



Ashurst Risk Advisory

Court Services Victoria

Independent Audit Service

In response to Recommendation 20 of the Szoke review:

Within two years, commission an independent audit of the implementation of the Review recommendations and the effectiveness of the interventions implemented and make the audit report public.

Outpacing change

2 April 2024

Louise Anderson
Chief Executive Officer
Court Services Victoria
Law Courts, Melbourne VIC 3000

Dear Louise,

Thank you for providing Ashurst Risk Advisory Pty Ltd with the opportunity to conduct an independent audit of the 20 recommendations from the Szoke Review.

This report has been prepared for Court Services Victoria and contains our audit findings and commentary.

Thank you for your instructions to conduct this independent audit. We would like to take this opportunity to thank all those involved in preparing the documentation for our assessment and the interviewees for their honesty, professionalism and commitment towards continual improvement for preventing and managing the risk of sexual harassment in Victorian Courts and VCAT.

Yours sincerely,



Tony Morris
Ashurst Risk Advisory
Partner
M +61 403 241 497
tony.morris@ashurst.com

We acknowledge the Bunurong Boon Wurrung and Wurundjeri Woi Wurrung peoples of the Eastern Kulin Nation on which we undertook this audit. We pay our respects to their Elders past, present and emerging and to their youth who are working towards a brighter tomorrow.

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“There is an
urgency for
change. There is
the momentum
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Kate Jenkins

Executive Summary

Background – the Szoke Review

In August 2020, the Chief Justice and then Attorney-General of Victoria commissioned Dr Helen Szoke's *Review of Sexual Harassment in Victorian Courts*¹ (hereafter referred to as the **Review**).

The terms of reference of the Review *“tasked it with considering measures to:*

- *Prevent sexual harassment;*
- *Improve reporting by and support for those who experience sexual harassment;*
- *Raise awareness; and*
- *Ensure accountability for perpetrators of sexual harassment in Victorian courts and VCAT.*²

The Review's 20 recommendations focused on the operation of the courts and the Victorian Civil and Administrative Tribunal (**VCAT**), and the systems in place for judicial officers, VCAT members and Court Services Victoria (**CSV**) staff.

“There is an urgency for change. There is the momentum for reform.”³

The Review acknowledged that “the scale and depth of the task ahead to implement the recommendations from the Review should not be underestimated.”⁴

“Sexual harassment in our courts has to stop. It causes great harm to victim-survivors, and to the community's confidence in the system. Urgent action on all twenty recommendations is how we change behaviour and culture.”⁵

Independent audit

Recommendation 20 of the Review, was:

“Within two years, commission an independent audit of the implementation of the Review recommendations and the effectiveness of the interventions implemented and make the audit report public.”

Ashurst Risk Advisory was engaged by CSV to conduct an independent audit in response to Recommendation 20. The scope was to audit the implementation of the Review's recommendations, make comments concerning the effectiveness of the interventions as observed⁶, and determine if the activities met the intent of the recommendations.

This audit scope did not include a determination as to the ‘effectiveness’ of the implementation of the 20 recommendations. The assessment of ‘effectiveness’ of the interventions will need to be commissioned by CSV following the time required to continue to implement and maintain controls to prevent and minimise the risk of sexual harassment.

¹ Review of Sexual Harassment in Victorian Courts, ‘Prevention and Addressing Sexual Harassment in Victorian Courts and VCAT, Report and Recommendations’, March 2021

² Refer page 22 of the Review, 1.1 Scope of the Review

³ Kate Jenkins AO, Respect@Work: [National Inquiry Report \(2020\) Commissioner's Foreword](#)

⁴ Dr Helen Szoke AO, [Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT](#)

⁵ Dr Helen Szoke AO, [Preventing and Addressing Sexual Harassment in Victorian Courts and VCAT](#)

⁶ This audit did not include a determination of the effectiveness of the implementation of the 20 recommendations. This audit scope asked Ashurst Risk Advisory to comment on the effectiveness of any implementation activity, if that were observed when considering whether the intent of the recommendation was met for implementation.

Audit findings

In relation to the Review's 20 recommendations, we made the following findings about whether the intention of the Review's recommendations were met:

- for **16 recommendations**, the intention of the recommendation was **met**;
- for **4 recommendations**, actions had commenced and the intention was **partially met**;
- there were **no recommendations** where the intention was **not met**; and
- there were **no recommendations** where **work had not commenced**.

We identified eight (**8**) **enhancement opportunities** for consideration. Three (3) opportunities are applicable to CSV, three (3) to the Attorney-General, one (1) to the Heads of Jurisdiction, and one (1) to the Health Safety and Culture Committee (**HSCC**). Refer to **Appendix A** for details of the opportunities.

Enhancement opportunities include consideration of an action to further champion a healthy positive workplace culture, developing a sexual harassment prevention plan, the reassessment of sexual harassment risks, background checking processes for the appointment of judicial officers, and sexual harassment training requirements.


Conclusion

The Review and its recommendations have been a catalyst for meaningful and positive change to prevent and manage the risk of sexual harassment in Victorian Courts and VCAT. It prompted the Courts Group to embark on a journey to shift the culture inside a complex work environment and work towards proactive prevention initiatives and risk management of sexual harassment at work.

The risk of sexual harassment and other psychosocial hazards in the workplace will be ever present, and this requires a demonstrative ongoing proactive commitment from leaders of the Courts Group to proactively exercise due diligence to ensure health and safety controls remain effective and continuous improvement remains a focus.

Acknowledgement

We take this opportunity to acknowledge the significant work, effort and commitment of the Courts Group and its people to implementing this change programme. In particular, the dedication of the Sexual Harassment and Respect (**SHR**) team and leaders of CSV to implement the Review's recommendations, and strive for continual improvement.



“Sexual harassment in our courts has to stop. It causes great harm to victim-survivors, and to the community’s confidence in the system.”

Dr Helen Szoke

Scope and Approach

Ashurst Risk Advisory was engaged to conduct an independent audit as contemplated by Recommendation 20 of the Review. Our audit was undertaken with support from Ashurst Australia (for legislative related recommendations), and Sentis (for culture-focused recommendations).

Our audit scope, agreed with CSV, was to:

- Conduct an audit of the implementation of the Szoke Review recommendations and make comment towards effectiveness of those interventions only as observed or noted;
- Determine whether the collective activities were appropriate in addressing the intent of each recommendation; and whether the recommendations have been operationalised across the jurisdictions only, were deemed appropriate for the specific recommendation;
- Provide commentary on the level of assessment of effectiveness, improvement opportunities and assessment of jurisdictional operationalism.

Ashurst Risk Advisory performed a desktop assessment of 253 artefacts and 9 interviews (refer to **Appendix B**) with key stakeholders to gain an in-depth understanding of the work undertaken by CSV and other agencies to implement the recommendations.

Our audit comments on whether the activities undertaken to implement the Review's recommendations met the intent of each recommendation with one of the following ratings allocated:

Met	The intention of the recommendation was met.
Partially met	The intention of the recommendation was partially met. Further work is required to meet the intention.
Not met	Despite work having commenced, the intent of the recommendation was not met at this stage.
No work commenced	No demonstrable work has commenced. The intention of the recommendation was not met.

