

# Motion for Respect

Report into Workplace Culture in the Tasmanian  
Ministerial and Parliamentary Services

**Full Report** — August 2022





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Motion for Respect: Report into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services

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**We acknowledge and pay our respect to the palawa (Tasmanian Aboriginal) people as the traditional and original owners and continuing custodians of this Island lutruwita (Tasmania) and acknowledge elders, past and present. We recognise the deep history and culture of this Island and the strength and resilience of Tasmanian Aboriginal people.**



## Content warning

This Report contains personal insights of people who have experienced workplace discrimination, sexual harassment and bullying. Some individuals may be impacted by the content contained therein and are encouraged to access support services.

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# Foreword

**The Independent Review into Parliamentary Practices and Procedures to Support Workplace Culture (Review) provides a critical and timely analysis to understand the current needs and gaps within the Tasmanian Ministerial and Parliamentary Services (MPS) workplace culture, with a specific focus on the occurrence of discrimination, sexual harassment and bullying.**

The Tasmanian Government is to be commended for the breadth of the scope of conduct included in the Review, which is unprecedented and wide-reaching. I thank the Government, the Committee, stakeholders and Review participants for their confidence in my appointment as Independent Reviewer, and subsequent engagement in the Review process. It has been a privilege to undertake this important work.

The Review shows many talented and dedicated individuals engaged within MPS find their working life a positive experience and work with integrity, morality and respect for others. For many, it is a career highlight to work within MPS, providing them with a sense of purpose and achievement.

However, as with any workplace, while most people do the right thing, a proportion of people do not. The positional and professional reputation of many can be too easily overshadowed and tarnished by the behaviours of a few. It is my hope, through the implementation of the recommendations set out in this Report, that this will be avoided in the future.

The evidence demonstrates that for many people working within MPS, going to work can be a harrowing experience due to discrimination, sexual harassment and bullying. Career satisfaction diminishes when employees are confronted with impenetrable gatekeeping, lack of avenues to address their concerns, dismissal of raised concerns and a pervading attitude of 'suck it up'.

I extend my gratitude to all those who contributed to the Review and acknowledge that sharing their experiences took personal and professional courage. Significant effort has been made to ensure that the lived experiences of Review participants are at the core of this Report.

The participation rates from Review participants across the Survey into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services Workplace (**Survey**), as well as written and verbal submissions, strongly indicates a workforce which is heavily supportive of and invested in the Review process and outcomes.

It is however, disquieting that despite changes to the *Right to Information Act 2009* (Tas) and the *Archives Act 1983* (Tas) to protect the confidentiality of individuals, it is evident a genuine and lingering fear of repercussion and reprisal still endures.

Of significant concern is the cascading effect of unsafe workplace behaviours and the effect this has on other areas of MPS and the public sector more broadly. Review participants reported such conduct permeating other worksites within MPS and government departments (noting that secondment from government departments is commonplace within MPS).

People who participated in the Review outlined a culture of unsafe behaviours, a lack of accountability, protection of perpetrators, perceptions of bias and lack of process in complaint handling. Extensive gatekeeping and a resistance to act on inappropriate behaviour was commonly raised.

Key words used repetitively to describe the workplace in both the Survey and throughout the submissions were “toxic” and “unsafe”.

Evidence highlighted the negative impact of discrimination, sexual harassment and bullying, and the short and longer term consequences of such conduct, which in some circumstances are profound and life changing. It is difficult to find a plausible explanation for the lack of action taken to address repeated harmful behaviours, which continue to negatively affect current and former staff.

Insights provided were illuminating and exposed the causes which allow workplace culture to deteriorate and decline to the detriment of all those working in such environments. The recommendations in this Report specifically go to address these causes.

The ‘enablers’ of poor workplace practices are driven by self-entitlement, power imbalances, preservation of status, inconsistencies in the existence and application of workplace policies, practices and procedures, workplace silos and lack of accountability. Poor understanding of relevant contemporary laws and obligations also enable a prevalence of outdated, unlawful, disrespectful and inappropriate attitudes and behaviours.

Evidence suggests MPS has a legacy of complacency, unchecked behaviours, archaic traditions and the absence of a transparent, contemporary, and responsive Human Resources Unit. However, the question of where culpability lies is complex and not helpful if seen through the lens of blame and fault.

Individuals working within the MPS Workplace are entitled to expect that their workplace is a safe place — a place in which respectful behaviours are the norm, where contemporary human resources policies and practices are in place and appropriate training is provided, where supervisors are appropriately skilled

in people management, complaints are encouraged and actioned in a timely manner, where parties are protected from victimisation, and accountability and consequences flow from unacceptable behaviours.

For MPS to become a safe and respectful workplace, decisive leadership will be needed, alongside unwavering commitment, transparency and determination. It is imperative that action is taken to alleviate the risk to staff, build protective structures around the MPS workforce, and provide avenues to safely address conduct through impartial mechanisms.

The Report of the Review is called **Motion for Respect**. It is a call for greater respect within the MPS Workplace. MPS has a distinct working environment. People working within MPS, whatever their role, are at the heart of democracy and representation of the Tasmanian people. Differences of opinion and debate, the ‘cut and thrust’ of politics, are characteristics of this environment. However, such characteristics should never be used as an excuse for disrespectful, and often unlawful, behaviours.

The recommendations in this Report are evidence-based, complementary and designed to ensure the MPS Workplace is better equipped to promote a more positive and respectful workplace culture. A workplace which promotes safe and best practice, attracts a diverse workforce, and sets a standard of which all Tasmanians can be proud.



**Sarah Bolt**  
**Anti-Discrimination Commissioner**

August 2022



I believe the Parliament and the behaviour that goes on within it, both publicly and privately, should be above repute and set a standard that we expect in other workplaces. A standard of behaviour where women are respected, gender equity and equality is the goal, power is not biased and all employees feel safe...”



# Executive Summary

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# Introduction

## The Review was conducted by the Tasmanian Anti-Discrimination Commissioner (Independent Reviewer).

The Review's Terms of Reference set out the scope of the Review and requested a report be provided setting out findings and making recommendations as to:

- » Any actions that should be taken to increase awareness of the impact of workplace discrimination, sexual harassment and bullying and improve workplace culture within MPS, including training and the role of leadership in promoting a workplace culture that does not tolerate workplace harassment.
- » Any changes that should be made to legislative, regulatory, administrative, legal or policy areas to enhance protection against, and provide best practice responses to, workplace discrimination, sexual harassment and bullying within MPS.
- » Any other actions or changes necessary to ensure a safe and respectful workplace free from workplace discrimination, sexual harassment and bullying within MPS and that set the standard for the broader community on best practice workplace policies and procedures that enable safe and respectful workplaces.

This Report provides an Executive Summary and is then set out in two parts:

- » **Part 1: Understanding the recommendations**
- » **Part 2: Issues impacting culture**

The Recommendations have been informed by the findings of the Review, which are set out in the second part of the Report.

At the outset, it is essential to recognise that workplace discrimination, sexual harassment and bullying is against the law. Throughout the Review, it became evident that few participants understood the element of unlawfulness to many of the behaviours which constituted discrimination, sexual harassment and bullying.

Workplace discrimination, sexual harassment and bullying has serious and profound effects on individuals and negatively impacts team cohesion, productivity and performance. Employers have a moral and legal responsibility to take steps to ensure their workers are safe, aware of their rights and responsibilities and to instil a confidence that unacceptable conduct will be addressed when it occurs.

The need for a 'positive duty' for employers to prevent sexual harassment, in particular, was recommended in the report *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces*<sup>1</sup>. I also note the introduction in Victoria of the *Gender Equality Act 2020* (Vic).

There is no positive duty in Tasmania.

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<sup>1</sup> Australian Human Rights Commission, *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* (2020).

The Anti-Discrimination Act does create some obligations. Section 104 of the Anti-Discrimination Act is a vicarious liability provision, which states that organisations are to take reasonable steps to ensure members, officers, employees and agents do not engage in discrimination or prohibited conduct, including sexual harassment. If an organisation fails to comply, it is liable for any contravention of the Anti-Discrimination Act by its members, officers, employees or agents. Common law sets out what constitutes 'reasonable steps':

- » Effective policies, complaints and grievance procedures
- » Educational programs
- » Monitoring of the workplace to ensure policies are complied with
- » Complaints being promptly investigated in accordance with policies and procedures
- » Appropriate steps being taken to communicate policies to all employees to ensure they are aware of what constitutes prohibited conduct and that it is unlawful

There are also obligations under the Work Health and Safety Act for people conducting a business or undertaking (PCBU) to ensure the health and safety, so far as reasonably practicable, of workers and others who may be put at risk from the work carried out by the PCBU. WorkSafe Tasmania can investigate incidents of unsafe work or work practices, including of bullying and harassment. However, the legislation does not explicitly refer to sexual harassment or bullying. Further, it is unclear whether Members of Parliament have specific obligations under this law.

While this Report does not make a specific recommendation about imposing a positive duty, consideration should be given to legislative change in Tasmania to impose a positive duty to prevent discrimination, sexual harassment and bullying.

It was clearly evidenced that unsafe and unlawful behaviours occur within MPS, and those who experience such behaviours often feel existing attitudes about the MPS Workplace render the conduct permissible and an inherent part of the working environment.

Whatever the nature of employment or engagement within MPS (and there are numerous), each individual is entitled to expect a safe workplace. Workplace culture is directly linked to organisational framework, including through comprehensive policies and processes, oversight, accountability, transparency, values, training, competency of leaders, access to support systems, bystander action and protections from victimisation.

What has emerged from this Review is that fundamental safeguards for people working within MPS are lacking. It is evident that a complete overhaul of MPS Workplace practices is necessary to effectively address the existing issues and prevent problems being further exacerbated.

Ultimately, this Review is about people. It is about their entitlement to a safe workplace, and how that can be achieved. Comments and quotes of Review participants are distributed throughout this Report and demonstrate the need for change. Quotes included reflect the common themes and tenor consistently conveyed by Review participants.

The Survey participation rate was 56.5%. This is incredibly high when compared to other jurisdictions which have undertaken similar reviews. The Independent Reviewer acknowledges the work done previously and observes that increasing transparency about unsafe workplaces empowers people to speak out and contribute to positive change in Australian workplaces.

It is noted by the Independent Reviewer that while some of the commentary may be confronting and difficult to absorb, providing the MPS workforce the opportunity to have their say and to be heard was essential to gaining a comprehensive understanding of the issues that need to be addressed. This approach has enabled the Independent Reviewer to undertake constructive, extensive and evidence-based analysis.

While many Review participants reported negative experiences, it is also overwhelmingly evident that MPS is comprised of an extremely dedicated workforce. Individuals are committed to their work and contributing to the Tasmanian community. The MPS workforce is deserving of contemporary workplace structures which build a culture where they are valued and recognised for the contribution they make to our communities. Their working environment should be supportive, inclusive, fair and safe.

Further, and at the heart of the matter, Tasmanians expect the working environments and cultures across MPS to be an exemplar of workplace culture, where employees can work to their full potential in a safe environment, in order to produce better outcomes for the community.

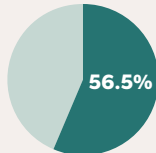
The comprehensive assessment and analysis of various types of conduct that contribute to unsafe workplace practices, informed by those working or who have worked within MPS, led to a thorough evidence base of data from which the recommendations from the Review were made.

This approach to the Review makes the recommendations contained within this Report more compelling and persuasive, as they are reflective of the needs expressed by the MPS workforce, and address the gaps identified by those working within it.

# At a glance ...

An online Survey into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services Workplace was completed by **318 individuals**.

This represents a **56.5% response rate**.



**26** written submissions

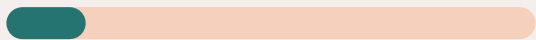


**13** verbal submissions  
(both interview and open discussion format)

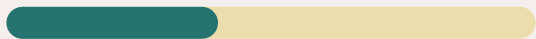
## Key survey results



**24%** of respondents experienced **discrimination**

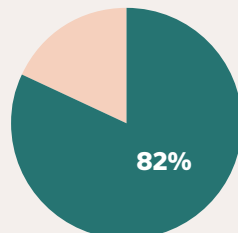


**15%** of respondents experienced **sexual harassment**



**40%** of respondents experienced **bullying**

**82%** of respondents expressed general dissatisfaction with complaints processes

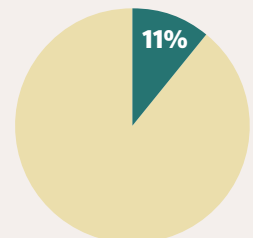


**620** substantive comments were made by Survey participants



**2/3** of respondents had witnessed discrimination, sexual harassment or bullying

Only **11%** of those who witnessed the behaviours **intervened**



Members of Parliament and Supervisors/Managers were consistently the **top two groups** reported to be engaging in discrimination, sexual harassment and bullying.

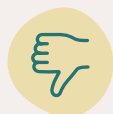
# Themes emerging



## Leadership

MPS personnel lack confidence in the will of their senior managers to take appropriate action to address conduct, particularly where there are perceived political or public consequences.

Power dynamics in relation to political offices are extreme and can often operate to protect inappropriate behaviours. This is exacerbated by the lack of a clear and applicable policy framework which governs workplace discrimination, sexual harassment and bullying.



## Complaints

There is an overwhelming lack of faith in process, fairness in dealing with complaints and complaint outcomes. This may inform the decision behind whether someone speaks up about unsafe workplace conduct or not.

Review participants reported a lack of accountability and a general unwillingness to intervene when discrimination, sexual harassment and bullying does occur.



## Political debate

The role modelling of poor behaviours in the Chambers of Parliament (where Parliamentary debate occurs) sets the standard in other parts of the workplace.

Robust political debate is an integral part of Parliament and is protected by parliamentary privilege. It is when such behaviours extend into the general workplace that the culture and interpersonal interactions run the risk of becoming unsafe.



## Training

There is little to no training about respectful workplace behaviours, rights and responsibilities and reporting options in relation to workplace discrimination, sexual harassment and bullying.



## Diversity

There is a lack of diversity within the MPS Workplace which may be linked to low levels of reported discrimination on the basis of race, disability, LGBTI+ attributes.



## Abuse of power

Members of Parliament and managers/supervisors were found to be the most common perpetrators of workplace discrimination, sexual harassment and bullying.

Information provided by Review participants was harrowing, and detailed situations where they were exposed to degrading and belittling conduct, abusive behaviours and numerous instances where those who engaged in wrongdoing have been protected to the detriment of others.



## Boundaries

For many MPS personnel, there is no clear delineation between work hours and personal time. Multiple Review participants commented that they were expected to be available 24/7.

Many Review participants also reported being contacted repeatedly via applications such as WhatsApp and expected to reply, outside working hours.



## Family responsibilities

Reports of discrimination were mostly linked to sexism and family responsibilities.

While some of the work areas within MPS may have policies regarding flexible work, in practice employees experience negative comments, guilt, refusal and career repercussions if they seek flexible work because they have family responsibilities.



## Employment conditions

Employment arrangements within MPS are complex, inconsistent and outdated. This directly affects employee rights, depending on their instrument of employment, which results in pay inequity and varying access to entitlements such as overtime, travel allowances, and leave.

There is a perceived absence of job security, due primarily to the uncertain nature of political office and a perception that staff have limited protections and can be readily 'moved on'.



## Structure

Review participants described inefficiencies in the way the Parliamentary Entities are structured, including overlap in the way some of the functions are performed, a concentration of power and responsibility and an absence of a contemporary approach to workplace relations and business planning.

Countless Review participants expressed that MPS is in dire need of an independent HR unit.



## Awareness of rights

There is low awareness of rights and obligations relating to workplace discrimination, sexual harassment and bullying.

A considerable proportion of those working within MPS reported they had not undertaken an induction process, are not aware of their responsibilities under the Anti-Discrimination Act and did not know where to find policies about acceptable workplace behaviour. Many reported being unaware of the existence of Workplace Support Contact Officers or how to report unacceptable behaviour from a Member of Parliament or someone other than a Member of Parliament.

Awareness of external reporting options, such as Equal Opportunity Tasmania, WorkSafe Tasmania and the Integrity Commission, was also low.



## Public perceptions

Review participants reported that the risk of media coverage was a significant factor in deciding whether to address unsafe workplace conduct, particularly where the issue may be 'leaked' and the person may suffer both internal and external repercussions.

It was also noted, on multiple occasions, that the behaviour on sitting days can be extremely disrespectful. This conduct is observable by the public, including school children.

While the 'theatre' of politics is an inherent feature of debate, clear boundaries are essential.



## Access to safe systems

The MPS Workplace is characterised by poor or inconsistent governance, including an historical absence of human resources policies and processes and a lack of fairness and transparency in Recruitment practices.

Review participants continuously emphasised that 'there is nowhere to go' to make complaints. In expressing this, participants referred to a lack of independent options, vested interests and protection of perpetrators that has historically occurred, victim-blaming and victimisation, a lack of safeguards with little to no attempts to mitigate conflicts of interest or bias. This was expressed particularly often in relation to some Members' offices, and also in relation to difficulties posed by Chiefs of Staff acting as gatekeepers to the detriment of staff.



## Experiences of sexual harassment

In relation to sexual harassment, females experienced more sexual jokes and physical touching compared to males.

Males who experienced sexual harassment reported behaviours such as receiving sexually explicit pictures, posters or gifts.

Only females reported experiencing requests or pressure for sex or other sexual or intimate acts, repeated requests for a date or after-work drinks, sexually explicit comments via Facebook or other online platforms, sexual gestures, exposure of body parts and indecent phone calls.



## Bystander intervention

Intervention rates for bystanders were extremely low across all areas, despite results showing inappropriate conduct is often witnessed.

For example, in half of all cases of sexual harassment there were witnesses, yet in 80% of cases, no one intervened.



## Impacts

High levels of distress were reported and observed within the course of taking verbal submissions.

Survey participants commonly reported experiencing trauma, anxiety and depression and feeling unsafe in the workplace.

Impacts of workplace discrimination, sexual harassment and bullying directly correlate to feelings of safety within the workplace.

Review participants outlined situations where people had been left crying, were too intimidated to make eye contact with managers acting aggressively, where concerns for individual safety arose, where people were too uncomfortable to enter the office and where medical help was sought as a result of the impacts of the conduct experienced in the MPS Workplace.



## Alcohol consumption

A number of Review participants reported having observed excess consumption of alcohol, impacting performance and often linked to escalating unsafe behaviours in the workplace, specifically sexual harassment.

Examples included women being followed to their accommodation while away for work.



# Background, scope and methodology

## Review background

On 28 July 2021, the Honourable Peter Gutwein MP, then Premier of Tasmania, announced<sup>2</sup> the appointment of the Tasmanian Anti-Discrimination Commissioner (**Independent Reviewer**) to undertake the Independent Review into Parliamentary Practices and Procedures to Support Workplace Culture (**Review**).

The Terms of Reference for the Review were released the same day and are in **Appendix A** to this Report.

The announcement confirmed the establishment of a Committee comprising members of both Houses of Parliament, the role of which has been to support the work of the Independent Reviewer in undertaking the Review and will now be to lead the implementation of any accepted recommendations arising from the Review.

The Independent Reviewer makes particular reference to the broad endorsement of the Review across party lines and notes that the Review has been conducted impartially, openly and honestly, and without reference to particular political parties. It was essential that the MPS Workplace was viewed without the lens of party politics for the purposes of this Review.

As per the Terms of Reference, the Review of the MPS Workplace has been undertaken to identify the current needs and gaps within the MPS workplace and to make recommendations to ensure a safe and respectful workplace which reflects best practice in preventing and dealing with workplace discrimination, sexual harassment and bullying.

## Scope

The scope of the Review included workplace conduct constituting:

**Discrimination**



**Sexual harassment**



**Bullying**



Key terms and definitions are in **Appendix B** to this Report and reflect the definitions adopted in the Anti-Discrimination Act and by WorkSafe Tasmania.

<sup>2</sup> Premier Peter Gutwein, *Terms of Reference finalised for independent review into Parliamentary practices and procedures* (28 July 2021) <[https://www.premiertas.gov.au/site\\_resources\\_2015/additional\\_releases/terms\\_of\\_reference\\_finalised\\_for\\_independent\\_review\\_into\\_parliamentary\\_practices\\_and\\_procedures](https://www.premiertas.gov.au/site_resources_2015/additional_releases/terms_of_reference_finalised_for_independent_review_into_parliamentary_practices_and_procedures)>.

”

**The Parliament is crying out for reform and transformational change to make it fit for purpose — a modern organisation supporting Members to discharge their constitutional and representative duties ...**

For completeness, it is noted that discrimination is defined to include, for the purposes of the Review:

- » Direct discrimination on the basis of 22 attributes
- » Indirect discrimination on the basis of 22 attributes
- » Offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of 14 attributes
- » Victimization

This broad spectrum of conduct enabled a comprehensive and full understanding of the types of unsafe workplace conduct being experienced by MPS personnel.

The results of the Review show specific trends and themes emerging from the data obtained.

## Methodology

The Independent Reviewer adopted a mixed method approach in order to obtain both quantitative and qualitative data. The purpose was to capture the varied experiences of MPS personnel, and to understand both the structural and cultural factors influencing conduct within the MPS Workplace.

The methodology applied by the Independent Reviewer is set out in **Appendix C**.

It is the view of the Independent Reviewer that the findings of the Review are based on a truly reflective evidence base of the MPS Workplace obtained through the Survey, written and verbal submissions, research and stakeholder interviews.

**Appendix D** to this Report provides more information about accessing the Survey questions and answer options. The questions and answer options for the Survey are available on the Equal Opportunity Tasmania website at [www.equalopportunitytas.gov.au](http://www.equalopportunitytas.gov.au).

Alternatively, they are able to be directly requested from Equal Opportunity Tasmania.

Information provided through written and verbal submissions was in depth, poignant, reflective and insightful.

The average length of time required for verbal submissions was two hours. It is evident that for some, the emotional scars resulting from adverse workplace experiences remain raw.

It was commonly expressed by both male and female participants that the interview process provided cathartic relief. For many it was the first time they had felt safe and confident to tell their story.

All submissions appeared to be driven by a genuine hope that, as a consequence of the Review, positive improvements would be made to the MPS Workplace and that others would not be subjected to the behaviours that they and others had experienced.

The role of the Independent Reviewer has not been to investigate or make findings regarding individual allegations about workplace discrimination, sexual harassment or bullying. Rather, this Report provides a reflection of the lived experience of Review participants as demonstrated by the quotes included throughout this Report.

# The 22 attributes of discrimination



**Race**



**Age**



**Sexual orientation**



**Lawful sexual activity**



**Gender**



**Gender identity**



**Intersex variations of sex characteristics**



**Marital status**



**Relationship status**



**Pregnancy**



**Breastfeeding**



**Parental status**



**Family responsibilities**



**Disability**



**Industrial activity**



**Political belief or affiliation**



**Political activity**



**Religious belief or affiliation**



**Religious activity**



**Irrelevant criminal record**



**Irrelevant medical record**



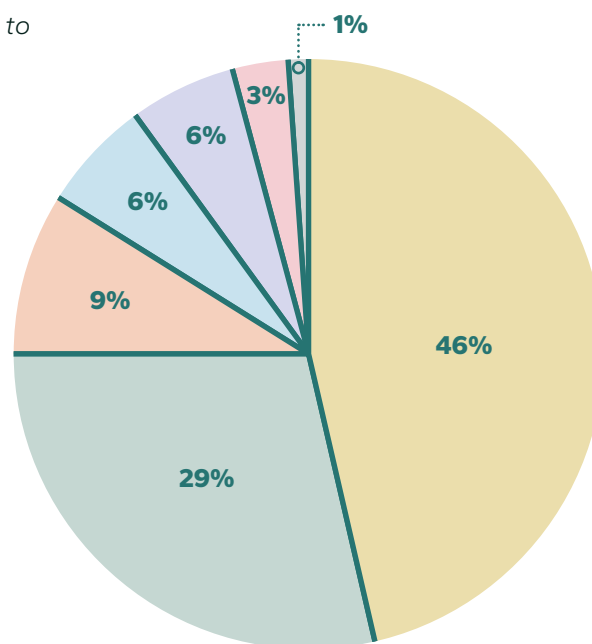
**Association with a person who has or is believed to have any of the other attributes**

## Who participated?

Participation in the Review was voluntary and confidential. Participants' privacy is protected under both the *Right to Information Act 2009* (Tas) and the *Archives Act 1983* (Tas), following the enactment of provisions contained within the *Justice Miscellaneous (Independent Review Amendments) Act 2022* (Tas).

### Work role

- I am a Member of Parliament (9%)
- I work for a Member of Parliament (46%)
- I work in Parliament House (but not for an MP) (29%)
- I am a contractor (i.e. cleaner, security) (1%)
- I work for a government department (6%)
- Prefer not to say (3%)
- Other (6%)



**68%** of respondents were female

**32%** were male

**95%** of respondents were born in Australia

**9%** of respondents identify as Aboriginal or Torres Strait Islander, LGBTIQ, or as living with a disability\*.

**81%** of respondents are currently employed or engaged

**19%** of respondents were formerly employed or engaged

\*This low representation of specific demographic groups has led to the combination of percentage rates in order to protect participant confidentiality.

# MPS Workplace

The MPS Workplace is a complex framework made up of multiple workplaces, individuals and methods of engagement, including:

- » Elected **Members of Parliament**
- » People working within **Ministerial and Parliamentary Support** roles in or for electorate offices and the offices of Members of Parliament (appointed to the office of a Member of Parliament by the exercise by the Premier of **Crown Prerogative** or State Service employee on **secondment** from Department of Premier and Cabinet (**DPAC**) or other Agency)
- » People working in Parliament House within the **Legislative Council** or the **House of Assembly** (appointed as officers or employees under the **Parliamentary Privilege Act**)
- » People working in Parliament House within the **Legislature-General to provide shared Parliamentary services** (appointed as officers or employees under the **Parliamentary Privilege Act**)
- » People performing **contracted services**

For the avoidance of doubt, references to the MPS, MPS personnel and the MPS Workplace throughout this Report should be taken to include all personnel described above and in the diagrams on the following two pages (and is not limited to those directly engaged within the division referred to as Ministerial and Parliamentary Support).

Note that references to 'Minister' or 'Ministerial' in quotes in this Report do not necessarily indicate the political party to which the comment relates due to the length of time some Review participants may have been working within MPS and the ability to participate anonymously.

There needs to be more rules and regulations in place to ensure MPS is a healthier work environment for everyone. There is an entrenched culture that is toxic, prevents collaboration and damages people's mental wellbeing.

I have noted a variety of workplace cultures, from positive to toxic, noting there are some consistent issues across some of the Ministerial offices.

There needs to be better structures and processes for concerns and complaints to be heard, and resolved, and clearer communication with all in MPS about these structures and processes.

# Tasmanian Parliament

## Members of Parliament and their staff

**15 Members of Parliament\***  
Upper House

**Manner of engagement**  
Elected Members of Parliament

**Electorate Officers**

**Manner of engagement**  
Employees of the Legislative Council. Appointed as Officers under the Parliamentary Privilege Act

**Other staff**

- » Senior Advisor
- » Advisor
- » Parliamentary Advisors

*Direction and control of the Leader*

**Manner of engagement**  
Appointed to the office of a Member of Parliament by the exercise by the Premier of Crown Prerogative OR State Service employee on secondment from DPAC or other Agency

**25 Members of Parliament\***  
Lower House

**Manner of engagement**  
Elected Members of Parliament

**All staff**

- » Chief of Staff
- » Advisors
- » Communications and Media
- » Electorate Officers

*Direction and control of Chief of Staff or Member*

**Manner of engagement**  
Appointed to the office of a Member of Parliament by the exercise by the Premier of Crown Prerogative OR State Service employee on secondment from DPAC or other Agency

## House of Parliament

**Legislative Council**

**Governor**

**House of Assembly**

## House of Parliament

*\*Members may be affiliated with a political party or independent*

*The information set out in this table reflects the Independent Reviewer's understanding of each element of the MPS Workplace. A comprehensive explanation of the MPS Workplace is set out from page 43 of this Report.*

## Parliamentary entities and their staff

### President

#### Manner of engagement

Elected Members of Parliament

### Clerk of the Legislative Council

#### Manner of engagement

Appointed by the Governor by Letters Patent

### Staff

- » Deputy Clerk
- » Clerk Assistant
- » Parliamentary Officers and Employees
- » Committees
- » Electorate Officers

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

### Speaker

#### Manner of engagement

Elected Members of Parliament

### Clerk of the House of Assembly

#### Manner of engagement

Appointed by the Governor by Letters Patent

### Staff

- » Deputy Clerk
- » Table Officers
- » Parliamentary Officers

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

## Legislature-General

### Parliamentary Officers providing Joint/Shared Services

- » Hansard
- » Library
- » ICT
- » Catering Services
- » Finance and Corporate Services
- » Building and Facilities

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

### Other participants

- » Contractors
- » Departmental staff

*The Independent Reviewer understands that at various times some Departmental staff (such as Secretaries, Deputy Secretaries, Departmental Liaison Officers) work in Parliament House (for example, during Estimates Hearings) and meet regularly with Ministers and Ministerial staff. As such, the Independent Reviewer invited participation from these employees.*

# What did we learn?

There is no doubt that there are many talented and dedicated employees working within the MPS Workplace and that for some their working life is a positive experience. However, it is evident that discrimination, sexual harassment and bullying is occurring and when it does, the impacts can be profound and life-changing.

Of note, the Independent Reviewer's observations are that:

- » Bullying was the most common form of inappropriate conduct in the MPS Workplace, experienced by **40% of Survey respondents**.
- » Review participants also reported that the MPS Workplace environment is highly political, not family friendly and that sexist perceptions of the role of women and of family structures and family responsibilities prevail.

Parliaments can be arcane workplaces, out of step with contemporary workplace practices. They are also by nature often intense, conflict-rich working environments, which have been for a long time, heavily male-dominated. An increase in the number of female Members of Parliament and presiding officers has, I believe, improved the workplace for women and people from diverse backgrounds, but there's some way to go before Tasmania's Parliament is a genuinely respectful workplace.

The principal change that is needed in the MPS Workplace at Parliament House and for the Parliamentary staff, is to understand that they have rights, which presently they do not. There is no formal statement of employee rights, nor do any of the staff perceive that any complaint they made would not be used against them. They assume that it will.

It is evident that multiple factors have contributed to the prevalence of workplace discrimination, sexual harassment and bullying within the MPS Workplace. This includes a strong perception of political divisions and power imbalances which drives harmful behaviours and allows those behaviours to go unchecked.

Prior to maternity leave I was employed full time. When I returned to the workplace I was forced into a part-time position and my entitlements were removed.



# Positive participant experiences

It would be remiss to ignore the comments made that painted a positive picture of the MPS Workplace. It is fervently hoped that through the implementation of the recommendations made throughout this Report, strong leadership and commitment to change, all MPS personnel will experience a safe, supportive and rewarding workplace.

**In the Legislative Council and Parliament staff, I find the culture to be inclusive and friendly. However it is also bedded in tradition which does not always allow for keeping pace with what is acceptable.**

**In the most part, the staff that work at Parliament House are excellent. The senior managers are smart, compassionate and professional. On the large part, they are very approachable. However, like in any workplace, there are bad apples.**

However, the fact cannot be ignored that the stories of positive experiences were few (only 14 of the 620 written comments from the Survey conveyed a positive sentiment) — and often carried a caveat, including an observation and recognition that not all those working within the MPS Workplace have enjoyed the same positive experience.

**In my work area the culture has improved significantly since I arrived in 2019. The majority of the people who were responsible for this sort of thing have left or been moved on.**

**There is a high degree of respect and professional competence and a strong culture of looking out for one another.**

**Generally speaking, the current Tasmanian Government MPS workplace culture is extremely supportive and provides genuine opportunities for staff. Workplace discrimination, sexual harassment and bullying are not tolerated — albeit with the very few instances where some members appear to have more leniency when it comes to addressing and remedying staff bullying behaviours.**

# Survey: Key findings

  
**47%** of respondents work/ed  
for a **Member of Parliament**

  
**29%** of respondents work/ed  
in **Parliament House**

**27** Members of  
**Parliament** completed  
the Survey



  
  
**24%** of respondents  
experienced  
**discrimination**

  
  
**15%** of respondents  
experienced **sexual  
harassment**

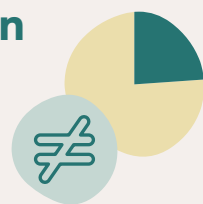
  
  
**40%** of respondents  
experienced **bullying**

**620** substantive  
**comments** were made  
by Survey respondents



## Discrimination reported

**Of the 24% ...**



  
**58%** reported  
discrimination on  
the basis of **gender**

  
  
**37%** reported  
discrimination on  
the basis of **family  
responsibilities**

  
**72%** experienced **anxiety** as a  
result of workplace discrimination

  
**30%** experienced **depression**

  
**28%** experienced **panic attacks**

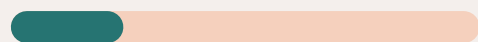
## Sexual harassment reported



Of the 15% ...



**29%** of most recent cases involved **sexual 'jokes' and intrusive comments**



**24%** of most recent cases involved **touching or other physical contact**

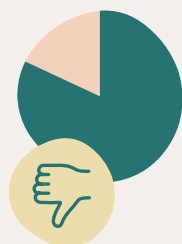


**32%** reported being sexually harassed by a **Member of Parliament**



**27%** reported being sexually harassed by a **manager/supervisor**

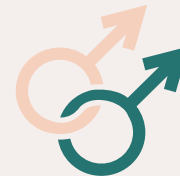
**82%** of respondents expressed **general dissatisfaction** with complaints processes



Actual or attempted sexual violence occurred in **five** cases of reported sexual harassment



All respondents who identified as **LGBTIQ** reported experiencing sexual harassment



## Bullying reported



Of the 40% ...



