The REP was not available to members of the public who had complaints or allegations about SAPOL.
3. The REP was not accessible to families of SAPOL employees.
4. Other forms of discrimination and bullying without an element of sex discrimination and/or sexual harassment were not within the scope of the REP.
5. The REP was not intended to replace established internal complaint processes within SAPOL and/or other external complaint processes for current complaints.
6. The REP would not form the basis for civil or criminal proceedings. It was a no liability process.

The REP was separate from the legislatively prescribed EOC complaints process. Complainants

were advised they were able to lodge a formal complaint of discrimination or sexual harassment with the EOC or any other tribunal or judicial body and were not precluded because of their participation in the REP. Several REP complainants did have, or previously had other complaint processes underway in an effort to resolve their matter.

A total of 20 enquiries received by the REP were assessed as meeting the program criteria and were therefore within scope. 13 out of the 20 enquiries that met the criteria proceeded to a REP conference. One did not proceed to a REP conference.

Of the 14 complainants who participated in the REP, seven (50%) were accepted on the grounds of sex discrimination and seven (50%) were accepted on the grounds of sexual harassment.

REP participants were asked for feedback as to their experience in the program with many seeking to contribute to preventing future sex discrimination and/or sexual harassment within SAPOL; and to make a difference to the SAPOL culture/organisation as their reason for participating.

*“The emotion that had built up from never being heard was finally set free. I am talking many years of pain. I can now see the old me coming back and finally felt heard”.*

*“The manner and attitude of the SAPOL rep towards my information and story was compassionate, mature and highly supportive - I was lucky to have a SAPOL rep who seemed to have a compassionate and genuine interest to make changes. He delivered what appeared as a truly genuine apology for harm caused and was deeply respectful and listening”.*

The REP Team trained 18 SAPOL senior leaders (including the executive team) to be SAPOL Representatives within the REP conference. The Executive Leadership Team (ELT) played an instrumental role in the REP. Through their participation in the REP as SAPOL Representatives they showed leadership by being champions for the REP, its purpose and objectives. Feedback from the SAPOL representatives highlighted that they felt the REP program provided an ability to make a positive difference for the participant and provide acknowledgement of how SAPOL could have handled the situation better.

The conference process itself provided multiple outcomes for complainants that had not been anticipated by the REP team.

For example:

- The conference process bridged relationship outside of rank and position. It allowed an informal union between parties that would unlikely occur in any other circumstance. Many complainants and representatives agreed to ongoing contact or communication beyond the conference.
- It allowed the SAPOL Representative to respond to stories of harm without managing formal processes or risk. This resulted in the freedom for them to focus solely on the human element of how the harm had impacted the complainant and how this could possibly be restored.
- While the complainants who individually participated in the REP never met, they reported that they found comfort and strength in knowing they were part of a united group speaking out and informing cultural change.
- The apology was for most, not the most important part of the REP conference. For many, it was an incidental part of the conference but was not their primary motivating factor or focus. For most complainants the focus was not on the incident(s) or experience that had occurred but the systemic barriers and their subsequent treatment by SAPOL during or following the incident(s).

The REP program continues to be available on a upon request basis delivered by the SA Equal Opportunity Commission.

Key learnings from the implementation of the REP program include awareness that many participants focussed more on their treatment by SAPOL following their report than the initial traumatic experience itself. This highlighted issues regarding SAPOLs complaint processes and that the process for dealing with a complaint had a lasting impact on complainants and formed an important part of the complaint process. For many, the sense that the system had failed them lasted much longer in time than the initial incident and caused many to regret that they had complained in the first place.

### ***Complaints and dispute resolution***

The EOC report highlighted that the current approaches focused either deliberately or inadvertently, on disciplinary or punitive methods that were primarily responsive and time consuming.

In today's environment this approach is not sustainable and requires a completely different approach and a radical shift in thinking towards a more proactive, preventative approach of early intervention, education, and support that is focussed on service improvement.

This viewpoint was further identified by SAPOL staff in engagement sessions and through focus groups.

