

**External Independent Review**

# **Bullying and Harassment in the New Zealand Parliamentary Workplace**

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*"It's so great we're brave enough to be doing this. It's time. It's the 21st century...and ethical and authentic leadership really matter. We have the public expecting us to improve our behaviour and relationships. However, we also need to be wary of adopting point solutions to something so complex as parliamentary culture...it's a complex ecosystem and if we are to be the best that we can be, it's going to take collective effort over several years and successive governments."*

*"My hope from the Review is we actually do some things to change this place for the better. I hope it's not just all talk. We can be better. We have to be better, for democracy's sake."*

*"I want New Zealanders to be proud of our Parliament. I can't bear it that they watch us all behaving like savages at question time. Dame Whina [Cooper] reminded us to be careful what our children see. We should also be careful what the citizens we want to engage in our democracy see from us as elected leaders."*

*"We must behave with dignity and respect for each other, even while we contend on issues and ideas. It's no longer OK to use 'robustness' as an excuse for bad behaviour."*

*"What do I want from this Review? I want our elected Members to be inspiring role models for all New Zealand employers."*

*"I just want this place to be the great place to work it can be. We all come to this place because we're passionate about our country. Part of what makes Aotearoa great is our integrity and our compassion. I want every person in our parliamentary workplace to reflect those traits."*

*"Most people who choose to work in and for Parliament, including MPs, do so for admirable reasons. They have a right to be respected and safe in their workplace, regardless of their politics and their political passion."*

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# INTRODUCTION

## HOW TO READ THIS REPORT

This Report traverses sensitive matters within one of the most complex and demanding workplaces in New Zealand. The story goes as much to the health of our democracy and New Zealanders' pride in their Parliament as it does to matters of employment, health, safety and workplace culture.

My findings need to be addressed with care and the solutions recommended here are complex and wide-ranging. For these reasons I encourage readers to take the time to read the Report in its entirety.

For the background to this Review, and its Terms of Reference, go to Appendix B.

For the definitions of bullying and harassment used in this Report, go to Appendix D.

For brief descriptions of the parliamentary agencies in scope for this Review, see Appendix E.

For detail regarding the method and approach used during the Review, go to Appendix G.

For a list of the applicable legislation and other instruments pertaining to the Review, see Appendix F.

The recommendations made as a result of this Review are included in the section starting on page 64 and in summary form in Appendix A.

Appendix H aligns the findings and recommendations of the Review to the Review Terms of Reference. Rather than address the terms sequentially, I found it helped the story to flow to tell it as structured below. However, some readers will want to assure themselves that all matters within scope have been addressed.

For agency, Party and union responses to the recommendations made in this Review, go to Appendix I.

## USE OF VERBATIM COMMENTS

Readers will note my frequent use of verbatim comments drawn from over 100 written submissions, over 200 interviews and 42 focus groups. I felt that the best way to do justice to the courage, candour and insight of respondents was to let them tell the story and make suggestions for change in their own words, with the minimum of editorial intervention. Engagement with the Review has been high, and to a large extent this story tells itself.

It should be noted that the verbatim comments selected in the Report have been chosen on the basis of their representativeness and the frequency with which the sentiment was expressed by respondents. Some have been lightly edited to preserve the anonymity of the respondent or accused, particularly where they related to sexual harassment.

## REVIEW LIMITATIONS

This Review was conducted over the period December to March 2018/19. As outlined in Appendix G, it was based on invited written submissions, interviews with a representative sampling of Members, focus groups with staff and managers and interviews with participants who requested these.

This Report is based on the patterns and themes that emerged from these submissions, interviews and discussions. I am reporting here on the perceptions of participants, where I found consistent patterns in their responses.

As will become clear, I received many accusations of harmful behaviour made against individuals, staff, managers and Members, some of whom were regarded by complainants as serial offenders.

My role as reviewer was not to investigate any new or historic complaints – as per the Terms of Reference. However, any such new or historic complaints are not prevented from being progressed by complainants in the appropriate avenues open to them.

I have ensured that any respondents who indicated they wished to take steps outside the Review process regarding any such concerns were provided with information about the avenues for that, and the support available to them, in order to do so. I have also taken care to protect complainants in the way in which I have described some incidents in this Report.

As this process was not a formal inquiry or investigation, and because of the protections to individuals outlined in my Terms of Reference, no information collected through this Review has been used for any purpose other than to allow me to codify and theme participants' perceptions and prepare this Report.

Specific accusations were not investigated by me, as that was not my role as reviewer (for the reasons set out above). Nor was corroboration sought about specific incidents aside from that which presented naturally in interviews or submissions. In order for any specific incidents to be fully and fairly investigated, those would need to be independently investigated outside the Review process with natural justice and other legal requirements being adhered to.

For these reasons, this Report should be seen as a 'point in time' snapshot of the perceptions of those who work or did work in Parliament during the period 2014 to 2019. It should be read with the above limitations in mind.

## ACKNOWLEDGEMENTS

I acknowledge the courage and ambition of the sponsor of this Review, the Speaker of the New Zealand House of Representatives (Speaker). His determination to make Parliament a healthier, happier and more respectful workplace has been a constant over the five months of the Review.

The chief executives of the parliamentary agencies: the Clerk of the House, the General Manager of the Parliamentary Service, the Chief Executive of the Department of Internal Affairs (DIA) and the General Manager of Ministerial and Secretariat Services (MaSS) have also been candid, helpful and open to hearing some troubling findings. Indeed, they have encouraged me to bring sunlight into shadowy corners and have been unwavering in their commitment to ongoing improvement in response to these findings and recommendations.

Senior political Party office holders and leaders have also welcomed the Review and have been engaged early in working on possible solutions and improvements. In particular, the Speaker's cross-Party group of culture 'champions' has been engaged and helpful throughout.

I am heartened by the fact that the parliamentary agencies and the Parties have approached the implementation challenge described in this report so constructively and have contributed early responses to this Report.

To the Members of my External Reference Group - Judge Coral Shaw, Assistant Commissioner of Police Richard Chambers, Dr Justin Barry Walsh from Capital and Coast DHB, Lauren Hourigan of the Public Service Association (PSA) and Angela Mansell of WorkSafe New Zealand (WorkSafe) - thank you for your constructive challenges and helpful advice. You kept me focused on what best practice in workplace health and culture should look like.

Many others have engaged generously in this process as advisors, including the national secretaries of the PSA and E tū unions, who along with their site leaders and organisers, have brought immense practical wisdom to this process.

Most importantly, I am profoundly grateful to the many current and former staff, managers, Members of Parliament (Members), Ministers of the Crown (Ministers), Party leaders and others who contributed their stories and insights to this process; via interview, written submission, online survey or focus group.

For some of you, contributing meant reliving old pain and placed renewed emotional stress on you and your families. I was impressed that so many of you were able to both tell your story and take a strategic view of the parliamentary workplace to prevent harm to others, even when your own hurt was reignited by so doing.

To all respondents: your passion for Parliament, spirit of service and commitment to ensuring a healthy democracy for New Zealand are deeply felt. I am humbled by your strength, your courage, your trust in me and your hopes for the process of change that this Review initiates.



# THE STORY IN A NUTSHELL

- Bullying and harassment are systemic in the parliamentary workplace.
- The story is complex, involving harmful behaviour by and between staff, managers, Members, media and the public.
- There are unique features of the workplace that create risk factors for bullying and harassment, including:
  - A high-intensity culture
  - Lack of investment in leadership development
  - Unusual and complex employment arrangements
  - Largely operational, rather than strategic, workforce management
  - Health, safety and wellbeing policies and systems that are not yet mature
  - Barriers to making complaints; and
  - Inadequate pastoral care.
- Unacceptable conduct is too often tolerated or normalised.
- The identities of many accused are an open secret, and there are alleged serial offenders.
- A core perceived problem is low accountability, particularly for Members, who face few sanctions for harmful behaviour.
- The leadership roles and profiles of Members, Ministers and chief executives provide them opportunities to be important role models by:
  - Setting and modeling expectations for dignified and respectful conduct
  - Holding colleagues and staff to account for their conduct
  - Investing further in the development of leaders and managers
  - Reforming the employment model, professionalising the workforce and further investing in strategic human resource management
  - Establishing new independent bodies and processes for complaints and investigations; and
  - Extending the provision of pastoral care.
- The changes needed to the culture of the parliamentary workplace are comprehensive and complex. They will require skilled implementation and must be sustained and monitored over a period of years.

# A HEALTHY PARLIAMENTARY CULTURE IS IMPORTANT

Parliament is a popularly elected, representative political assembly that ensures responsiveness and accountability of government to citizens by performing two functions: first, by conducting free and open political debate regarding government legislation, spending and implementation of policies; and second, by representing citizens and groups in their dealings with government.

History shows us that the effectiveness and health of parliamentary democracies vary widely, including in mature democracies characterised by sustained multiparty competition, intense partisan debate, and well-organised services for constituents.

Recent events have shown us how easily democratic values and institutions, painstakingly built over hundreds of years, can be weakened, with consequential adverse impacts on citizen engagement, trust and public safety.

In New Zealand, we like to think that the insulating factors of distance, small size and a national identity of niceness protect us from the malaise that is affecting other purportedly stable and mature democracies.

Yet a November 2018 Colmar Brunton Poll<sup>1</sup> shows that citizen respect for our Parliament is decreasing. Only 13% of New Zealanders 'would speak highly of Parliament' and only 7% 'would speak highly of MPs'. While overall Parliament's 'reputation score' was middling, some 60% of respondents associated the New Zealand Parliament with conflict. Despite these findings, the Colmar Brunton analysis also shows that just 14% of respondents think that Parliament and democratic processes don't impact their lives.

While this cynicism and disillusionment stems from an array of factors outside my scope here, as former Finance Minister and Attorney-General Sir Michael Cullen noted in a recent interview, one element of disillusionment with Parliament may stem from the public's perception of Members.

*"If you think back to 60 years ago, politicians were seen at a distance. They were framed in a somewhat idealistic framework, in the sense that they were a little beyond and above. Now it is obvious that politicians are just ordinary human beings."*<sup>2</sup>

And like any other ordinary human beings, the 120 Members and other parliamentary leaders and staff sometimes behave badly. The impact of poor behaviours is amplified by the power imbalance in Parliament between Members and their staff, the scrutiny by media to which Members are subject and the fact that New Zealand's Parliament, as a workplace, retains some elements of management and culture that have been erased from other modern workplaces for decades.

Respondents told me that while they respect the need to keep Parliament as a place of intellectual contention and debate, as Westminster parliaments have always been, they don't see that as licence to suspend professional, dignified and respectful people management behaviours by leaders, including Members.

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<sup>1</sup> Survey of the New Zealand public (November 2018) [www.parliament.nz/media/5555/report-survey-of-the-nz-public-2018.pdf](http://www.parliament.nz/media/5555/report-survey-of-the-nz-public-2018.pdf)

<sup>2</sup> Steve Lewis "Voter disillusionment forcing economic rethink" *Acuity* (online ed, Australia and New Zealand, 1 December 2016).

Many of those who contributed to this Review drew a direct link between the culture and behaviours within the parliamentary workplace and the healthy and productive functioning of New Zealand's democracy during a time of great challenge. As one respondent put it:

*"Never has there been a moment in history when we most needed our leaders to engage constructively on the existential and profoundly complex issues that threaten the planet - climate change, nativism and economic inequality being just a few."*

Another said, making a similar point:

*"We can only solve gnarly problems by working collectively and respectfully...perhaps it's time that the extremes of partisanship and negative competition that characterise Parliament and parliamentarians at their worst are replaced by more positive styles of debate and leadership. For that to happen, basic values, behaviours and relationships have to be healthy."*

Naviety, some will say in response. Idealism. "Robustness is the price of entry to Parliament and the way it's always been," some Members told me. In the words of one: "only a certain type of person can survive here".

But perhaps this connection made by respondents is not too long a bow to draw. As one Member put it:

*"Just because it's politics and people are passionate doesn't mean any of us can behave like arseholes around this place. It's a privilege to serve here, and the people who put us here expect us to lead and want to respect us as leaders."*

It is clear to me from this Review process that the tone and culture of New Zealand's Parliament is changing gradually for the better. The increasing diversity of Members and increasing focus on organisational culture by agency leaders are key factors driving positive change.

But for the health of the parliamentary workplace and New Zealand's democracy, it's time for the process to be fast-tracked. As one respondent told me: "Has it improved over the years? Absolutely. But does it need to improve a great deal more? Yes."

Parliament must become more like the real world it represents. And parliamentary leaders - both managers and elected leaders - must become the consistently aspirational role models New Zealanders expect them to be.

# RISK FACTORS FOR BULLYING AND HARASSMENT IN THE PARLIAMENTARY WORKPLACE

## OVERVIEW

In this section I describe the culture within which those in the parliamentary environment work. It is my contention that some distinctive aspects of the parliamentary workplace create risk factors for poor conduct, including bullying and harassment. I cover the following risk factors below:

- A high-intensity culture
- Lack of investment in leadership development
- Unusual and complex employment arrangements
- Largely tactical, rather than strategic workforce management
- Health, safety and wellbeing policies and systems that are not yet fully mature
- Barriers to making complaints; and
- Inadequate pastoral care.

This section is lengthy, but I encourage readers to persevere; understanding of the unique cultural and employment context of Parliament is an essential backdrop for the findings outlined in the subsequent section.

## PARLIAMENT HAS A HIGH-INTENSITY CULTURE

It is important for New Zealanders to understand the uniqueness of the parliamentary environment and the peculiar pressures it places on all those who work in it, whether on the parliamentary precinct or in electorate and community offices.<sup>3</sup>

Though a tiny minority of respondents argued to me that “uniqueness” was an excuse for poor behaviours, I do not offer the following description in that light. Rather, I am conscious that for most of the New Zealand public, their lens into Parliament is via televised glimpses of parliamentary debate, media reports on issues or individuals and contact with Members as constituents. These interactions provide only partial insight into the complex realities of Parliament as a workplace.

First, the cast of characters is diverse. Parliamentary agencies include the Parliamentary Service, which employs all Member staff (including those in electorate and community offices), operates Parliament’s corporate functions (ICT, HR, asset management etc) and the Parliamentary Library and research functions.

Another legislative branch agency is the Office of the Clerk, which provides specialist advice on procedure and parliamentary law, and secretariat services to the House of Representatives (the House) and its committees.

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<sup>3</sup> I use the term ‘electorate and community offices’ throughout to describe Members’ electorate offices and the community offices used by list Members. The term more often used at present is ‘Out of Parliament staff’.

MaSS is a work group within the DIA, and supports the operations of the Executive, including the employment of ministerial staff and the provision of corporate services support to Ministers.

Taken together, these agencies employ around 1100 staff, both on the parliamentary precinct and in electorate and community offices.

The 120 Members typically work in Wellington from Monday to Thursday of each of the 30 sitting weeks per year, with the rest of their time servicing their electorates or engaging with constituents and other groups.

Their time commitments are demanding, with working hours on a sitting day, (Tuesday through Thursday) starting around 7am for most and often continuing after the House rises at night, typically at 10pm.

Time outside the Chamber is spent in Select Committee meetings, engagements with constituents and stakeholders, Party business, evening and weekend functions and in research and administration.

The scope and nature of issues with which Members must be familiar, both as part of their parliamentary roles and in response to constituent or stakeholder requirements, are both intellectually and emotionally demanding.

Unlike most of us, it is virtually impossible for Members to ‘pop out’ or decompress during sitting weeks when quorum rules require their physical attendance on precinct. Likewise, they are constantly accessible in evenings and weekends for media, colleagues and constituents, many of whom expect their queries to be answered virtually instantly. It was common for Members to tell me how rare it was to get a day off, and how guilty they felt if they took one.

