

Parliamentary Counsel's Office

Preventing and dealing with bullying and sexual harassment

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Policy Owner / Contact

Corporate Services

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1. Overview

The Parliamentary Counsel’s Office (PCO) is committed to safe, respectful and inclusive work environments, free from bullying and sexual harassment.

Bullying and sexual harassment will not be tolerated at PCO under any circumstances.

2. Definitions

A **Complaint** is a clear statement, oral or written, by an employee of a work-related concern and may include an interpretation of PCO policies, the allocation of work within Teams, an interpersonal conflict, a work health and safety issue or an allegation of bullying or sexual harassment.

Employees means PCO ongoing, temporary and casual employees, and contractors who carry out work for PCO.

Team refers to the each of the discrete teams within PCO (the Drafting Teams reporting to Deputy Parliamentary Counsel, the Legislation Editing and Parliament Team, the Access Team, the ICT Team, and the Corporate Services Team).

Team Leader refers to the relevant senior leader for each of the Teams outlined above.

3. Roles and responsibilities

Role	Responsibility
Parliamentary Counsel	Makes decisions to finalise complaints or disputes dealt with through a formal process (this may be delegated to a suitable internal or external person if a conflict of interest exists).
PCO Leadership Team	Promote a work culture where bullying and harassment is unacceptable, and employees feel safe to report instances of bullying and sexual harassment. Treat all reports of bullying and harassment seriously and confidentially and take prompt action to address them. Assist the Parliamentary Counsel by investigating formal complaints and making recommendations to resolve disputes.
PCO team leaders	Regularly identify and assess risk factors for bullying and harassment, including through seeking feedback from employees.
PCO employees	Demonstrate high levels of personal conduct consistent with this policy and PCO’s Code of Conduct. To report suspected instances of bullying or sexual harassment in line with this policy. To undertake mandatory training on the prevention of bullying and sexual harassment in the workplace.

4. Bullying and Sexual Harassment

4.1 What is workplace bullying?

Workplace bullying is repeated and unreasonable behaviour (behaviour that a reasonable person, having considered the circumstances, would see as unreasonable) directed towards an employee or a group of employees that creates a risk to health and safety. It may be physical, verbal or written.

Examples of workplace bullying include:

- Abusive, offensive or humiliating language or comments, including unjustified criticism or complaints,
- aggressive or intimidating behaviour,
- practical jokes or initiation,
- deliberately excluding someone from workplace activities or withholding information that is needed for work,
- interfering with personal property,
- jokes, derogatory or dismissive comments,
- gestures that are insulting or belittling.

Management and employment functions that are carried out lawfully and reasonably are not bullying. Examples include:

- leading, directing and controlling how work is done,
- monitoring workflow and work quality,
- giving feedback and managing performance,
- recruitment, assignment, transfer and termination of employment,
- differences of opinion or disagreements on work activities conducted in a professional manner.

4.2 What is sexual harassment?

Sexual harassment is any unwelcome conduct of a sexual nature that a reasonable person (aware of all the circumstances) would anticipate could possibly make the person subjected to the conduct feel offended, humiliated or intimidated. Conduct may be unwelcome even when it is not explicitly rejected or where an individual has not raised concerns about the conduct.

Examples of sexual harassment include:

- unwelcome or inappropriate touching, cornering, staring or leering directed towards a person that makes the person feel intimidated or uncomfortable,
- displaying sexually explicit images or objects within the workplace,
- intrusive or sexually suggestive questions, comments or jokes,
- unwanted or repeated invitations for dates, a relationship or propositions for sex,
- communicating content of a sexual nature through social media or text.
- threatening to share, or sharing, intimate images/video of someone.

5. Policy

5.1 Principles

- ❖ The Parliamentary Counsel's Office (PCO) is committed to a safe, respectful and inclusive work environment. Bullying and sexual harassment are always unacceptable at PCO.
- ❖ Employees who experience or witness bullying or sexual harassment are strongly encouraged to report it. PCO will act promptly on any evidence or reports of bullying or sexual harassment.
- ❖ PCO commits to understanding, respecting and embracing the diverse aspects of every employee's identity in preventing and responding to bullying or sexual harassment.
- ❖ Actions to address bullying and sexual harassment will prioritise the rights, needs and wishes of the victim of alleged bullying and sexual harassment while ensuring procedural fairness to all parties.

5.2 Legal obligations

Under work health and safety legislation, PCO has a positive duty to prevent bullying and sexual harassment as it is a hazard and risk to a worker's physical and psychological health. This requires PCO to eliminate risks to the health and safety of workers and other people so far as is reasonably practicable.

Some forms of bullying or sexual harassment may also be unlawful (for example, bullying that involves discrimination may be unlawful under the Anti-Discrimination Act 1977, while sexual harassment that constitutes sexual assault is a criminal offence).

Behaviour that contravenes this policy may amount to misconduct under the *Government Sector Employment Act* and may otherwise be unlawful. PCO will deal with misconduct in accordance with the requirements of s.69 of the GSE Act, the Government Sector Employment Rules 2014 (NSW), other applicable laws and any relevant industrial instruments.

5.3 Assessing risks

Prevention requires identification of and management of risks. Team leaders should regularly identify and assess risk factors for bullying and sexual harassment, including by seeking feedback from staff. Specific factors that could increase bullying or sexual harassment could include working after hours or in work-related situations where alcohol is present.

