



Respect in the Workplace – Bullying and Harassment Policy



Version/Approved	April 2021
Review	April 2025

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Statement of Intent

As signatories to this policy, we recognise that:

- the ACT Legislative Assembly (Assembly) is a workplace that brings together elected members, the personal staff of those members, Assembly support staff from the Office of the Legislative Assembly (OLA) and a range of other individuals from public sector agencies, the media, contractors and other external bodies.
- like any workplace, there are a range of duties and obligations imposed on everyone – such as those set out in the *Work Health and Safety Act 2011* and the various codes of conduct that apply to members, members' staff, OLA staff and others in the Assembly workplace;
- everyone in the Assembly workplace should be committed to providing a safe and harmonious work environment which promotes a positive workplace culture free from all forms of inappropriate behaviour including bullying and harassment; and
- as a parliament we must always lead by example and consider the message we are sending to the public. Failure to take active measures to prevent bullying and harassment could tarnish the Assembly's public image and reputation as a symbol of democracy and law makers.

This policy aims to assist people in the Assembly workplace to meet their various duties and obligations by:


- making it clear that respect in the workplace is essential to a safe working environment and bullying and harassing behaviour will not be tolerated;
- making it clear that all individuals in the Assembly workplace have a responsibility to behave respectfully at all times and report any bullying and harassing behaviour;
- providing information and options for reporting bullying and harassing behaviour; and
- making it clear that, should bullying and harassing behaviour occur, it must be effectively managed – which includes ensuring there is appropriate support, confidentiality and procedural fairness.

We also recognise that there is more work to be undertaken to develop and implement prevention strategies that address bullying and harassment, including sexual harassment, consistent with various inquiry recommendations including the Australian Human Rights Commission *Respect@Work: Sexual Harassment National Injury Report 2020*.


This policy has been developed in consultation with workers through the Assembly's Health and Safety Committee.



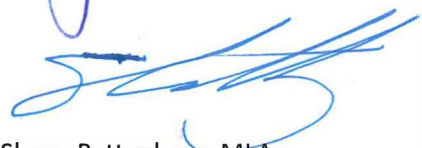
Joy Burch, MLA
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Clerk of the Assembly

1. Introduction

- 1.1 Inappropriate behaviour by anyone in the workplace is unacceptable and can have significant consequences for individuals. Whether direct or indirect, intentional or unintentional, bullying or harassment behaviours can:
- be carried out in a variety of ways and through various means including face-to-face interaction, phone conversation, social media, and email, instant messaging or text messaging;
 - occur at any location where individuals are working including those where work is occurring outside the usual place of work such as during official travel, whilst attending courses, during committee proceedings or during business related events.; and/or
 - increase the risk of a person developing serious mental health issues, depression, psychological distress or emotional exhaustion. Apart from the importance of avoiding illness and injury to workers, these health outcomes may also adversely impact the workplace through staff being absent or being less productive when at work.
- 1.2 This policy applies to a workplace that has some unique characteristics that arise by virtue of it being a parliament. Members are elected - not employed. Members' staff employment arrangements differ in a number of ways from more typical public sector employment arrangements. Political affiliations and aspirations are ever present. Debate and proceedings are often adversarial. Unlike other parliaments where members return to their electorates for significant periods, the Assembly is the permanent home for members. These are just some examples - but they contribute to an environment where there will often be a power imbalance - and it is in such environments where bullying, harassment and other unfair treatment can more easily arise.
- 1.3 It is a cornerstone of this policy that those who have status, influence and authority do not use it in a way that leads to bullying, harassment or unfair treatment of others; but, rather, use it to lead the way, to be exemplars for how a decent workplace, free of such behaviour, should operate and to actively and effectively deal with any inappropriate behaviour they encounter.

