

# Sexual Harassment in the Victorian Legal Sector

2019 study of legal professionals  
and legal entities

**Report of findings**



Victorian Legal Services  
**BOARD + COMMISSIONER**

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# Executive Summary



## Executive summary

The Victorian Legal Services Board and Commissioner (VLSB+C) is the primary regulator of the legal profession in Victoria.

In February 2019, the VLSB+C issued a statement on sexual harassment in the legal profession, confirming that sexual harassment by lawyers is not only unacceptable, it is also a form of behaviour that is capable of constituting professional misconduct. The statement was issued in response to concerns expressed by lawyers about the existence of sexual harassment in Victoria's legal workplaces – concerns that are supported by the findings of national research on the prevalence of sexual harassment in Australian workplaces generally, and international research on sexual harassment in the legal profession.

The statement also advised that the VLSB+C would be taking steps to understand the prevalence of sexual harassment in Victoria's legal profession, through a state-wide study. In April 2019, VLSB+C appointed Ipsos Public Affairs as an independent social research consultancy to conduct this study.

Two surveys were conducted as part of the study: a Practitioner survey and a Management Practices survey.

Of the 21,853 individuals who were sent the Practitioner survey, 11 per cent (or 2,324 people) chose to take part. A version of the Practitioner survey was adapted and made available to clients and other people working in Victoria's legal sector via an open link on the VLSB+C website. A total of 97 respondents either working in non-lawyer roles or who were clients of a legal professional completed this version of the survey.

The Management Practices survey was sent to principals of Victorian law practices and could be completed by the principal themselves or a nominated representative of their organisation (e.g. the human resources manager). This survey focussed on the training, policies and procedures used to prevent and manage sexual harassment at legal workplaces. A total of 259 people took part in the survey (representing approximately 5% of the legal entities in Victoria that were invited to participate in the survey).



## Key findings

### Prevalence of sexual harassment in the legal sector

The results indicate that sexual harassment is common in Victoria's legal profession, and disproportionately affects women in the sector. It is also a current issue.

- Around one in three (36%) legal professionals said they had personally experienced sexual harassment while working in the legal sector, similar to the five-year average for all workplaces (33%) noted by the Australian Human Rights Commission (AHRC) in its report on its fourth national survey on sexual harassment in Australian workplaces (AHRC report).<sup>1</sup>
- Women in the legal sector were significantly more likely to have experienced sexual harassment in their careers (61%) when compared to men (12%).
- Women in the legal profession experienced higher rates of sexual harassment than the AHRC found was the case for women in all Australian workplaces (61% of women in the legal profession vs. 39% of women generally noted in the AHRC report).
- One in four (25%) legal professionals have personally experienced sexual harassment in the legal sector within the last 12 months, and 57% within the last 5 years.
- Employers and employees' perceptions of the prevalence of sexual harassment differed. One in four (23%) respondents to the Practitioner survey said it was common or very common, while 41% thought it occurred sometimes; only one in ten (9%) thought it was rare. In comparison, 73% of respondents to the Management Practices survey thought that sexual harassment was very rare within their own organisation; a minority of 5% believed that incidents occurred sometimes, and 1% suggested it was commonplace.

### The nature of sexual harassment in the legal sector

There are some similarities between the harassment experienced by Victoria's legal professionals and Australians in other workplaces, however, there are also some key differences. In particular, the experience of sexual harassment in the profession is strongly gendered, and there is generally a power imbalance between the harasser and the victim.

#### Types of sexual harassment in the legal sector

- Consistent with the AHRC's findings for Australians in other workplaces, the most common types of sexual harassment that legal professionals had personally experienced were non-physical behaviours such as intrusive questions about their own or someone else's private life or physical appearance (24%), sexually aggressive sounds, comments or jokes (23%) and inappropriate staring or leering (19%).

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<sup>1</sup> Source: Australian Human Rights Commission, Everyone's business: Fourth national survey on sexual harassment in Australian workplaces 2018. Accessed from <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/everyones-business-fourth-national-survey-sexual>



- However, one in five (18%) had personally experienced unwelcome physical contact, including touching, hugging, cornering or kissing (18%) or actual or attempted rape or assault (2%).

### Who experiences sexual harassment in the legal sector?

- The majority of legal professionals who had personally experienced sexual harassment were women (82%), compared with 15% of men.
- Those with less experience in the legal profession were significantly more likely to have been sexually harassed (59% of those with less than 6 years' experience in the profession had personal experiences, including 33% less than 3 years' experience).
- One in five (21%) legal professionals who experienced sexual harassment were lawyers who hadn't completed their period of supervised legal practice.

### Who perpetrates sexual harassment in the legal sector?

- Consistent with the AHRC's findings, the majority of perpetrators of sexual harassment in Victoria's legal sector are male (90%), and the remaining 10% were female. Harassers were also significantly more likely to be described as being over the age of 40 (66%). Almost one in every two (45%) respondents said the harasser(s) had been male, *and* in a more senior role than they were at the time of the incident *and* aged over 40.
- For the majority of legal professionals who personally experienced sexual harassment, their harasser was senior to them at the time of the most recent incident (72%). This is to be contrasted with AHRC's findings that perpetrators of sexual harassment in Australian workplaces are most often co-workers at the same level as a victim.
- It was common for incidents of sexual harassment to be part of a pattern of behaviour from the harasser (40%) or for the harasser to be known for being involved in similar incidents (48%).

### What are the long-term and short-term effects of sexual harassment?

- Nine in ten respondents (88%) with a personal experience of sexual harassment said they had experienced at least one negative short-term effect, including a degree of discomfort and/or awkwardness at work (68%), a negative effect on their mental health, or stress (51%) and a negative effect on their self-esteem and confidence (39%).
- Almost half of the respondents (47%) with personal experience of sexual harassment mentioned a negative long-term effect, for example a negative effect on their relationships with colleagues (35%), discomfort and/or awkwardness at work in the long term (25%) and a long-term effect on their self-esteem and confidence (17%).

## Reporting incidents of sexual harassment

Sexual harassment in Victoria's legal profession is significantly under-reported. Those victims who did report their experiences often had unfavourable experiences.

- Most incidents of personally experienced sexual harassment went unreported (81%), although it was common to discuss an incident with colleagues (46%). Four in five (80%) people said it was easier to keep quiet than report an incident.





- Common experiences among those who filed a formal report about an incident of sexual harassment they had experienced included having their complaint ignored (41%) and being treated less favourably in the organisation after filing the report (38%). In addition, nearly half (46%) of those who made a formal report said they felt there were no consequences for the harasser.

## Barriers to reporting sexual harassment

Survey respondents with personal experiences of sexual harassment who chose not to report their latest incident were invited to consider a variety of personal, situational and contextual barriers to reporting, and nominate which barriers applied to their decision.

- Common barriers included negative pre-existing attitudes towards the process or outcomes of reporting (97% of respondents), in particular a belief that ‘it was easier to keep quiet’ (80%) or that ‘it was a minor incident’ (66%) and a distrust or lack of confidence in the system in place to address the incident (59%).
- Social barriers were also common barriers to reporting an incident, referenced by 91% of those who chose not to report. The most common social barriers were: concern about negative reactions from colleagues or the harasser (67%); the belief that others would think the respondent was overreacting (67%); and generally not wanting others to know about the incident (52%).

## Witnessing sexual harassment

Many respondents indicated that they had either witnessed or heard about the sexual harassment of another person while working in Victoria’s legal sector; however, it was extremely rare for a respondent to have reported the incident.

- More than one in three (36%) legal professionals said they had personally witnessed sexual harassment in the legal sector, while 43% had heard about it directly from someone who had been subject to the sexual harassment. Overall, more than half (53%) of respondents witnessed and/or had heard about sexual harassment first-hand. However, only one in ten respondents (10%) reported it.

## Workplace sexual harassment policies

Responses to the Management Practices survey suggest that there are many legal workplaces without sexual harassment policies.

- Only 44% of respondents to the Management Practices survey said their organisation definitely had a policy that addressed sexual harassment. Fewer than one in three (28%) organisations overall had *documented* policies.
- Respondents from small workplaces (between 2-50 people) were less likely to say there was a documented policy in their workplace (65%), compared with larger workplaces with over 50 people (90%).
- Just over one in two (54%) of those surveyed in the Practitioner survey said that their workplace definitely had a documented sexual policy in place.



## Training and education to prevent sexual harassment

The Management Practices survey asked respondents what training and education they provide to employees on workplace sexual harassment. The results suggest that training as a sexual harassment prevention tool is particularly rare.

- The majority of organisations that had a sexual harassment policy communicate that policy to new employees during the induction process (88%). However, as noted previously, fewer than half of all organisations appear to have such policies.
- Specific training on sexual harassment is uncommon in legal workplaces: only 13% of all respondents to the Management Practices survey provided training on sexual harassment. From a legal practitioner perspective, fewer than half (44%) of the respondents to the Practitioner survey said they had taken part in training on sexual harassment in their current workplace.



# Research context



# 1 Research context

## 1.1 Background and research objectives

The Victorian Legal Services Board + Commissioner (VLSB+C) is the primary regulator of the legal profession in Victoria.

The VLSB+C's goal is to maintain and enhance public trust and confidence in the legal profession in Victoria, in recognition that the integrity of the profession is fundamental to the legitimacy of the justice system and the maintenance and protection of the rule of law.

One of VLSB+C's key functions is to assist the profession to uphold the highest standards of ethics and legal practice.

While problematic conduct by lawyers can occur in many forms, the scope of the present research was to explore a specific form of unethical conduct: sexual harassment. The VLSB+C is committed to understanding the scope of this problem in the legal sector and using data to inform its regulatory response to this issue.

The VLSB+C's 2019 sexual harassment study (the study), which comprised a Practitioner survey and a Management Practices survey, marks the first step in this process and was conducted to gain a greater understanding of the prevalence and characteristics of sexual harassment in Victoria's legal workplaces, as well as the training, policies and procedures in place in legal workplaces to manage this problem.

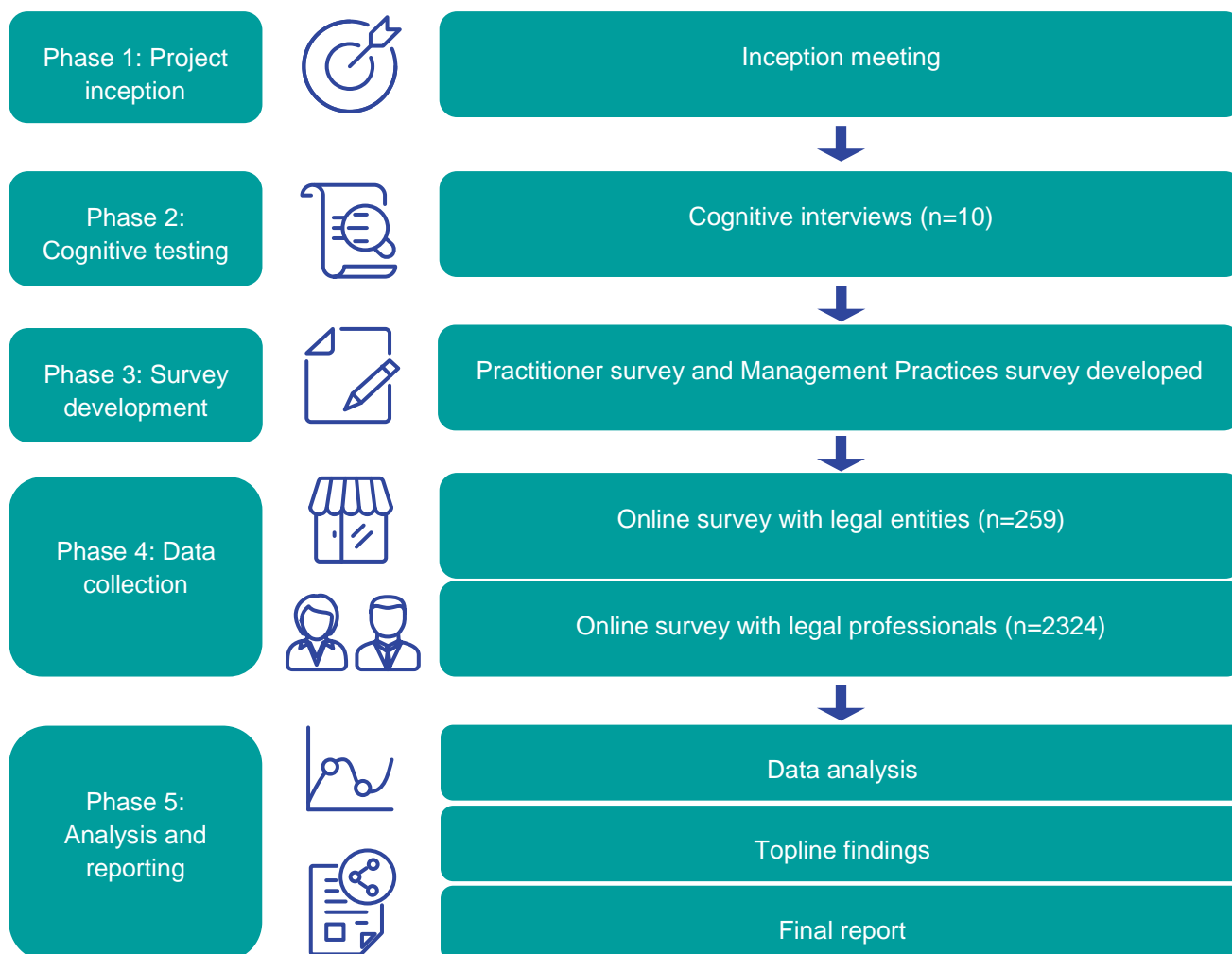
Specifically, the study aimed to examine:

- The prevalence of sexual harassment across the legal sector;
- The nature of sexual harassment in the legal sector, including:
  - the types of sexual harassment,
  - the victims and perpetrators of sexual harassment, and
  - the environments where sexual harassment occurs;
- The reporting behaviours of both victims and witnesses of sexual harassment; and
- The training, reporting and complaints handling processes relevant to sexual harassment incidents within Victoria's legal sector.



## 1.2 Study design

The following diagram illustrates the research methodology for this study.



### 1.2.1 Survey design

Two surveys were undertaken as part of this study:

1. A **Practitioner survey** – this survey was sent to practitioners to collect data on their experiences and perceptions of sexual harassment.

With permission from the Australian Human Rights Commission (AHRC), the structure and content of the Practitioner survey was largely based on the AHRC's fourth national survey on sexual harassment in



Australian workplaces<sup>2</sup> (AHRC 2018 Sexual Harassment Survey). Consequently, this study is able to draw comparisons between sexual harassment in Victoria's legal sector and the broader Australian working population, as outlined in the AHRC's report *Everyone's business: Fourth national survey on sexual harassment in Australian workplaces 2018* (the AHRC Report).

A version of the Practitioner survey was adapted and made available to clients and other people working in Victoria's legal sector via an open link on the VLSB+C website.

2. A **Management Practices survey** – this survey was sent to principals of legal entities and covered management practices around sexual harassment (i.e. training, policies and procedures relevant to sexual harassment) in their workplaces.

We worked closely with the VLSB+C to design both surveys, particularly in the adaptation of the AHRC 2018 Sexual Harassment Survey to suit the nuances of the legal profession.

The survey design process also included a round of qualitative research in the form of cognitive testing (see below).

## Cognitive interviews

Cognitive interviewing is a research technique to ensure the questions in a survey are understood by participants and that the questions are efficient in eliciting the information they were designed to collect. The process of cognitive interviewing allows us to be confident that the questions posed are in fact being interpreted in the manner intended, and that accidental ambiguity is eliminated prior to the surveying phase.

The process involves researchers asking respondents to complete the survey as if they were to complete the survey in reality. However, while the survey is being completed, the interviewer also asks the respondent questions designed to assess:

- how they have interpreted the meaning of a particular question;
- what they understand key words or phrases to mean;
- potential discrepancies between the intended and perceived meaning of a word;
- what words the respondent believes would more accurately convey the intended meaning;
- how suitable the response options were;
- the feelings evoked by a particular question; and
- whether they believe there are important topics that have not been adequately covered by the survey, and if so, what these are.

Given the primary data collection method was a self-completion methodology, in the cognitive interviewing phase we administered the draft survey by hardcopy, which is also a self-completion methodology.

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<sup>2</sup> Source: Australian Human Rights Commission, *Everyone's business: Fourth national survey on sexual harassment in Australian workplaces 2018*. Accessed from <https://www.humanrights.gov.au/our-work/sex-discrimination/publications/everyones-business-fourth-national-survey-sexual>



In total, 10 cognitive interviews with people from a variety of roles connected to the legal profession were conducted comprising:

- 5 solicitors
- 1 barrister
- 2 non-legal employees
- 2 people with management/HR responsibilities in a legal workplace.

## 1.3 Data collection

The data collection for the study was conducted between July and September 2019. Further details relating to the Practitioner survey and the Management Practices survey is presented below.

### Practitioner survey participants

The Practitioner survey was sent to all individuals who held a practising certificate<sup>3</sup> in the Victorian legal profession as at 30 June 2019. Participants were invited to take part in the survey via a unique survey link sent to the email address for the participant listed in the VLSB+C database.

A total of 21,853 invitations were sent to practitioners in the Victorian legal profession.

The data collection for the Practitioner survey commenced on 8 August 2019 and concluded on 10 September 2019.

A total of 2,324 practitioners responded to the Practitioner survey. Therefore, the survey population (i.e. all those who responded) represents 11% of all legal practitioners holding a practising certificate as of 30 June 2019.

In research, the larger the sample size, the smaller the margin of error. In other words, the larger the sample size, the more confident we are that results reflect that of the target population we are surveying. With a sample size of 2,324, we are able to provide results for the Practitioner survey that are statistically reliable within a margin of  $\pm 2\%$ , at a 95% confidence level. This means that if, for example, we found that 50% of legal practitioners had undertaken training in sexual harassment, we would be 95% confident that, had we received responses from the whole legal profession, the actual result (i.e. across the whole profession) would be somewhere between 48% and 52%.

Some of the characteristics of the Practitioner survey sample (unweighted and weighted) are presented in Section 1.3.1 to provide an indication of the type of legal professionals who took part in the survey.

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<sup>3</sup> In order to practise as a lawyer in Victoria, a person needs to hold a practising certificate. Practising certificates are granted by the Victorian Legal Services Board.



## Open survey

Non-legal employees within the Victorian legal sector, clients of legal professionals and individuals who used to work in the Victorian legal profession but who no longer held a practising certificate at the time of the Practitioner survey were able to access a version of that survey (the Open survey) through an open URL link on the VLSB+C website.

The open URL link was live from 9 August to 9 September 2019. A total of 97 respondents took part in the Open survey, which consisted of 77 women (79%), 16 men (16%) and 3 preferred not to say (3%). Results from the survey have been reported separately in selected sections of this report.

## Practitioner survey participant profile

Respondents to the Practitioner survey comprised:

- 1,851 solicitors, 254 barristers, and 5 people working in the legal sector as a volunteer, 64 in another kind of role, and 17 who preferred not to say. Another 133 respondents held a practising certificate but no longer worked in the profession.
- The sample consisted of 852 men (37%); 1,379 women (59%); 30 people (1%) identifying as another gender, and 73 who preferred not to disclose their gender (3%).
  - Within the solicitor cohort, 35% were men, 61% were women, 1% were another gender, and 3% preferred not to say.
  - Within the barrister cohort 50% were male, 41% were female, 3% were another gender, and 5% preferred not to say.<sup>4</sup>
- The majority of respondents worked in a metropolitan area (84%), 8% were from regional Victoria, and 8% had not stated their place of work.
- Almost two in five (36%) respondents were less than 40 years of age, 45% were 40 years or above, and 19% had not stated their age.

To ensure the data analysed was balanced and represented the characteristics of the whole of the legal profession, the results from the Practitioner survey were adjusted (i.e. weighted). This process of weighting ensured that the data was not overshadowed or skewed by subgroups where there may be higher response rates (i.e. among female legal professionals or those from metropolitan workplaces). Weighting of the Practitioner survey data was based on population data on the age, gender, role, and location of practising certificate holders provided by the VLSB+C.<sup>5</sup>

## Management Practices survey participants

The Management Practices survey was sent to a list of principals of registered legal entities in Victoria (as of 30 June 2019).

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<sup>4</sup> Note: Does not add to 100% due to rounding

<sup>5</sup> The weights were calculated based on the statistics on the legal profession as of 3 June 2019 (Source: [https://lsbc.vic.gov.au/?page\\_id=287](https://lsbc.vic.gov.au/?page_id=287) ).





A total of 4,819 principals were sent the invitation to take part in the Management Practices survey on behalf of their legal entities. Principals were also able to nominate a representative from their organisation, for example a human resources manager, to complete the survey on their behalf. A process of sample cleaning was conducted to ensure that entities with more than one principal were only sent the survey once (i.e. to one of their listed principals).

The Management Practices survey included questions around the number of employees at a principal's organisation so that sole practitioners without other employees were screened out and asked no further questions.

Without prior knowledge of the number of people employed by sole practitioners, sole practitioners, along with principals at Incorporated Legal Practices, law firms, and community legal centres, were invited to participate in the survey and subsequently screened to confirm if they had 2 or more employees at their workplace. Several entity types were excluded, including government employers and unincorporated legal practices.

## Management Practices survey participant profile

Overall, 259 respondents from organisations with two or more employees took part in the survey on behalf of their organisation, resulting in a response rate of 5%.