Any potential enhancement opportunities were also identified and provided for consideration of continual improvement.

Common acronyms and abbreviations used in this report

CEO	Chief Executive Officer
COO	Chief Operating Officer
CSV	Court Services Victoria
DJCS	The Department of Justice and Community Safety
Dr Szoke	Dr Helen Szoke, as the author of the Review
HSCC	Health Safety and Culture Committee, a subcommittee of the Courts Council
OHS Act	<i>Occupational Health and Safety Act 2004 (Vic)</i>
PALMS	Performance and Learning Management System
SHR team	Sexual Harassment and Respect team whom were a commissioned resource to oversee the implementation of the Review recommendations
The College	The Judicial College of Victoria
The Commission	The Judicial Commission of Victoria
The Courts Group	Victoria's five courts, the Judicial College, the Judicial Commission, and Court Service Victoria
The Review	For the purposes of this report, "the Review" refers to Dr Helen Szoke's Review entitled ' <i>Review of Sexual Harassment in the Victorian Courts and VCAT, Report and Recommendations</i> '
VCAT	Victorian Civil and Administrative Tribunal
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VLSBC	Victorian Legal Services Board and Commissioner



Detailed Findings

The below table provides an overview of the audit findings:

Recommendation	Responsibility	Implementation Status	Enhancement Opportunities
Strong & effective leadership driving successful, long term reform			
R1 Champion a healthy positive workplace culture	CSV	Met	Identified
A positive workplace culture			
R2 Sexual Harassment Policy	CSV	Met	Identified
R3 Risk Assessment sexual harassment	CSV	Met	Identified
R4 Review of recruitment of staff working with Judicial Officers	CSV	Met	Nil
R5 Appointment of Judicial Officers	Attorney General	Partially met	Identified
R6 Appointment of Senior Counsel	Chief Justice	Met	Nil
Diversity and gender equity			
R7 Judicial College Membership	Attorney General	Met	Nil
R8 Equality bench book	Judicial College	Met	Nil
Victim-centred support, reporting and response			
R9 Victim-survivor centred response	CSV	Met	Nil
R10 Changes to Judicial Commission Act	Judicial Commission	Met	Nil
Organisational capability and knowledge			
R11 Awareness Raising Campaign	CSV	Met	Nil
R12 Targeted training	CSV	Met	Nil
R13 Education program – judicial officers and VCAT members	Judicial College Heads of Jurisdiction	Partially met	Identified
R14 Specific expertise to Human Resources Committee	CSV	Met	Nil
Ensuring integrity and accountability			
R15 Amend EO Act and OHS Act	Attorney General	Partially met	Nil
R16 Review EO Act to enhance systemic powers	Attorney General	Met	Nil
R17 Supplementary Guideline for judicial officers and VCAT members	Judicial Commission	Met	Nil
Effective monitoring and evaluation			
R18 Annual survey	CSV	Met	Nil
R19 Build metrics into performance management	CSV	Met	Nil
R20 Independent Audit	CSV	Partially met	Nil

Recommendation 1

Consistently and visibly champion a healthy, positive workplace culture in all jurisdictions and adopt strategies to prevent sexual harassment.

Progress will be assessed by:

- a. Court and VCAT leadership, including Heads of Jurisdiction, and the Courts Executive publicly acknowledging the harms experienced by victim-survivors as a result of sexual harassment in Victorian courts and VCAT, and the inadequacy of institutional responses to sexual harassment to date; and
- b. regular reports to the Courts Council, addressing the implementation of recommendations contained in this report.

Responsibility

Heads of Jurisdiction

Courts Executive

Judicial officers and VCAT Members

Overview

Implementation Status

Met

Enhancement Opportunities

Identified

Victorian Courts and Tribunals available on the CSV website.⁷

- 19 April 2021: the Heads of Jurisdiction, Members of Courts Council and the Chief Executive Officer (CEO) of CSV made a joint statement on the Supreme Court of Victoria Government website on the Review of Sexual Harassment in Victorian Courts.⁸
- 18 October 2022: the Chief Justice of the Supreme Court of Victoria and Chair of Courts Council, Anne Ferguson, on behalf of the Victorian courts and the VCAT made a statement regarding the release of the Dodds-Streeton Report Card on the CSV website.⁹
- 19 April 2023: the Chief Justice of the Supreme Court of Victoria and Chair of Courts Council, Anne Ferguson, on behalf of the VCAT shared a message to the participants of CSV's sexual harassment survey on the CSV website.¹⁰

During our interview, the current CEO of CSV recognised her responsibility, as a leader, to influence and inform an environment where these behaviours cannot survive.

- b. The Courts Council endorsed the acquittal of the recommendations of the Review as evident through Courts Council papers for 8 December 2021, 5 October 2022, 17 August 2022, and 22 March 2023.

Enhancement Opportunities

Opportunity 1: The HSCC should consider regular reporting to the Courts Council on critical wellbeing and safety matters, including sexual harassment, post-acquittal of the Review's recommendations.

The audit identified an opportunity for the HSCC to provide a regular update to the Courts Council on critical wellbeing and safety matters, including sexual harassment, going forward. It is vital the Courts Council is provided with this information, as the Heads of Jurisdiction, to relay this information to their jurisdictions to effect "long-term reform".¹¹

Findings

- a. There was clear commitment from the Court and VCAT leadership to improving the workplace culture at CSV through the adoption of strategies to prevent sexual harassment evident through:
 - The Chief Justice, Anne Ferguson, made a statement for preventing sexual harassment in

7 <https://courts.vic.gov.au/about-csv/sexual-harassment-main>

8 [Joint Victorian Jurisdictional Statement – Sexual Harassment Report – Monday 19 April 2021_0.pdf \(supremecourt.vic.gov.au\)](https://supremecourt.vic.gov.au/sites/default/files/recruitment_and_working_arrangements_report_-_chief_justice_statement4.pdf)

9 https://courts.vic.gov.au/sites/default/files/recruitment_and_working_arrangements_report_-_chief_justice_statement4.pdf

10 https://courts.vic.gov.au/sites/default/files/sexual_harassment_survey_findings_-_chief_justice_message_-_april_2023.pdf

11 Outcome 1 of Dr Szoke's report: "Strong and effective leadership driving successful, long-term reform"

Recommendation 2

Develop, promote and implement a sexual harassment policy that covers all staff and contractors and:

- a. sets out clear standards of behaviour;
- b. sets out the standard of behaviour that can be expected in dealings with judicial officers and VCAT members;
- c. meets the six minimum standards for employers listed in the Victorian Equal Opportunity and Human Rights Commission's Guideline: Preventing and responding to Workplace sexual harassment (2020);
- d. recognises CSV's positive obligations under the Equal Opportunity Act 2010 and the Occupational Health and Safety Act 2004;
- e. adopts a victim-survivor-centred response to instances of sexual harassment;
- f. clearly sets out all internal and external reporting options, including processes and potential outcomes;
- g. explains how the confidentiality of complainants will be protected and the protections in place to deal with retaliation for making a complaint;
- h. explains the role of bystanders and the support that can be provided to bystanders;
- i. makes clear that confidentiality obligations between judicial staff and judicial officers do not prevent staff from making a complaint about misconduct;
- j. covers the consumption of alcohol by all staff, contractors, judicial officers and VCAT members; and
- k. addresses the issue of consensual personal relationships and potential power imbalances, conflicts of interest and bias using the Victorian Public Services Commissioner's Managing consensual personal relationships – Practice Guide and Model Conflict of Interest Policy.