**56%** reported **frequent bullying**



**83%** reported being treated in a **dismissive way**



**60%** reported being **yelled or shouted at**



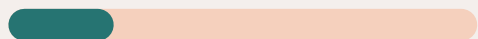
**47%** reported **being excluded** for meetings or social events



**42%** reported being bullied by a **manager/supervisor**



**75%** of respondents who experienced discrimination, sexual harassment or bullying **spoke to a colleague or workmate, friend, partner or spouse.**



**23%** of respondents **spoke to a manager or supervisor.**

Reasons for **not reporting** discrimination, sexual harassment and bullying:



**24%** were concerned about damaging their career prospects



**24%** didn't think anything would be done



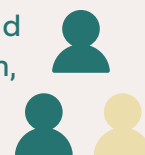
**22%** felt it was easier to keep quiet

Of those who made a complaint



**56%** reported experiencing **negative consequences** for doing so

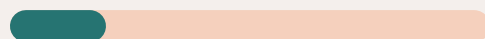
**2/3** of respondents had **witnessed** discrimination, sexual harassment or bullying



Only **11%** of those who witnessed the behaviours **intervened**



**20%** of respondents had witnessed **discrimination**



**20%** of respondents had witnessed **sexual harassment**



**58%** of respondents had witnessed **bullying**



Members of Parliament and Supervisors/Managers were consistently the **top two groups** reported to be engaging in discrimination, sexual harassment and bullying

# Submissions: Key findings

Many of the issues raised in written or verbal submissions were consistent with the Survey results. Review participants who submitted written and verbal information commonly outlined the following issues:

- » Influenced by political alliances, a high level of collegial mistrust exists within the MPS Workplace.
- » A sense of helplessness and fear to complain or call out bad behaviours due to fear of retribution, lack of consistent policies and processes and a perceived lack of job security.
- » At a general staff level, loyalty and years of service is rarely recognised or appreciated. Conversely select individuals are identified for promotion and advanced based on personal and political relationships and time served rather than on merit.
- » Despite the record number of women in Parliament, it is perceived that their behaviour towards each other, particularly during debates, does little to attract a talented pool of women into politics.
- » Regardless of role within MPS it is difficult to find somebody trustworthy to talk to about experiencing or observing poor and inappropriate behaviours and there is low confidence that action will be taken.
- » Bullying behaviours, such as yelling, screaming, swearing, belittling and ostracising are commonplace.
- » A lack of accountability and consequences for those who exercise/exhibit bullying, discrimination or sexually harassing behaviours.
- » The tenuous nature of employment, for some, prohibits staff from speaking out or making complaints in fear of losing their position.
- » The culture in Ministerial offices varies considerably from fear and walking on eggshells to a supportive and collegiate environment.
- » Lack of respectful behaviour is common practice across MPS.
- » A prevailing attitude of self-entitlement, self-importance and bullying behaviours among those in positions of power or whose employment status is secure.
- » A culture of removing those who complain and rewarding the bully.
- » A strong perception of nepotism and cronyism in relation to employment practices in some areas of MPS.
- » Too many managers have little or no expertise in 'people management'.
- » The Estimates process is too often weaponised for political gain. The behaviour of some Members of Parliament is having a traumatising or humiliating effect on those tasked to serve their Minister.
- » Disrespectful behaviours have a cascading effect throughout the MPS Workplace, including permeating into the wider public service (as regards employees who are transferred and seconded).
- » The concern that the public display (in the gallery or live streaming) of vitriol, name calling, insensitivity, disrespectful comments and body language, the inappropriate use of Parliamentary Privilege and the weaponising of the Integrity Commission by some Members of Parliament causes reputational harm and impacts on public opinion of the institution and those elected to represent the people of Tasmania.
- » There exists an overwhelming appetite for cultural change, accountability and consistent workplace practices.

# What did participants have to say?

My manager told me I was 'under [their] ultimate control'.

[They] shout, use silent treatment and anger, micromanage, set unreasonable deadlines, provide contradictory instructions, play favourites. [They] regularly describe other workers as 'stupid' and have no tolerance for mistakes.

Many Chief of Staffs have no idea about people management.

There was an attitude of inconvenience about the whole matter being raised and why can't people just get along. There was no recognition of the complex nature of bullying, onus on PCBU to provide a safe workplace and actually how to manage such a situation and come to a resolution, let alone the problem with not having systems and processes in place to deal with complaints/grievances.

I am a privileged white cis male and have not experienced any form of discrimination. However, it is my belief that there aren't appropriate or adequate reporting mechanisms for those that have.

I didn't make a complaint as I was requested not to do so.

Flexible work practices are not accepted in MPS generally and when they are requested there is shame/disapproval associated with it ... you are expected to work when on leave. No work-life balance, you are expected to be available 24/7 ... In all of these matters if you aren't doing what is expected by the Minister then it leads to you being sidelined in the office, asked to move on, sent back to the department etc.

There was classist, sexist, racist and foul language overheard on a number of occasions. It felt like going back in time.

They said 'this is why young women shouldn't have children'.

Members should not use the protection of parliamentary privilege to bully, harass, name call etc. It is used as a political weapon and should be called out as such. As elected representatives, they should be expected to lead by example, in the Chamber as much as out of it.

As someone with staff reporting to me, I have never been provided with any information about complaints processes or handling.

The last time I made a complaint about a co-worker I was reprimanded.

I was accused of not working hard enough when I had to leave to pick up my children.

They would scream at me, smash files on my desk, ridicule me in front of others.

You are warned that you mustn't act on anything in case it has political consequences.

The disrespect that is shown to public servants who are here to serve the government of the day, is at an all-time low.

Senior staff and Ministers will never be held to account on how they treat staff, and as we are on contract we can't speak out as it would be the end of our jobs.

There is no point lodging a complaint. Unfortunately you just have to take the bullying in your stride until you can find another job as no one in a senior position will do anything about it. If you do cause an issue by complaining, you may as well kiss your job goodbye.

A manager makes religious jokes about a staff member when they are not around.

# Recommendations

The following recommendations are made having regard to the Review findings and with an emphasis on:

- » Addressing the causes which allow workplace culture to deteriorate and decline to the detriment of all those working in the MPS Workplace environment;
- » Building and promoting the systems and processes that provide a strong safety net for all participants in the MPS Workplace; and
- » Recognising that each and every participant in the MPS Workplace has a responsibility to act in a way that reduces the incidence of harmful behaviours.

Recommendations from the Review must be prioritised and actioned expediently to ensure that accepted recommendations do not become stale, or worse, ignored or forgotten. It is envisioned that any time period as set out in a recommendation should commence upon acceptance of that recommendation.

To delay the implementation of accepted recommendations has the potential to undermine the trust and confidence of Review participants and those working within the MPS Workplace more broadly.

## Acknowledge the need for change and initial steps for action

1

Within one month, the House of Assembly, Legislative Council, and Legislature-General, jointly or separately, release a public statement about the importance of Ministerial and Parliamentary Services being a safe workplace which is free from discrimination, sexual harassment and bullying, and commit to assisting with the implementation of accepted recommendations.

2

Within three months, the Committee is to be formalised as a Joint Committee and an appropriately resourced independent project manager is to be appointed to execute implementation of accepted recommendations. The project manager is to report to the Committee, and is to work with the Presiding Officers, Clerks and Deputy Clerks of each House of Parliament, and other key stakeholders, regarding such implementation.

3

Within six months, the Committee is to commission an independent review of the Ministerial and Parliamentary Services organisational and governance structure, including an audit of instruments of appointment, employment conditions, recruitment processes and pay structures.



## Steps to create long-term change

4

Within 12 months, establishment of a centralised and independent human resources unit, accessible for all Ministerial and Parliamentary Services personnel, called 'MPS People, Culture and Change'.

7

Within 18 months, implementation of formal induction and exit processes which include training on acceptable workplace conduct, complaint processes, external reporting mechanisms and Workplace Support Contact Officers.

5

Within 12 months, implementation of a complaints and reporting framework for MPS People, Culture and Change to operate within including:

- » The power to investigate complaints about discrimination, sexual harassment and bullying, including allegations against Members of Parliament
- » Setting internal processes for dealing with conduct matters both informally and formally
- » Setting investigation procedures, protections against victimisation, sanctions, and policies containing information about external complaint bodies.

8

Within 18 months, mandatory external in-person workplace conduct training to be undertaken by all current Ministerial and Parliamentary Services personnel, including Members of Parliament; people management training to be undertaken by all Ministerial and Parliamentary Services personnel who have staff reporting to them; and a structured training plan be developed.

9

Within 18 months, a minimum of 12 Workplace Support Contact Officers be appointed, maintained and appropriately trained across Ministerial and Parliamentary Services.

6

Within 12 months, create and implement (in consultation with staff) the following:

- » Ministerial and Parliamentary Services Code of Conduct for:
  - Parliamentarians
  - MPS personnel
- » Diversity and inclusion strategy
- » A family friendly workforce strategy
- » Performance management framework
- » Consumption of alcohol policy

10

Within 24 months, completion of Our Watch's Workplace Equality and Respect Standards across Ministerial and Parliamentary Services.

## Measuring change

11

At 12 months, a report of the progression of the implementation of the recommendations is to be published on the Tasmanian Parliament website homepage.

12

At 18 months, MPS personnel are surveyed to measure:

- » Perceptions of the implementation of the recommendations arising from the Review
- » Experiences of workplace discrimination, sexual harassment and bullying since the Review
- » Changes to workplace culture
- » Improvements to employment conditions
- » Participation in training and perceptions thereof
- » View of and access to complaint and reporting processes
- » Problematic issues and perceptions that remain

13

At 24 months, a report outlining the implemented recommendations, any subsequent survey findings (**Recommendation 12**), steps remaining and any adjustments needed to ensure the purpose of the recommendations is achieved, is published on the Tasmanian Parliament website homepage.

14

A Ministerial and Parliamentary Services Workplace Culture Survey is to be created and administered by MPS People, Culture and Change, to all personnel on at least a bi-annual basis, with results published on the Tasmanian Parliament website.

# The call for bold leadership

I would describe the current culture as toxic and antiquated. The culture could be improved with the full support of those in positions of authority in allowing modern practices to be introduced and supporting change.

Change can be confronting and difficult. The Independent Reviewer warns against the denial of issues now evidenced to exist. To deny that significant structural and cultural issues need extensive improvements would be to undermine all people who participated in the Review in the hope it contributes to the betterment of the MPS Workplace.

We need to encourage institutional leaders to exhibit attitudes and behaviours that support a safe workplace culture through, for example, the kind of people they hire, the behaviour they reward and reprimand, the matters on which they focus their attention and the way they respond to crises ...

Written and verbal submissions in particular highlighted the need for leaders to step up and uphold standards of respect and accountability, with one participant aptly stating:

Culture provides an informal mechanism to control behaviour, but there cannot be a good culture without other factors like leadership, formal mechanisms in place to set standards, as well as shared understanding of values and understanding of employment law duties and obligations.

The Independent Reviewer implores leaders across the MPS Workplace to embrace need for change as a positive path forward, resulting in a workplace where every employee can thrive. The inconvenience of change must not be an excuse for inaction.

A constant thought during my time there, and since, is that the toxic and inappropriate behaviours and demands on people would not be tolerated in the private sector. I have never witnessed or experienced behaviour like it anywhere else.



The adage 'the tone starts from the top' is very pertinent to the workplace culture and behaviour that has been enabled, condoned and thus permeated the whole workplace of MPS. I believe the public expect the Parliament and the behaviour that goes on within it, both publicly and privately, should be above repute and set a standard that we expect in other workplaces. A standard of behaviour where women are respected, gender equity and equality is the goal, power is not abused and all employees feel safe. I note Parliament is a different workplace, however respect, dignity and the safety, physical and psychological, of all who work in and engage with MPS should be afforded the same as that which society expects in all workplaces."

## Part 1

# Understanding the recommendations

The need for change .....	37
Steps to achieve change .....	57
Measuring change .....	89

The recommendations have been informed by the findings of the Review, which are set out in Part 2 of this Report: Behavioural issues impacting culture.

The recommendations have been designed to fall into three key phases:

## The need for change

**Recommendations 1 – 3** comprise the very initial steps that need to be taken to begin to effect change across MPS.

They are integral to ensuring those under 'Steps to Achieve Change' can be implemented effectively and in a way that achieves the desired outcomes.

This phase is focused on acknowledging the need for change by the overarching employing bodies, ensuring transparent and independent implementation and ensuring the implementation of new organisational structures is done from an informed and foundational premise.

## Steps to achieve change

**Recommendations 4 – 10** are focused on creating structural frameworks for the regulation of conduct, training staff and ensuring effective processes, policies and support networks are implemented across MPS.

It is the view of the Independent Reviewer that these steps will be undermined without the foundational steps taken as set out in **Recommendations 1 – 3**.

## Measuring change

**Recommendations 11 – 14** are designed to measure change and the effectiveness of the implementation of the recommendations.

Transparency and accountability are integral to the success of the recommendations.

Implementation of accepted recommendations should be informed by continuous reflection and responsive actions. Implementation without such reflection risks inefficiencies and issues which would otherwise be foreseeable.

It is also integral that public reporting forms part of measuring change, in light of the fact that the scope of the Review extended to former employees.

Ongoing consultation will ensure that MPS continues to be responsive to the needs of its workforce and ensures that the long-term goals of **Recommendations 4 – 10** are achieved.

**1**

# **The need for change**

# Recommendation

1

Within one month, the House of Assembly, Legislative Council, and Legislature-General, jointly or separately, release a public statement about the importance of Ministerial and Parliamentary Services being a safe workplace which is free from discrimination, sexual harassment and bullying, and commit to assisting with the implementation of accepted recommendations.

The endorsement of the recommendations stemming from the Review is incredibly important to instil confidence throughout the MPS Workforce. MPS personnel are acutely aware of the ability of leaders to set the tone and expectations within their workplace. Leaders of the organisation must be dedicated to making positive, proactive and effective change.

Leadership must be demonstrated, observable and forward-focused and should clearly send the message to MPS personnel that those in leadership positions are taking action to ensure safety, respect and accountability throughout the MPS Workplace.

# Recommendation

2

Within three months, the Committee is to be formalised as a Joint Committee and an appropriately resourced independent project manager is to be appointed to execute implementation of accepted recommendations. The project manager is to report to the Committee, and is to work with the Presiding Officers, Clerks and Deputy Clerks of each House of Parliament, and other key stakeholders, regarding such implementation.

It is essential that an independent person is responsible for managing the implementation of recommendations resultant from the Review.

This approach achieves the following purposes:

- » Alleviates the risk of the perception that implementation is being interfered with
- » Avoids gatekeeping of the implementation
- » Ensures the implementation is done without bias, conflicts of interest and competing power dynamics

The appointment of this person, and any support staff, should be merit-based and transparent.

The independent person appointed is to be responsible for project managing the implementation of accepted recommendations, including publicly reporting on their progression at certain intervals set out in **Recommendation 11** and **Recommendation 13** and is to report to the Committee.



# Laying the groundwork

## Contemporary workplace expectations

Increasingly, organisations across various sectors are taking proactive steps to ensure best practice within their workplaces. Employers are beginning to recognise that addressing discrimination, sexual harassment and bullying is in the interests of both the organisation and those working within it.

Under the Anti-Discrimination Act employers have an obligation to take reasonable steps to ensure their members, officers, employees and agents (whether remunerated or not) are made aware of discrimination and prohibited conduct to which the Act relates, and do not engage in (or repeat), such conduct. If an organisation does not take reasonable steps, it can be liable for any contravention of the Act committed by its members, officers, employees and/or agents.

Awareness of unsafe and unlawful workplace conduct is increasing alongside global trends calling for accountability, such as #MeToo and #TimesUp, and nationally the Australian Human Rights Commission's Independent Review into Commonwealth Parliamentary Workplace, and the South Australian Review of Harassment in the South Australian Parliamentary Workplace.

Discrimination, sexual harassment and bullying impacts individuals but also contributes to the culture of an organisation. The presence or absence of discrimination, sexual harassment and/or bullying directly informs views those employees hold about the organisation and whether it is a safe workplace.

Review participants noted that there can be difficulty in distinguishing robust debate in a stressful environment, from inappropriate behaviours. There are inherent dangers to allowing the boundaries of debate protected in Parliament to expand into workplace relationships.

”

**Many reports have been produced into the parliamentary workplaces which reflect on the Parliament being a unique institution, not like any other. While this is true, parliaments are still workplaces and must perform in the modern world ...**

”

**A new structure that enhances compliance and modern management and governance practices, meets Members' expectations and provides a pathway for this workplace to be an employer of choice would reduce any reputational risks.**

In the Tasmanian context, it was considered that the MPS Workplace should “lead by example”<sup>3</sup> and through this Review, it is evident MPS personnel desire change. Many participants themselves suggested changes, which can be condensed into the following key areas:

- » Training on acceptable workplace conduct, for current staff and upon induction
- » Accountability and penalties for employees who engage in discrimination, sexual harassment or bullying
- » Access to complaint mechanisms administered consistently, without bias, including protection from victimisation
- » Equal access to employment entitlements, including salaries, leave, and overtime
- » Resetting of expectations around accessibility outside working hours and while on sick leave
- » Proactive measures taken to create a more family-friendly environment and to reduce sexist and patriarchal attitudes and behaviours

The culture could be improved with the full support of those in positions of authority in allowing modern practices to be introduced, and supporting change.

## Endorsing change

Following the release of this Report, it is anticipated that MPS personnel will be looking to the leaders across the MPS Workplace for their reactions. It was reported by Review participants that the attitude adopted by some leaders within the MPS Workplace is that they make the rules, and do not therefore have to follow them. The impact of this attitude on staff morale is significant and damaging. It is imperative that this view is readjusted.

The ability of the workplace to move forward positively and proactively will be directly influenced by the organisational leaders and the actions they take in response to the findings of the Review. This is the basis for **Recommendation 1**.

I think a major push on staff wellbeing, looking after each other and a healthy work-life balance is critical to improving the workplace culture and sustainability of workloads. A significant injection of funding, the appointment of someone to oversee this and the setting of key measures of success/recommendations to be achieved are all critical to the success of an initiative like this. Real action and changed behaviours – not just lip service.

<sup>3</sup> Ibid.

## Formalising the Committee

The Review was undertaken with the Independent Reviewer reporting to (but not directed by) a non-partisan Committee, comprised of:

- » The Premier
- » The Attorney-General
- » Speaker of the House of Assembly
- » President of the Legislative Council
- » The Leader of the Opposition
- » The Leader of the Greens
- » Independent Member for Clark
- » Independent Member for Nelson

This non-partisan and representative approach ensured that all MPS personnel were represented.

The role of the Committee now changes, as it is responsible for leading the implementation of accepted recommendations<sup>4</sup>.

The Independent Reviewer therefore sets out in **Recommendation 2** that the Committee be established as a Joint Committee, in order to ensure proper formal processes governing the Committee are observed and upheld throughout the implementation of accepted recommendations.

## Actioning recommendations

The impartial actioning of recommendations is essential to achieve their purpose and to avoid perceptions of gatekeeping, which would undermine the purpose of the Review and the implementation phase. This may have the potential to result in disengagement by MPS staff and may obstruct the aims of the other recommendations.

**Recommendation 2** is for an independent person to manage the implementation of accepted recommendations. This position should be appropriately resourced to undertake the tasks and it is recommended that one of the initial tasks undertaken should be to formulate an action plan for implementation.

The independent project manager should have an extensive background in project management and organisational change. It would also be ideal if they were experienced in diversity and inclusion and building workplace culture. Throughout the implementation phase, the independent expert is to exercise accountability and transparency, to ensure the work remains unaffected by power dynamics and conflicts of interest.

As the Committee is responsible for overseeing the implementation of the recommendations, the independent expert should be answerable to it.

In undertaking their work, the independent project manager should inform and seek input from the Presiding Officers, Clerks and Deputy Clerks of each House of Parliament, as well as key stakeholders.

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<sup>4</sup> Ibid.

# Recommendation

3

Within six months, the Committee is to commission an independent review of the Ministerial and Parliamentary Services organisational and governance structure, including an audit of instruments of appointment, employment conditions, recruitment processes and pay structures.

There are enormous disparities between different units in terms of staffing, workload, employment arrangements. An entire workplace review to look at resourcing, workloads, access to services, policies, communication etc. needed to ensure open and transparent practices and culture.

There is an opportunity to make changes to existing structures to:

- » Address power imbalances
- » Reduce duplication
- » Provide clarity to staff (including clarity of role responsibilities and reporting arrangements)

This requires an independent review of existing structures to make recommendations for change and may include options such as:

- » Creating an independent Legislature-General that is more clearly distinct and separate from the Legislative Council and the House of Assembly (i.e. not jointly managed by the Clerks of the Houses)
- » Creating a unit with overall responsibility for (or oversight of) staff working in Ministerial and Parliamentary Support roles to ensure consistency regardless of whether an individual is appointed:
  - directly to Ministerial and Parliamentary Support or by secondment from DPAC or another government Agency; or
  - to the office of a Minister, Member of the Opposition or Independent
- » Clarifying the engagement and reporting arrangements for Electorate Officers
- » Reviewing the composition and role of the Governance Committee

# Setting the scene: Ministerial and Parliamentary Services Workplace

## What is the MPS Workplace?

The MPS Workplace is a complex framework made of multiple workplaces, individuals and methods of engagement, including:

- » Elected **Members of Parliament**, including:
  - The Premier of Tasmania
  - The Presiding Officers of each House of Parliament (being the Speaker of the House of Assembly and the President of the Legislative Council)
  - Members of the House of Assembly (the lower house, where Government is formed)
  - Members of the Legislative Council (the upper house, or house of review)
- » People working within **Ministerial and Parliamentary Support** in or for electorate offices and the offices of Members of Parliament, including:
  - The Premier's Chief of Staff
  - Chiefs of Staff for other Members of Parliament
  - Advisers
  - Media and Communications Staff
  - Electorate Officers (for the House of Assembly)
- » People working in Parliament House within the **Legislative Council, House of Assembly** or **electorate offices** including:
  - The Clerk of the Legislative Council and the Clerk of the House of Assembly
  - Parliamentary Officers
  - Electorate Officers (for the Legislative Council)
  - Staff providing support to Parliamentary Committees
  - Administrative Staff
- » People working in Parliament House within the **Legislature-General to provide shared Parliamentary services**, including staff working in:
  - Hansard
  - The Parliamentary Library
  - Catering Services
  - Information and Computer Technology Services
  - Finance and Corporate Services
  - Building and Facilities
- » People performing **contracted services** for Parliament House (primarily security and building and facilities maintenance)
- » Interns and students

I do hope that the entire MPS is overhauled.

Nothing is static and the workplace, while unique in some ways, is still subject to the same issues that face society, private and public enterprises – these include radical shifts in the way we live and work, digitalisation, disruptions through pandemics and other events, skills and learning to adapt to new modes of working, increasing community expectations, and an ever evolving regulatory and compliance environment.

# Tasmanian Parliament

## Members of Parliament and their staff

**15 Members of Parliament\***  
Upper House

**Manner of engagement**  
Elected Members of Parliament

**Electorate Officers**

**Manner of engagement**  
Employees of the Legislative Council. Appointed as Officers under the Parliamentary Privilege Act

**Other staff**

- » Senior Advisor
- » Advisor
- » Parliamentary Advisors

*Direction and control of the Leader*

**Manner of engagement**  
Appointed to the office of a Member of Parliament by the exercise by the Premier of Crown Prerogative OR State Service employee on secondment from DPAC or other Agency

**25 Members of Parliament\***  
Lower House

**Manner of engagement**  
Elected Members of Parliament

**All staff**

- » Chief of Staff
- » Advisors
- » Communications and Media
- » Electorate Officers

*Direction and control of Chief of Staff or Member*

**Manner of engagement**  
Appointed to the office of a Member of Parliament by the exercise by the Premier of Crown Prerogative OR State Service employee on secondment from DPAC or other Agency

## House of Parliament

**Legislative Council**

**Governor**

**House of Assembly**

## House of Parliament

*\*Members may be affiliated with a political party or independent*

*The information set out in this table reflects the Independent Reviewer's understanding of each element of the MPS Workplace. A comprehensive explanation of the MPS Workplace is set out from page 43 of this Report.*

## Parliamentary entities and their staff

### President

#### Manner of engagement

Elected Members of Parliament

### Clerk of the Legislative Council

#### Manner of engagement

Appointed by the Governor by Letters Patent

### Staff

- » Deputy Clerk
- » Clerk Assistant
- » Parliamentary Officers and Employees
- » Committees
- » Electorate Officers

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

### Speaker

#### Manner of engagement

Elected Members of Parliament

### Clerk of the House of Assembly

#### Manner of engagement

Appointed by the Governor by Letters Patent

### Staff

- » Deputy Clerk
- » Table Officers
- » Parliamentary Officers

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

## Legislature-General

### Parliamentary Officers providing Joint/Shared Services

- » Hansard
- » Library
- » ICT
- » Catering Services
- » Finance and Corporate Services
- » Building and Facilities

#### Manner of engagement

Appointed as employees or officers under the Parliamentary Privilege Act

### Other participants

- » Contractors
- » Departmental staff

*The Independent Reviewer understands that at various times some Departmental staff (such as Secretaries, Deputy Secretaries, Departmental Liaison Officers) work in Parliament House (for example, during Estimates Hearings) and meet regularly with Ministers and Ministerial staff. As such, the Independent Reviewer invited participation from these employees.*

## Characteristics of the MPS Workplace

The MPS Workplace has several characteristics that make it different from other organisations:

- » There are multiple workplace participants and 'employers'
- » Members of Parliament are elected representatives, not employees
- » The employment arrangements for staff are unusual and complex. Most staff are engaged by statutory appointment and are not part of the State Service. The methods of engagement include:
  - Appointment by **Letters Patent** on the recommendation of the Governor
  - Appointment as an employee or officer under the **Parliamentary Privilege Act** to perform work for one of the Parliamentary Entities or as an Electorate Officer for within the Legislative Council
  - Appointment by the Premier to Ministerial and Parliamentary Support to perform work in the office of a Member of Parliament by the exercise of **Crown Prerogative**
  - Secondment of employees employed by DPAC or another government agency under the **State Service Act** to Ministerial and Parliamentary Support to perform work in the office of a Member of Parliament or as otherwise directed
- » Tenure is frequently uncertain and may be connected with the term of government or otherwise continues "at the pleasure of the Premier"<sup>5</sup>
- » Reporting arrangements are hierarchical, sometimes unclear and frequently change due to movement of personnel (for example, in the case of a reshuffle of Ministerial portfolios)
- » Much of the work undertaken in Parliament is governed by standing orders, sessional orders and convention and privileges of the Parliament. There is therefore a high degree of formality and strong emphasis on practice and procedure
- » Requirements and workloads can be unpredictable and fluctuate significantly, particularly when Parliament is sitting
- » Parliamentary debate is a critical element of the law-making process – and it might be observed that conduct in the Chambers of House of Assembly and the Legislative Council (the Houses of Parliament) (where laws are debated) is inherently adversarial

The Independent Reviewer understands that the Parliamentary Privilege Act is currently under review with the objective of pursuing legislative reform to create a contemporary employment framework for Parliamentary staff.

The Review has found that currently there are Parliamentary officers who cannot be removed or sanctioned for misconduct.

The Independent Reviewer recommends that there be legislative amendment to provide for Parliamentary officers to be removed for misconduct, consistent with other Australian jurisdictions.

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<sup>5</sup> Instrument of Appointment by the exercise of Crown Prerogative.



## Members of Parliament

- » **Elected** not employed
- » Tenure typically based on election cycles

### 40 Members of Parliament

- » 25 Members in the House of Assembly (including the Premier)
- » 15 Members in the Legislative Council

## Presiding Officers

- » Required to act in an impartial and non-partisan manner to maintain the order and security of the House and restrain unruly behaviour
- » However, both the President and the Speaker are also **elected Members of Parliament** and are usually affiliated with a political party
- » The President is the appointing authority for the Legislative Council (and therefore technically the “employer”)
- » The Speaker is the appointing authority for the House of Assembly (and therefore technically the “employer”)
- » Both Presiding Officers are jointly the appointing authority for the Legislature-General

### Two Presiding Officers

- » Speaker of the House of Assembly
- » President of the Legislative Council

## Clerks of the Houses

- » Appointed by **Letters Patent** on the recommendation of the Governor
- » Required to be impartial and independent and therefore do not serve the government of the day or act under the direction of the relevant Presiding Officer
- » Officers of the Parliament (not public servants) and accountable to the Parliament
- » Have life tenure in Tasmania (but can be removed on the recommendation of the Governor if the Premier lacks confidence in them)
- » Clerk of the House of Assembly is responsible for staff in the House of Assembly (Speaker is the appointing authority and ‘employer’)
- » Clerk of the Legislative Council is responsible for staff in the Legislative Council (President is the appointing authority and ‘employer’)
- » Both Clerks are jointly responsible for staff in the Legislature-General (Presiding Officers are jointly the appointing authorities and ‘employer’)

### Two Clerks

- » Clerk of the House of Assembly
- » Clerk of the Legislative Council

## People working within the House of Assembly

- » Appointed as employees OR officers under the **Parliamentary Privilege Act**
- » Not public servants. This is to ensure a separation of powers between the government of the day and the Parliament (which is the legislature and independent of government)
- » The Presiding Officer (Speaker) is the appointing authority (and employer)
- » However, in practice, the Clerk of the House of Assembly has overall responsibility for the management of employees
- » Responsibility is also delegated to the Deputy Clerk
- » The Parliamentary Privilege Act provides for the appointment of 'officers of the Parliament' by the Governor and the appointment by the Presiding Officers of 'sessional and temporary' employees. Many longstanding employees are therefore classified as 'sessional and temporary', notwithstanding the fact that they have many years of service
- » Minimum terms and conditions of employment for employees are otherwise derived from the *House of Assembly Staff Industrial Agreement 2007*

### 15 staff

- » Deputy Clerk of the House of Assembly
- » Clerk Assistant and Sergeant-at-Arms
- » Parliamentary Officers
- » Committees

## People working within the Legislative Council

- » Arrangements essentially mirror the arrangements in place in the House of Assembly
- » Appointed as employees OR officers under the **Parliamentary Privilege Act**
- » Not public servants. This is to ensure a separation of powers between the government of the day and the Parliament (which is the legislature and independent of government)
- » The Presiding Officer (President) is the appointing authority (and employer)
- » However, in practice, the Clerk of the Legislative Council has overall responsibility for the management of employees
- » Responsibility is also delegated to the Deputy Clerk
- » The Parliamentary Privilege Act provides for the appointment of 'officers of the Parliament' by the Governor and the appointment by the Presiding Officers of 'sessional and temporary' employees. Many longstanding employees are therefore classified as 'sessional and temporary', notwithstanding the fact that they have many years of service
- » Minimum terms and conditions of employment for employees are otherwise derived from the *Legislative Council Staff Industrial Agreement 2009*

### 30 staff

- » Deputy Clerk of the Legislative Council
- » Clerk Assistant and Usher of the Black Rod
- » Parliamentary Officers
- » Admin Officers
- » Committees
- » Electorate Officers

## People working within the Legislature-General to provide shared Parliamentary services

- » Appointed as employees under the **Parliamentary Privilege Act**
- » Not public servants
- » The Presiding Officers (Speaker and President) are jointly the appointing authority (and employer)
- » However, in practice, the Clerks of both Houses have joint responsibility for the management of employees in the Legislature-General
- » The Parliamentary Privilege Act provides for the appointment of 'officers of the Parliament' by the Governor and the appointment by the Presiding Officers of 'sessional and temporary' employees. Many longstanding employees are therefore classified as 'sessional and temporary', notwithstanding the fact that they have many years of service
- » Minimum terms and conditions of employment for employees are otherwise derived from the *Legislature-General Staff Industrial Agreement 2007*

### 38 permanent staff and 30 casuals

- » Parliamentary Library
- » Catering Services
- » Finance and Corporate Services
- » Information Computer Technology
- » Building and Facilities

## People working within MPS in or for electorate offices and the offices of Members of Parliament (appointed directly)

- » Appointed by the Premier to the office of a Member of Parliament by the exercise of **Crown Prerogative**
- » Subject to the "direction and control" of the Leader, relevant Chief of Staff or Member of Parliament
- » Manager of Premier and Ministerial Services provides support to staff engaged to assist the government of the day and Independent Members who have no Chief of Staff
- » Electorate Officers for the House of Assembly report to the Manager of Premier and Ministerial Services
- » Appointments are for a maximum term in recognition of the "*precarious nature and uncertain duration of political office and the necessity for Members of Parliament to be able to repose the utmost personal confidence in their staff...*"<sup>6</sup>
- » Employment is otherwise "*at the pleasure of the Premier*"<sup>7</sup> and may be terminated on the giving of notice (or without notice for serious misconduct)
- » Severance payments may apply on termination

### 114 appointees

- » Manager of Premier and Ministerial Services
- » Chiefs of Staff
- » Deputy Chiefs of Staff
- » Advisers
- » Executive Officers
- » Administration Officers
- » Electorate Officers for the House of Assembly
- » Communications
- » Media Advisors

<sup>6</sup> Instrument of Appointment by the exercise of Crown Prerogative.

<sup>7</sup> Ibid.

## Staff on secondment to MPS roles from DPAC or another Agency

- » Secondment of staff employed under the **State Service Act** from DPAC or another State government agency to the “*organisation (not being a government Agency) known as Ministerial and Parliamentary Support*”<sup>8</sup> to work in the office of a Member of Parliament (or as otherwise directed by the Premier)
- » Secondment instrument states that the individual will be subject to the “direction and control” of the relevant Chief of Staff or (where there is no Chief of Staff) Member of Parliament
- » Secondment arrangement can be terminated on the giving of 14 days’ notice (in which case the employee returns to the relevant state government agency)

### Six seconded from DPAC and 23 seconded from other agencies

- » Chiefs of Staff
- » Deputy Chiefs of Staff
- » Advisers
- » Executive Officers
- » Administration Officers
- » Electorate Officers for the House of Assembly
- » Communications
- » Media Advisers

## Contractors

- » Independent contractors principally engaged through companies
- » Long term or ongoing engagements (such as Security) subject to formal contractual arrangements
- » Ad hoc services (for example, electrical or plumbing work) unlikely to be subject to formal terms of engagement in most cases

### Includes

- » Security
- » Building and Facilities (Maintenance)
- » Cleaning (Carpets and Windows)
- » Functions staff

## Departmental staff

The Independent Reviewer understands that at various times, Departmental Secretaries and Deputy Secretaries work within Parliament House (for example, during Estimates hearings) and meet regularly with Ministers and Ministerial staff.