Characteristics of the entities that took part in the Management Practices survey (unweighted) were as follows:

- There were 259 organisations with two or more employees.
- The majority of organisations were based in the metropolitan area (73%), 14% were regional and 13% did not specify their location.
- 35% of respondents were sole practitioners with at least 2 employees; 55% of respondents were from workplaces with 2-50 employees at their workplace, 2% had 51 to 100 employees, 1% had 101 to 200 employees, and 10% had 201 or more employees.<sup>6</sup>
- The majority of respondents were law firms (51%), followed by sole practitioners with at least 2 employees (35%).
- Of the 133 law firms that took part, 92% (123 firms) had 2-5 partners or directors, 2% (2 firms) had 6-20 partners or directors and 5% (7 firms) had 21 or more partners or directors. One per cent (1%) preferred not to specify the number of partners at their firm.
- In terms of the respondents as individuals, 76% were principals, 10% were the CEO or head of the workplace, 9% were partners, 4% were senior associates/lawyers, 2% were senior management, 1% were human resources managers, and 2% were in another type of role.

As with the data from the Practitioner survey, the Management Practices survey data was adjusted (weighted). This process of weighting ensures the data is not skewed or overshadowed by groups with higher response rates and that the results are balanced to represent the actual mix of Victorian legal entities that were invited to complete the survey.

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<sup>6</sup> Note: Does not add to 100% due to rounding



The weights were calculated based on the statistics on legal entities as of 3 June 2019<sup>7</sup>.

For the Management Practices survey sample of 259, we are 95% confident the results are statistically reliable at a margin of  $\pm 6\%$ . This means that if we were to find 50% of respondents said their workplace had a sexual harassment policy in place, we would be 95% sure that – had we received responses from all entities invited to complete the survey – between 44% and 56% of all entities would have a policy in place.

Based on some of the feedback from entities who contacted the VLSB+C and Ipsos help desk at the time of data collection, we understand that some sole practitioners may not have opened the survey to complete screening questions, deeming the survey as irrelevant as they did not have any employees.

While this anecdotal evidence from messages to the Ipsos help desk and calls to the VLSB+C indicates that there was some degree of non-response bias from sole practitioners who believed the survey was not relevant to their organisation, 195 sole practitioner entities did start the survey before being screened out for having too few employees. The number of responses from sole practitioners with and without at least two employees was used as proxy for the distribution of sole practitioners with and without at least two employees when determining the weighting calculations.

### 1.3.1 A note on non-response bias

In research studies that measure sensitive attitudes and behaviours, such as sexual harassment, there is the risk of non-response bias. Non-response bias refers to the risk of the sample (i.e. those who responded and participated in the survey) not being representative of the population of interest (i.e. all those working in Victoria's legal sector) because those who responded are in some ways different to those who did not participate.

In the development and conducting of this research, several measures were implemented to reduce the likely impact of non-response bias. These included:

- Considered survey design and cognitive testing. In the development of both the surveys, questions were drafted with the aim of obtaining a response that was not 'leading' to the respondent (that is, that did not prompt the respondent to answer in a particular way). Alternative survey pathways were also possible depending on a person's experience of sexual harassment in the legal sector. The cognitive testing helped to confirm that the questions in, and structure of, the surveys, allowed for a diversity of views and experiences.
- The language used in the communications to promote and distribute each survey. Specifically, the communications specified the importance of all members of the profession taking part, regardless of their experience with sexual harassment.
- Adjustments in the form of applying weights to the data. For example, when comparing the final sample for the Practitioner survey with the population, it was noted that a greater proportion of females had responded to the survey. In order to address the impact of non-response bias, the data was weighted in order to accurately represent the population, according to gender, location, role and age (please see Table 1 and Table 2 for sample characteristics pre and post-weighting).

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<sup>7</sup> Source: [https://lsbc.vic.gov.au/?page\\_id=287](https://lsbc.vic.gov.au/?page_id=287)



It is also worth noting that, throughout this report, results from the Practitioner survey were compared to those found by the AHRC in its 2018 Sexual Harassment Survey. The overall results on the prevalence of sexual harassment in the legal sector were largely on par with the incidence of sexual harassment across the general working population – suggesting that non-response bias did not have a meaningful effect on the data.



**Table 1: Summary of sample characteristics (unweighted vs weighted) – Practitioner survey**

	<i>Unweighted</i>	<i>Weighted</i>
<b>Role</b>		
Solicitor	84%	87%
Barrister	12%	9%
Other type of role	3%	4%
Not stated	1%	0%
<b>Gender</b>		
Male	37%	47%
Female	59%	49%
Other	1%	1%
Prefer not to say	3%	3%
<b>Location</b>		
Metropolitan	84%	84%
Regional	8%	8%
Not stated	8%	8%
<b>Age</b>		
Less than 40	36%	40%
Over 40	45%	42%
Not stated	19%	18%



**Table 2: Summary of entity sample characteristics (unweighted vs weighted) – Management Practices survey**

	<i>Unweighted</i>	<i>Weighted</i>
Entity Type		
Sole practitioner	42%	46%
Incorporated Legal practice	47%	47%
Law Firm	5%	5%
Community Legal Centre	6%	1%
Other	0%	1%
Location		
Metropolitan	70%	76%
Regional	13%	7%
Not stated	17%	17%

## 1.4 How to read this report

For each question, the data has been presented in a combination of charts and tables, typically at the overall level, as well as where significant differences were found between groups.

Throughout the report, reference has been made to differences between groups being significant. When we note that two results are significantly different, this means we can be 95% confident that the difference observed reflects a true difference in the population of interest and is not a result of chance.

Where significance testing has been conducted between a group where participants fell into more than two categories, significance testing has been used that tests one category against the average of all the other categories. For example, if it was noted that those with up to 12 months experience were significantly more likely to report a certain behaviour, we would be comparing those with up to 12 months experience with everyone else (i.e. the average of those with up to 12 months experience vs. the average of those with 1-2 years' and 3-5 years' and 6-10 years' and 11 years' or more experience), not the overall average.

**Note: Some figures do not add to 100% due to rounding and/or where multiple responses are allowed.**



## Key terms

**Legal Professionals:** Respondents of the Practitioner survey – individuals who held a current Victorian practising certificate as of 30 June 2019.

**Non-legal employees:** Respondents of the Open survey who at the time of the survey were working within the Victorian legal sector in a non-legal capacity (e.g. in administration, paralegal or support services, as a legal executive or while undertaking work experience/ practical legal training/a clerkship, etc.).

**Clients:** Respondents of the Open survey with experience as a client within the Victorian legal sector.

**Formal report or complaint:** A report or complaint about the incident through official internal avenues available at an organisation, leading to (for example) an investigation, official report and decision.

**Informal report or complaint:** An internal report or complaint about the incident whereby the victim seeks to resolve the issue without the need for an investigation, official report or decision.

**External report or complaint:** An official report or complaint about the incident through external avenues outside of the harasser's organisation that includes an investigation, official report and decision.

**Bystander:** Respondents who had personally witnessed incidents of sexual harassment perpetrated or experienced by people working in the Victorian legal sector.

**Practising certificate:** In order to practise as a lawyer in Victoria, a person needs to hold a practising certificate. Practising certificates are granted by the Victorian Legal Services Board.

**Sample size:** A group of subjects that are selected from the general population and is considered a representative of the real population for that specific study. The larger the sample size, the more representative it is considered to be of the population of interest.

**Population:** The entire group of people from which the sample is selected.

**Open survey:** For an online survey, such as the one developed for this research, an open survey is a survey that can be completed by anyone who has been provided with a link to that survey. This is in contrast to an online survey where unique survey invitations are sent to a list of potential respondents. For this research, individuals who held a current Victorian practising certificate could be invited to participate as there was a database of contact details available. However, non-legal employees within the Victorian legal sector, clients of legal professionals and lawyers who used to work in the Victorian legal profession but who no longer held a practising certificate at the time of the Practitioner survey were able to access a version of the survey (the Open survey) through an open URL link that was available on the VLSB+C website.



# Detailed findings



## 2 Prevalence of sexual harassment in the legal sector

Section 2 of this report below covers the proportion of those who work in the Victorian legal sector who have personally experienced sexual harassment, while Section 3 covers the nature of the sexual harassment experienced, including details of the incident and the harassers involved.

The incidence and nature of sexual harassment witnessed by those in the legal sector are covered in Section 6 of this report.

### 2.1 How common are experiences of sexual harassment?

Around one in three (32%) legal professionals said that they had personally experienced sexual harassment at some point of their legal career, when presented with the legal definition of sexual harassment.

The incidence of experiences of sexual harassment was higher when respondents were presented with examples of behaviour or situations that could be considered as sexual harassment (36% personal experience with examples vs. 32% when asked without any examples). Of note, women who were initially presented with the legal definition of sexual harassment were then more likely to say they had experienced subtler forms of sexual harassment when presented with examples of sexual harassment behaviour (i.e. the behavioural definition of sexual harassment). When shown the behavioural definition of sexual harassment, 61% of women reported having experienced sexual harassment in their careers, compared to 12% of men.

Overall, the proportion of legal professionals who had experienced sexual harassment is similar to the national average specified in the AHRC 2018 Sexual Harassment Survey (36% vs. 33% workers when a similar list of behaviours were presented).

However, further analysis into the details of the people who were more likely to experience sexual harassment, the nature of sexual harassment and the people behind it, highlighted differences between the experience of sexual harassment in the Victorian legal sector and what was experienced in Australian workplaces in general. In particular, in legal workplaces, women and those with less experience are more likely to experience sexual harassment compared with men and those with more experience respectively (see Section 3).

To understand the prevalence of sexual harassment in Victoria's legal workplaces, respondents to the Practitioner survey were presented with the following legal explanation of sexual harassment, based on its legal definition:

In very basic terms, sexual harassment is behaviour or conduct that:

- is of a sexual nature
- is unwelcome, and





- could make a reasonable person feel offended, humiliated or intimidated.

Respondents were also advised that:

For this survey, we would like you to focus on work-related sexual harassment incidents you may have experienced, witnessed or heard about when working in a legal workplace.

These incidents do not need to be linked to a specific office location; physical space; or have occurred during work hours.

Work-related sexual harassment can occur during or after work hours; in the office or at locations offsite, or at after-hours social activities, functions or events you attend with colleagues and/or clients.

It can include incidents that happen in person as well as through other forms of communication such as phone calls, texts, email, or social media.

Respondents were then asked about their experiences of sexual harassment in legal workplaces, in the following two ways.

Firstly, respondents were asked whether they had experienced sexual harassment in a general sense, based on the legal definition of that term.

Respondents were then presented with a list of behaviours that could constitute sexual harassment and asked if they had experienced one or more of these behaviours and felt offended, humiliated or intimidated. This behavioural definition of sexual harassment was presented to respondents to minimise the potential under-reporting that could occur if respondents had not considered the full range behaviours that could constitute sexual harassment.

The list of behaviours used in the Practitioner survey was adapted from the list of behaviours used in the AHRC 2018 Sexual Harassment Survey<sup>8</sup>. The behaviours used in the Practitioner survey are listed in Table 2.

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<sup>8</sup> Source: [https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC\\_WORKPLACE\\_SH\\_2018.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_WORKPLACE_SH_2018.pdf)



**Table 2: Behaviours / situations listed in the Practitioner survey**

Examples of specific behaviours / situations
Inappropriate staring or leering
Indecent exposure or inappropriate display of the body
Sexual gestures
Sexually suggestive sounds, comments or jokes
Sexually explicit pictures, posters or gifts
Repeated or inappropriate invitations to spend time alone or go out on dates
Intrusive questions about your or someone else's private life or physical appearance
Being followed, watched or someone loitering nearby
Requests or pressure for sex or other sexual acts
Direct or implied requests or pressure for sex or other sexual acts in exchange for a benefit to you or someone else or to prevent a negative outcome
Actual or attempted rape or sexual assault
Indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine
Sexually explicit comments made in emails, SMS messages or on social media
Repeated or inappropriate advances on email, SMS messages, social media, social networking websites or internet chat rooms
Sharing or threatening to share intimate images or film without consent

base n=2324

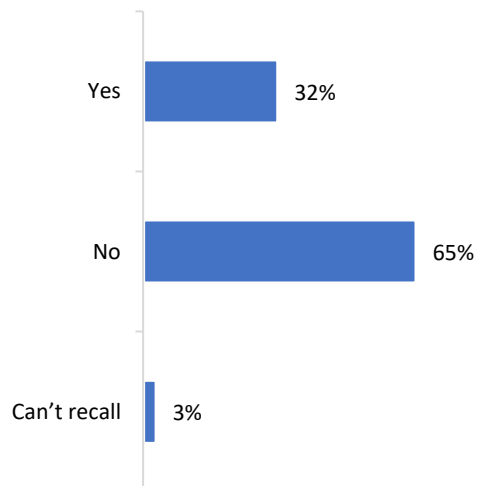


**Over one in three (32%) legal professionals said they had personally experienced sexual harassment in the legal sector at some point in their career, when provided with a legal definition of sexual harassment. However, the prevalence of experiences of sexual harassment increased when a list of example behaviours was presented to respondents (36%)**

When asked based on the legal definition of sexual harassment, one in three (32%) respondents said they had experienced sexual harassment in a legal workplace at some point in their career (See Figure 1).

*"My personal experience as a young female lawyer in the Victorian legal sector . . . was extremely negative when it comes to sexual harassment. . . it's overwhelmingly common and the experience of most young female lawyers. I had older female lawyers in their 40s and 50s tell me it was just the norm when I complained about it."*

**Figure 1. Personal experience of sexual harassment (Legal definition)**

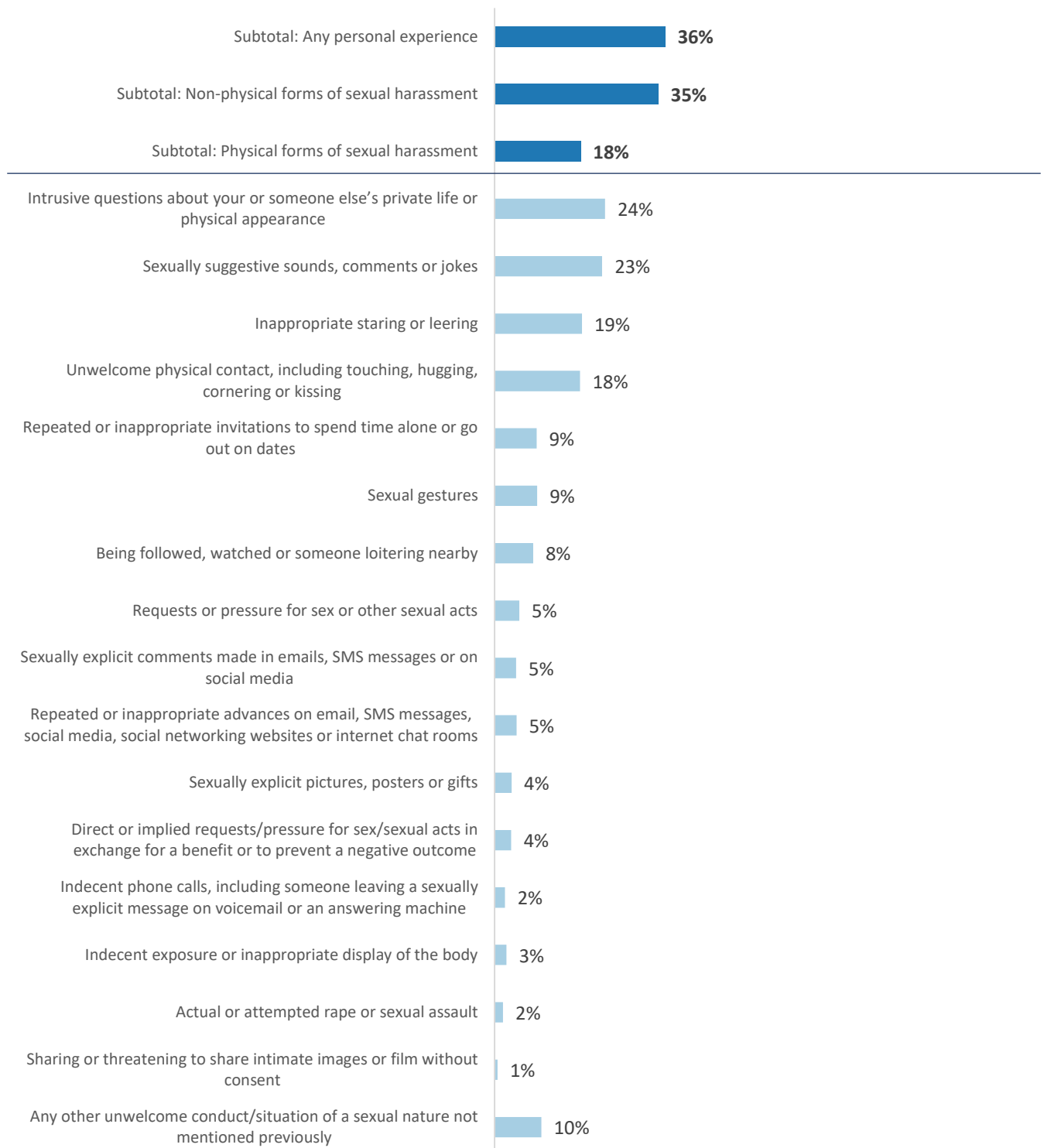


Base: All legal professionals (n=2324).

Of note was the increase in the prevalence of sexual harassment experiences when the comprehensive list of behaviours that may constitute sexual harassment was presented to respondents (that is, when they were provided with a behavioural definition of sexual harassment). When presented with different examples of behaviour and situations that could constitute sexual harassment, 36% of respondents said they had experienced one or more of those behaviours in a legal workplace (See Figure 2).



**Figure 2. Personal experience of sexual harassment (Behavioural definition of sexual harassment)**



Base: All legal professionals (n=2324).



### Women legal professionals were significantly more likely than their male colleagues to say they had experienced sexual harassment in the legal sector

*“As women I think we have been conditioned to believe it just “comes with the territory” and is something we have to put up with to some extent if we want to advance our careers.”*

*“Sexual harassment has been so prolific across my career I couldn't put a number on how many times I have experienced it. I've been forced to just accept it and move on, or risk being labelled as “difficult” and having it negatively impact my career. You just have to pretend it's not happening otherwise your career is over.”*

Based on the legal definition, just over one in two (53%) women said they had experienced sexual harassment in the past. In contrast, just over one in ten men (12%) said they had experienced sexual harassment. One in four females (27%) and one in five (18%) males who experienced sexual harassment said it occurred in the past 12 months, and 58% of females and 50% of males said the harassment occurred in the last 5 years.

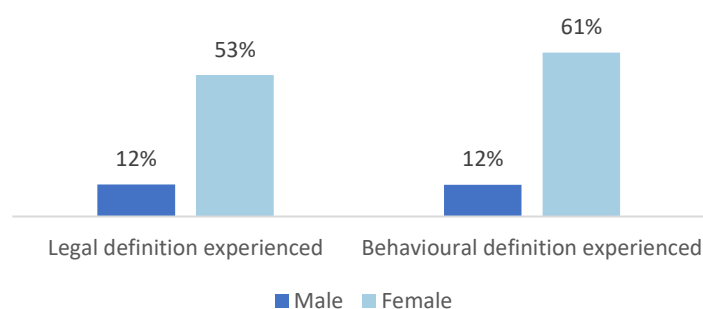
When provided with a behavioural definition of sexual harassment, 61% of women said they had experienced one or more of the listed behaviours – 8 percentage points higher than when they had not been presented the examples. The prevalence of sexual harassment among men who worked in the legal profession remained the same when presented with the behavioural definition (12%) (see Figure 3).

In comparison, the AHRC 2018 Sexual Harassment Survey found that, over the past five years, 39% of women and 26% of men had experienced workplace sexual harassment when shown the behavioural definition of sexual harassment. Over the course of their lifetime, 43% of the AHRC 2018 Sexual Harassment Survey respondents reported having experienced workplace sexual harassment on the basis of the legal definition.

*“The harassment of junior women litigation solicitors by more senior male barristers has been a known problem for the 20+ years I have been practicing law in Victoria.”*

*“Most of those “harassers” seem to understand the concept of sexual harassment, but there seems to be a pervasive belief that their own conduct does not fall within that concept (many seem to think their own conduct is just light-hearted fun, or in some way consensual).”*

**Figure 3. Personal experience of sexual harassment (Legal vs. behavioural definition of sexual harassment, by gender)**



Base: All legal professionals (n=2324); Men (n=852), Women (n=1369)



Notably, one in ten women who initially suggested they had not experienced sexual harassment in the workplace (based on the legal definition of that term) subsequently said they had experienced subtler categories of behaviour that made them feel intimidated, humiliated or offended, including intrusive questions about one's private life or physical appearance (11% experience), sexually suggestive sounds, comments or jokes (10%), or inappropriate staring or leering (9%).

### **Sexual harassment is a current issue – one quarter of incidents occurred in the last 12 months**

*"It is very common not necessarily by your colleagues, but for other legal practitioners in your area of law, or barristers to make casual sexist or personal comments. This is my experience as a young female working in the legal profession for a while now."*

When asked about when they had experienced sexual harassment in the workplace (based on the legal definition of sexual harassment), 57% of legal professional respondents said the harassment had occurred within the last 5 years. This includes one in four (25%) respondents who said it had occurred within the last 12 months.

### **Prevalence among non-legal employees and clients in the legal sector also increased when examples were provided**

While the number of legal clients that completed the Open survey was small (8 respondents), 38 percent of clients recalled at least one incident of sexual harassment when asked generally or provided with specific examples of sexual harassment.

In relation to non-legal employees working in the legal sector (73 respondents), over one in three (37%) recalled having experienced sexual harassment generally. This increased to nearly one in two (47%) when presented with examples of sexual harassment.