The EOC Review report recommended that SAPOL:

*Recommendation 30 - Establish a new and streamlined internal Dispute Resolution Section that reports directly to an Assistant Commissioner that would:*

- a) *be responsible for all internal complaints related to bullying, harassment, victimisation and all forms of discrimination that are currently handled by Equity and Diversity (E&D) and Internal Investigation Section (IIS).*
- b) *be staffed by trained, professional, mediators who are recruited from outside SAPOL to ensure they bring fresh perspectives and are impartial and act confidentially.*
- c) *have a bias for mediating outcomes quickly, with mediators sitting down with both parties to talk through the issues prior to matters becoming adversarial. Complaints should be evaluated on the impact of the behaviour and on the basis of plausibility. Where complaints cannot be mediated, the complainant will be given the option to pursue the complaint further through legal pathways.*
- d) *be based at a location where absolute confidentiality can be assured in access to and from the unit.*

SAPOL has implemented all aspects of this recommendation and by employing education, training, mediation and counselling it is envisaged SAPOL will see problem behaviours addressed in the early stages, which will assist in preventing inappropriate conduct in the future.

In July 2018, the Diversity and Inclusion branch was established. The Diversity and Inclusion Branch (D & I Branch) promotes an inclusive, professional and respectful workplace where all employees are treated fairly, diversity is acknowledged and valued, communication is open and courteous, conflict is addressed early and there exists a positive culture that encourages employees to reach their full potential. This reflects the commitment made by SAPOL in the Diversity and Inclusion Strategy 2018-2020.

The branch purpose is to ensure that organisational practices within SAPOL uphold SAPOL's values, that personal behaviours fall into line with those organisational practices and to support the goals for diversity and inclusion set out in the Diversity and Inclusion Strategy 2018-2020.

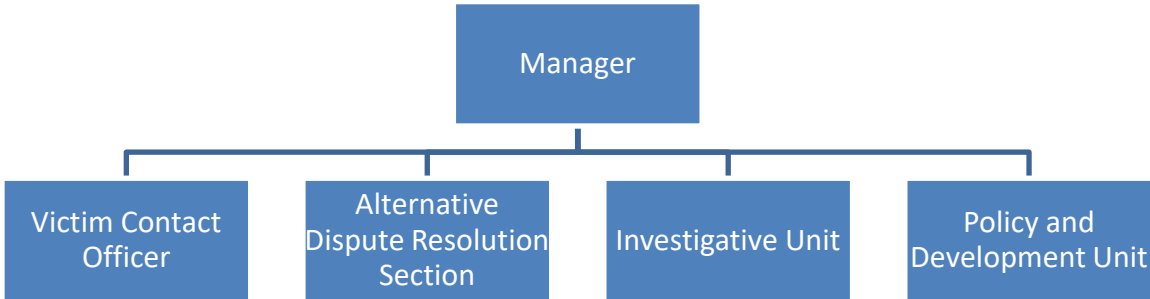
To help achieve this, the branch provides a confidential centralised process for notification of all diversity and inclusion matters, including workplace conflict and inappropriate workplace behaviour. The process is geared towards early intervention for the prevention of workplace conflict using a variety of alternative dispute resolution methods including coaching, and mediation. Where the issue is more complex or otherwise warrants it, an inquiry or investigation into the issue may be conducted. The branch supports staff through the notification process and one of the key principles is to safeguard the emotional and psychological well-being of those involved in a notification.

People can have differences and disagreements in the workplace. The branch aims to assist all employees to increase their ability to manage conflict effectively to prevent it potentially escalating into bullying behaviour. Conflict managed well fosters growth and productivity and is an integral part of a healthy workplace.

The branch also provides support to supervisors and managers to help them lead by example and role model respectful workplace behaviours through education, mentoring and conflict coaching.

**Structure of the branch**

The branch has been structured specifically to ensure a streamlined holistic approach is taken in support of employees putting forward a notification.



The D&I Manager is a public sector employee with significant legal and mediation experience. Under the previous model, a Police Officer undertook the role and with regular staffing movements, this meant a lack of consistency and ability to uphold the training required to fulfil the role.

The Victim Contact Officer (VCO) is an essential part of improving the level and quality of support to employees in the branch. The VCO assesses the needs of employees and level of support required.

The Alternative Dispute Resolution (ADR) section is integral to the early intervention approach to manage notifications where appropriate. Specially trained mediators provide a variety of different services to cater for different notifications and responses e.g. conflict coaching, mentoring,

facilitated discussions and mediation.

The investigative unit conducts inquiries and investigated notifications of inappropriate workplace behaviour.

The policy and development unit is the proactive, educative arm of the branch responsible for ensuring D&I action plans are developed, promoting D&I within the organisation and training and development as it relates to D&I.

