

**DRAFT POLICY PENDING CONSULTATION****Policy****Preventing and Responding to Unlawful Conduct
Policy****Contents**

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1. Purpose and Authority

This policy is to ensure participants understand:

- what unlawful conduct is and the standards of behaviour expected of them
- their legal rights and responsibilities in relation to unlawful conduct
- how to address and respond to unlawful conduct in the workplace.

This policy applies to the following Commonwealth Parliamentary Workplace (CPW) participants, collectively referred to throughout this policy as '**participants**':

- Parliamentarians
- *Members of Parliament (Staff) Act 1984 (Cth) (MOP(S) Act)* employees
- other persons who carry out work in any capacity for a business or undertaking of the Commonwealth constituted by the provision of support for the functioning of Parliament. This includes trainees, work experience students and volunteers.

The [Behaviour Standards](#) for CPWs require that all people:

- uphold laws that support safe and respectful workplaces, including anti-discrimination, employment, work health and safety and criminal laws
- bullying, harassment, sexual harassment or assault, or discrimination in any form, including on the grounds of race, age, sex, sexuality, gender identity, disability, or religion will not be tolerated, condoned or ignored.

Under the *Sex Discrimination Act 1984* (Sex Discrimination Act), employers have a positive duty to eliminate, as far as possible the following unlawful behaviour:

- discrimination on the grounds of sex in a work context
- sexual harassment in connection with work
- sex-based harassment in connection with work
- conduct creating a workplace environment that is hostile on the grounds of sex
- related acts of victimisation.

For the purposes of this policy, the above behaviour will be referred to as '**unlawful conduct**'.

Relevant unlawful conduct is also a work health and safety risk. Parliamentarians have a duty under the *Work Health and Safety Act 2011* (WHS Act) to exercise due diligence to prevent unlawful conduct, as it is a risk to the physical and psychological health and safety of workers. All participants have duties to take reasonable care for their own health and safety and to not adversely affect the health and safety of others.

2. Key Principles

- Relevant unlawful conduct is unacceptable and has no place in CPWs.
- Everyone has a responsibility to prevent and eliminate unlawful conduct in the workplace.
- Eliminating unlawful conduct is achieved by creating a culture which supports everyone to report inappropriate behaviour.
- Reports of unlawful conduct are treated seriously, with respect and dealt with confidentially by adopting a trauma-aware approach.
- Safe, supportive and fair procedures support reporting and investigation.

3. Expectations and Responsibilities

3.1 Participants

- Behave in accordance with the Behaviour Standards.
- Respond to and report relevant unlawful conduct which may breach of the Behaviour Standards and this policy.
- Seek assistance and advice from the Parliamentary Workplace Support Service (PWSS) on this policy.
- Seek support from the PWSS early when affected by unlawful conduct, either directly or vicariously.
- Maintain high standards of personal behaviour and do not tolerate unlawful conduct from others in the workplace.
- Be open and responsive to feedback in relation to allegations of unlawful conduct and engage with reasonable management actions to resolve unacceptable behaviours.

3.2 Parliamentarians and authorised persons

- Set clear and consistent expectations of appropriate workplace behaviour.
- Encourage and educate participants to raise concerns and seek support when needed.
- Foster and promote a positive work culture by acknowledging and encouraging appropriate behaviours.
- Respond to all reports of inappropriate behaviour seriously, confidentially and promptly.
- Seek guidance from the PWSS to ensure obligations regarding a safe and respectful workplace are being met.

3.3 PWSS

- Provide support to participants who are affected by unlawful conduct, either directly or vicariously.
- Provide guidance to managers who have received a report of unlawful conduct on what steps to take and the supports available to all affected.
- Determine whether reports of unlawful conduct should be referred to the Independent Parliamentary Standards Commission (IPSC).

4. Conduct that creates a hostile work environment

It is unlawful for a person to subject another person to a workplace environment that is hostile on the grounds of sex. A workplace environment may be hostile and intimidating to people of a particular sex, even if the behaviour is not specifically directed at them.

A participant's conduct can contribute to a workplace culture that makes others feel degraded, humiliated or offended in ways that are associated with their sex. A reasonable person, having considered all the circumstances, must anticipate the possibility of the relevant conduct being offensive, intimidating or humiliating to a person of a particular sex, because of their sex or a characteristic that is generally associated with people of that sex.