## **2.2 What is the perception of the prevalence of sexual harassment?**

### **Generally, legal professionals were aware that sexual harassment occurred at varying rates**

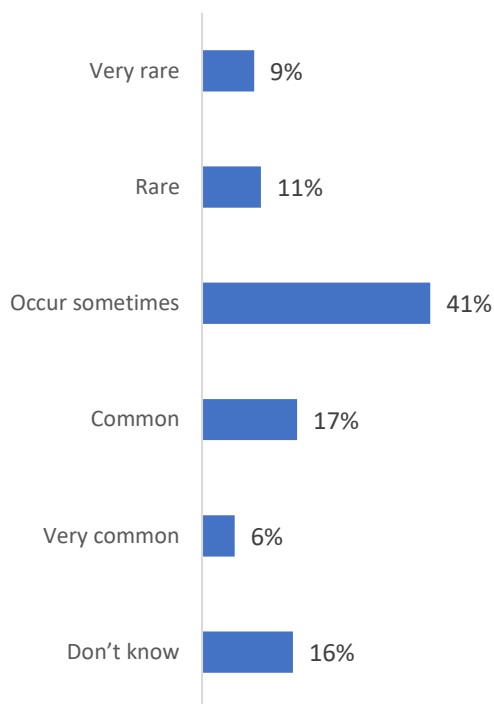
In terms of respondents' perception of the prevalence of sexual harassment in the legal sector, one in four respondents (23%) said it was common (6% very common and 17% common). One in ten (9%) respondents said that incidents of sexual harassment were very rare.

For those respondents with personal experiences of sexual harassment, 44% said it was common or very common in the legal sector compared to 11% for those without any personal experience. While the responses for those with and without experiences of sexual harassment did differ, the most common response for both cohorts was a pragmatic view that it occurred sometimes (43% for those with personal experience and 40% for those without) (See Figure 5).

*"Unfortunately I believe it is common. I have heard about it from colleagues, often in very senior positions as well as from more junior lawyers and support staff. As women I think we have been conditioned to believe it just "comes with the territory" and is something we have to put up with to some extent if we want to advance our careers."*

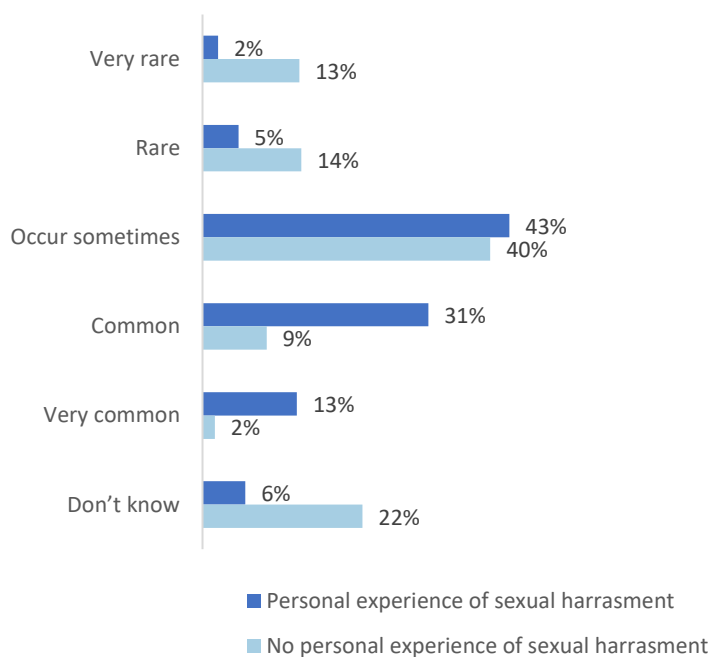


**Figure 4. Believed incidence of sexual harassment in the Victorian legal sector - Total**



Base: All legal professionals (n=2324).

**Figure 5. Believed incidence of sexual harassment in the Victorian legal sector by personal experience**



Base: All legal professionals (n=2324); With personal experience (n=944), No personal experience (n=1380).



**Implications:**

This research highlights that the prevalence of sexual harassment in the Victorian legal sector is similar to the average across all workplaces noted by the AHRC. However the current study found higher rates of sexual harassment for women in the legal sector when compared to the AHRC. Details of the characteristics of those who have experienced sexual harassment while working in the legal sector are covered in Section 3.2 - Who experiences sexual harassment in the legal sector?

The increased prevalence of sexual harassment where behavioural examples were provided to respondents suggests a need to increase the legal sector's awareness that non-physical, and subtler types of behaviours can constitute sexual harassment – where people are offended, humiliated or intimidated by those behaviours. It also suggests the need to educate workplaces that, while people may not outwardly show signs they are offended, humiliated or intimidated by such behaviour, this does not mean it has not had an adverse effect on them or that the behaviour is socially acceptable or does not constitute sexual harassment. There are specific reasons that people choose not to act on sexual harassment behaviour they have experienced or witnessed (see Sections 5 and 6.4 for barriers to reporting sexual harassment experienced or witnessed, respectively).





### 3 The nature of sexual harassment in the legal sector

Intrusive questions about their own or someone else's private life or physical appearance and sexually suggestive sounds, comments or jokes are the most common form of sexual harassment experienced by legal professionals (24% and 23% respectively). Of most concern is the one in five respondents who had experienced physical sexual harassment such as unwelcome physical contact, including touching, hugging, cornering or kissing (18%) or actual or attempted rape or sexual assault (2%).

People who had experienced sexual harassment in legal workplaces were more likely to be women (82% of all victims), hold the role of solicitors/lawyers (29% of all victims), or have had less than 6 years' experience in the legal sector at the time of the incident (59%). One in five (21%) respondents who had personally experienced sexual harassment had not completed their period of supervised legal practice at the time of the most recent incident. Notably, one in every two respondents who had experienced sexual harassment had been both female and with less than five years' experience at the time (51% of all victims).

Nine in ten (90%) of perpetrators of sexual harassment were male.

Seven in ten respondents (72%) stated the harasser was more senior than they were at the time of the incident, including 33% who noted that a partner (22%) or principal (11%) were involved in the harassment. Just over one in ten (14%) mentioned that the harasser had been a barrister.

About one in every two (45%) respondents said the harassers were male, *and* over the age of 40 *and* more senior than them at the time.

For 40% of respondents, the most recent incident of sexual harassment they experienced had been part of a pattern of sexual harassment by the same harasser. More than four in ten respondents said the harasser/s had been involved in other similar incidents (45%).

#### 3.1 What specific types of sexual harassment occur in the legal sector?

**The common types of sexual harassment experienced in the legal profession were in line with the experiences faced in all Australian workplaces**

The most common forms of sexual harassment personally experienced by legal professionals were intrusive questions about their own or someone else's private life or physical appearance (24%), followed by sexually suggestive sounds, comments or jokes (23%), and inappropriate staring or leering (19%) (see Figure 6).

*"It is so very uncomfortable having someone stare at you - just stare - while you're trying to do no more than sit, drink coffee and just be. What do they want from me? What is it that they imagine of me? What role am I playing for them in that moment?"*

*“It was very common to hear male partners making sexual comments and jokes about women and commenting on their bodies. The more serious comments like requests for sex were generally after Christmas parties when there was alcohol involved.”*

This was similar to the results found by the AHRC for Australian workplaces in its 2018 survey. The AHRC report notes that the most common forms of workplace sexual harassment across Australia are sexually suggestive comments or jokes (19%), intrusive questions about an individual's private life or physical appearance (14%) and inappropriate staring or leering (11%).

One in five (18%) respondents said they had experienced at least one physical form of sexual harassment, and over one third (35%) experienced at least one non-physical form of sexual harassment. Notably, one in three women (32%) had experienced a physical form of sexual harassment in the workplace, when compared to men (4%). When compared to women in all Australian workplaces (AHRC, 2018), women in the legal sector experienced unwelcome physical contact at a greater rate (13% vs 32%).

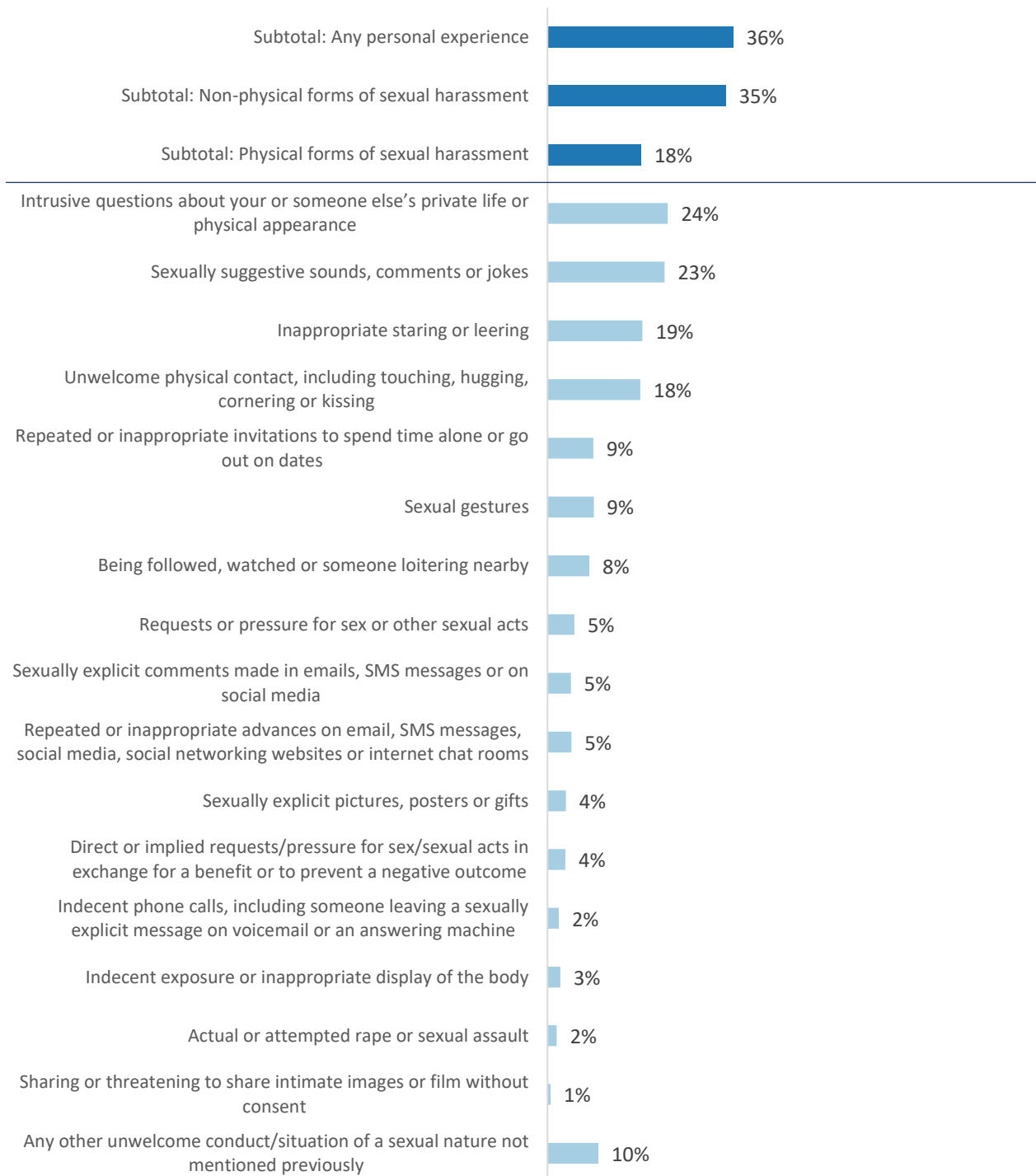
Respondents were asked whether there were any other forms of sexual harassment they have witnessed or experienced in the past. Respondent detailed behaviours relating to inappropriate comments, questions and jokes (46%), unwelcome physical contact and advances (16%) and threats of sexual harassment (6%).

*“Lawyer perpetrators are probably more savvy than members of the public about what they do and where and how they do it. It is more subtle.”*

Similar results were found for non-legal employees, and clients, where the most commonly experienced forms of sexual harassment were sexually suggestive sounds, comments and jokes (34% and 25%), intrusive questions about their or someone else's private life or physical appearance (26% and 25%), and inappropriate staring or leering (both 25%).



**Figure 6. Personal experience of sexual harassment (Behavioural definition, i.e. prompted with examples)**



Base: All legal professionals (n=2324).



## 3.2 Who experiences sexual harassment in the legal sector?

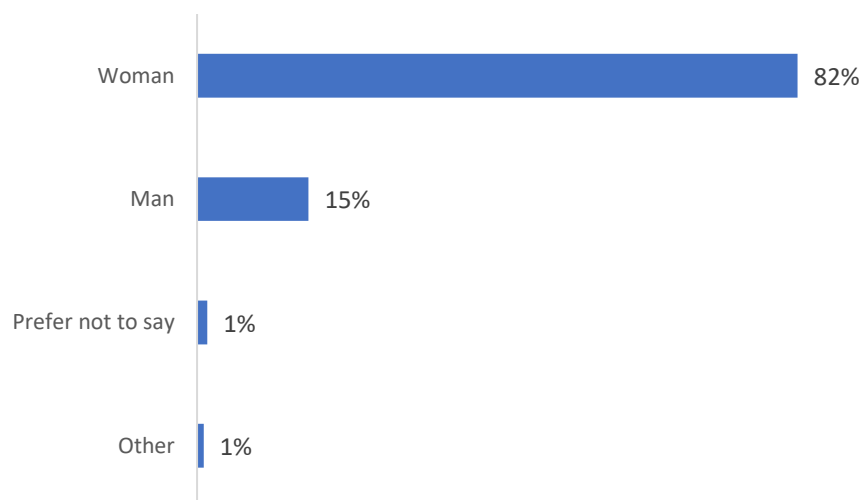
Those who had experienced one or more of the listed examples of sexual harassment were asked to reflect upon the most recent incident of sexual harassment. The following results are based on the 36% of respondents (944 respondents) who experienced at least one of the listed behaviours and felt intimidated, offended or humiliated.

### The majority of those who had personally experienced sexual harassment were women

Four in five respondents (82%) who had personally experienced sexual harassment were women, 15% were men, 1% were another gender and 1% did not specify (see Figure 7). One in every two respondents who had experienced sexual harassment had been both female and with less than five years' experience at the time (51% of all victims).

*“Some law firms have a “boys club” culture which appears to almost encourage sexual harassment.”*

**Figure 7. Personal experience of sexual harassment (behavioural definition) by gender**



Base: All legal professionals (n=2324); Women (n=1369), Men (n=852), Prefer not to say (n=73), Other (n=30).

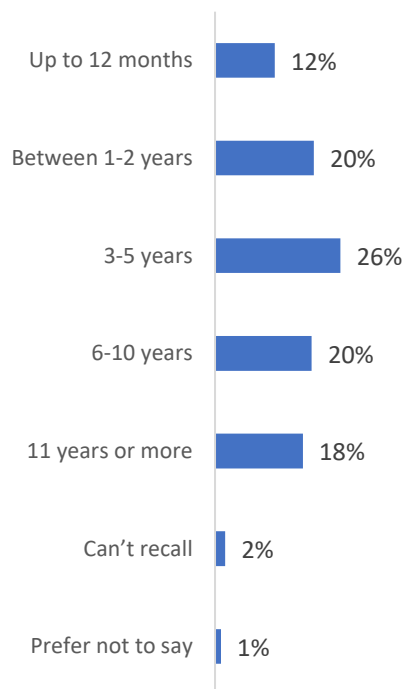
### Those with less experience in the legal sector were significantly more likely to have experienced sexual harassment

*“The pressures exerted on younger legal staff are sometimes subtle, and most often occur in social settings.”*

*“Being a young female lawyer and having experienced sexual harassment on several occasions from male clients during my first year of volunteering and practice impacted my self-esteem greatly. It made me question my ability to be taken seriously as a lawyer - I began to think that I was the problem.”*

When recounting their most recent experience with sexual harassment, three in five (59%) respondents had less than 6 years' experience in the legal sector at the time of the incident. Personal experience for this cohort was significantly higher than those with six or more years' experience (38%).

**Figure 8. Experience in legal sector at time of sexual harassment incident**

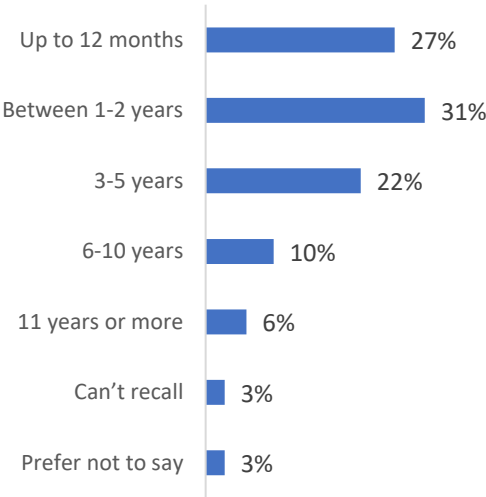


*Base: Legal professionals who have personally experienced sexual harassment (n=944).*



As to the length of time respondents had been at their workplace at the time of the most recent incident, nearly three in five had been there less than three years (57%) and one in five (22%) between 3-5 years at the time (see Figure 9).

**Figure 9. Tenure at workplace at time of sexual harassment incident**



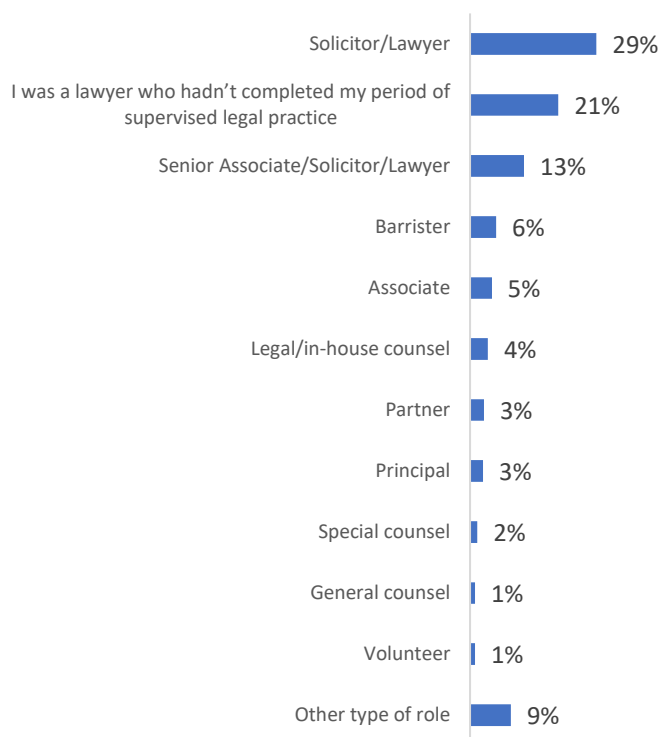
*Base: Legal professionals who have personally experienced sexual harassment (n=944).*



At the time of their most recent incident of sexual harassment, one third (29%) of those who experienced sexual harassment held the role of solicitors/lawyers. One in five (21%) practitioners stated they had not yet completed the requisite period of supervised legal practice at the time of their most recent experience of sexual harassment.

One in five were in more senior roles at the time of the incident (13% were senior associates/lawyers, 3% partners, and 3% principals) (see Figure 10).

**Figure 10. Role at time of most recent incident**



*Base: Legal professionals who have personally experienced sexual harassment (n=944).*

### Varying rates in sexual harassment were found according to sexual preference

While over one in three (36%) respondents who identified as heterosexual experienced sexual harassment, rates increased with those who identified as queer (73%; base n=16), bisexual (60%; base n=48), and lesbian (55%; base n=18). However, these results should only be viewed as indicative due to low sample size.



### 3.3 Where does sexual harassment occur?

#### **Sexual harassment most commonly occurred at a work-related event**

Respondents who experienced sexual harassment cited work-related events, such as after-work drinks or a Christmas party, as the location where sexual harassment occurred (36%). Other common environments related to the workplace itself, such as at a workstation (24%), in a common area at the workplace (such as a stairwell or lift) (12%) or in a one-on-one meeting (11%). For 5% of respondents, the harassment occurred 'online', either via mobile phone, personal email, or via social networking.

### 3.4 Who are the perpetrators of sexual harassment in the legal sector?

#### **When combining the three most common characteristics of a harasser, almost one in every two (45%) respondents said their harasser(s) were male, *and* over the age of 40 *and* more senior than them**

Nine in ten (90%) respondents said their harasser(s) were male. Harassers were also significantly more likely to be described as being over the age of 40 (66% compared to 33% under the age of 40) (see Figure 11). These results are notably higher than the AHRC report where just over half (54%) of perpetrators on average for all workplaces were over the age of 40, and 79% of victims said they were harassed by one or more male perpetrators.

#### **Men were more likely to be the perpetrators of sexual harassment to both men and women**

For nearly all female victims of sexual harassment (97%) the incident was perpetrated by male, with 3% committed by a female. Male to male perpetration of sexual harassment (55%) was higher than findings for female to male perpetration (47%).

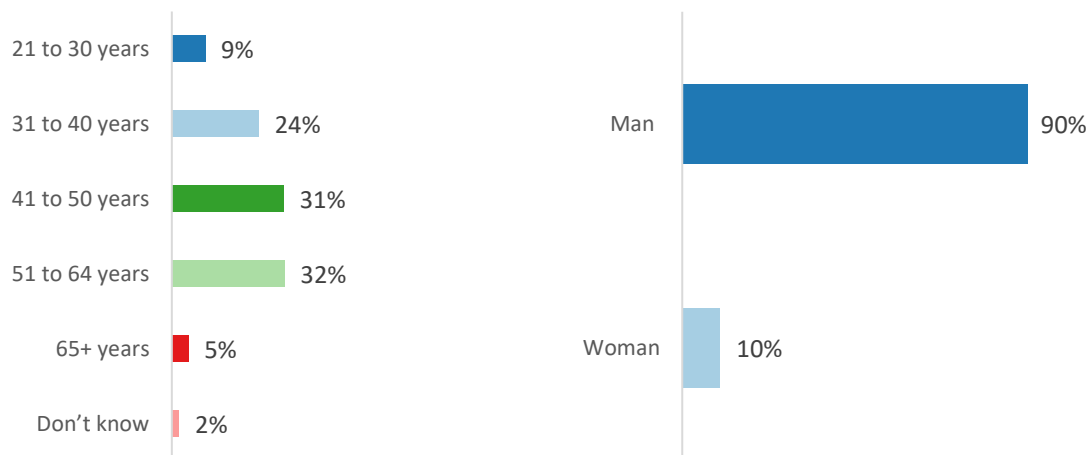
*"It was very common to hear male partners making sexual comments and jokes about women and commenting on their bodies. The more serious comments like requests for sex were generally after Christmas parties when there was alcohol involved."*

*"All ... male senior associates in my team sexually harassed me physically. I left because the repercussions of rejecting their advances made the workplace unpleasant and potentially unsafe."*





**Figure 11. Age and gender of harasser(s) in most recent incident**



Base: Legal professionals who have personally experienced sexual harassment (n=851); excluding 'prefer not to say' responses (n=93).