### **The notification process**

When employee/supervisor/manager experiences inappropriate workplace behaviour or they witness or become aware of inappropriate workplace behaviour, they can either contact D&I Branch by phone, email or attend in person or lodge a notification form by email, despatch or in person to D&I Branch. An anonymous notification may be made verbally or by submitting an anonymous notification to the D&I Branch.

Aggrieved employees will be contacted by an employee of the D&I Branch as soon as practicable on receipt of a notification, usually within 24 hours (business days). Parties involved in early intervention processes will be notified of the expected timeframes by a member of the D&I Branch and will be kept informed and supported throughout the process.

### **Assessment**

The D&I Branch will determine an appropriate response for all notifications received and may consult with the Officer in Charge, Internal Investigation Section and Officer in Charge, Human Resource Management Branch (HRMB) when making any assessment.

All notifications received by the D&I Branch are assessed in accordance with the following principles:

- **No further harm**—the potential of further or ongoing harm will be assessed immediately.
- **Span of harm**—consideration will be given to the span of harm resulting from the notified behaviour. The number and location of those affected and the wider effect on the health and safety of the workplace. In particular, the span of the influence of the respondent is relevant.
- **Potential harm**—potential harm to an employee or workplace will be considered.
- **Detail**—consideration will be given to the detail provided in the notification. Limited detail will impact the potential course of action.
- **Intelligence**—data from SAPOL systems will be explored to identify patterns regarding aggrieved persons, respondents and workplaces. Holdings from within other SAPOL areas such as HRMB may need to be explored.
- **Witnesses**—consideration will be given to identified witnesses and bystanders.
- Any other considerations that the D&I Branch considers relevant.
- Consideration will be given to the desires of the notifier.

Outcomes of assessments include alternative dispute resolution, further inquiry and investigation, as follows.

#### *Alternative dispute resolution (ADR)*

A notification may be assessed as appropriate for a non-punitive approach and the application of

alternative dispute resolution processes. The aim is to provide safety in the workplace and to encourage professional and respectful behaviour, restore workplace relationships, promote self-reflection and correct inappropriate behaviour quickly. Alternative dispute resolution methods such as mediation, conciliation and negotiation may be applied.

Unless there is evidence to suggest that early intervention resolution is inappropriate, it will be the preferred manner of dealing with low level inappropriate workplace behaviour. In most instances this usually involves relevant parties being spoken to, versions captured and for unreasonable behaviour to cease. It is common for standards and expectations to be discussed. The conduct of the parties is monitored and outcomes such as an apology or training may be the most appropriate options.

The aim of early intervention is on support, engagement, cooperation and reconciliation between the parties involved.

### **Outcomes of alternative dispute resolutions**

Through early intervention and the application of ADR processes outcomes can be one or more of the following:

- an appreciation of other parties' perspectives
- gaining a commitment that the behaviour will not be repeated
- gaining a commitment to standards and expectations
- an apology
- counselling support
- education or training

Local managers will be informed of any ongoing outcomes to be managed as a result of an ADR.

#### *Further inquiry*

A notification to the D&I Branch may be assessed as requiring further inquiry, which will be undertaken by D&I Branch. This may include more detailed conversation with the notifier, potential witnesses or local managers. A further assessment will then be made regarding the notification.

#### *Investigation*

A notification which involves an allegation of unreasonable or unlawful workplace behaviour may be assessed as requiring an investigation. Where the Manager, D&I Branch consider that a matter may require investigation and/or a punitive outcome, the matter will be referred to the Officer in Charge, IIS for a determination.

It was widely recognised that the level of reporting of inappropriate behaviours would increase. This effect was seen when SA Police engaged with over 5000 employees when the EOC report was originally released and was documented in the regular EOC monitoring reports (<https://eoc.sa.gov.au/initiatives/sapol-monitoring-project>).

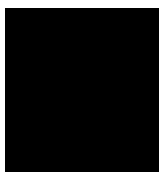
Since its establishment in July 2018, the D&I branch has seen consistent reporting of inappropriate behaviours which they have addressed utilising a variety of ADR methods. More serious allegations continue to be investigated to enable an appropriate response to be given. In addition, senior managers are proactively engaging with D&I Branch to better inform and equip them when dealing with inappropriate behaviours in the workplace.

I trust that the above information is of benefit to your national inquiry in support of respect and



safety in workplaces.

Yours Sincerely



Bryan Fahy  
ASSISTANT COMMISSIONER OF POLICE  
PROJECT EQUITAS

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