2. What is Bullying and Harassment

Workplace Bullying

- 2.1 Workplace bullying is a persistent pattern of mistreatment from others in the workplace that causes either physical or emotional harm. It can include such tactics as verbal, non-verbal, psychological or physical abuse and humiliation. This type of workplace aggression is particularly difficult because, unlike the typical school bully, workplace bullies often operate within the established rules and policies of their organisation and their society. In the majority of cases, bullying in the workplace is reported as having been done by someone who has authority over the victim. However, bullies can also be peers or subordinates.
- 2.2 Section 789FD(1) of the *Fair Work Act 2009* provides that workplace bullying occurs when:
- an individual or group of individuals **repeatedly** behaves **unreasonably** towards a worker or a group of workers **at work**,
 - the behaviour creates a **risk to health and safety**; and
 - being 'bullied at work' **does not apply to reasonable management action** taken in a reasonable manner.
- 2.3 The concept of repeatedly behaving unreasonably refers to the existence of persistent unreasonable behaviour and may include a range of behaviours over time. There is no specific number of incidents required for the behaviour to be 'repeated', provided there is more than one occurrence, nor does the same specific behaviour have to be repeated.¹
- 2.4 A risk to health and safety means the possibility of danger to health and safety and is not confined to actual danger to health and safety.²

What does bullying in the workplace look like?

- 2.5 In *Amie Mac v Bank of Queensland Limited and Other*³ the Fair Work Commission indicated that some of the features which might be expected to be found in a course of repeated unreasonable behaviour constituting bullying at work were:
- "... intimidation, coercion, threats, humiliation, shouting, sarcasm, victimisation, terrorising, singling-out, malicious pranks, physical abuse, verbal abuse, emotional abuse, belittling, bad faith, harassment, conspiracy to harm, ganging-up, isolation, freezing-out, ostracism, innuendo, rumour-mongering, disrespect, mobbing, mocking, victim-blaming and discrimination."*
- 2.6 Bullying may also constitute unlawful discrimination under relevant Territory and Commonwealth legislation.

Policy: Your right to a workplace free from bullying will be respected under any circumstances.

¹ *Re Ms SB* [2014] FWC 2104 (Hampton C, 12 May 2014) at para. 41.

² *Thiess Pty Limited v Industrial Court of New South Wales* [2010] NSWCA 252 (30 September 2010) at paras 65–67, [78 NSWLR 94]; *Aligroup Contractors Pty Limited v Workcover Authority of New South Wales (Inspector Maltby)* [2004] NSWIRComm 270 (24 September 2004) at para. 58, [(2004) 135 IR 317].

³ [2015] FWC 774 (Hatcher VP, 13 February 2015) at para. 99.

Cyberbullying

- 2.7 Workplace bullying has grown over time to include the use of internet and other communications technologies to engage in bullying behaviour towards individuals.
- 2.8 **Cyberbullying is a criminal offence** of the digital age where individuals are targeted through the use of technology. Cyberbullies can use the Internet, a mobile device or even a camera to harass, embarrass, threaten or hurt a person.

What does cyberbullying in the workplace look like?

- 2.9 The eSafety Commissioner describes cyberbullying as including:
- Sharing intimate or sexual photos or videos online without consent — either to humiliate or shame someone, or for the ‘entertainment’ of others (this is also known as image-based abuse);
 - Targeted and persistent personal attacks aimed at ridiculing, insulting, damaging or humiliating a person — this might relate to someone’s physical appearance, religion, gender, race, disability, sexual orientation and/or political beliefs (‘online hate’ targeting an individual);
 - Seriously offensive and shocking material — this can include posting inflammatory comments on memorial and tribute pages or posting images of deceased people with intent to upset family members or others;
 - Repeatedly sending obscene messages to a person or their family, friends or work colleagues; and
 - Stalking a person online and hacking into their accounts, such as social media, banking or email accounts (‘cyberstalking’).

Policy: Your workplace does not tolerate cyberbullying.