*"Being a young female lawyer and having experienced sexual harassment on several occasions from male clients during my first year of volunteering and practice impacted my self-esteem greatly. It made me question my ability to be taken seriously as a lawyer – I began to think that I was the problem."*



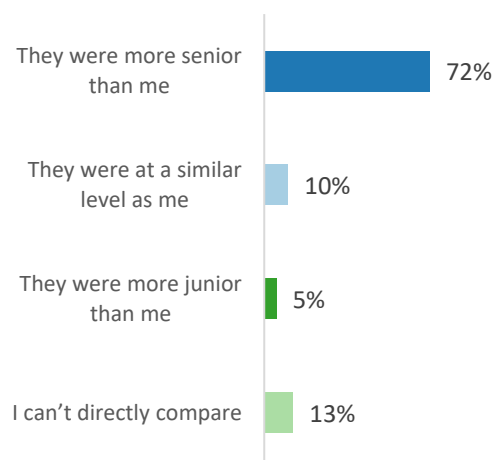
### Harassers were very likely to be more senior than the person affected and/or more senior members of the profession

For the majority (72%) of those respondents who had personally experienced sexual harassment, their harasser was more senior than them at the time of the most recent incident. The remaining could not compare levels of seniority (13%) or were at a similar level to the harasser at the time (10%). It was rare that the harasser was more junior than the victim (5%) (see Figure 12). These results can be distinguished from the AHRC report findings that sexual harassment in Australian workplaces is most likely to be perpetrated by a co-worker at the same level as the victim (27%).

*“My partner routinely sexually ... harassed myself, colleagues, clients and others for decades. This behaviour (by him and others) was accepted ... for a very long time. Much of the behaviour was very serious in nature including ... inappropriate jokes, pressuring lawyers for sex, bullying and exclusion if his attempts weren't reciprocated, spreading rumours of a sexual nature etc. ... He has now moved to another firm ...”*

*“I was an articled clerk for whom a partner developed an interest. I knew that I was utterly replaceable if I rejected his advances in a way which hurt his feelings. I spent a lot of time and effort working out how to extricate myself from his attention in a way which would not offend him and so damage the career I had worked so hard to begin.”*

**Figure 12. Seniority of harasser(s)**



Base: Legal professionals who have personally experienced sexual harassment (n=851); excluding 'prefer not to say' responses (n=93).

Note: Single harasser and multiple harasser results combined

Examining the specific role of the harasser at the time of the incident further emphasised the existence of a power imbalance between many victims and their harassers. One in five respondents described the harasser(s) as a partner in the firm (22%) with a further 11% saying the harasser had been a principal of the firm, and 3% saying



the harasser was the CEO of the organisation. In addition, 4% mentioned that the harasser had been their direct line manager and 3% mentioned that it had been another manager in the workplace.

Barristers were nominated by 14% of those who had experienced sexual harassment, with another 9% saying the harasser had been a senior associate, lawyer or solicitor.

One in ten respondents said their harasser had been a client or customer (10%) (see Figure 13).

*“Unfortunately, a lot of this behaviour is normalised in Victorian workplaces, especially large firms. ... it is widely accepted that this behaviour occurs and is an unfortunate but natural consequence of working in this industry.”*

*“I have witnessed sexual harassment on a number of occasions, generally by younger partners in positions of power over junior lawyers.”*



**Figure 13. Role of harasser(s)**



*Base: Legal professionals who have personally experienced sexual harassment (n=851); excluding 'prefer not to say' responses (n=93).*

*Note: Single harasser and multiple harasser results combined and multiple responses allowed*



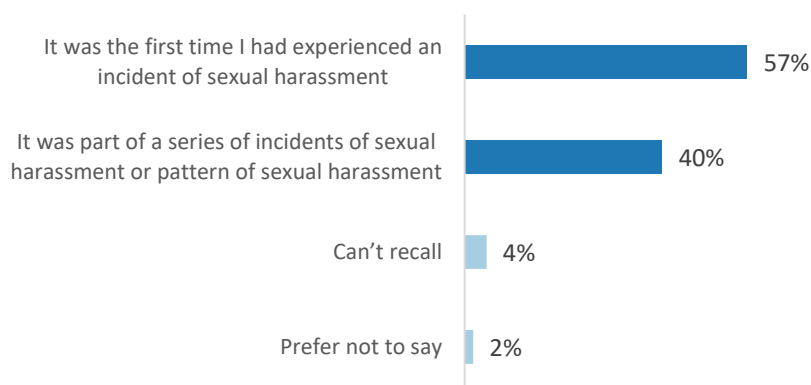
### For four in ten legal professionals, the most recent incident of sexual harassment was part of a pattern of behaviour

Fifty-seven (57%) of respondents indicated that their most recent incident of sexual harassment had been the first time they had experienced sexual harassment from the harasser(s) involved. For 40% of respondents, it had been a part of series of incidents or a pattern of sexual harassment involving that person.

*“My partner routinely sexually ... harassed myself, colleagues, clients and others for decades. This behaviour (by him and others) was accepted ... for a very long time. Much of the behaviour was very serious in nature including ... inappropriate jokes, pressuring lawyers for sex, bullying and exclusion if his attempts weren't reciprocated, spreading rumours of a sexual nature etc. ... He has now moved to another firm ...”*

*“The firm knew about the behaviour as there were previous complaints. The firm [implied] my experience was a one off and [told me not to] talk about it with anyone. Only once I confided in a colleague did I realise that she had complained of inappropriate behaviour [recently].”*

**Figure 14. Patterns of sexual harassment behaviour from the harasser**



*Base: Legal professionals who have personally experienced sexual harassment (n=851); excluding 'prefer not to say' responses (n=93).*

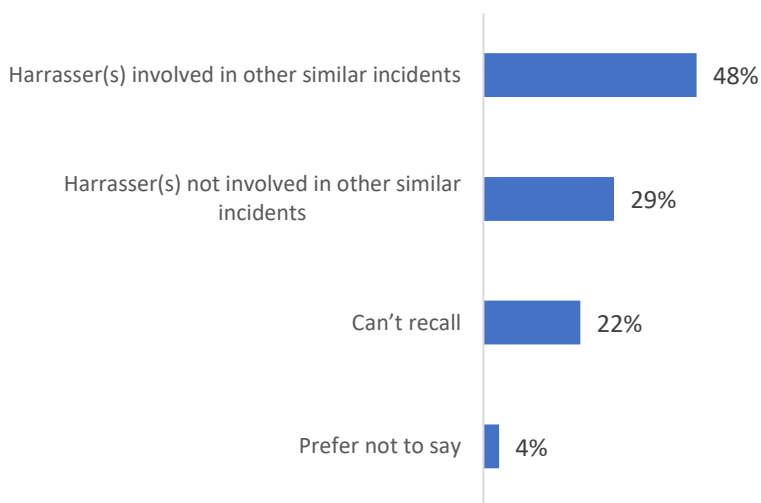
*Note: Single harasser and multiple harasser results combined and multiple responses allowed*



**It was also common for respondents to say that the specific harasser(s) had been involved in similar incidents**

Close to half (48%) of respondents said the harasser/s had been involved in other similar incidents with themselves and others, compared to 29% who indicated it had been a one-time incident by the harasser (see Figure 15).

**Figure 15. Harasser(s) involved in other similar incidents**



*Base: Legal professionals who have personally experienced sexual harassment (n=851); excluding 'prefer not to say' responses (n=93).*

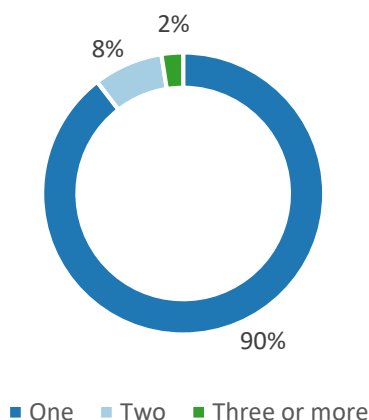
*Note: Single harasser and multiple harasser results combined and multiple responses allowed*

**The majority (90%) of those who had a personal experience of sexual harassment said that a single harasser was involved in the most recent incident**

Eight per cent (8%) of respondents said there had been two harassers involved, and 2% of respondents said there had been three or more harassers (see Figure 16).



**Figure 16. Number of harassers in most recent incident**



*Base: Legal professionals who have personally experienced sexual harassment (n=852); excluding 'prefer not to say' responses (n=92).*

#### **Implications:**

While the AHRC found that men are more likely to be perpetrators of sexual harassment in the workplace, the differences between the AHRC's findings for all Australian workplaces and the findings in this study for the Victorian legal sector were apparent. In the present study, victims were more likely to state that harassers were male, older and more senior than is the case in the general Australian working population (AHRC, 2018).

These results suggest that there may be a specific challenge in addressing sexual harassment in the legal sector, namely, the existence of a power dynamic between victims and perpetrators that creates a barrier to speaking up or reporting – particularly for those in the early stages of their career.

### **3.5 What are the short-term and long-term effects of sexual harassment?**

**Almost all respondents who experienced sexual harassment said there had been a short-term negative effect following their most recent incident. For one in two respondents, there was also a long-term impact associated with the harassment**

Nine in ten (88%) respondents who had a personal experience of sexual harassment stated there had been at least one negative short-term effect. These included experiencing a degree of discomfort and/or awkwardness at work (68%), a negative effect on their mental health or stress (51%) and a negative effect on their self-esteem and confidence (39%). When respondents were asked whether they experienced any other short-term impacts of sexual harassment, responses primarily provided additional detail around subsequent stress, anxiety and depression (16%), feelings of being embarrassed or uncomfortable (15%) and resigning or moving roles (13%).



Close to half (47%) of the respondents who had personally experienced sexual harassment mentioned at least one negative long-term effect. These included a negative effect on the relationship with their colleagues (35%), a degree of discomfort and/or awkwardness at work in the long term (25%), and a negative effect on their self-esteem and confidence (17%). When asked about any other long-term impacts they experienced, respondents typically provided further information around their resignation (22%), having their career negatively affected, and suffering reputational damage (15%), ongoing stress, anxiety and depression (14%), and loss of trust or respect towards members of the legal sector (14%).

*"I couldn't sleep, I was depressed, anxious and had low self-esteem ... eventually I was unable to work."*

*"I had to leave the workplace. This [the experience] also influenced my decision not to pursue a career as a lawyer, as for some time I lost confidence in my abilities, believing that my supervisor's support for me professionally had really just been in order for him to pursue me in a sexual/romantic manner."*

*"... I'd love to be able to "move on" but the ... reality of my everyday life when living with the burden of these violations and what that means in practical terms – for my finances, my career, my health - are a stark reminder."*

*"I resigned and experienced a period of unemployment. It had a big impact on my self esteem."*

*"I still worry years later about running into him. ... When I do see him, I still become highly anxious ..."*

*"After harassment that I was not able to report, there continue to be significant consequences for me from a mental and professional perspective that I will never get over, largely because I cannot speak to anyone about the incident."*





## 4 Reporting incidents of sexual harassment

Three types of reports were explored in this study:

1. Formal reports or complaints: A report or complaint about the incident through official internal avenues available at an organisation that includes an investigation, official report and decision.
2. Informal reports or complaints: A report or complaint about the incident whereby the victim seeks to resolve the issue without the need for an investigation, official report or decision.
3. External reports or complaints: An official report or complaint about the incident through external avenues outside of the harasser's organisation that includes an investigation, official report and decision.

The following section covers the prevalence of these three types of reports, respondents' experiences of making a report and what happened after respondents had made a report or complaint.

Overall, most respondents (81%), said they had not reported or complained about the most recent incident, however, discussions with colleagues and others about incidents of sexual harassment were common.

The most common form of report was an informal report (10%), followed by a formal report or complaint (5%), and a formal report through an external avenue (1%). Five per cent of legal professionals described an alternative, or unlisted, type of report or complaint.

Regardless of the channel used, those respondents who reported their most recent incident and who had finalised cases tended to be dissatisfied with both the process and the outcome of making a report or complaint.

### 4.1 How often is sexual harassment reported in the legal sector?

#### **The vast majority of legal professionals did not report their most recent incident of sexual harassment**

When asked about their most recent incident of sexual harassment, four in five (81%) respondents stated that they had not made a report of any kind.

For the 18% of respondents that made a report, 5% (or 44 respondents) made a formal report or complaint for the most recent incident, 10% (94 respondents) made an informal report, and fewer than 1% (5 respondents) made a complaint through an external avenue. For 4% (32 respondents), their most recent incident was reported by someone else (i.e. a third party). In comparison, the AHRC report noted that fewer than one in five (17%) people in all Australian workplaces made a formal report or complaint.

Regardless of whether or not a formal or informal report was made, the most common action by respondents was to discuss the incident with a colleague or someone else at work (46%) (see Figure 17).

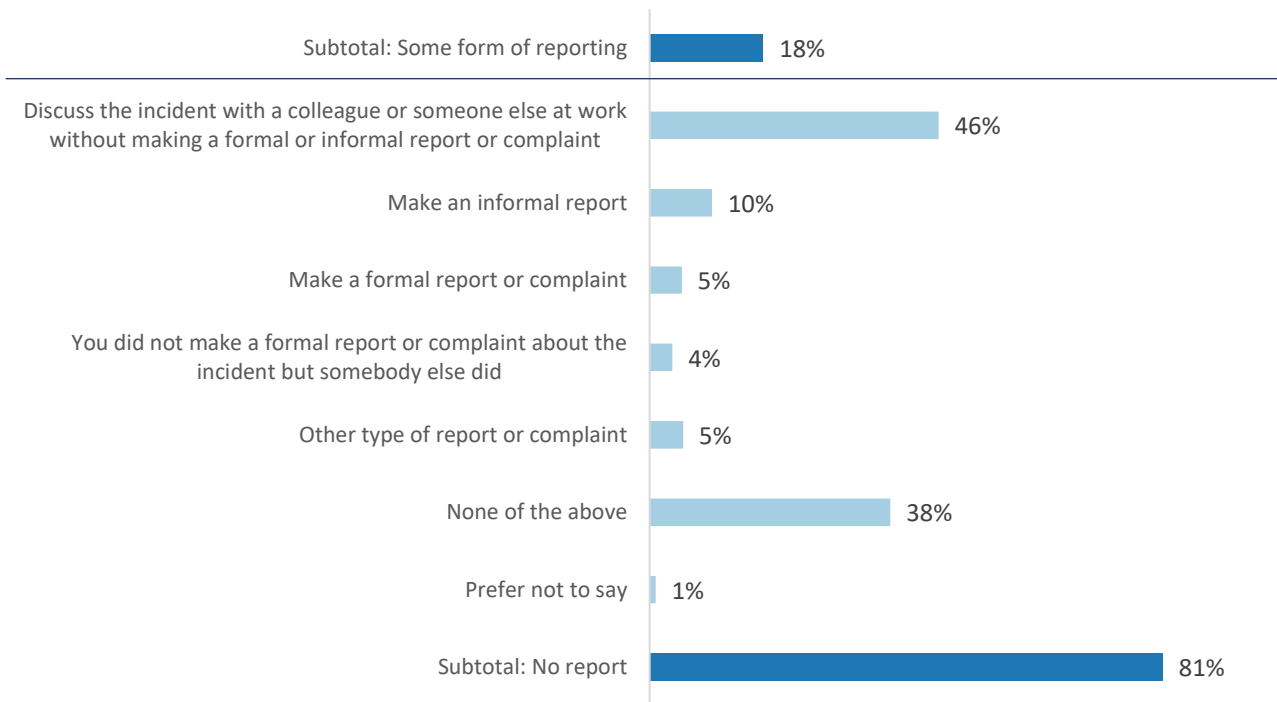
Similar rates of reporting (whether formal, informal or external) were noted for male and female respondents (18% each). In addition, tenure or experience in the sector also did not have an impact on overall reporting levels.

*“Although I knew I could report it, I could not see any benefit to me in doing so. It would remind me of the incident (as I assume I would need to attend hearings or file reports or answer questions etc. when I just wanted to forget it) and could reflect poorly on me.”*

*“Barristers’ support staff are in a particularly vulnerable position when it comes to sexual harassment and other bullying, especially where they work for just one barrister. This is in part because there is no HR or supervisor to whom they can make a complaint. It is intimidating to complain to the Bar. Further, the barrister is often the only referee for the support person, so it is difficult to broach their discomfort with the barrister directly.”*

*“There is a genuine risk that sexual harassment is unchecked because of the hierarchical nature of law firms and the Bar. Anyone in a position of authority or seniority can harass a person junior to them with little chance of complaint or consequences.”*

**Figure 17. Reporting or making complaint about most recent incident**



Base: Legal professionals who have personally experienced sexual harassment (n=944).  
Note: Respondents could choose more than one response.  
Note: Subtotals do not include ‘prefer not to say’

While sample sizes were relatively small for males who had experienced sexual harassment (n=98), they were less likely than women to discuss the incident with a colleague or someone else at work rather than making an informal or formal complaint (40% men vs. 47% women).



### **Reports of sexual harassment were predominantly made to the human resources team or senior members within the workplace**

For the 18% (n=44) of those with personal experiences of sexual harassment who made a formal report about that harassment, just under half (45%) reported the incident to a human resources manager. This was followed by reports to a partner in the firm (33%), a direct manager or supervisor (23%), or the head of the workplace (20%).

For those who made an informal report (n=94), two in five (38%) made the report to a partner, one in four (24%) to a human resources manager, and one in five (18%) to a direct manager or to a co-worker.

For the few respondents (n=5) who made an external complaint or report, two were made to the VLSB+C, one to the Victorian Equal Opportunities and Human Rights Commission and the remaining two complaints or reports were made to other bodies.

*"I only reported it [sexual harassment] when I discovered other colleagues had experienced similar and worse actions from the same person. It could easily have gone unreported."*

### **Those who had been working in the legal sector longer at the time of the incident were only slightly more likely to have made a report or complaint than those with less experience**

One in five (21%) of those working in the legal sector for more than 10 years at the time of the most recent incident of sexual harassment had reported the harassment in some way (i.e. through a formal report or informal report), when compared to those with ten years or less at the time of incident (17%).

## **4.2 What types of sexual harassment behaviours are more likely to be reported (or go unreported) in the legal sector?**

### **Sexual harassment behaviours more likely to go unreported**

The most common types of sexual harassment behaviours to go unreported were behaviours that are the most prevalent within the legal sector. Of the respondents who experienced sexual harassment, 79% of respondents did not report behaviours associated with: intrusive questions about their private life or physical appearance, 79% did not report inappropriate staring or leering; and 78% did not report sexually suggestive sounds, comments or jokes.

### **Sexual harassment behaviours more likely to be reported**

One in four (25%) respondents who experienced a physical form of sexual harassment reported the harassment either formally, informally, or through another avenue. One in five (19%) respondents who experienced a non-physical form of sexual harassment proceeded to make a report.

While 'evidence' was not expressed as a key barrier to reporting, the sexual harassment behaviours that involved some form of available evidence were more likely to be reported. For instance, the behaviours most associated with making a report or complaint involved: sharing or threatening to share intimate images or film without consent (60%; 9 respondents); indecent phone calls, including someone leaving a sexually explicit message on voicemail



or an answering machine (37%; 21 respondents), sexually explicit pictures, posters or gifts (32%, 28 respondents), and repeated or inappropriate advances via digital means (30%, 36 respondents).

Of concern is that only 57% (7 respondents) of those who experienced actual or attempted rape or sexual assault said they reported the incident through informal, formal or external channels.

### 4.3 What is the likelihood of reporting different types of sexual harassment in the future?

Respondents were randomly assigned three hypothetical examples of sexual harassment behaviours and asked what they were most likely to do if they were to personally experience or witness these in the future. The options they were given were making a formal report, an informal report, an external report, discussing with a colleague, or doing none of these.

The behaviours that were more likely to result in a formal report were: actual or attempted rape or sexual assault (59%); indecent exposure or inappropriate display of the body (54%); and sharing or threatening to share intimate images or film without consent (52%).

The behaviours that were least likely to be formally reported were aligned with the most common forms of sexual harassment in the legal sector, and included: intrusive questions about someone's private life or physical appearance (18%); inappropriate staring or leering (18%); and sexually suggestive sounds, comments or jokes (25%).

Similar results were found for formal reports or complaints to an external organisation. Behaviours that respondents said they would most likely report to external organisations were actual or attempted sexual assault (47%). Just over one in ten would report indecent exposure or inappropriate display of the body (12%) or sharing or threatening to share intimate images or film without consent (12%) to an external organisation.

The behaviours most likely to lead to an informal report were inappropriate staring or leering (40%), sexually suggestive sounds, comments, or jokes (40%) and intrusive questions about someone's private life or physical appearance (39%).

*"I would say that it is generally unreported both formally and informally as people are embarrassed to raise it and feel like it may have negative career consequences."*



## 4.4 What is the experience of the reporting process?

Overall, only a minority of respondents had made a formal (5% or 44 respondents) or informal (10% or 94 respondents) report or complaint about their most recent incident of sexual harassment. Less than 1% had made an external complaint (5 respondents). Accordingly, the following section is based on a small base and should be viewed as indicative of this cohort's experience of the process.