As such, the Independent Reviewer invited participation from these workers.

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<sup>8</sup> Secondment instrument.

## Parliamentary entities

There is a concentration of power and responsibility in the Clerks of the House of Assembly and Legislative Council as illustrated by the fact that the positions:

- » Are appointed by Letters Patent, such that they are essentially accountable to Parliament and no-one else
- » Have overall responsibility for staff in their respective entities
- » Are jointly responsible for staff in the Legislature-General, including a new Human Resources Manager who currently reports to both Clerks
- » Have historically been responsible for managing complaints and grievances
- » Are members of the Governance Committee (together with the Deputy Clerks who report to them)
- » Have the ability to delegate certain functions (including human resource management) to the Deputy Clerks

**There needs to be a better separation of responsibilities across the three organisations that currently make up Tasmanian Parliament (Legislative Council, House of Assembly and Legislature-General).**

**Reporting and accountability/ reporting lines [are] unclear at times, particularly for Managers in the Legislature-General ...**

The effectiveness of this model therefore relies heavily on the individuals in the role and the degree of cooperation between those individuals. However, a number of Review participants have reported significant issues arising from this approach.

The Independent Reviewer notes that this analysis is confined to the structural issues observed and does not proceed to make comment regarding individual performance or conduct.

The Review shows the current structure has, over time, contributed to:

- » The development of distinct and separate workplace cultures within each of the three Parliamentary Entities
- » A lack of clarity in some instances as to who issues should be reported to and a tendency towards 'opinion shopping', particularly in instances where responsibilities are shared jointly between the Clerks and/or Deputy Clerks

There are also inefficiencies evident in the way the Parliamentary Entities are structured, including overlap in the way some of the functions are performed and a lack of role clarity.

The Independent Reviewer was made aware of a Governance Review Report prepared by an internal auditor in 2021, and has been provided with some samples of the content, which stated:

*“We believe there is an opportunity to consolidate some services which are joint in nature, into the Legislature-General. This may result in expenditure and process efficiencies and will also result in a clearer view of the costs associated with the provision of those support services ...”*

The Independent Reviewer did not have the benefit of reading the full document and notes that if **Recommendation 2** is accepted, the independent project manager should be provided with a copy of the Governance Review Report.

There are no clear lines of reporting and with two Houses, there are sometimes strategies at play between the two which makes it hard to have trust in there being one set of rules, one employer.

## Impacts on employee conditions, rights and entitlements

### Inconsistencies in employment arrangements

As outlined previously, the MPS Workplace is incredibly complex. Unexpectedly, Review participants made a significant number of comments regarding the structure of the workplace. This included that the existing arrangements are inconsistent and result in different entitlements for employees.

The complexity of the MPS Workplace contributes to:

- » Inconsistency in the way workplace matters are identified and addressed
- » Confusion around who issues should be reported to
- » Variations and inequities in the way staff are engaged, managed and rewarded

Review participants also expressed the view that the different forms of appointment and an absence of a clear classification structure or position descriptions contributes to:

- » Confusion between workplace participants and a lack of clarity around which ‘rules’ apply
- » A lack of role clarity
- » Inconsistency and a lack of transparency around recognition and reward

My experience in MPS is that people are allowed to behave badly, and treat other people disrespectfully, and the people who should be stopping this behaviour in fact enable it by ignoring it, and even being a part of it.

### Example #1

There are three different ways a person can be appointed to work for a Member of Parliament:

- » Appointment to Ministerial and Parliamentary Support by the Premier by the exercise of Crown Prerogative
- » Secondment from DPAC or another government Agency to Ministerial and Parliamentary Support
- » Appointment under the Parliamentary Privilege Act to the Legislative Council as an Electorate Officer for the Legislative Council

### Example #2

Electorate Officers:

- » for the Legislative Council are appointed under the Parliamentary Privilege Act as officers of the Legislative Council
- » for the House of Assembly are appointed by the exercise of Crown Prerogative

- » There is no one internally to discuss employee rights with
- » Pay inequality is “rife” throughout MPS
- » Female employees are not considered for internal promotions due to gender and parental status, while male employees are awarded pay rises without demonstrating merit or ability

It is noted that varying workplace arrangements have a direct impact on upholding systemic discrimination. Broad examples of systemic discrimination in employment are the gender pay gap, the underrepresentation of women in leadership positions and lack of support for men accessing flexible workplace practices.

MPS personnel should be entitled to expect consistency in their employment arrangements – including salary and entitlements such as hours of work, span of hours, meal breaks, leave entitlements and the like.

”  
There needs to be a clear and consistent approach across Parliament regarding expectations, complaint handling and sanctions, strong policies and procedures in place that people know how to access, leaders walking the walk, education and training, performance management and managers managing, system supports, professional services, Human Resources, Corporate, WHS and policies, acceptance that there may be issues, record keeping and champions of change.

Review participants made the following observations about their employment conditions:

- » There should be “consistency between salary ranges”. There is a strong perception that it is up to the Premier’s Office who gets paid what, and this is not based on their experience or role
- » Parliamentary staff should be subject to the State Service Act
- » Some staff have rostered days off, allowances (clothes, shoes, meals) and others have such things denied. Some staff have more annual leave than others (six weeks compared to four). There is no uniformity

## Insecure employment

The employment arrangements in the MPS Workplace are also inherently insecure. Individuals are appointed:

- » “At the pleasure of the Premier” for a maximum term (in the case of those appointed by the exercise of Crown Prerogative)
- » On a ‘sessional and temporary’ basis (in the case of employees appointed under the Parliamentary Privilege Act)

In addition, people are frequently moved between different Ministerial offices, or have their tenure terminated if there is a change in government.

While there is an acknowledgement that these arrangements are in recognition of the “*precarious nature and uncertain duration of political office and the necessity for Members of Parliament to be able to repose the utmost personal confidence in their staff...*”<sup>9</sup>, the existence of insecure employment arrangements undoubtedly contributes to:

- » competitive and highly politicised behaviours, characterised by self-interest and directed at securing ongoing or future employment
- » a low trust environment, in which there is a perception that some workplace participants are actively seeking to undermine others in order to secure a personal advantage

Create a system that protects people in vulnerable positions, especially women who are too afraid to report the terrible male-dominated culture due to job insecurity.

There is otherwise a perception among staff that they have limited protections against termination of their employment. Indeed, the nature of the engagement of most MPS personnel is such that they do not have access to the full range of protections afforded to employees of national system employers under the federal Fair Work regime. This, coupled with an observation that staff who complain are quietly moved on, has the effect of discouraging staff to come forward with concerns.

Staff are unable to have a conversation about any concerns they have, for fear of losing their job ...

Staff are on contract which can be terminated without cause at any time. We do not have job security so we put up and shut up.

It's a ‘who you know’ kind of workplace.

The employment is inherently unstable and insecure but there is no investment into staff, nor a recognition of the huge impacts on our families and personal lives.

<sup>9</sup> Instrument of Appointment by the exercise of Crown Prerogative.



## Absence of modern approach to workplace relations and business planning

In the course of this Review, a significant amount of time and effort was expended in simply seeking to understand the MPS Workplace, including how each element fits together.

There does not appear to be any strategic, operational or business plans to guide the business and inform staff across the three arms of Parliament who is doing what, why and when ...

The information set out in this Report reflects the Independent Reviewer's understanding of each element of the MPS Workplace, based on the information provided during the Review. While the Independent Reviewer acknowledges that there may be some nuances which are not reflected in this Report, the Independent Reviewer is of the view that such nuances do not impact materially on the overall assessment that the MPS Workplace is complex and lacks clarity and that a myriad of different arrangements are in place for the engagement of MPS personnel.

While changes have been introduced in more recent times, it is clear that there has historically been an absence of:

- » Consistent policies and procedures relating to appropriate workplace behaviours, diversity and inclusion
- » A dedicated human resources function
- » A central vision, mission or values statement
- » Business and strategic planning

There is evidence of a siloed approach to workplace relations management, characterised by a lack of communication between different elements of the MPS Workplace.

Workplace management is operational rather than strategic – and there appears to be a strong reliance on the formality and conventions of Parliament. For example:

- » It is generally accepted that the Houses of Parliament must be able to regulate their own internal affairs without interference from any outside body
- » Members are therefore responsible to their respective houses of Parliament and only the House may determine a breach of the applicable Code of Conduct by a Member

Historically, management appointments have been based on time serving and their relationships rather than being based on merit or competence ...

In addition, the relatively small size of the Parliamentary Entities has meant that there has been reliance on a “common sense” and relationship-based approach to addressing conduct concerns, rather than consistently implementing any formal grievance or dispute resolution processes.

It is noted that DPAC and Ministerial and Parliamentary Support<sup>10</sup> do have current policies and processes in place. However, awareness of these processes is reported to be low – and the relevance of the broader suite of DPAC policies appears to be diluted when individuals are seconded to work in Ministerial and Parliamentary Support roles.

<sup>10</sup> As distinct from the broader Ministerial and Parliamentary Services Workplace outlined in detail above.

In any event, there is a strong call from Review participants for policies and processes to be unified.

**A robust and contemporary code of conduct for all staff and Members of Parliament is required that includes conduct categories covering the periods when they are working at Parliament House and their interactions with staff ...**

## Recruitment

**Robust, transparent and rigorous employment processes should be implemented and consistently used.**

There are clear structural barriers in place to achieving diversity within the workplace and being a fair and equal opportunity employer.

Although existing policies state that recruitment is to be merit-based, the Independent Reviewer heard that:

- » The Parliamentary Entities frequently operate as a “closed shop” and appointments are made based on time served and without an open and transparent recruitment process
- » There has previously been a tendency towards appointing from within the relevant entity, rather than advertising roles and running an open recruitment process for key roles

**Historical conventions persist despite advances in modern workplace policy ...**

Submissions have disclosed allegations of nepotism and cronyism, including relatives being employed without proper processes.

The above approach may:

- » Entrench entitlement to roles and promotions even though there may be better candidates or people externally available to take on new roles
- » Treat new people as outsiders and devalue their skills and expertise
- » Limit opportunity to grow a diverse, inclusive and equal opportunity workplace
- » Limit opportunity for innovation or fresh thinking
- » Lead to the perception that some individuals are ‘untouchable’ and are not answerable for their conduct

The Independent Reviewer therefore supports calls for a more robust and transparent recruitment process, with a greater focus on inclusion and diversity and merit-based appointments.

**Recruitment and appointments to Ministerial Offices should be conducted fairly, on merit by an external body ...**

**2**

# **Steps to achieve change**

# Recommendation

4

**Within 12 months, establishment of a centralised and independent human resources unit, accessible for all Ministerial and Parliamentary Services personnel, called 'MPS People, Culture and Change'.**

It is clear that under current arrangements, MPS personnel do not have access to independent human resource mechanisms. This results in bias, distrust, mismanagement of conflicts, poor practice and lack of process, inconsistent results and dissatisfaction with outcomes, poor standards of accountability, mismanagement of complaints and victimisation.

The creation of a centralised and non-partisan human resources unit will mitigate risks and will ensure proper processes are followed, instilling confidence in the MPS Workforce.

The unit is also to be responsible for routine human resources functions and operations.

It is noted that the structure and operational requirements of the human resources unit will be better designed having the benefit of the organisational and governance review set out in **Recommendation 3** completed.

# Recommendation

5

**Within 12 months, implementation of a complaints and reporting framework for MPS People, Culture and Change to operate within including:**

- » **The power to investigate complaints about discrimination, sexual harassment and bullying, including allegations against Members of Parliament**
- » **Setting internal processes for dealing with conduct matters both informally and formally**

- » **Setting investigation procedures, protections against victimisation, sanctions, and policies containing information about external complaint bodies.**

Review findings show that complaint processes are inaccessible, complex, difficult to navigate, inefficient, produce unsatisfactory outcomes and impact on perceptions of fairness. Therefore, complaint processes need to be significantly overhauled across the MPS Workplace.

# Recommendation

## 6

**Within 12 months, create and implement (in consultation with staff) the following:**

- » **Ministerial and Parliamentary Services Code of Conduct for:**
  - Parliamentarians
  - MPS personnel
- » **Diversity and inclusion strategy**
- » **A family friendly workforce strategy**
- » **Performance management framework**
- » **Consumption of alcohol policy**

While some policies exist across MPS, application is inconsistent, objectives are lacking, and accessibility is difficult. There is an opportunity to build upon existing foundations to achieve best practice approaches and positively impact the MPS Workplace.

The Independent Reviewer is cognisant of the differences between Members of Parliament and other MPS personnel. To that end, it is recommended two Codes of Conduct be created. One for Members of Parliament and one for other MPS personnel.

# Structural issues impacting workplace culture

## Human resources: the past and future

There has historically been an absence of dedicated human resource management or personnel with human resources qualifications or experience within the MPS Workplace.

Those with responsibility for managing conduct concerns often have limited skills or experience to address such human resources matters and lack the understanding of the complexities and sensitivities that often accompany complaints of this kind.

### Ministerial and Parliamentary Services

A previous position, Manager Parliamentary Services, held some responsibility for operational human resources matters such as maintaining personnel records and payroll.

This function is now performed by the Manager of Premier and Ministerial Services but appears to be limited in remit and is supported to some extent by DPAC's Human Resources branch.

### Parliamentary entities

The Clerks of the House of Assembly and Legislative Council have primary responsibility for recruitment, onboarding and management of officers and employees in their respective entities and are jointly responsible for the Legislature-General.

Responsibility for human resources management has therefore fallen to the Clerks by default and more recently delegated by the Clerks to the Deputy Clerks of each house (with limited support from DPAC).

### Governance Committee

The Parliamentary Entities also have a Governance Committee, comprised of the two Clerks and two Deputy Clerks of the House of Assembly and Legislative Council.

The Terms of Reference for the Governance Committee, dated May 2021, state that the Governance Committee:

- » Is the primary decision making body for matters affecting the Legislature-General
- » Provides Legislature-General Unit Managers a clear single reporting point for emerging issues and updates (including risk, compliance, budget, human resources and operational matters requiring strategic input)
- » Will agree on business planning and budget setting processes to support the Legislature-General and services across Parliament

While the Independent Reviewer considers this to be an important governance mechanism, the Independent Reviewer has heard reports that the Governance Committee meets on an ad hoc basis and that many staff in the MPS Workplace are not aware of its existence or purpose. There may therefore be merit in reviewing the structure, purpose and composition of the Governance Committee.

For completeness, the Independent Reviewer notes that there is a separate Audit and Risk Management Committee (comprised of the two Deputy Clerks of the House of Assembly and Legislative Council and an Independent Chair appointed by the Clerks of the House of Assembly and Legislative Council), which has a focus on oversight of external and internal audit functions and risk management.

## Steps being taken to address deficiencies

In 2021, the Clerks of the House of Assembly and Legislative Council jointly commissioned a Governance Review. The Independent Reviewer has been informed that the Governance Review was conducted by the Parliamentary Entities' internal auditors and recommended that the Parliament:

- » Develop a policy and procedure framework applicable to all three entities
- » Initiate a structural review, including determining the nature of the human resources support required

**The internal process for reporting workplace discrimination, sexual harassment or bullying is weak ... There is no HR structure and therefore no impartial or confidential person for employees to report grievances to ..."**

**The newly created governance committee seems from the outside just to be put in place as a band aid to make it appear that actions are being taken to improve the culture of the work place and staff morale.**

The Governance Committee subsequently endorsed the recommendations, including identifying a need for:

- » A consistent suite of workplace policies to cover staff across the three Parliamentary Entities
- » The appointment of a human resources manager to provide human resources support across all three Parliamentary Entities
- » Mandatory training on workplace behaviour

The Independent Reviewer understands that:

- » A new Workplace Behaviour Policy and Procedure came into effect and was circulated to staff of the three Parliamentary Entities on 14 April 2022
- » An appointment was made to the position of Human Resources Manager in May 2022 and that this position reports jointly to the Clerks of the House of Assembly and Legislative Council
- » Work is also being undertaken on a new Bullying Policy and Procedure and Code of Conduct, which will apply to employees and contractors of the three Parliamentary Entities

While the Independent Reviewer applauds the steps taken by the Governance Committee to implement the measures described above, the Independent Reviewer notes that these initiatives were implemented mid-way through this Review. There is obvious merit in awaiting the recommendations and findings of this Review, to ensure that all recommendations can be properly incorporated into the response and that the response is evidence-based and in line with best-practice principles.

The Independent Reviewer also warns against the assertion that certain elements of the recommendations have been fulfilled, as steps taken while the Review was underway were done so without the benefit of the information and evidence produced by the Review. This means those measures have not been designed in response to the identified needs and gaps.

The Independent Reviewer is of the view that the Governance Committee should support the recommendations made in this Report and seek to support their implementation and adjust its current initiatives as required.

## Observations

The existing approach to human resource management outlined previously has not been optimal, including because:

- » There is a concentration of responsibilities in the Clerks and/or Deputy Clerks of the House, including that they have historically been:
  - Directly responsible for staff
  - Responsible for complaints management
  - Members of the Governance Committee
- » Human resources is not a core focus of the role of the Clerks and/or Deputy Clerks
- » There is a lack of clarity around whether reporting should be directed to the Clerk or Deputy Clerk — also to which Clerk of the House in the case of the Legislature-General

The Independent Reviewer's observation is that the absence of dedicated human resource management over a prolonged period of time is likely to have contributed to:

- » Significant gaps in human resources policies and processes
- » Inconsistencies in how complaints are managed and responded to
- » An absence of proactive measures to:
  - Promote positive and respectful workplace interactions, such as training and induction
  - Address performance and behavioural concerns as and when they arise

The Independent Reviewer shares the view expressed by Review participants that the human resources function should report through to someone independent, rather than jointly to the Clerks of the House.

## Adoption of a centralised approach

*Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*<sup>11</sup> (**Set the Standard**) similarly set out the need for a centralised and professionalised approach to human resources management. It is the view of the Independent Reviewer that the MPS workforce would be better served, on both an individual and systemic level, from the establishment of an independent and non-partisan human resources unit. **Recommendation 4** is that this human resources unit is called 'MPS People, Culture and Change'.

Relevant key features of Recommendation 12 in *Set the Standard* are:

- » Headed by an independent statutory officer
- » Legislative provision for the employment of staff
- » Accountable to the Parliament
- » Physically located in Parliament House
- » Reporting of de-identified data annually to the presiding officers
- » Provision of support to Parliamentarians and staff
- » Professionalising the workforce through standardised policies, processes and programs in relation to recruitment, induction, performance management, professional development, management of misconduct, and career pathways
- » Provision of best practice training on respectful workplace behaviours and people management

These features set out a framework of independence and accountability and should be seriously considered for the Tasmanian approach.

<sup>11</sup> Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces* (2021) 107: <https://humanrights.gov.au/set-standard-2021>



Investigations into workplace bullying, sexual harassment and discrimination need to be taken seriously and investigated by a completely independent team outside of the workplace and with no known current or former links to the person under investigation. Victims need to be believed and not treated like they are the one in the wrong ...

The Independent Reviewer notes the complementary nature of the recommendations made in this Report, and is of the view that undertaking the independent review set out in **Recommendation 3** will result in the design of a human resources unit specifically for the MPS Workplace.

Emphasis is placed on the requirement that the unit should be independent and non-partisan. Without this feature, access to human resources support may be fraught with political risk and inaccessible to those who need it.

It is also essential that the unit has the appropriate authority to take action and impose sanctions where breaches of internal policies are substantiated.

Where the recommendation differs is in relation to referral pathways.

The Independent Reviewer notes the recommendation of the establishment of the Independent Parliamentary Standards Commission federally. **Recommendation 4** in this Report takes into consideration the significantly smaller workforce size of the Tasmanian MPS and does not go as far as to recommend the establishment of an entirely separate Commission.

The recommendation is limited to an internal human resources framework, reporting to Parliament and utilising existing referral pathways such as Equal Opportunity Tasmania, the Integrity Commission, Tasmania Police and WorkSafe Tasmania.

Section 70 of the Anti-Discrimination Act enables the Minister to refer a matter as a complaint for investigation by the Anti-Discrimination Commissioner (or an authorised person). After investigation of the referred matter, the Commissioner (or authorised person) is to submit a report to the Minister on the matter together with any recommendations.

The Independent Reviewer notes that consideration should be given to a direct referral mechanism for complaints relating to discrimination and sexual harassment, which fall within the scope of the Anti-Discrimination Act.

It is noted this may be achieved via amendment of the Anti-Discrimination Act to insert section 70A setting out that:

*70A. Referral by [Independent Statutory Officer or otherwise]*

- 1** *The [Independent Statutory Officer or otherwise] may refer any matter within its powers as a complaint for investigation by the Commissioner or an authorised person.*
- 2** *The [Independent Statutory Officer or otherwise] may withdraw any referred matter from an investigation, with the consent of the affected party (if applicable).*
- 3** *After investigation of a referred matter, the Commissioner or authorised person is to submit a report to the [Independent Statutory Officer or otherwise] on the matter together with recommendations.*

This approach also mitigates risk of conflicts of interest, whereby a complaint can be referred directly to the Anti-Discrimination Commissioner where needed.

## Policies lead to best practice

There are clear deficiencies and inconsistencies in the policies and processes in place within the MPS Workplace with respect to both:

- » Appropriate workplace behaviours
- » Reporting and responding to complaints

**The Parliament, like other employers (public and private) must ensure that its policies, people and structures are fit to provide quality, efficient and effective services demanded by Members and the community ...**

As demonstrated by the Survey findings described in Part 2 of this Report, many Review participants:

- » had limited awareness and understanding of their rights and responsibilities under workplace laws
- » Were not aware of how to raise concerns, particularly where the concern related to a member of parliament or where a member of parliament had a concern
- » Had low confidence in the complaints process

Human resources practices have been described by Review participants as outdated and archaic. Further, it is evident that very little information or training exists within the MPS Workplace around acceptable workplace behaviours.

**I have also had a written complaint made about me — I was told it was more a complaint about how I interacted with the person than being accused of actually bullying them. I don't feel like I was given a good opportunity to explain my views of events.**

## Policies and procedures

There has historically been a lack of and inconsistent approach to human resources policies and procedures across the MPS Workplace.

Due to the complex employment arrangements, there are different processes, standards and expectations in place relating to the conduct of individuals engaged in different parts of the MPS Workplace.

The following illustrates the differences and complexities described previously.

**Workplace policies and procedures are extremely limited and poorly considered. Where policies exist, they are not developed with thought and consideration for the parliamentary environment but are simply copied from other agencies ...**

## Members of Parliament

- » The *Constitution Act 1934* allows both Houses of Parliament to make rules about the order and conduct of business and proceedings — these are referred to as Standing Orders which govern the conduct including 'discipline' of Members
- » Standing Orders for the House of Assembly include a requirement for Members to subscribe to a Code of Conduct, which includes a requirement to:
  - act lawfully and in a manner that will withstand close public scrutiny
  - value fairness, courtesy and respect without harassment, victimisation or discrimination
  - recognise and value diversity
  - conduct themselves in Parliament in ways that will protect the public interest, and enhance public confidence and trust in Parliament
  - observe proper standards of parliamentary conduct by complying with Standing Orders, and directions of the Presiding Officer
- » Standing Orders for the Legislative Council do not currently reference a Code of Conduct, but do contain general conduct provisions, including a requirement for a Member not to use offensive words in the course of debate
- » There is also a separate Code of Conduct for Members of Parliament, in similar terms to the Code of Conduct referenced in the Standing Orders for the House of Assembly
- » No specific induction or training processes concerning workplace behaviours

## Clerks of the Houses

- » Required to be impartial and independent and therefore do not serve the government or act under the direction of the Presiding Officer
- » Officers of the Parliament and accountable to the Parliament
- » It is unclear to the Independent Reviewer whether a Code of Conduct or any other employment policies apply to the Clerks (the House of Assembly Code of Conduct is currently stated to apply to "employees")

## Staff engaged in the Parliamentary Entities (Legislative Council, House of Assembly, Legislature-General)

- » Code of Conduct for House of Assembly employees includes the requirement to "*treat everyone with respect and without harassment, discrimination or victimisation*" and "*comply with Australian law*"
- » There is currently no specific Code of Conduct for staff of the Legislative Council or Legislature-General
- » Previously no specific policies with respect to discrimination or harassment, sexual harassment
- » Bullying Policies (different versions currently apply in the House of Assembly and Legislative Council, dated October 2018 and February 2017 respectively)
- » New uniform Workplace Health and Safety Policy introduced in September 2021 (but does not specifically address bullying)
- » New uniform Workplace Behaviour Policy introduced in April 2022
- » No specific induction or training processes concerning workplace behaviours (identified as a priority but not yet implemented)

## Staff supporting Members of Parliament and House of Assembly Electorate Officers

- » Code of Conduct includes the requirement to "*treat everyone with respect and without harassment, victimisation or discrimination*" and "*comply with all applicable Australian law*"
- » No specific induction or training processes concerning workplace behaviours

## Staff on secondment to Ministerial and Parliamentary Services from DPAC or another Agency

- » State Service Code of Conduct applies to employees *"when acting in the course of State Service employment"* and includes a requirement to *"treat everyone with respect and without harassment, victimisation or discrimination"* and *"comply with all applicable Australian law"*.
- » A similar Code of Conduct applies to those on secondment
- » However, in both cases, the Code of Conduct itself does not include a complaints mechanism or consequences of breach
- » DPAC and those engaged within Ministerial and Parliamentary Support have relatively comprehensive policies relating to Workplace Behaviour, Workforce Diversity and Inclusion and Flexible Work
- » DPAC staff receive more comprehensive induction and limited access to training, including a WHS and Wellbeing training course which includes a component on bullying and workplace stress

## Contractors

The KPIs in the contract with the Security contract include an expectation for Security personnel to:

- » Conduct themselves in accordance with the standards expected of Parliament House staff to ensure they do not bring the Parliament into disrepute
- » *"Treat everyone with respect and without harassment, victimisation or discrimination"*

Less formal arrangements appear to be in place with other, more 'ad hoc' contractors, such as building maintenance contractors who perform work in Parliament House.

## Codes of Conduct

Establishing consistent standards of conduct, with clear enforcement mechanisms, is essential to ensuring that individuals understand what is expected of them and can be held accountable for breaches of those standards.

Under the current Standing Orders for the House of Assembly, Members must subscribe to a Code of Conduct which includes a broad requirement to:

- » Act lawfully and in a manner that will withstand close public scrutiny
- » Value fairness, courtesy and respect, without harassment, discrimination or victimisation
- » Recognise and value diversity
- » Uphold proper standards of parliamentary conduct and conduct themselves in Parliament in ways that will enhance public confidence in Parliament

A separate Code of Conduct, in similar terms, is in place for all Members of Parliament.

However, the Standing Orders for the Legislative Council contain only general conduct provisions, which appear to be more focussed on Parliamentary etiquette, rather than lawful and respectful workplace behaviour.

Different Codes of Conduct are also applicable to different MPS personnel dependent on their employment arrangements – and in some areas (such as the Legislature-General and Legislative Council), there is currently no specific Code of Conduct at all.

This not only makes it difficult for individuals to understand which Code of Conduct is applicable to them but extends to those impacted by a breach of the Code of Conduct, including potentially being unsure of how to address the matter and which Code of Conduct is applicable.

Where Codes of Conduct do exist, they do not, for the most part:

- » Specifically define or prohibit discrimination, sexual harassment or bullying
- » Include enforcement mechanisms, complaint processes or consequences for breaches

It is clear that the current approach within the MPS Workplace in relation to Codes of Conduct does not achieve the overarching intended purpose – to hold individuals accountable to standards of expected behaviour within the workplace and to give staff, managers and Members of Parliament a system for addressing such conduct where a breach occurs.

It is proposed that two Codes be created, one for Parliamentarians and one for other MPS personnel (universally).

These Codes of Conduct should be consistent, simple and easy to access and made available to all MPS personnel.

Consistent with the recommendations made by the Australian Human Rights Commission in the Set the Standard report, the Codes of Conduct should include:

- » Clear obligations to comply with all applicable workplace laws - with an explicit prohibition on discrimination, sexual harassment, bullying, and victimisation
- » A requirement for all participants in the MPS Workplace to engage in a professional and respectful manner in all workplace interactions
- » Application of the Code of Conduct to any behaviour in connection with the MPS Workplace (whether directly or in person, by electronic means, or other means)
- » Requirements to comply with the Code of Conduct and any applicable workplace policies (including specific, more detailed, policies relating to appropriate workplace behaviours)
- » Mechanisms for raising complaints and enforcing the standards of conduct
- » Consequences for breaches
- » Protections for individuals who make complaints, as well as those who are witnesses or otherwise engaged in the complaints process

Consideration should also be given to whether there would be benefit in codifying additional mechanisms directed at deterring breaches and building confidence in the systems and processes, including:

- » A requirement for all MPS Workplace participants to participate in regular training regarding appropriate and respectful workplace behaviours
- » Individual responsibilities to report concerns, engage honestly in investigation and complaints processes and maintain confidentiality

### Code of Conduct for MPS personnel

The Independent Reviewer understands that steps have been taken by the Parliamentary Entities to prepare a draft Code of Conduct for consultation, which is intended to apply to all:

- » Employees of the House of Assembly, Legislative Council and Legislature-General
- » Contractors and consultants providing services to Parliament

The Independent Reviewer recommends that the current draft be revisited in light of the matters highlighted above and in **Recommendations 4, 5 and 6**, which relate to the:

- » Implementation of a centralised non-partisan Human Resources unit for all MPS personnel
- » Implementation of a complaints and reporting framework
- » Review of workplace policies

**I occasionally experienced, but more often saw Ministerial staff being bullied, yelled at or sworn out, intimidated and spoken to completely inappropriately by senior Ministerial staff and some Ministers.**

As part of this review process, consideration should be given to:

- » The scope of any revised Code of Conduct to ensure consistent and universal coverage for all MPS personnel (including employees, officers, staff on secondment and others appointed directly to the office of a Member of Parliament)
- » Appropriate internal and external complaint and enforcement mechanisms, including whether MPS personnel should be given the same rights of access and review in relation to matters of discrimination, sexual harassment and bullying as are currently available to State Service employees
- » Specifically highlighting any different or additional complaints mechanisms in place where the complaint relates to a Member of Parliament or Officer of the Parliament

### Code of Conduct for Parliamentarians

While Members of Parliament are elected officials and therefore hold a different status to employees, they are nevertheless central to the MPS Workplace, including having a regular interface with other Members of Parliament and MPS personnel and being responsible (in many cases) for the management of staff.

A comprehensive and consistent Code of Conduct should therefore be developed for all Members of Parliament, following consultation with the Committee, staff and independent project manager.

A range of different or additional considerations apply when compared with other MPS personnel, given their status as elected members (rather than employees) and the need for Parliament to be able to run its own affairs without external interference.

The Independent Reviewer suggests that consideration be given to the mechanisms available to review and amend the Standing Orders of each House of Parliament with a view to:

- » Incorporating a revised Code of Conduct reflecting the matters highlighted previously
- » Including a requirement for each Member of Parliament to review and endorse the Code of Conduct annually
- » Providing clarity regarding the appropriate use of parliamentary privilege (which may also be supported by guidelines outlining the parameters of parliamentary privilege and when it applies)
- » Revisiting the matters that may constitute contempt and the accompanying sanctions
- » Providing for the suspension of a Member, withdrawal of benefits, or removal from a parliamentary committee in a broader range of circumstances
- » Strengthening the currently limited mechanisms for responding to complaints regarding the conduct of parliamentarians

At present, complaints about a breach of the House of Assembly Code of Conduct are referred to the Committee of Privileges and Conduct for enquiry. Any outcome would be a matter for the House to determine.

Careful consideration should therefore be given through the review and consultation process to whether there is an alternative mechanism by which complaints can be received and responded to by an independent unit, in a manner that does not interfere with Parliament.



The Independent Reviewer notes the proposed approaches elsewhere, specifically:

- » By the Australian Human Rights Commission, which recommended that the Houses of Parliament delegate functions relating to formal complaints about Parliamentarians to an 'Independent Parliamentary Standards Commission' which would make recommendations regarding sanctions and apply such sanctions where they do not interfere with the functions of Parliament
- » By the South Australian Equal Opportunity Commissioner, which recommended that breaches of the Code of Conduct can be investigated under the *Independent Commission Against Corruption Act 2012* (SA), with details of findings of misconduct and any recommendations as to sanctions, being delivered in a report to the relevant House to decide on

As noted earlier, the recommendations in this report are limited to an internal human resources framework and do not extend to the establishment of a separate Commission.

One option may therefore be for centralised human resources unit referred to in

**Recommendation 4** to:

- » Be given discretion to assess whether a complaint (referred to it either by the House, Presiding Officer or by an individual) should be investigated and by whom;
- » Consider the availability and appropriateness of existing referral pathways, including the Integrity Commission in the case of allegations of improper conduct or corrupt conduct that is serious or significant; and
- » Make recommendations to the House regarding sanctions or other outcomes

Under this model, decision-making and oversight is retained by the Parliament.

The Australian Human Rights Commission also recommended that Parliamentarians have an obligation to act on allegations of misconduct made about their staff, with any failure to do so itself constituting a breach of the Code of Conduct. The Independent Reviewer is of the view the same should be included in any Code of Conduct developed relating to the Tasmanian Parliament.

### Conduct requirements for contractors and others working in the MPS Workplace

Consistent standards of conduct should be implemented and clear standards set for all those engaging in the MPS Workplace.

Where contractors are concerned, arrangements with independent contractors should be reviewed to universally provide for:

- » Positive obligations for contractors and their staff to meet behavioural expectations (including a requirement for contracting companies to inform their staff of those expectations)
- » A mechanism to remove personnel or terminate contractual arrangements following any incident of non-compliance

It is proposed that terms consistent with internal Codes of Conduct are implemented into contractual agreements with independent contractors. If an allegation of workplace discrimination, sexual harassment or bullying is made against an external contractor, there should be clear mechanisms to compel contracting organisations to participate in any investigation and/or complaints processes undertaken by MPS, which may include the removal of the individual concerned from the workplace until the matter is resolved (and on an ongoing basis if the allegations are substantiated).