Harassment in the Workplace

- 2.10 Harassment is **unwelcome and unsolicited behaviour** that a reasonable person would consider to be **offensive, intimidating, humiliating or threatening**.
- 2.11 Harassment is further defined by the Australian Human Rights Commission (AHRC) as being against the law when a person is **treated less favourably on the basis of certain personal characteristics**, such as race, sex, pregnancy, marital status, breastfeeding, age, disability, sexual orientation, gender identity or intersex status. Some limited exemptions and exceptions apply.
- 2.12 Harassment can be one single incident and there does not have to be a series of incidents or sustained mistreatment. Each time a person experiences unwanted disrespectful behaviour it may be considered harassment.

What does harassment in the workplace look like?

- 2.13 Harassment can be physical, spoken or written. Examples of harassment include:
- intimidation, verbal abuse, or repeated threats or ridicule;
 - making it impossible for an employee to meet deadlines, asking for unnecessary work edits or demanding work that is inconsistent with the capacity of the employee;
 - isolating an employee, belittling his/her thoughts, spreading rumours, criticising or challenging everything he/she says;
 - telling insulting jokes about particular racial groups;
 - sending explicit or sexually suggestive emails or text messages;
 - making derogatory comments or taunts about someone's race; or
 - asking intrusive questions about someone's personal life, including his or her sex life.

Sexual Harassment

- 2.14 Sexual harassment and other forms of gender-based violence are unlawful under the *Sex Discrimination Act 1984 (Cth)* in different areas of public life, including the workplace.
- 2.15 The AHRC defines Sexual harassment as **an unwelcome sexual advance, unwelcome request for sexual favours** or other **unwelcome conduct of a sexual nature** which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.

What does sexual harassment in the workplace look like?

- 2.16 Examples of sexually harassing behaviour include:
- verbal forms of sexual harassment, such as sexually suggestive comments or jokes, intrusive questions about private life or physical appearance, repeated invitations to go on dates, or requests or pressure for sex;
 - sexually explicit pictures, posters or gifts;
 - intimidating or threatening behaviours such as inappropriate staring or leering, sexual gestures, indecent exposure, or being followed, watched or someone loitering nearby;
 - inappropriate physical contact, such as unwelcome touching, hugging, cornering or kissing, or actual or attempted rape or sexual assault; or
 - sexual harassment involving the use of technology, including sexually explicit emails, SMS or social media, indecent phone calls, repeated or inappropriate advances online, or sharing or threatening to share intimate images or film without consent.

Policy: Your right to a workplace free from harassment or sexual harassment will be respected under any circumstances.

Code of Conduct Obligations

- 2.17 This policy reinforces that the Assembly will not tolerate disrespectful behaviour including bullying and harassment and is committed to fostering a safe working environment for all persons working or visiting its premises. It acknowledges that bullying or harassment in all its forms is a serious issue and must be seriously dealt with. Any failure by individuals in the Assembly workplace to adhere to the expectations of this policy may constitute a breach of the relevant codes of conduct that apply to Members, Members' staff, and OLA staff.

What is not Workplace Bullying or Harassment?

Reasonable management action

- 2.18 Under the Fair Work Act behaviour will not be considered bullying if it is reasonable management action carried out in a reasonable manner. This comprises of three elements:
- the behaviour must be management action
 - it must be reasonable for the management action to be taken, and
 - the management action must be carried out in a manner that is reasonable.

What does reasonable management action look like?

- Providing constructive feedback on a worker's work performance – sometimes staff may find feedback upsetting but this does not constitute work bullying;
- Managing performance or under performance issues including setting reasonable performance standards and achievable deadlines;
- Talking to a worker about inappropriate behaviour;
- Implementing reasonable organisational changes in accordance with the relevant enterprise agreement;
- Undertaking disciplinary procedures for misconduct;
- Transferring, terminating or taking action to make a staff member redundant where the process is conducted fairly and equitably and in accordance with relevant legislation;
- Making justifiable and reasonable decisions related to recruitment, selection and other development opportunities; and
- Ensuring workplace policies are implemented.