Responsibility

Court Services Victoria
Courts Executive

Overview

Implementation Status

Met

Enhancement Opportunities

Identified

Findings

The *Sexual Harassment and Victimisation Policy* was developed in consultation with internal and external stakeholders. The policy was endorsed by the Health, Safety and Culture Committee (HSCC) and the Courts Council as meeting the requirements of Recommendation 2. CSV's CEO officially released the policy to all members of CSV via email and an intranet article on 22 February 2022. The SHR team committed to a range of implementation activities, which have mostly been actioned, to aid in the promotion and embedding of the policy across the organisation.

The audit acknowledges CSV took the opportunity when implementing Recommendation 2 to not only design the *Sexual Harassment and Victimisation Policy*, but to also consult, draft and develop the following additional policies and guidelines to set the standards of expected behaviour in the workplace:

- The Bullying Discrimination Harassment and Victimisation Policy
- Alcohol Consumption at Work and Work-Related Events Guideline
- Managing Consensual Personal Relationships in the Workplace Guideline.

CSV developed, promoted and implemented a suite of policies to aid in the development of a "positive workplace culture"¹² reflective of sub-points a. to k. of Recommendation 2.

Recommendation 3

Enhancement Opportunities

Opportunity 2: CSV should consider committing to the development of a 'sexual harassment prevention plan' consistent with Standard 2 of the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) *Guideline: Preventing and responding to workplace sexual harassment (2020)*.¹³

Sub-point c. of Recommendation 2 refers to the six (6) standards of the VEOHRC guideline, where Standard 2 is a 'Prevention Plan'. The standard states "Sexual harassment is prevented through the development and implementation of an effective sexual harassment prevention plan."

CSV's *Sexual Harassment and Victimisation Policy* does not specifically reference a prevention plan, it does include CSV's intent to "prevent sexual harassment and victimisation".

CSV confirmed during the audit interview process the development of a prevention plan is an intended future activity. The focus to date was to implement the Review's recommendations.

The audit identified an opportunity to develop a prevention plan ensuring prevention measures are identified, assessed and monitored post-acquittal of the Review's recommendations in consultation with CSV's staff and contractors.

Undertake a risk assessment of CSV, the courts and VCAT, to identify and assess all sexual harassment work hazards, using a work health and safety risk framework.

This risk assessment should be part of the workplace gender equality audit required by the *Gender Equality Act 2020* and should be informed by:

- the WorkSafe Victoria Guide Work – related gendered violence including sexual harassment;
- the VEOHRC Guideline: Preventing and responding to workplace sexual harassment;
- consultations with staff using the Australian Human Rights Commission (AHRC)'s Have your Say – Conversation Toolkit; and
- existing work health and safety mechanisms, staff survey results, complaints data, Health and Safety Representative reports, Employment Assistance Program (EAP) trend reports, information received during staff exit interviews, reports from stakeholders and regulators, and any data received from online reporting tools.

Responsibility

Court Services Victoria
Courts Executive

Overview

Implementation Status

Met

Enhancement Opportunities

Identified

¹² Outcome 2 of the Review

¹³ https://www.humanrights.vic.gov.au/static/8070e6b04cd51969490ccdecddff0c00/Resource-Guidelines-Workplace_sexual_harassment-Aug20.pdf

Findings

The Sexual Harassment Risk Register (hereafter referred to as the **Risk Register**) endorsed by the Courts Council on 8 December 2021, was developed by the SHR team with assistance from the Risk and Integrity team based on the primary risks identified in the Review. A variety of data points were used to inform the Risk Register alongside the facilitation of open discussion and consultation across the Courts Group with employees and Judicial Officers to identify contributing circumstances and actions. The final list of actions was reflective of the Review's recommendations with the only exception being the Gender Equality Action Plan.

The Risk Register identifies:

- *Sexual harassment work hazards* by listing 'Possible Contributing Circumstances' against each of the four risks.
- *Current controls* captured in the form of 'Key Controls'.
- *Proposed controls* captured as 'Actions'.

CSV performed a comprehensive risk assessment identifying sexual harassment work hazards across the Courts Group through significant consultation.

Enhancement Opportunities

Opportunity 3: CSV should consider using Safe Work Australia's national guidance material and code of practice to inform the reassessment of the Risk Register.

The Risk Register is due for reassessment post this audit. The reassessment will be an opportune time to:

1. Make a determination of whether the residual risk (ie likelihood and/or consequence) has reduced as a result of the implementation of the Review's recommendations, and
2. Identify further controls which may not be included in the Review's recommendations.

Safe Work Australia's *Preventing workplace sexual harassment*

national guidance material¹⁴ and *Sexual harassment and gender-based harassment code of practice*¹⁵ provide comprehensive examples of controls CSV and the courts may consider during reassessment to further minimise the risk of sexual harassment incidents occurring.

Opportunity 4: CSV should consider specifying localised controls in the reassessment of sexual harassment in the Risk Register.

Each court has different physical work environments, cultures, diversity of employees and other factors that may impact on the likelihood of sexual harassment incidents at work.

"The Review recognises that each of the courts are distinct in the way they work and the challenges they face. Strategies to prevent sexual harassment must be tailored to the culture, idiosyncrasies and specific risk factors of each court and VCAT and the people who work in those workplaces."¹⁶

Health and safety controls aimed at preventing sexual harassment may therefore differ in each court jurisdiction. CSV should consider proposed controls against the different risk profiles and work environments.

Whilst the current Risk Register was informed by stakeholders from across the Courts Group, and the controls addressed the risks raised, CSV should consider determining both "whole of court" and localised jurisdictional risks and controls for each of the courts in the reassessment.

14 <https://www.safeworkaustralia.gov.au/sites/default/files/2021-06/Guide%20for%20preventing%20workplace%20sexual%20harassment.pdf>

15 https://www.safeworkaustralia.gov.au/sites/default/files/2023-12/model_code_of_practice_-_sexual_and_gender-based_harassment.pdf

16 Pg. 56 of the Review

Recommendation 4

Commission an independent expert to review and make recommendations to the Courts Council on the recruitment processes and working arrangements for Court Services staff who work in a primary relationship with judicial officers, including associates, tipstaves and clerks.

The independent review should include:

- the processes by which staff are assigned to judicial officers;
- appropriate training for judicial officers and CSV managers on their respective responsibilities for the supervision of staff;
- the quality and scope of induction processes as it relates to sexual harassment;
- reporting lines, and the options for different systems of reporting that could mitigate sexual harassment risk factors;
- models of peer support that build collegiate support and networks, such as mentoring or buddy systems;
- feedback mechanisms for both judicial officers and judicial staff; and
- processes for identifying, addressing and responding to sexual harassment perpetrated against judicial staff.

