

15 May 2017

Dr Nicki Vincent
Commissioner for Equal Opportunity
Office of the Commissioner for Equal Opportunity
Level 17
45 Pirie Street
ADELAIDE SA 5000

Dear Dr Vincent

I refer to our meeting of 5 May 2017 and your letter of 11 May 2017.

I understand that in December 2016 the Equal Opportunity Commission (EOC) released a report entitled "The Independent Review into Sex Discrimination, Sexual Harassment and Predatory Behaviour in South Australia Police" in which it was recorded that the EOC had found evidence of institutional sex discrimination, sexual harassment and predatory behaviour.

The EOC also found evidence of under reporting due to mistrust of the complaints system, victimisation of complainants and a lack of confidence in the outcomes.

The EOC made 38 recommendations one of which was to establish a Restorative Engagement Program (REP) to allow those who had been previously harmed to safely and confidentially report the conduct that caused the harm to senior SAPOL officers and to obtain an acknowledgement and an apology for the conduct of which the complained.

I have been provided with a draft Restorative Engagement Program Protocol (the Protocol), for the South Australian Police which I understand has the support of the Commissioner of Police.

The Protocol has the purposes and objectives to which I have already referred.

The purpose of the REP is to provide a safe, confidential and private mediation space in which restorative engagement might take place and also to assist in initiating a cultural shift within SAPOL in relation to sex discrimination, sexual harassment and/or predatory behaviour.

The REP is designed to avoid causing complainants any further harm.

To that end, the REP does not envisage any engagement with the alleged perpetrators or investigation of their conduct. It is envisaged that the alleged perpetrators will take no part in the restorative engagement process, but the process will be limited to an engagement between the complainant and a senior representative of SAPOL.

Employees of the EOC will manage the REP and facilitate the engagement process and be present during the mediation between the complainant and the senior police officer.

PROTECTED

PROTECTED

You are concerned that the REP will give rise to your employees and senior SAPOL officers becoming aware of conduct that could engage the reporting obligations of public officers and SAPOL public officers under the Directions and Guidelines published under section 20 of the *Independent Commissioner Against Corruption Act 2017* (the ICAC Act).

You have told me that if complainants become aware that their complaints may have to be reported to the Office for Public Integrity (OPI) in accordance with the Direction and Guidelines, many complainants will not come forward and will not participate in the program which will affect the efficacy of the REP.

As I have said, the REP is designed not only to assist individual complainants but also to attempt to influence a cultural change within SAPOL in relation to sex discrimination, sexual harassment and/or predatory behaviour.

I am persuaded that I should amend the Directions and Guidelines insofar as they apply to public officers and SAPOL public officers who are engaged in the REP.

The Directions and Guidelines issued by me pursuant to section 20 of the ICAC Act do not apply to a public officer or SAPOL public officer where information concerning the matter has been received by the public officer or SAPOL public officer as part of the Restorative Engagement Program which had been adopted by the South Australian Equal Opportunity Commission specifically for the South Australia Police.

I will publish these reporting obligations on the internet and at OPI's offices in accordance with section 20(2)(c) of the ICAC Act.

Yours sincerely

The Hon. Bruce Lander QC
Independent Commissioner Against Corruption

PROTECTED