Personality clashes, robust discussion, team dynamics

- 2.19 Disagreement or differences of opinion between workers do not necessarily equate to work bullying. The Assembly promotes respectful, robust discussion between individuals, which may sometimes be frustrating for those involved. Ensuring these interactions occur respectfully will help minimise the likelihood of the interactions being perceived as bullying or harassing in nature.

Note: Reasonable management action carried out in a reasonable manner or respectful disagreement about issues is not bullying or harassment.

3. Reporting Bullying or Harassment

- 3.1 If you are the subject of bullying or harassment or if you witness such behaviour, you have a responsibility to report the inappropriate behaviour. There are various options for reporting available which include formal and informal avenues. In this section, the person reporting bullying or harassing behaviour is referred to as the 'reporter'.
- 3.2 All workplace bullying or harassment reports are taken seriously and action to facilitate resolution should be undertaken promptly.
- 3.3 Regardless of which approach is used it is recommended that the reporter document their concerns (for example, details of the incident/s, including dates and witnesses). Documenting these details can assist with recollection of the events in the future and it can also assist the reporter to decide on the seriousness of the behaviour and whether or not they want to pursue further action.
- 3.4 Reporters should note the obligations that exist under section 4 of this policy for those who receive reports of inappropriate behaviour.

Policy: All individuals in the Assembly have a responsibility to report inappropriate behaviour to ensure a safe workplace.

Informal Reporting Options

- 3.5 In the first instance, reporters are encouraged (where possible) to promptly address and resolve issues early and directly with the individual/s they are experiencing the issue with, rather than ignoring it. This provides the best opportunity for a quick resolution as it focuses on maintaining and improving working relationships, minimises the likelihood that a minor issue will escalate into a serious one, and supports continuity of work.
- 3.6 When dealing with a workplace bullying or harassment issue the reporter may find it helpful to have a conversation with a trusted confidant for support who is not involved in the issue.
- 3.7 If an individual is experiencing workplace bullying or harassment and does not feel confident or safe in addressing the situation themselves, they should seek the assistance of their Member or manager, the Clerk, the relevant Human Resources area, a Health and Safety Representatives or, for members and their staff, any political party contacts.
- 3.8 If an individual is experiencing workplace bullying or harassment they can also access the [Employee Assistance Program \(EAP\)](#), mental health helplines, health care providers and sexual assault support services for confidential advice and support.

Formal Reporting Options – Internal

- 3.9 A formal report can be made to anyone in authority. It could be to a supervisor, manager or, employing member, or beyond that, a formal report could be made to:
- for staff of members - an employing member, Chief of Staff or Party Leader, or the party may even have a mechanism within the party itself to receive complaints;
 - for OLA staff - to an Executive Manager or to the Clerk; and
 - for members – the Clerk
- 3.10 Staff may also consider making formal complaints to a Health and Safety Representative, union representative or to the relevant HR area.
- 3.11 A formal report can be made verbally or in writing. Acknowledgements of any report is to be made in writing.
- 3.12 If the bullying or harassing behaviour involves the supervisor, manager or Member, then the matter needs to be reported to the next most senior person. Human Resources should also be contacted for assistance in these instances.
- 3.13 All reports of bullying and harassment will be treated confidentially and seriously. Complaints involving staff will be dealt with in accordance with the provisions of the relevant enterprise agreement.
- 3.14 Under the Assembly’s Continuing Resolution 5AA, only the Commissioner for Standards can investigate a complaint that a member has not complied with the Members’ Code of Conduct; and any such complaint can only be referred to the Commissioner via the Clerk of the Assembly. However, it is important to note that any complaint or allegation that a member may have engaged in bullying or harassing behaviour will not necessarily be treated solely as a complaint that the member has breached the members’ code of conduct.