Members are also subject to complex rules and processes. They must master the Speaker’s Directions and an array of policies, rulings, Standing Orders and the constitutional principles that guide the operations of Parliament.

For Ministers, the emotional, intellectual and time pressures are far greater, with complex policy problems and portfolios to master; heightened scrutiny by media, the public and opposition Parties; meetings with officials and agencies; and the collective leadership required by Cabinet membership added to the mix.

Alongside this 24/7 work model sits intensive media scrutiny (particularly from the Parliamentary Press Gallery (Press Gallery) located on the parliamentary precinct who have considerable physical access to Members), heavy travel schedules and long separations from family and friends.

As one Member put it:

*“Don’t get me wrong, I am so honoured to be here and I’m passionate about this work. But sometimes the relentlessness of it and the lack of time at home with family means you’re not your best self; either in terms of strategic thinking or behaviour.”*

Staff, although ostensibly employed on 40-hour week employment agreements, also tend to work long hours during sitting weeks, and many are required to be accessible to their Members, Ministers or managers at all hours. “Not a soul here ever does 40 hours”, said one. A recent review of overtime practice in MaSS by the joint unions found patterns of significant overtime work, particularly in Member and Minister support positions.<sup>4</sup>

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<sup>4</sup> The union survey for MaSS, for example, while reflecting a small sample, found that average overtime for staff in a House sitting week was 10.3 hours. Highest overtime commitments were reported for the senior private secretary position.

Staff work under unforgiving deadlines and pressure not to drop the ball on important and sensitive matters. Any minor error can have grave consequences for constituents and for their Member, Minister or Party, particularly if amplified by media or opposition scrutiny.

Because many staff have personal affiliations to the Party whose Member they serve, a mistake can generate guilt for “letting the Party down” in addition to professional embarrassment.

Staff in electorate and community offices work on complex and troubling constituent matters and sometimes deal with difficult individuals, often in relative isolation from their managers and colleagues and, as discussed below, sometimes with risks to their emotional and physical safety.

The entire environment is characterised by intense competitive pressures: within parties for seniority and status, between parties for political gain, between and among staff for advancement or in ways that reflect intra and inter Party competitiveness. “If my Minister is number [x] and yours is only number [y], then I’m more important than you in this shark tank,” said one respondent.

While the recent introduction of more family friendly policies at Parliament has helped to some extent, opportunities for stress release in this pressure cooker environment are few, and looking after one’s own wellbeing can be challenging. As one Member put it: “There is seldom time to eat well, to exercise, undertake personal chores, or even just to take a moment and think”.

Both Members and staff told me that they felt it was virtually impossible to ever show any vulnerability or self-doubt, even with colleagues, as this could be exploited by others for competitive advantage and was like: “blood on the water, even with my own colleagues”.

Most staff tended to be open only with a small number of trusted colleagues and then only late at night with a wine or, for staff, at ‘therapy’ sessions on Fridays when Members are generally absent from Wellington. “We get together, vent about our awful weeks and gossip madly. It’s like a survivors’ club.”

For some, the monoculturalism of the parliamentary bubble carries its own pain. One Member told me:

*“Whenever I come here, I know that I have to suspend my Māoriness. All my values, like manaakitanga, must be put into abeyance in te ana o te raiona. My Māori constituents know this and pity me for it.”*

In this intensely pressured environment, gossip tends to become the lifeblood of the culture, and competitive intrigue the air that everyone breathes. Personality quirks or lack of emotional resilience are magnified under pressure. In some cases, the pressure creates diamonds - leaders, managers and staff of exceptional emotional authenticity and skill. In other cases, the pressure leads to poor behaviours, lack of emotional wellbeing or mental ill health.

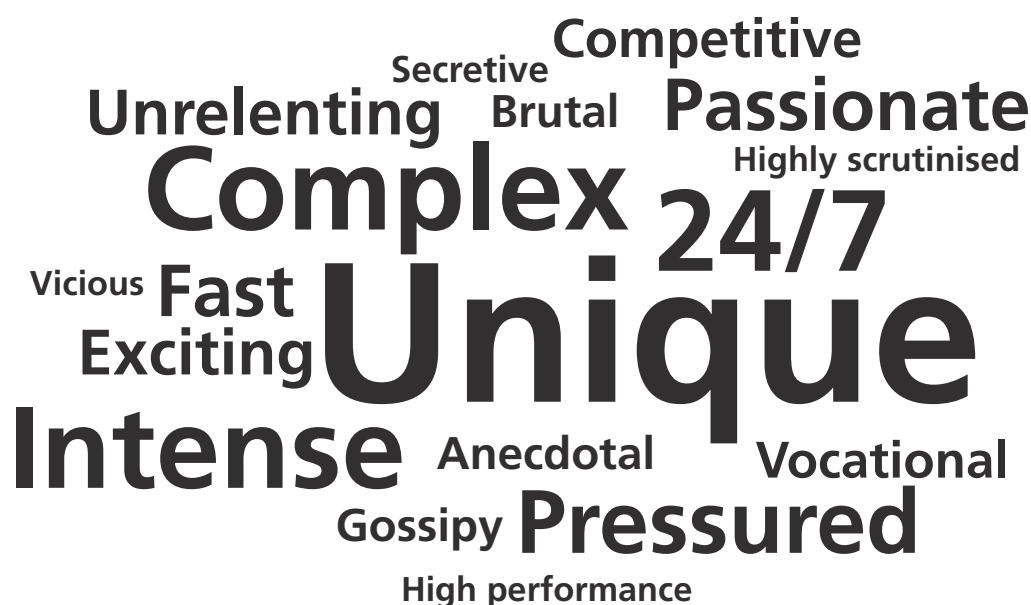
For many Members it means, in the words of one:

*“I realised that, for the time I serve here, there is no way that I can nurture myself and there is no safe place for me. Don’t get me wrong, I chose this job and it’s a huge privilege, but it comes at high personal and family cost.”*

For staff, it often means that:

*“This workplace is so ridiculously demanding that only 24-year olds and older people can survive in here and then only with extensive self-medication. Anyone sane or with a family just gets out.”*

I asked many interview respondents to give me adjectives to describe the culture of the parliamentary workplace. The results are shown in the word gram below, with font size representing the most frequently used descriptors.



These workplace pressures - time poverty, intense pressure to perform, fear of mistakes, sometimes arcane rules and processes, hyper-competitiveness, lack of diversity in the workforce, secrecy and gossip – all appear to create risk factors for the kind of toxic culture that can give rise to poor workplace behaviours. “It’s the weird intimacy of the parliamentary cultural bubble”, said one Member, “that can deform even a strong character. Every Friday when I get to my electorate I think ‘thank God for real New Zealanders keeping me grounded’.”

## LEADERSHIP SKILLS ARE UNDERDEVELOPED

In most modern organisations, considerable attention is paid to the intrapersonal and professional development of leaders, from first line managers to the chief executive and board. This is because leadership, more than any other factor, drives workplace culture and behaviours.

Modern leadership development is usually focused on some core elements: strategic thinking, self-awareness, emotional intelligence and people skills (e.g. coaching, difficult conversations). Modern best practice also focuses on helping leaders translate strategy into culture. Organisations develop a clear picture of the culture they want and focus development on a small number of critical capabilities for leaders. This development is increasingly tailored to the unique background and needs of the leader or team.

Modern organisations increasingly deliver leadership development in a manner that reflects effective adult learning principles and is attuned to the rhythm of the business. They include evaluation loops to check leadership development effectiveness and they leverage technology in creative ways beyond the clunky eLearning systems of the past.

For Members, who come from very diverse professional backgrounds, few of these best practice approaches currently exist. There is no formal diagnostic of strengths and development needs at entry (though some Parties' 'candidate colleges' are taking small steps towards this), few Member development plans to leverage strengths across a Party group or fill individual development gaps, and no link between leadership requirements, coaching and evaluation mechanisms. The Member professional development that does occur tends to be ad hoc and Members report that it is not always delivered in a manner that meets their unique needs and accommodates the pressures on them.

There are almost no formalised, curriculum-driven leadership development programmes available to Members, outside some non-mandatory courses run by the agencies or individual participation in leadership events run by inter-parliamentary bodies or universities, often at a Member's own initiative.

For corporate managers in the parliamentary workplace, leadership development can be similarly patchy, although programmes do exist. The Parliamentary Service is beginning to develop a leadership curriculum and framework and DIA has mature leadership development programmes, to which MaSS staff have access. The Office of the Clerk has had specific leadership expectations for several years and had a leadership development programme for managers and aspiring managers. In spite of these programmes, professional or intrapersonal development is typically what the individual manager makes a case for, rather than structured to align to the agency's organisational strategy, culture and talent-development requirements. Some respondents told me that leadership programmes were too "ethereal", rather than focussed on the practicalities of people management.

Many respondents saw this as a fertile area for improving parliamentary culture. In the Parliamentary Service, one said:

*"There's a really old-fashioned hierarchical management culture where leaders are often technical experts and pretty weak on the EQ stuff. They talk values and team culture, but they behave in a manner completely at odds with the talk."*

About Members, several respondents expressed a sentiment akin to this comment:

*"Some of them come in as really experienced people leaders and it shows once they get here as Members. For others, it can be like taking a blue-collar worker and making them CEO overnight. They have no idea about how to lead people or model behaviours that set the right tone. They also sometimes lack the self-awareness to see they need some training. The result is some great leaders and some bloody awful ones."*

Some Members themselves remarked on the lack of leadership investment:

*"When I compare myself to the CEOs and leaders with whom I engage, it feels like they've had all the development the world has to offer and I've had none, mostly because we're all too afraid of the taxpayer reaction to that sort of spending. And yet, in leadership terms, this is the hardest gig there is."*

It is unusual to expect those in key leadership positions in a high-intensity, demanding workplace like Parliament, whether Members or corporate managers, to lead without systematic and framework-driven professional development or support. I suggest that underinvestment in this area may exacerbate the other risks inherent in Parliament's unique culture.



## PARLIAMENTARY EMPLOYMENT ARRANGEMENTS ARE ALSO UNUSUAL

Employment arrangements at Parliament have a complexity (in practice, rather than necessarily on paper) found in no other New Zealand workplace. They are also distinctive among Westminster democracies.

It was the contention of many Review respondents that these unique arrangements had helped create a climate in which poor conduct was more likely to occur. As one put it: “the rules of regular employment relationships are suspended...people in Parliament know this”.

### **Parliamentary Service staff feel they work in a triangular relationship**

Member support staff in Members’ parliamentary and electorate/community offices often refer to the challenges inherent in the so-called ‘triangular relationship’, whereby the Parliamentary Service is their legal employer, but the Member is for practical purposes the day-to-day ‘boss’ who directs their work.

While staff understand that their employment relationship is with the Parliamentary Service, they report feeling that in most practical respects their employer is actually their Member. As one respondent put it: “In my head my boss is the Parliamentary Service. In my heart it’s my MP”.

Most respondents felt that there was something fundamentally problematic in the need to juggle the demands of what some described as ‘two bosses’. “That bloody triangular thing no one understands”, said one. “I don’t know how to fix it, but I do know it’s most of the problem.” Another respondent wrote: “I have two employers – PS and my MP – and it’s always up to me to negotiate that balance.”

Some staff expressed concern about a perceived power imbalance between the Parliamentary Service as employer and the Member. One alleged:

*“MPs don’t like to be told what to do about staff. MPs don’t read any of those emails about employment things from the Parliamentary Service.”*

Another said:

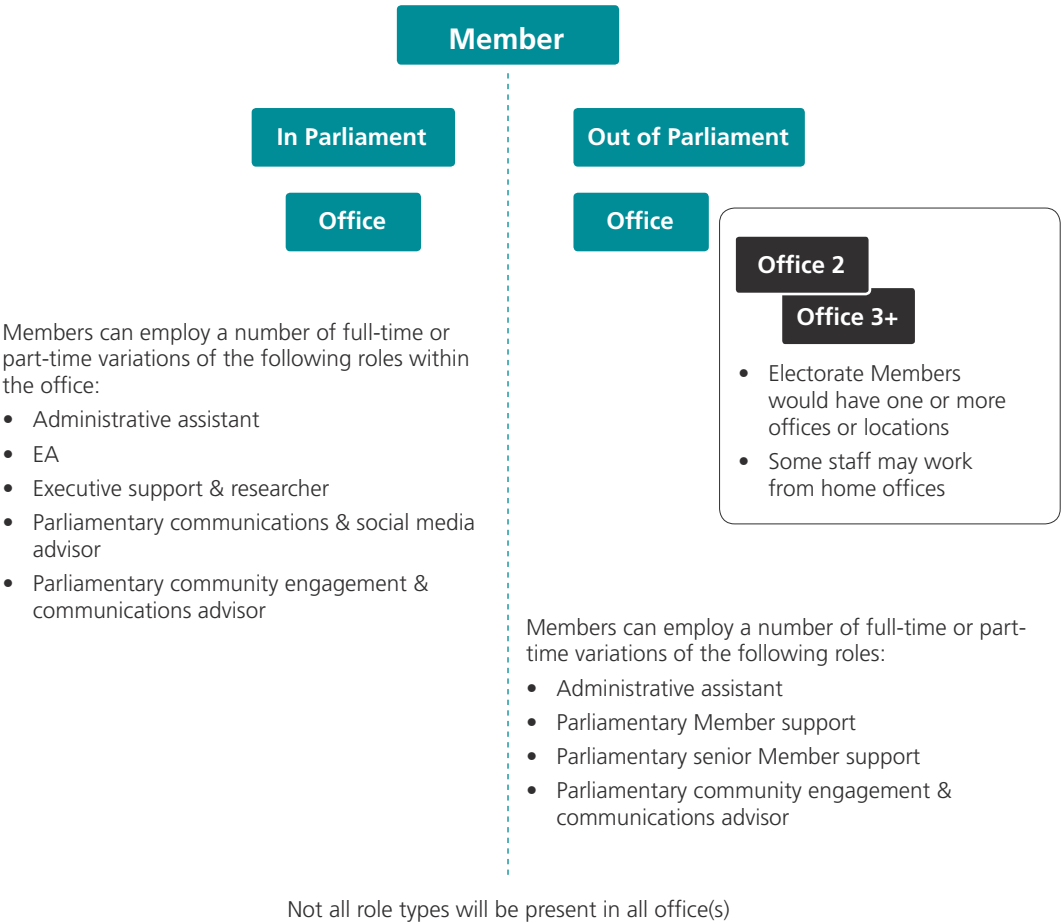
*“PS won’t stand up to Members even when they’re in the right on an employment matter. They’re too intimidated by MPs’ status and by the ego of some of them.”*

Most staff also told me that they preferred the Parliamentary Service as their employer to any possible alternative model entailing direct employment by the Member, which is the model found in most other Westminster systems such as in the United Kingdom. “120 different employers would be much worse,” said one, “in that they’d all do 120 different things”.

Most Members employ an executive assistant (EA) and sometimes other specialist support staff in Wellington (such as communications, research or policy assistants and advisors) and full or part-time support staff in their electorate or community offices. The latter are referred to by Parliamentary Service as ‘Out of Parliament staff’, with the unfortunate acronym OoPS, popularly pronounced ‘oops’.

Members are allocated a yearly staffing budget, determined by the Speaker’s Directions, which they can use to hire the mix of staff they require.

While job titles can be the same, the actual duties performed by staff with the same title are in practice widely divergent between Members’ offices, as a Member attempts to get the best mix of skills for the available resourcing. Though no Member’s office is the same for this reason, a broadly typical staffing configuration in a Member office is as shown in the diagram below.



These Member support staff are employed on fixed term employment agreements which are designed to allow the flexibility needed to reflect the three-year terms of Parliament, changes in the tenure of a Member and other requirements of New Zealand’s Mixed Member Proportional Representation (MMP) system. Most staff to whom I spoke referred to these as ‘event-based’ agreements.