### **Regardless of the channel used, the majority of respondents were dissatisfied with the reporting and complaints process**

Respondents were significantly more likely to be dissatisfied with the process of making a formal report or complaint (55%), compared to those who were satisfied with the process (21%). One quarter (23%) of respondents had neutral experiences of the formal reporting process.

Similarly, respondents were significantly more dissatisfied with the informal reporting process (62%), compared with those who were satisfied (24%).

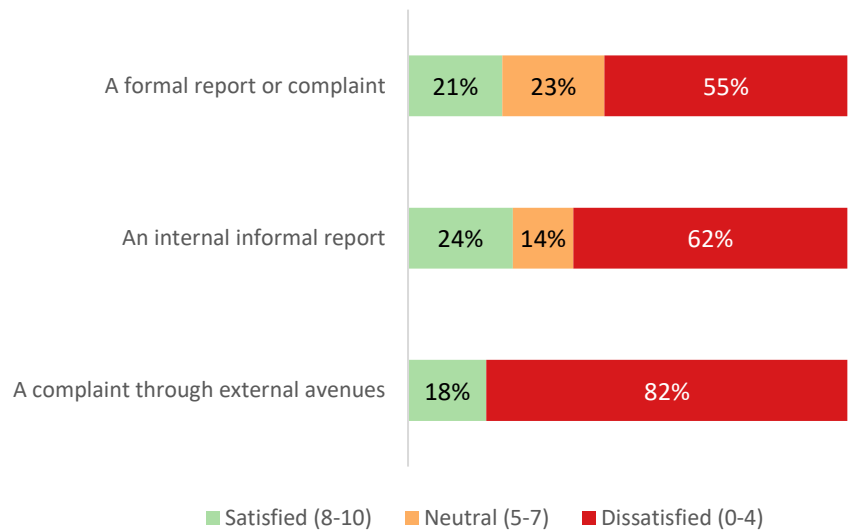
While sample sizes were small (5 respondents), 82% (4 respondents) were dissatisfied with the process involved in making a report or complaint externally to another organisation (see figure 18).

*"The difficulty of being harassed by a partner in a firm is that there is nobody you can go to. HR is powerless against the partnership and you have no sense that it is safe to report."*

*"I made a complaint about someone I worked with, who was also harassing others ... The individual was investigated and terminated [but was financially very well compensated]."*



Figure 18. Satisfaction with the reporting process



Base: Legal professionals who have made a report or complaint (n=94); Made a formal report or complaint (n=44), made an internal informal report (n=86), made a report through an external avenue (n=4).  
Note. Reporting options were multiple response.  
Note. 'Prefer not to say' and 'don't know' excluded from base (n=8).

**Respondents also tended to be dissatisfied with the outcome associated with making a report about sexual harassment**

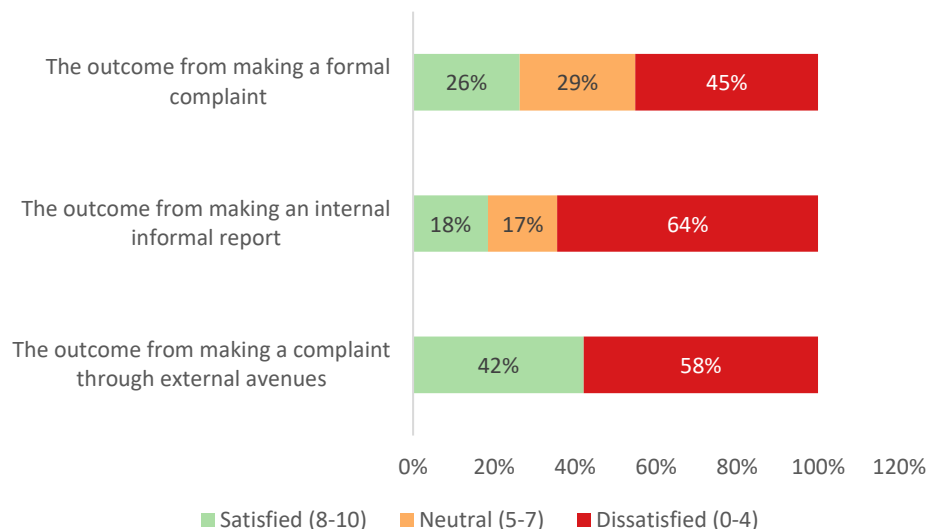
Based on the formal reports that had been finalised (36 respondents), only one quarter (26%) had been satisfied with the outcome of their formal complaint or report, compared to nearly half (45%) of respondents who were dissatisfied with the outcome.

Those who made an informal report were significantly more likely to be dissatisfied with the outcome (64%; 56 respondents) than neutral (17%; 14 respondents) or satisfied (18%; 16 respondents).

*“I reported it to my principal who laughed it off. ... I felt undermined ... and unable to trust my principal.”*



**Figure 19. Satisfaction with the outcome of report of sexual harassment**



*Base: Legal professionals who have made a report or complaint (n=94); Made a formal report or complaint (n=36), made an internal informal report (n=86), made a report through an external avenue (n=2).*

*Note. Reporting options were multiple response.*

*Note. 'Prefer not to say' and 'don't know' excluded from base (n=8)*

## 4.5 What happened to those who reported incidents of sexual harassment?

Only a minority of respondents had made a formal report to their organisation about their most recent incident of sexual harassment (5% or 44 respondents). Accordingly, the following section is based on a small base and should be viewed as indicative of this cohort's experience of the process.

### Two in five said they were ignored or not treated seriously or treated less favourably at work, following a complaint

While it should be noted that the sample size was small (44 respondents), two in five (41%) respondents who made a formal report within their organisation felt their report or complaint had been ignored or not taken seriously. A similar proportion (38%) reported that they were treated less favourably within the organisation.

*"I was discouraged from making a complaint to HR. My boss indicated that he would talk to the perpetrator. I got the impression he didn't want me to make a 'fuss'."*

*"Extreme pressure was exerted on me to name the harasser as I was told otherwise the organisation could not take action. ..."*

*"I reported it to my principal who laughed it off. ... I felt undermined ... and unable to trust my principal."*

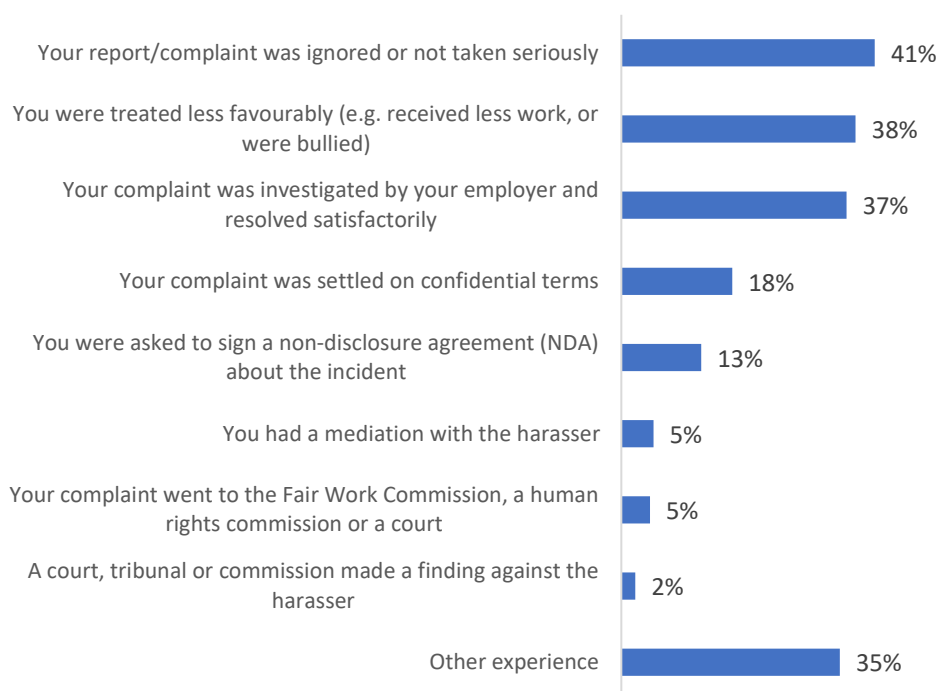


*"I was [harassed by a senior work colleague]. I reported it ... I was abused by colleagues after I had left that workplace for making up false allegations."*

In contrast, just less than two in five respondents (37%) felt that their complaint was investigated by their employer and resolved satisfactorily, and one in five indicated that their complaint was settled on confidential terms (18%). Notably, for 13% of respondents (i.e. n=6), their most recent sexual harassment incident resulted in them being asked to sign a non-disclosure agreement following a complaint (see Figure 20).

*"There was an "uncomfortable conversation" with a senior partner and HR, and I know from informal channels that he had to get further sexual harassment training."*

**Figure 20. Outcome of formal report**



*Base: Legal professionals who have made a formal report or complaint (n=44).*

**Most of the time when sexual harassment was reported, the sexual harassment ceased, however consequences for the person reporting included negative perceptions among their co-workers and impacts on their career at the workplace**

For three in five (60%) respondents, the sexual harassment stopped after making a report or complaint. Additionally, almost a third of respondents (31%) received positive feedback after reporting or complaining. These results were in line with those obtained for all Australian workplaces (AHRC, 2018), where the most common





outcomes were that harassment stopped (44%), and the victim received positive feedback after reporting or complaining (31%).

While twenty four (24%) of respondents did not experience any consequences for reporting the incident or making the complaint, other respondents experienced negative repercussions. The most common of these were: being labelled a troublemaker (28%); being ostracised, victimised or ignored by colleagues (24%); and being denied workplace opportunities, such as training or promotion (21%) (see Figure 21). Notably, one in four (26%) respondents indicated that they resigned after the incident had taken place, when compared to 14% of harassers who either resigned or were terminated from the organisation.

**Figure 21. Effects of making a report or complaint**



*Base: Legal professionals who have made a report or complaint (n=123).*



## 4.6 What happened to harassers after a report or complaint was made?

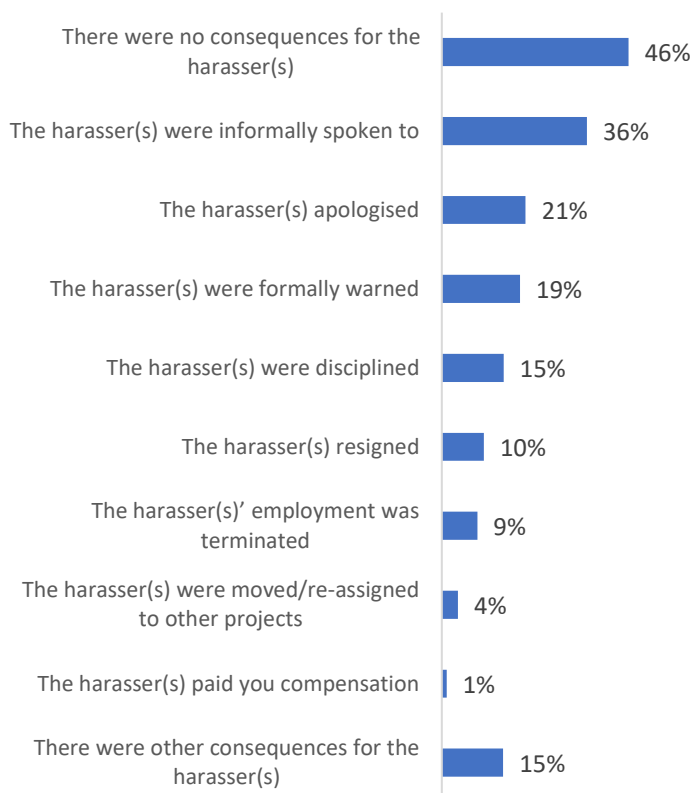
### Almost one in two respondents who reported sexual harassment perceived there to be no consequences for the perpetrators

Close to half (46%) of respondents indicated that there were no consequences for the harasser after the respondent had made a report against a harasser. This result was more than double the national average for all Australian workplaces (AHRC report; 19%).

Other respondents said that the harasser(s) were informally spoken to (36%), apologised (21%), were formally warned (19%) or were disciplined in some way (15%). In one in ten cases the harasser either resigned (10%) or was terminated (9%) (see Figure 22).

*“When I was groped at a work [function], I did file a complaint and this was quickly closed out as ... what occurred [was not witnessed]. Both incidents made me feel that reporting incidents was redundant ... As the victim, it felt the concerns about what may happen to the accused was a far higher priority than ... the victim.”*

**Figure 22. Consequences for the harasser(s)**



Base: Legal professionals who have made a report or complaint (n=123).



**Implications:**

Consistent with AHRC's findings for all Australian workplaces, the research indicates that most incidents of sexual harassment in Victoria's legal sector go unreported.

However, in contrast to AHRC's findings, a high proportion of respondents who did report their most recent incident of sexual harassment in a legal workplace perceived there to be no consequences for the harasser.

An absence of consequences for people who commit sexual harassment is likely to influence victims' perceptions of the system's ability to reach a resolution or satisfactory outcome, as highlighted by the majority of respondents who made a formal report or complaint indicating that they were either dissatisfied with, or ambivalent towards, the reporting process. This dissatisfaction may act as a disincentive for future reporting.



## 5 Barriers to reporting sexual harassment

The respondents who did not report their most recent personal experience of sexual harassment (81%) typically nominated multiple reasons for not doing so, with the most common reason, or barrier, being that it was easier to keep quiet (80%).

To better understand the barriers to reporting these incidents, we have used Ipsos's behaviour change framework, MAPS, to categorise barriers into themes based on whether they relate to a person's Motivation or Ability, or involve Physical or Social reasons.

When examining the barriers using these four themes, the Ability related barriers – associated with not being believed, and distrust in the system – were the most common type of barrier (mentioned by 97% of respondents). This was followed by Social related barriers – these related to relationships with colleagues, and the harasser themselves (93%).

It should be noted, however, that while Ability and Social related barriers received the most mentions by respondents, Motivation related barriers were mentioned by a high number (88%) of respondents and Physical barriers were also mentioned by 75% of those who did not report their incident.

Notably, Motivation related barriers were more common among women and those with less experience. Physical related barriers were also more common for those with less experience in the legal profession.

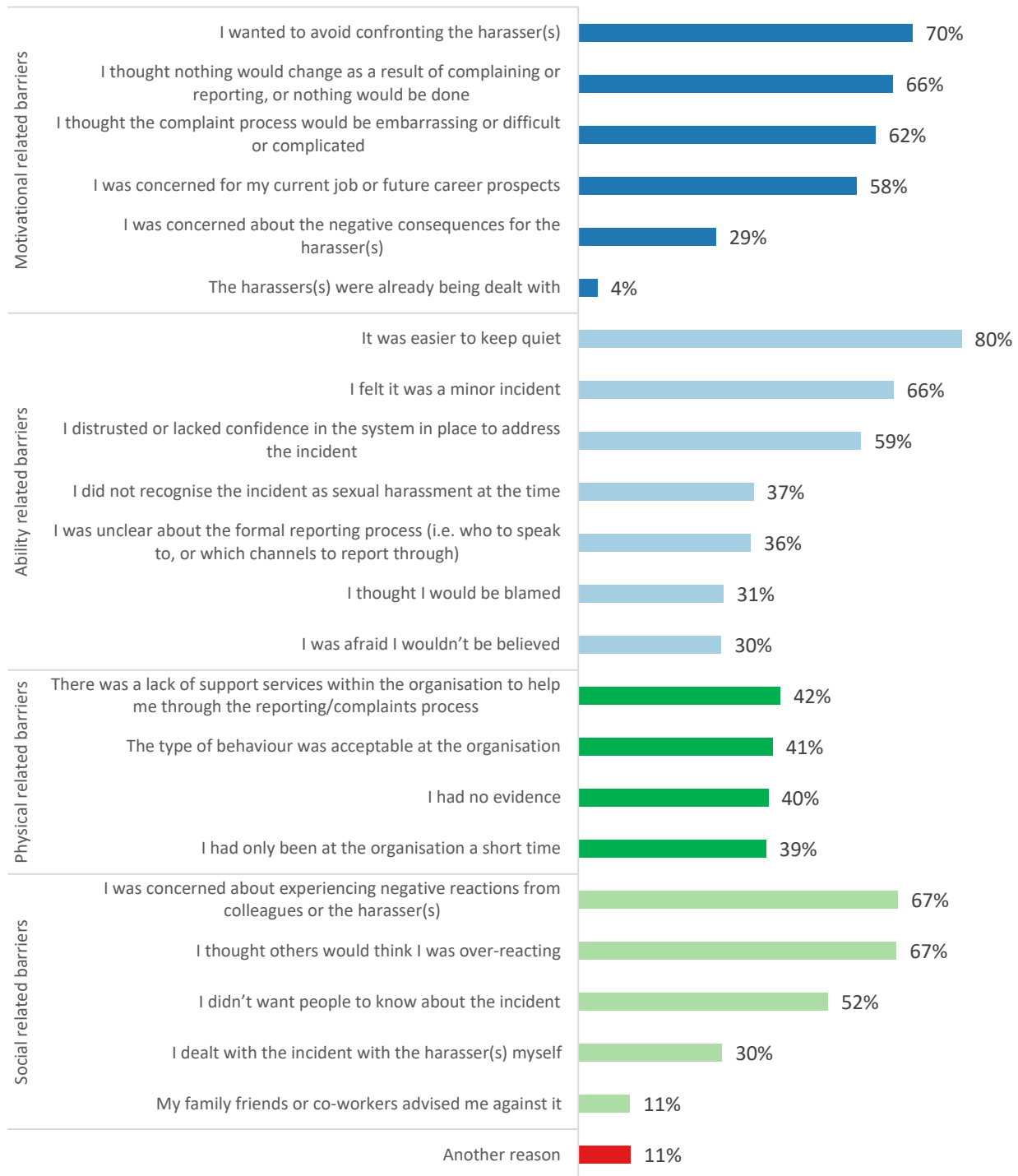
Ipsos's behaviour change framework, MAPS, is grounded by the principle that behaviour is the result of the interaction of multiple factors ranging from the personal and situational to contextual forces. For this research, we sought to better understand possible barriers to reporting incidents of sexual harassment using MAPS.

The Ipsos MAPS framework (Motivation, Ability, Physical, Social) looks at:

- personal factors articulated around the forces that reflexively, habitually and reflectively impact our motivation and those that inhibit or constrain and trigger or enhance our ability to perform a behaviour; and
- situational factors that reflect the social forces bearing on our behaviour as well as the physical and temporal (moment, time, season, etc.) environment that can greatly impact our perceptions of a situation, the impression we form and the behaviour we engage in through various triggers.

A comprehensive list of possible barriers to reporting (from which respondents could choose as many as applied to their situation) were included in the Practitioner survey based on the barriers from the ARHC (2018) survey. These barriers were grouped thematically as Motivation, Ability, Physical or Social related barriers, to enable us to better understand any themes around why the vast majority of people choose not to report sexual harassment in legal workplaces. The full list of barriers and how they were grouped thematically can be seen in Figure 23.

**Figure 23. Barriers to reporting**



Base: Legal professionals who did not make a report or complaint (n=815).



## 5.1 What are the Motivational related barriers to reporting sexual harassment?

**The most common Motivational related barriers to reporting involve a desire to avoid the harasser or a belief that nothing would change**

Motivational related barriers to a behaviour are barriers associated with conscious and unconscious goals, intentions and reinforcement (both positive and negative). Motivational related barriers for reporting sexual harassment in particular tend to relate to negative reinforcement, that is, a victim's desire to avoid a negative, or unsatisfactory outcome. Nine in ten (88%) respondents nominated at least one of the motivational related barriers in the Practitioner survey as a reason for not reporting their most recent incident of sexual harassment.

Among the Motivational related barriers in the survey, respondents were most likely to say that their reason for not reporting the incident was that 'I wanted to avoid confronting the harasser' (70%), followed by 'I thought nothing would change as a result of complaining or reporting, or nothing would be done' (66%), and 'I thought the complaint process would be embarrassing, difficult or complicated' (62%) (see Figure 24).

In relation to gender differences, women were significantly more likely to have stated one of the Motivational related barriers (90%) when compared to men (79%). Notably, women were significantly more likely to have not reported sexual harassment as they wanted to avoid the harasser (73%) when compared to men (57%). Three in five women (61%) also indicated that they were concerned for their current or future job prospects, when compared to two in five (43%) men.

A desire to avoid a confrontation with a harasser was particularly common for those with less work experience at the time of their most recent incident of sexual harassment. For instance, four in five (80%) respondents with up to 12 months experience, and 76% of those with between 1 and 2 years' experience, at the time said that confrontation with the harasser was a reason for not reporting their most recent incident (compared with those who had 3 or more years' experience, at 68%).