Formal Reporting Options – External Body

- 3.15 Depending on the matter to which the complaint relates, a complaint may be lodged with the Fair Work Commission, ACT Human Rights Commission or WorkSafe ACT.
- 3.16 A worker who reasonably believes that he or she has been bullied at work may apply to the Fair Work Commission for an order to stop bullying. An application for an order to stop bullying made to the Commission must include a completed and signed [application form](#).
- 3.17 The ACT Human Rights Commission can investigate and conciliate complaints of harassment or sexual harassment. Contact the intake team on 6205 2222 or email at HRCIntake@act.gov.au.
- 3.18 WorkSafe ACT can investigate situations that fall within the scope of the Work Health and Safety Act. Workers can submit a report online via the website:
https://www.accesscanberra.act.gov.au/app/forms/worksafe_report
- 3.19 The eSafety Commissioner can investigate cyber-bullying matters. Workers can submit a report online via: <https://www.esafety.gov.au/report>

4. Managing Reports of Bullying or Harassment

- 4.1 Reports of workplace bullying or harassment will be treated seriously and managed promptly with Members and managers responding as soon as possible after suspecting or becoming aware that there is an incident.
- 4.2 The following principles should be applied when managing reports of workplace bullying or harassment:
- All reports should be taken seriously and assessed on their merits and facts.
 - Information about the matter is only provided to those people who need to know about it, in order for the allegation/complaint to be actioned properly.
 - Ensure the health, safety and wellbeing of the person reporting by providing adjustments, such as offering leave or changing the location where work is being performed.
 - Keep a record of the allegation/complaint and actions taken. Ensure, where it is appropriate, to escalate the matter or seek assistance from the relevant HR Manager.
 - Where an allegation/complaint is made against another person, that person is entitled to be afforded procedural fairness – a right to have their side of the story heard and respond.
 - The person investigating or making decisions about a report should be impartial – they should not favour either party or prejudice the complaint in any way.
 - The reporting process and the possible outcomes should be clearly explained and those involved should be kept informed of the progress and the reasons for any decisions.
 - The parties involved should be informed of support that is available, for example the employee assistance program and external helplines, and allow a support person to be present at interviews or meetings.
 - It is important to ensure that individuals involved in workplace bullying or harassment matters are not victimised in any way.
- 4.3 Depending on the severity or complexity, in some situations, where an allegation/complaint is made, there may be an obligation to investigate even if the person reporting decides that they do not wish to pursue the complaint or does not want to make a formal report. In these instances, the parties involved will be informed.

Policy: Reports of workplace bullying or harassment will always be treated seriously and managed promptly

5. Victimisation

- 5.1 All Members, managers, and workers have a responsibility to ensure that a person is not victimised or treated unfavourably.
- 5.2 Victimisation occurs when a person does or threatens to do something that will be detrimental to another person because they have lodged a complaint, are considering lodging a complaint or they are or will be involved in the complaint resolution process. Victimisation usually involves retaliation or retribution.
- 5.3 Victimisation is illegal under the *ACT Discrimination Act 1991* and can also be a criminal offence under the *Criminal Code 2002*.

Policy: If you have made a complaint or supported someone to make a complaint you will not be treated unfavourably.

6. Confidentiality

- 6.1 Individuals involved in bullying or harassment matters must make sure that all confidential information (including computer files) cannot be accessed by people who do not need to know and that sensitive information is only discussed with people who need to have access to it.

7. Information and Training

- 7.1 The Assembly has an obligation to promote awareness of bullying and harassment issues in the workplace and can provide information in various ways including: induction, training and information sessions, staff newsletters, posters, on the intranet, in staff meeting and informal discussion groups.

Policy: All members and Assembly based staff will receive information and training about how to respond to, be aware of, and meet their responsibilities in relation to workplace bullying and harassment.