Examples of behaviours that create a hostile workplace environment may include:

- conduct involving gendered stereotypes

- engaging in sexist or derogatory jokes or banter
- making demeaning comments about physical or personal attributes or topics such as pregnancy, menstruation or menopause, hair growth or loss and, traditionally perceived masculine or feminine traits
- using degrading expressions that carry inferences about a participant's sex
- addressing a transgender or nonbinary participant with a pronoun based on their sex assigned at birth, rather than the gender they identify with
- using gendered swear words.

4.1 Victimisation

Victimisation occurs when a person is subjected to or threatened with a detriment because they have or intend to assert their rights under the law, such as reporting unlawful conduct. A person can also be victimised if they help someone else to assert their legal rights, for example, by assisting them to make a complaint or being a witness.

5. Prevention of unlawful conduct

Taking a proactive and holistic approach to prevent unlawful conduct in the workplace is integral to minimising and eliminating the conduct. Prevention requires participants to actively engage in the identification and assessment of risks within the workplace. This involves:

- participating in any workplace inspection undertaken by the office's nominated WHS Site Officer that considers risks associated with whether participants know how to report unlawful conduct
- implementing appropriate control measures determined by the WHS Site Officer to address the identified risks
- regular and ongoing review and assessment of potential risks and the effectiveness of control measures to ensure continuous improvement.

Raising awareness and promoting respectful behaviour is key to preventing unlawful conduct in the workplace.

6. Reporting unlawful conduct

Participants who have been subjected to any unlawful conduct or have witnessed such behaviour are strongly encouraged to address it directly with the person involved (if it is safe to do so), or report it. There are informal and formal options available for making a report about unlawful conduct. The PWSS can support participants to make an informed choice about how they would like to proceed (see Section 7: Support).

Informal reports may be made to a parliamentarian or their authorised person. An informal report is most suitable where the conduct is:

- a once-off occurrence
- considered low risk or less serious
- can be managed internally
- does not require investigation.

Making an informal report does not mean that a formal report cannot be made at a later time.

Formal reports can be made to a range of agencies, including the PWSS or the IPSC. A formal report is most suitable where the unlawful conduct:

- cannot be managed internally
- is serious or repeated

- requires assistance to manage the behaviour.

When making either an informal or formal report, it is important to outline:

- date(s) and time(s) of the behaviour
- a detailed description of the behaviour
- who engaged in the behaviour
- who may have witnessed the behaviour
- the outcome sought
- any steps already taken to resolve or address the matter.

Making a report about unlawful conduct does not automatically trigger a formal investigation, but it may be appropriate in some cases. There are no time limits for making a report of unlawful conduct, however participants are encouraged to raise concerns as soon as they feel comfortable to do so. How long ago the alleged behaviour occurred may be a relevant consideration in deciding what action to take, having regard to matters such as the availability of evidence, witnesses, etc.

6.1 Making and responding to an informal report

Parliamentarians and authorised persons must take all reports of unlawful conduct seriously. The wishes of the person impacted by the behaviour are to be considered and accommodated where possible, including their desired outcome or their wish to remain anonymous. However, in some circumstances, it may not be appropriate to deal with the matter in the way requested by the person impacted such as conflicts with mandatory legal obligations, duty of care to others, procedural fairness or relevant policies.

In circumstances where a parliamentarian or manager requires guidance or support to manage a report of unlawful conduct, they are encouraged to contact the PWSS. The PWSS can provide counselling and support for those affected by the conduct, provide information on ways to manage behaviour in the workplace, and provide guidance on formal reporting options where appropriate.

6.1 Trauma-aware approach

The PWSS is committed to adopting trauma-aware approaches to address unlawful conduct in the workplace. This commitment extends to all individuals involved in the matters, including those who report the conduct, those directly affected by the conduct, witnesses, and respondents. The safety and wellbeing of every person engaged in the process is a priority for the PWSS, with genuine consideration given to the wishes and impact that decisions may have on those who have experienced harm.

Work health and safety requirements may mean that the PWSS needs to respond in a more active way than the person who made the report is comfortable with, such as having to escalate the report to the IPSC or the police in some circumstances, eg. where an incident may involve criminal misconduct.

6.2 Making a report to the PWSS

Participants are encouraged to contact the PWSS in all situations where they have experienced or been witness to unlawful conduct. The PWSS can assist with exploring the range of options available in reporting unlawful conduct. The PWSS can progress local resolution options, however it is not a function of the PWSS to investigate a complaint or make a finding of fact (see Section 6.3: Making a complaint to the IPSC).

Local resolution options could include:

- an apology
- an agreement from the person that they will stop the behaviour
- action by a manager such as giving the person a warning
- changing arrangements in the workplace

- a facilitated conversation (where the parties wish to come together to resolve the issue with an experienced facilitator).