For contracting staff who experience discrimination, sexual harassment or bullying within MPS, it is recommended that those staff have access to internal MPS complaints mechanisms through which they can raise their concerns.

## Internal reporting and resolution options

Even where policies exist, there is confusion and lack of awareness regarding the processes in place within the MPS Workplace for reporting and responding to concerns, including:

- » How to access information relating to those processes
- » Who they apply to
- » Who administers them
- » How to report concerns relating to senior personnel, such as Members of Parliament, the Clerks of the Houses or Chiefs of Staff
- » Who Members of Parliament should report concerns to

When asked how they would report a complaint or concern, Review participants gave a range of responses, including that:

I would report it to my Chief of Staff and if nothing happened look up how to report it to the next level.

What can you do — it's a Minister. You can't sack them, you can't performance manage them ...

Review participants outlined difficulties accessing information, with one noting a particular policy directing employees to speak to the HR Manager, which was, at that time, a position that did not exist.

By way of illustration, the Independent Reviewer has identified a previous Legislative Council Bullying and Harassment Policy (dated 2017) which references harassment but defines this in the same way as bullying and does not separately identify conduct that would constitute harassment.

That policy includes a 'procedure for dealing with bullying and harassment', however, this appears to be inadequate for reasons which include that the procedure:

- » States that reports should be made to the Human Resources Manager, which is a position that did not previously exist
- » Includes wording that would, in the view of the Independent Reviewer, tend to discourage complaints, including that: *"...reporting is voluntary not mandatory. Nevertheless, if a worker decides not to report issues, the Legislative Council expects that this will be the end of the matter ..."*

Overall, there was a distinct lack of faith in proper process being followed and procedures administered without bias or favour.

**Recommendations 4 and 5** seek to address these particular issues directly, by creating robust and independent complaint frameworks. Instilling procedural certainty and independent processes for MPS personnel should be a priority, as it is through doing so that individuals will be empowered to seek assistance to have their concerns addressed.

The following further illustrates the differences and complexities described previously.



## Members of Parliament

- » No complaints mechanism or consequences of breach in the Code of Conduct
- » The Standing Orders for the House of Assembly provide that the House may refer an alleged breach of the Code of Conduct to the Committee of Privileges and Conduct, which consists of 7 Members, to "enquire into a report upon complaints of a breach of Privilege or the provisions of the Code of Conduct which may be referred to it by the House". That Committee would report to the House on the matter and any outcome would be a matter for the House to determine.
- » References to the Code of Conduct and mechanisms for responding to an alleged breach are not presently replicated in the Standing Orders for the Legislative Council
- » Breaches of the 'general' Code of Conduct are to be "determined by the House". However, it is not clear whether or how a referral or determination is to be made and there is no specific reference to (or in) the Standing Orders
- » Appears to be low awareness among staff around where complaints relating to a Member of Parliament are to be referred or how they are managed
- » Unclear who Members of Parliament make complaints to if they experience inappropriate workplace conduct

## Clerks of the Houses

- » Receive complaints
- » However, unclear where complaints relating to the Clerks are to be referred
- » In some cases, complaints may be referred to the Presiding Officers. However, the Clerks do not formally report to the Presiding Officers and are not answerable to them

## Staff engaged in the Parliamentary Entities (Legislative Council, House of Assembly, Legislature-General)

- » Previously no clear or consistent complaints processes
- » Reliance on a view that "most people would feel comfortable to report the matter to a senior officer..." (which is not supported by the Review findings)
- » New uniform Workplace Behaviour Policy and Procedure introduced in April 2022 indicates that complaints are to be referred to the Clerks, Deputy Clerks or Human Resources
- » No Workplace Support Contact Officers

## Staff supporting Members of Parliament and House of Assembly Electorate Officers

- » Individuals engaged by the exercise of Crown Prerogative do not appear to be subject to the policies that apply to those engaged within the Parliamentary Entities
- » No specific complaints mechanism or consequences of breach in the Code of Conduct
- » Not clear what the complaints or grievance process would be for this category of employee
- » No Workplace Support Contact Officers

## Staff on secondment to MPS from DPAC or another Agency

- » State service policies and complaints procedures are likely to apply
- » Clear policies with respect to complaints processes
- » However, limited understanding of which policies and processes apply while working in MPS or how to raise concerns regarding a Member of Parliament
- » Workplace Support Contact Officers within DPAC

## Contractors

It is unclear what mechanisms are in place to address the conduct of contractors, or how contractors would report an incident of concerning workplace conduct.

## Investigating breaches

Investigating purported breaches of Codes of Conduct and Workplace Policies and Standards should be undertaken in a way that upholds procedural fairness and natural justice. Investigations should be conducted confidentially and impartially for all parties.

A victim-centred and trauma-informed approach aligns with best practice principles, with consideration of power imbalances, possible reputational harm, victimisation and the effects of the process on individuals involved (including witnesses). Protections exist for State Service employees relating to victimisation and MPS personnel should also have the benefit of such protections.

## Transparency

The Independent Reviewer acknowledges that it can be difficult to report on complaint outcomes in an open and transparent way, having regard to factors such as confidentiality and potential for complaints to be politicised and widely reported in the media.

These factors must be considered to ensure that the person raising the concern is protected from victimisation and that further harm is not caused as a result of the action being taken to address the concern.

However, in the experience of the Independent Reviewer, it is a misconception that speaking about the occurrence of discrimination, sexual harassment and bullying in the workplace is detrimental to employers and organisational culture.

To the contrary, where employers show a preparedness to address matters in a manner that demonstrates both transparency and sensitivity, this often has the effect of:

- » Promoting safe workplaces
- » Encouraging the early use of systems of reporting and resolution
- » Reducing the occurrence and seriousness of conduct over time

By contrast, where conduct issues are concealed or not dealt with adequately, this often leads to perceptions of incompetence, bias and vested interests, and a perception that known behaviours are tolerated or condoned. This, in turn, has the effect of undermining trust in the system, and importantly, within the context of MPS, in the Tasmanian Parliament and the people who work within it.

Leadership within the MPS Workplace may wish to look to the findings outlined in this Report as a line in the sand and a marker from which to step forward and demonstrate a greater preparedness to take ownership of issues, rather than downplaying, shifting or concealing the problem.

## Balancing confidentiality and transparency

Both confidentiality and transparency are important elements to complaint processes.

Confidentiality is an inherent aspect to a safe complaint process. All parties and witnesses involved in a complaint process should be required to maintain confidentiality as to the existence and subject matter of a complaint while it is progressing through that process.

At the completion of a complaint process, where confidentiality may be a negotiated term of agreement between parties, any such term should apply as narrowly as possible. The Independent Reviewer is cognisant of the detriment that non-disclosure agreements (NDAs) can have in silencing victims, protecting offenders and creating culture where unsafe and/or unlawful conduct is not openly addressed and that this undermines perceptions of accountability.

It is noted that outcomes to a complaint process should not include confidentiality by default and consideration should be taken on a case by case basis.

Further, as a risk mitigation measure, safeguards to prevent the leaking of information to the media should be implemented with sanctions applicable to anyone who leaks information about MPS People, Culture and Change complaint processes, in particular, identifying information.

Public reporting using de-identified outcomes is also important. Transparency acts as a significant deterrent to discrimination, sexual harassment and bullying, specifically where that results to the risk of disclosure of identifying information of respondents.

Any identifying information should only be released with the consent of the complainant and should only be done in circumstances where the complaint process is completed and the allegations have been substantiated.

More broadly, transparency is often in the public interest and operates to ensure progress can be taken by leaders in the workplace to address issues of culture effectively and take proactive steps to reduce risk of further instances of unsafe workplace conduct.

To uphold transparency MPS People, Culture and Change should release a public report annually which reports on complaints of discrimination, sexual harassment and bullying, including de-identified data, case studies and outcomes.

## Sanctions

Sanctions are essential for a number of reasons, including deterrence, punishment, accountability, justice and fairness. The fair and consistent implementation of sanctions is integral to driving change and setting standards and expectations of conduct, to which people know they are answerable.

It was noted by Review participants that the existing Codes of Conduct do not have sanctions. Any Codes of Conduct without sanctions and processes for dealing with misconduct are ineffective.

The Australian Human Rights Commission extensively dealt with the concept of proportionate sanctions for misconduct. To avoid repetition, the Independent Reviewer makes reference to that analysis and is of the view that the content contained therein should form the basis for discussions of Codes of Conduct and standards of behaviour within the Tasmanian context.

The information referred to is contained between pages 243 – 248 of Set the Standard.

## Protection against victimisation

In order for people to use complaint mechanisms, it must be safe to do so. Development of complaints mechanisms as a result of **Recommendation 5** should include direct references to victimisation and clear explanations as to what types of conduct constitute victimisation.

Codes of Conduct resultant from **Recommendation 6** should include protections for individuals who make complaints, as well as those who are witnesses or otherwise engaged in the complaints process. This protection should extend to situations where individuals communicate their intention or desire to lodge a complaint about discrimination, sexual harassment or bullying.

Further, inductions (**Recommendation 7**) and training (**Recommendation 8**) should specifically outline what constitutes victimisation and the options for responding to such conduct.

The leaders of the MPS Workplace should take these steps to ensure a culture of accountability, upholding of standards and clear expectations, where the workforce has confidence in the systems and processes designed to protect them.

Ensuring that people are protected if they intervene in situations of unsafe workplace conduct is imperative for raising rates of bystander action. The information provided by participants demonstrates that intervening is difficult due to the possibility of repercussions, which have been experienced by employees previously.

Any development of complaints mechanisms as a result of **Recommendation 5**, and implementation of Codes of Conduct in line with **Recommendation 6** should specifically include protections for employees who engage in bystander action.

## External reporting and resolution options

There is very little awareness or visibility of the existence of external reporting mechanisms, such as options to make a disclosure to or seek the assistance of:

- » The Integrity Commission
- » WorkSafe Tasmania (WorkSafe)
- » Equal Opportunity Tasmania

This observation is consistent with the experience of the Independent Reviewer and the information conveyed by the Integrity Commission and WorkSafe in the context of this Review.

### Integrity Commission

The Parliamentary Entities have a Public Interest Disclosures Act Procedure which applies to public sector misconduct—including improper conduct or corrupt conduct that is serious and significant. The Commission may deal with disclosures and receive complaints under the *Integrity Commission Act 2009* (Tas).

The Independent Reviewer met with the Integrity Commission to seek information relating to the number and nature of disclosures and complaints made to the Integrity Commission by MPS personnel.

Through this process, the Independent Reviewer obtained confirmation that the Integrity Commission receives very few complaints or disclosures from those engaged in the MPS Workplace and therefore holds limited data regarding the nature or prevalence of complaints within MPS. A few complaints have been received relating to conduct by Ministers and Ministerial advisers, mostly in relation to dealings with senior statutory officers. Anecdotally, there are very few complaints relating to how lower level public officers have experienced such conduct.

Evidence also suggests that there is low awareness of the function of the Integrity Commission or the existence of the Public Interest Disclosures Act and Procedure, combined with a low desire to get involved in the complaints process.

The reasons for this are not entirely clear. However, based on the observations of the Integrity Commission, the relative absence of complaints or disclosures does not lend itself to the conclusion that improper conduct *is not occurring*, but rather, is more likely to be reflective of factors such as cultural and/or workplace barriers, imbalances in power and authority, and/or a lack of awareness of the existence or role of the Integrity Commission.

In the experience of the Integrity Commission, there is often fear-based resistance to reporting improper conduct, particularly where the disclosure relates to a person who is perceived to be in a position of power. This includes a lack of confidence in confidentiality and fear of victimisation, including retribution or a loss of opportunity, particularly given the contractual nature or impermanency of employment. In the political arena, there is also a fear that the complaint (and the identity of the complainant) may become known and 'weaponised' for political gain. These factors collectively serve to deter individuals from coming forward with concerns.

When complaints are received by the Integrity Commission, the Integrity Commission may, among other options, refer the matter back to the organisation for investigation. This may occur where a complaint is made against a less senior officer or involves less serious alleged conduct.

However, in such instances, the Integrity Commission would wish to be assured of the organisation's capacity to manage such investigations before doing so. The Commission has produced the Guide to managing misconduct in the Tasmanian public sector<sup>12</sup>, and delivers training related to the Guide.

It is therefore the view of the Integrity Commission that organisations must have:

- » Clear internal processes for raising, investigating and resolving workplace conduct concerns, and the protections available to complainants
- » Capability and capacity to manage investigations independently and confidentially, and resolution processes when complaints are made
- » Clear education and information available to all personnel regarding the full range of resolution options, including when it may be appropriate to refer matters to the Integrity Commission (noting the emphasis in the Public Interest Disclosure Act on corrupt conduct and improper conduct that is serious and significant).

The Integrity Commission's observations are that current complaint and misconduct management processes with the MPS Workplace lack clarity and consistency, and are difficult for staff to understand or trust. There appears to be a particular gap in knowledge about how to raise a complaint, how it will be managed and by whom, or what the potential outcomes may be. There is also little done to promote the existence or role of the Integrity Commission.

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<sup>12</sup> 'Guide to managing misconduct in the Tasmanian public sector', Integrity Commission Tasmania (Web Document) <[https://www.integritytas.gov.au/data/assets/pdf\\_file/0004/398866/guide-to-managing-misconduct-in-the-tasmanian-public-sector-march-2021.pdf](https://www.integritytas.gov.au/data/assets/pdf_file/0004/398866/guide-to-managing-misconduct-in-the-tasmanian-public-sector-march-2021.pdf)>.

The Independent Reviewer is of the view that more must be done within MPS to ensure consistent, transparent and confidential processes for reporting and dealing with misconduct. Informing MPS personnel of all available reporting options and implementing mandatory training relating to the management of reports of misconduct conducted by the Integrity Commission may assist in meeting this objective.

### WorkSafe Tasmania

The Executive Director of WorkSafe Tasmania (WorkSafe) is the work health and safety Regulator in Tasmania. WorkSafe plays a critical role in ensuring safe and healthy workplaces through a number of regulatory mechanisms ranging from education and advice to compliance, including investigating workplace incidents and monitoring workplaces for compliance with legislation, and enforcement.

The Independent Reviewer met with WorkSafe to discuss the role of WorkSafe in the MPS context and seek information relating to the number and nature of complaints or reports made to WorkSafe by MPS personnel.

Under the Work Health and Safety Act persons conducting a business or undertaking (PCBU) have a primary duty of care to ensure the health<sup>13</sup> and safety, so far as reasonably practicable, of workers and others who may be put at risk from the work carried out by the PCBU.

Individual workers and others in the workplace are required to:

- » Take reasonable care for their own health and safety; and
- » Take reasonable care that their acts and omissions do not adversely affect the health and safety of others

In this context, WorkSafe has the capacity to investigate incidents of unsafe work conditions or work practices – and this extends to complaints about bullying and sexual harassment. While WorkSafe receives complaints of bullying, it has received very few complaints of sexual harassment. It has no records of any complaints having been received from MPS personnel.

While the Work Health and Safety Act is not explicit in addressing organisational culture, it is explicit in requiring organisations to ensure that they provide a work environment without risks to health and safety, and have safe systems of work in place. PCBUs are required to identify hazards and manage the risks associated with those hazards. Psychosocial harm is a risk in the workplace. There is therefore a requirement that a system of work is in place and that information and training is provided to personnel to protect against the risk of psychosocial harm.

The complaint handling approach taken by WorkSafe is typically to assess whether the PCBU is complying with its primary duty of care under section 19 of the Act, as well as any other duties placed on the PCBU, workers and others in the workplace. Actions arising from inspections typically include agreed actions for improvement, or directions to address non-compliances through an improvement notice.

**A person with management or control of a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person ...**

<sup>13</sup> Health means physical and psychological health.

In the absence of conduct that is sufficiently serious to warrant prosecution, the role of WorkSafe in resolving bullying complaints focuses on ensuring the PCBU is meeting their duties in relation to safe systems of work and safe working environment.

The proposed introduction of new regulations to specifically address psychosocial risks, and potential changes to the provisions for serious psychological injuries to be included as a notifiable incident under the Act (such as is the case for physical injury) will increase the focus on psychological risks and injuries. This reflects the approach being taken at a federal and national level, which gives recognition to the fact that organisational culture and environment is fundamental to the promotion of psychosocial health and safety.

Even in the absence of these proposed new regulations, it is the view of WorkSafe that:

- » The existing Act and regulations place duties on PCBU's, officers, workers and other persons in the workplace
- » Organisations must have safe systems in work in place that ensure compliance by all personnel with their duties under the Work Health and Safety Act
- » PCBUs must consult with workers on work health and safety matters
- » Resolution should be encouraged at the workplace level wherever practicable and appropriate
- » There should be clear mechanisms in place for complaints to be referred where they are unable to be resolved at the workplace level – however, this should identify the parameters of the role of external regulators such as WorkSafe

In the context of the MPS Workplace, it is not clear whether a Member of Parliament would be a PCBU and therefore subject to specific obligations under the Work Health and Safety Act. In the absence of specific duties, a Member of Parliament owes a duty as an “other person” within the workplace.

## Equal Opportunity Tasmania

Equal Opportunity Tasmania is the office of the Anti-Discrimination Commissioner, who has an independent statutory role to administer the Anti-Discrimination Act.

The Commissioner and her office:

- » Inform and educate people about their rights and responsibilities under the Anti-Discrimination Act
- » Promote practices that are non-discriminatory and free of bias
- » Investigate and seek to help people to resolve complaints about discrimination, sexual harassment and other prohibited conduct
- » Provide policy advice on programs, practices and laws to promote compliance with the Anti-Discrimination Act

A complaint of discrimination, sexual harassment or other prohibited conduct can be made against anyone, including a Member of Parliament. Bullying is not covered by the Anti-Discrimination Act, unless it is on the basis of a protected attribute.

Complaints against Members of Parliament, or involving any conduct within the MPS Workplace, are extremely rare. The Anti-Discrimination Act allows the Minister responsible for the Act (the Attorney-General) to refer a matter as a complaint for investigation. It is, again, extremely rare that this occurs. There is potential for this to power to be politically ‘weaponised’.



Section 104 of the Anti-Discrimination Act is a vicarious liability provision, creating obligations for organisations that wish to avoid liability for actions of members, officers, employees and agents. Section 104 states that organisations are to take reasonable steps to ensure members, officers, employees and agents do not engage in discrimination or prohibited conduct, including sexual harassment. If an organisation fails to comply, it is liable for any contravention of the Anti-Discrimination Act by its members, officers, employees or agents.

Common law sets out what constitutes 'reasonable steps':

- » Effective and accessible policies, complaints and grievance procedures
- » Educational programs
- » Monitoring of the workplace to ensure policies are complied with
- » Complaints being promptly investigated in accordance with policies and procedures
- » Appropriate steps being taken to communicate policies to all employees to ensure they are aware of what constitutes prohibited conduct and that it is unlawful

If a complaint is made to Equal Opportunity Tasmania about an employer and/or an individual, it will be assessed to determine whether a possible breach of the Anti-Discrimination Act is disclosed. If the complaint is accepted for investigation, it will progress through the process. The process includes the possibility for the parties to attempt to negotiate an outcome to resolve the complaint.

If a complaint is unable to be resolved and unable to be dismissed at the end of an investigation, it will be referred to the Tasmanian Civil and Administrative Tribunal for inquiry. A finding of a breach of the Anti-Discrimination Act can be made at the Tribunal, which can order payment of compensation, apologies and other remedies.

## External resolution options by type of conduct

If a person experiences workplace discrimination or sexual harassment, they are able to make a complaint under the Anti-Discrimination Act.

The Anti-Discrimination Act however, does not cover bullying conduct, unless it can be characterised as discrimination and/or offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of certain protected attributes (such as age, race, gender, gender identity, sexual orientation and disability).

This means that for bullying conduct which is not on the basis of a protected attribute, MPS personnel only have the option of an internal complaint or WorkSafe Tasmania. Therefore, the existing options are extremely limited and do not appear to provide MPS personnel the opportunity to utilise external complaint mechanisms, including accessing conciliation and dispute resolution processes for bullying matters.

The Independent Reviewer considers that external paths available to MPS personnel should be seriously considered and provided.

Consideration should be given to options for bullying complaints and the most appropriate external body to deal with investigations and/or resolution processes, allowing for circumstances where an individual wishes to utilise an external pathway rather than an internal one.

One option is via amendment to the Anti-Discrimination Act to include bullying. This is supported by the Independent Reviewer. Such an amendment would allow for MPS personnel (and others) to access a system which involves an individual remedy-based approach (such as compensation, apologies, workplace training, changes to policies etc.).

There is no valid reason why people who experience bullying should be denied access to processes which result in such remedies, while those who experience discrimination or sexual harassment have the benefit of them.



The Independent Reviewer also considers that the Tasmanian Industrial Commission may provide an appropriate avenue for the resolution of bullying complaints. MPS personnel should have the benefit of the same access to complaints processes as State Service employees.

It is noted that the Tasmanian Industrial Commission has previously expressed that it lacks jurisdiction to deal with bullying matters for state servants. It has been publicly stated that the Commission:

***“should be able to inquire into bullying for the purposes of making orders to stop bullying and to prevent future bullying”<sup>14</sup>***

The Independent Reviewer shares this view but makes the point that if this jurisdiction is expanded, that it should incorporate a complaints function which provides complainants the opportunity to utilise dispute resolution processes and individual remedies.

**I was told that the bully was to soon retire and once he was gone the whole problem would go away. It took a long time for him to go but he has gone now and things are much better without him.**

**Change the way the staff of the Parliament are employed as they are not subject to the State Service Act ...**

## Observations

After meeting with the Integrity Commission and WorkSafe Tasmania, it became evident to the Independent Reviewer that MPS personnel are not using these mechanisms to report and / or complain about workplace discrimination, sexual harassment or bullying.

There is also the question as to whether these organisation have the appropriate structures and/or mechanisms to deal with matters related to workplace discrimination, sexual harassment and bullying that occur within MPS.

In relation to the Integrity Commission, there may be a perception that this entity is not appropriate to make complaints about workplace discrimination, sexual harassment or bullying and that ‘misconduct’ is limited to matters such as corruption, financial misappropriation and conflicts of interest.

In relation to WorkSafe, this entity is widely understood to be a regulator of safe workplaces. While there may be accessible complaint mechanisms, these are limited in terms of functionality and scope and do not provide for mediation of conflicts. Further, individuals are encouraged to resolve issues internally first.

More training and awareness regarding these organisations, as well as Equal Opportunity Tasmania, may assist in increasing access.

<sup>14</sup> 'Bullying still common in Tasmanian public sector, report reveals' *The Mercury* (Web page) <<https://www.themercury.com.au/news/politics/bullying-still-common-in-tasmanian-public-sector-report-reveals/news-story/6fbac671846150ad1973a7f6aa8fc491>>.

The Independent Reviewer acknowledges that external reporting is considered by many as an avenue of last resort and supports an approach whereby attempts are made to resolve matters at the workplace level wherever practicable. Indeed, this is the expectation of agencies such as the Integrity Commission and WorkSafe Tasmania.

However, too many Review participants expressed the sentiment that there is “nowhere to go” with their concerns, particularly where those concerns relate to senior officers and Members of Parliament. This demonstrates the importance of generating awareness about all available reporting options and mechanisms and ensuring internal processes are fit for purpose.

**Recommendation 5** is that within 12 months, a complaints and reporting framework is implemented. This includes ensuring the MPS People, Culture and Change has the power to investigate complaints of discrimination, sexual harassment and bullying, including allegations against Members of Parliament.

This framework should outline, at minimum, processes for:

- » Formal and informal reporting/complaints
- » Lodging complaints
- » Procedural fairness and natural justice
- » Steps through investigation
- » Resolution options
- » Sanctions for findings of misconduct, including termination of employment
- » Employer obligations
- » External options for complaints

**An attempt to submit a complaint in relation to a senior member of staff was met with anger and hostility by [position] with the comment ‘what do you expect me to do with this?’**

## A strategic approach

While MPS may have applicable policies relating to diversity and inclusion, the evidence demonstrates that these policies are not utilised. Diversity within MPS is incredibly low, particularly as it concerns people with disability, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse people, and LGBTIQ+ people.

During the Review, it was reported:

- » an employment opportunity was refused as one Member of Parliament did not want to become known as the ‘gay office’
- » that heavy security doors and other features of the workplace make access difficult for employees with physical disabilities
- » male employees experience comments about their female partners needing to be responsible for taking time off to care for sick children and have had flexible working arrangements revoked at the whim of management
- » a staff member was repeatedly told they are too young to be working where they are
- » a manager told an employee they were not promoted as there were ‘too many women’
- » if employees question ‘jokes’ about LGBTIQ+ people, they are derided for taking things too seriously
- » that diversity is not a strength of the MPS

Evidence obtained through the Review made clear that the MPS Workplace is not in line with existing workplace approaches to diversity and inclusion and flexible work. While the existence of policies is essential, where workplaces are historically homogenous, a more strategic and thorough approach is required.

## Consumption of alcohol in MPS

The availability and misuse of alcohol by some Members of Parliament is also reported to have contributed to negative behaviours and poor perceptions of the MPS Workplace environment.

The Independent Reviewer is of the view that the consumption of alcohol by staff and Members of Parliament during working hours would be regarded by most members of the public to be of significant concern, particularly given the importance of the responsibilities bestowed on elected Members by their constituents.

**Alcohol should not be consumed during work (including Parliamentary Sitting) hours ...**

Safety at work is also compromised by consumption of alcohol. Review participants made the observations that:

- » Women are propositioned by senior males across MPS after those males consume alcohol
- » Multiple women have been followed to hotel rooms while working away
- » Members of Parliament have become so intoxicated they were unable to walk
- » Alcohol is often consumed at lunch time
- » Levels of sexual harassment are linked to alcohol consumption

**He had consumed a large amount of alcohol and appeared to be drunk. As he was leaving the event he ran his hand along the bare shoulders ... of the women at the table, but skipped the men.**

**There is and has been a marked disrespect for women in the workplace and I believe a lack of understanding of gender based discrimination and gender based abuse. I also believe consumption of alcohol has a negative impact on this and as it is often consumed at lunch time as well as during evening sittings I believe this adds to the risk of poor behaviour by Members, male and female.**

**The consumption of alcohol and the normalcy with which it is consumed is worrying. Particularly when you do not partake in those activities.**

**Alcohol usage is rampant amongst some members including intoxication at Parliament House and work functions.**

On this basis, the Independent Reviewer recommends, within 12 months, in consultation with staff:

- » Implement new policies relating to workplace diversity and inclusion
- » Implement diversity and inclusion strategy
- » Implement a family friendly workforce strategy
- » Implement a consumption of alcohol policy

“  
**My perception of the existing MPS workplace policies, procedures and practices for employees who experience workplace discrimination, sexual harassment or bullying is that those documents have only recently been introduced, and are generic policies copied from other government departments.**

“  
**The [MPS] needs a diversity and inclusion plan and training and to pay real and meaningful attention to the needs of women, Aboriginal and Torres Strait Islander people, people with a disability or people from culturally or linguistically diverse backgrounds and members of the LGBTIQ+ community.**

In developing complaint policies, in addition to the policies referred to previously, consideration should be given to:

- » the establishment of organisational values embedded into such policies and strategies
- » the development of a Reconciliation Action Plan
- » a zero tolerance policy adopted in relation to acts of discrimination, sexual harassment and bullying
- » provision of clear examples of the types of behaviours that will not be tolerated
- » protection from victimisation
- » workers being given the option to report anonymously so that issues can be addressed indirectly through management practices such as whole of staff reminders of conduct, emails, intranet posts, training and other actions
- » work practices be examined to identify risks of exposure, including working alone or at night
- » an open door policy be employed to improve security and limit situations where staff are working in isolation or required to remain in the office environment or travel with only one other person (for example, travel by car to a work-related event or working remotely)
- » ensuring staff are accompanied by others (for example, travel by car to a work related event)
- » encouraging workers to keep records and screen shots if inappropriate behaviour occurs online or through phone communication
- » employees provided with an accessible directory of Workplace Support Contact Officers who they can contact if they experience or witness inappropriate behaviour at any work or any work-related event

# Recommendation

7

Within 18 months, implementation of formal induction and exit processes which include training on acceptable workplace conduct, complaint processes, external reporting mechanisms and Workplace Support Contact Officers.

A significant proportion of MPS personnel had not undertaken induction training upon commencement of employment. It is considered that this directly influences the lack of knowledge held by the MPS workforce regarding their rights and responsibilities. Induction processes should be implemented to ensure an informed and empowered employee base.

# Recommendation

8

Within 18 months, mandatory external in-person workplace conduct training to be undertaken by all current Ministerial and Parliamentary Services personnel, including Members of Parliament; people management training to be undertaken by all Ministerial and Parliamentary Services personnel who have staff reporting to them; and a structured training plan be developed.

The stories of Review participants provide a compelling basis for widespread training. Regardless of status and power dynamics, at its core the Tasmanian MPS is a workplace. All people working within that environment should receive training in order to protect them, prevent unsafe conduct, and equip them with the skills to progress grievance and conflict resolution if necessary.

# Recommendation

9

Within 18 months, a minimum of 12 Workplace Support Contact Officers be appointed, maintained and appropriately trained across Ministerial and Parliamentary Services.

Workplace Support Contact Officers can be a source of trust, support and information for employees experiencing difficulty at work. These Officers should be appropriately trained and equipped with the appropriate skills and experience to provide accurate information and referrals if required.

# Recommendation

10

Within 24 months, completion of Our Watch's Workplace Equality and Respect Standards across Ministerial and Parliamentary Services.

The Review shows that sexist perceptions of women remain and this directly influences their employment experience within MPS. Proactive action must be taken to specifically address this issue.

# Awareness of rights and responsibilities

## Informing and supporting the workforce

### What did we learn?

The Independent Reviewer observed:

- » Inadequate and inconsistent induction processes
- » A lack of training across the MPS workforce relating to acceptable workplace conduct
- » An absence of Workplace Support Contact Officers – and where they do exist, a low understanding as to their functions, how they assist and their operation in the MPS Workplace

“While working in the MPS Workplace I experienced no training related to acceptable workplace conduct. It would be helpful for all staff to receive such training in the hope that it would improve the way people behaved...”

“Compared to my previous workplaces, there has been a surprising lack of training and communication on acceptable workplace conduct ...”

A focus of the Independent Reviewer's recommendations is implementation of training, processes and actions to achieve cultural change, through which bystander action will increase.

Specific reference is made to:

- » The responsibilities of those in management and leadership positions
- » Ways to challenge existing norms, including those within the MPS Workplace who do not consider the behaviour to be problematical
- » How other bystanders may be encouraged to act and protected when they do

A considerable proportion of those employed within the MPS Workplace have limited awareness of their rights and responsibilities or how to report a concern:

- » 42% of Survey respondents were not aware or not sure of their responsibilities in relation to the Anti-Discrimination Act
- » 64% were not aware of, or unsure where to find policies about acceptable workplace behaviour
- » 48% have not undertaken an induction process and 8% could not remember having done so
- » 35% had not received information on workplace practices during any induction process undertaken
- » Those working for a Member of Parliament were unlikely to have undertaken induction

Many of those who participated in an induction process recalled that it was 'self-directed' and felt like a 'tick a box' exercise rather than meaningful learning.

Others observed that the policies and processes (to the extent that they exist) are “not well advertised”.

Few Survey respondents indicated a full understanding of the internal grievance procedure:

- » 34% indicated that they did not know there was an internal grievance process
- » 35% indicated an awareness of the process but not knowing what was involved
- » 23% indicated an understanding of parts of the process
- » 7% indicated a full understanding

Less than one third of staff who participated in the Survey:

- » Knew how to report unacceptable behaviour of a Member of Parliament
- » Were aware of external reporting options (for example, the Integrity Commission, WorkSafe Tasmania or Equal Opportunity Tasmania)
- » Were aware of any Workplace Support Contact Officers

A number of Review participants called for improved training and induction processes in the MPS Workplace.

**I would support regular re-familiarisation training for all individuals in Parliament in the code of conduct, ethics and appropriate workplace behaviours and the introduction of contact officers for those who need support and guidance in dealing with such matters ...**

**"I believe targeted training, run at regular intervals by external independent experts, should be a requirement for all MPS ..."**

### **Making information available**

In light of the Survey results, the Independent Reviewer considers that the following information should be centralised and made available to all employees in the MPS Workplace (via intranet or central portal):

- » Information relating to the structure of the MPS Workplace
- » Policies and Codes of Conduct
- » Reporting and resolution options, including who to contact and how to raise a concern
- » Support information (including contact details for Workplace Support Contact Officers and the Employee Assistance Program)

Standards of conduct should also be promoted throughout MPS, for example, by:

- » Displaying posters and brochures relating to discrimination, sexual harassment and bullying on notice boards
- » Managers and supervisors sending staff emails reiterating importance of safe conduct, access to complaint mechanisms and the role of Workplace Support Contact Officers
- » Reminders during staff meetings about expectations of conduct



## Inductions

Inductions set the standard for expectations of new staff upon commencement in a new workplace. It is essential that new personnel are given the opportunity to understand how their rights are protected within MPS, avenues for addressing issues and their responsibilities to colleagues.

**Recommendation 7** is that an induction framework be implemented across MPS within 18 months. Induction should specifically address:

- » Standards of behaviour including regarding workplace discrimination, sexual harassment and bullying
- » Accessing policies and complaint and resolution processes
- » Bystander action
- » Finding Workplace Support Contact Officers
- » External options for complaints

## Exit processes

An exit process should also be implemented, including exit interviews specifically providing employees the opportunity to submit feedback on their experience of workplace culture within the MPS Workplace.

This process would provide valuable insights, enable an exiting employee to feel respected and heard, and bring attention to any issues of workplace culture that need addressing.

