

Position Statement – Harrassment in the Legal Profession

September 2022

Acknowledgement of Country

The Legal Practice Board acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past and present.

Introduction

The legal profession, both at the local and national level, has made it clear that inappropriate personal conduct such as bullying, discrimination, sexual harassment and all other forms of harassment will not be tolerated. Everyone has the right to work in a safe environment. While lawyers are not unique in facing these challenges, there is a shared responsibility to address sexual harassment and other inappropriate behaviour in legal workplaces.

As the regulator of the legal profession in Western Australia, the Legal Practice Board (**Board**) is working locally and with our partners around the country to do what we can to promote cultural change and best practice within the legal profession, and to assist in driving a change in attitudes towards inappropriate personal conduct.

The Board is proactively addressing this kind of conduct and is committed to empowering the legal profession to own and to be instrumental in the solution of this issue. The Board wants to ensure that law practices have in place policies and procedures that enable a safe working environment and promote public trust in the legal profession. The Board knows that we need to help change the culture that allows bad behaviour to continue, and to support people who have experienced inappropriate conduct, including sexual harassment.

The Board encourages anyone who has been subjected to, has witnessed, or has knowledge of, harassment – including sexual, racial or disability harassment – discrimination, or workplace bullying, by a member of the legal profession to report that behaviour. Awareness of the prevalence and nature of inappropriate personal conduct in the legal profession is crucial to the Board being able to effectively address the issue.

The Board wants to make sure that no-one is deterred from reporting or making a formal complaint about harassment in any form and that they have sufficient information about the processes and outcomes available to them.

A person who has been subjected to, or has witnessed, inappropriate conduct may be reluctant to make a formal complaint, at least initially, and may wish instead to make a confidential or anonymous enquiry or report.

You can notify us in person, in writing and anonymously if you wish. There are reporting tools. Currently you can notify us through a dedicated email address. In the future we are considering an independent and anonymous reporting platform.

Rule 42 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* (**Rules**) prohibits conduct that constitutes discrimination, sexual harassment, any other form of harassment or workplace bullying. A breach of the Rules may also be considered as Unsatisfactory Professional Conduct or Professional Misconduct.

What is harassment?

Unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin, sex, disability, sexual preference, or some other characteristic specified under anti-discrimination or human rights legislation.

Harassment can be sexual or non-sexual and is any type of behaviour that:

- is unwelcome;
- offends, embarrasses, intimidates, humiliates or insults; and
- causes a hostile environment by causing offence to, or humiliation or intimidation of another person.

Harassment may consist of isolated incidents, a series of incidents or an ongoing pattern of behaviour. Harassment is not just unlawful during working hours or in the workplace itself and not only between co-workers. The behaviour is unlawful in any work related context, including conferences, work functions, office Christmas parties and business or field trips and includes interactions with clients and customers.

Sexual harassment includes unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances.

You can find a quick guide to harassment on the Australian Human Rights Commission (AHRC) [website](#).

What is discrimination?

Unlawful **discrimination** happens when a person, or a group of people, is treated less favourably than another person or group of people because of their background or certain personal characteristics. Discrimination can occur directly or indirectly.

You can find a quick guide to discrimination on the Australian Human Rights Commission (AHRC) [website](#).

Bullying

Bullying, is when an individual or group of individuals repeatedly behave unreasonably towards a worker and that behaviour creates a risk to health and safety.

Bullying includes a range of behaviours including:

- yelling, screaming or offensive language;
- excluding or isolating employees;
- subtle psychological abuse, such as assigning employees meaningless tasks unrelated to the job, giving employees impossible jobs, or deliberately changing work rosters to inconvenience employees; and
- intimidation

Employers have a common-law duty to take reasonable care for the health and safety of their employees, in addition to their obligations under federal and state or territory work health and safety legislation.

More detailed information about bullying can be found on the Australian Human Rights Commission website linked [here](#).

Other resources

Just because you contact the Board's office does not mean you cannot or should not take other steps, or contact other agencies that have direct responsibility for dealing with harassment and bullying.

If you are in danger you should contact the WA Police (WAPOL) on 000. To report a crime, such as a sexual or other assault, call WAPOL on 13 14 44.

If you require urgent medical or psychological assistance, you should contact your local doctor or the emergency department of your local hospital.

If you have experienced a recent sexual assault, you can phone the 24-hour Sexual Assault Resource Centre ([SARC](#)) crisis line on 6458 1828 or freecall 1800 199 888.

The information on the [AHRC website](#) might help you to identify organisations that assist persons who are subject to harassment and bullying.

Your human resources manager or contact officer may also be able to provide you with information, or you may have access to an Employee Assistance Program.

You can access emotional support by phoning a general help line such as:

- Lifeline on 13 11 14 - 24 hours, 7 days a week; or
- Beyond Blue on 1300 22 4636 - 24 hours, 7 days a week.