There are two collective employment agreements for Parliamentary Service staff. Collective Agreement One covers corporate or back-office staff including security officers, library staff, visitor services and travel. Collective Two has two parts: Part A covers Member support staff (EAs and Out of Parliament) and Part B covers political staff in Party leaders’ and whips’ offices.

The Collective Two agreement contains a what staff often refer to as a 'breakdown clause', in which either the Member or the staff Member can invoke a relationship breakdown, based on 'loss of trust and confidence' as a reason for termination.

In the event of termination on this basis, the clause allows for the staff member to exit immediately or by agreement, on payment of notice and three months' salary. Under New Zealand employment law, termination for irreconcilable differences should only occur as a matter of last resort and following a full process in which the employee has been given an opportunity to provide a response, and alternatives to dismissal have been explored between the parties.

It was the perception of many respondents that, in practice, this full process was sometimes not followed in the parliamentary setting, because of the inherent power imbalance; not only between a Member and the employee, but between the Parliamentary Service's HR advisor and the Member. One reported:

*"HR said to me, 'at the end of the day, MPs don't change. We can't tell them how to treat their staff because they're elected'."*

Another alleged:

*"They go really quickly to 'how much do you want? Do you want to go through the breakdown clause?' [The Parliamentary Service] just wants to make it go away."*

The breakdown clause has never been fully tested in the Employment Court as most disputed breakdowns are settled and accompanied by settlement agreements, including confidentiality clauses.

The cost of the severance provision for Member support and Member political staff falls on a Member's budget. This is a relatively recent innovation. I understand that it was intended to sheet home the financial consequences for relationship breakdowns to the Member and thus to disincentivise use of this clause. A number of staff commented that it did not appear to have had that effect in practice. One alleged: "I think that when the number of breakdowns gets high, they just wash it into some other budget."

After an election or other change, fixed-term staff must formally reapply for a position. This can result in some stressful transitions such as after the 2017 Election, when some staff told me they were placed into a 'holding pen' and told they: "...must turn up but don't do any work" for several weeks during coalition discussions. One employee said: "It was hideous. Like one of those things in high school where you waited for one of the cool kids to pick you for their team."

Parliamentary Service Member support staff may also be recruited in an unusual manner. Members have a right to nominate staff to positions. They demand and receive considerable flexibility to shape jobs to individual staff and calibrate the numbers and mix within their teams. Staff told me they felt Members were mostly deferred to on matters of staff selection by the Parliamentary Service, even, on occasion, if an appointment appeared unwise or the nominee unsuitable.

Although this flexibility can assist Members to create efficient and well-balanced teams, at its worst it encourages poor process, reduces diversity, enables conflicts of interest and sets people up to fail. One respondent told me:

*"It's disgraceful in a 21st century workplace that a Member's relative or a Party hack with none of the required skills can be hired with no scrutiny or little push back."*

Another commented:

*"HR really tries to impose good process on recruitment but what a Member wants a Member gets, no matter how it might be setting them or the staff member up to fail."*

Once employed by the Parliamentary Service, staff receive an induction to Parliament and the Service, but it appears common for there to be little induction into the actual job. Many EAs, for example, some of whom are relatively young and coming into their first professional role, described finding themselves seated at a desk with papers and left to their own devices, without handover, desk files, a buddy or a mentor.

The professional tools that support most modern workplaces - online training systems, process maps, knowledge management, mobile IT and so on - are surprisingly lacking in Parliament. As one respondent described it to me:

*"There's none of the basic practical support. Once you dig away into the intranet or ask the right people you can find some pockets of awesome stuff but at the start the whole thing's a complete mystery and the IT is awful."*

Remuneration for these Member support staff tends to be quite low - certainly when compared to similar roles elsewhere. However, a Member's staffing budget is subject to yearly increases allowing for salary increments to be funded. Aside from the provision for salary increments, portions of this budget can be transferred to the Party's budget to hire political staff.

Several Members expressed concerns to me in interviews about the level of funding for Member support staff, particularly when they wanted to recruit more experienced senior staff. The 2018 Appropriations Review Committee (ARC) Report suggested a central, ring-fenced fund, held by the Service, to allow for higher levels of staff recognition and reward.<sup>5</sup>

The Parliamentary Service also employs staff in leaders' offices under a 'Part B' agreement, in which no pay levels are specified and with no provision for increments. This budget is not ring-fenced, and the Party allocation does not increase each year.

In practice this means that leaders' office staff can be paid at very different levels. Remuneration for political staff is thus both inconsistent and unaligned to market. This appears to create some bitterness among employees and can frustrate Members.<sup>6</sup>

In addition to these Member support staff, the Parliamentary Service and the Office of the Clerk employ staff in corporate and professional functions in the conventional manner.

There are also a number of outsourced arrangements for ICT and other contracted services.

### **Ministerial staff are employed by DIA, through MaSS**

All staff in ministerial offices are employed by DIA, with the exception of departmental private secretaries who are employees of other public service departments or agencies. They include staff employed by MaSS, a work group within DIA to a broadly consistent mix of job types, such as chiefs of staff, senior private secretary (SPS), press secretary, ministerial advisor and private secretary executive/administration support. These staff also experience a version of the triangular relationship in that they often see their boss in practical terms as the Minister but are technically employed by DIA.

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<sup>5</sup> Appropriations Review Committee Towards a World-leading Democracy: Report of the Seventh Triennial Appropriations Review Committee (31 July 2018) at 24 and 27. This is referred to below as the ARC Report.

<sup>6</sup> The ARC Report recommended some changes to this system, to better align Part A and B agreements and to fund increments for political staff. See pages 33–34.

These staff operate under a specific code of conduct for ministerial staff. This code recognises that these staff are working in a political environment and replaces the principle of being 'impartial' in the State Services Commission's Code of Conduct with the principle of being 'professional'.

Ministers have a say in the staff who work for them. The appointments of ministerial staff are exempt from the State Sector Act 1998 (SSA) section 60 requirement to select the person best suited to the position. Given the political nature of their work, they are also exempt from the Human Rights Act 1993 (HRA) sections 31 (a) and (d).<sup>7</sup> These provisions recognise that these staff are working in a political environment and allow ministerial influence.

These staff also have a distinctive collective employment agreement and there is a perception that advisor roles are often more highly remunerated than the ministerial support and agency staff working alongside them.

Ministerial staff are exempt from the prohibition on discrimination in an employment context based on the grounds of political belief, under section 22 of the HRA.

Ministerial staff also have a relationship to the Party chief of staff, although obligations for pastoral care and performance management are variously handled by the Parties.

In addition, Ministers' offices include departmental portfolio private secretaries who are seconded from portfolio agencies to provide the link between the Minister's office and the relevant department. These staff operate under the general State Services Commission's Code of Conduct. They in effect experience a quadrangular employment relationship because the home agency is their legal employer.

While they remain departmental employees and are often quite senior staff, in many cases they report feeling isolated from their home agency and socially or psychologically isolated from other ministerial staff in that they have a public servant's obligation to be apolitical. Support from home departments appears to be highly variable. As such, and as described more fully later in this Report, these staff sometimes feel highly vulnerable to the unique pressures of the parliamentary workplace.

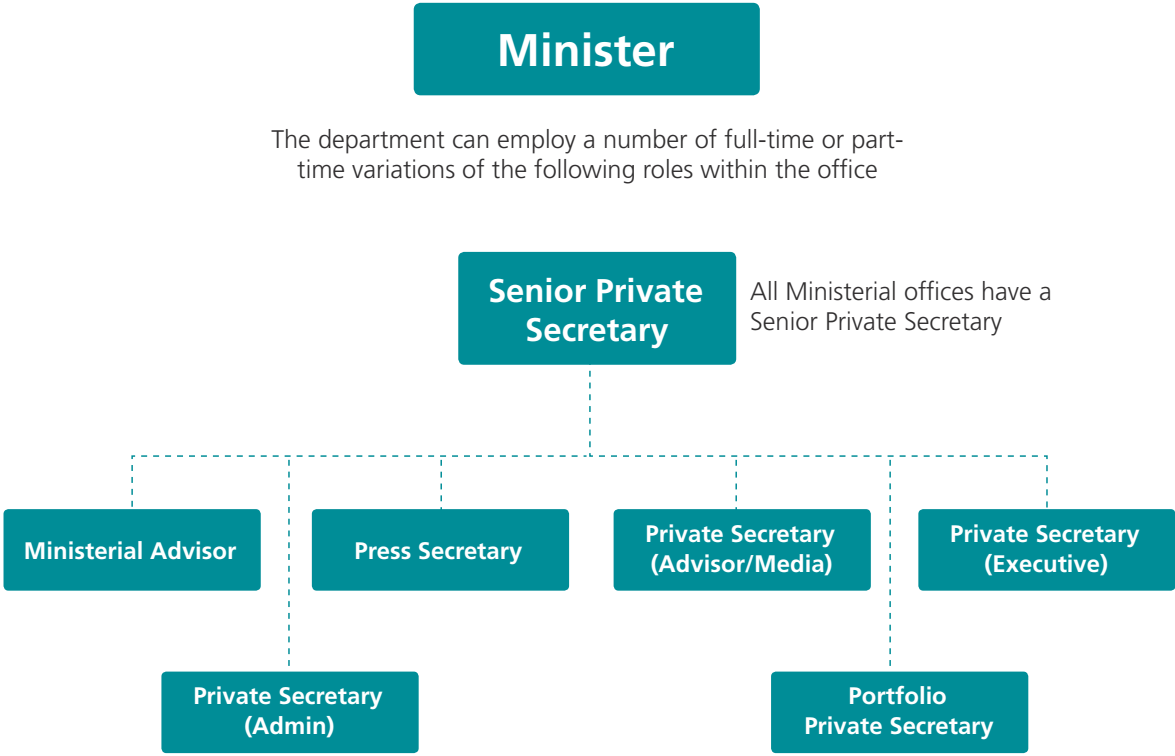
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<sup>7</sup> While the State Sector Act 1988 (SSA) establishes obligations on chief executives in relation to the recruitment and hiring of staff, some of these obligations do not apply when the chief executive of DIA is hiring Ministerial staff. Under the SSA, the chief executive of DIA does not have to give preference to the person who is best suited to the job when hiring ministerial staff. The chief executive does not have to advertise a ministerial staff vacancy, notify employees in DIA of the new appointment, or establish a procedure for reviewing new appointments. These chief executive responsibilities apply to the rest of the public service.

In considering this amendment, made in 2013, the State Services Commission stated that these chief executive responsibilities should not be mandatory in the case of ministerial staff as they are often appointed under political influence. The Commission envisaged that although these provisions would not be mandatory for ministerial staff appointments, they would serve as good practice guidelines. See *State Services Commission State Sector Act 1988: Explanation of Amendments in 2013 (2015)* at 27–28.

The Human Rights Act 1993 (HRA) forbids discrimination on the grounds of political opinion in an employment context. However, this prohibition does not apply to workers who are a political advisor or secretary to a Member, or a member of staff of a political Party. While such staff are protected from other grounds of discrimination, they are not protected from discrimination based on political opinion. This means that the employer can refuse to employ the individual, offer them less favorable terms of employment and opportunities, and terminate employment based on their political opinions.

The typical makeup of a Minister's office is shown below. Because Ministers are also Members, where they hold an electorate, they will also employ Parliamentary Service staff:



Most MaSS staff, as employees of DIA, have a fixed term or event-based employment agreement that also includes a breakdown clause. In this case, however, it is non-reciprocal, and may be activated only by DIA. The employment agreement sets a process that must be followed, and DIA is required to consider redeployment opportunities. In this case, the severance pay is four weeks' notice plus an additional two months' salary.

Few ministerial staff appear to have any induction to their roles, beyond some overlap with the outgoing staff member. There is a perceived lack of document and case management systems or desk files. As one press secretary described it to me:

*"I came in, day one, and someone showed me a huge pile of paper on my desk and said: 'here you go' and that was it. I'm an experienced professional, but I had no idea what to do, what my job was or who to ask. It took a good six months for me to figure it out and while I was trying to, some of the more experienced staff really took advantage of my naivety."*

As with Member support staff, there can be a lack of role consistency in ministerial offices. While there are standardised position descriptions, a private secretary administrator in one office might be a social media and communications expert, while in another the same position might be heavily administrative.

The key role of SPS functions in some offices as something akin to a chief operating officer, while in others it is more clerical in nature. Some SPSs have well developed people management skills; others have less interest or experience in this area.

### **Office of the Clerk staff are mostly permanent employees**

Most staff in the Office are employed on either individual or collective permanent employment agreements. The use of fixed-term arrangements is relatively rare, except for project positions.

The Parliamentary Office has undertaken considerable organisational change in recent years, particularly in the Select Committee services area, which has experienced high staff turnover.

### **Some staff report feeling confusion, uncertainty and fear**

Taken together, these complex staffing arrangements and their lack of consistency can feel as confusing to the staff and leaders involved in them as they sound in my attempt to describe them. As one respondent put it:

*“There’s massive duplication, confusion and inefficiency – of processes, pay rates, job descriptions, collectives and management practices, you name it – all for 1600 [sic] people. We all know the constitutional niceties about leg and exec branch and apolitical and political, but really? Does it have to be this hard?”*

The confusion is compounded by very different approaches taken in different Parties and by different Members and Ministers. For example, in one Party, a whip or a chief of staff might have a bent for people management and be very active in engaging with individual staff as well as Members. In another, the person in that role will have other skills and priorities. In some Parties the whips’ office manager or a particularly well-respected staff member will have an informal people management role outside formal HR management from the employing agencies.

These differences are often the result of different levels of pre-parliamentary experience in people management on the part of Members, Ministers or Party leaders. They create considerable confusion for staff in ‘who to go to for what’ on an employment matter. A typical comment from a MaSS employee was:

*“I suppose technically I’m supposed to go to MinServ [MaSS], but I feel zero connection to DIA. I can’t trouble my Minister with it, my SPS doesn’t have the skills and I don’t know the chief of staff, so I just stumble around and ask colleagues how to deal with it.”*

Besides confusion, there is fear. While staff understand the need for flexibility in employment arrangements driven by the political cycle, conventions such as Cabinet reshuffles and the nature of MMP, most told me they felt the breakdown clause in their employment agreements was a sword over their necks. This was an almost universal sentiment. One MaSS staff member said:

*“I get the privilege of working in this fascinating place on stuff that makes a difference to New Zealand but every day I worry I’ll stuff something up and me and my reputation will be gone by lunchtime. When you’ve got a mortgage and a family, it frightens you all the time.”*

Worse, the insecurity of the employment arrangements for many staff has a chilling effect on voice. “I’d never speak out about any bad stuff to anyone under any circumstance,” said one Parliamentary Service staff member, who added:

*“As soon as I do, I get branded a troublemaker and branded as disloyal to my boss and the Party. Next time the music starts up at election time, there won’t be a chair for me. Or, even before that, I just get evented out [terminated] with no reference and a hole in my CV.”*

And this comment was also typical of many:

*“This whole thing is so incredibly precarious. You just know that, short of your MP pointing a gun at you...you’re the one that’s going to get the chop.”*

Finally, the need for constant vigilance on the ethical line between parliamentary work and political work weighs heavily on some of the Parliamentary Service's Member support staff, especially in electorate and community offices. Parliamentary support staff are prohibited from undertaking political work on Parliamentary Service paid time. As one said:

*"[Parliamentary Service] is constantly telling us about the damn line, but in practice it's really blurred. I work on Parliamentary stuff until 4pm, then I go and do political jobs for my Member. It happens all the time."*

## THE WORKFORCE LACKS DIVERSITY

After reading the sections above, it may not surprise readers to know that the parliamentary workforce is somewhat undiverse. Taken across the three parliamentary agencies and caveated by difficulties in reconciling HR data collected by different agencies in different formats across different time periods, the workforce had the following ethnicity, age and gender composition for the 2017/18 financial year:<sup>8</sup>

Ethnicity	Parliamentary Service	Office of the Clerk	Ministerial & Secretariat Services
Māori	13%	4%	15%
NZ European	56%	82%	72%
Pacific	4%	0%	8%
Asian	6%	5%	2%
Middle Eastern/Latin American/African	0%	5%	1%
N/A	21%	4%	2%

Age	Parliamentary Service	Office of the Clerk	Ministerial & Secretariat Services
18-25	12%	20%	7%
26-35	21%	29%	33%
36-45	16%	19%	21%
46-55	20%	11%	18%
56+	30%	21%	18%

Gender	Parliamentary Service	Office of the Clerk	Ministerial & Secretariat Services
Female	63%	61%	61%
Male	37%	39%	38%
Other	0%	0%	1%
Prefer not to say	0%	0%	0%

Tenure of staff for the 2017/18 year was as follows:

Tenure	Parliamentary Service	Office of the Clerk	Ministerial & Secretariat Services
<6 months	10%	11%	9%
6 months-1 year	14%	13%	17%
1-3 years	29%	32%	65%
3-5 years	13%	13%	2%
5-10 years	14%	12%	2%
10+ years	19%	19%	5%

<sup>8</sup> Data supplied by the agencies.