Responsibility

Court Services Victoria

Courts Executive

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

CSV commissioned the Hon Julie Dodds-Streeeton, KC, to perform the review, as a retired Court of Appeal Justice, retired Supreme Court Justice, retired Federal Court Justice, and Chair of the Independent Conduct Committee that previously investigated allegations of sexual harassment in the Federal Circuit Court. Dr Szoke supported the appointment of Ms Dodds-Streeeton to undertake the work.

Ms Dodds-Streeeton delivered a report entitled *Review of recruitment and working arrangements of judicial staff who work in a primary relationship with judicial officers in Victorian Courts and VCAT* containing 27 recommendations directed to the Courts, CSV and the Heads of Jurisdiction. On 18 October 2022, the report was officially released by CSV's CEO to all members of CSV via email and an intranet article.

The report provided an in-depth understanding of the recruitment processes and working arrangements of staff who work in a primary relationship with judicial officers, and identified recommendations to address sub-points a. to g. of Recommendation 4.

Recommendation 5

Amend the appointment process for judicial officers to explicitly require that potential appointees are of good character and have consistently demonstrated professional respect and courtesy for their colleagues, clients and others involved in the legal process.

In assessing whether a potential candidate has satisfied this requirement, the Attorney-General should consult widely with relevant regulatory and professional organisations.

Responsibility

Attorney-General

Heads of Jurisdiction

Overview

Implementation Status

Partially Met

Enhancement Opportunities

Identified

Findings

The Attorney-General is responsible for the appointment of judicial officers through the Department of Justice and Community Safety (DJCS). DJCS developed a consent form for the appointment of judicial officers in response to Recommendation 5. The form seeks the consent of a potential judicial officer for DJCS to consult with organisations to determine whether the candidate is of good character and has consistently demonstrated professional respect and courtesy for colleagues, clients and others involved in the legal process.

The organisations to be consulted include:

- Victorian Legal Services Board and Commissioner (VLSBC);
- Victorian Bar Association;
- Law Institute of Victoria (LIV); and
- The current or former employer of the candidate.

The use of the form was progressively introduced in the second half of 2022 and the appointments procedure was updated on 18 December 2023.

Enhancement Opportunities

Opportunity 5: The Attorney-General should ensure the consent form is consistently used as part of probity checks for newly appointed judicial officers.

DJCS informed us the consent form should be sent as part of the probity checks for newly appointed judicial officers; however, the process of providing the form is not consistently followed. The Attorney-General should ensure the amended procedure for the appointments team is implemented effectively and consistently.

Consultation should also be undertaken with the Victorian Legal Services Board, the Victorian Bar, the Law Institute of Victoria, and the Heads of Jurisdiction to ensure the proposed amendments establish an effective process in achieving the requirements for potential appointees.

Opportunity 6: The Attorney-General should consider amending the appointment process to include both internal and external movements of judicial officers.

DJCS informed us the process of providing the form has not been considered for use in the instance where a judicial officer may change positions internally.

The complexities associated with judicial officer independence were a topic of importance in the Review. The audit identified an opportunity for DJCS to capture more judicial officers and embed the form into practice by implementing its use for all judicial officer movements.

Recommendation 6

Amend the appointment criteria for Senior Counsel to better assess an applicant's character and previous conduct.

The amendments should:

- a. provide that Senior Counsel must be recognised as being of good character and must always demonstrate professional respect and courtesy for their colleagues, clients and others involved in the legal process;
- b. include a clear statement that the Chief Justice will consult with the Victorian Legal Services Board and Commissioner and professional associations representing women lawyers and lawyers from minority groups about prospective appointments; and
- c. provide that applicants must have completed a prescribed sexual harassment awareness training course within the previous two years.

Responsibility

Chief Justice

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

a. Summary of the Process for 2021

The 'Criteria for appointment' section (pages 2-3), criteria 3 titled 'Integrity, honesty and good character' states "Senior Counsel must:

- a. be worthy of confidence and implicit trust by the judiciary and their colleagues at all times, so as to advance the open, fair and efficient administration of justice;
- b. be of good character; and
- c. demonstrate professional respect for and courtesy towards others."

b. Summary of the Process for 2021

The 'Process for appointment' section (pages 3-5) states that "The Chief Justice will consult:

- *The convenor of the Women Barristers Association,*
- *The chair of Victorian Women Lawyers,*
- *The chair of the Victorian Bar's Equality and Diversity Committee, The Victorian Legal Services Board and Commissioner"*

c. Summary of the Process for 2022

The 'Applications for Silk 2022' section (page 10) was updated to include criteria "F. Sexual Harassment Awareness training" which states, "Applicants must have completed a prescribed sexual harassment awareness training course within the two previous years before they may be appointed as Senior Counsel.

If, when submitting the application, the applicant has not undertaken the training course, subsequent confirmation that they have participated and completed the course must be provided."

Findings

Consultation was undertaken with the Victorian Bar President, Women Barristers Association, Victorian Women Lawyers, the Equality and Diversity Committee, and the Victorian Legal Services Board and Commissioner, as well as internally within the Court.

The amendments to the appointment criteria addressed sub-points a. to c. of Recommendation 6.

Recommendation 7

Amend the *Judicial College of Victoria Act 2001* to cover the appointment of at least three and up to four directors who are not judicial officers. At least two of these directors must have broad experience in community issues affecting courts.

Responsibility

Attorney-General

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

On 31 May 2022, the *Judicial College of Victoria Act 2001* was amended reflecting the appointment of directors in line with the requirements of Recommendation 7.

The amendment does not expressly state that “at least three and up to four directors” must not be judicial officers. We asked the Judicial College of Victoria (**the College**) to clarify this matter.

The legislative amendment is consistent with the wording of the previous legislation prior to amendment. This allowed for the appointment of two directors, who were in practice not judicial officers. The intention of the change was to increase the number of persons appointed in this category from two to at least three but not more than four.

This wording is also consistent with the wording used in s 108F of the *Sentencing Act 1991* which establishes the Sentencing Advisory Council.

Both DJCS and the Acting CEO of the College, confirmed that in practice persons appointed under this provision will not be judicial officers.

Recommendation 8

Expand the Judicial College of Victoria’s Disability Access Bench Book into an Equality Bench Book, providing information about other protected attributes.

The Equality Bench Book should:

- a. be modelled on the England and Wales Equal Treatment Bench Book, the NSW Equality Before the Law Bench Book, and the WA Equal Justice Bench Book; and
- b. include practical suggestions and guidance.

Responsibility

Judicial College of Victoria in consultation with the Victorian Equal Opportunity and Human Rights Commission

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

The recommendation was met in substance by the development of a collection of resources both existing, and newly developed by the College and CSV. This provides a “one-stop-shop” for educational material on sexual harassment and the courts, consistent with this recommendation.