A parliamentarian or the CEO of the PWSS may determine that a report made to them needs to be referred to the IPSC and will attempt to seek the consent of the participant who made the report.

Reports of unlawful conduct can be made through anonymous reporting if the participant feels more comfortable to do so. Action can still be taken, although the ability to do so effectively may be limited. In small offices, identities may become apparent simply by virtue of the nature of the complaint.

6.3 Making a complaint to the IPSC

The IPSC can investigate alleged unlawful conduct that may have breached the Behaviour Standards and impose or recommend sanctions for participants where the alleged unlawful conduct has been substantiated.

The IPSC requires all complaints to be made in writing to enquiry@ipsc.gov.au and include the following details:

- details of the allegation
- any evidence to support the complaint
- the name and contact details of the person making the complaint.

The IPSC cannot investigate anonymous complaints. Further information is available in the [IPSC Guidance – Information for complainants](#).

Based on the information provided the IPSC will determine if an investigation is an appropriate course of action. Parliamentarians and MOP(S) Act employees are required to co-operate in the case of an IPSC investigation.

7. Support

7.1 PWSS

The PWSS is available to provide a range of human resource and work health and safety support and guidance to parliamentarians and employees. We also provide wellbeing support, conflict resolution and early intervention to all employees.

The PWSS can also be contacted via phone 24/7 on [1800 747 977](tel:1800747977), by SMS on 0487 112 755, email at support@PWSS.gov.au, or in person at M2.105 in APH from 8.30am-7:00pm sitting days or 9.00am-5:00pm all other business days. Visit pwss.gov.au for more information.

7.2 IPSC

The IPSC is an independent workplace investigation framework for Commonwealth Parliamentary Workplace participants. The IPSC supports safe and respectful workplaces for parliamentarians, their staff and other people who work in a Commonwealth Parliamentary Workplace.

The IPSC can be contacted via phone via phone at 1800 01 4772 (1800 01 IPSC) or complete the submission form [here](#).

7.3 Employee Assistance Program

The Employee Assistance Program (EAP) is a professional and confidential program which aims to enhance the emotional, mental and general psychological wellbeing of employees and their immediate family and household members. The EAP can be contacted 24 hours per day, 7 days per week. Employees and their families can access EAP services for work or personal issues, by calling 1300 360 364 or visit one.telushealth.com |

Username: pwss | **Password:** Wellbeing

7.4 Before Blue Workplaces Program

Parliamentarians and MOP(S) Act employees have access to Before Blue, an early intervention mental health program which provides tools and support to manage stress, build resilience, and enhance overall mental wellbeing. This service was developed by Beyond Blue in partnership with Comcare.

The service can be accessed without a GP referral or mental health treatment plan. Neither the PWSS nor your employing parliamentarian receive any identifying information about employees who access the service.

You can access the service either through the [website](#) or [app](#). Select ‘Sign up now’ and use the registration code: **PWSS-B4B**.

8. Definitions

| Term | Definition |
|---|--|
| Commonwealth Parliamentary Workplace (CPW) | A CPW includes any workplace where parliamentary work occurs, such as Australian Parliament House and parliamentary precincts, ministerial, parliamentary and electorate offices, Commonwealth Parliamentary Offices, home offices. This includes when that work may be remote from a CPW (for example, at external meetings/events or whilst travelling for work purposes). |
| PWSS | Parliamentary Workplace Support Service |
| IPSC | Independent Parliamentary Standards Commission |
| Parliamentarian | This term refers collectively to Members of the House of Representatives and Senators. |
| Employee | Employees are staff employed under the Members of Parliament (Staff) Act 1984 (Cth). MOP(S) Act employees are employed by Parliamentarians on behalf of the Commonwealth. |
| Authorised Persons | A person who has been authorised by a parliamentarian to exercise duties on their behalf. |

9. Useful Resources

| Legislation | Policies and Guidelines |
|---|--|
| <ul style="list-style-type: none">Members of Parliament (Staff) Act 1984Parliamentary Workplace Support Service Act 2023Work Health and Safety Act 2011Sex Discrimination Act 1984 | <ul style="list-style-type: none">Commonwealth Members of Parliament Staff Enterprise Agreement 2024-27Resources on Behaviour Codes and Standards |

- Privacy Act 1988
- Fair Work Act 2009
- IPSC Resources

10. Document Control

| Version Control | |
|-----------------------|---|
| Approving Authority | Chief Executive Officer of the PWSS |
| Date Approved | |
| Current Version | V0.1 |
| Internal Stakeholders | |
| Record ID | |
| Review | This document will be reviewed every two years or when a business requirement to do so is identified. |
| Notes | |