Turnover rates by agency for the parliamentary workforce were as follows:<sup>9</sup>

Turnover rate	Parliamentary Service	Office of the Clerk	Ministerial & Secretariat Services
2015/16	12%	32%	13%
2016/17	15%	26%	13%
2017/18	11%	31%	14%

These gross data hint at other interesting aspects of workforce composition. While we should be wary of resorting to stereotypes or generalisation, many respondents pointed out that there are some in play here. The Member and Minister support workforces tend to comprise either twenty-something year-old staff members in what may be their first job out of university, or long-serving, mostly female, staff in EA or SPS positions. As one respondent alleged: “This is a place for idealistic 24-year olds or older women...it’s stereotypical but partly true for all that.”

Some respondents also commented that there appeared to be relatively few of the mid-aged, middle management types who typically provide the balance between millennials and boomers and contribute experiential and cultural diversity to other workforces. “There is a quiet understanding”, wrote one, “that some roles simply cannot be filled by parents (particularly mothers) of pre-teens because of the excessive evening hours required.”

This also means the parliamentary workforce comprises relatively few staff, outside the corporate staff in the parliamentary agencies, who have recent reference points for what a well-functioning, modern workplace looks like, whether because they’ve not been in any other workplace or because they have been, as one long-serving EA put it to me: “institutionalised in Parliament”.

This has several consequential effects. One of the more concerning is the fact that some young staff members appeared to me to believe that some of the negative aspects of the parliamentary workplace were normal. Some described emerging from their employment experience at Parliament cynical and with a high tolerance for poor behaviour. When young professionals in their first jobs see or experience bad behaviour by leaders it risks them replicating those behaviours.

Lack of cultural diversity in the workforce was also a perceived problem. Both employee and Member respondents expressed concern about the lack of a bicultural flavor to the parliamentary workplace:

*“We sort of got a pōwhiri at induction but not on day one. There’s a few panels in the Māori Select Committee room but no marae, no kaumātua, little engagement with the people of this whenua. They try, but it feels really tokenistic.”*

Others worried that the workforce did not feel nor look anything like the New Zealand it represents. “The whole place feels so white and middle class,” said one respondent. Another said:

*“It feels like it’s just not changing fast enough to reflect the people it serves. In some ways the Member workforce is way more diverse than the staff one.”*

<sup>9</sup> This information should be treated with care because the Parliamentary Service averages turnover over the year and the other two agencies have supplied point-in-time data at year end.

## PARLIAMENT'S HEALTH, SAFETY & WELLBEING SYSTEMS ARE SOUND BUT NOT YET MATURE

### **Parliamentary duty holders take their obligations seriously**

The primary purpose of the Health and Safety at Work Act 2015 (HSWA) is to provide for a balanced framework to secure the health and safety of New Zealand workers and workplaces. The HSWA is a performance-oriented, non-prescriptive statute, in that it relies on broad legal tests rather than a prescribed set of actions.

The HSWA requires health and safety work risks to be actively managed. This means consideration of potential work-related health conditions as well as injuries that could occur. Health conditions include both physical and psychological acute and long-term illnesses. The legislation thus encompasses wellbeing and mental health issues in the workplace.

Parliamentary agencies, whether in the legislative branch (the Parliamentary Service and the Office of the Clerk) or the executive branch (DIA comprising MaSS) are subject to the same health and safety responsibilities and liabilities as other New Zealand places of business. They are Persons Conducting a Business or Undertaking (PCBUs) for the purposes of the HSWA. Parties and individual Members are also PCBUs. Ministers are not PCBUs when acting in their capacity as Ministers. The Speaker is not a PCBU.

The HSWA introduced new classes of duty holders, extended duties and increased penalties for breaches. Each person with a duty under the HSWA is required to eliminate risks to health and safety so far as is reasonably practicable, or where it is not reasonably practicable to do so, to minimise those risks so far as is reasonably practicable.

There are four types of people that have duties under the HSWA – PCBUs, officers, workers and other persons at workplaces. Thus, under the HSWA, everyone at a workplace has health and safety duties and so has a role in dealing with the emotional and mental harm that may arise as a result of bullying or harassment.

It is pleasing to see the seriousness with which senior leaders in Parliament – the agency chief executives, senior Party leaders and the Speaker appear to take their health, safety and wellbeing obligations.

These leaders also view their responsibilities holistically. That is, they are thoughtful about the extent to which workplace culture and climate affects their staff and others in the workplace. Indeed, their concerns were a major driver for this Review.

### **Current health, safety and wellbeing systems appear sound but not consistently well understood**

Each of the relevant agencies has recent and sound policies, frameworks and strategies relating to health and safety. I comment on this in a later section below, as required by my Terms of Reference.

Parliamentary Service's Health, Safety and Wellbeing Strategy has a properly holistic focus on a strong culture and "manaakitanga being modelled in all that we do". Parliamentary Service includes what was described to me as a useful, though not compulsory, health, safety and wellbeing module in its induction programmes for new Members.

PCBUs must have practices that give workers reasonable opportunities to participate effectively in improving health and safety on an ongoing basis (these are known as worker participation practices). These include processes for workers to report health and safety issues, such as concerns that risks are not being adequately managed.

The extent to which workers and managers below very senior levels in each agency are engaged in dynamic and ongoing risk identification and management strategies was not evident to me through this Review process. Although most respondents knew how to make an incident report, many of the agency managers and staff with whom I spoke appeared unclear about the details of the relevant policies and strategies.

Some staff and agency managers expressed a lack of clarity about the process of worker engagement, the central risk register, incident investigations and accountability for risk mitigation and management.

This lack of clarity appeared to be more marked among respondents from Parliamentary Service and MaSS than from those in the Office of the Clerk. Office staff, in the 2018 recent engagement survey, rated their agency's commitment to the health, safety and wellbeing of its people very highly (79% of respondents rated it as very good).

Corporate managers in Parliamentary Service and Members appeared to me to show varying levels of clarity and understanding about their duties and obligations under the HSWA. Some elected Members evinced surprise when I reminded them of their PCBU status. Even when Members were aware of their PCBU status and obligations, several told me they were unsure about how to be certain they were discharging the latter properly.

Below senior leadership level, when managers or duty holders were alert to their responsibilities under the HSWA, they appear to have focused to date mostly on physical safety and health, as opposed to emotional safety. For example, Parliamentary Service has in recent times made a significant investment in improving the physical safety of Members' electorate offices and ensuring the safety of the precinct for contractors. It has only recently started to turn its attention to emotional safety and wellbeing.

### **Health and safety governance appears confusing**

At the governance level, there is a Joint PCBU Committee, which includes duty holders and staff representatives from the Office of the Clerk, the Parliamentary Service, the Department of the Prime Minister and Cabinet, MaSS and the Parliamentary Counsel Office. The Parliamentary Service Commission (PSC), chaired by the Speaker, also includes a health and safety subcommittee which is made up of Members only.

While this Review did not systematically investigate the work undertaken by these committees, it remains unclear to me:

- How the more holistic aspects of health, safety and wellbeing (such as emotional safety and mental health) are reported to these bodies
- Whether such matters are included in the central risk registers (in more granular detail than single, high-level line items) and how they are managed and mitigated, with the relevant duty holders held to account
- How these bodies ensure that behavioural and cultural workplace health, safety and wellbeing are reported and investigated, how ongoing investigations are monitored and trends analysed; and
- How these bodies engage in the development and monitoring of systemic interventions across the parliamentary workplace to improve workplace wellbeing.

How the two committees relate to each other is also somewhat confusing. PCBUs with overlapping duties must, so far as is reasonably practicable, consult, cooperate and coordinate activities with other PCBUs so that they can all meet their joint responsibilities. PCBUs do not need to duplicate each other's efforts.<sup>10</sup>

My perusal of recent meeting minutes suggests that the PSC subcommittee is focused on the right matters but has a way still to go regarding detailed reporting, analysis and risk management, particularly with respect to mental and emotional health risks in the workplace.

I could not find evidence that agency chief executives meet regularly as officers to discuss and manage common issues across the workplace, though reporting is provided to each. The Joint PCBU Committee rather seems to comprise staff health and safety representatives from the parliamentary agencies.

Overall, while most required elements of a legislatively compliant and good practice health, safety and wellbeing system appear to be in evidence for the parliamentary workplace and certain aspects have received significant focus in recent years, I did not form the impression that emotional health, safety and wellbeing risks and mitigations were the subject of regular and dynamic engagement among duty holders and workers below very senior levels.

Below senior leadership, not all duty holders in the parliamentary workplace appeared to have made a strong connection between workplace culture and behaviours and their obligations to maintain and manage workplace wellbeing.

As WorkSafe explains in its 2018 *Good practice guidelines: Preventing and responding to bullying at work*, workplace bullying and harassment often involve employee relations issues and the Employment Relations Act 2000 (ERA) and the Employment Relations Authority are often the best place for these matters to be addressed, rather than addressing them through a health, safety and wellbeing lens. They state:

*"[WorkSafe] will typically only investigate bullying and harassment claims when there is a diagnosis of serious mental harm."*

As far as I am aware, there have been no prosecutions of alleged workplace bullying and harassment to date from WorkSafe (though there have been requests for them to do so from time to time by claimants).

However, PCBUs and officers within the parliamentary workplace need to be very mindful of their obligations and risks regarding the emotional and mental wellbeing of staff in the parliamentary workplace. Allegations of serious harm, such as those arising from physical bullying and sexual harassment, could well have both employment and HSWA exposures and remedies.

## HR TENDS TO BE OPERATIONAL RATHER THAN STRATEGIC

### HR management operating models differ by agency

HR services to parliamentary staff and managers are provided by the HR team within the Parliamentary Service (and often more directly through the Member support managers within that team) and portfolio managers in MaSS, who act as the portal through which to access wider DIA HR services and advice.

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<sup>10</sup>For more on this point, see WorkSafe New Zealand *Quick Guide: Overlapping Duties* (WSNZ 2449, January 2017).

The Office of the Clerk, which formerly operated a small HR team, is winding down its own HR capability as part of a current push to combine its corporate services with those of the Parliamentary Service.

In practice this means that for Members and Ministers, the key contact is the Member support or portfolio manager, while for corporate managers in the Parliamentary Service there is a conventional business partnering system.

Within the Parliamentary Service, there are two collective agreements; one for corporate staff, and one for Member support staff and political staff in Members' offices. DIA has a single collective agreement, and equivalent individual employment agreements, for all events-based Ministerial staff.

The parliamentary agencies have recently undertaken work to clarify job families and refine job descriptions, partly to ensure greater job consistency across offices. The job descriptions I sighted looked very good, particularly in the Parliamentary Service, with competency profiles reflecting expectations for skills, attributes and behaviours.

Remuneration systems differ by agency, with the Parliamentary Service having a system for its corporate staff which is indexed to performance rankings in a manner unusual in the wider public service.

In 2018, unionisation in the DIA workforce was 44%. Total union membership in the Parliamentary Service was 31% and 62.5% in the Office of the Clerk. The key unions are the PSA and E tū. Engagement with the unions appears to be quite active but the focus tends to be on transactional interactions such as bargaining, rather than on joint strategic projects, though the latter have successfully occurred in all three agencies.

### **HR capability and capacity have improved**

When I undertook Performance Improvement Framework (PIF) reviews of the Office of the Clerk and the Parliamentary Service in 2014,<sup>11</sup> I commented that HR services appeared to be underdeveloped and old fashioned. Since that time both agencies have invested resource and effort in this area.

The Parliamentary Service has grown a sizable people and culture team (with an approximate staff to HR ratio in 2018 of 30 to 1, which appears high) and an ambitious work programme. As I found on a 'PIF update review' of the Parliamentary Service in 2018, the result of that work programme has been a significant lift in the capability and capacity of the Parliamentary Service HR function.

The Office of the Clerk, meanwhile, has invested significant effort across the management team in developing a clear workforce strategy and an array of tools to gauge workplace health.

The Office of the Clerk senior leadership team tends to focus on strategic HR matters itself, with more operational matters increasingly being handled through the emergent and still somewhat informal shared service arrangement with the Parliamentary Service's HR function.

Meanwhile, in recent years, DIA has also paid significant attention to HR services within MaSS. The portfolio management model was introduced in 2016 as a one-stop-shop for resourcing and support services to both Ministers and staff. The model was intended to help balance potential tensions during recruitment, between Ministers' influence on staff recruitment and broader office needs, capability gaps and relevant experience.

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<sup>11</sup>State Services Commission, the Treasury and the Department of the Prime Minister and Cabinet *Performance Improvement Framework: Review of the Parliamentary Service (the Service)* (July 2014); and State Services Commission, the Treasury and the Department of the Prime Minister and Cabinet *Performance Improvement Framework: Review of the Office of the Clerk of the House of Representatives (the Office)* (July 2014).

Some of the portfolio managers have HR backgrounds themselves; others tend to access HR advice from the wider DIA team. There are four portfolio managers in the MaSS staffing establishment, though one position is unfilled at present. For MaSS, developing greater capability and capacity in HR and ensuring that MaSS can draw effectively on the skills available in the parent department is a current priority and is under work.

### **Current resourcing levels and operational pressures limit strategic HR**

At present, and due to both the relatively modest operating budgets of the parliamentary agencies and the high tempo of their work, HR and workforce management in Parliament appear to be focused mostly on operational matters. Agencies appear to have turned only recently to developing the proactive organisational development initiatives that would be typical in every stage of the employee lifecycle within best practice organisations that view cultural health as directly impacting their bottom line.

For example, recruitment practices appear to be quite traditional, even allowing for the fact that they are at times worked around by Members in the appointment of political or Member support staff. Modern approaches to recruitment for propensity and attributes, in addition to skills and experience, are not yet fully in place.

Job descriptions, while very sound, do not yet include success profiles that would encompass the broader attributes and behaviours required of staff, though they are moving in this direction.

As discussed above, induction and onboarding are improving but can still go further. They are currently focused on induction into the agency or precinct, rather than into the job. They tend to be based around job overlaps or one-off course-based events, as opposed to a six- to 12-month process comprising formal and informal training, buddying, coaching and employee feedback on first impressions, as is best practice. The induction programme within the Office of the Clerk is probably the most mature at present.

For Member support staff, there are few practical guides, such as desk files or easily accessible online training on systems and processes. The material that is provided is often good, but staff struggle to find it. As one staff member told me:

*"...it's as if, every election, 120 small businesses start up from scratch, with nothing to guide them. It's like a triennial groundhog day."*

Though there are pockets of coaching in place, often as a result of individual initiatives by staff or managers, there is not yet a systematic coaching framework for staff, managers or Members.