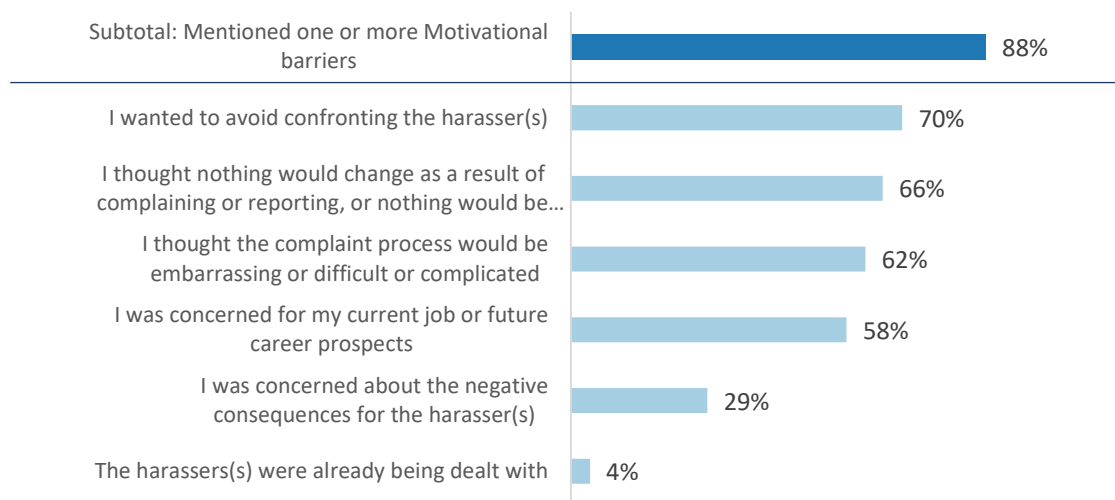
*"I received potentially hundreds of texts from a former work colleague - I didn't want to confront the issue so it was one of many reasons for me leaving the firm and the guy was made partner shortly after I left."*

*"In my view, sexual harassment is particularly problematic for students and young grads. We are in an extremely volatile position as law students in relation to our finances and commencing our career, and I found that these concerns silenced me from making a complaint."*

*"I was very seriously ... assaulted by a barrister. I would never report it to police because I know how badly police and the courts would handle it and that ... the Bar would protect him. ... I would be seen as a complainer and maybe even crazy. ... [It] would damage my mental health and career to make a complaint."*



**Figure 24. Motivational related barriers**



*Base: Legal professionals who did not make a report or complaint (n=815).*

## 5.2 What are the Ability related barriers to reporting sexual harassment?

**Ability related barriers to reporting were the most common barriers to reporting an incident (mentioned by 97% of those who did not report their most recent incident)**

Ability related barriers concern a person's physical or cognitive ability, and pre-existing opinions about certain behaviours. The most common Ability related barriers for reporting incidents of sexual harassment were not to do with a respondent's physical or cognitive ability to engage with the reporting process, rather, it seems the issues were more around pre-existing attitudes towards the utility of reporting the incident.

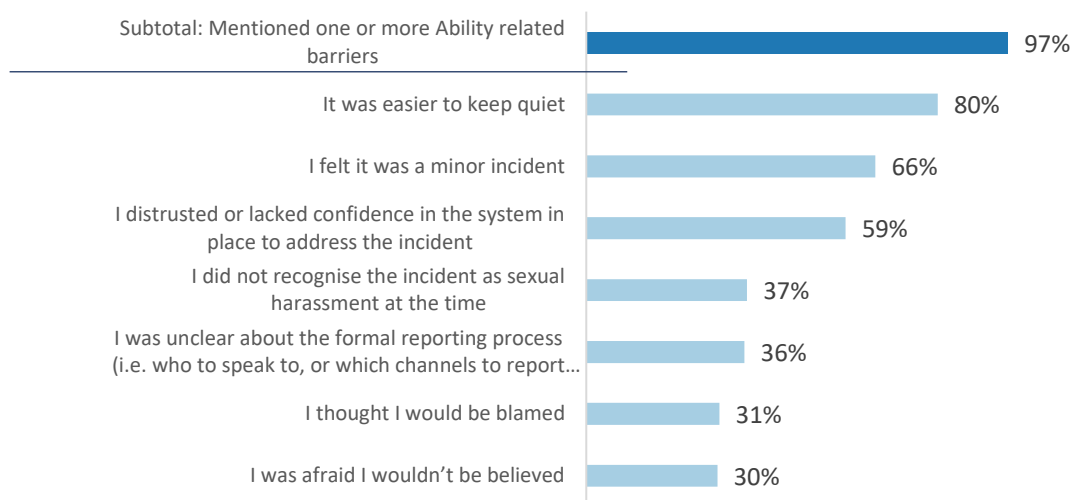
Among the Ability related barriers in the survey, the most common barrier nominated by respondents was that 'It was easier to keep quiet' (80%) about the incident, followed by the belief that 'it was a minor incident' (66%). The majority of respondents also distrusted, or lacked confidence in, the system in place to address the incident (59%) (see Figure 25).

In terms of experience, those with less than 6 years' experience in the legal sector were significantly more likely to suggest that they 'felt it was a minor incident' (69%), were unclear about the reporting process (42%) and 'did not recognise it as sexual harassment at the time' (41%) when compared to those with 6 or more years' experience (60%, 28% and 29%).

In relation to job role, solicitors were significantly more likely to have not reported due to a distrust or a lack of confidence in the system (61%) when compared to barristers (45%).



**Figure 25. Ability related barriers**



*Base: Legal professionals who did not make a report or complaint (n=815).*

### 5.3 What are the Physical related barriers to reporting sexual harassment?

**Physical related barriers were least mentioned among the four categories of reasons for not reporting an incident, but were still significant barriers**

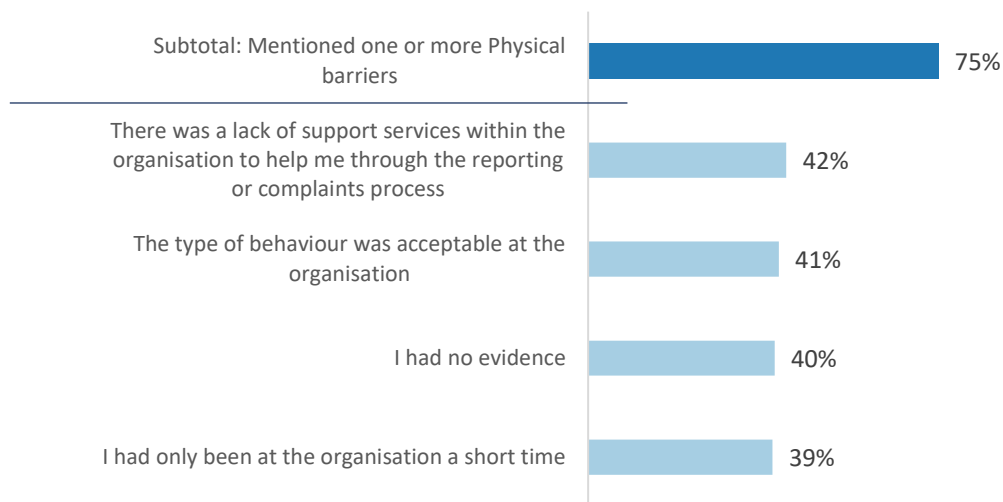
Physical related barriers often relate to environmental structures, and/or environmental cues. The Physical related barriers listed in the Practitioner survey focussed on the availability of support services and the organisational culture. Three in four (75%) respondents listed at least one of the Physical related barriers in the survey as a reason for not reporting their most recent incident of sexual harassment.

Two in five respondents said that 'there was a lack of support services in the organisation' (42%), that 'the type of behaviour was acceptable at the organisation' (41%), and that they had no evidence to support a report (40%) (see Figure 26).





**Figure 26. Physical related barriers**



Base: Legal professionals who did not make a report or complaint (n=815).

## 5.4 What are the Social related barriers to reporting sexual harassment?

**Social related barriers came through strongly – 91% mentioned at least one of the social related barriers as a reason for not reporting**

Social related barriers refer to barriers arising as a result of relationships and social structures within the workplace. In this survey, the barriers specifically related to the social interactions between those who had experienced sexual harassment and their colleagues, family, friends, or the harasser. Ninety-one percent (91%) of respondents nominated at least one of the Social related barriers listed in the survey – the second highest of the four categories of barriers (vs. Ability barriers, at 97%).

There is some overlap between the Social related barriers identified by respondents and the Ability related barriers listed above, which highlighted that negative social consequences were a common disincentive to report an incident. The most commonly mentioned Social barriers identified by respondents were: concern about experiencing negative reactions from colleagues or the harassers (67%); the belief that others would think the respondent was over-reacting (67%); and generally, not wanting others to know about the incident (52%).

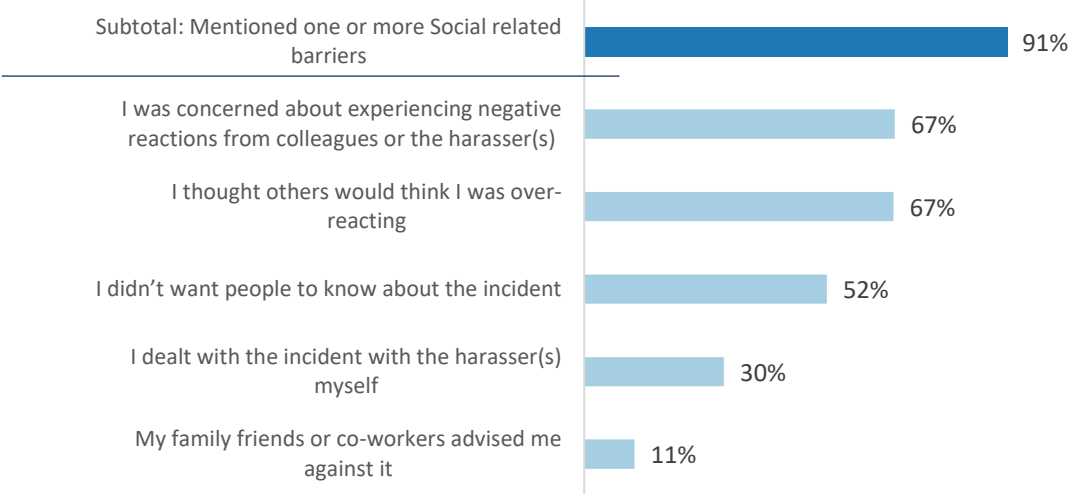
It was uncommon for a respondent to have had family, friends or co-workers advising against reporting an incident (11%).

*“In my answers, I am referring to a common situation I have experienced of men at work making inappropriate, smutty comments about sex, women etc. in front of me while in the workplace. I absolutely hate it and feel very uncomfortable but it has happened throughout my career and I have never felt comfortable raising it with the people for fear of being seen as a “prude” or the “fun police” and a fear of being ostracised or treated less favourably.”*



*“The culture of long hours and heavy drinking in big firms encourages a blurring of normal acceptable boundaries. There is pressure on junior females to join in that culture and “enjoy” it.”*

**Figure 27. Social related barriers**



Base: Legal professionals who did not make a report or complaint (n=815).

**Implications:**

It was evident from the responses of those who had experienced sexual harassment but not reported it that reasons for not reporting an incident are complex and are determined by both personal beliefs and external factors.

The results indicated certain biases around reporting, particularly a distrust in the system in place, and perceived negative outcomes of reporting (whether it be through the potential reprisal from the organisation itself or from colleagues).

The results also showed that some of these biases and avoidance behaviours were particularly high among those with less experience in the legal sector and lower for those with longer tenure.



## 6 Witnesses of sexual harassment

In addition to asking about incidents of sexual harassment that legal professionals had personally experienced, the Practitioner survey also asked respondents whether they had seen or heard about sexual harassment while working in the legal sector.

Respondents were asked about the incidents of sexual harassment that they had personally witnessed, incidents they had heard about directly from a person who had experienced the harassment, or incidents they had heard about from other people working in the sector.

Similar to the questions on personal experiences of sexual harassment, respondents were initially asked about sexual harassment they had witnessed or heard about using a legal definition of sexual harassment, but were subsequently provided with a behavioural definition of sexual harassment comprising examples of behaviour that could constitute sexual harassment if a person was offended, intimidated or humiliated.

The following section covers details of the most recent incident of sexual harassment in a legal workplace that respondents had either personally witnessed or heard about directly (i.e. from someone who had experienced it).

It was relatively common to personally witness sexual harassment in legal workplaces or hear about sexual harassment directly from someone affected by it. Over one in three (36%) legal professionals said they had personally witnessed at least one form of sexual harassment when working in the legal sector and 43% had heard about it directly from someone who had been subject to sexual harassment.

The most common types of sexual harassment witnessed were in line with those personally experienced. Nearly one in four (23%) respondents had witnessed sexually suggestive sounds comments or jokes, followed by intrusive questions about someone else's private life or physical appearance (17%). Of note was the 13% who had witnessed unwelcome physical contact.

The vast majority (90%) of respondents said the most recent incidents they had witnessed or been told about went unreported either formally or informally. However, around one in three (31%) did discuss the incident with another colleague.

### 6.1 How common is it to witness sexual harassment in the legal sector?

**Over one in three legal professionals said they had personally witnessed at least one form of sexual harassment when working in the legal sector when provided the behavioural definition of sexual harassment**

When asked about sexual harassment using a legal definition, one in five (19%) respondents said they had personally witnessed an incident of this type in a legal workplace. In addition, on the basis of the legal definition of sexual harassment, one in three (32%) said they had heard about an incident directly from a person who had

experienced the incident in a legal setting. Combined, four in ten (41%) had either witnessed an incident or had heard about sexual harassment directly from someone who had experienced it. Thirty percent (30%) said they heard accounts of incidents from people other than the person who was harassed.

However, when provided with the behavioural definition of sexual harassment, the proportion of legal professionals who had witnessed an incident increased. Over one in three (36%) practitioners said they had witnessed at least one of the examples of sexual harassment. Females were significantly more likely to indicate they had witnessed sexual harassment (44%) than men (29%), based on the examples provided. Four in ten (43%) respondents indicated they had heard about sexual harassment from the person themselves.

Based on the behavioural definition, more than half (53%) said they had either personally witnessed and/or had heard about at least one of the behaviours from a victim in their time in the legal sector.

*"I have witnessed sexual harassment on a number of occasions, generally by younger partners in positions of power over junior lawyers."*

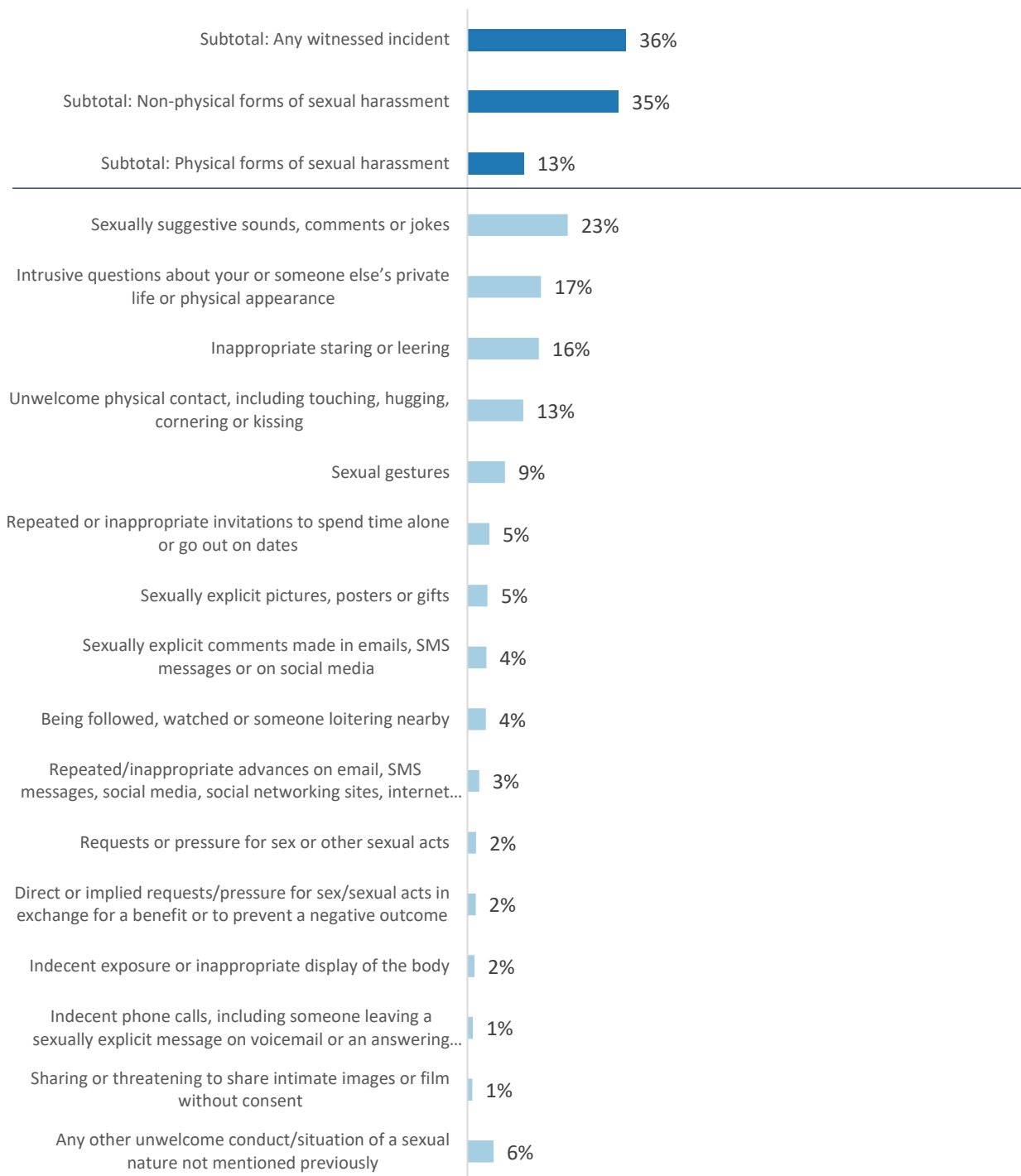
## 6.2 What types of sexual harassment have been witnessed?

**The most common types of sexual harassment to be witnessed by respondents were similar to those personally experienced, with sexually suggestive sounds, comments or jokes or intrusive questions about one's private life or physical appearance the most common type of harassment**

Nearly one in four (23%) respondents mentioned having seen sexually suggestive sounds, comments or jokes made to another person, followed by intrusive questions about someone else's private life or physical appearance (17%), and inappropriate staring or leering (16%). Over one in ten (13%) respondents had witnessed unwelcome physical contact, including touching, hugging, cornering or kissing (see Figure 28).



**Figure 28. Witnessed forms of sexual harassment**



*Base: All legal professionals (n=2324).*



## 6.3 How often is sexual harassment reported by bystanders?

### **The majority of bystanders had not reported the most recent incident of sexual harassment they had witnessed**

One in ten (10%) respondents who said they had witnessed or heard about sexual harassment first-hand reported the most recent incident. This result was lower when compared to bystanders in all Australian workplaces, where 47% reported the sexual harassment to an employer (AHRC report).

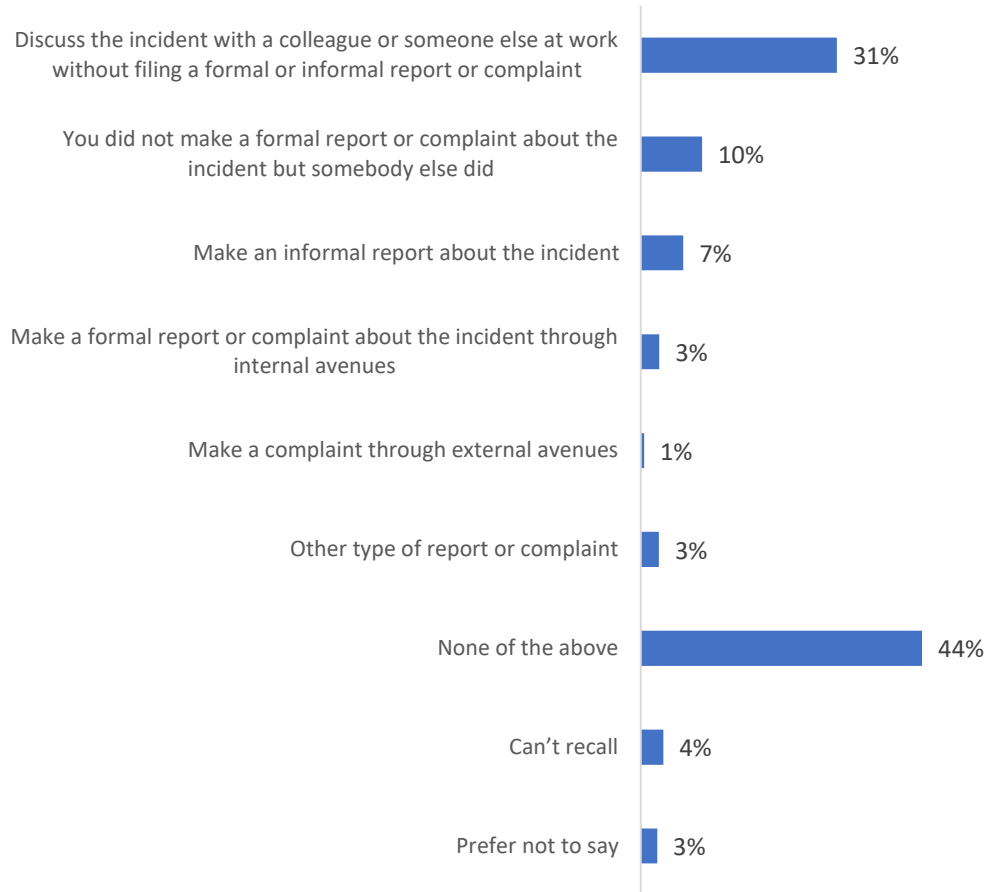
Respondents were more inclined to discuss the incident with a colleague or someone else at work than make a formal or informal report (31%). However, one in ten (10%) respondents did state that someone else had made a formal complaint following the most recent incident of sexual harassment they witnessed.

Of the few bystanders who made a formal complaint (n=35), 50% had made the complaint to a human resources manager, and 30% to the CEO or head of the organisation.

In terms of informal reporting, one in three respondents had reported it to the human resources manager (33%), 28% to a partner in the firm, and 20% to a direct manager or supervisor within the workplace.



Figure 29. Reporting of witnessed or heard about incidents



*Base: Legal professionals who have witnessed or heard about sexual harassment directly from the person involved (n=1267).*



## 6.4 Why don't those who witness sexual harassment report incidents?

A comprehensive list of possible barriers to reporting was presented to those who had witnessed an incident of sexual harassment or had heard about one directly from a person involved.

Similar to Section 5, these barriers to reporting were grouped into four categories (Motivational, Ability, Physical, or Social related barriers).

While Ability related barriers (i.e. distrust and pre-existing attitudes toward the reporting process) were the most common barriers among those who had not reported sexual harassment that they had personally experienced, Social and Motivation related barriers were the most common barriers to bystanders reporting the incidents of sexual harassment they had seen or heard about directly. Overall, Social and Motivation related barriers were each nominated by 77% of witnesses as barriers to reporting sexual harassment they had seen or heard about from a victim.