## Workforce training

**Recommendation 8** is that all individuals be required to undertake training. Training should occur:

- » On commencement of employment or engagement (consistent with the induction processes outlined above)
- » At least bi-annually throughout the duration of employment or engagement
- » At the time of implementation of any new substantive policies

Further, specific training should be developed for managers, supervisors and Members of Parliament, in recognition of the fact that such personnel:

- » Have been identified by Review participants as the primary source of discrimination, sexual harassment and bullying (highlighting the importance of setting behaviour expectations); and
- » May have a role in receiving a complaint or managing the outcome following completion of a complaints process (highlighting the importance of generating awareness regarding complaint and resolution options and building management skills)

Training should be undertaken in live-format and (as with inductions) specifically include:

- » Standards of behaviour, including regarding workplace discrimination, sexual harassment and bullying
- » Accessing policies and internal complaint and resolution processes
- » Bystander action
- » Identifying and contacting Workplace Support Contact Officers
- » External options for complaints

There may be some individuals who do not see the value in prioritising training. The Independent Reviewer urges them to prioritise attendance and to do so with positive anticipation.

As outlined previously, the attitude of leaders across MPS will directly affect morale and employee perceptions about commitment to change. The Independent Reviewer encourages leaders within MPS to endorse training and work to create a culture where it is accepted and viewed as crucial to creating a safe workplace.

Additionally, a strategic approach should be adopted by developing a structured and ongoing training plan for the MPS Workplace. This will help to ensure that MPS personnel remain apprised of their rights and responsibilities relating to acceptable workplace conduct within MPS.

As a feature of the implementation of **Recommendations 4 and 8**, managerial and leadership skills can be addressed through training and support of managers, and that through **Recommendations 5, 6 and 7**, they will receive the appropriate guidance to manage issues of workplace discrimination, sexual harassment and bullying effectively.

### Workplace Support Contact Officers

The Survey results indicate that managers, supervisors and Members of Parliament are a primary source of discrimination, sexual harassment and bullying in the MPS Workplace. This is likely to serve as an obstacle to reporting and raising concerns.

It is essential that staff have alternative avenues to discuss their concerns and seek information about their options for reporting or addressing those concerns.

**Recommendation 9** is that staff be appointed and trained to act as Workplace Support Contact Officers. The role of Workplace Support Contact Officers is to provide confidential peer-based support and information across all parts of the MPS Workplace to those who have experienced or witnessed discrimination, sexual harassment or bullying behaviours.

Steps to raise the profile of Workplace Support Contact Officers by publicising their names and contact details should also occur once training has been undertaken.

### Employee Assistance Program

All MPS Workplace participants should continue to be given access to free and confidential counselling through an Employee Assistance Program.

Steps should be taken to build awareness of the availability of the program and services offered through **Recommendations 7 and 8**.

## Equality and Respect Standards

Throughout the Review, significant issues relating to gender inequality emerged. These issues are both cultural and systemic.

Widespread cultural change relating to gender inequity across MPS requires a targeted approach. Our Watch offers a process via which organisations can take active steps to achieve gender equality, address sexism and discrimination on the basis of gender via the Workplace Equality and Respect Standards.

**Recommendation 10** is completion of the Standards by MPS.

The Standards offer an organisational change framework and a step by step process and set out five Standards workplaces work towards, being:

- » **Commitment** — to preventing sexual harassment and violence against women, including by having structures, strategies and policies promoting gender equality
- » **Conditions** — gender equality is embedded in processes regarding recruitment, remuneration and promotion and men and women use flexible work options
- » **Culture** — gender stereotypes are challenged, staff feel safe to raise concerns without fear of victimisation
- » **Support** — structures are in place to ensure appropriate responses to staff who experience violence, bullying and sexual harassment
- » **Core business** — work undertaken aligns with the organisational commitment to gender equality and prevention of sexual harassment and violence against women

More information regarding the Standards can be found here: [www.workplace.ourwatch.org.au/what-is-workplace-equality-respect/](http://www.workplace.ourwatch.org.au/what-is-workplace-equality-respect/)

The Independent Reviewer is of the view that the Standards offer the MPS the opportunity to address the specific concern of gender inequality, which has been evidenced throughout the Review, and to do so with the guidance of experts in the field.

**3**

# Measuring change

# Recommendation

11

At 12 months, a report of the progression of the implementation of the recommendations is to be published on the Tasmanian Parliament website homepage.

Integral to changing perceptions and promoting trust in leadership is accountability. A key theme emerging from the Review was that MPS personnel did not trust leaders to act in their best interests. This recommendation addresses this issue by requiring public reporting of the progress of the implementation of the recommendations.

# Recommendation

12

At 18 months, Ministerial and Parliamentary Services personnel are surveyed to measure:

- » Perceptions of the implementation of the recommendations arising from the Review
- » Experiences of workplace discrimination, sexual harassment and bullying since the Review
- » Changes to workplace culture
- » Improvements to employment conditions
- » Participation in training and perceptions thereof
- » View of and access to complaint and reporting processes
- » Problematic issues and perceptions that remain

Ongoing consultation with MPS employees will help to ensure that recommendations are achieving their intended purpose, or whether further and/or different steps need to be implemented.

# Recommendation

13

At 24 months, a report outlining the implemented recommendations, any subsequent survey findings (Recommendation 12), steps remaining and any adjustments needed to ensure the purpose of the recommendations is achieved, is published on the Tasmanian Parliament website homepage.

A continuous improvement approach is integral to ensure that actions take to respond to the issues identified in the Review are responsive to the needs of the workforce.

# Recommendation

14

A Ministerial and Parliamentary Services Workplace Culture Survey is to be created and administered by MPS People, Culture and Change, to all personnel on at least a bi-annual basis, with results published on the Tasmanian Parliament website.

Ongoing consultation provides the opportunity for issues to continue to be addressed. It is a proactive measure to enable MPS to be responsive to new and emerging issues and provide MPS personnel with an opportunity to have their say on an ongoing and regular basis.

# Reporting back

It may be perceived as burdensome to be required to publicly report at intervals as accepted recommendations are implemented. However, this is essential for instilling confidence in the MPS workforce that the recommendations are being prioritised and changes are occurring.

For many MPS employees, the changes that are undertaken will not be immediate and will require time to take effect.

It is therefore important to actively demonstrate the steps being taken to advance measures designed to increase workplace safety.

## Why public reporting obligations?

In addition to easily communicating with current MPS personnel, public reporting ensures that former MPS personnel who were captured by the Review are able to access information regarding the implementation of recommendations.

Noting the scope of the Review, the Independent Reviewer is of the opinion that it would benefit former MPS personnel to observe for themselves how the changes stemming from the Review are being progressed.

More broadly, the Tasmanian community has a vested interest in the progression of the recommendations and are entitled to transparency regarding their implementation. The direct link between the efficient functioning of the Tasmanian MPS Workplace and results for the Tasmanian community cannot be overlooked or understated.

The above reasons form the basis for **Recommendation 11** and **Recommendation 13** and in part, **Recommendation 14**.

## Ongoing consultation

As a best practice approach, MPS personnel should continue to be consulted throughout the implementation phase. **Recommendation 12** ensures that MPS personnel have an avenue for raising any issues or concerns, as well as positive feedback. This also facilitates responsiveness and the ability to measure perceptions proactively and take action accordingly, rather than a less efficient and reactive approach after the implementation phase should have been completed.

## Further reporting

The report to be produced at 24 months will provide an opportunity to identify any further work that needs to be done in order to continue to address the issues identified by the Review.

Improvements to workplace culture within MPS should be approached with a long-term view. The Independent Reviewer warns against complacency and stagnation following this Review and encourages an ongoing commitment to increasing workplace safety within MPS.

It is noted that, while further reviews were recommended in other jurisdictions, the Independent Reviewer does not consider it necessary make the same recommendation as part of this Review. This is because it is considered that the periodic reporting, transparency and ongoing consultation recommended in this Report positions the MPS Workplace to respond to any issues that arise throughout the implementation and adjust its approach appropriately.

Further, staff surveys will provide an opportunity for ongoing analysis and improvement and the recommendations contained within this report are designed to achieve change over time. It is envisioned that another review may be required at a later date, however not for some years. The Independent Reviewer considers that the bi-annual survey may provide guidance as to when it is appropriate that a subsequent review be undertaken and the results of such surveys may be used to formulate subsequent terms of reference for any later review.

### Bi-annual surveys

A continuous improvement approach cannot be undertaken without obtaining new and relevant data about employee experience.

**Recommendation 14** is that MPS personnel should have the opportunity to participate (anonymously) in an MPS Staff Survey, administered at least bi-annually by MPS People, Culture and Change, from which improvements can continue to be made.

The Independent Reviewer is of the view that the existing Tasmanian State Service Employee Survey may be able to be adapted for such purposes.

It is considered that the results of the bi-annual survey may act as a strong indicator as to the point in time at which there is a need for a subsequent review.

I believe that from a continuous improvement viewpoint there is scope to better foster positive workplace culture along organisational structural and development lines.

Openness, inclusiveness and consultation would be a great start.

Best practice workplace policies and procedures should include regular, safe and anonymous mechanisms for staff to provide feedback about their workplace culture, to someone within MPS but outside of their workplace unit. Regularly-scheduled opportunities to provide such feedback may allow problems to be nipped in the bud and would be much less daunting to some staff than undertaking a formal complaints procedure.



Political offices are stressful, fast-paced and demanding workplaces and are in the main, filled with dedicated, educated, highly intelligent, capable and professional staff who expect a level of, and can manage, robust engagements or conflict situations, but some behaviours often went over the top and importantly, were not called out or addressed, and were hence seen as the accepted culture and one we just had to cope with.”



## Part 2

# Issues impacting culture

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# The unique nature of the MPS Workplace

The MPS working environment is unlike most workplaces. The working environment has been described as high pressure and high intensity:

- » There is a level of unpredictability in the nature, timing and volume of work required to be undertaken (particularly when Parliament is sitting) and a requirement to respond quickly to matters arising in Parliament
- » Working hours can be long and sometimes unpredictable
- » Houses of Parliament each sit for approximately 14 to 15 weeks in every year. A sitting day can extend late into the evening or night, depending on the matters before Parliament for consideration
- » Sitting times require certain staff to remain on the premises until the House or Houses adjourn for the day to service the Chamber and support Members, officers and staff
- » Chiefs of Staff and advisors in particular work extended hours and most days of the week
- » Staff frequently perform work outside the remit of their position, including to meet the demands of the Premier's Office

I think a major push on staff wellbeing, looking after each other and a healthy work-life balance is critical to improving the workplace culture and sustainability of workloads ...

My observation is that the hours worked by members and many staff while parliament is sitting are not conducive to a safe and respectful workplace. Sitting days means a 12-hour working day, or longer, for many MPs and employees often with few breaks and under pressure. Few other workplaces would stand for such conditions ...

The above factors contribute to the prevalence of workplace discrimination, sexual harassment and/or bullying in the following ways:

- » Family responsibilities (of both men and women) are frowned upon and not accommodated
- » There is often limited regard for personal leave, family time, or other personal obligations
- » Late nights and extended working days contribute to fatigue and have a negative impact on resilience and behaviours
- » The requirement to travel with colleagues and remain in the workplace at night has led to some individuals feeling vulnerable and concerned for their safety

This constant being on alert and being available (including outside of normal working hours) is not good for wellbeing or mental health and therefore not safe ...

## Institutionalised attitudes

When I started ... I found that the majority of people had been working here for ten to forty years and they were working with the values, traditions, beliefs, interactions, behaviours and attitudes of a workplace from 1919 ...

A number of Review participants:

- » Described the attitudes of many in the MPS Workplace as 'old-fashioned' and 'archaic'
- » Observed that outdated attitudes have been allowed to persist and become self-perpetuating and 'generational'

Historical conventions persist despite advances in modern workplace policy.

This is seen as an impediment to achieving meaningful change and increasing diversity and inclusion because, put simply, many of those in positions of power or influence do not see a need for it.

Where the observation is made of low turnover in some areas, the Independent Reviewer notes that low turnover in the MPS Workplace is not necessarily reflective of good workplace culture.

It's all getting too politically correct around here ...

While rates of turnover were not specifically sought, evidence obtained throughout the Review demonstrates three reasons which may contribute to low turnover, being:

- » Favourable employment conditions and entitlements for some employees
- » Ages of employees and/or employment uncertainty outside of MPS
- » Individual career ambitions through MPS pathways

The Independent Reviewer further notes that multiple comments were made by Review participants about high turnover in particular areas within MPS, noting turnover directly related to poor workplace culture in those areas.

It is noted that the recommendations will only succeed if there is clear and visible support from leaders. This will require recognition that the changes are necessary and valuable, and consistent and visible role-modelling of behaviours of the highest standard.

While the culture has improved with more women in the Parliament, many of the deep-seated cultural views and practices continue ...

These factors also contribute to the prevalence of discrimination, sexual harassment and bullying because there appears to be a:

- » High level of tolerance for discriminatory and bullying conduct, which frequently occurs openly; and
- » Belief among some that workplace participants need to “toughen up” and be “less sensitive”

**I am aware of derogatory remarks being made by some Members of Parliament about women, gender diverse and same sex attracted individuals around the times of debate of matters directly related to these issues ...**

**When new staff are being spoken about, you often hear the phrase ‘just break them in’.**

It was noted that many workplace participants are now more attuned to human behaviour and health and wellbeing in a workplace context. This has the effect of challenging the long-held view that you ‘put up and shut up’, which has been shown to result in intrinsic harm - denying people a voice. Speaking generally (and beyond the MPS Workplace context), it is evident that individuals are more willing to speak up about psychological harm occurring within the workplace. In the view of the Independent Reviewer, this should be encouraged, welcomed and, importantly, addressed.

## Poor behaviours in the Parliamentary Chambers

**The public have an expectation that Parliament should set the standard of behaviour we expect in other workplaces ...**

The Parliament is made up of the House of Assembly (the lower house) and the Legislative Council (the upper house).

The Parliamentary Chambers are where parliamentary debate takes place.

The ‘robust’ nature of Parliamentary debate has also been attributed to negative workplace behaviours, with some Review participants describing the behaviour in the Chamber of the House of Assembly during sitting days as ‘disgraceful’ and ‘appalling’.

**Conduct in the Parliament in question time is a disgrace. Respectful interactions should be modelled at all times for the community to see and reinforce the importance of this ...**

**Matters in Parliamentary debate may inspire a highly emotional response but that does not excuse disrespectful behaviour – shouting, yelling and name calling ...**

The negative behaviours observed in Parliament are having a negative impact on public perception. It is easy to understand why many do not consider a career in politics to be attractive or sustainable.

**Current behaviour of politicians deters good knowledgeable people coming into politics.**

A number of Review participants reported that the standard of Parliamentary debate has decreased to a point where it is acceptable for Parliamentarians to personally target and insult each other.

Conduct in Parliament contributes to the prevalence of workplace discrimination, sexual harassment and bullying in the broader MPS Workplace in a range of ways.

- » Use of terms such as 'harassment' for political point-scoring undermines the experience of those who have been subject to unsafe workplace conduct. Where Members of Parliament use such terms 'loosely' or without due care, it contributes to a culture whereby allegations of harassment are not taken seriously and the term is 'thrown around' in debate
- » The role modelling of behaviours in the Chambers of Parliament undoubtedly sets the standard and tone for other parts of the MPS Workplace. Personal insults and targeting of Member of Parliament during debate leaks into the workplace and weaves its way through the interactions of other staff who work within the MPS environment

**When you see it modelled in Parliament ... I can understand why their staff think it's appropriate to behave that way as well, of course they do...**

**If a person is allowed to behave how they want when in Parliament — it will feed back into how they behave when they perform their administrative functions ...**

**Behaviors in Parliament and in Committees can be inappropriate and unwarranted. Respect and kindness is absent.**

**A spoon full of cement and toughen up.**

**People really need to have the "right fit" personalities for these types of jobs and often misjudge the requirements and time demands ...**

Some Review participants indicated that this is the “nature of the beast” and that it necessarily takes a certain kind of person to thrive in the MPS Workplace.

It was repeatedly represented to the Independent Reviewer as a statement of fact that some people are simply not cut out for such a robust working environment. However, the overwhelming sentiment expressed by Review participants was that there needs to be an understanding of and respect for the differences between productive debate and inappropriate workplace conduct.

”

It is the nature of our system of Parliament to put forward an idea to the contrary because they are on opposite sides of the House. It is built in an environment where there is heightened pressure and where it is fine to ‘have a go’ within the context of debate. However, what we see is that this then flows into natural behaviour that politicians will revert to when they are back in their offices. Being able to differentiate between a debate environment and a high stress office environment is essential ...

”

There will always be a layer of parry and thrust but it does not need to be done in a way that is acidic and vitriolic.

The Independent Reviewer is of the view that steps need to be taken to set higher standards both within and outside the Parliamentary Chambers. Standards should reflect community expectations that the conduct of elected representatives of the Tasmanian people is beyond reproach.

It is difficult to see how the conduct of Members of Parliament during Parliamentary debate would be acceptable in any other Australian workplace.

However, the Independent Reviewer observed limited optimism that this conduct is something that *could* change, even though Review participants overwhelmingly expressed the view that it *should* or *must* change. Strong and consistent leadership will be required to inspire confidence that meaningful change can be achieved.

## Leadership and Management

”

Leaders play a critical role in creating and maintaining an institutional culture where there is respect for the rights of people who work at and are part of the institution. Protection from harm and democratic values should be at the heart of the institution’s operation and the responsibility of all staff at all levels ...

There is a recognition that standards are set from the top, including by the Clerks, Members of Parliament and Chiefs of Staff. It therefore follows that staff working with inclusive and respectful leaders are more likely to have positive perceptions of the workplace culture.

However, the experience of many Review participants has been that:

- » Management practices are often not consultative
- » Poor behaviours are frequently role modelled by leaders and then mirrored by others lower down in the organisation

**I experienced management practices that were authoritarian, rather than consultative or collaborative. Workplace knowledge and professional opinion were devalued. Dissent, or attempting to support another colleague, were stifled ...**

Rather than managing inappropriate conduct, effort is expended in teaching and encouraging staff to “manage” or “learn to live with” difficult personalities.

**I used to believe that people in positions of power had a duty of care to their employees and would lead by example. Nothing could be further from the truth in the Parliament of Tasmania ...**

This may be a product of the fact that those in positions of management or leadership are often appointed in recognition of their political skills and do not always have skills or experience in people management.

One Review participant observed that in other spheres, leaders are chosen on the basis of how they lead, manage and support people, but this is not part of how a Member of Parliament or Chief of Staff is selected.

As a result, individuals appointed to those roles do not necessarily have managerial skills. Further, those individuals are not given the systems, training or support to enable them to develop those skills.

**Managers do not necessarily have the suite of management skills that would be expected of a person appointed as a Manager.**

The lack of people management skills has a direct impact on staff confidence in the administration of proper process, the ability to have grievances dealt with and perceptions of fairness and capability.

**I felt supported by my supervisor who did whatever they could to deal with the bullying situation, but they themselves seem to lack training to handle the situation.**

## Accountability and preparedness to take action

There is no practical management of, or accountability for, inappropriate member behaviour ... Reported incidents including bullying, excessive alcohol consumption and other inappropriate behaviour is supported and covered up by the institution. At best, the result may be a quiet conversation to massage an outcome ...

Excuses are often made for inappropriate conduct – like ‘you know what he’s like ... we can’t change him...’ or ‘he’s under pressure at the moment ...

A culture of minimising, normalising and keeping quiet instances of unacceptable behaviour.

While reporting is low, inappropriate and harmful behaviour is known to occur and is often not managed or is managed in a manner that is informal and sometimes ineffective.

There has been a lack of a formal process and thus poor behaviours have been allowed to continue unchallenged ...

There is also a strong perception among Review participants that there is a lack of preparedness to take action against individuals who behave inappropriately but who are seen as being of “high value”, either politically or in terms of their benefit to the Member of Parliament or other person they serve.

Some Review participants expressed a strong reluctance to complain about Chiefs of Staff in particular. Their perception is that the relationship between Chiefs of Staff and their Minister gives rise to a perceived conflict of interest that does not in every case, facilitate fair outcomes.

Accountability is a defining feature of morale within workplaces. This is particularly relevant as it relates to senior staff, whose decisions directly impact workers.

Where employees observe that accountability and repercussions are not imposed on those who engage in wrongdoing, this has a direct and distinct impact on employee perceptions of leadership.

The Independent Reviewer notes the perception that people who hold sensitive information also hold power, including that they are essentially immune from performance and conduct management lest it result in information being ‘leaked’. This protection is seen as the privileging of power-holders at all costs. It results in an environment where it is known that if a person holds sensitive information, they are protected from consequences and are not going to be answerable for their conduct.



”  
They can't sack people [who know too much] ... they just move them around.

Some individuals repeatedly engage in the same behaviours because they know that there will be no consequences for engaging in that behaviour, or because they have been moved to another area and left to their own devices. In particular, one Review participant reported that they were not concerned about sanctions even after a complaint was made about them, as they had seen other staff behave worse than them and that conduct went unaddressed.

”  
I have never seen anyone sanctioned for bad behaviour ... they might get shuffled from office to office, they might get a slap on the wrist, a demotion for 6 months or moved sideways ...

”  
I'm not worried about [a complaint about me] impacting my career. I've seen people behave in a far worse manner and nothing happens to them ...”

”  
Sacking people who behave badly may result in the issue being made into an political/media issue rather than an employee disciplinary issue – so people are simply moved around ...

”  
The person involved is a serial offender. Even when they are pulled up on it, they do not change their behaviour or feel remorse. They know they can get away with it if they apologise ...

It appears that a common approach where complaints are made is to transfer one or both of the individuals concerned. This does not do anything to address the behaviour, set standards, nor make a person accountable. This type of approach appears to be driven by politics, rather than internal processes.

”  
I have witnessed brilliant advisers who provide real value, leave a role and office because of the behaviours they were subject to. There is no mechanism of address and across Ministerial, there is no faith in complainants being treated fairly or professionally and it is widely accepted that those that rock the boat, will be thrown out.

## Politics and power

Some people in positions of power and authority act with such self-entitlement and lack of self-awareness that it is breathtaking ...

The MPS Workplace is inherently political and characterised by power and hierarchy. The political dimension contributes to negative perceptions of the MPS Workplace in a range of ways.

Political divisions and power imbalances drive negative behaviours or allow those behaviours to go unchecked.

The whole system is designed around power imbalances, which leads to bullying and disrespectful behaviours ...

There is a heightened concern about the presence of 'bad faith' or politically motivated actions, which undermines the integrity of the complaints process.

Information has the potential to be weaponised and faith in confidentiality is lacking ...

This prevents people from coming forward to formalise concerns. It also contributes to a culture where those who engage in the behaviour are often 'protected' to avoid the risk of negative public perceptions or that the matter will be used for political point scoring.

So you end up with a political problem — and it does become 'this party made a complaint against that party' (rather than it being about the individual's conduct) ...

Those witnessing or experiencing harmful workplace behaviour are fearful that speaking up will be personally damaging. The reasons for this being the likelihood of intense media scrutiny and a fear that the issue will be politicised.

There is a direct link between the risk of negative media perceptions and a person's willingness to complain, particularly within parties where there is party loyalty. If a person makes a complaint and the information is provided to the media there is the risk of the party being accused of being in 'turmoil' and the complainant being blamed for any negative media attention.

It's a workplace that is inherently designed around power imbalance and also around a loyalty to Members of Parliament or a party — so that there's an understanding that if you rock the boat, that's politically damaging ...

This is compounded by the uncertain nature of the tenure of many working within MPS, and perpetuated by the language used in the formal instruments of appointment. For example, the Instrument of Appointment by the exercise of Crown Prerogative states that appointments will continue "*at the pleasure of the Premier*" and will be subject to the "*direction and control*" of the Chief of Staff or relevant Member.

The Independent Reviewer believes that this aspect of the MPS Workplace culture is likely to be the most resistant to change. Strong and consistent systems and leadership will be critical to ensuring that all staff feel safe and supported within the political environment that exists in the MPS Workplace and throughout the implementation of accepted recommendations.

## Awareness of rights and obligations

Leaders should maintain a culture where people can speak freely, are informed and concerns are treated seriously and acted on ...

There exists a lack of awareness and knowledge surrounding acceptable workplace behaviours and mechanisms for reporting complaints in the MPS Workplace.

Research shows that educating workplace participants about discrimination, sexual harassment and bullying and encouraging early intervention (including by those who witness the behaviours) can assist greatly in developing a collective understanding of the expected standards of conduct and reducing harmful behaviours.

The Review findings in relation to these matters are explored in the following sections.

# Discrimination

## What is workplace discrimination?

The Tasmanian Anti-Discrimination Act makes it unlawful to:

- » Treat a person with a prescribed attribute less favourably than a person without that attribute (**direct discrimination**)<sup>15</sup>
- » Impose an unreasonable condition, requirement or practice which has the effect of disadvantaging a member of a group of people who share a prescribed attribute more than a person who is not a member of that group (**indirect discrimination**)<sup>16</sup>
- » Engage in conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of a prescribed attribute or characteristic (**prohibited conduct**)<sup>17</sup>
- » Subject, or threaten to subject, another person to any detriment because that person has made a complaint or been involved in a complaints process (**victimisation**)<sup>18</sup>

It is unlawful to discriminate against a person in a number of areas, including employment (paid or voluntary).

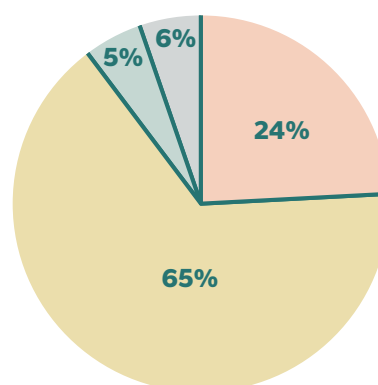
Survey participants<sup>19</sup> were asked to identify whether they had experienced discrimination in the MPS Workplace.

Prescribed attributes are set out in section 16 of the Anti-Discrimination Act. See the **22 attributes of discrimination** on the following page.

“If the Tasmanian Parliament intends to accurately reflect the society we purport to represent then there needs to be provision for the growing number of parents of young children who engage in politics. Without action to change the culture the consequence could be that an entire demographic feel excluded from participating ...

## The Survey: What did we learn?

Approximately a quarter (24%) of respondents stated that they had experienced discrimination in the MPS Workplace.



### Experience of workplace discrimination

- Yes (24%)
- No (65%)
- Don't know (5%)
- Prefer not to say (6%)

<sup>15</sup> Anti-Discrimination Act 1998 (Tas) s 14.

<sup>16</sup> Anti-Discrimination Act 1998 (Tas) s 15.

<sup>17</sup> Anti-Discrimination Act 1998 (Tas) ss 17(1).

<sup>18</sup> Anti-Discrimination Act 1998 (Tas) s 18.

<sup>19</sup> Where Survey participants were able to make multiple selections in response to particular questions, the number will not add up to 100%.

# The 22 attributes of discrimination



**Race**



**Age**



**Sexual orientation**



**Lawful sexual activity**



**Gender**



**Gender identity**



**Intersex variations of sex characteristics**



**Marital status**



**Relationship status**



**Pregnancy**



**Breastfeeding**



**Parental status**



**Family responsibilities**



**Disability**



**Industrial activity**



**Political belief or affiliation**



**Political activity**



**Religious belief or affiliation**



**Religious activity**



**Irrelevant criminal record**



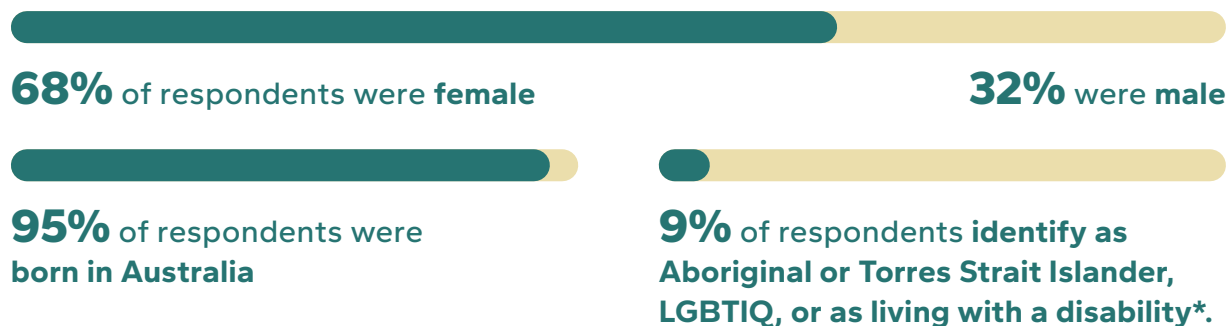
**Irrelevant medical record**



**Association with a person who has or is believed to have any of the other attributes**

## Who participated?

The Independent Reviewer considers that these figures may be generally reflective of the relative lack of diversity in the MPS Workplace, noting that Survey respondents identified as:



*\*This low representation of specific demographic groups has led to the combination of percentage rates in order to protect participant confidentiality.*

The Independent Reviewer has not seen any evidence to indicate that there is a diversity and inclusion plan for the broader MPS Workplace.

## What does discrimination look like in the MPS Workplace?

Approximately half of all discrimination (48%) was reported as having occurred within the last 12 months, indicating that this may be a current (rather than historical) issue.

Some of my colleagues have been targeted for taking 'too much' personal leave and continually and unreasonably questioned each time they have needed to take leave to care for sick children, isolate due to COVID-19 restrictions or take leave due to personal reasons ...

Of those who experienced discrimination, a range of types were reported, with the most common being because of:

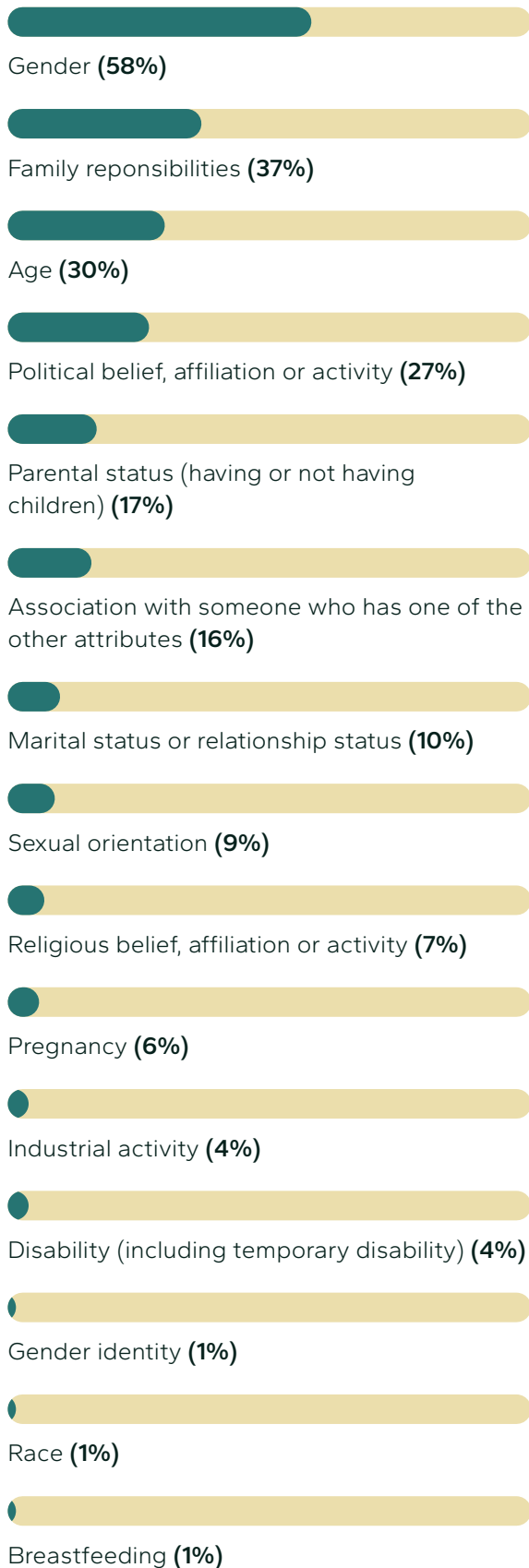
- » Gender
- » Family responsibilities
- » Age
- » Political beliefs or affiliations

Females reported a greater incidence of discrimination than males in because of:

- » Gender
- » Family responsibilities
- » Pregnancy
- » Breastfeeding
- » Parental status
- » Age
- » Marital status

These results appear consistent with the Independent Reviewer's observation that many Review participants have reported the workplace culture to be characterised by archaic attitudes, where family responsibilities are frowned upon and not accommodated.

## Discrimination type (% of cases)



Despite professional competencies the expectation of the role of women appear to be regarded as simply administrative, the opportunity to operate to their full professional potential is suppressed ...

When the first female Deputy Clerk was appointed to that position one of the senior Members said 'oh that's no place for a woman' ...

These results may also be reflective of the fact that:

- » It can be difficult for parents or those with family responsibilities to fully participate in the activities of Parliament, due to irregular and extended working hours; and
- » It is still the case that those family responsibilities more frequently fall to women than to men

The irregular and late hours of Parliamentary sittings prevents parents with young children from relying on traditional child care options. This can create difficulty when arranging care for young children that enables the full participation of the elected Member in their official duties ...

These factors demonstrate that the current schedule for sitting days presents a clear inhibitor to workplace participation. The Independent Reviewer notes that consideration should be given to an increase in Parliamentary sitting days, to offset the extreme working conditions that arise from the limited opportunity to engage in Parliamentary debate. This may also have the effect of creating better work/life balance, not just for employees who have family responsibilities, but all employees who are affected by the limited number of sitting days currently in place.

The Independent Reviewer therefore encourages the Parliament to consider the frequency and

duration of sitting days and whether the current approach can be reformed to improve working conditions by:

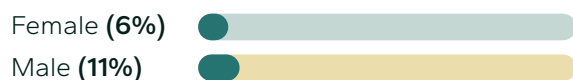
- » Being more family friendly
- » Providing better work/life balance
- » Reducing the risk of psychosocial harm
- » Aligning working hours to be closer to current workplace expectations

Other Review participants reported high degrees of sexism, including examples of sexist comments being made and males being put forward for opportunities ahead of their often more experienced female colleagues.

## Discrimination types by gender

Survey participants were asked to identify the types of discrimination they had experienced within the MPS Workplace. It is clear that both females and males experience gender and family responsibilities discrimination.