Responsibilities

- 1.1. The *Work Health and Safety Act 2011* (WHS Act) imposes an obligation on all workers, contractors and visitors to take reasonable care for their own health and safety, and to take reasonable care that their acts or omissions do not adversely affect the health and safety of others, including through incidents of bullying or harassment.
- 1.2. The following section summaries these responsibilities.

Person Conducting a Business or Undertaking and Officers under the Health and Safety Act

- 1.3. Each Member of the Legislative Assembly and the Clerk is a Person Conducting a Business or Undertaking (PCBU) under the WHS Act. All PCBUs have a duty of care under the WHS Act to provide workers with a safe work environment, including detecting and dealing with behaviour which constitutes, or has the potential to develop into, bullying or harassment.
- 1.4. Section 27(1) of the WHS Act provides that:
“If a person conducting a business or undertaking has a duty or obligation under this Act, an officer⁴ of the person conducting the business or undertaking must exercise due diligence to ensure that the person conducting the business or undertaking complies with that duty or obligation.”
- 1.5. This obligation would extend to:
 - in the case of the Office of the Legislative Assembly – members of the Executive Management Committee; and
 - in the case of members or ministers’ offices – a Chief of Staff or, depending on the authority extended my an employing member, a Senior Adviser.
- 1.6. Responsibilities of PCBUs and “officers under the WHS Act” would include to:
 - ensure, so far as is reasonably practicable, the health and safety of all workers who carry out work in the Assembly;
 - ensure that they are familiar with this policy so that they are able to respond to enquiries or concerns raised by staff;
 - communicate this policy and procedures to all workers and ensure that those workers understand their rights and responsibilities in relation to this policy;
 - ensure that their own conduct is above reproach and that they examine their own preconceptions, biases and stereotypes and question commonly accepted myths concerning bullying and harassment;
 - take reasonable care that their own acts or omissions do not adversely affect the health and safety of other persons;
 - treat all workers with respect;
 - regularly consult with workers on matters that may affect their health and safety in the workplace;

⁴ The definition of an officer under the WHS Act is more narrow than its meaning under the Public Sector Management Act 1994. Under the WHS Act (s247), “A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of a business or undertaking of the Territory is taken to be an officer of the Territory for the purposes of this Act.”

(continue) Responsibilities of PCBU's and "officers under the WHS Act" would include to:

- take all complaints seriously and respond to them immediately, sensitively and effectively in accordance with this policy;
- ensure that any investigation of complaints is undertaken in accordance with the principles of procedural fairness;
- take responsive action to ensure the health, safety and welfare of all staff involved; and
- respect the confidentiality of the complainant, the reporter, and/or the person complained about, keep records of the complaint and only share information with persons who have a need to know.

Responding to Complaints

- 1.7. When a complaint of bullying or harassment is made PCBU's and Managers should:
- where appropriate, provide assistance to the reporter in an attempt to resolve the situation using an informal approach;
 - assure the reporter that the matter will be dealt with seriously, promptly and impartially;
 - discuss the matter with Human Resources as soon as practicable, so that a proportionate response to the situation, consistent with this policy, can be initiated;
 - ensure procedural fairness for all individuals involved;
 - share information only on a 'need to know' basis;
 - take all reasonable steps to prevent victimisation; and
 - keep accurate records of all actions taken in response to the complaint and any events that may become relevant if the matter proceeds to a formal complaint.
- 1.8. With respect to the person who is making the complaint PCBU's and Managers should:
- listen without judgment and understand individuals may be feeling distress and/or trauma;
 - offer a range of adjustments which may include time off work or working in another area;
 - provide information on external support and counselling services where they can receive medical, psychological and legal information and advice;
 - clarify issues of privacy and confidentiality and how the report will be treated.
- 1.9. With respect to the person who is alleged to have engaged in the bullying or harassing behaviour PCBU's and Managers should:
- should be treated as innocent unless the allegations are proven; and
 - should be given a chance to explain his or her version of events.
- 1.10. With respect to witnesses PCBU's and Managers should encourage them to speak up and take all reasonable steps to ensure that they are not victimised for doing so.