**Overall, 77% of respondents nominated at least one of the Motivation related barriers listed in the survey – equal highest with Social related barriers**

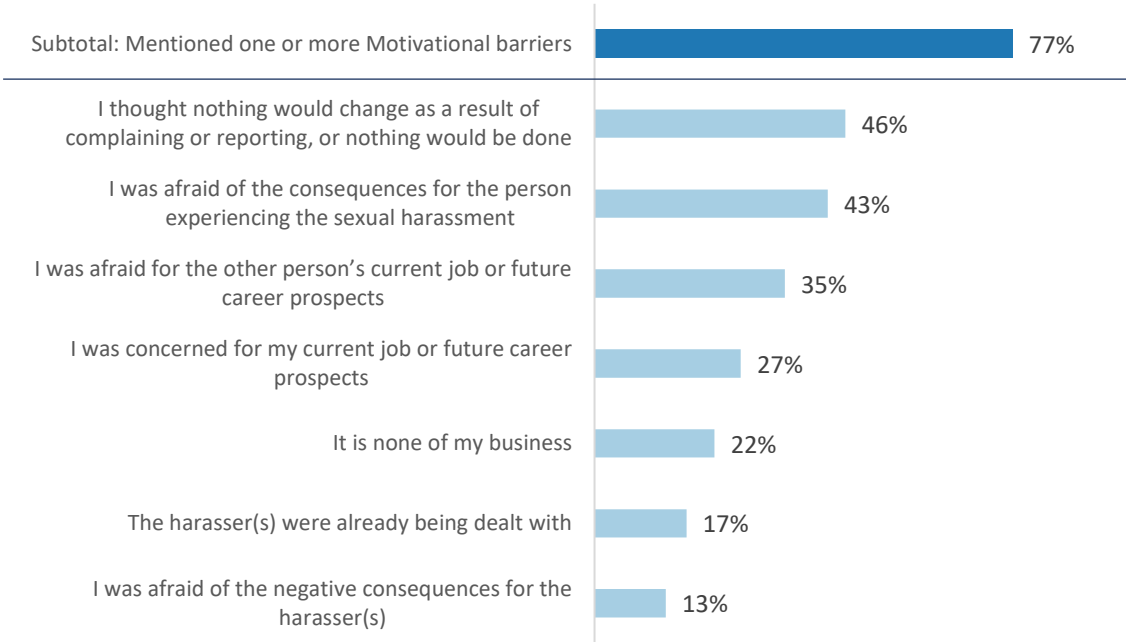
Among the Motivation related barriers, the most common reason for not reporting was the thought that nothing would change as a result of complaining or reporting (46%), followed by being afraid of the consequences for the person experiencing sexual harassment (43%), and being afraid of the victim's current job and future career prospects (35%).

Less common Motivation related barriers of reporting were that the harasser was already being dealt with (17%) and a concern about the negative consequences for the harasser (13%) (see Figure 30).





Figure 30. Motivational related barriers to bystander reporting



Base: Legal professionals who have witnessed or heard about sexual harassment directly from the person involved, and did not report the harassment (n=1146).

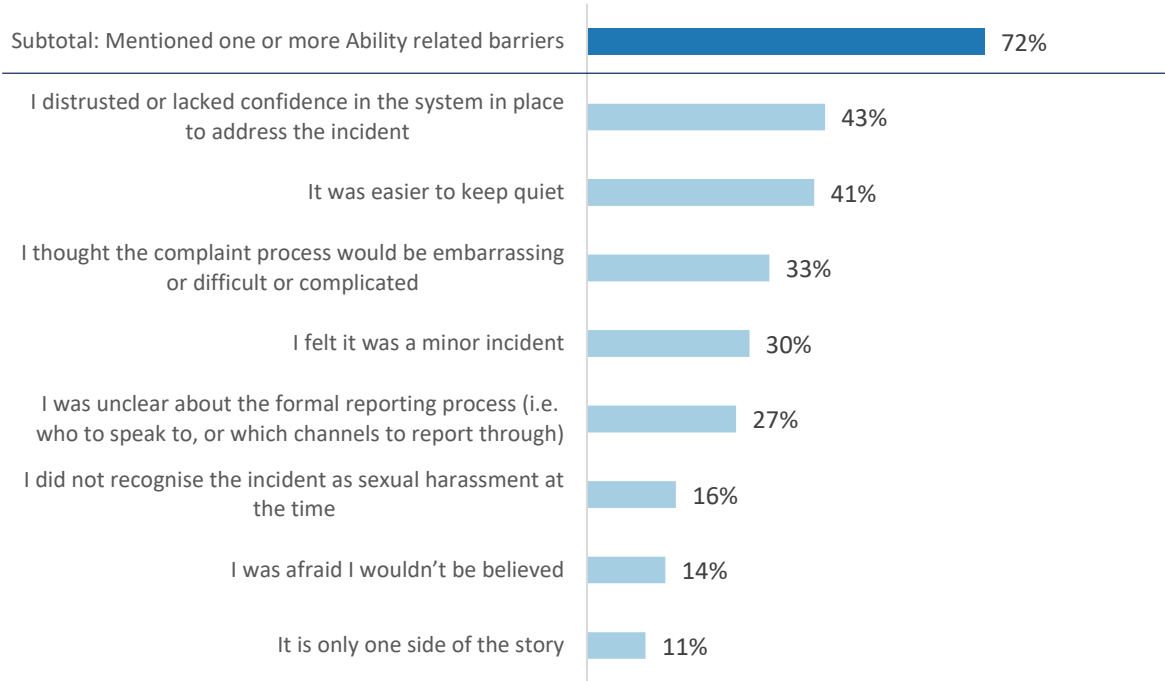
Nearly three in four (72%) respondents mentioned at least one Ability related barrier to reporting

The most common Ability related barriers referred to by respondents who witnessed or heard about sexual harassment were: distrust or lack of confidence in the system in place to address the incident (43%); the belief that it was easier to keep quiet (41%); and the thought that the complaint process would be difficult or complicated (33%).

In contrast, a minority stated that their account of the incident was only one side of the story (11%), that they were afraid they would not be believed (14%), and they had not recognised the incident as sexual harassment at the time (16%) (see Figure 31).



Figure 31. Ability related barriers to bystander reporting



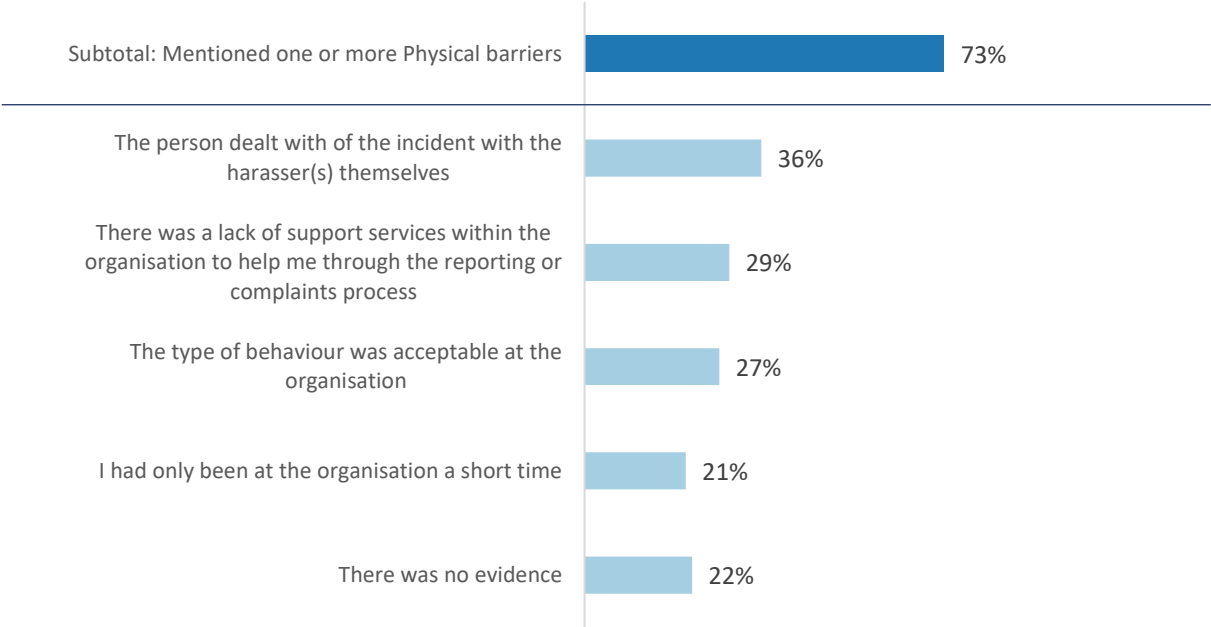
Base: Legal professionals who have witnessed or heard about sexual harassment directly from the person involved, and did not report the harassment (n=1146).

**Physical barriers were nominated by 73% of respondents who had witnessed or had heard about sexual harassment first-hand**

In terms of physical factors, more than one in three respondents (36%) indicated that they had not reported the incident of sexual harassment as the person who had experienced it had dealt with the harasser(s) themselves. Following this, respondents nominated a lack of support services within the organisation to help them through the reporting and complaints process (29%), and indicated that the type of behaviour was considered acceptable within the organisation (27%) (see Figure 32).



Figure 32. Physical related barriers to bystander reporting



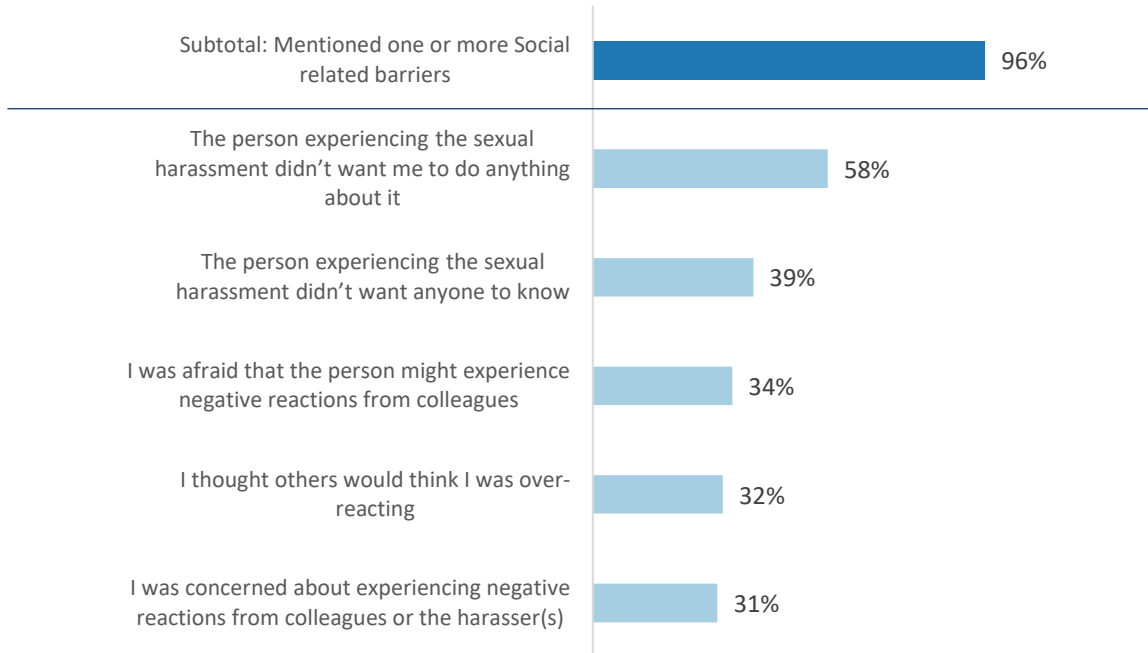
Base: Legal professionals who have witnessed or heard about sexual harassment directly from the person involved, and did not report the harassment (n=1146).

**Social related barriers were among the most prevalent barriers for bystander reporting and were the most strongly felt. Of particular importance was respect for the wishes of the person directly impacted by the incident**

The most common Social related barriers to respondents reporting an incident of sexual harassment were that: the person experiencing sexual harassment did not want the respondent to do anything about it (58%); the person experiencing sexual harassment did not want anyone to know (39%); or the respondent was afraid that the person experiencing the sexual harassment might suffer negative reactions from colleagues (34%) (see Figure 33).



Figure 33. Social related barriers to bystander reporting



Base: Legal professionals who have witnessed or heard about sexual harassment directly from the person involved, and did not report the harassment (n=1146).

**Implications:**

The barriers reported by those who witnessed or heard about incidents of sexual harassment were different from the barriers to reporting mentioned by those who personally experienced sexual harassment. For instance, while pre-existing biases against the utility of reporting were common for those who experienced harassment, witnesses were more concerned about deferring to the wishes of the person who was harassed to not do anything about the incident.

It may be that there needs to be an increased focus on encouraging witnesses to suggest to or support victims of sexual harassment to report the incident themselves, however the pre-existing biases around the process and consequences of reporting incidents that victims seem to have will also need to be addressed at the same time.



## 7 Workplace sexual harassment policy and implementation – A practitioner and employee vs. management perspective

The following section covers the results from the sexual harassment policy questions in the Practitioner survey as well as the results from the survey of legal entities about management practices related to sexual harassment in the workplace (the Management Practices survey). The results from the Management Practices survey are based on responses from representatives of 259 entities with at least two employees.

Less than one in three (28%) respondents from the Management Practices survey said their organisation had a documented policy addressing sexual harassment. Notably, smaller workplaces (with between 2-50 people) were less likely to say there definitely was a documented policy addressing sexual harassment in their workplace (65% vs. 90% with over 50 people). Documentation of sexual harassment reporting and complaints processes were relatively rare (24%).

Just over one in two (54%) of those surveyed in the Practitioner survey said that their workplace definitely had a documented sexual policy and, among this group, the majority found the policy was easy to understand, fair and balanced and easy to access. However, one in five (21%) could only say that they assumed their workplace had a policy in place.

Respondents to both surveys were also asked about the content of their sexual policies, in particular whether they covered certain topics recommended as best practice in Victorian Equal Opportunities and Human Rights Commission guidelines. Most respondents indicated their organisation's policies around sexual harassment contained information about employees' rights and responsibilities around sexual harassment in the workplace, including the consequences of this behaviour and disciplinary actions. However, relatively less common areas of best practice were clear definitions of what is and is not considered sexual harassment in the workplace and an encouragement to report incidents of sexual harassment experienced or witnessed by employees.

### 7.1 What workplace policies on sexual harassment are in place?

#### **One in two (54%) practitioners surveyed said their organisation definitely had a sexual harassment policy in place**

Just over half (54%) of the practitioners who responded to the Practitioner survey stated their workplace 'definitely' had a sexual harassment policy in place for addressing the issue of work-related sexual harassment, while one in five (21%) said they thought or assumed their workplace had one.

Legal practitioners from smaller workplaces of 2-50 people were less likely to say their workplace definitely had a documented sexual harassment policy at their workplace (28% vs. 63% for those with 51-100 and 73% for



those with 101-plus staff). In contrast, 9% said that they did not think their workplace had a sexual harassment policy, and 9% were sure that their workplace did not have a sexual harassment policy in place.

#### **From an organisational perspective, less than half (44%) of surveyed organisations had a policy in place to address the issue of sexual harassment in the workplace**

In response to the Management Practices survey, 44% of respondents said their organisation had a policy in place to address sexual harassment. Just under half (49%) said that their organisation did not have a policy in place to address sexual harassment, 4% did not know, and 3% preferred not to say.

Of the 44% of organisations that had a sexual harassment policy, 24% indicated that it was a documented and standalone policy specific to sexual harassment. An additional 40% indicated that the sexual harassment policy was documented, and covered various issues around workplace misconduct, including sexual harassment. Therefore, 28% of organisations overall indicated that sexual harassment was considered in a documented policy.

Consistent with the perspective of practitioners from larger organisations, documented or standalone, organisational policies addressing sexual harassment were more prevalent in larger organisations. While the vast majority (85%) of respondents who took part in the Management Practices survey represented workplaces with 2-50 people and only 23 organisations had more than 50 people, respondents representing smaller workplaces were less likely to say their workplaces had a documented policy covering sexual harassment (65% vs. 90% for those with 51-plus people). In addition, although the sample size was small (12 regional workplaces), Management Practices survey respondents from regional workplaces were also less likely to say their workplace definitely had a documented policy covering sexual harassment (34% vs. 65% for metropolitan based workplaces).



## 7.2 What does a typical sexual harassment policy include?

In 2014, the Victorian Equal Opportunity and Human Rights Commission published a set of guidelines to help organisations address sexual harassment and comply with the Victorian *Equal Opportunity Act 2010*.<sup>9</sup> The Management Practices survey sought to understand the content of the sexual harassment policies in Victorian legal workplaces compared with the content recommended in these guidelines.

**Most respondents said their organisation’s sexual harassment policy referred to the right for all to work in an environment that is free of sexual harassment, the consequences of this behaviour, and the disciplinary actions as a result. However, relatively less common were clear definitions of what is and is not considered sexual harassment in the workplace**

The right for all individuals to be able to work in an environment that is free from harassment was outlined in nearly all legal entities’ sexual harassment policies (82% of respondents advised that this was ‘definitely’ included in their organisation’s policy). Similarly, four in five (80%) said their policy definitely communicated the consequences and disciplinary actions that can be imposed if the policy is breached, and 75% stated the policy outlined the responsibilities of all individuals in relation to work-related sexual harassment.

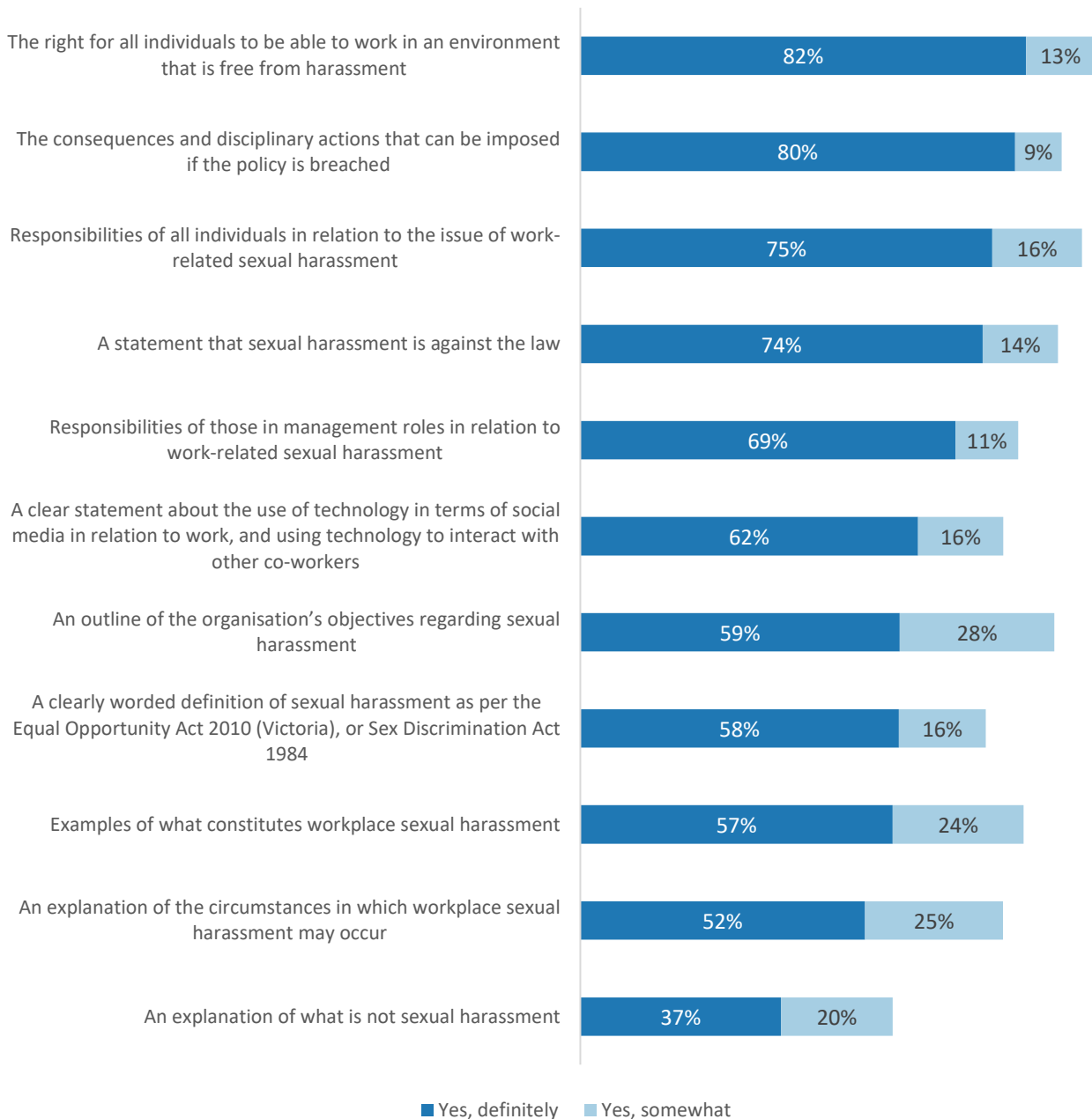
Some of the areas that were less likely to be definitely included in a sexual harassment policy were clearly worded definitions of sexual harassment (58%), examples of what constitutes sexual harassment (57%), explanations of circumstances in which workplace sexual harassment may occur (52%), and examples of what is not sexual harassment (37%).

*“The policy itself is in existence, and adequate, but the issue is more so around the culture of sexual harassment.”*

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<sup>9</sup> Source: *Guideline: Sexual harassment > Complying with the Equal Opportunity Act 2010 (2014)* Accessed from: [https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/eoa-practice-guidelines/item/download/6547\\_cfa173c6a1bf3a4e357f9d6c0c8f43c5](https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/eoa-practice-guidelines/item/download/6547_cfa173c6a1bf3a4e357f9d6c0c8f43c5)

**Figure 34. Information included in the organisation's documented sexual harassment policy**



Base: Organisations with a documented policy in place (Management Practices survey), (n=78).