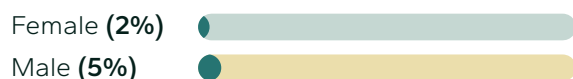
### Religious belief, affiliation or activity



### Political belief, affiliation or activity



### Industrial activity



### Disability (including temporary disability)



### Family responsibilities



### Parental status (having or not having children)



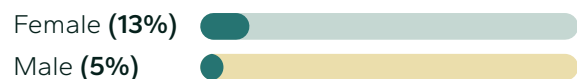
### Breastfeeding



### Pregnancy



### Marital status or relationship status



### Gender



### Sexual orientation



### Age



### Association with someone who has one of the other attributes





“I know you would be better, but I didn’t want to upset him — he’s a good bloke ...”

Males reported a greater incidence of discrimination than females in relation to:

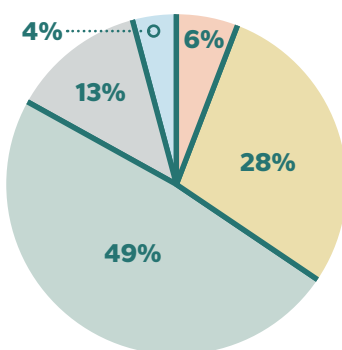
- » Political belief or affiliation
- » Religious belief or affiliation
- » Industrial activity
- » Sexual orientation
- » Association with someone who had any of the attributes described

While there were differences in the type of discrimination experienced by different genders, no significant differences emerged in relation to the incidence or frequency of discrimination being experienced by men and women.

However, survey responses indicated that those identifying as LGBTIQ may have experienced higher rates of discrimination.

Where discrimination has occurred, it appears to have usually been repeated, with 77% of respondents indicating that the discrimination occurred numerous times.

### Frequency of discrimination



- Once (6%)
- More than once, but less than 5 times (28%)
- More than 5 times (49%)
- Don't know (13%)
- Prefer not to say (4%)

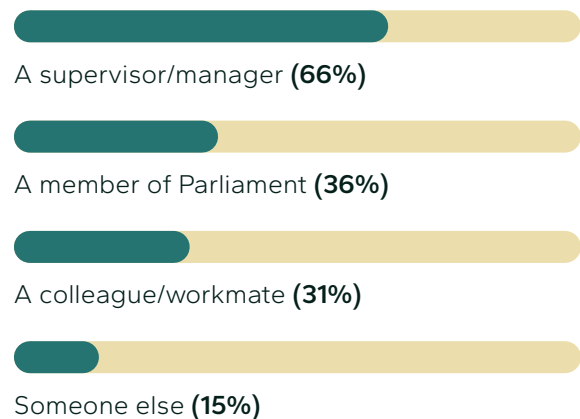
## Who is engaging in discrimination?

As with sexual harassment and bullying, the results of the Survey indicate that discrimination is predominately carried out by:

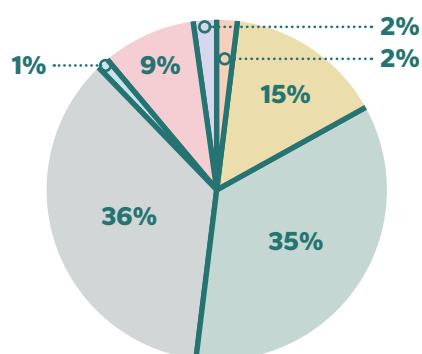
- » More senior personnel, including supervisors and managers
- » Members of Parliament
- » Those aged between 40 and 64

15% of respondents indicated that 'someone else' had engaged in the conduct and this was reported to include a staff member of the Premier's office or a Member of Parliament and a Chief of Staff and their staff.

### Who discriminated?



## Age of (most recent) perpetrator



- 18–29 years (2%)
- 30–39 years (15%)
- 40–49 years (35%)
- 50–64 years (36%)
- 65 years or older (1%)
- Don't know (9%)
- Prefer not to say (2%)

More males experienced discrimination by a supervisor or manager than females (74% compared to 59%), while more females experienced discrimination by a Member of Parliament than males (39% compared to 26%).

## Gender of affected person by gender of perpetrator

Both males and females were reported to have engaged in discrimination.

### Male — affected person



Female — perpetrator (67%)



Male — perpetrator (44%)

### Female — affected person



Female — perpetrator (58%)



Male — perpetrator (63%)

## Where is discrimination occurring?

Parliament House (but not in the Parliamentary Chamber/s) was the most common place to experience discrimination, followed by:

- » A Minister's office in Parliament House
- » A work-related event
- » Somewhere else (reported to include in a Minister's office outside of Parliament House, in the Executive Building, and on the Parliament House lawns)
- » In the Legislative Council or House of Assembly Chamber

## Location of discrimination



In the Parliament House (but not in the Chamber) (49%)



In a Minister's office in Parliament House (22%)



At a work-related event or celebration (19%)



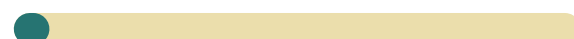
Somewhere else (19%)



The electorate office of a Member of Parliament (16%)



In the Legislative Council or House of Assembly Chamber (13%)



Prefer not to say (5%)

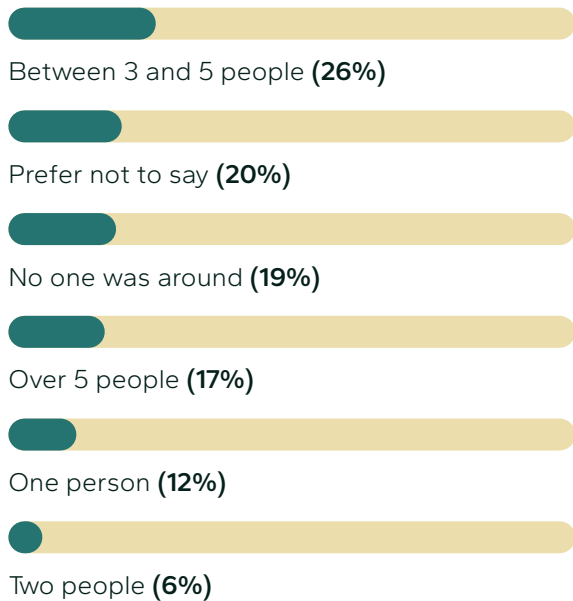


While travelling for work (5%)

Discrimination was witnessed by others in 61% of recent cases, indicating that the conduct is occurring openly.

Despite this, 83% of respondents indicated that no one intervened, indicating an element of bystander intervention should be included in all future training for MPS personnel about addressing unsafe workplace conduct.

### Number witnessing (most recent) discrimination



I think actually this is about attitude towards women – it's about treating them as equals in the workplace ...

While working in the MPS workplace I experienced no training related to acceptable workplace conduct. It would be helpful for all staff to receive such training in the hope that it would improve the way people behaved.

## Employee experiences

Review participants reported:

- » Negative comments being made about staff who decide to have children (particularly women)
- » Little or no adjustments made for people with disability and the perception that they are difficult to employ
- » Regularly overhearing demeaning comments about the appearance of women
- » In response to a report of gender discrimination, "it's just the way things are around here"
- » A manager making comments about picturing people naked
- » Being made to feel that work should come before children
- » Managers drawing correlations between caring for sick children and a lack of interest in that person's position at work

Experiences such as the above contribute to fragmentation of the workplace, a defensive culture and emotional repercussions for staff. Discriminatory behaviour and attitudes are unacceptable in workplaces and should rightly be called out and addressed.

Steps to mitigate risk of discriminatory behaviour (as well as sexual harassment and bullying) include:

- » Setting clear expectations regarding standards of workplace conduct, including:
  - Making new employees aware that such conduct is unacceptable within the MPS Workplace
  - Existing employees receiving information and training about their rights and responsibilities
- » Effective systems and processes in place to address workplace discrimination, sexual harassment and bullying

Dealing with discrimination requires a structured and long term approach and the implementation of recommendations contained within this Report will ensure that proactive steps are taken to reduce discrimination and reinforce contemporary expectations of inclusive conduct.

# Sexual harassment

## What is workplace sexual harassment?

The Tasmanian Anti-Discrimination Act makes it unlawful to sexually harass another person.

Sexual harassment takes place if a person:

- » subjects another person to an unsolicited act of physical contact of a sexual nature; or
- » makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or
- » makes an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or
- » makes any unwelcome gesture, action or comment of a sexual nature; or
- » engages in conduct of a sexual nature in relation to another person that is offensive to that person –

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.<sup>20</sup>

It is unlawful to sexually harass a person in a number of areas, including employment (paid or voluntary).

Survey participants were asked to identify whether they had experienced sexual harassment in the MPS Workplace.

I was warned about sexist behaviours. I made a rule for myself never to put myself in risky situations ...

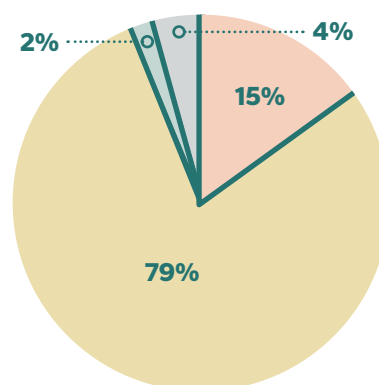
[He] was well-known for staring, leering and inappropriate comments. When I first met him, he gave me the 'up and down' leer and said 'you look like one of those girls who looks after herself'.

## The Survey: What did we learn?

Overall, 15% of Survey respondents experienced sexual harassment, while 4% preferred not to say.

### Experiences of sexual harassment

- Yes (15%)
- Don't know (2%)
- No (79%)
- Prefer not to say (4%)



<sup>20</sup> Anti-Discrimination Act 1998 (Tas) ss 17(3).

The Independent Reviewer notes that even though the proportion of females in the MPS Workplace is significantly higher than the proportion of males (68% compared to 32%):

- » Females were significantly more likely to experience sexual harassment; and
- » Males were more likely to be the perpetrators of sexual harassment

The demographics of the workplace may therefore be a factor in the relatively low rates of sexual harassment reported.

## What does sexual harassment look like in the MPS Workplace?

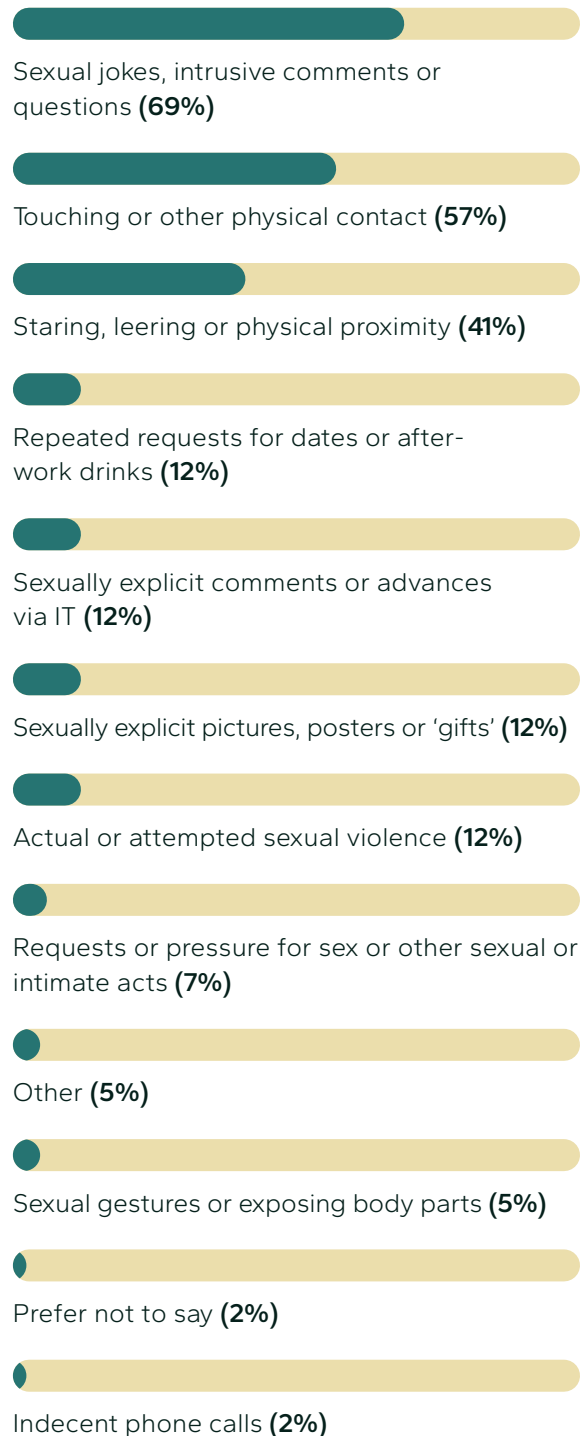
Of those who experienced sexual harassment, a range of behaviours were reported, with the most common being:

- » Sexual jokes, intrusive comments, or suggestions
- » Touching or other physical contact
- » Staring, leering or physical proximity

Male staff members would frequently lean over too closely to her, lean over her desk, stand too close, stare at her chest, check her up and down ... I felt creeped out by it and it wasn't even happening to me ...

[I was] handed a device with an issue to fix by a former Member of Parliament, there was pornography on the screen.

## Sexual harassment types (% of cases)



Although reported at lower rates, the other types of conduct experienced are of concern, including:

- » Actual or attempted sexual violence
- » Requests or pressure for sex or other sexual or intimate acts
- » Sexual gestures or exposing body parts

Actual or attempted sexual violence is incredibly serious and must be addressed as a matter of priority. The Independent Reviewer reiterates the importance of the visibility of leaders setting standards of conduct and specifically addressing issues, ensuring that MPS employees are aware of their rights to contact Tasmania Police in the event of criminal action.

Only females experienced requests or pressure for sex, repeated requests for a date, sexually explicit comments via online platforms, sexual gestures, exposing body parts and indecent phone calls.

**I just want to walk behind you so I can enjoy the view...**

**I have sadly heard comments from Members, including some older female Members, excusing sexist behaviour and claims of sexual assault or abuse.**

**A party member touched me inappropriately and tried to follow me to my hotel room.**

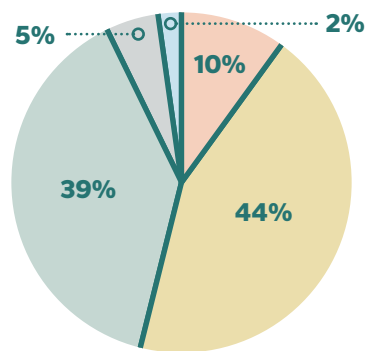
The Independent Reviewer also observes that those who identified as LGBTIQ experienced higher rates of:

- » Sexual jokes or intrusive comment, staring, leering or close physical contact and touching
- » Actual or attempted sexual violence or requests or pressure for sex

Of those who experienced sexual harassment:

- » 83% had experienced sexual harassment more than once
- » 63% indicated that the sexual harassment occurred over a period of time

### Frequency of sexual harassment



- Once (10%)
- More than once but less than 5 times (44%)
- More than 5 times (39%)
- Don't know (5%)
- Prefer not to say (2%)

This indicates that rather than being a one off or singular incident, sexual harassment tends to occur on numerous or repeated occasions.

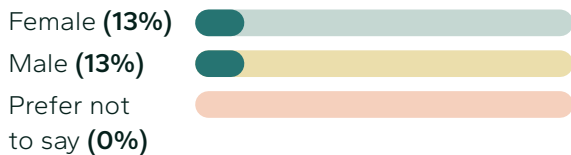
In over half of all cases (56%) sexual harassment occurred over 12 months ago. However, the Survey results indicate that incidents of sexual harassment are still occurring, with 22% of cases having occurred within the last 12 months and 15% within the last six months.

## Sexual harassment types by gender

Survey participants were asked to identify the types of sexual harassment they had experienced within the MPS Workplace.

It is clear that both females and males experience sexual jokes and intrusive comments or questions, as well as touching or other physical contact.

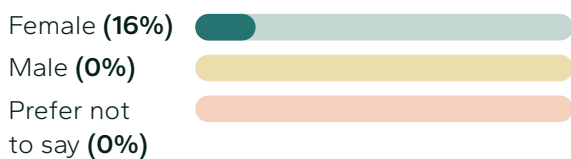
### Actual or attempted sexual violence



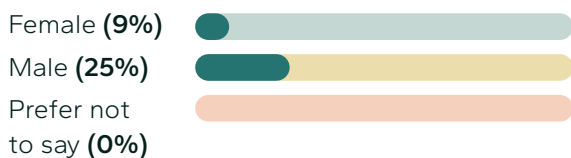
### Requests or pressure for sex or other sexual or intimate acts



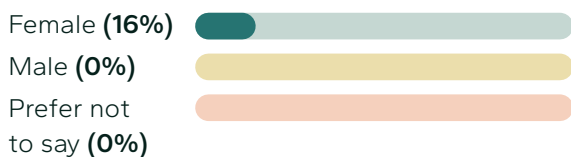
### Repeated requests for dates or after-work drinks



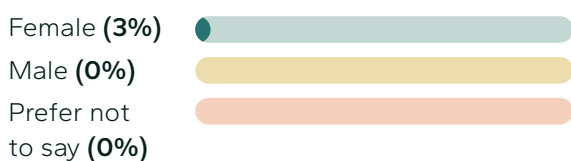
### Sexually explicit pictures, posters or 'gifts'



### Sexually explicit comments via IT



### Indecent phone calls



### Sexual jokes, intrusive comments or questions



### Sexual gestures or exposing body parts



### Staring, leering or physical proximity



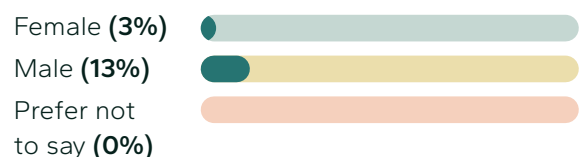
### Touching or other physical contact



### Prefer not to say



### Other



## Who is engaging in sexual harassment?

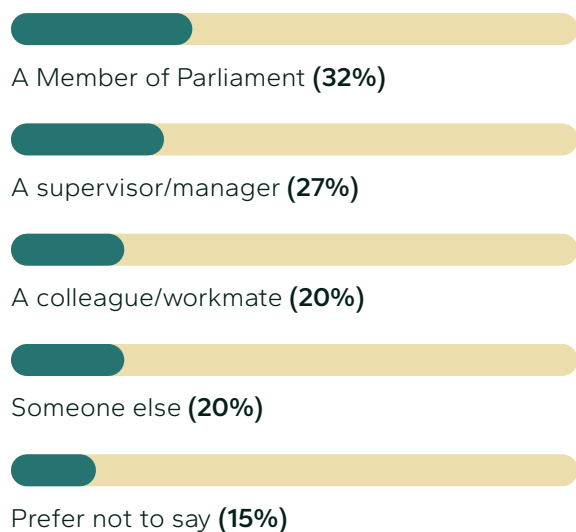
As with bullying and discrimination, the results of the Survey indicate that sexual harassment is predominately carried out by:

- » Members of Parliament
- » More senior personnel, including supervisors and managers
- » Those aged between 40 and 64

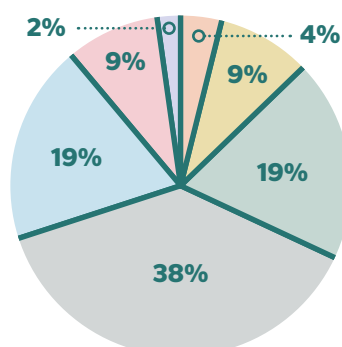
Twenty percent of respondents indicated that 'someone else' had engaged in the conduct and this was reported to include a staff member of a Member of Parliament, a former Member of Parliament, a Security Officer and a Head of Agency.

In 86% of cases a male was identified as being the perpetrator of sexual harassment.

### Who sexually harassed?



### Age of (most recent) perpetrator



- 18–29 years (4%)
- 30–39 years (9%)
- 40–49 years (19%)
- 50–64 years (38%)
- 65 years or older (19%)
- Don't know (9%)
- Prefer not to say (2%)

There has been open discussion from staff criticising victims of such harassment, normalising the culture of unwanted sexual attention from men as 'boys will be boys'.

I have been touched without my consent by a former MP. I have had MPs and staff openly staring at my breasts, many times. I have had former staff and MPs regularly making jokes about my physical appearance and my relationship status. Several times I had men in Parliament House compliment me on what I was wearing 'showing off my assets.'

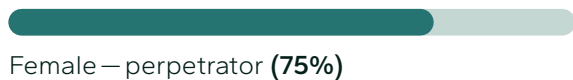


All females who reported experiencing sexual harassment indicated that they were sexually harassed by males exclusively, as were those who preferred not to specify their gender.

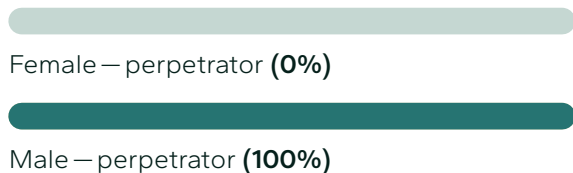
Males who reported experiencing sexual harassment identified both male and female perpetrators.

## Gender of affected person by gender of perpetrator

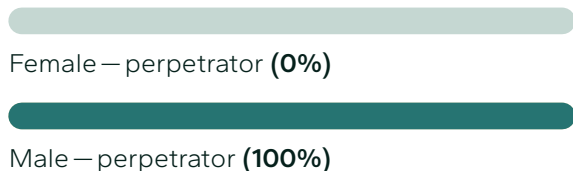
### Male — affected person



### Female — affected person



### Prefer not to say

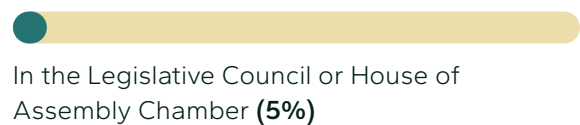
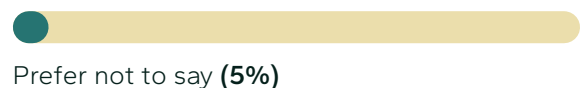
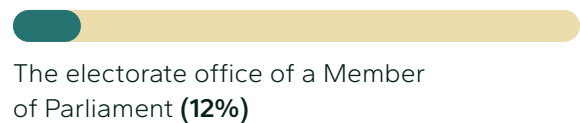
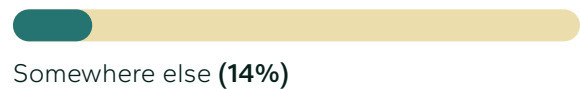
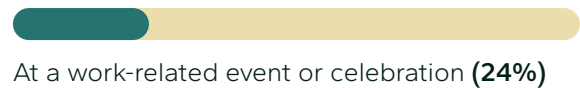
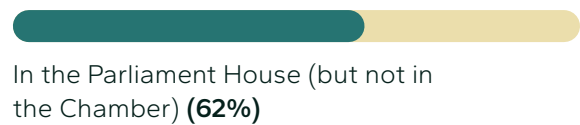


## Where is sexual harassment occurring?

Parliament House (but not in the Parliamentary Chamber/s) was the most common place to experience discrimination, followed by:

- » A work-related event
- » Somewhere else (reported to include in a Minister's house, in a committee room, in a car, outside office premises and office hours and during day-to-day office-based activities)

## Location of sexual harassment



Sexual harassment was witnessed by others in 51% of recent cases, with the types of conduct commonly being observed including sexual jokes, inappropriate comments, starting or leering.

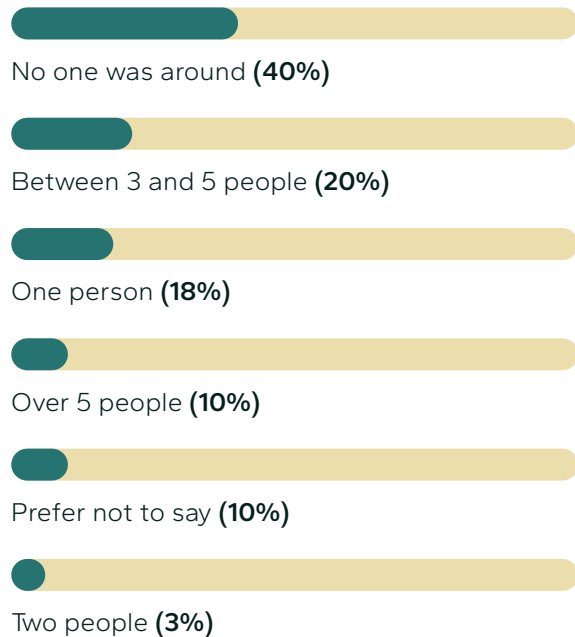
Despite this, 83% of respondents indicated that no one intervened. As with discrimination, this is incredibly concerning.

In 40% of cases, no one else observed the conduct. The types of conduct that was reported in these cases included:

- » Touching or other physical contact
- » Repeated requests for dates
- » Exposing the victim to sexually explicit pictures
- » Actual or attempted sexual violence

This suggests that some of the more serious forms of sexual harassment may tend to be carried out in private or concealed – whereas conduct in the nature of inappropriate comments or “jokes” is undertaken more openly and is perhaps more readily accepted.

### Number witnessing (most recent) sexual harassment



## Employee experiences

Review participants reported:

- » There is commonplace sexualised touching of female employees, running hands over their shoulders and placing hands on their knees
- » Employees are shown pornography on mobile devices
- » Female employees take measures to avoid sexual harassers by avoiding certain areas at particular times and taking alternative routes
- » Male Members of Parliament were reported to share sexist texts and emails
- » Comments are made about breasts, bottoms and enhancing women's 'assets'

It is essential that all sexual harassment is addressed, even in circumstances where the conduct may be perceived as less serious than other types of conduct. Where casual sexual harassment is permissible, this directly contributes to a culture where there is the opportunity for more serious sexual harassment to occur.

The Independent Reviewer notes multiple allegations of sexual assault were made throughout the survey and submissions.

The information received by the Independent Reviewer set out that:

- » Sexual harassment (which went unaddressed) culminated in sexual assault
- » The most serious of sexual assaults were alleged
- » Some references were made to sexual assault without further details provided
- » Escalating sexual harassment has been reported internally, to no avail
- » Other employees run interference to keep victims safe from further assault and harassment (this was alleged more than once)
- » Open discussions occur which are critical of victim-survivors
- » Affects on employees subjected to behaviours constituting sexual assault and sexual harassment have been profound and life-changing, with one sexual-assault victim-survivor saying they would 'never be the same'

The Independent Reviewer emphasises the unlawful and criminal nature of the alleged sexual assaults.

It is also noted that, while some types of sexually harassing conduct is not necessarily viewed as harmful and is considered 'banter', the effects on staff wellbeing have the potential to be significant. For example, where a person who has experienced sexual abuse is exposed to a 'joke' the minimisation of such conduct may have profound effects.

# Bullying

## What is workplace bullying?

The Tasmanian Work, Health and Safety Act requires individual workers and others in the workplace to:

- » Take reasonable care for their own health and safety
- » Take reasonable care that their acts and omissions do not adversely affect the health and safety of others

Workplace bullying occurs when repeated and unreasonable behaviour is directed at a worker or a group of workers which creates a risk to health and safety.

- » Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time. A single incident of unreasonable behaviour is not workplace bullying. However, it may be repeated, or escalate, so should not be ignored
- » Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable. It includes behaviour that victimises, humiliates, intimidates or threatens someone

Examples of behaviour — whether intentional or no — that may be workplace bullying if they are repeated, unreasonable and create a risk to WHS include:

- » Abusive, insulting or offensive language or comments
- » Unjustified criticism or complaints
- » Deliberately excluding someone from workplace activities
- » Withholding information that is vital for effective work performance
- » Setting unreasonable timelines or constantly changing deadlines
- » Spreading misinformation or malicious rumours<sup>21</sup>

Survey participants were asked to identify whether they had experienced bullying in the MPS Workplace.

”  
**There is a lot to be said of the importance of the cut and thrust of Parliament — it is democracy at work. But we need robust debate — not bullying, threatening behaviour.**

<sup>21</sup> 'What is bullying?' *WorkSafe Tasmania* (Web Page, 2022) <<https://worksafe.tas.gov.au/topics/Health-and-Safety/health-and-wellbeing/wellbeing-a-z/bullying/what-is-bullying>>.

# The Survey: What did we learn?

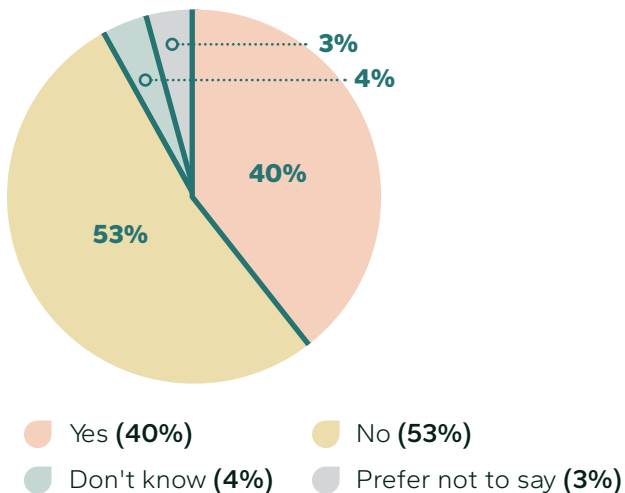
The sentiment almost universally expressed by Review participants was that Parliament is (and should be) a place of contested ideas, but that bullying and intimidation should not be a feature of this.

The following observations were made by multiple Review participants:

- » Conduct in Parliament itself (particularly during Question Time) frequently extends beyond 'robust debate' and would not be tolerated in any other workplace
- » These behaviours, when modelled by Members of Parliament, flow through to other parts of the MPS Workplace.

These observations are also reflected in the Survey, which found that bullying was the most common form of inappropriate conduct in the MPS Workplace, experienced by 40% of Survey respondents.

## Experiences of bullying



It is accepted and condoned and is considered by staff to be a condition of working in Ministerial.

Poor behaviour flows into other areas of the workplace and sends a bad message to the public.

People shout and scream — even throw things at each other ...

It makes the workplace frightening and unpleasant. People are not just stressed about work, they are stressed about coming to work.

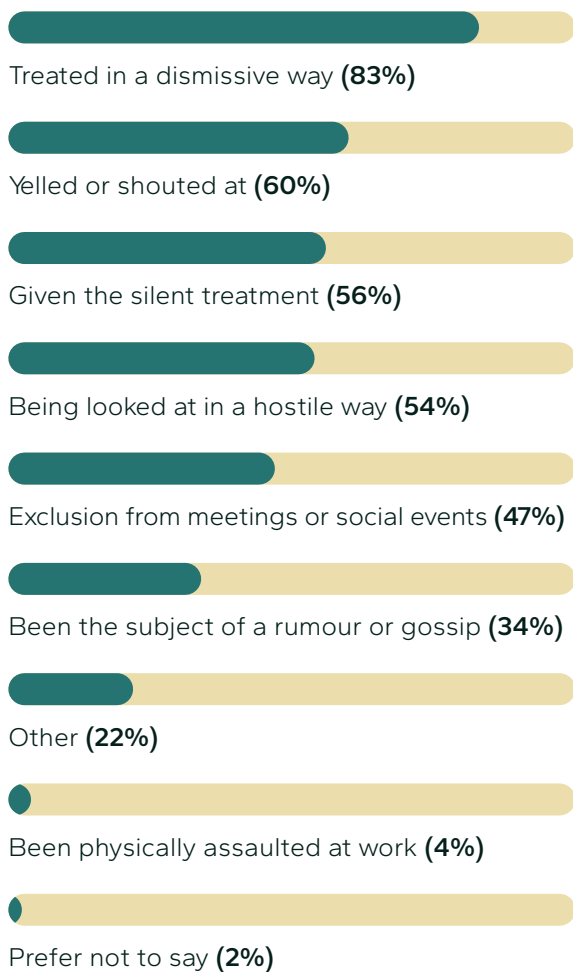
I, and all who worked in our office were subject to hostile and bullying behaviours including yelling, abuse and public humiliation. This behaviour has been reported to Chiefs of Staff and to the PO [Premier's Office] and nothing has ever occurred to address the behaviour ... It is accepted and is considered to be a 'condition' of working in Ministerial [offices].

## What does bullying look like in the MPS Workplace?

A broad range of bullying behaviours were indicated in the Survey, with the most common forms being:

- » Treated in a dismissive way
- » Yelled or shouted at
- » Given the silent treatment
- » Looked at in a hostile way

### Types of bullying (% of cases)



He became very angry, tore up the document, screwed it up and aggressively threw it in the bin ...

A range of bullying behaviours were also reflected in the submissions received by the Independent Reviewer, with multiple participants reporting:

- » Yelling and abusive language
- » Personal 'put downs'
- » Open hostility, including disrespectful conduct and body language, eye rolling, audible sighing, and condescending language
- » Receiving rude and disrespectful emails, sometimes about other people
- » Authoritarian management styles, including micromanagement

Being excluded from meetings or social events was also reported as a common form of bullying, with multiple Review participants referencing:

- » A 'boys club' mentality
- » Differential treatment based on who is favoured by those in positions of power

A very strong bond was evident among the men in the Chamber. They would back each other up and facilitate, condone and perpetuate behaviours that nurtured the boys club mentality. It was evident that if one sought to disrupt this, you would be further excluded ...

There is a feeling of favouritism in the building. Some people get meal allowances, some get uniforms, some get car parks. There is no hard and fast rule for everyone it appears to be based on who is liked. We are also made to feel our entitlements are a gift and a privilege that can be revoked at any time.

It also appears that there is an absence of positive initiatives to improve workplace culture in the MPS Workplace and limited opportunities for staff to come together in team building activities. Social activities are often by 'invitation only' and frequently involve the use and misuse of alcohol.

Without regular staff meetings or opportunities for sharing workplace information, team spirit evaporated, leaving staff feeling disengaged, isolated and at times excluded ...

Except for yelling and shouting, many of the forms of bullying being experienced appear to be more subtle in nature, which may:

- » Make it more difficult for those experiencing the treatment to identify or report the behaviours
- » Contribute to a trivialisation of those matters, meaning that they are not reported, taken seriously or adequately addressed

No gender differences emerged in relation to the incidence, frequency or type of bullying being experienced. However, the Survey indicates that:

- » Those identifying as LGBTIQ may have experienced higher rates of bullying
- » Women were identified as the perpetrators of bullying more frequently than men

I have witnessed bullying and seen it ignored for a long time ...