For staff, there is an increasing number of professional development opportunities, generally course-based, but these are not yet tied to a professional development framework and rely on individual staff proactivity.

Most staff told me the courses they had attended were very good, but that it was often hard to get time for them. Members tended to report that they felt the material was "too low level for our needs and delivered inflexibly given our time pressures". The result appears to be quite low penetration of training and development initiatives.

### **Career pathways are undeveloped**

Another distinctive feature of the parliamentary workforce is the relative lack of career and personal development pathways for everyone in it: whether Member, Minister, manager or staff; though the lack is particularly (and to a degree understandably) evident for those on fixed-term contracts.

For these event-based staff, some useful courses are available, but these tend to be on an ad hoc basis and delinked from personal or professional growth plans. It was common for these staff to tell me that this lack of investment, when combined with the contractual insecurity, made them feel 'disposable' or 'easily replaceable'. One said:

*"How can the most complex, sophisticated and demanding workplace in New Zealand have such an antiquated, unprofessional, essentially casualised workforce model?"*

There also appear to be few formal talent management tools. Respondents suggested to me that top staff talent tended to be retained by word of mouth and anecdote, rather than based on objective analysis.

Most staff I spoke to could not see a career pathway in Parliament or beyond. One said:

*"The deal is, come into this cool, fascinating place and work like a mad person for two or three years, and then get out with a strong personal brand for understanding of government and the work ethic of an ox...but God knows where I go after this. I might be viewed as too partisan for public service."*

Feedback mechanisms for staff are at present dominated by annual, large-scale engagement surveys, as opposed to the increasingly common 'always on' feedback mechanisms or short, issues-based pulses to check organisational climate.

Other organisational development tools, such as diversity and inclusion strategies, unconscious bias and bystander training appear to be in the early stages of development in the Parliamentary Service but appear largely undeveloped in the Office of the Clerk or MaSS.

Thus, although HR appears to have received good attention and investment from all three agencies in recent years, modest resources and the pressures of day-to-day operations have meant that the workforce management model is still characterised by a largely transactional approach to HR, rather than by mature organisational development techniques and tools. Agencies are aware of this and are slowly, within available resources, moving in this direction.

The effect of this appears to be a disconnect at present between the demands of a high intensity, 24/7 workplace with sophisticated workforce management and development requirements, and the provision of services which may not be at the level of capability and capacity required.

This, when combined with the widespread feeling expressed by many respondents in the Parliamentary Service and MaSS that HR is "not there for us", and the complex fragmentation of HR/organisational development services across agencies, means that neither staff, nor Members, Ministers or managers, appear to be receiving services of the type and level they need, given the complexity of the workplace.

### **Organisational learning is low**

An important implication of fragmented HR services and as yet immature organisational development is lack of ability by leaders to see patterns across the parliamentary workforce and to apply data analytics and organisational learning to people management.

For example, each agency reports its HR data differently and there is no single point at which data is synthesised to inform an overall picture of organisational health or climate. Even engagement survey tools are used differently in the three agencies.

While the Parliamentary Service has developed an HR performance dashboard of key workplace health and performance metrics, this remains something of a work in progress and does not have a wide circulation.

Good practice would require each agency to report to a relatively consistent dashboard of both tactical and strategic workforce measures, such as sick leave taken, the number of breakdown clauses used or personal grievances, diversity statistics, regrettable talent loss, exit interview data, pulse survey data and so on. Tactical measures might be reported monthly; more strategic metrics might be reported on a less frequent basis.

While each agency has its own obligations as an employer, including to protect the privacy of employee data, greater alignment in high-level reporting of macro trends would allow the accountable chief executives and the Speaker (in the case of the Office of the Clerk and Parliamentary Service) to gain a more joined-up picture of workplace health indicators.

This relatively immature knowledge management and lack of organisational learning loops was commented on by several respondents. “There is no central brain here for the parliamentary workforce,” said one. Others commented on the fact that, as a whole, the workplace lacked systems, frameworks and repeatable approaches:

*“Even if we did have good information about trends, I’m not sure who would look at it and agree the required actions. It all feels a bit management fad du jour, with every new person making it up from scratch and getting some shiny thing done that doesn’t connect to anything else.”*

Others commented on the connections between lack of data, what they perceived as a lack of transparency in reporting and low accountability for performance by Members and managers. One respondent said: “because there’s no agreed on, objective data, managers can get away with stuff they should be held to account for”.

For effective prevention of bullying, for example, WorkSafe recommends explicit collection of anonymised metrics that go to risk factors<sup>12</sup>, such as:

- Resignations/turnover
- Formal complaints about behaviour
- Feedback from health and safety representatives and health and safety committees
- Employee assistance programme reports
- Worker appraisals
- Worker interviews
- Worker focus groups
- Absenteeism/sick leave
- Exit interviews
- Grievances/legal actions (such as under the ERA); and
- Worker surveys.

Not only are such metrics not systematically collected in the parliamentary workplace, but where they do exist, the information is not yet (while protecting anonymity) appropriately joined up across parliamentary agencies to allow for pattern making and analysis.

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<sup>12</sup>WorkSafe New Zealand Preventing and responding to bullying at work: For Persons Conducting a Business or Undertaking (PCBUs) (March 2017) at 19



On Members, one respondent suggested that:

*“...because there’s a code of silence among them about who behaves poorly, and no transparent reporting on key metrics, a few of them just keep on getting away with stuff for years. In practice we all know who has had a string of pay outs, or whose staff turnover is high, but I’ve never seen anyone held to account via some sort of reporting. Maybe just some basic transparency on these things would be enough of a nudge to improve behaviour.”*

Some respondents were also concerned about the lack of joined-up data on members of the public who were fixated on issues or individual Members and the physical and emotional risks of patterns in this area going undetected. One said:

*“There are a small number of unwell, obsessive individuals who repeatedly pester or threaten Members, Ministers and their staff. The Service’s security staff and Police are good at reacting to an individual threat, but does anyone across agencies ever join all these dots anywhere?”*

## THERE ARE MAJOR BARRIERS TO SPEAKING OUT

### **Staff are reluctant to make complaints**

Under the Terms of Reference, I am asked to consider any barriers that may exist to making complaints about bullying and harassment.

Staff on precinct are instructed, by means of the relevant policies on bullying and harassment, to make disclosures and complaints about unacceptable behaviours to their one-up manager or an HR advisor. The Parliamentary Service also specifies the ‘relationship advisor’ for Member support staff, a member of the executive team or the Employee Assistance Programme (EAP).

The Parliamentary Service recommends complaints are made in writing. The DIA policy provides a link to a tool called ‘Is this unacceptable behaviour?’ to ‘record the details of the incident(s) and test your thinking’.

Members and Ministers typically complain informally to Party whips or chiefs of staff on an intra-party matter and to the Speaker when the inappropriate behaviours relate to Members from another Party.

While Party codes of conduct exist for the Labour and Green parties these are not widely known nor front of mind for all Members. Only Green Party Members referred to explicit Party policies on behaviours when asked, though some Members from other parties believed that behavioural codes were implicit within their caucuses.

Complaints about bullying and harassment from members of the public tend to be reported to the Parliamentary Service’s parliamentary security team or directly to Police. Some respondents referred to what they saw as an excess of process by the parliamentary security service: “There’s about 90 million process steps to get an abusive caller blocked. Couldn’t we just make things simpler in order to protect people better?”

Almost all respondents described major barriers to making a disclosure of bullying and harassment and to making a formal complaint. Member support and ministerial staff on event-based contracts felt that to do so was unsafe for a variety of reasons, often overlapping in the case of any one individual:

- They perceived they would be 'branded' as disloyal to the Member, Minister or Party, which could have adverse career consequences next time they had to reapply for a position: "They all talk to each other and compare notes on us...you don't want a black mark or you're out."
- For many (and not just political staff), personal Party affiliation and the risk of their complaint being used against the Party Member or Minister (by competitive colleagues, the Opposition or media) provided a disincentive to disclose.
- They reported that they did not trust their manager or HR to maintain confidentiality, or to have the skills to sort the matter out.
- They perceived that HR, or their manager would be powerless against the accused, if the accused was in a senior position and particularly if a Member.
- Some expressed the view that HR was always on the side of the manager, Member or Minister.
- They perceived that the risks of the breakdown clause being activated prior to any investigation or other resolution process were high.
- They felt that the breakdown clause gave the Member or Minister a 'get out of jail free card' and that, if they made a complaint, they would pay the price rather than the Member.
- They simply had no idea where or to whom to disclose.

For corporate staff in the parliamentary precinct, perceived barriers reported to me tended to centre on the belief that managers did not have the skills needed to deal with a complex bullying or harassment situation, or the belief that speaking out might create a reputational black mark.

Departmental private secretaries tended to feel, in the words of one:

*"You're on your own when dealing with it. No one else from the department gets it and if you make a fuss, it will adversely impact your chances of being promoted on return."*

Another said:

*"I got sent here because I'm supposed to be 'top talent'. I can't complain or I'll look feeble."*

Some agency-specific issues can be noted. In the Parliamentary Service, some corporate staff worried that to complain was to be labeled as difficult and that in some teams, managers might retaliate by reducing flexibility, posting the staff member to undesirable shifts, or reducing their performance rating (linked to remuneration). One respondent wrote: "The Parliamentary Service models a very hierarchical and protective leadership model in which staff are not comfortable to speak out."

Another respondent wrote:

*"...when I've experienced bullying, management just end up putting it back on you, say you have no evidence, don't listen, don't take action, say you made it up to suit yourself."*

Others expressed fear about having to continue working with the subject of their concerns while their investigation was proceeding:

*"When I walked into HR it was like I walked into the lion's den. I got interrogated and [the accused] just kept on working."*

In MaSS, some staff described perceptions of a prevailing protective ethos for Ministers. In the words of one respondent: "...everything will be thrown at protecting, insulating and covering the Minister to just try and make everything go away at any cost", which they felt made it hard to have confidence in any complaints process.

These perceptions by employees are borne out by the online survey results. In this sample, 48% of current or former staff said they would not make a formal complaint. When survey respondents were asked what they would do if they experienced bullying and harassment, 77% said they would avoid situations wherever possible and 75% said they would consider leaving the workplace.

Members and Ministers told me they were wary of making either informal or formal complaints lest this be viewed by colleagues or Party leaders as a sign of vulnerability and inability to take the heat of the parliamentary environment. One Member described a regular stream of sotto voce personal criticism from another Member in the House - focused on appearance and intelligence - that was deeply upsetting but said: "I know that here, we just have to suck that stuff up. I'd feel stupid raising it in any formal way."

### **Staff perceive few opportunities for voice**

Many respondents commented on the difficulty of finding avenues for voice in the parliamentary context. Here I refer to opportunities or staff to have input into or to co-design organisational innovation and culture more generally. It was common for staff to tell me: "There's just no real avenues to address wider concerns that affect us every day."

Staff in the Parliamentary Service spoke of a lack of receptivity by some managers to new ideas or suggestions for process innovation.

Some MaSS staff felt the pressure of the work precluded opportunities to stand back and think about new ways of doing things.

Within parliamentary agencies, I did not gain the impression that co-design of policies or other improvements with staff was the norm, in part because of understandable factors, such as time pressures, a distributed workforce, and a high proportion of events-based workers; but in part because of old fashioned command and control management cultures in some teams, particularly within the Parliamentary Service.

Recent efforts to work with regional groups of electorate office staff in network meetings and the inclusive development of action plans in response to the recent Parliamentary Service PIF review are positive exceptions to this. However, in the Parliamentary Service in particular, it was common for front line staff to tell me they were: "just the little people" who got told what to do rather than being asked to contribute insights from their customer-facing roles.

Members spoke of a variety of informal mechanisms for new ideas and open discussions (such as 'class of [x]' Member gatherings or sometimes caucus meetings and retreats, often at the personal initiative of a particular Whip or senior figure) but most felt that transactional matters and policy discussion crowded out strategy and innovation about how to do things differently in the workplace. "This place is so remorselessly transactional, said one, adding:

*"...It's driven by this or that meeting, the rules, the demands of PQs, the operations of the House or committees and this or that function. There's seldom any time to think, let alone time and space to think outside the box in a safe way."*

## PASTORAL CARE IS INSUFFICIENT

With overwhelming consistency, respondents to this Review commented on the lack of care available to them, outside the Parliament EAP programmes and support from their unions, if they were experiencing the stress associated with being a target or observer of bullying and harassment, or simply stress deriving from the unique nature of the parliamentary workplace.

While those who had used the various EAP services felt these to be generally helpful, many also believed that EAPs were used as an “all-purpose sop whenever anyone gets upset”. One typical comment was:

*“These bloody EAP posters everywhere. HR and managers keep pointing at them and telling you to go there rather than doing anything to find the root of the problem. They just tick the wellbeing box.”*

For some staff, the same barriers that stopped them from making a disclosure or complaint tended to stop them accessing pastoral care. Some had a deep mistrust of the confidentiality of support services, even of EAP or, on the part of some Members, of external professional coaches and even their GPs.

Some staff felt that the free entitlement to two to four EAP sessions was insufficient and said that they did not want to expose themselves to get permission from their manager for more. Others wanted more specialist support than that offered by EAP but had no idea where to access this or were afraid to ask for it.

Almost all respondents, whether targets or observers of inappropriate behaviours, wanted to see more extensive provision of pastoral care and much greater clarity about who to go to for what support. Some described relying mostly on support from their union delegate or organiser: “which is good, but how are they trained to deal with it? And shouldn’t my employer be doing that?”

Others described multiple attempts to get support (from colleagues, a line manager, a whips’ office, or an HR professional), and receiving conflicting or even harmful advice. One said, in a comment typical of many:

*“I went to [x], because she’s been here years and I trusted her wisdom and empathy. I’m sure she’s not trained to deal with it, but she did the best she could. There was no one else I felt safe to talk to.”*

Some staff and managers said they would value the provision of specialist psychosocial support. They believed that Parliament needed to have trained and accredited specialists available, both via helpline and face-to-face, whose confidentiality and independence were guaranteed.

The alleged sexual assault survivors who told me about their experiences said they would have benefited from access to an independent helpline to assist them not only with care and counselling, but in considering their options for other reporting.

Some ex-staff described needing access to care post departure but being unable to get it. One said:

*“It took me at least two years to heal and rebuild my confidence after I was let go on a breakdown. I mean I had had a long career as a successful professional and then suddenly I was just out. I couldn’t sleep, I became ill, I had to take anti-anxiety medication. I couldn’t even look for a job for six months because I had no confidence at all.”*

Members also struggled to access pastoral care on a confidential basis. Some told me they had used EAP but that they needed additional, more specialist support. “It has to have ironclad privacy and an

understanding of politics” said one, “...it’s just extraordinary how little support there is and how risky it feels to use anything like that.”

Some Members described excellent in-Party support during periods of personal stress; from colleagues, chiefs of staff or whips. Others felt that to seek the support of the whip, for example, would be to show weakness that could be exploited by colleagues. “There’s no one but me,” said one Member: “I’ve learned over the years that only I can hold this kind of stress or fear. I can’t worry family with it. It has to be kept inside.”

## SUMMARY OF PROTECTIVE AND RISK FACTORS FOR THE PARLIAMENTARY WORKPLACE

Parliament as a workplace does exhibit some of the commonly cited elements of workplace toxicity<sup>13</sup> and it was common for respondents to comment on this. One said, regarding the political side:

*“Everything is right here isn’t it? The perfect breeding ground for bad behaviour. You take a whole bunch of high ego, high ambition, super competitive type As and place them under massive pressure, sometimes for years and years. You give them staff who are often isolated and who can’t speak out without fear of losing their jobs. You have a culture of secrecy and intrigue. You provide neither the leaders nor the staff with any safe support mechanisms. It’s no surprise it sometimes explodes.”*

WorkSafe, in its excellent *Good practice guidelines: Preventing and responding to bullying at work*, defines common workplace risk factors for bullying, or ‘conditions for bullying to flourish’.<sup>14</sup> The preceding discussion should have conveyed the existence of a number of these factors in the parliamentary workplace. These WorkSafe risk factors are represented on the left of the table below. I indicate in the right-hand column my perception of the presence or otherwise of this risk, based on the views of Review respondents.