Responsibilities of Staff

1.11. All staff have a responsibility to:

- take reasonable care for their own health and safety;
- ensure that their own behaviour meets the expected workplace standard in accordance with the relevant Code of Conduct;
- understand how their own behaviour may be perceived and impact on others in the workplace;
- request that, if observed, bullying or harassing behaviour cease, either by directly discussing this with the individual/s involved or by talking with a manager about the situation,
- comply with the requirements of this policy;
- offer support to anyone who is being bullied or harassed against, and let them know where they can obtain help and advice; and
- maintain complete confidentiality if they provide information during the investigation of a complaint. Staff should be aware that spreading gossip or rumours might expose them to accusations of defamation; report any instances of bullying or harassment in accordance with this policy.

1.12. Workers should also note that if they have not personally witnessed bullying or harassment, they should exercise judgement in confronting the person who is allegedly responsible for the conduct or conducting their own inquiries. However, it may be appropriate to discuss the situation confidentially with your Member, manager or Human Resources. Remember that unless, and until, any allegation is investigated and is determined, workers are not to discuss their perceptions or observations as fact because to do so could give rise to a counter complaint or even defamation claims.

1.13. Members and LAMS Act employees should note that where a working relationship has broken down irretrievably, and depending on the circumstances, a Member may terminate the employment in accordance with Section H of the enterprise agreement. For this reason, all Members and LAMS Act employees should attempt to maintain productive working relationships and address emerging workplace issues at the earliest opportunity.

Responsibilities of other persons at the workplace

1.14. Similar responsibilities apply to other persons in the Assembly. Any person in the Assembly workplace (ie. contractors, volunteers and visitors) must take reasonable care of their own health and safety and that of others who may be affected by their actions or omissions. They must also comply, so far as they are reasonably able, with any reasonable instruction that is given to comply with WHS laws and to report bullying or harassing behaviour.

Human Resources/Executive Support Area

1.15. Human Resources/Executive Support areas will be responsible for:

- designing work systems and practices to minimise the risk of workplace bullying and harassment
- promoting a workplace culture free bullying and harassment
- promptly responding to allegations of bullying and harassment
- providing assistance and advice to PCBUs, managers and workers on bullying and harassment policies and procedures
- providing training to help prevent bullying and harassment in the workplace
- facilitating mediation and investigation of bullying or harassment claims in accordance with relevant legislation.

- 1.16. Human Resources/Executive Support will generally be able to provide PCBUs with information and advice to assist them to manage allegations of workplace bullying and harassment. In some limited circumstances, the interests of the Member and the Assembly may diverge, to the extent that Human Resources is required to discharge the Assembly's legal obligations as an employer and/or a PCBU. Should this scenario appear likely, Human Resources/Executive Support will discuss the matter with the Member and Clerk as it arises.

Health and Safety Representatives

- 1.17. The Assembly's Health and Safety Representatives (HSR) can also provide an impartial avenue for individuals to bring forward issues in relation to respect, bullying and harassment.
- 1.18. It is the HSRs role to:
- act as a role model to workers in the maintenance of professional and appropriate workplace behaviour;
 - provide information to workers on policy and processes available to resolve complaints;
 - take complaints seriously and to support reporters in the resolution of complaints informally;
 - raise awareness that views on acceptable behaviour can differ between individuals;
 - disseminate in the workplace information relating to bullying and harassment prevention; and
 - raise awareness of counselling options available to workers through the Assembly's Employee Assistance Program.
- 1.19. It is **not** the role of HSRs to resolve bullying or harassment grievances. Their role is to provide information and guidance to others who may be the victim of bullying or harassment in the workplace.
- 1.20. HSRs should also be aware that individuals who approach them about bullying or harassment may feel a range of emotions and they may be required to listen, be sensitive and be non-judgemental. In situations where the HSR feels uncomfortable about responding to an enquiry or complaint, they should refer the individual to the Human Resources area, in the relevant corporate services area.