The entity referenced most often within an organisation's sexual harassment policy was the Victorian Equal Opportunities and Human Rights Commission (43%). This was followed by WorkSafe Victoria (36%), the Australian Human Rights Commission (35%) and the Victorian Legal Services Board and Commissioner (22%).





One in three (35%) organisations had last reviewed their sexual harassment policy within the last 12 months. A further 35% had last reviewed their policy within the last 1 to 5 years. Thirteen percent (13%) of organisations with a sexual harassment policy had never reviewed the policy.

Of the organisations that had not implemented a sexual harassment policy within their workplace, only 18% considered this to be a high priority. However, this may be accounted for by a higher proportion of sole-practitioners with fewer employees completing the Management Practices survey: these sole practitioners may not feel a sexual harassment policy to be a pressing priority due to the size of their workforce. For instance, 16% of sole practitioners viewed implementing a sexual harassment policy as a high priority when compared to law firms of any size (21%).

### 7.3 How do organisations process sexual harassment reporting and complaints?

**For the majority of organisations with a documented policy, the policy encouraged individuals to report incidents of sexual harassment, however, fewer than one in four (24%) organisations' policies included information on the process of reporting or complaining about sexual harassment**

Only one in four (24%) organisations had documented processes for addressing complaints and reports of sexual harassment in their policies on sexual harassment. One in five (22%) organisations that did not have processes in place were developing these processes; however, for two in five (41%) organisations, these processes were not being developed.

Nine in ten (88%) organisations with a documented sexual harassment policy, said the policy encourages individuals to report work-related sexual harassment behaviour that they personally experienced.

In terms of bystander reporting, the policies of 67% of organisations encouraged their employees to report sexual harassment in work-related situations that employees have witnessed. Two in three (67%) organisations' sexual harassment policies advised that any retaliation against anyone who reports incidents of sexual harassment will not be tolerated.

### 7.4 How much do employees know about their workplace sexual harassment policy?

**Most legal professionals said they knew about the sexual harassment policy at their workplace. The majority said the policy was easy to understand, fair and balanced and easy to access**

From an employee perspective, based on the Practitioner survey, one in three (29%) respondents who said their workplace definitely had a sexual harassment policy indicated knowing a great deal about the sexual harassment policy at their workplace, and a further 45% said they knew a fair amount about it. In total, almost four in five (95%) of those whose workplaces definitely had a sexual harassment policy said they knew at least a little about the policy at their workplace.



For those who assumed their workplace had a documented policy to address sexual harassment (21%), the majority (59%) disclosed that did not know anything about it.

From an employee perspective, sexual harassment policies were easy to understand, fair and balanced, and easy to access. The vast majority (90%) of respondents who said their workplace definitely had a documented sexual harassment policy agreed that their workplace sexual harassment is easy to understand. A similar proportion (89%) agreed that their workplace's sexual harassment policy is fair and balanced, and 86% agreed that it was easy to access.

In terms of using the sexual harassment policy or document, more than three in four (77%) respondents whose workplace definitely had a documented policy had confidence in their workplace's policy, and nine in ten (90%) said they could easily find out how to make a complaint through their organisation's internal processes, if they were to witness or experience an incident of sexual harassment.

Despite having confidence in their workplace sexual harassment policy, those who experienced sexual harassment indicated several policy and systems-based barriers, such as: feeling that nothing would be done as a result of complaining or reporting (66%); thinking that the complaint process would be embarrassing or difficult (62%); or having a distrust in the system in place to address the incident (59%).

#### **The most common communication channel for sexual harassment policies was during the induction process (88%)**

For three in four (77%) organisations with sexual harassment policies, the policy is available through the organisation's intranet. Sexual harassment policy information is also commonly communicated by the Human Resources staff (69%), or via word of mouth (60%). Sexual harassment policies were said to be less commonly available on posters in the workplace (16%), and through the organisation's external website (14%).



**Figure 35. Organisation's communication of sexual harassment policy**

Base: Organisations with a documented policy in place (Management Practices survey), (n=78).

## 7.5 How can sexual harassment policies be improved?

**When asked about how their workplace sexual harassment policy could be improved, legal professionals were most likely to mention implementation and enforcement of the policy**

One in four (23%) legal professionals mentioned implementation or enforcement of their workplace's sexual harassment policy as the improvement they would make to that policy. Other improvements to workplace policies referred to training practices (22%), increased awareness of existing policies (16%), greater communication of policies (8%) and general improvements to existing policies (5%).

*"There is a strong policy, but I'm not aware that it has ever been enforced."*



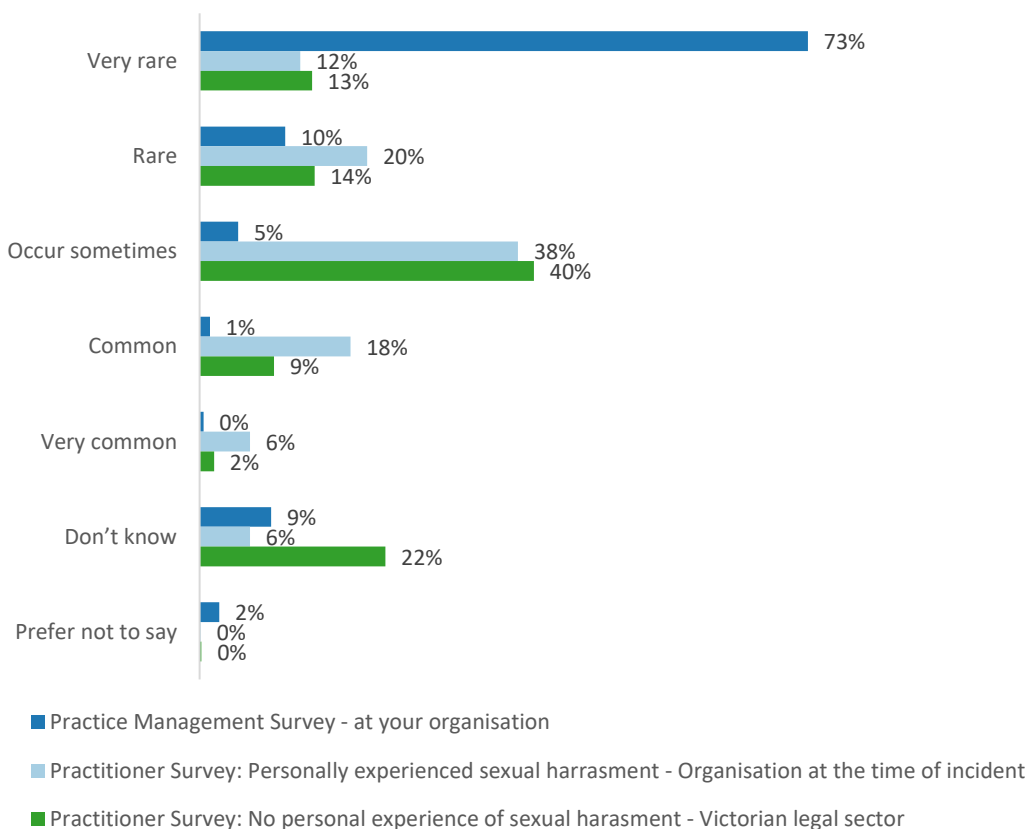
## 7.6 What is the perception of the prevalence of sexual harassment?

### The majority of organisational representatives believed that incidents of sexual harassment in their own organisation were 'very rare'

Nearly three in four (73%) representatives who responded to the Management Practices survey on behalf of their organisation believed that incidents of sexual harassment are generally very rare at their organisation; an additional 10% thought it was rare. A minority (5%) said they believed that incidents of sexual harassment occurred at their organisation sometimes and 1% suggested it was commonplace.

The results above can be contrasted with the experience and views of legal professionals. More than one in three (36%) respondents to the Practitioner survey had personal experiences of sexual harassment. In terms of their perception of the prevalence of sexual harassment in the Victorian legal sector, only 9% of legal professionals believed it was very rare, 11% rare, and 41% believed it occurred sometimes (vs. 1% for organisations). Overall, one in five legal professionals believed sexual harassment was common or very common (23%) (see Figure 36).

**Figure 36. Perceived prevalence of incidents of sexual harassment - management and practitioner perspectives**



*Base: All Organisations (Management Practices survey) (n=78).*

*Base: All legal professionals (n=2324); Personal experience with sexual harassment (n=944), No personal experience with sexual harassment (n=1380).*

#### Implications:

When considering the prevalence of sexual harassment experiences in legal workplaces, it is of concern that less than half (44%) of respondents to the Management Practices survey said their organisation definitely had a policy that addressed sexual harassment and that, when looking at *documented* policies, the number of organisations reduced further to less than one in three (28%). The results from both the Management Practice survey and the Practitioner survey around the existence of sexual harassment policies clearly showed there was room for improvement across all legal workplaces, but particularly among those with 2-50 people and in regional locations.

Education and communication about the existence of a formal and documented policy could also be addressed given the one in five practitioners who could only say they thought or assumed there was a policy in place in their workplace.

Another clear area to address among workplaces is the documentation of the reporting process for sexual harassment incidents. It was uncommon for this to be included in legal workplaces' sexual harassment policies, but including this information would improve the transparency around the procedures that apply should an employee experience sexual harassment. The results also showed that policies tended to be less common among smaller organisations of up to 50 people, and regional workplaces and these types of workplaces should be considered areas of priority.

In terms of the best-practice content of sexual harassment policies mentioned by the Victorian Equal Opportunity and Human Rights Commission in their guidelines, although the majority of respondents said their workplace's sexual harassment policy clearly outlined the definition of sexual harassment, it was less common for the policy to outline examples of what is and is not considered sexual harassment. Having these details in a sexual harassment policy may assist with education and improve professionals' understanding of the types of behaviours that constitute sexual harassment.



## 8 Workplace sexual harassment training and education - Practitioner and employee vs. management perspective

A small number of organisational representatives who took part in the Management Practices survey indicated that their organisation provided training on workplace sexual harassment specifically (13%).

The workplaces that did provide training were comprehensive in covering the topics relevant to sexual harassment education.

### 8.1 What training is provided around sexual harassment?

**Most (88%; 67 respondents) organisations with a sexual harassment policy communicated their policy when new employees joined the workplace. Training was not common for legal workplaces (13%), however, some organisations were currently considering or developing training programs (20%)**

For nearly nine in ten (88%) organisations with a sexual harassment policy, the sexual harassment policy is communicated to new employees during the induction process.

With regard to preventative training and education about sexual harassment, just over one in ten (13%) organisations surveyed said that they provided this to their employees. For one in five (20%) organisations, training is not currently provided but is being considered or developed. Organisations were most likely to say that training was not provided, and is not being considered or developed (54%).

Organisations that offered training (13%) had often provided training sessions within the last year (68%; n=34 organisations). One in four (25%) of these organisations had provided training within the past one to two years. In terms of frequency, more than half (55%) of these organisations said they offered training regularly, and one in ten (10%) indicated that this training was optional.

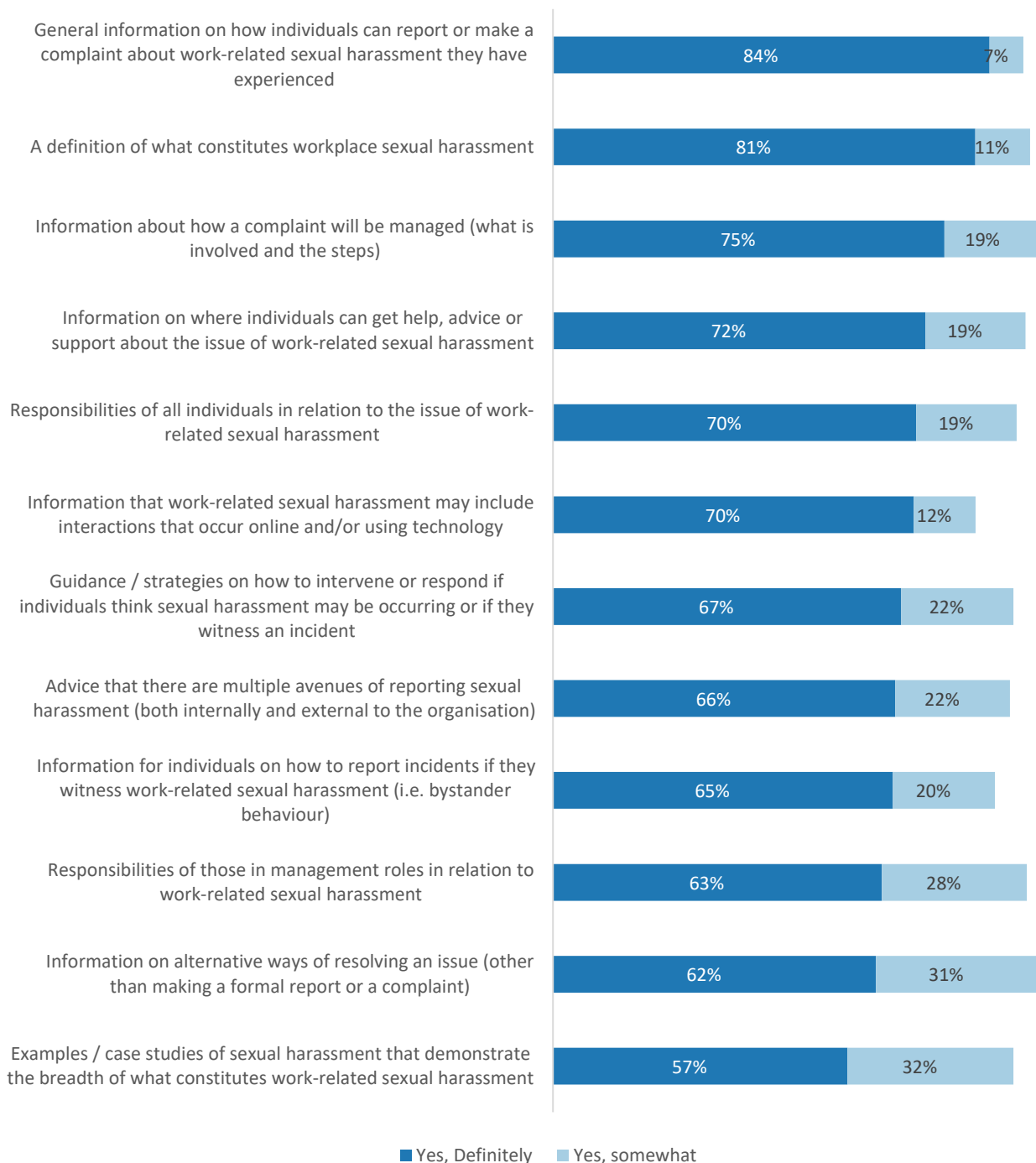
*“There needs to be a lot more training at all levels, modelling of good behaviour and acknowledgement of people doing the right thing in our organisation. The policy should be up everywhere with examples so people understand what is appropriate and what is not.”*

## 8.2 What do training sessions involve?

**In general, training sessions provided by organisations offered comprehensive examples and definitions of sexual harassment, and information around the reporting and complaints process within and external to the organisation**

Of the 13% of organisations that conducted training on sexual harassment (34 respondents), the majority (94%) provided: information about how a complaint will be managed; information on alternative ways of resolving an issue (other than making a formal report or complaint) (93%); a definition of what constitutes sexual harassment (92%); and general information on how individuals can report or make a complaint about work-related sexual harassment they have experienced (91%). The least common information to be included in training sessions was information about how work-related sexual harassment may include interactions that occur online or using technology (81%).



**Figure 37. Training topics**

Base: Organisations with a documented policy in place (Management Practices survey), (n=34).



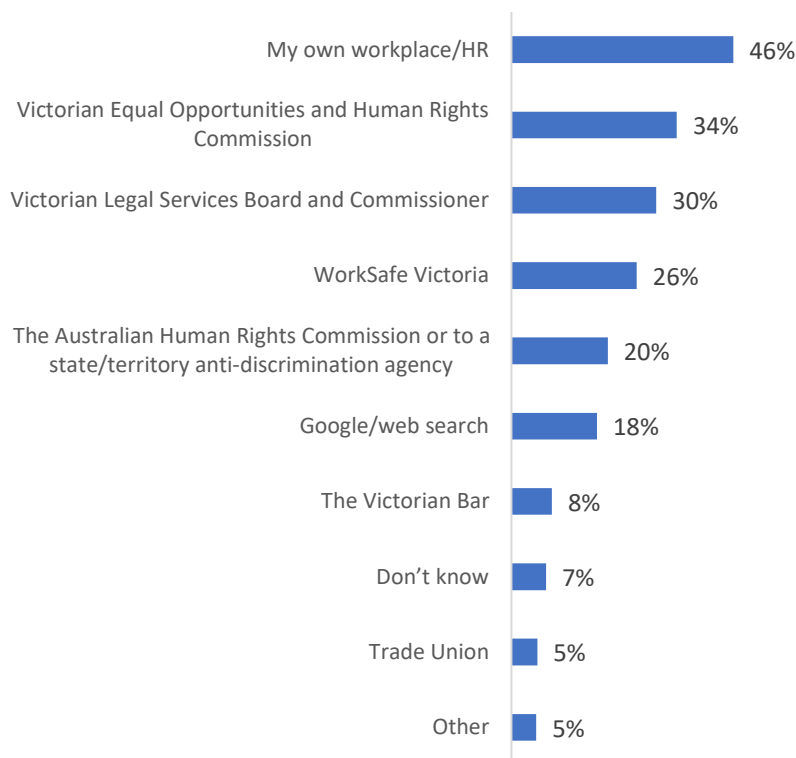


### 8.3 Where do employees in the legal sector look for information around sexual harassment?

Nearly half (46%) of respondents to the Practitioner survey stated they would seek information from their own workplace/human resources if they wanted to find out more about work-related sexual harassment.

This was followed by the Victorian Equal Opportunities and Human Rights Commission (34%), and the Victorian Legal Services Board and Commissioner (30%).

**Figure 38. Sources of further information**



*Base: All legal professionals (n=2324).*



#### Implications:

One of the proactive ways that employers can demonstrate they are committed to preventing sexual harassment in the workplace is through providing adequate information and training about sexual harassment to their employees.<sup>10</sup> Based on the research, the provision of training on sexual harassment by legal employers is not common, however, on a positive note, when it is provided, it is comprehensive.

The fact that one in three practitioners would look to the VLSB+C for information about sexual harassment in legal workplaces reinforces the need for the VLSB+C to make this information easily accessible and to be clear about the role that the VLSB+C can play if people are seeking advice or support as a result of sexual harassment in a legal workplace.

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<sup>10</sup> Source: *Guideline: Sexual harassment > Complying with the Equal Opportunity Act 2010 (2014)* Accessed from: [https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/ea-practice-guidelines/item/download/6547\\_cfa173c6a1bf3a4e357f9d6c0c8f43c5](https://www.humanrightscommission.vic.gov.au/home/our-resources-and-publications/ea-practice-guidelines/item/download/6547_cfa173c6a1bf3a4e357f9d6c0c8f43c5) (Page 17)



## 9 Conclusions and implications from the research

This research highlights the complex nature of sexual harassment in Victoria's legal sector. While at the overall level the prevalence of sexual harassment in this sector appears consistent with its general prevalence in workplaces across Australia, differences begin to emerge in the details. This is demonstrated in group differences found across gender, seniority, and experience within the legal sector. Based on the results, there are several areas of interest that the VLSB+C may wish to consider in responding to this issue in the legal sector:

- The research demonstrates that the experience of sexual harassment in Victoria's legal profession is highly gendered, with significantly more women in the profession (61%) having experienced this issue than men (12%). Sexual harassment is also a current issue in the profession – the majority of respondents with personal experience of this issue reported conduct occurring in the last 5 years, and for 25% of these people, the conduct occurred in the previous 12 months.
- This research highlights that there is a power dynamic at play when it comes to sexual harassment in the Victorian legal profession that was not seen in the ARHC report on Australian workplaces as a whole, where perpetrators were found to be more likely to be the same level as the victim than more senior. This power dynamic is reflected by the results showing that three in five victims (59%) had less than 6 years' experience in the legal sector. That in 72% of cases, harassers occupied a more senior position than the victim also supports this claim.
- The research also highlighted a mismatch between legal professionals' perceptions of sexual harassment in legal workplaces, and management representatives' perceptions of this issue. These findings suggest that leaders in the legal sector need to become more aware of the dimensions of this issue, in order to meet their obligations under the *Equal Opportunity Act 2010* to take reasonable and proportionate measures to eliminate sexual harassment in the workplace. As the regulator of the legal profession in Victoria, the VLSB+C also has a role in ensuring that lawyers are not engaging in sexual harassment or allowing sexual harassment to occur in their organisations. The research highlighted several areas of improvement for the sector, including:
  - increasing the level of formally documented sexual harassment policies. Notably, policy documentation tended to occur less at workplaces with fewer than 50 employees.
  - ensuring that processes around reporting of sexual harassment are also clearly documented and shared with staff. Increasing the documentation and awareness around the internal reporting processes mentioned above may help to addressing a sense among lawyers that positive outcomes from reporting incidents are rare. There is also an opportunity for the VLSB+C to increase the awareness of other external means of reporting incidents that are independent, anonymous and authoritative.
  - conducting training on sexual harassment. Training sessions offer workplaces an opportunity to share and communicate an organisation's stance on sexual harassment and educate workers on the legal and behavioural definitions of sexual harassment. Educating people about the types of behaviours that can constitute sexual harassment assists in reducing the underreporting of this conduct. Training sessions also ensure there is transparency in the process around reporting of sexual harassment, and may help address some of the common barriers to reporting that were raised by legal professionals as part of this research.