### Bullying types by gender

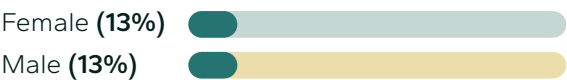
Survey participants were asked to identify the types of bullying they had experienced within the MPS Workplace.

It is clear that both females and males experience a range of bullying behaviours.

#### Being looked at in a hostile way (staring/dirty looks)



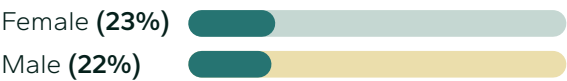
#### Exclusion from meetings or social events



#### Given the silent treatment



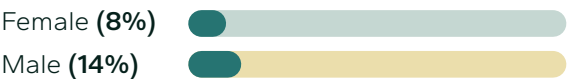
#### Treated in a dismissive way



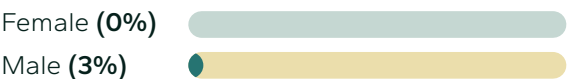
#### Yelled or shouted at



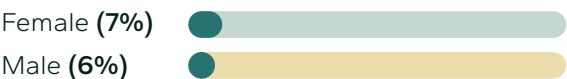
#### Been the subject of a rumour or gossip



#### Been physically assaulted at work



#### Other

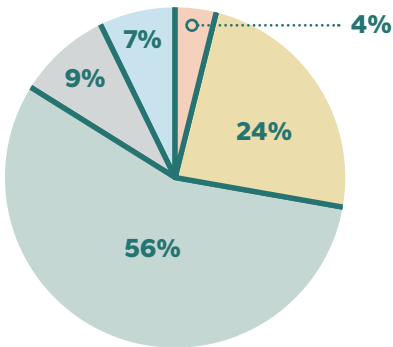


#### Prefer not to say



It appears clear that bullying is rarely a one-off event and occurs on a frequent basis, with 56% of Survey respondents stating that they had experienced bullying more than five times and 24% more than once but less than five times.

### Frequency of bullying



- Once (4%)
- More than once but less than 5 times (24%)
- More than 5 times (56%)
- Don't know (9%)
- Prefer not to say (7%)

Over half of all bullying (56%) was reported as having occurred within the last 12 months, indicating that this may be a current (rather than historical) feature of the workplace.

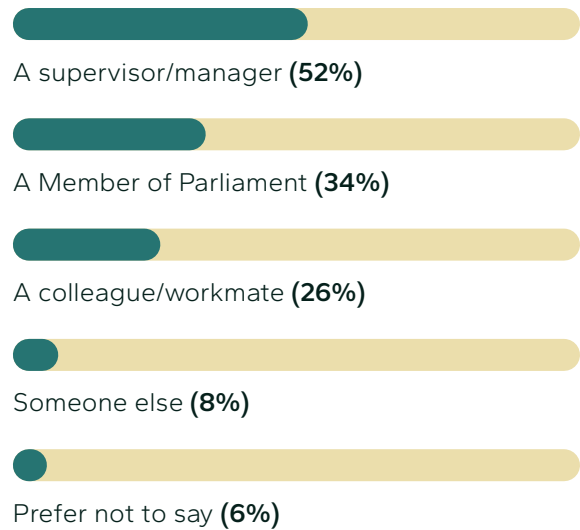
### Who is engaging in bullying?

As with discrimination and sexual harassment, the survey results indicate that bullying is predominately carried out by:

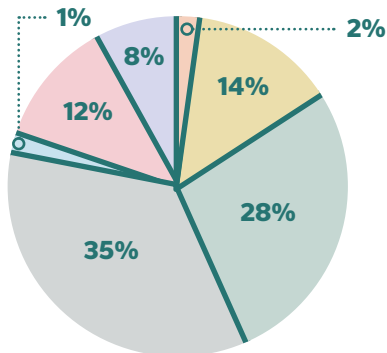
- » More senior personnel, including supervisors and managers
- » Members of Parliament; and
- » Those aged between 40 and 64

In 8% of cases, respondents reported that "someone else" engaged in the conduct and this was described to include a direct report, ministerial staff, members of staff of a political party, a Chief of Staff and their staff.

### Who bullied?



### Age of (most recent) perpetrator

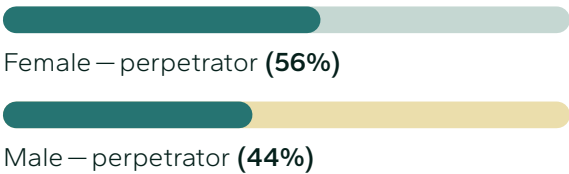


- 18-29 years (2%)
- 30-39 years (14%)
- 40-49 years (28%)
- 50-64 years (35%)
- 65 years or older (1%)
- Don't know (12%)
- Prefer not to say (8%)

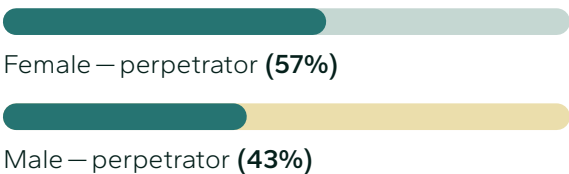
More women than men were reported as having engaged in bullying behaviours.

Gender of affected person by gender of perpetrator

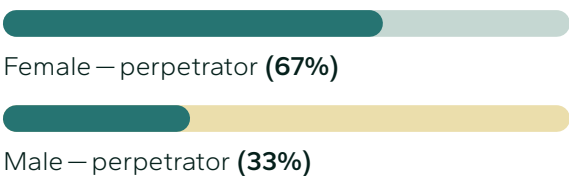
Male – affected person



Female – affected person

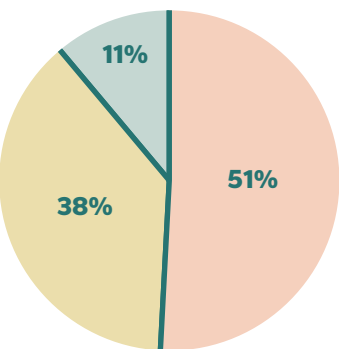


Prefer not to say



In approximately half of all cases one person engaged in bullying. More than one person engaged in bullying in 38% of cases.

Number involved in bullying



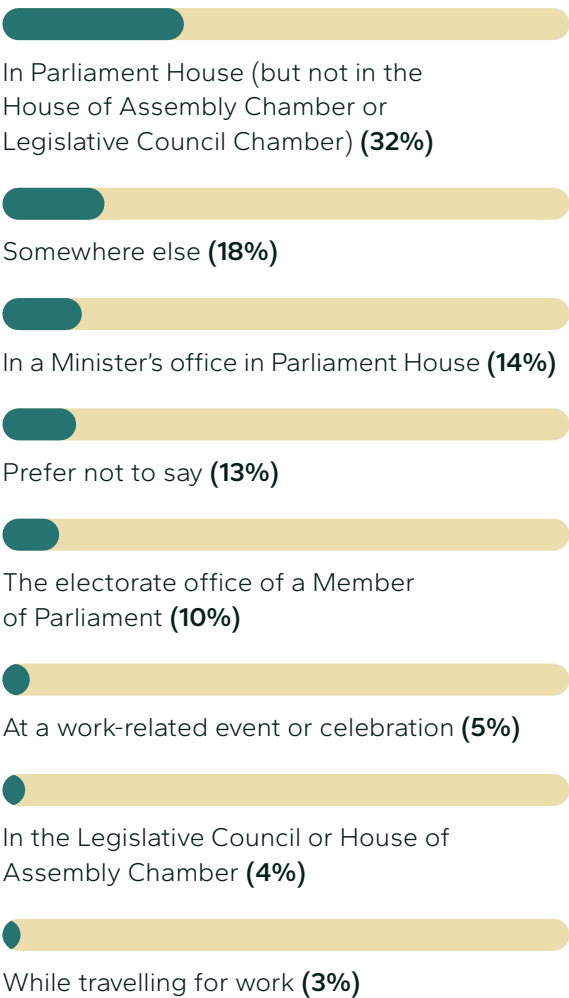
- One person (51%)
- More than one person (38%)
- Prefer not to say (11%)

Where is bullying occurring?

Parliament House (but not in the Parliamentary Chamber/s) was the most common place to experience bullying, followed by:

- » A Minister’s office in Parliament House
- » Somewhere else (reported to include online or via email and in a Minister’s office outside of Parliament House, including in the executive building)
- » An electorate office

Location of bullying





Bullying was witnessed by others in 66% of cases, indicating that the conduct is occurring openly.

### Number witnessing (most recent) bullying



Between 3 and 5 people **(28%)**



No one was around **(23%)**



Two people **(15%)**



One person **(14%)**



Prefer not to say **(11%)**



Over 5 people **(9%)**

## Employee experiences

In particular, Review participants submitted information relating to a lack of accountability for Chiefs of Staff. Numerous reports were made that the conduct by Chiefs of Staff is bullying but existing power structures ensure those people are not held accountable. Examples given were:

- » A Chief of Staff leaving an employee in tears on multiple occasions after belittling them over the phone
- » After complaints were made, a Chief of Staff was moved to another office, where they continued to engage in bullying conduct
- » A Chief of Staff refused to make a commitment not to engage in bullying behaviours due to the stress of sitting days
- » Where a complaint is made against a Member of Parliament or a Chief of Staff there are no independent complaint management mechanisms in place

Review participants more broadly reported:

- » Screaming, smashing files on desks, public humiliation, exclusion from meetings, passive aggression, belittlement, ridicule, threats and undermining were experienced in the MPS Workplace
- » A negative and demoralising atmosphere
- » Where complaints have been made, no steps have been taken to address the conduct
- » Bullying of Ministerial staff is seen as accepted culture and Ministers ignore it, allowing it to continue
- » During Estimates hearings, senior public servants have experienced bullying behaviours

It is clear that one of the most significant factors to the rates of bullying reported is power dynamics and the pressure of the MPS working environment. The Independent Reviewer observes that some of the bullying conduct may be resultant from extreme pressures, however a high-pressure working environment should never be an excuse for abuse.

Proactive steps must be taken to implement processes and procedures to deal with bullying conduct, uphold integrity and ensure accountability within the MPS Workplace, reduce instances of bullying and create much-needed change to workplace culture.

**It is a very protective environment towards Members of Parliament and their Chiefs of Staff, often to the detriment of their Ministerial staff.**

# Impacts of discrimination, sexual harassment and bullying

It's not a safe workplace — they don't provide that kind of guidance to you about how you should behave or what behaviour you should expect from other people ...

## How are employees affected?

The Independent Reviewer was asked to ascertain the impact of workplace discrimination, sexual harassment and bullying on individuals.

Working at Parliament House has had an adverse impact on my wellbeing. I do not consider that I will ever be the same person I was when I commenced employment at that place ...

## What did we learn?

There are undoubtedly many individuals who have had a positive experience of working in the MPS Workplace. However, for those who have experienced workplace discrimination, sexual harassment and/or bullying, the impacts are often profound, life-changing and long-lasting.

The most common impacts reported include:

- » Feeling unsafe in the workplace
- » Anxiety and depression

Review participants reported experiencing and observing, as a result of workplace discrimination, sexual harassment and bullying, employee/s:

- » Crying in a nearby park
- » Being curled up under their desk in the foetal position
- » Staring at their shoes while being spoken to in fear of being yelled at
- » Shaking and feeling that they would vomit

Others reported feeling belittled and demeaned.

Looking back, things seemed trivial. But lumped together there is a clear pattern of behaviour aimed at disrespecting me and my skills ...

I recall crying a lot and not sleeping. It felt like a sustained attack. I tried to be professional...

Inadequacies in the complaints process also led to individuals feeling unheard and unsupported.

After I complained, no action was taken. I felt unheard and belittled. There was no protection for me nor real repercussions for the aggressor ...

Others expressed concerns that the public perception of the MPS Workplace is such that it is becoming difficult to attract good people to run for Parliament or to work for a Member of Parliament.

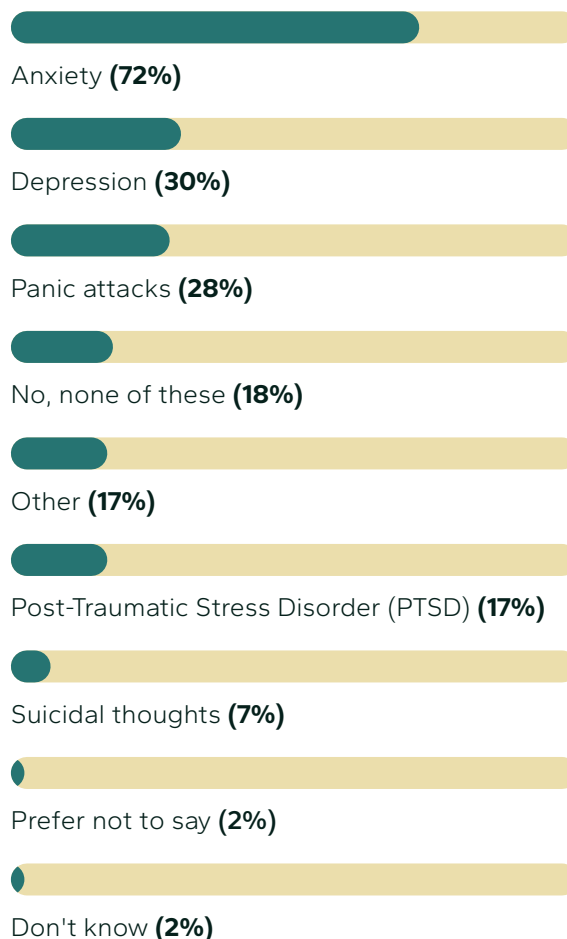
How do you attract people into politics when they witness such disrespectful behaviour?

## Negative effects of discrimination

A range of negative effects were reported by those Survey respondents who had experienced discrimination, including the below set out in free-text comments:

- » Anxiety and depression
- » Panic attacks
- » Stress and trauma
- » Damage to self-confidence
- » Sadness, frustration and disbelief
- » Wanting to leave

### Negative impacts of discrimination (% of cases)



# Negative effects of sexual harassment

Just over half of all those who reported having experienced sexual harassment in the MPS Workplace indicated that none of the listed negative experiences affected them. However, those who did experience negative effects reported the below set out in free-text comments:

- » Stress and trauma
- » Panic attacks
- » Annoyance, frustration, anger
- » Feeling uncomfortable and avoiding the person who engaged in the conduct
- » Being concerned that they would lose their job if they reported the conduct or complained

A strong theme observed by the Independent Reviewer is that individuals were often left to ‘self manage’ the situation, based on their perception or fear that the matter would not be taken seriously or no action would be taken.

“  
Constantly managing interactions was exhausting and increased stress.

”  
It ended my career, really negatively impacted my mental health which affected my personal relationships and ability to find other work.

# Negative impacts of sexual harassment



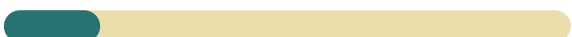
No, none of these (53%)



Other (19%)



Post-Traumatic Stress Disorder (PTSD) (17%)



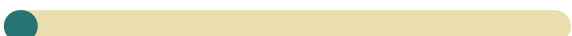
Depression (17%)



Panic attacks (14%)



Suicidal thoughts (6%)



Prefer not to say (6%)

”  
Constantly having to manage relationships and situations so as to protect self, professional reputation and career is extremely stressful ...

”  
I felt quite powerless to challenge any of the views (endorsed by my manager) about predatory male behaviour.

## Negative effects of bullying

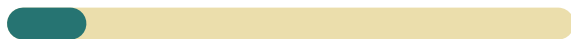
Effects reported via free-text comments by those Survey respondents who had experienced bullying, included:

- » Anxiety and depression
- » Panic attacks
- » Stress and trauma
- » Damage to self-confidence and feeling demoralised
- » Loss of trust

### Negative impacts of bullying



Depression (17%)



Panic attacks (14%)



Other (10%)



No, none of these (9%)



Post-Traumatic Stress Disorder (PTSD) (6%)



Suicidal thoughts (3%)



Prefer not to say (2%)



Don't know (1%)

In the end I left MPS for another role. Nothing was ever going to change, people are punished for speaking out about bullying ...

## What else did review participants say?

Review participants provided information about the ways they have been impacted by conduct occurring within the MPS Workplace. In particular, the following information was submitted:

- » Participants reported needing to seek medical help as a result of behaviours experienced in the workplace
- » Participants reported feeling too uncomfortable to enter the office
- » Participants experienced helplessness, frustration and disillusionment, stress triggered migraines and insomnia and one participant 'stopped caring about the place'
- » There is no emphasis on work, health and safety

I have observed that Members and direct reports to Members are treated with greater respect than other workers by the 'bullies' who can be obsequious when it suits them. It seems to me that until very recently workers who felt they had been bullied or harrassed knew it was easier/better/safer to keep it to themselves as nothing would be done about it and you could be seen to be rocking the boat or speaking ill of the workplace 'family' by making a complaint. I am enthusiastic about the cultural change that seems to be slowly, slowly taking shape.

## Perceptions of safety

The Survey found that a significant correlation exists between experiences of discrimination, sexual harassment and bullying and perceptions of safety:

- » Those who experienced inappropriate conduct were significantly more likely to view these behaviours as more commonplace than those who had not
- » The more common an individual perceives discrimination etc. to be the less safe they feel the workplace to be

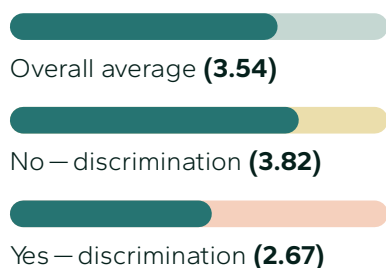
Survey participants were asked to rate their perceptions of safety within MPS relating to discrimination, sexual harassment and bullying. The responses were scalable between 1 and 5.

It is toxic to the core. Honesty, integrity, and treating people with decency are non-existent. No other working environment behaves or gets away with this stuff. Only the strong and bent survive.

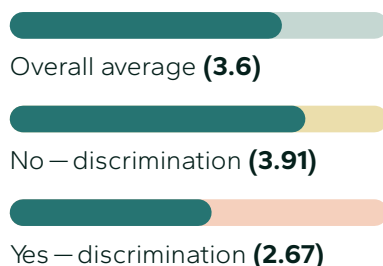
Survey participants were provided a series of statements relating to how safe the MPS Workplace was for various groups. For example, they were asked whether they agree MPS is a safe workplace for people with disability in relation to each type of conduct.

### Discrimination and perceptions of safety

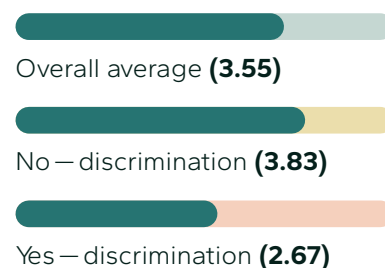
#### MPS is a safe workplace for people who have a disability



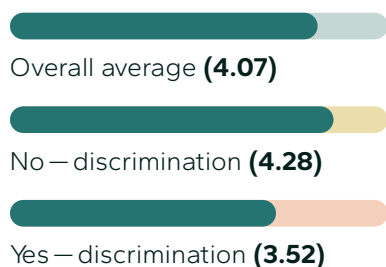
#### MPS is a safe workplace for culturally diverse people



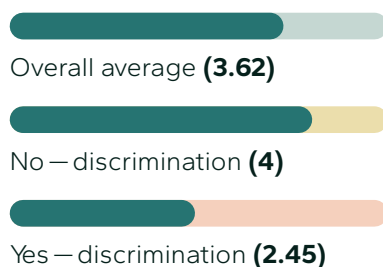
#### MPS is a safe workplace for people who identify as LGBTIQ+



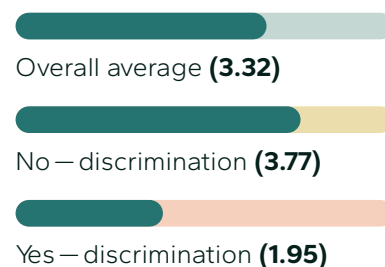
#### MPS is a safe workplace for men



#### MPS is a safe workplace for women

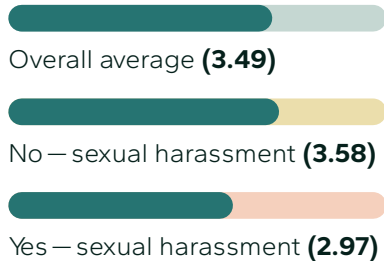


#### MPS is an inclusive and supportive workplace

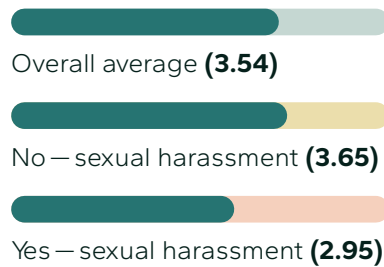


## Sexual harassment and perceptions of safety

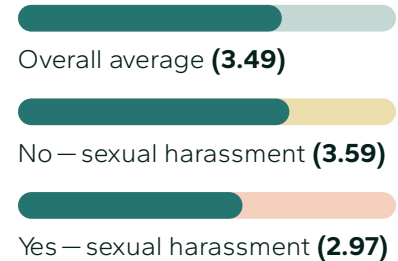
### MPS is a safe workplace for people who have a disability



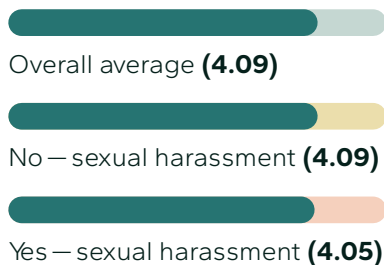
### MPS is a safe workplace for culturally diverse people



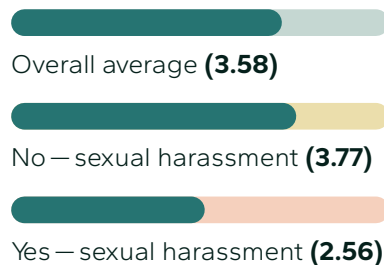
### MPS is a safe workplace for people who identify as LGBTIQ+



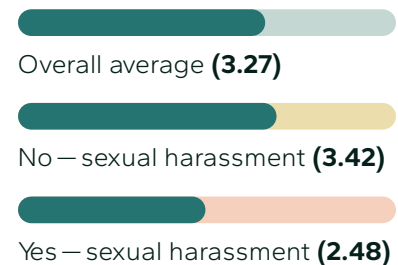
### MPS is a safe workplace for men



### MPS is a safe workplace for women

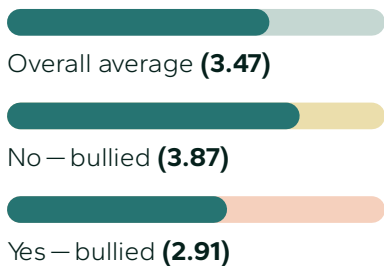


### MPS is an inclusive and supportive workplace

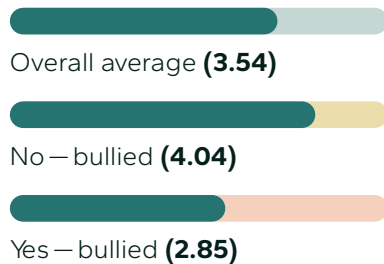


## Bullying and perceptions of safety

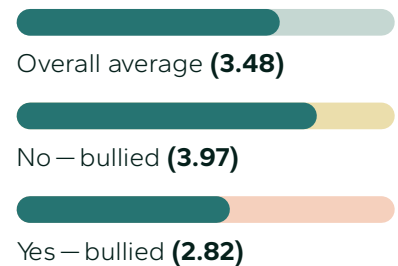
### MPS is a safe workplace for people who have a disability



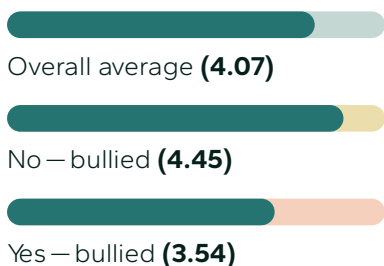
### MPS is a safe workplace for culturally diverse people



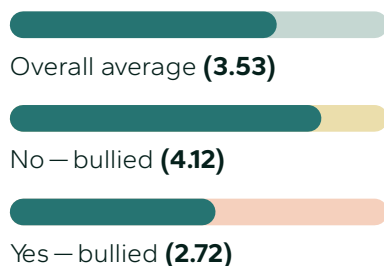
### MPS is a safe workplace for people who identify as LGBTIQ+



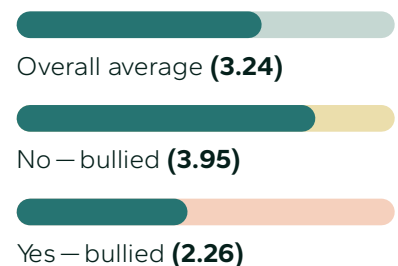
### MPS is a safe workplace for men



### MPS is a safe workplace for women



### MPS is an inclusive and supportive workplace



# Barriers to reporting

“  
The lack of a clear and independent complaints process has meant that whilst many instances of inappropriate sexist or abusive behaviour have been relayed to senior staff, no action has been taken ...

## Why don't people report or complain?

### Structural barriers

Overwhelmingly, the experience of Review participants has been that:

- » There is no clear or uniform complaints policy or framework
- » The complex employment arrangements in place in the MPS Workplace – and the fact that Members of Parliament are not employees at all – means different 'rules' apply to different people
- » Those working within the MPS Workplace often do not know how to report a concern or do not have confidence in the existing mechanisms for resolving those concerns
- » There is an absence of human resources support across much of the MPS Workplace

“  
And I mean if you're talking about a staff member complaining about a member of parliament, I have no idea who you complain to ...

”  
It says to refer a complaint to the HR Manager. We don't have a person with that title.

### Cultural barriers

Even if the complaints process was properly understood, there are a number of cultural barriers to making complaints, including:

- » A lack of confidence in the systems and outcomes
- » Power imbalances
- » Negative experiences with the complaints process, resulting in a perception that nothing will be done
- » Fear of adverse consequences for the person making the complaint, including reprisal, negative career impacts and negative impacts on health and wellbeing
- » Insecure employment
- » A worry that each individual issue seems trivial on its own

These experiences are reflected in the Survey results, which indicate that 82% of those who experienced bullying, discrimination or sexual harassment did not make a formal complaint.

”  
I know that there are some staff who did not feel comfortable participating in the Review. Based on fear of reprisal, negative career impact and negative impact on their health and wellbeing ...



I wouldn't say you're discouraged from making a complaint — but when you make a complaint it's a hassle ...

Much of the behaviour I have experienced, taken in isolation, appears trivial and not worthy of response or action. For this reason, I have not reported it ...

There is very poor or non-existent HR workplace practice to support staff impacted by inappropriate behaviour ... Victims and whistle-blowers are treated as the problem and the focus at management level is to cover up ... deny a problem exists or to tell the employee to just ignore the behaviour.

The nature of MPS staff appointments and offices mean loyalty is prized above all else. That means limiting damage to parties or MPs, so keeping things quiet is common. MPS contracts also don't have the protection of the State Service Act, so people don't report for fear for their jobs.

The internal process for reporting workplace discrimination, sexual harassment or bullying is weak and involved reporting to the Clerk or Deputy Clerk. There is no HR structure and therefore no impartial or confidential person for employees to report grievances to ...

## What did we learn?

Reporting rates are undoubtedly low. In particular:

- » Very few complaints have been received within the Parliamentary Entities or Ministerial and Parliamentary Support
- » Of those complaints that have been received, most have been resolved informally
- » Few complaints or disclosures have been made to the Integrity Commission
- » No bullying complaints have been formally referred to WorkSafe Tasmania
- » Few complaints have been made to Equal Opportunity Tasmania

The Independent Reviewer does not believe that the rates of reporting reflect the incidence of discrimination, sexual harassment and bullying in the MPS Workplace. Rather, it is evident that those who experience the conduct often feel unable to report it – particularly where the conduct is not physical in nature.

## What did the Survey tell us?

A range of reasons were offered by Survey respondents as to why they did not report an incident of discrimination, sexual harassment or bullying.

A number of these reasons appear to be fear based including:

- » Concerns about career prospects
- » It was easier to keep quiet

**The use of fear prevented me from ever reporting any of my experiences. I had seen in the past if a person made any complaint they were told to resign or they were moved to another area, often in worse working conditions ...**

Others relate to the workplace culture including:

- » Thinking that nothing would be done
- » Not thinking it was serious enough

This appears to the Independent Reviewer to be based on concerns how complaints have been handled in the past, including a perceived lack of accountability.

**Genuine complaints made or concerns raised are brushed over ... It was often suggested that “you are over reacting” or “no one else has a problem with this” – even to the point of “boys will be boys”.**

**Lack of accountability for parliamentarians or staff engaging in unacceptable behaviour ...**

It also appears that some respondents may have not had a clear understanding of their rights and responsibilities, or been unsure how to identify the conduct, including:

- » Not knowing the process or who to report the matter to
- » Being unsure of whether the conduct was discrimination, sexual harassment or bullying

A number of Review participants also indicated that they felt unable to report incidents because each incident on its own and would not be taken seriously or result in any action.

**A lack of formal complaints process [have allowed] poor behaviours to continue unchallenged ...**

**If you upset the apple cart you get in trouble.**

**The person doing the bullying was above my manager and thinks they can get away with anything.**

## Reasons for not reporting

I didn't think anything would be done (24%)

I was concerned about damaging my career prospects (24%)

It was easier to keep quiet (22%)

I wasn't aware of how the process worked or who to talk to (11%)

I didn't think it was serious enough (7%)

Other (6%)

I moved to another place of work (5%)

I didn't know it was discrimination (1%)

Prefer not to say (1%)

Those who did make a complaint often reported adverse consequences for having done so, including impacts on work relationships, their career pathway, personal relationships and physical and mental health and self-esteem.

In addition, 15% of those who complained felt that they had to look for work elsewhere.

The individuals who had disclosed to me asked me not to say anything for fear of harming their career prospects.

Other negative experiences included:

- » Termination of employment
- » Ceasing to care about the workplace
- » Anxiety and depression

## Negative experiences of reporting

My self-esteem and confidence have been negatively impacted (17%)

My relationships at work negatively affected (17%)

I felt I had to look for work elsewhere (15%)

My physical or mental health has been impacted (15%)

My career pathway has been inhibited (12%)

I took time off work (10%)

Other (7%)

My personal relationships have been impacted (7%)

MPS jobs are seen as a privilege and therefore many people do not want to complain for fear of being victimised or lose their job.

”

**This experience made me realise that there is no recourse for complainants, and that senior management has a well-established hierarchy and entrenched systemic issues that cannot be fought and won. My experience of the complaint process and outcome was negative.**

These statistics strongly support the need for more to be done to:

- » inform staff of their rights and responsibilities
- » ensure that staff are safe to report their concerns

This will, however, require strong and consistent leadership to demonstrate cultural change and disrupt entrenched perceptions.

## How are complaints handled when made?

Of the small percentage who did make a complaint (16% of those who experienced discrimination, sexual harassment or bullying), the concerns were most often reported to:

- » A manager (in 44% of cases)
- » The Presiding Officer of Clerk (in 25% of cases)

In a small number of cases, the concerns were reported to a Member of Parliament or Chief of Staff.

## What are the outcomes?

A range of outcomes were reported. Of note:

- » In over one third of cases (36%) no action was taken
- » Other consequences (representing 28% of the responses) included:
  - Offered another position with a lower salary
  - Informally spoken to and asked to withdraw complaint
  - Charges were laid against the perpetrator

”

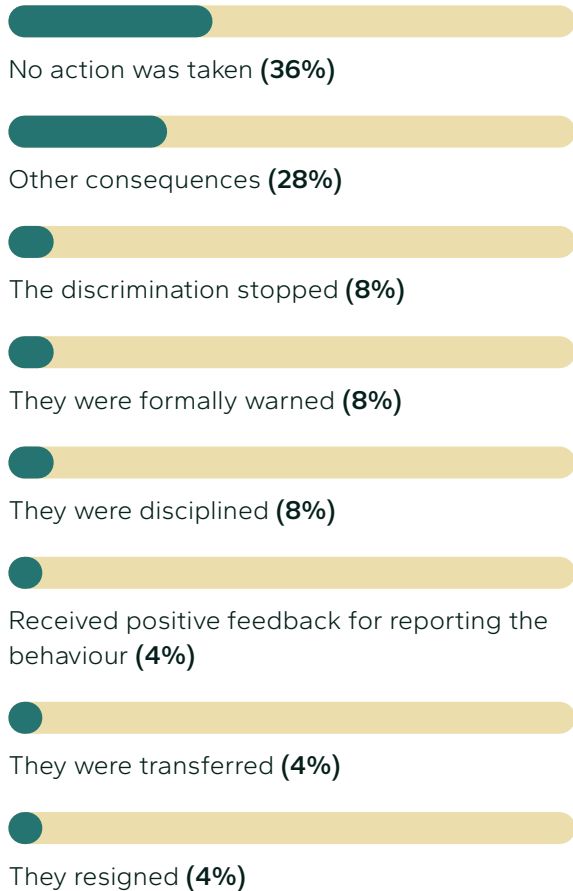
**They had no control or say over where they were being moved to. There was no consultation. They were simply told which office they were moving to ...**

As noted elsewhere in this Report, the Independent Reviewer has also received multiple reports that the response has frequently been to “move the problem”. This occurs by moving the perpetrator to another part of the workplace (such as a different Minister’s office).