<b>1. A code of silence exists and bullying behaviour isn’t talked about – no-one dares or feels safe/able to question the organisation’s norms.</b>	Present, especially for fixed term staff and in some workgroups within the Parliamentary Service in particular. Present in the perceptions of some MaSS staff.
<b>2. Unreasonable workplace behaviours and practices are seen as ‘normal’.</b>	Present, based on the intensity and uniqueness of the workplace, and the widely held view that Members are unaccountable for poor behaviours.
<b>3. People who mention or report bullying are isolated and/or experience reprisals.</b>	Present, especially for some fixed term staff and in some workgroups within the Parliamentary Service in particular.
<b>4. There are no consequences for bullying behaviour.</b>	Present in the view of some Member and Minister support staff, because of the perceived lack of accountability of Members.
<b>5. Deadlines are unreasonable or not taken into consideration in the work programme.</b>	Present in some Member offices and workgroups.
<b>6. People are required to continually defend their own performance.</b>	Present in some Member offices and workgroups.

<sup>13</sup>See for example Liz Ryan “Ten Unmistakable Signs of a Toxic Culture” (19 October 2016) *Forbes* <[www.forbes.com](http://www.forbes.com)>.

<sup>14</sup>WorkSafe New Zealand *Preventing and responding to bullying at work: For Persons Conducting a Business or Undertaking (PCBUs)* (March 2017) at 18. The full guide is available at <[www.worksafe.govt.nz/about-us/news-and-media/workplace-bullying-and-harassment/](http://www.worksafe.govt.nz/about-us/news-and-media/workplace-bullying-and-harassment/)>.

<b>7. There aren't any checks or balances on managers' behaviour, and managers aren't supported.</b>	Present for some Member and Minister support staff, in view of the lack of accountability and development of Members. Also reported in some Parliamentary Service workgroups.
<b>8. Managers fear a false charge of bullying.</b>	Present and particularly the case for Members where the Party and political consequences may be severe.
<b>9. Unreasonable behaviours are not promptly dealt with.</b>	Present. See also the later section dealing with barriers to and processes for complaints and investigations.
<b>10. There is no formal or informal process to deal with concerns or complaints.</b>	Not present in that policies and processes do exist. See the later sections for practical problems with complaints and investigation processes.
<b>11. Negativity abounds.</b>	Not consistently present but a definite feature of some Member offices and some corporate workgroups.
<b>12. People are targeted.</b>	Present. See the next section on Review Observations.

While this table paints a picture of a potentially high-risk workplace, many respondents also commented that Parliament had some exemplary leadership and some protective factors. One respondent said:

*"The majority of MPs are passionate, committed and hardworking leaders They're good people. My current Member is caring, calm, flexible...the best boss I've ever had. He inspires me."*

Another said:

*"Look, it's a tough place to work but it's also filled with people who passionately want to make a difference in the lives of New Zealanders. No matter how bad my day might be sometimes, I know that people don't come here to be maligned. They want to do good. So even when it's bad, it's kind of a stress bad, not a sinister bad like in some other countries."*

It was also very common for respondents to comment positively on the fact of this Review. In the words of one: "It's so great we're doing this. It's a great thing for our country that our leaders are brave enough to lift up these particular rocks." Another said:

*"I'm not cynical about this Review. I believe that Party leaders, the Speaker and others really want to improve this place. I'm actually pretty proud of that."*

# OBSERVATIONS: BULLYING AND HARASSMENT

## A SYSTEMIC PROBLEM

The data collected through this Review comprises both online survey data and data generated through interviews and submissions.

The findings of the online survey sent to both current and former staff (back to the beginning of the 51st Parliament and, in a few cases, earlier than this when the survey was requested) suggest a high incidence of potential bullying and harassment in the parliamentary workplace.

Of the more than 1000 survey respondents, 29% had experienced some form of bullying or harassment from either a Member or a manager, 30% from peers and 24% had experienced bullying or harassment from a member of the public.

The online survey measured strength of agreement with the statement: *'My workplace has clear and effective systems for dealing with intimidating behaviour and workplace bullying, which are applied to everyone.'* The result was 42%, indicating a low level of agreement with this statement.

The result was also significantly lower than comparative benchmark data for a similar question in surveys undertaken by the same survey provider:<sup>15</sup>

Survey sector average	Agree or strongly agree
Public sector	53%
Local government	61%
Private sector	62%
This Review	42%

The following table, drawn from online survey data, illustrates the prevalence of bullying in the Parliamentary workplace based on type of inappropriate behaviour.

Type of behaviour	Survey respondents who reported experiencing this behaviour
Destructive gossip	56%
Undermining	41%
Demeaning language	47%
Unfair isolation or exclusion	29%
Lack of cooperation and support	53%
Aggressive behaviour	41%

These online survey results are suggestive of a systemic problem.

When the contributions to the Review from those interviewed (a mix of self-referred respondents and a sample of elected Members) are taken into consideration, the picture becomes even more problematic, as shown in the graphic below. Interviewees were consistently asked to respond 'yes' or 'no' to a list of behaviours as shown.

<sup>15</sup>For details on the online survey see Appendix G.

Have you observed or experienced?	Yes	No	No response
<b>Unreasonable or aggressive behaviour that intimidates or threatens</b>	78%	22%	0
<b>DemEANing language or gestures that belittled, ridiculed and/or was personally offensive to you or another at work</b>	66%	34%	0
<b>Unreasonable 'command and control' behaviour</b>	59%	41%	0
<b>Destructive gossip or bad mouthing of you or others at work</b>	69%	31%	0
<b>Unfair isolation or exclusion</b>	50%	50%	0
<b>Undermining or setting someone up to fail</b>	50%	50%	0
<b>Unreasonable withdrawal of communication</b>	51%	48%	1%
<b>Lack of cooperation and support</b>	62%	36%	2%
<b>False complaining</b>	37%	62%	1%

However, the picture painted by these results is also a complex one.

Some readers of this Report may be expecting a story in which bullying and harassment are mostly undertaken by Members. This happens, and as it represents an abuse of power it is profoundly unacceptable, but the story is a more complex one in that bullying and harassment is also alleged by respondents to be happening from managers to staff, among staff, among Members, from the public to staff and Members, and from members of the Press Gallery.

Taken together, the alleged bullying, harassment, sexual harassment and other harmful behaviours that were described to me do not contribute to a healthy and safe workplace in which the dignity and respect of elected Members and staff are consistently maintained.

There are many pockets of excellent leadership in the parliamentary workplace, but there are also far too many examples of alleged undignified, disrespectful and bullying conduct. As one respondent wrote: "Bullying infests every aspect of Parliament and everyone knows it."

In this section I describe the various subplots to this story.

## BULLYING AND HARASSMENT BY MEMBERS

### Exemplary leadership is common

As noted above, many respondents wanted to express their admiration for the respectful conduct and good leadership modelled by "the vast majority" of Members and Ministers. Several paid tribute to their Members as here:

*"...a great boss...my MP is always calm, always dignified, and he treats us as though we're an important asset to him."*



### **But there is a known minority of Members whose conduct is unacceptable**

However, while most Members and Ministers were viewed by Review respondents as competent and hardworking leaders, a well-known minority of them, across most political parties, were reported as engaging in inappropriate behaviours on a regular basis. As one respondent said, in a comment typical of many:

*"There's a majority of absolutely lovely MPs and Ministers who are real people people and who would be excellent leaders anywhere. They are just awesome. Then there's the few who are various shades of shits...and everyone knows who they are, and no one ever challenges them...at least not obviously or effectively."*

It was very common for respondents to mention the names of a small number of Members they saw as 'repeat offenders'. As one put it: "Everyone will give you the same list. It's well known but there's a conspiracy of silence about these few."

Often, respondents tried to distil the common or causal factors for the small group of badly-behaved persons they described. One said:

*"I think it's often the ones with low people-management experience, poor self-awareness and a big sense of entitlement. Some of them also hire the wrong people. Put all those things under the stress of this place, and they behave poorly to their staff."*

Another said:

*"The fundamental problem is the power imbalance. It's a master-servant relationship and they're treated like gods. While they are due our respect, they are not gods."*

I want to stress here that when I refer to bullying and harassment by a Member, I am not cherry-picking stories about a bad day or an off-colour joke. We all have days when we are stressed or tired. We all have days when we can become irritated at work. Nor am I basing my findings only on the views of staff released for poor performance or following workplace relationship difficulties.

Across the hundreds of interviews conducted and the more than 100 submissions reviewed, a clear picture emerges of a small number of Members whose behaviours appear to fall well outside the normal range to be expected in a workplace and which closely fit the definitions of bullying and harassment described in Appendix D to this Report.

### **Respondents report a variety of inappropriate behaviours**

Respondents described a variety of behaviours on the part of these Members, varying in severity and impact. Some described unreasonably aggressive behaviour, language or gestures that they found intimidating or threatening. This included frequent shouting, abusive calls or texts, character assassination ("I was constantly told I was stupid") or "just continually being aggressive and shouting at me". One said: "The abuse was constant. The only time I could escape was when I was asleep."

One respondent said:

*"My [MP] would just scream at me, asking for something one minute and then turning around and demanding it five minutes later, when it was clearly a two-hour job."*

Another described:

*"Sleeping with my phone always under the pillow in case of a midnight text or call yelling abuse... it was emotionally and physically exhausting."*

Another cluster of alleged inappropriate behaviour related to command-and-control behaviours such as “making me redo all the work again and again while [he/she] changed their minds constantly about what they wanted and control freaked everything to death because they found it impossible to delegate anything” or “...if [the Member] had an audience they went even more aggressive and took even more advantage of their authority”.

Other respondents described being fearful of speaking out to their Member or Minister. “It felt very subservient” said one. “[He/she] ran that office in a way not conducive to good policy or operations. I was afraid to tell [he/she] what they needed to hear.” Another said: “It became a joke it was like battered wife syndrome.”

Some respondents described being asked to undertake personal or inappropriate tasks, that blurred the line of professionalism. One respondent said of the Member-EA relationship: “it’s half-staff Member, half-[spouse]”.

Respondents gave me many examples of feeling that this line had been crossed, such as:

*“I had to buy [clothing for the Member]. Then one day we were on a visit. I was carrying a spare [item of clothing] and [the Member] needed it. And then [the Member] yelled at me for not ironing it.”*

One respondent described being asked to buy wine to stock the Member’s apartment. Another described being asked to help pack up personal items for a Member’s apartment move. Being asked to buy a Member’s lunch with their own money was described as quite common, and: “we just hope we get reimbursed”.

One respondent described being made to stay at a Member’s relative’s house overnight, along with the Member “...God I just couldn’t get away and it was so awkward”. Some described having to participate in post-House drinks sessions: “which felt weirdly wrong but what could I do?” or having to clean up the office the morning after a party “with my boss sleeping it off on the couch”.

Some staff had a high tolerance for this sort of boundary-blurring behaviour. “I’m totally fine with buying the lunch or picking up the dry cleaning. It’s part of how this place works.”

In a small number of cases respondents believed their Member was setting them up to fail, such as:

*“...by suddenly just not telling me anything. It was like I was off the island. [The Member] would not even look at me, let alone give me the stuff I needed to do the work.”*

Some respondents described sexist behaviours from Members such as “...kind of older white male Dad jokes but creepy for all that” and:

*“...[he/she] makes comments all the time about female appearance and laughs as though it’s funny. In 2018, it’s so not funny.”*

Another perceived a Member to be “leering the whole time. I felt constantly violated.”

Some staff described what one called “casual, rolling racism, probably not intentional but nonetheless culturally clueless”. One said:

*“It’s actually the combination of mild sexism with mild racism. The women of colour round here get it the most. There’s no one big bad thing, but it adds up to a really icky experience.”*

In only two cases in my 50 interviews with Members did a Member express the view that this Review would, in the words of one: “be so politically correct that if any of us has an off day we’ll get hung for it”. One Member deemed the Review to be “...a waste of everyone’s time. It’s naive to think that Parliament isn’t a tough place.”

With these two exceptions, most Members and Ministers were extremely thoughtful when asked about bullying, harassment and poor conduct. One said:

*“I know all my staff bring their own emotional baggage to the workplace. God knows I’ve almost certainly offended some of them. I don’t think I was prepared for the demands of this place.”*

Another said:

*“...it’s like time is the thief of compassion. We’re so smashed for time we often don’t take that critical moment to relate to someone’s pain or help them. I hate that...but it happens.”*

### **Member accountability for conduct is perceived to be low**

For almost all respondents, their major concern about Members or Ministers behaving inappropriately was their view that such behaviours were almost always an open secret - in the Party and among staff- but that the Member or Minister was, at least in their perception, not being held to account for repeated poor behaviour.

Indeed, if I was to pick one single word that respondents most often used in the course of this Review, it would be the word ‘accountability’. One respondent wrote: “Unless the outcome of this Review is something that holds Ministers and MPs to account, the exercise will, bluntly, have been a waste of time.”

For Parliamentary Service (Member support and political) staff, the following sentiment was very common:

*“Everyone knows which Members and Ministers have the managerial skills of newts, or worse.... but the Service is just obsequious to them and can’t or won’t push back on them or the Party. They say, ‘oh well, they’re an elected Member so there’s nothing we can do’. They also say, ‘if you can’t handle this, you maybe shouldn’t work here’.”*

One respondent wrote: “How, exactly, is the Service supposed to chastise an MP?” Another said: “It’s not like the Service can sack an MP. What can anyone do?”

For MaSS staff, most respondents felt that management and HR sometimes struggled to address poor behaviours by Ministers. One wrote:

*“HR and managers were personally supportive, but the prevailing culture was to protect and insulate Ministers. That’s how they roll. They’ll always put the Minister on a pedestal. It made me feel horribly expendable.”*

There was also a widely shared view that when an Member behaved badly, the staff member would be the one to pay the price. One respondent wrote:

*“It isn’t OK that everyone knows so and so is an entitled egoist with zero management skills who is repeatedly wrecking people and that no one does anything. The emotional and financial freight is being paid by staff, not the Member. How is that leadership?”*

Some respondents commented on recent, widely reported incidents where Members had been relieved of their portfolios or otherwise sanctioned for perceived poor conduct. Most expressed approval for the actions that had been taken by Parties or parliamentary agencies, but some worried that:

*“That’s how bad it has to get before anyone does anything...going to the media and all that... and I can understand why some staff felt they had to do that. But everyone here knew about those behaviours long before anything was reported or done about them. We all heard the crying and the stories.”*

### **Leaders should set the tone from the top**

Many respondents and Members expressed a sentiment along the lines of this comment from one respondent:

*“...at the end of the day, accountability comes down to leaders setting the tone from the top and putting the fear of God into those who abuse power. If someone is a bully, leaders must act, regardless of the cost politically. Culture won’t change unless they do. Plus, too many people get ruined in the time it takes for the public to find out and make their judgement at the ballot box.”*

Another wrote:

*“...it is an open secret. We’re told to tell our managers or the chief executive about such incidents, and I do. They’re aware of it. But short of escalating it to the Speaker or chief whip, there is little that can be done. And that feels like too nuclear an option. I nonetheless look forward to the day when being undermined, belittled, accused, manipulated, scapegoated and lied to are not considered standard parts of the job.”*

Almost every respondent who alleged that they were a target of bullying, or who described bullying and harassment that they had observed, offered ideas for how to heighten the accountability of Members. I address these suggestions for prevention and management in the recommendations section on page 64.