Health and Safety Committee

- 1.21. The Legislative Assembly Workplace Health and Safety Committee (the Committee) is established as a consultative and communicative forum that is responsible for overseeing the requirements of the WHS Act as they relate to the Legislative Assembly workplace. The committee is the primary communication channel for Assembly workers, through workplace and management representatives, regarding workplace health and safety matters.
- 1.22. The Committee undertakes an annual review of the Assembly's Health and Safety Risk Register to identify and assess whether the workplace has enough effective control measures in place to address and resolve workplace issues early, including addressing any factors in the work environment that may create a risk of bullying and harassment.

Executive Sponsor

- 1.23. The role of the Executive Sponsor is to provide leadership on Respect, Equity and Diversity matters for the Assembly and to provide additional support for individuals or HSRs seeking guidance and/or advice on bullying and harassment issues.
- 1.24. The Assembly's Executive Sponsor is the Senior Director, Office of the Clerk.

Relevant Legislation and Regulatory Instruments

[Codes of Conduct](#) (there are separate codes for members, members' staff and OLA staff) set out clear expectations for the standards of behaviour expected of members and all employees when performing their duties. All individuals must ensure that they are aware of, and familiar with, the behaviours and expectations as outlined in their relevant Code of Conduct.

The Assembly's Continuing Resolution 5AA establishes the [Commissioner for Standards](#) whose roles and functions include the investigation of complaints that a member may have breached the code of conduct.

Enterprise Agreements specify that work bullying and harassment will not be tolerated and any instances, or alleged instances, of such conduct will be investigated and resolved in a manner commensurate with the seriousness of the issue at hand. Work bullying and harassment will be managed and resolved in accordance with the procedures outlined in Section H of the [LAMS](#) and [OLA](#) enterprise agreements.

The [Fair Work Act 2009 \(Cth\)](#) defines workplace bullying and allows a worker who has been bullied at work to apply to the Fair Work Commission for an order to stop the bullying.

[Work Health and Safety Act 2011](#) outlines the legal duties of persons conducting a business or undertaking (PCBU) to take all reasonable steps to eliminate or minimise harm from risks to the health and safety of their workers, including psychosocial hazards such as work bullying and harassment. Failure to do so could constitute a breach of the Act and could have serious repercussions, not only for those perpetuating the bullying or those being bullied, but also for the Assembly as a whole.

- [Work Health and Safety \(Preventing and Responding to Bullying\) Code of Practice 2012](#) contains general information for PCBUs to assist with developing systems that will prevent bullying, respond to reports of bullying and effectively meet their legal duties under work health and safety laws.

The [Sex Discrimination Act 1984 \(Cth\)](#) prohibits harassment in the workplace by employers, co-workers and other "workplace participants", such as volunteers, and contract workers. Sexual harassment is broadly defined as unwelcome sexual conduct that a reasonable person would anticipate would offend, humiliate or intimidate the person harassed. The Act also makes it unlawful to discriminate against a person because of their sex, gender identity, intersex status, sexual orientation, marital or relationship status, family responsibilities.

The [Disability Discrimination Act 1992 \(Cth\)](#) prohibits harassment in the workplace based on or linked to a person's disability or the disability of an associate.

The [Racial Discrimination Act 1975 \(Cth\)](#) prohibits offensive behaviour based on racial hatred. Racial hatred is defined as something done in public that offends, insults or humiliates a person or group of people because of their race, colour or national or ethnic origin.

[Enhancing Online Safety Act 2015 \(Cth\)](#) prohibits the posting of, or threatening to post, an intimate image without consent on a social media service, relevant electronic service or a designated internet service. It also established a complaints and objections system to be administered by the eSafety Commissioner.