”

**Sacking people who behave badly may result in the issue being made into a political/media issue rather than an employee disciplinary issue – so people are simply moved around.**

## Outcome of complaint



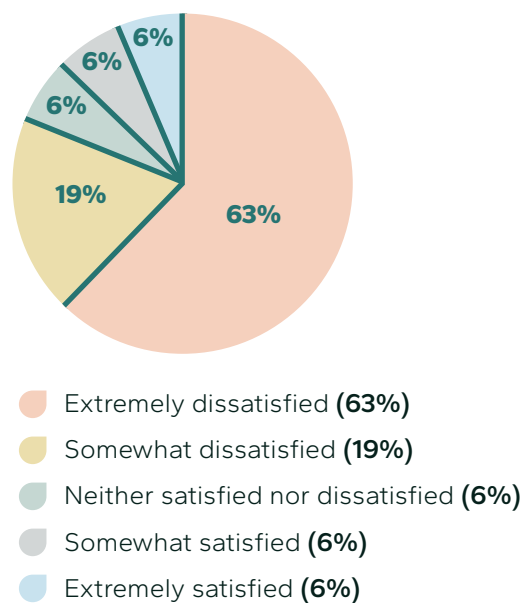
I have never seen anyone sanctioned for bad behaviour ... they might get shuffled from office to office, they might get a slap on the wrist, a demotion for 6 months or moved sideways ...

## Lack of confidence in the complaints process

There was general dissatisfaction with the complaints process (82% dissatisfied or very dissatisfied) fairness (69% dissatisfied or very dissatisfied), and the outcome of the complaint (82% dissatisfied or very dissatisfied).

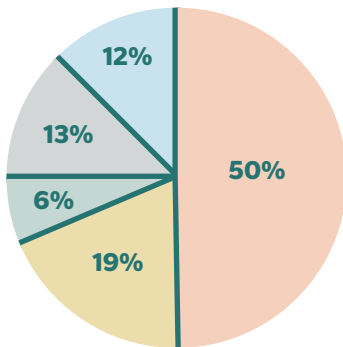
### Satisfaction with process, fairness and outcome of complaint

#### Process



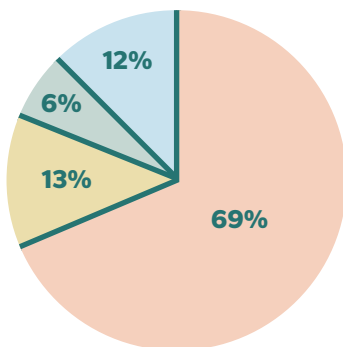
The results indicate a lack of faith in the process itself, fairness in dealing with the complaint and the outcome of the complaint. This further acts to deter people from speaking up.

### Fairness



- Extremely dissatisfied (50%)
- Somewhat dissatisfied (19%)
- Neither satisfied nor dissatisfied (6%)
- Somewhat satisfied (13%)
- Extremely satisfied (12%)

### Outcome



- Extremely dissatisfied (69%)
- Somewhat dissatisfied (13%)
- Neither satisfied nor dissatisfied (6%)
- Somewhat satisfied (0%)
- Extremely satisfied (12%)

## Impact of discrimination and confidence in complaints process

Those who experienced discrimination, sexual harassment and/or bullying had low confidence in the complaints process and:

- » Were less likely to believe that any action or a fair investigation would be undertaken
- » Were less likely to believe that steps would be taken to protect the safety of the person making a complaint and that the complaint would be kept confidential
- » Were significantly more likely to hold concerns that the person making a complaint would be victimised targeted or stigmatised
- » Had lower confidence in the complaints process

”

I was told that I could make a formal complaint, but [they] would rather I didn't and to wait and be patient and it would all be resolved. I complied.

”

I know that if I made a report, nothing would happen and the matter would be swept under the carpet. The repercussions for an employee making a report would be bullying, intimidation and isolation ...

## Perceptions of process

Survey participants were asked to rate their perceptions of the processes relating to complaints of discrimination, sexual harassment and bullying. The responses were scalable between 1 and 5.

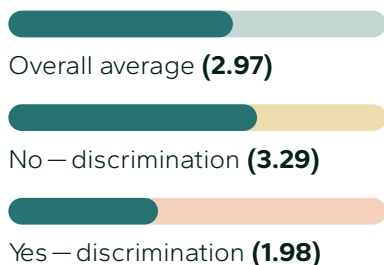
Survey participants were provided a series of statements relating to their perceptions of particular actions taken within complaint processes. For example, they were asked whether they thought action would be taken against an alleged perpetrator if the alleged conduct was proven.

I've heard far too many stories about behaviour being reported and not actioned ... maybe a process would help.

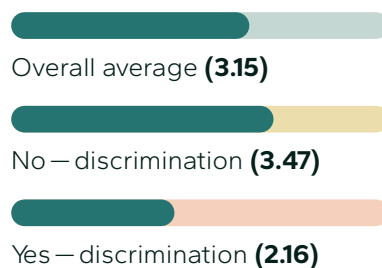
Any workplace discrimination, sexual harassment or bullying would either be swept under the carpet, with the staff who raised the complaint counselled to resign or told to suck it up and get on with their job ...

### Discrimination and confidence in complaints process

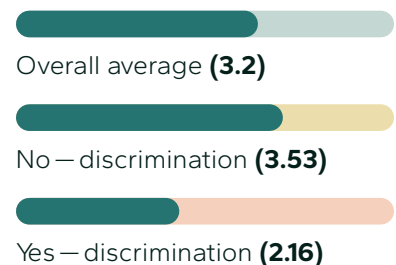
#### Action would be taken against the alleged perpetrator if the alleged conduct was proven



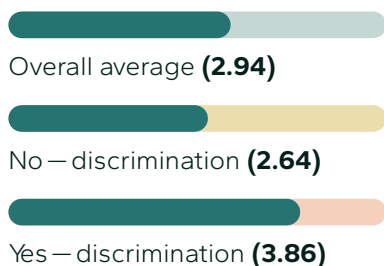
#### A fair investigation would be conducted



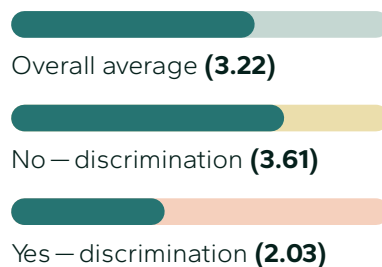
#### Steps would be taken to protect the safety of the person who made the complaint



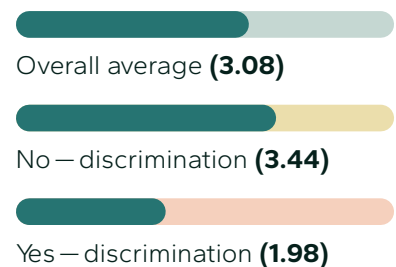
#### The person who made the complaint would be victimised, targeted or stigmatised



#### The complaint would be acted on



#### The complaint would be kept confidential



## Sexual harassment and confidence in complaints process

**Action would be taken against the alleged perpetrator if the alleged conduct was proven**



Overall average (2.98)



No – sexual harassment (3.06)



Yes – sexual harassment (2.53)

**The person who made the complaint would be victimised, targeted or stigmatised**



Overall average (2.97)



No – sexual harassment (2.86)



Yes – sexual harassment (3.61)

**Steps would be taken to protect the safety of the person who made the complaint**



Overall average (3.18)



No – sexual harassment (3.3)



Yes – sexual harassment (2.5)

**A fair investigation would be conducted**



Overall average (3.12)



No – sexual harassment (3.18)



Yes – sexual harassment (2.76)

**The complaint would be acted on**



Overall average (3.19)



No – sexual harassment (3.31)



Yes – sexual harassment (2.56)

**The complaint would be kept confidential**



Overall average (3.04)



No – sexual harassment (3.18)



Yes – sexual harassment (2.26)

## Bullying and confidence in complaints process

**Action would be taken against the alleged perpetrator if the alleged conduct was proven**



Overall average (2.93)



No – bullied (3.53)



Yes – bullied (2.08)

**The person who made the complaint would be victimised, targeted or stigmatised**



Overall average (3.04)



No – bullied (2.66)



Yes – bullied (3.58)

**Steps would be taken to protect the safety of the person who made the complaint**



Overall average (3.1)



No – bullied (3.71)



Yes – bullied (2.25)

**The complaint would be acted on**



Overall average (3.12)



No – bullied (3.79)



Yes – bullied (2.2)

**A fair investigation would be conducted**



Overall average (3.06)



No – bullied (3.63)



Yes – bullied (2.27)

**The complaint would be kept confidential**



Overall average (3)



No – bullied (3.66)



Yes – bullied (2.08)



# Bystander action

The extent of the behaviours and treatment toward me were noticed by other senior members of staff within the office with it being described as a mixture of oddly paternal as well as inappropriate and sexualised. Following an event that occurred and caused me great distress, ... [position] then ran interference, for example, whenever I was called into a meeting and door was shut he would make an excuse to come into the room and when exiting leave the door open etc. He also constantly checked in on me (and my colleague who had reported the behaviour) and was a great support.

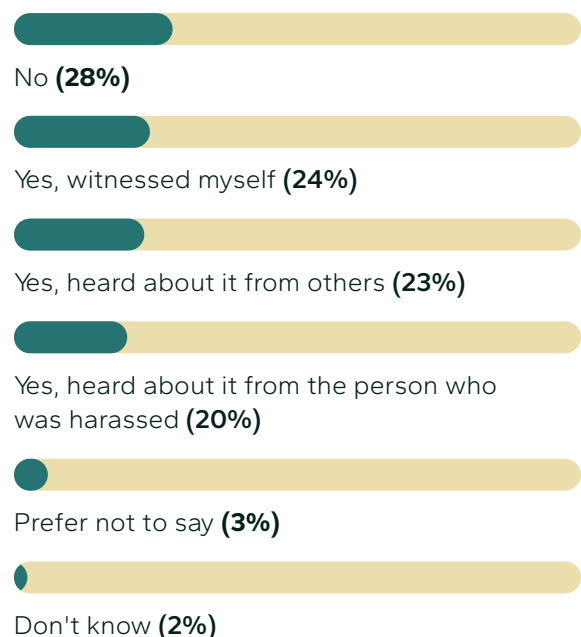
I have witnessed Members of Parliament 'turning a blind eye' and supporting the status quo...

Senior men in the Parliament are clearly unwilling to 'rock the boat' or 'upset the boys' ...

## Witnessing discrimination, sexual harassment and bullying

Two thirds of respondents (67%) indicated they had either witnessed or heard about discrimination, sexual harassment or bullying.

### Witnessed discrimination, sexual harassment or bullying



## Confidence to act

The Survey results show:

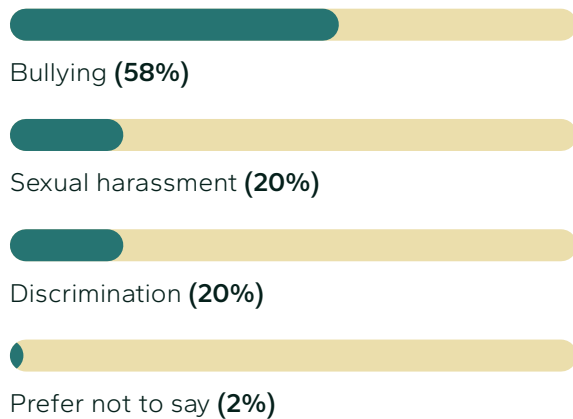
- » Two-thirds of Survey respondents (67%) had either witnessed or heard about discrimination, sexual harassment or bullying
- » Only 11% intervened

These statistics are of concern to the Independent Reviewer.

Information obtained from the Survey about those who witnessed discrimination, sexual harassment and/or bullying (referred to as a 'bystander') is set out below, as well as considerations of the reasons bystanders often do not take any action.

The most common form of conduct witnessed was bullying, followed by sexual harassment and discrimination. These figures closely reflect the rates of discrimination, sexual harassment and bullying reported. Because bullying is more widespread than either discrimination or sexual harassment it is also more likely to be witnessed by others, especially if it is conducted when others are present.

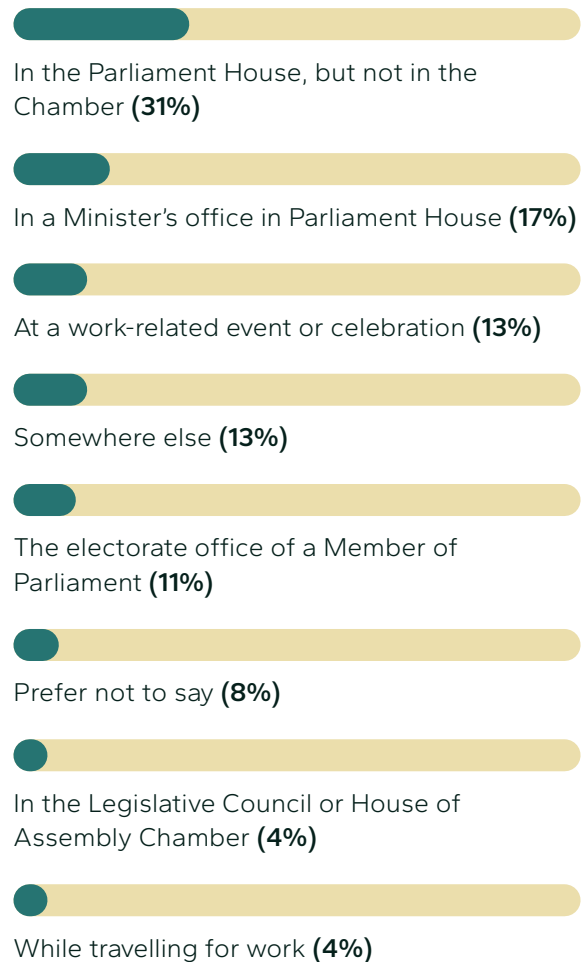
### Types of behaviours witnessed



I have witnessed a colleague completely isolated and excluded from meetings, WhatsApp messages relevant to their portfolio, bullied, talked about by the Minister in a vulgar way to other staff, terrible treatment from the Chief of Staff towards this person. They were completely shut out and eventually told a 'restructure' was occurring, therefore their position was no more. This was an excuse to get rid of the person.

In most cases, the behaviours were witnessed in Parliament House or in the office of a Minister or Member of Parliament. This is consistent with the statistics relating to where discrimination, sexual harassment and/or bullying is reported to have taken place.

### Where the behaviours were witnessed

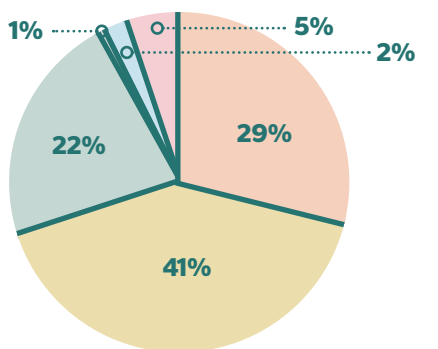


I think if we ever saw anyone face consequences, that would help improve the culture. At the moment, things continue because they always have and no one has ever been punished.

Similarly, those who witnessed discrimination, sexual harassment and bullying reported that it was predominately carried out by:

- » Members of Parliament
- » More senior personnel, including supervisors and managers

### Who engaged in discrimination, sexual harassment or bullying (reported by witnesses)



- A Member of Parliament (29%)
- A supervisor/manager (41%)
- A colleague/workmate (22%)
- Don't know (1%)
- Someone else (2%)
- Prefer not to say (5%)

There are problems in Ministerial. These problems are widely known. The people responsible are widely known and that behaviour is accepted and tolerated. This is the way it has always been ...

## Bystander intervention

Only 11% of those who witnessed discrimination, sexual harassment and/or bullying intervened when the incident occurred.

Those who intervened typically:

- » Talked or listened to the person affected
- » Encouraged the victim to report the incident

A small percentage of respondents who witnessed discrimination, sexual harassment or bullying (15%) reported the matter to their employer.

### Intervention type



Talked with or listened to the affected person afterwards (27%)



Encouraged the victim to report it to your employer (18%)



Reported it to your employer (15%)



Intervened when it happened (11%)



Made a written record of what happened (9%)



Talked to the perpetrator after it happened (7%)



Other (7%)



Encouraged the victim to report it externally (6%)

Most interventions occurred after the fact and not when the incident occurred. Only 11% of respondents indicating that they intervened at the time.

## Why don't people intervene?

A range of reasons were offered by Survey respondents as to why they did not intervene when they witnessed an incident of inappropriate workplace conduct.

A number of these reasons appear to be fear based including:

- » Concerns about career prospects
- » Not feeling safe to raise the concerns
- » It was easier to keep quiet
- » Concerns about harm to reputation

Others relate to the workplace culture including:

- » Thinking that nothing would be done
- » There is a culture that it is just accepted and move on

It also appears that some respondents may have not had a clear understanding of their rights and responsibilities, or been unsure how to identify the conduct, including:

- » Not knowing the process or who to report the matter to
- » Difficulty identifying what is acceptable and unacceptable behaviour

Others did not intervene because they:

- » Did not directly witness the incident
- » Were asked not to by the person concerned

**I know it continued, it just didn't happen in front of me anymore. If you say something you are seen as the 'fun police' or a prude ...**

## Reasons for not intervening

I didn't think anything would be done **(25%)**

I was concerned about damaging my career prospects **(18%)**

Other **(13%)**

It was easier to keep quiet **(13%)**

I wasn't aware of how the process worked or who to talk to **(13%)**

It was none of my business **(8%)**

I moved to another place of work **(4%)**

Prefer not to say **(3%)**

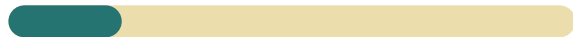
I didn't think it was serious enough **(2%)**

Didn't know it was workplace discrimination, sexual harassment or bullying **(1%)**

Other Review participants reported feeling unsupported when they did try to speak up or intervene.

Those who did intervene often reported negative consequences for having done so, including impacts on work relationships and their career pathway (including some respondents reporting that their employment was terminated or that they were moved internally).

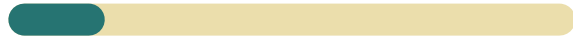
## Negative consequences of intervening



My career pathway has been inhibited **(20%)**



My physical or mental health has been impacted **(17%)**



My relationships at work negatively affected **(17%)**



My self-esteem and confidence have been negatively impacted **(14%)**



I felt I had to look for work elsewhere **(14%)**



I took time off work **(6%)**



My personal relationships have been impacted **(6%)**



Other **(6%)**

These statistics strongly support the need for more to be done to:

- » Inform staff of their rights and responsibilities
- » Ensure that staff are safe to report their concerns

The Independent Reviewer has been informed that there are Members of Parliament and others in positions of leadership who have shown a preparedness to turn a blind eye to inappropriate workplace conduct, relying on the notion that the Parliamentary workplace is necessarily characterised by robust interactions.

The suggestion has also been made that there are some within the MPS Workplace who take the view that they had to “do it the hard way”, so why should it be any different for others. This suggests that some of the issues being experienced may be generational, with old patterns of behaviour being reinforced and entrenched over time.

A male MP [later approached me] and apologised for not stepping in. He said he knew I was tough so didn't think it would be necessary ...

Older female MPs do not support other women or speak up when they witness sexist, abusive or discriminatory behaviour ...

This is an intergenerational problem involving rampant cronyism in which certain staff receive promotions, favourable conditions and other beneficial treatment on condition of loyalty and do what I say at any cost mentality. They are subservient to their political masters and do not act in the best interests of employees or their legal responsibilities. Members' demands are delivered without question and there is a complete disconnect between management and the staff.

# Concluding remarks

I again extend my sincere thanks and appreciation to all Review participants who shared their lived experiences and insights into the MPS Workplace. I thank participants for their trust and confidence in the independent nature of the Review. I am heartened by the contribution of so many people working within MPS, whether through participation in the Survey, providing written and verbal submissions, or both.

I acknowledge the many talented individuals engaged within the MPS Workplace who are committed to the Tasmanian community and display the qualities and attributes expected in any work environment. People who put their colleagues and staff first, who act respectfully and demonstrate moral and professional integrity.

However, it is evident that there exists a problematic underlying culture which allows negative and unlawful behaviours to flourish resulting in personal harm, reputational damage to MPS and discouragement of talented people from pursuing or maintaining a career within MPS.

It is further evident – from both the sentiment expressed by Review participants and the extremely high participation rate – that there is a strong appetite for change across all facets of the MPS Workplace. Overwhelmingly, Review participants shared an aspiration for MPS to be a workplace in which they can thrive and which sets a standard of which they, and all Tasmanians, can be proud.

My strong hope is that the recommendations in this Report will be seen as an opportunity by those in a position of leadership and influence to implement change. An opportunity for MPS to lead by example, by putting its people at the centre and adopting a best practice approach to workforce management and culture. It is critical that MPS becomes a workplace of choice that attracts and retains creative, diverse, enthusiastic and skilled individuals. A positive, respectful and contemporary workplace will assist in improving public perceptions of, and confidence in, the Tasmanian Parliament.

While the findings reflected in this Report may be difficult for some to digest or accept, it should be emphasised that the recommendations are designed to ensure that MPS is better equipped to promote a more positive and functional workplace culture where all individuals are appropriately recognised, rewarded and feel safe.

I ardently encourage the implementation of all recommendations and strongly caution against a failure to do so. The recommendations have been designed to collectively and progressively contribute to building a respectful, supportive and safe workplace culture and should not be cherry picked.

The initiatives proposed through the recommendations will not drive themselves. The actioning of change is dependent on the timely implementation of, and ongoing commitment to, contemporary human resources and management practices and a top-down approach to demonstrating and role modelling positive behaviours and attitudes.

Through the commitment and dedication of those in a position of influence or leadership, MPS can be an exemplar of positive workplace culture across Australia, as the Tasmanian community expects it to be.

I acknowledge the courage and insight for the Tasmanian Government to call for this Review and the non-partisan approach of the Committee to support it. It will now take the same qualities of leadership, cooperation, respect and collaboration to progress the needed changes. This Report is a call to action, founded on the voices of those who work, or have worked, within MPS.

**Sarah Bolt**

**Anti-Discrimination Commissioner**

August 2022

# Acknowledgements

## Equal Opportunity Tasmania staff:

**Melanie van Egdom** – Project Officer

### Review Team

- » **Katrina Warburton** – Executive Officer
- » **Robin Szabo** – Administrative Assistant
- » **Michelle Parker** – Investigation and Conciliation Officer; and
- » other Equal Opportunity staff who provided support where needed

## Consultants:

**Kristina Vermey** – Employment Lawyer and Workplace Advisor, COHORTE

**Dr Ron Mason** – Independent Research Consultant, Tasmanian Institute of Law Enforcement Studies

**Jamie Roberts** – Graphic Designer, Mouse & Mind

## Participants

The Independent Reviewer acknowledges the courage of all Review participants and thanks them for their openness, insights and informed contributions.

## Stakeholder cooperation

Vital to the meaningful progression of the Review was the cooperation of key stakeholders who were involved in logistical support, including development of contracts for consultants, distribution of Review correspondence, provision of relevant information relating to the structure of the MPS Workplace and other essential information.

The Independent Reviewer acknowledges those individuals who played a part in the mechanisms of the Review process and thanks them for their support and assistance.



# Appendix A

## Terms of Reference

- 1 Request that the Anti-Discrimination Commissioner (**Commissioner**) undertake a Review of the Tasmanian Ministerial and Parliamentary Services (**MPS**) workplace to ensure a safe and respectful workplace and reflect best practice in preventing and dealing with workplace discrimination, sexual harassment and bullying.
- 2 Request that in the Review the Commissioner:
  - Provides a safe and supportive environment that elicits trust and fosters open engagement.
  - Ensures the Review is founded on the principles of natural justice, includes safeguards for confidentiality, and provides mechanisms for persons who wish to engage in the review anonymously.
  - Ascertains whether there is workplace discrimination, sexual harassment and bullying within MPS and understands its nature and extent.
  - Ascertains and understands the existing perceptions of workplace culture within MPS.
  - Ascertains the existing awareness and understanding of responsibilities prescribed under the Anti-Discrimination Act within MPS.
  - Ascertains and understands the impact of workplace discrimination, sexual harassment and bullying on individuals, and any contributing factors, including workplace culture, on the prevalence of workplace discrimination, sexual harassment and bullying within MPS.
  - Reviews existing complaint and reporting mechanisms available to staff of MPS, and any cultural and/or structural barriers that may impede staff making complaints.
  - Reviews existing policies, procedures and practices that govern responses and outcomes, where workplace discrimination, sexual harassment and bullying is found to have occurred in MPS.
  - Reviews existing Human Resources practices within the MPS setting.
  - Refers through appropriate pathways including Human Resources, Tasmania Police, Equal Opportunity Tasmania and/or the Integrity Commission, for individual allegations by or against staff of MPS that require follow up or investigation.
- 3 With a focus on systemic issues, request that the Commissioner provide a report setting out findings and making recommendations as to:
  - Any actions that should be taken to increase awareness of the impact of workplace discrimination, sexual harassment and bullying and improve workplace culture within MPS, including training and the role of leadership in promoting a workplace culture that does not tolerate workplace harassment.
  - Any changes that should be made to legislative, regulatory, administrative, legal or policy areas to enhance protection against, and provide best practice responses to, workplace discrimination, sexual harassment and bullying within MPS.
  - Any other actions or changes necessary to ensure a safe and respectful workplace free from workplace discrimination, sexual harassment and bullying within MPS and that set the standard for the broader community on best practice workplace policies and procedures that enable safe and respectful workplaces.

# Appendix B

## Key terms and definitions

Term	Definition
<b>Anti-Discrimination Act</b>	<i>Anti-Discrimination Act 1998 (Tas)</i>
<b>DPAC</b>	Tasmanian Department of Premier and Cabinet
<b>Independent Reviewer</b>	Tasmanian Anti-Discrimination Commissioner
<b>Ministerial and Parliamentary Services Workplace</b> or <b>MPS Workplace</b>	<p>The workplace includes all Members of Parliament and the people working (in whatever capacity) in or for Parliament House, electorate offices and Ministers' offices.</p> <p>It also encompasses regularly contracted services including security and building and facilities staff.</p> <p>The scope of workplace extends to include work related travel and events.</p>
<b>MPS</b>	Ministerial and Parliamentary Services
<b>Parliamentary Entities</b>	<ul style="list-style-type: none"><li>» The House of Assembly</li><li>» The Legislative Council</li><li>» The Legislature-General</li></ul>
<b>Parliamentary Privilege Act</b>	<i>Parliamentary Privilege Act 1898 (Tas)</i>
<b>PCBU</b>	Person conducting a business or undertaking within the meaning of the Work Health and Safety Act
<b>Presiding Officers</b>	<ul style="list-style-type: none"><li>» Speaker of the House of Assembly</li><li>» President of the Legislative Council</li></ul>
<b>Review</b>	The Independent Review into Parliamentary Practices and Procedures to Support Workplace Culture
<b>Review participants</b>	Current and former MPS Workplace staff and employees for the period 1 July 2019 to present (2022)

Term	Definition
<b>Set the Standard</b>	<i>Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces</i> , Australian Human Rights Commission (2021)
<b>State Service Act</b>	<i>State Service Act 2000</i> (Tas)
<b>Work Health and Safety Act</b>	<i>Work Health and Safety Act 2012</i> (Tas)
<b>Workplace Bullying</b>	<p>Repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety as defined by WorkSafe Tasmania.</p> <p>WorkSafe Tasmania defines<sup>22</sup> bullying to mean:</p> <ul style="list-style-type: none"> <li>» <b>Repeated behaviour</b> refers to the persistent nature of the behaviour and can involve a range of behaviours over time. A single incident of unreasonable behaviour is not workplace bullying. However, it may be repeated, or escalate, so should not be ignored.</li> <li>» <b>Unreasonable behaviour</b> means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable. It includes behaviour that victimises, humiliates, intimidates or threatens someone.</li> </ul> <p>Examples of behaviour — whether intentional or not — that may be workplace bullying if they are repeated, unreasonable and create a risk to WHS include:</p> <ul style="list-style-type: none"> <li>» abusive, insulting or offensive language or comments</li> <li>» unjustified criticism or complaints</li> <li>» deliberately excluding someone from workplace activities</li> <li>» withholding information that is vital for effective work performance</li> <li>» setting unreasonable timelines or constantly changing deadlines</li> <li>» spreading misinformation or malicious rumours</li> </ul>

<sup>22</sup> <https://worksafe.tas.gov.au/topics/Health-and-Safety/health-and-wellbeing/wellbeing-a-z/bullying/what-is-bullying>

Term	Definition
<b>Workplace Discrimination</b>	<p>Includes discrimination, prohibited conduct and victimisation as defined in the Anti-Discrimination Act with particular reference to sections 14 – 18 inclusive.</p> <p>The definition covered the following types of conduct made unlawful under the Anti-Discrimination Act including:</p> <ul style="list-style-type: none"> <li>» direct discrimination on the basis of 22 attributes;</li> <li>» indirect discrimination on the basis of 22 attributes;</li> <li>» offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of 14 attributes;</li> <li>» sexual harassment (defined below); and</li> <li>» victimisation for making or intending to make a complaint under the Anti-Discrimination Act, giving evidence, alleging a contravention of the Act, and other aspects of victimisation set out under that Act.</li> </ul>
<b>Workplace Sexual Harassment</b>	<p>Sexual harassment as defined in the Anti-Discrimination Act and occurs where a person:</p> <ul style="list-style-type: none"> <li>(a) subjects another person to an unsolicited act of physical contact of a sexual nature; or</li> <li>(b) makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or</li> <li>(c) makes an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or</li> <li>(d) makes any unwelcome gesture, action or comment of a sexual nature; or</li> <li>(e) engages in conduct of a sexual nature in relation to another person that is offensive to that person –</li> </ul> <p>in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed</p>
<b>Workplace Support Contact Officers</b>	<p>Staff who have received training to provide confidential peer-based support and information to those who have experienced or witnessed discrimination, sexual harassment or bullying behaviours, including information about reporting and resolution options.</p>

# Appendix C

## Methodology

The decision regarding the most appropriate methodological approach to conduct the Review was informed by the approaches used by the Australian Human Rights Commission in the Independent Review into Commonwealth Parliamentary Workplaces and the South Australian Equal Opportunity Commission in the Review of Harassment in the SA Parliamentary Workplace.

The Independent Reviewer adopted a mixed method approach to the Review, comprised of the following methodologies:

- » A Survey into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services Workplace
- » Written and verbal submissions
- » Invitations for interviews
- » Meeting with stakeholders
- » Review of existing policies and procedures and analysis of current workplace practices
- » Focused research of approaches taken in other jurisdictions including the UK, federally and in South Australia

Due to the sensitive nature of the content covered by the Terms of Reference, the methodology selected ensured the Review was conducted ethically and safely by:

- » Obtaining informed consent from Review participants prior to participation
- » Minimising the risk of harm to Review participants
- » Protecting the anonymity and confidentiality of Review participants
- » Giving Review participants the right to withdraw their consent

Additional steps were taken to enable the Independent Reviewer to meet these commitments and uphold the principles of safety, confidentiality and consent.

This included the passing of the *Justice Miscellaneous (Independent Review Amendments) Act 2022* (Tas) by the Tasmanian Parliament to make changes to the *Right to Information Act 2009* (Tas) and *Archives Act 1983* (Tas) to protect the anonymity and confidentiality of Review participants.

The Independent Reviewer notes that the changes received widespread support and were made expeditiously.

In addition, all data and personal information obtained from Review participants is strictly confidential. Information provided throughout the Review has been used in a de-identified form in this Report. This includes quotes, extracts from submissions or other documents.

The use of quantitative and qualitative research methods provided a comprehensive base of evidence, which has enabled the Independent Reviewer to make recommendations that reflect the current state of the MPS Workplace.

## Survey

The Survey into Workplace Culture in the Tasmanian Ministerial and Parliamentary Services Workplace was open from 22 November 2021 to 17 December 2021 and was conducted online.

Participation was voluntary and no individual is identifiable from the results.

The Survey was a critical tool of the Review. It was strategically designed to engage participants and was successful in doing so.

The response rate was significant, being 56.5% (318/563). Comparatively, this is an excellent result. In South Australia, the Survey response rate was nearly 25%<sup>23</sup>. Federally, the Survey result was 23%.

The Survey included numerous options to provide further information in open text boxes. This was an intentional design, implemented to account for the likelihood that many participants may only engage with the Review process on one occasion.

Using open text boxes enabled participants to provide informal, anonymous and direct 'mini-submissions' where they could provide context regarding their experiences.

This approach provided an opportunity to gather insights from a human lens and from the real lived experience of people working in the MPS. The Independent Reviewer wishes to acknowledge the emotional labour of all Review participants who have engaged and provided insights into their experiences in the MPS Workplace.

The data obtained from the Survey has been analysed and forms part of the evidence base used for recommendations contained in this Report.

## Written and verbal submissions

Review participants and key stakeholders had the opportunity to provide a written or verbal submission between 30 March 2022 and 20 May 2022.

Submissions could be provided anonymously or otherwise.

All submissions are exempt from the application of the *Right to Information Act 2009* (Tas) and unavailable (for 75 years) for public view under the *Archives Act 1993* (Tas).

It is important to note that all employees of the MPS Workplace had the opportunity to provide a written or verbal submission, whether they participated in the Survey or otherwise.

## Interviews and focus groups

Review participants were given the option to participate in an interview. An interview can be differentiated from a verbal submission in that it involves a set of questions relevant to the topic of the interview.

The Independent Reviewer also gave consideration to the need to formulate focus groups to engage people who may have been less likely to participate in the Review, or who may have preferred to do so via a group.

However, this was ultimately deemed unnecessary due to the high rate of participation in the other stages of the Review process, including the Survey, submissions and interviews, as well as the review of existing policies and procedures and their application to staff where lower areas of participation were observed.

## Review of existing policies and procedures and analysis of current workplace practices

The Independent Reviewer has undertaken an audit of existing policies and procedures used within the MPS Workplace that fall within the scope of the Terms of Reference.

The relevant materials and information has been provided by key stakeholders within the MPS Workplace and includes information regarding current workplace practices such as existing human resources support, content of training, access to policies and complaint procedures.

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<sup>23</sup> Equal Opportunity Commission of South Australia, Review of Harassment in the South Australian Parliament Workplace (2021) 3: <https://www.eoc.sa.gov.au/about-us/projects/review-of-harassment-in-the-parliament-workplace>.

# Appendix D

## Survey questions and answers

The questions and answer options for the Survey are available on the Equal Opportunity Tasmania website at [www.equalopportunity.tas.gov.au](http://www.equalopportunity.tas.gov.au).

Alternatively, they are able to be directly requested from Equal Opportunity Tasmania.









[www.equalopportunity.tas.gov.au](http://www.equalopportunity.tas.gov.au)