This approach, adopted in consultation with Dr Szoke, meets the recommendation by providing on-demand reading (as well as viewing and listening) material on the nature, drivers, manifestations, and risk factors for sexual harassment. The material is accessible from the Judicial College of Victoria’s sexual harassment resources page¹⁷.

The collection of resources is “designed to inform judicial officers about practical and substantive matters on sexual harassment in courts, as well as provide some insight into the social and cultural contexts of our time”. These resources include information on Victorian and other jurisdiction responses to sexual harassment, understanding, preventing, and responding to sexual harassment and a collection of wider reading. The resource is available for both the judicial and public audience (although some of the content is viewable by judicial officers only).

¹⁷ <https://www.judicialcollege.vic.edu.au/resources/sexual-harassment>

Recommendation 9

Adopt victim-survivor-centred responses to gender-related misconduct that prioritise the safety and wellbeing of the victim-survivor and provide multiple channels and support for reporting gender-related misconduct, including sexual harassment.

To be effective, the channels and support provided must include:

- a. informal peer support officers at all levels of the organisation, including judicial officers and VCAT members who are given additional specific training on responding to sexual harassment and who have the necessary skills to informally talk with and assist complainants to address the matter and/or make a formal complaint if they wish to do so;
- b. a formal internal complaint mechanism that includes:
 - i. the option for anonymous complaints;
 - ii. an explanation of the options for making external complaints;
 - iii. the independent investigation of the complaint;
 - iv. the victim-survivor and complainant receiving notice of the outcome of the complaint process and a follow-up 12 months after the complaint is resolved to ensure that they have not suffered any reprisal or other adverse consequences as a result of the complaint; and
- c. support and protection when an external complaint is made to the relevant body.

Responsibility

Courts Council
Court Services Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

The audit identified a reporting and resolution process and a Contact Officer network, launched at the time of the Review's release. Feedback from risk (Recommendation 3) and policy (Recommendation 2) consultations held with staff, judicial officers and VCAT members identified opportunities to improve the reporting and resolution process, and support available for staff.

In December 2021, the SHR team issued a survey to all staff seeking input to help shape a revised reporting and resolution process. From that, 90 per cent of respondents supported or strongly supported the addition of an independent reporting option that is external to CSV.

The *Resolution Procedure – Inappropriate Workplace Behaviours* was introduced on 20 June 2022 with an independent reporting and support option staffed by trauma informed specialists. This service, referred to as Your Safe Space, provides options for anonymous reporting, and end-to-end support.

The term "victim-survivor" referenced in the Review, was deliberately not used by CSV. However, the "no wrong doors" multiple reporting options, victim-chosen resolution options, and support available in the revised process reflect the intent of a victim-survivor-centred approach. It is evident that the needs, feelings, and rights of the person who has experienced the misconduct is at the core of the decisions made, with the primary concern being the immediate and long-term safety and wellbeing of the individual.

The evidence we reviewed indicates CSV has provided reporting, resolution and support options to all its employees for incidents related to workplace behaviours, including sexual harassment. CSV has sought feedback, engaged in consultation, and adjusted its support channels accordingly. The documentation outlines various reporting channels with a clear victim-centred and trauma-informed approach.

Recommendation 10

The review of the Judicial Commission of Victoria should consider, and if appropriate make recommendations to the Attorney-General for legislative amendments to the Judicial Commission of Victoria Act 2016 to strengthen sexual harassment complaint and investigation processes by:

- a. giving the Judicial Commission of Victoria the power to compel information or documents from any relevant person or body for the purposes of considering a complaint or referral;
- b. giving the Judicial Commission of Victoria powers to issue confidentiality notices in appropriate circumstances to prevent disclosure of the fact of a complaint, referral or investigation or the details of a complainant or the person subject to a complaint;
- c. clarifying that any conduct that is a breach of the guidelines or could warrant removal from office can be the subject of a complaint or referral to the Judicial Commission of Victoria; and
- d. conferring the Judicial Commission of Victoria with an own motion investigation power to establish an investigating panel to investigate sexual harassment, discrimination or other related misconduct without the need for a formal complaint or referral, where there is a reasonable basis to suspect that a judicial officer or member of VCAT has committed conduct that if proven would warrant dismissal from office.

Responsibility

Judicial Commission of Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

A detailed review was undertaken of the Commission. The Commission produced a confidential document called the *Legislation Change Recommendations arising out of the Judicial Review*. The document is a summary table of endorsed legislative change recommendations, which was provided on a strictly confidential basis, noting the recommendations and their content are the subject of ongoing discussion with DJCS. This document details the consideration and outcomes of the review.

We were instructed that the Commission is working to ensure its processes and broader engagement encourage those who may have experienced sexual harassment to raise complaints with confidence that they will be dealt with appropriately.

Recommendation 11

Develop a coordinated awareness-raising campaign for the Courts, VCAT and the wider legal profession on appropriate behaviour within the courts and VCAT that:

- a. makes it clear that sexual harassment is being treated seriously and raises awareness about the work that is being done to prevent and address sexual harassment; and

explains the multiple mechanisms for raising a concern or making a complaint and encourages victim-survivors and witnesses to report sexual harassment to the relevant oversight body.

Responsibility

Courts Council

Court Services Victoria

with input from the regulatory and member organisations of the legal profession

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

harassment in any form, against any person – Victorian legal organisations are unified in this position.”

- b. Mechanisms for raising a concern or reporting sexual harassment were shared collaboratively with communications relating to sexual harassment providing multiple options and directing people to resources on the CSV website. Notably, the Commission conducted a roadshow across the legal sector where it addressed sexual harassment and provided the mechanisms for reporting, particularly for reporting matters including Judicial Officers.

A considerable amount of work was undertaken for raising awareness, both internally and externally, including:

- Establishing a Contact Officer network and victim-centred complaints process
- Engaging a dedicated sexual harassment and support service
- Developing a suite of policies addressing sexual harassment and other inappropriate workplace behaviours
- Delivering a comprehensive training program across the Courts Group
- Establishing the Health Safety and Culture Committee as the governing body for the Review program of work
- Establishing a national working group focussed on judicial education with the Judicial College
- Development of sexual harassment guidelines for judicial officers
- Redesign of the complaints reporting process

The CSV communications team confirmed in an interview that recent improvements have been made to implement an effective campaign to support ongoing awareness of sexual harassment.

A campaign advisor was employed in September 2023 for the coordination of communications on appropriate behaviour within the Courts Group. The proposed approach to the campaign is to leverage work already completed and improve processes for more effective engagement. For example, a behavioural insights specialty service has been engaged to assist with solutions for safe navigation of the intranet during a crisis.

The campaign advisor is a 12 month role to prioritise the implementation of this work with the future state for sexual harassment communications, as expressed by the current Executive Director of CSV Communications, to become a part of “BAU communications”.

Findings

In July 2022, the *Creating a culture of respect and safety within Victorian Courts and VCAT* draft framework was created to address Recommendation 11 as “an overarching framework that drives attitude and behaviour change in the Victorian Court System”. The framework addressed sub-points a. and b. as detailed below.