Disappointingly, however, several respondents expressed considerable cynicism about the ability of this Review to change poor Member conduct. “MPs have no reason to decrease their power because they can simply sack any staff they know participated,” said one.

Another respondent wrote:

*“This Review itself has been weaponised by bullies. The people who most need to modify their behaviours have been threatening all and sundry not to report them for bullying...sums it all up really.”*

## **BULLYING AND HARASSMENT BETWEEN STAFF**

### **Poor conduct from peers is common**

As noted previously, 30% of respondents to the online survey believed they had experienced bullying or harassment from colleagues or peers in the parliamentary workplace.

In interviews, it was not uncommon for (self-nominated) respondents to laugh somewhat derisively when I asked them if they experienced bullying from peers, and many said something like: “It’s the climate...everyone sees each other as obstacles...whoever you think your friends are...they’re not.”

For staff in Members' or Ministers' offices, alleged peer-to-peer bullying tended to come most often from a political staff member or an SPS ("the higher up the chain the more you can away with", said one respondent), but could also be alleged between colleagues at the same level.

One respondent wrote:

*"I had colleagues who would belittle me, yell at me in front of others, undermine my work...and refuse to work collaboratively. I had peers telling me if I didn't agree with them, they would make my life miserable, and they did."*

Some staff alleged racist conduct from other staff. One respondent wrote:

*"Another [woman of the same ethnicity as the participant] came into the office to drop a document off and [my colleague] laughed and said, 'is she your mother?'"*

One respondent, in alleging racism in the workplace, wrote:

*"I don't think [he/she] saw me as an individual but as an avatar for a larger group. The main reason I didn't say anything is because it has been my experience that racism against Asian people is the last truly acceptable form of racism these days and any complaints aren't taken seriously or considered 'real'."*

#### **Departmental private secretaries sometimes feel vulnerable**

Alleged bullying sometimes took the form of poor behaviour toward departmental private secretaries, many of whom felt they could not 'push back' because it would reflect badly on their agency or because they themselves had a duty to behave according to the public service code of conduct and integrity. One respondent alleged: "An SPS has the power of God over private secretaries and secondees."

Some departmental private secretaries struggled to know where to go to report such behaviours. One said:

*"I couldn't tell my chief executive...it would put [him/her] in an awkward position. Home base just told me to stick it out for a few more months and I had no idea where to go for help."*

Another felt:

*"You're essentially alone from an agency when dealing with it. No one else understands what you're dealing with."*

Several departmental private secretaries commented on the fact that they were sometimes the targets of sarcasm from political staff over their obligations to adhere to the public service code of conduct and remain apolitical and objective. One said:

*"I couldn't retaliate to the provocation because of the SSC Code and my obligations as a neutral public servant. It was hard to observe the bad behaviour and some of the poor work ethic of other staff while having to stay professional and work all hours myself."*

### **Bullying is perceived as having a variety of causes**

Some Member or Minister support staff attributed these behaviours by colleagues to stress or to the fact that the accused was not adequately prepared or trained in the job. Respondents with experience in the SPS role also sometimes worried that the SPS was in a pivotal role but the incumbent was often left to sink or swim:

*"There has never been any real investment in SPSs as people managers...yet there is an expectation that SPSs will manage difficult staffing situations."*

Some respondents believed that if the Member was a bully, those behaviours were sometimes reflected by that Member's staff:

*"Because MPs are hierarchical and talk about themselves and Opposition, there's a feeling among their staff that it's OK to gossip about each other."*

Some felt that the characteristics of parliamentary culture – intensity, competitiveness, fear of making mistakes, gossip and secrets – all created conditions meaning that:

*"Anyone with a tendency to be a bit harsh will get ultra-harsh here. Every character trait gets magnified and amplified."*

Others alleged more malicious intent from colleagues, such as:

*"From the day I arrived [he/she] seemed determined to make my life hell. Throwing perfectly good papers on my desk at 6pm and saying they were all unacceptable and needed to be redone that night happened all the time."*

Respondents also talked about the specific challenges when "MPs have close relatives in nominal staff roles" which "makes the latter something of a protected group when they engage in bullying behaviours".

For staff in electorate offices, lots of time spent together without supervision could exacerbate workplace tensions. As one said:

*"It's so tight and difficult here with the constituent matters that you absolutely have to be a team. One wrong person and it's a disaster...actually that happens because the Member just tends to pick someone they know."*

For staff on the corporate side of the parliamentary agencies, these allegations tended to be concentrated in some specific and seemingly highly toxic work groups, rather than being a general problem. Some staff described being 'frozen out' by colleagues or gossiped about vindictively. Some cases involved allegations that colleagues had made false complaints about them, in attempts to get them in trouble with managers.

In one agency workgroup, bullying and harassment behaviours were repeatedly alleged by staff. In one case these behaviours resulted in a respondent developing serious physical health problems that persist several years later and preclude ongoing employment. This staff member told me:

*"I loved Parliament so much. I loved most of the people. But in the end, it cost me my health, my wealth and my happiness."*

## BULLYING AND HARASSMENT BETWEEN MEMBERS

Member to Member bullying and harassment is not within my Terms of Reference, which refer to staff and others in the parliamentary workplace. However, this matter was raised by Members who were interviewed and appears relevant to creating an overall picture of the culture within the parliamentary workplace. For these reasons I include it here.

A 2018 survey undertaken by the Commonwealth Women Parliamentarians (CWP) New Zealand group, while based on a small sample of 15, reported incidences of bullying between Members, including Members from within the same Party<sup>16</sup>. The behaviours alleged included remarks by Members from opposing Parties about appearance or abilities, in some cases sotto voce in the House, as well as: “subtle put downs, bullying and harassment in Select Committee meetings”.

This alleged bullying in the CWP survey included female to female bullying.

The impacts were variously described as feeling “demeaned and humiliated”, “unsafe” or as “enhancing my determination”. Coping mechanisms were described as including “support from female colleagues”, “great support from staff or family”, “tried to ignore it” or “unhealthy ways, such as food, alcohol and negative attitudes”.

This picture is borne out by my own interviews and submissions. Five Members (of the more than 50 interviewed) told me that they had experienced ‘sledging’ in the House that they felt went far beyond what was acceptable in that it was personal and based on intelligence or appearance.

Two described receiving “vicious and personal” text messages from other Members, in one case “at 2am for goodness sake”. Six Members, all of whom were female, described cultural or racial slurs from other Members and alleged that ‘casual racism’ was prevalent, particularly toward women of non-European ethnicity.

Three women Members described “confrontations” with male colleagues that “were designed to physically intimidate me and put me down, often through invasion of personal space and shouting”.

One former Member described a verbal attack by another Member when walking past their seat in the House that was:

*“...so vociferous, personal, aggressive and sustained, that I was quite shaken...and I was used to what is politely called the ‘rough and tumble’ of politics.”*

For respondents, these behaviours felt threatening in that Members: “must be in and around Parliament so there is no way to escape it”.

Most felt strongly that the support available to them was limited, in that “it’s not OK to show vulnerability here” and “you have to be careful who you tell and where you get support, or it’ll leak, and you’ll be seen as not tough enough”.

Some respondents commented on undignified and disrespectful behaviours between Members in Select Committee proceedings, including “put downs and belittling” of other Members when the public was present. One said: “...how does that behaviour help citizens engage with democratic process? It was disgusting.”

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<sup>16</sup>See Alison Mau “Majority of women MPs suffer ‘violence and harassment’ in Parliament: report” (31 January 2019) *Stuff* <[www.stuff.co.nz](http://www.stuff.co.nz)>.

I did form an impression of demographic differences among Members in their attitudes to peer to peer bullying and harassment, regardless of Party. Newer or younger Members tended to express low tolerance for poor conduct from colleagues, while longer tenured Members tended to say something like, in the words of one: "I've just got used to it as being part of what this place is all about. It's not a place for the faint hearted."

Some Members also described having conversations within their caucuses or peer groups on behaviours and "trying to create a culture where we hold each other to account". Another said, "it's hard though, because at the end of the day we're all competing for places".

When asked what would mitigate or protect Members from bullying by peers, most said something along the lines of this comment:

*"At the end of the day the leaders have to set the standards and model them. If someone is behaving badly, they have to be held to account by leaders."*

## **BULLYING AND HARASSMENT OF STAFF BY MANAGERS**

One respondent wrote: "It is essential that the Review acknowledges this is not only an MP problem. Parliamentary agencies also must face their own demons and improve."

Accusations of bullying and harassment by management were made quite frequently about the Parliamentary Service, with a smaller number coming from staff in the Office of the Clerk and MaSS. There were also allegations of bullying behaviour by Party staff.

### **Service culture is viewed by some as command and control**

Within the Parliamentary Service, staff pointed to what they saw as a culture of hierarchical, command-and-control style management, particularly in some work groups. This was a very consistent view on the part of Parliamentary Service staff.

Some respondents alleged that bullying and poor behaviour were worse within the Parliamentary Service than among Members: "There's layer on layer of entrenchment and lack of visibility", said one. "The perpetrators of most bad behaviour are managers, not MPs", wrote another.

Many newer staff said they had been surprised, on joining the Parliamentary Service, by the extent of its hierarchialism. One said: "It's an extreme corporate hierarchy where managers feel very separate from us even though we're only one or two layers below." One respondent said: "Management culture is very dictatorial. It's something I haven't come across elsewhere for 30 years."

Others commented that in some Parliamentary Service workgroups there was little "management by walking round and getting to know staff". Many front-line staff commented that they didn't feel like they could: "talk to the people at the top".

Within the Parliamentary Service, there were allegations by some staff that the performance management system had in some workgroups been weaponised by managers against staff. As noted above, the Parliamentary Service had, until very recently, a complex performance management system which was linked to pay. There were many instances of staff alleging behaviours, such as: "He said, 'Right that's 3D behaviour, I'm putting your grade down right now', even though I've always had a great performance record."



One respondent from the Parliamentary Service wrote:

*"Middle management...have a protective cloak around them. The performance management system is used to break the spirit of anyone who tries to break this monopoly of bad behaviours."*

Another alleged: "Some managers throw out your remuneration] increases if they don't like you for going to the union or talking about health and safety."

The performance system in question, which on its face is not problematic, was widely criticised by Parliamentary Service staff and union delegates in terms of alleged misuse in practice. It has recently been discontinued by the new Parliamentary Service General Manager.

Significant numbers of Parliamentary Service staff also alleged that in this organisational context, they felt unsupported or even bullied by the Parliamentary Service's HR function. As one put it:

*"We feel like HR is a tool of management rather than a group that has our interests in mind. They will always take the Member or manager's side, and often end up making staff feel even worse in the process. How they treated me shocked and surprised me."*

This was a very consistent view among respondents. There appear to be several elements to these allegations.

The first is the perception by many staff that Parliamentary Service HR prioritised Members' and managers' interests over those of staff. While most staff respondents understood that HR needed to balance both their needs and those of the customer and institution, many felt that the current balance was wrong. One said, in a comment echoed by many:

*"I wouldn't dream of going to HR. They're there to protect PS [the Service]. They're not there to protect me. They minimise the fallout."*

Another reflected: "There seems to be a sense of mistrust in HR that they're not on our side."

Other specific allegations also related to a lack of empathy from HR: "they didn't make us feel valued as employees" and "there's no H in HR".

Others perceived that HR might not preserve their confidentiality. "I'm not sure I trust them. Nothing's confidential when they say it is."

Some electorate office staff expressed concerns about what they perceived as repeated inaction in response to issues they raised with Parliamentary Service HR about health, safety and wellbeing. One respondent, after outlining the stresses of the role and accessing counselling for emotional ill health, wrote:

*"I was made to feel that I was the issue, because of some perceived 'weakness'....I felt demeaned and devalued by an employer that has no sense of its responsibilities (which were training, job support and genuine help with the mental health issue they created) and that, after repeated feedback and despite repeated promises, made no real improvement over time."*

### **Some Office of the Clerk staff also want changes in management culture**

Some staff within the Office of the Clerk expressed concern about alleged top-down bullying that was more nuanced than that described in the Parliamentary Service. "It's a determinedly 'happy' culture," said one, "and if you raise anything negative you get cold shouldered. It's like you have to smile all the time."

One respondent suggested that this may be partially attributable to a tight team at the top of the Parliamentary Office:

*"The SLT are all pretty nice and all friends. They are quite similar people. While I think they're all good there's something about the group think in there that feels suppressive and makes it hard for people to offer different views."*

Another said:

*"It's not aggressive or anything, but they do these subtle freeze outs. I was OK with it, because I'm tough, but some of my less resilient colleagues had to leave."*

The Office of the Clerk scored relatively low results in its 2018 engagement survey on questions concerning bullying and staff being able to raise concerns safely. Only 48% of staff believed that 'we have effective systems for dealing with intimidating behaviour and workplace bullying, which are applied equally to everyone'. In comparison, 90% of the management group agreed with this statement.

Some Office of the Clerk staff suggested greater accountability for managers in the Office through greater transparency. One said:

*"I think there should be mandatory visible reporting on things like turnover...the Office is not seriously scrutinised by Members of Parliament, due to the dynamics of working closely with us daily."*

### **Ministerial staff report feeling isolated**

It was much less common for MaSS staff to allege managerial bullying than was the case for the other agencies.

In MaSS, the most common allegations about 'managerial' bullying were levelled towards political advisors. One said: "Some staff [in political roles] can and do get away with psychopathic behaviours."

A small number of MaSS staff also alleged harassment from Party officers. For example, one described reporting a sensitive matter, receiving assurances of confidentiality and then being called to a meeting with all staff at which the matter was raised. "We were told: 'No talking. If you do, you won't be working here.' I felt it was a pretty direct threat."

Some MaSS staff also told me they felt unsupported by HR or that it operated at too great a remove from the day to day work of MaSS. One said: "They are disconnected from the reality of what happens. They offer no support."

Another said:

*"...when I reported feeling unsafe...I did get good personal support and a listening ear [from HR], but it was crystal clear they were going to bury it under the carpet. I felt very at risk and alone."*

For departmental private secretaries, this sentiment was not uncommon: "DIA HR was nowhere for me. I had no idea how to get support."

## BULLYING AND HARASSMENT BY THE PUBLIC

### Threats and violence are not uncommon

According to the online survey results, 24% of respondents have experienced bullying or harassment from members of the public. This is most often the case for Members, Ministers, and the staff in their electorate or community offices.

It was common for Members to describe threats of physical violence – often via letter or social media – from constituents or members of the public, including death threats.

Six Members told me they had experienced some form of direct physical violence, during a protest in one case, in their electorate offices or at public meetings. Three of these incidents were described as having a racial element. All six reported good post incident support from parliamentary security staff and Police.

Members also showed me a variety of social media or written communications from members of the public which were threatening and abusive. Women MPs showed me sexist and racist threats that shocked me.

Although some of the threats I was shown had been escalated to the parliamentary security staff and Police, many of what were in my view very concerning communications had not. When I mentioned harmful digital communications offences, a typical response was: “I could report it, but we get so much of this stuff. I’d look weak. It’s par for the course.”

Almost all Members with whom I spoke were vigilant about their physical security. “I’m careful about constituents, especially the ones known to be mentally unwell,” said one. “I still represent them and want the best for them, but it can be frightening to deal with the obsessives.” Most Members saw this “as a part of the job we just have to manage. We are here to serve people, after all.”

Several Members reported concerns about their staff and families’ exposure to fixated members of the public. “It’s often the same people and they’re pretty well known to authorities” said one, “but you’re always worrying if today’s the day they’ll go too far.”

There are parallels between these findings and those of a 2014 survey of Members in which 87% of the Members responding (with an overall response rate of 80%) reported harassment in one modality or another.<sup>17</sup> This survey was the basis for consideration by Parliament’s leaders of a fixated threat assessment service.