5.4 Education and training

All employees will be required to undertake mandatory annual training on the prevention of bullying and sexual harassment, and on how to respond appropriately to disclosures of inappropriate behaviours under this policy. This will complement training in standards of behaviour expected of employees under the PCO Code of Conduct.

PCO will periodically run workshops to ensure all employees are aware of their obligations under this policy.

6. Reporting bullying and sexual harassment

PCO strongly encourages employees who experience or witness bullying or sexual harassment to report the behaviour. All reports of bullying or sexual harassment will be taken seriously. Timely reports of bullying or sexual harassment are encouraged. However, reports will not be treated with less seriousness because of a delay in reporting.

Employees may consider speaking to their team leader, the Chief Operating Officer, the Work Health and Safety Officer or an external body (refer to Section 8) for support in reporting bullying or sexual harassment. As appropriate, PCO will facilitate access to specialised support services to assist victims of bullying or sexual harassment.

PCO's Process for dealing with complaints outlines the process for reporting bullying and sexual harassment.

7. Responding to reports of bullying and sexual harassment

PCO will take a trauma-informed and person-centred approach when responding to reports of bullying or sexual harassment. This will include:

- Ensuring the safety, privacy and wellbeing of the impacted person,
- Listening in a compassionate, non-judgemental and sensitive manner,
- ensuring reports are handled confidentially, fairly, impartiality and with procedural fairness,
- ensuring responses are provided in a timely way.

The response to a report of bullying or sexual harassment will be guided by the person making the report. A report will not automatically trigger a formal investigation, though this may be appropriate. Responses may include the provision of support to the person subjected to bullying or sexual harassment, or mediation if a complaint cannot be appropriately substantiated.

PCO's Process for dealing with complaints outlines how reports of bullying or sexual harassment will be responded to.

7.1 Legislative considerations

If an allegation of bullying or sexual harassment has been made, PCO must deal with the complaint in accordance with any applicable legislation. This includes making an initial assessment of whether the complaint is vexatious or trivial, whether the conduct amounts to misconduct, or whether there is likely to be difficulty in establishing the facts of the matter.

PCO will always seek input from the person impacted on how they would like the matter resolved and take this into account in determining how to proceed with the allegation. If possible, this will include an explanation of any reasons for not handling or resolve the complaint in the way requested by the person impacted.

In some cases, where a complaint is made, the person impacted may not want any action taken. However, PCO has an obligation to deal with any wrongdoing it becomes aware of. In some cases, action may be warranted, even if the person impacted states they do not want any further action to be taken. This may be the case in situations where the behaviour constitutes a work health and safety risk or a criminal offence or requires disciplinary action to be taken.

7.2 Informal resolution

Informal resolution or management will attempt to resolve the issue internally, without a formal response or investigation. The aim is to stop escalation or future incidents by educating the subject of the complaint about acceptable standards of behaviour and mitigating the risk of the conduct being repeated in the future.

Responding to issues through informal resolution may include:

- a member of the PCO Leadership Team speaking to the subject of the complaint about their behaviour,
- facilitating/mediating an open and respectful conversation between the parties (will only occur with the full and informed consent of both parties),
- putting system changes in place to prevent further issues, e.g. moving or changing the shifts of the complainant or subject of the complaint, directing the subject of the complaint to participate in behavioural change counselling.

PCO's Process for dealing with complaints provides further information on the informal resolution process.

7.3 Formal investigation

If a formal investigation is appropriate or is the preference of the person impacted, an internal or external investigator will be appointed. Impacted parties will be kept regularly informed throughout the process, with a target of reporting to the Parliamentary Counsel within 90 business days after the incident is formally reported.

Investigations will be conducted in a confidential, impartial, timely and fair way. Investigations will adopt a trauma informed approach, with awareness of power imbalances that may exist between the parties. Parties involved have a right to have a support person or union representative to assist them throughout the process. Part 8 of the Government Sector Employment (General) Rules 2014 sets out the procedural requirements for dealing with allegations of misconduct by public service employees.

In some circumstances, an employee who is the subject of a complaint may be suspended from duty while an investigation is ongoing and/or a decision is made in relation to the complaint. Disciplinary action may be taken against anyone found to have engaged in behaviour that constitutes bullying or sexual harassment.

PCO's Process for dealing with complaints provides further information on the formal resolution process.

8. Further advice and support

PCO provides an [Employee Assistance Program \(EAP\)](#), which is a short-term, confidential, counselling service designed to offer a problem-solving, solution-oriented approach to support employees with personal or work-related issues. A range of other external wellbeing resources are also available on [Gulburra](#).

Further information on bullying and sexual harassment can be found through the following external parties.

Service Provider	Contact Details
Australian Human Rights Commission	www.humanrights.gov.au Info Line: 1300 656 419 (local call) TTY: 1800 620 241 (toll free) Email: infoservice@humanrights.gov.au
Anti-Discrimination NSW	https://www.antidiscrimination.justice.nsw.gov.au/ Phone: (02) 9268 5544 Free call: 1800 670 812 Email: complaintsadb@justice.nsw.gov.au
Community Legal Centres Australia	www.naclc.org.au/directory Phone: (02) 9160 9500
NSW Police Force	Phone: 000 (for emergencies) 13 14 44 (Police Assistance Line – for non-urgent police assistance)
Fair Work Commission	https://www.fwc.gov.au/about-us/contact-us Phone: 1300 799 675
SafeWork NSW	https://www.safework.nsw.gov.au/contact-us Phone: 13 10 50