- a. Sexual harassment and the behaviour expected was discussed at meetings across the organisation and confirmed the ‘zero tolerance’ stance communicated by the Chief Justice. These meetings included a dedicated sexual harassment working group comprising of senior leaders from legal profession organisations who have court-user employees. The framework states “We do not tolerate sexual harassment, discrimination or

Recommendation 12

Provide targeted sexual harassment, gender inequality and discrimination training to all CSV staff and contractors that is delivered by independent experts.

The training should cover the following topics:

- a. the importance of creating a safe, respectful, diverse and inclusive workplace culture;
- b. the nature and impact of sexual harassment, gender inequality, discrimination, everyday sexism and incivility;
- c. how to recognise and respond appropriately to sexual harassment, gender inequality, discrimination, incivility and retaliation against people who report these behaviours;
- d. how effective bystander action can be encouraged;
- e. the potential risks and impacts of power disparity;
- f. empathetic communication and dealing with difficult behaviours; and
- g. implementing flexible work arrangements that are supported and seen as part of a positive culture and effective ways of working within the courts.

For those responsible for managing or supervising others, the training should also cover:

- h. inclusive leadership; and
- i. CSV's commitment to eradicating sexual harassment, gender inequality, discrimination and incivility and its expectation for the role they will play in that task, as well as providing them with the skills to effectively prevent, detect and respond to any inappropriate behaviour.

Responsibility

Court Services Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

From October 2021, sexual harassment training was delivered across CSV with an independent training partner, En Masse. En Masse is a White Ribbon accredited organisation including experienced facilitators from legal and psychology backgrounds.

Training has been systematically provided to all CSV staff and contractors, ensuring a broad and inclusive reach. In particular, training was designed specifically for each of the following groups within CSV:

- CEO Executive Group
- PC People Leadership Group
- Contact Officer Group
- Koori Staff Network
- Koori Elders and Respected Elders, and Koori Leaders
- CSV Managers
- All staff online training module

Additional and refresher training has been provided or is scheduled.

An online training module was developed and deployed to all CSV staff, with completion now compulsory as part of the induction for new staff. Audit results verify the training encompassed topics a. through g. as specified in Recommendation 11. The emphasis on fostering a safe, respectful, diverse, and inclusive workplace culture was underscored by a video from the Chief Justice. The training methodology incorporated video content, case studies and quizzes to ensure comprehensive understanding. Further, training was supplemented with fact sheets to provide concise and practical support on specific topics, easy access to resources and support on the CSV intranet.

For those in managerial or supervisory roles, enhanced and specialised training was delivered via online and face-to-face modules. The expanded modules incorporated topics h. and i. of Recommendation 11, focusing on the unique responsibilities and expectations of leadership roles. The training methodology incorporated case studies and role plays to ensure understanding and application. Further, training was supplemented with practical toolkits to facilitate deeper learning on topics, and easy access to resources and support on the CSV intranet.

Recommendation 13

Implement an education program for existing and newly appointed judicial officers and VCAT members on gender equality and the nature, drivers and impacts of sexual harassment, gender inequality and discrimination.

The relevant Head of Jurisdiction should ensure all current and any new judicial officers and VCAT members complete the Judicial College education program, which should cover:

- a. the duty of judicial officers and VCAT members to:
 - i. treat CSV staff, lawyers and others with civility, respect and dignity and avoid misconduct such as bullying, sexual harassment and discrimination;
 - ii. ensure that courts are safe workplaces for everyone who works there and respond to any instances of sexual harassment they witness or become aware of;
- b. the range of experiences and impacts of sexual harassment on victim-survivors, including a storytelling strategy similar to what was used by the Victorian Bar in 2017–18;
- c. the resources and services available for those who wish to make complaints or seek support;
- d. how gender, power imbalances in the workplace and other forms of inequality (for example, related to race or disability) impact how people respond to unwanted sexual advances;
- e. the role and expectations of bystanders in relation to incidents of sexual harassment;
- f. opportunities for feedback, review and/or coaching, to address in-court behaviour and out-of-court behaviours
- g. any other matters raised in the CSV policy referred to in Recommendation 2 and judicial conduct guidelines referred to in Recommendation 17; and
- h. for Heads of Jurisdiction, their role in recognising and responding to sexual harassment and other misconduct by judicial officers and VCAT members.

Responsibility

Judicial College of Victoria
Heads of Jurisdiction

Overview

Implementation Status

Partially met

Enhancement Opportunities

Identified

Findings

The College provided a document entitled *'Sexual Harassment Education completions summary'*, reflecting their progress with implementing Recommendation 13. CSV confirmed that in late 2021 the Magistrates' Court and the Children's Court received training external to the College and provided a document with the updated percentage of completion across the courts.

The document provided at the time of our audit states, as of 27 November 2023 66% of the eligible judicial population across the Supreme Court, the County Court, the Magistrates' Court, Children's Court, Coroners Court, and VCAT have completed training. Further sessions are scheduled for the Supreme Court, the County Court, the Magistrates' Court, and VCAT.

The College provided a document containing the program training materials, including PowerPoint slides, scenarios for small and large group discussions, and handouts on bystander pathways, responses and conduct guidelines. The program addresses sub-points a. to h. as follows:

- a. The program content emphasises the imperative for judicial officers and VCAT members to maintain an environment characterised by civility, respect, and dignity. It further mandates proactive measures to ensure the prevention of harassment and discriminatory behaviours.

- b. In the Judicial Management Forum, storytelling was incorporated via a session called 'Invitation to Share'. In the session six former associates participated in a discussion facilitated by Kristen Hilton about the culture of courts with the attending judicial officers, demonstrating how storytelling has been integrated into the program to depict a spectrum of experiences associated with sexual harassment.
- c. Attendees are provided with detailed information on resources and services available for complaint registration or seeking support.
- d. The content delves into the interplay of gender dynamics, power imbalances, and other inequality facets, providing insights into their potential influence on behavioural responses to unwelcome advances.
- e. The program delineates the pivotal role and obligations of bystanders in contexts of sexual harassment through a specific module on Bystander Training.
- f. Provisions for feedback, review, and coaching focusing on in-court and external court behaviours have been incorporated.
- g. Content from the CSV policy (Recommendation 2) and the judicial conduct guidelines (Recommendation 17) has been integrated into the program, including integration into scenarios in the training.
- h. Engagement with Heads of Jurisdiction on their role in recognising and responding to sexual harassment has occurred through individual consultations regarding the needs and requirements of the judicial officers within their court. The Heads of Jurisdiction speak personally about the significance of the work undertaken, the role of judicial officers in courts as workplaces and the importance of maintaining high standards of conduct to ensure public confidence in the justice system. Training specifically for the Heads of Jurisdiction as a cohort is pending further stakeholder consultation.

Enhancement Opportunities

Opportunity 7: The Heads of Jurisdiction should actively encourage all judicial officers and VCAT members to attend the training provided by the College.

Further sessions are scheduled for the Supreme Court, the County Court, the Magistrates Court, and VCAT to capture the remaining Judicial Officers. Given judicial education is not mandatory, the Heads of Jurisdiction should actively encourage participation by judicial officers from their jurisdictions to ensure progression towards the recommendation to "...ensure all current and any new judicial officers and VCAT members" complete the training.