 24/7 Support 1800 747 977

 Text the PWSS 0487 112 755

www.pwss.gov.au

Attachment A – Support Services

National support services

| Name | Details | Contact |
|--------------------|---|--|
| 1800RESPECT | Australia's national support service for anyone who has experienced sexual assault, family and domestic violence. 1800RESPECT also provides support to friends, family and colleagues of people who have been subjected to sexual assault, domestic and family violence. | 1800RESPECT is available 24 hours a day, 7 days a week. Ph: 1800 737 732 Website: 1800respect.org.au |
| Beyond Blue | Providing support and services to people in Australia for 20 years. They are Australia's most well-known and visited mental health organisation who focus on supporting people affected by anxiety, depression and suicide. | Ph: 1300 224 636 Website: beyondblue.org.au |
| Lifeline | Australia's leading suicide prevention service providing crisis support to those experiencing a personal crisis. | Lifeline is available for support 24 hours a day, 7 days a week. Ph: 13 11 14 Website: lifeline.org.au |
| headspace | Australia's National Youth Mental Health Foundation providing early intervention mental health services to 12-25 year olds. headspace can help young people with mental health, physical health (including sexual health), alcohol and other drug services, and work and study support. | Ph: 1800 650 890 Website: headspace.org.au |
| QLife | Anonymous and free LGBTIQ+ peer support and referral for people in Australia wanting to talk about sexuality, identity, gender, bodies, feelings or relationships. | QLife is available from 3pm-midnight Ph: 1800 184 527 Website: https://qlife.org.au |

Advice services

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| Australian Human Rights Commission | Ph: 1300 656 419 Website: www.humanrights.gov.au Email: infoservice@humanrights.gov.au | Ph: 1800 424 017 (toll free) |
| Community Legal Centres Australia | Ph: (02) 9160 9500 Website: www.naclc.org.au/directory | |
| Fair Work Commission | Ph: 1300 799 675 Website: http://www.fwc.gov.au/about-us/contact-us | |

Sexual assault support services

Australian Capital Territory

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| Canberra Sexual Health Centre | Ph: (02) 6244 2184 Website: www.health.act.gov.au/sexualhealth |
| Canberra Rape Crisis Centre | Crisis Line: (02) 6247 2525 Ph: (02) 6247 8071 Email: crcc@rapecrisis.org.au Website: www.crcc.org.au |
| Service Assisting Male Survivors of Sexual Assault Ph: (02) 6287 3935 | |

New South Wales

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| NSW Rape Crisis Centre | Ph: (02) 9819 6565 Ph: 1800 424 017 (outside Sydney) Website: http://www.nswnsrapecrisis.com.au/ |
| Domestic Violence Line | Department of Community Services Ph: 1800 656 463 (24 hours) |

Northern Territory

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|--|---|--|
| Sexual Assault Referral Services (SARC) | <u>Alice Springs</u> Ph: (08) 8955 4500 Ph: (0401 114 181 (after hours) | <u>Darwin</u> Ph: (08) 8922 6472 |
| | <u>Katherine</u> Ph: (08) 8973 8524 | <u>Tennant Creek</u> Ph: (08) 8962 4361 |

Queensland

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| Brisbane Rape and Incest Survivors Support Centre | Ph: (07) 3391 0004 Website: http://www.brissc.org.au/ |
| Sexual Assault Help Line | Ph: 1800 010 120 Website: http://www.health.qld.gov.au/sexualassault |

South Australia

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| Yarrow Place Rape and Sexual Assault Service | Ph: 1800 817 421 (free call) Ph: (08) 8226 8777 / (08) 8226 8787 (after hours and emergency) Website: http://www.yarrowplace.sa.gov.au/ |
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Tasmania

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| Laurel House | Ph: 1800 697 877 Website: http://www.laurelhouse.org.au/ |
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Victoria

Sexual Assault Crisis Line Crisis Line: 1800 806 292 (free call)
Email: ahcasa@thewomens.org.au
Website: <http://www.sacl.com.au/>

Western Australia

Sexual Assault Resource Centre (SARC) Crisis line: 08 6458 1828
Country area: 1800 199 888 (free call)
Website: <http://www.kemh.health.wa.gov.au/Our-services/Statewide-Services/SARC>

Waratah Support Centre (Bunbury) Ph: (08) 9791 2884
Ph: 1800 737 732 (free call)
Website: <http://www.waratah.asn.au/>

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