Opportunity 8: The Attorney-General should consider including a requirement to complete recent and relevant sexual harassment training as part of the appointment process for judicial officers and VCAT members.

The audit identified an opportunity to include a requirement that recent and relevant sexual harassment training has been completed prior to the consideration of appointment.

Recommendation 14

Appoint an additional person/s with specific expertise in the prevention of sexual harassment and organisational change to join the Human Resources Committee of the Courts Council.

The Human Resources Committee should be responsible for:

- a. providing an annual update and report on its work and priorities, to be included in the annual report of each Court and also of Court Services Victoria;
- b. identifying further action required to create positive organisational cultures that prioritise staff wellbeing, gender equality and diversity; and
- c. reporting that informs an independent audit of progress against sexual harassment prevention as outlined in Recommendation 20.

Responsibility

Courts Council

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

The HSCC is a sub-committee of the Courts Council responsible for a range of cultural, safety and people-related matters.

The Courts Council appointed Kieran Pender to the HSCC. Mr Pender has specific expertise in the prevention of sexual harassment and organisational change through his extensive career as a lawyer and academic. One of

Mr Pender's achievements is the Us Too? Bullying and Sexual Harassment in the Legal Profession report (2019)¹⁸, which Mr Pender authored while at the International Bar Association.

Members of the HSCC explained in our interview with them that the structure of the sub-committee is currently being reviewed to ensure the focus on the prevention of sexual harassment doesn't shift post-acquittal of the Review's recommendations. The members of the HSCC interviewed, said the focus on the proactive prevention of sexual harassment will be maintained.

The HSCC explained their responsibilities in relation to sub-points a. to c. of Recommendation 14 as being:

- a. CSV, as the employing entity for the courts, excluding judicial officers, produces annual reports inclusive of sexual harassment updates. The contents of the annual report of each court is determined by the heads of jurisdiction. Progress towards the prevention of sexual harassment in each jurisdiction ought to be included in these annual reports.

The HSCC aim to have a more holistic approach to sexual harassment by considering the lessons learnt from the work completed by CSV in response to the Review, and understanding how negative behaviours interact with other risks. The People Matter Survey and matters raised from Your Safe Space are being analysed to identify themes for future focus areas.
- b. The Critical Safety Risk Committee is a sub-committee of the Courts Executive focusing on the high risks impacting the organisation, one of which is negative behaviours inclusive of sexual harassment. As the focus moves from the work undertaken to address the recommendations of the Review to other areas, discussions of sexual harassment is embedded into regular work practices.
- c. The SHR team provided reports to the HSCC on progress of and the "acquittal status" of the Review's recommendations. The HSCC reviewed and endorsed those reports.

In relation to Recommendation 20, the HSCC members interviewed reiterated the importance of coming back to audit the effectiveness of the interventions implemented.

18 <https://www.ibanet.org/MediaHandler?id=B29F6FEA-889F-49CF-8217-F8F7D78C2479>

Recommendation 15

Recommendation 16

The *Equal Opportunity Act 2010* and *Occupational Health and Safety Act 2004* should be amended to ensure that all persons working in Victorian Courts and VCAT, including judicial officers and VCAT members, are protected against sexual harassment and prohibited from sexually harassing others.

Responsibility

Attorney – General

Overview

Implementation Status

Partially met

Enhancement Opportunities

Nil

The Victorian Government explore further changes to the *Equal Opportunity Act 2010* to address systemic issues of sexual harassment as well as discrimination and victimisation. This should include changes to the powers and functions under the Act to enforce the current positive duty.

Responsibility

Attorney – General

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

The component of recommendation 15 relating to the *Occupational Health and Safety Act 2004* (**OHS Act**) is considered to have been addressed by WorkSafe Victoria issuing updated non-statutory guidance on existing OHS Act duties to prevent sexual harassment¹⁹.

WorkSafe updated its existing guide for duty holders to specifically refer to tribunal members and judicial officers as an example of persons who have duties under section 26 of the OHS Act on 31 August 2022.

DJCS, on behalf of the Attorney-General, is continuing to consider recommendation 15 in relation to the *Equal Opportunity Act 2010*. DJCS noted the complexities in respect of judicial immunity and judicial independence and the potential interaction with the *Sex Discrimination Act 1984* (Cth).

Findings

DJCS stated any change to the law is ultimately a matter for government. DJCS noted that recommendation 16 significantly overlaps with recommendations from other reviews, including the Parliamentary Inquiry into Anti-Vilification Protections.

In response to that Inquiry, the Victorian Government sought views from Victorians on how to change the law to better prevent and address vilification. DJCS undertook a three-stage public consultation process, on the Engage Victoria website, which closed on 16 October 2023.

The government is considering feedback that was provided and will continue to engage with the community. Subject to government direction, potential next steps could involve preparing legislative amendments which may include changes to the *Equal Opportunity Act 2010*.

¹⁹ [Work-related gendered violence including sexual harassment \(PDF version\)](#) | WorkSafe Victoria

Recommendation 17

Publish a supplementary guideline for judicial officers and members of VCAT dealing with sexual harassment and the standard of behaviour expected of them. To the extent that it is possible and appropriate to do so, the guideline should be consistent with and cover the same subject matter as the policy for CSV staff set out in Recommendation 2.

Responsibility

Judicial Commission of Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

A supplementary guideline has been created entitled *Judicial Conduct Guideline Sexual Harassment – SECTION 134 (1) Judicial Commission of Victoria Act 2016*²⁰. The guideline includes a message from the Chair of the Commission Board, the Chief Justice of Victoria, Anne Ferguson, introducing the guideline and expressing the standards expected of judicial officers. The guideline is consistent with the messaging of CSV's *Sexual Harassment and Victimisation* policy.

On 22 February 2022, CSV's Chief Executive Officer officially released and promoted the supplementary guideline to all members of CSV (all Jurisdiction Services) via email and via an intranet article.

Recommendation 18

Conduct an annual anonymous survey of all court and VCAT user groups to track progress on incidents of sexual harassment, reporting of incidents, and action by bystanders in the courts and VCAT. These surveys should be created in consultation with the Victorian Legal Services Board and Commissioner to ensure they collect comparable data and should reach all CSV staff, judicial officers and VCAT members as well as other court and VCAT users including barristers, solicitors and police prosecutors.

Responsibility

Court Services Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

CSV conducted a survey of employees, judicial officers and VCAT members in August 2022. The survey had 686 responses, a 23% response rate. The survey findings were released in April 2023 via a message from the Chief Justice.

The survey was developed in consultation with the Victorian Legal Services Board and Commissioner (VLSBC) to enable CSV to obtain comparable data to the broader legal profession and court user groups.

The VLSBC 2020 survey into sexual harassment across the Victorian legal profession, with minor changes, was used as the framework for the survey. The VLSBC intends to resurvey the Victorian legal profession. CSV stated it will continue to analyse and track progress of incidents involving sexual harassment, effectiveness of reporting and action by bystanders in the courts and VCAT. CSV will use the comparable data from the legal profession obtained through VLSBC surveys.

The sexual harassment survey is proposed to be conducted biennially, with the People Matters Survey providing supplementary data in the alternate years. Specific questions from the Sexual Harassment Survey have been developed for inclusion in future People Matters Surveys for continued measurement.

Recommendation 19

Embed performance metrics for people managers and supervisors with accountability to effectively prevent, detect and respond to any sexual harassment, and take a victim-survivor-centred approach in their responses.

Responsibility

Court Services Victoria

Overview

Implementation Status

Met

Enhancement Opportunities

Nil

Findings

Performance metrics were incorporated into the Performance and Learning Management System (**PALMS**) for the 2021-22 Performance Cycle.

The performance metrics were reviewed by the People and Culture Leadership Group in July 2022 for the 2022-23 performance management cycle and a further set of metrics have been included in the 2022-23 Performance Development Plans for all staff and managers.

The inclusion of sexual harassment metrics in the performance cycle was communicated to all CSV staff by the CEO on 3 September 2021. Staff were required to identify, discuss and agree their performance goals, capability strengths, and development goals with their managers. As part of that process, staff were required to review the sexual harassment awareness measures and associated actions required of them.

A victim-survivor centred approach was included in the performance metrics and response protocols for managers and supervisors through the metric to 'respond to concerns and complaints in a timely and sensitive way'. Furthermore, the metric to complete the sexual harassment training and read and understand the sexual harassment policy (which included a victim-survivor centred complaints process), ensured managers and supervisors reviewed the victim-survivor centred inclusions in that policy. CSV is committed to including sexual harassment metrics in Performance Development Plans for future performance cycles.

Recommendation 20

Within two years, commission an independent audit of the implementation of the Review recommendations and the effectiveness of the interventions implemented and make the audit report public.

Responsibility

Courts Council

Court Services Victoria

Overview

Implementation Status

Partially met

Enhancement Opportunities

Nil

Findings

On 22 June 2023, CSV engaged Ashurst Risk Advisory to conduct the independent audit in response to recommendation 20.

Ashurst Risk Advisory conducted the independent audit with support from Ashurst Australia (for legislative related recommendations), and Sentis (for culture focused recommendations).

Our report signifies the delivery of the first half of recommendation 20, namely the independent audit of the 'implementation' of the 20 recommendations. Our audit did not include the effectiveness of the interventions implemented, other than observations made by the audit team during the audit of the implementation of recommendations.

The assessment of 'effectiveness' of the interventions, will need to be commissioned by the Courts Council and CSV after CSV have had the opportunity to implement and maintain controls to minimise the risk, thereby allowing adequate time to pass and evidence to measure the effectiveness of the recommendations for those it impacts.

Acknowledgements

We acknowledge the many organisations and people who have been involved in implementing the Review's 20 recommendations.

We give special thanks to Dianna Bergen and Aisling Rogers at CSV, for their coordination of numerous stakeholder interviews and providing a substantial number of documents as evidence of work undertaken to implement recommendations. We also thank the many stakeholders who participated in interviews, including those from CSV, the Commission, DJCS, the HSCC, the Judicial College, En Masse, and Dr Helen Szoke who kindly provided her time to share insights and discuss her recommendations from the Review.

Appendices

Appendix A – Enhancement opportunities

Recommendation		Enhancement Opportunity	
R1	Champion a healthy positive workplace culture	1	The HSCC should consider regular reporting to the Courts Council on critical wellbeing and safety matters, including sexual harassment, post-acquittal of the Review's recommendations.
R2	Sexual harassment policy	2	CSV should consider committing to the development of a 'sexual harassment prevention plan' consistent with Standard 2 of the VEOHRC <i>Guideline: Preventing and responding to workplace sexual harassment (2020)</i> .
R3	Risk assessment sexual harassment	3	CSV should consider using Safe Work Australia's national guidance material and code of practice to inform the reassessment of the Risk Register.
		4	CSV should consider specifying localised controls in the reassessment of sexual harassment in the Risk Register.
R5	Appointment of Judicial Officers	5	The Attorney-General should ensure the consent form is consistently used as part of probity checks for newly appointed judicial officers.
		6	The Attorney-General should consider amending the appointment process to include both internal and external movements of judicial officers.
R13	Education program – judicial officers and VCAT members	7	The Heads of Jurisdiction should ensure all judicial officers and VCAT members attend the training provided by the College.
		8	The Attorney-General should consider including a requirement to complete recent and relevant sexual harassment training as part of the appointment process for judicial officers and VCAT members.

Appendix B – Stakeholders interviewed

Recommendation	Name	Position
All	Dr Helen Szoke	Reviewer
R2, R3, R9, R12, R18, R19, R20	Aisling Rogers	Sexual Harassment and Respect team
R2, R3, R9, R12, R18, R19, R20	Dianna Bergen	Sexual Harassment and Respect team
R9, R12	Mark Dean	CEO, En Masse
R10, R17	Alexis Eddy	CEO, Judicial Commission of Victoria and Acting CEO, Judicial College of Viwctoria
R10, R17	Claire Alexander	Manager, Legal and Complaints, Judicial Commission of Victoria
R5, R7, R15, R16	Edwina Kabengele	Director Civil Governance, DJCS
R5, R7, R15, R16	Stella Colledan	Director System Governance, DJCS
R5, R7, R15, R16	Jane Mevel	Senior Manager, Courts Policy, Strategy and Legislation, DJCS
R1	Louise Anderson	CEO, CSV
R1	Matt Hall	COO, CSV
R8, R13	Alexis Eddy	Acting CEO, Judicial College of Victoria
R8, R13	Liz Richardson	Director Judicial Education, Judicial College of Victoria
R8, R13	Peta Mayer	Judicial Education Lead, Judicial College of Victoria
R14	Kieran Pender	Independent member of the HSCC
R14	Judge Chambers	Chair of the HSCC
R14	Jewel Fulton	Chief People Officer
R11	Sarah Dolan	Executive Director Communications, CSV
R11	Stephanie Puls	Director Communications and Engagements, CSV

Inherent Limitations

The services provided are advisory in nature and have not been conducted in accordance with the standards issued by the Australian Auditing and Assurance Standards Board and consequently no opinions or conclusions under these standards are expressed.

Because of the inherent limitations of any internal control structure, it is possible that errors or irregularities may occur and not be detected. The matters raised in this report are only those which came to our attention during the course of performing our procedures and are not necessarily a comprehensive statement of all the weaknesses that exist or improvements that might be made.

Our work is performed on a sample basis; we cannot, in practice, examine every activity and procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities, including fraud.

Any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

Recommendations and suggestions for improvement should be assessed by management for their full commercial impact before they are implemented.

Ashurst Risk Advisory assumes no responsibility for updating its work or this report for events and circumstances occurring after the date of this report

We believe that the statements made in this report are accurate, but no warranty of completeness, accuracy, or reliability is given in relation to the statements and representations made by, and the information and documentation provided by Court Services Victoria personnel. We have not attempted to verify these sources independently unless otherwise noted within the report.