Those that fixate on Members and other public figures have high rates of mental illness. This led to the initial development in 2006 of a Fixated Threat Assessment Centre (FTAC) in the United Kingdom based on communications to the Royal family and later expanded to Parliament. The service was then implemented using a similar model in Queensland and now all states in Australia either have or are in the process of developing such services.

In New Zealand the Fixated Threat Consultative Group was established as a pilot in 2017. This had Police and mental health professionals coming together to assess referrals coming from parliamentary security staff and then considering potential interventions. This pilot service had limited capacity for communications, education and training. A full service, which will comprise Police, a mental health nurse, and a forensic psychiatrist, is planned to start on 1 July 2019.

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<sup>17</sup>Susanna Every-Palmer, Justin Barry-Walsh and Michele Pathé “Harassment, stalking, threats and attacks targeting New Zealand politicians: A mental health issue” (2015) 49 Australian & New Zealand Journal of Psychiatry 634.

### **Is the balance between accessibility and protection right?**

Some Members wondered if the Parliamentary Service had the balance right between the accessibility of the parliamentary precinct and the need for protection from harm. One said:

*"I love that our Parliament is so open that people can lunch on the lawn. But then things happen, and you think – I hope they are getting the intelligence analysis right."*

Reception and EA staff in Members' and Ministers' offices described getting frequent abusive calls from members of the public. Most saw this as a normal part of the job but one that could sometimes be frightening. Several told a similar story:

*"There's a guy who calls us all regularly on our mobiles and threatens us [with serious harm]. We tell security and they block his number and then he pops up calling another office. It happens repeatedly. It's scary as hell, even though we know it's being investigated. When is this going to stop?"*

Many staff in electorate offices and in Members' and Ministers' Wellington offices had experienced calls from suicidal callers. One said: "it's harrowing...I do my best, but you never really know if you did right by them." One Member worried that: "It's my EA who gets these awful calls. She's only [age]. Where does she go for care and support when all this gets too much?"

It was not uncommon for Members and staff in electorate offices to be lower key about such matters than perhaps they should be. One staff member said, "There's just no way to deal with abusive contact from the public. It happens every single day."

In one electorate office I asked staff if they were on the receiving end of inappropriate behaviours from the public. One staff member said to me, after a pause for reflection: "a bit...do death threats count?"

Even though it was clear in this context that staff were aware of the avenues available for support, including going to Police, I formed the impression that some staff had developed an overly high tolerance for threats.

After the Christchurch mosque shootings, I received several submissions from electorate office staff around the country who felt unsafe, even though their offices had recently been strengthened in terms of physical security. Two said that with the (then) heightened threat level, they were seeing members of the public on an appointment-only basis and: "This feels safer... maybe we should always do this".

## BULLYING, HARASSMENT AND THE MEDIA

Members of the Press Gallery, while employees of media agencies, also work on precinct.

Although Press Gallery staff are largely out of scope for this Review, the parliamentary agencies have health, safety and wellbeing obligations with regard to them.

It is also important that all those working in the parliamentary workplace comply with health and safety legislation as it relates to them in their interactions with others in the workplace.

A significant number of respondents – not all of them Members – commented on what they perceived as inappropriate behaviour by members of the Press Gallery or media more generally.

These respondents understood that onsite journalists, in the words of one: "...need to be really assertive, in their role working on behalf of the people of New Zealand to ensure an open democracy".

But some felt that journalists in Parliament sometimes:

*"Cross the line into disrespect in pursuit of clickbait. Their behaviour can further fuel the overall environment of gossip and intrigue."*

One alleged, in a comment typical of several:

*"Gallery behaviour is unacceptable... they come in there perfectly nice people and then adopt this persona of the classic bully. You can watch it happen."*

# OBSERVATIONS: SEXUAL HARASSMENT

## UNCONSCIOUS BIAS & SEXIST BEHAVIOURS ARE PREVALENT

The table below shows the reporting of sexist behaviours based on the online survey data:

Have you experienced offensive remarks, comments, jokes or gestures....?	'Yes' responses from online survey respondents
Of a sexist nature	25%
Of a sexual nature	18%
Regarding sexuality	12%

The picture from the interview sample was as follows:

Have you experienced offensive remarks, comments, jokes or gestures....?	'Yes' responses from interview respondents
Of a sexist nature	60%
Of a sexual nature	35%
Regarding sexuality	19%

The allegations of sexist behaviour and actual or unconscious bias that I heard described in interviews by respondents or bystanders related to colleagues, managers, and Members.

Most frequent were allegations of unconscious bias. "It's just so embedded," said one Member. "In Select Committee, the female Members don't get as much airtime and have to be really assertive to get the attention of the Chair."

Another said:

*"It's really interesting how much diversity we've now got among our MP cohorts and yet everything about the place feels really male and white. It will change as the newbies settle in and have an impact, but it's too slow."*

Other respondents noted more overt sexist behaviours. "Every time that guy is in a lift with women, his eyes are on their chests," said one. "His demeanor totally changes around young women," said another. "It's a bit creepy."

One respondent wrote:

*"The MP invaded my personal space and he did this with most women. I don't know if it was intentional or just from habit. He always liked to touch the arm of any woman he was talking to, which was unpleasant, and I had several women complain to me about it."*

However, many staff and Members also said they felt that:

*"It's improving. The low-level sexism that used to be prevalent is phasing out. Partly that's demographic change. Partly it's because they're all more aware of it in the #Me Too era."*

## HARASSMENT OF SEXUAL ORIENTATION MINORITIES ALSO OCCURS

I heard several allegations of bias or harassment against LGBTQI groups as a part of this Review. Most related to unconscious bias and one to: "...constant snickering and joking about gays in my presence. It was super uncomfortable."

None of these allegations related to Member conduct, although one respondent said:

*"I had to wonder if my MP's public jokes about my appearance also reflected discomfort with my sexuality. I'm not sure. But even if not, they were inappropriate."*

## SEXUAL HARASSMENT AND SEXUAL VIOLENCE ARE LIKELY TO BE UNDER-REPORTED

Respondents to the online survey reported sexual harassment or violent behaviours, ranging from unwanted touching to sexual assault, as shown below by gender and staffing status. I have used numbers for this table, as they are perhaps more meaningful in this context than percentages. They should be seen in the context of more than a thousand total respondents to the online survey.

Have you experienced ....?	Number 'Yes' responses from online survey	Male	Female	Current staff	Former staff
Unwanted touching	50	17	32	29	21
Unwanted sexual advances	54	14	40	34	19
Messages of a sexual nature sent to someone via email, direct messaging or social media	20	10	10	9	11
Sexual coercion	2	1	1	1	1
Sexual assault	14	4	10	11	3

For the interview sample, the number of 'yes' responses to these questions was as shown in the table below. There is likely some duplication between these responses and those of the survey.

Have you experienced ....?	Number 'Yes' responses from interviews
Unwanted touching	24
Unwanted sexual advances	24
Messages of a sexual nature sent someone via email, direct messaging or social media	15
Sexual coercion	6
Sexual assault	5

It should be noted that the research on adult sexual assault suggests that under-reporting of incidents is a major issue, particularly for allegations of male on male violence.

All allegations made to me in interviews and submissions related to male on female violence and I think it is safe to assume that the data above are also heavily under-reported, particularly in view of some of the barriers to disclosure I described earlier.

In the course of this Review, I provided several respondents with the details of specialist sexual assault support providers and Police adult sexual assault investigators. I commend their bravery in retelling their stories to me in interviews. For these individuals the pain of reliving their trauma was intense.

As several of the more serious allegations made here may be the subject of future investigations, and in order to protect the privacy of respondents, my commentary here is brief.

Three of the alleged incidents disclosed to me in interviews were in my view extremely serious and some appeared to be part of a multi-year pattern of predatory behaviour.

It was common for respondents to report that, in the event of sexual harassment or sexual violence, there was nowhere, other than directly to Police, that they could turn to for support or to report the harassment or violence. "The power imbalances are so great round here, that why would you even bother?" said one. "What are they going to do?", said another "...Chuck some EAP at me. Then what?"

One respondent, having described alleged sexual harassment, said:

*"You can't do anything about it. You feel completely powerless. You've got a job you enjoy; you don't want to raise it in case no one takes your side. I feel that the whole time. I just want to get out."*

Some said they did not feel they would be believed, even by colleagues, while others suggested that they would be likely to be found at fault, and that others would insinuate that they had provoked the harassment or violence. One respondent wrote:

*"You'll find that most of the dodgy stuff happens on trips away or when drinking is present. It doesn't make anyone look flash."*

Two consistent themes in all allegations were the difficulty individuals had in accessing specialist pastoral care and their perception that HR or management did not handle their allegations well if they were disclosed. One survivor said:

*"Even if the outcome wasn't what I wanted, if I had felt more supported and believed, then I would be happier than I am now."*



One complainant who went to HR with a report about unwanted touching said:

*"There wasn't a clear process. I got the feeling the people responding didn't know what to do either."*

Another described being told, on reporting sexual harassment:

*"Well. What are you going to do about this? Why not just try to talk it out with him?"*

Survivors and their support persons who had made formal complaints expressed concerns about how investigations had been handled. One support person to a survivor wrote:

*"It was not dealt with properly and left [the complainant] feeling isolated, broken and very much on their own. I cannot comprehend why the case was not handed over to Police to resolve."*

Others described feeling revictimised by reporting:

*"...They didn't really seem to know how to deal with this...I felt like I was the accused, not him."*

I address these issues more fully in the section on complaints and disclosures below.

# IMPACTS ON RESPONDENTS

## ALLEGED BULLYING AND HARASSMENT IN THE PARLIAMENTARY WORKPLACE RISK SERIOUS HARM

Although it is probably self-evident from the narrative so far, it is hard for me to adequately convey the devastation expressed by those respondents who alleged that they had been bullied, harassed or otherwise victimised in the parliamentary workplace.

In many cases the pain described to me by respondents was profound. For younger staff, particularly those in their first professional job, many felt: “My expectations were probably too high to begin with, but they got smashed fast.”

Some respondents were still obviously shaken by their experiences after years had passed. One described the day a Minister activated the breakdown clause:

*“[He/she] screamed at HR: ‘I want [him/her] out of Parliament. Now!’ The next day they just phoned me at 9am and told me to go right then. I was shaking with shock. No explanation, no thanks, no anything.”*

For some very experienced staff such as SPSs or older staff with diverse career experience the knock to their confidence was immense. As one described it:

*“I was warned [the Member] was bad before I started. But I thought... I’m mature and experienced, I’ll deal with it. But I just couldn’t cope with it. It shocked me. It’s taken me years to recover. I still can’t bear it that my last job in the workplace ended so badly.”*

Some departmental private secretaries expressed bitterness that their employer had knowingly sent them to an “unsafe environment”. One said:

*“They told me they were sending me into the lion’s den, and it was a difficult office...but I wasn’t expecting it to be so dire...how could they do that?”*

Because our subject is Parliament, for many people the impact seemed higher than it might in another workplace. As one respondent wrote:

*“It felt like the fall was further and more humiliating because it was Parliament. I had big dreams for my job there, but it just destroyed me.”*

Many respondents alleged serious physical or mental illness as a result of their experiences. Comments such as “I had an emotional breakdown” or “my life has never been the same” or “my daughter has never been the same vibrant woman she went in as” were very common. “I believed I was a strong-minded woman” wrote one respondent, “but I was crushed completely and came away shattered and with no self-worth. It took me six months to get out of bed after I left.”

The matter of moral hazard as a health and safety issue also concerned some staff respondents:

*“One of the things you put aside here is your integrity to call out bad behaviour because the power imbalance is such you just can’t. It gets to you and you deal with it by going out and getting drunk.”*

Another said: “I wish I had raised it because now it’s happening to someone else and that’s a difficult burden to hold.”

Effects of harm were often described as long lasting. Some former staff described being physically and emotionally unable to “walk down to the Parliament end of Lambton Quay”. One respondent wrote: “It has been a huge challenge for me to write about this and I’m trying hard not to open those painful wounds.”

## POOR CONDUCT TOWARDS WOMEN HAS A CHILLING EFFECT

Many women respondents spoke of experiencing a combination of sexism, racism and harassment. It was very common for them to report, via interview or submissions, that their experiences had harmed them physically, affected their health and in some cases, made them unable to continue working.

Reported emotional harm included feeling distraught, angry, humiliated and anxious. Most female staff respondents who experienced these feelings described battling them for a while, but most ultimately made the decision to leave. One said: “Lucky for them...I was the problem that went away.” Another wrote: “If any woman asks whether they should take a job in Parliament, I would not advise it.”

Female Members who had been harassed or bullied and who described emotional harm, on the other hand, tended to express determination to continue their parliamentary work and remain “resilient, or what use am I in this place?”

Most female staff respondents who had suffered emotional or physical harm had sought at least EAP support. Few female Members reported having done so. A number of female Members described “...having to suck it up and internalise it. There is nowhere else to put it.”

For many women, a key concern was the emotional and moral dissonance entailed in “...going along with it in a mostly male, Alpha type environment”, and several worried that:

*“Although Parliament isn’t so much of a boys’ club anymore, I worry that, by trying to be strong, we risk becoming like the men ourselves, leading in male ways, as opposed to bringing our female sides to our work and diversity to Parliament.”*

Some concluded that this had happened in some cases: “Some of the worst bullies are women, trying to out Alpha the guys.”

Female Members expressed concern that seeing female Members behave poorly, or female Members being badly treated, would have adverse impacts on women’s participation and engagement. “Does seeing this stuff in the media have a chilling effect on women wanting to enter politics or participate in the work of democracy at local level?” asked one Member. “I think it almost certainly does.”

## POOR CONDUCT DAMAGES PARLIAMENT’S REPUTATION AND OPERATIONS

In view of the shared commitment of all respondents to Parliament and a healthy New Zealand democracy, many expressed concerns about the effects of poor conduct on Parliament’s brand. “The behaviours of a few tarnishes the image of all parliamentarians with the public, and that’s not good for democracy,” said one. Another wrote:

*“In these days of social media, this stuff gets out and goes viral. Members or staff behaving badly makes us all look untrustworthy and undermines the important work we do.”*

Many other respondents focused on the adverse impact of poor conduct on the operations and costs of the parliamentary workplace. They often cited the productivity loss arising from high staff turnover, absenteeism and low morale.

## PARLIAMENT IS PERCEIVED AS AN ENVIRONMENT THAT TOLERATES POOR CONDUCT

Some of the most chilling effects of poor conduct in Parliament were described by respondents as “isolation, loneliness, and feeling like you’re going mad”. As one respondent wrote:

*“The whole place just tolerates a level of behaviour that would create a huge outcry anywhere else. So, when it happens to you, you think there must be something wrong with you because everyone here just accepts it as normal.”*

Another respondent wrote:

*“The worst thing is that everyone here is engaged in some form of collective denial. That means that even if you trusted the system, which I don’t, you feel like a failure for complaining, and those feelings are insidious and damaging.”*

On the agency or corporate side, this comment was typical of several:

*“People want to work here because they find the environment fascinating but once they get here, they are so insulated in the bubble that their frog gets boiled. They get immune to poor process or poor leadership.”*

Sometimes respondents perceived that the longer serving segment of the workforce may minimise or normalise unacceptable workplace behaviours. One respondent described seeking advice from a senior EA like this:

*“[He/she] said to me: ‘This happens when Members get stressed. Just roll with it. Join us for our Friday coffee group. That’s how we all stay sane.’”*

Another said:

*“When I said something, [he/she] said ‘Yes, [he/she] has always been like this. Everyone in your job has cried. You have to be tough to last in that office.’”*

Given the limitations on voicing concerns discussed elsewhere and the restricted channels which exist for disclosure and support, staff who are the targets of poor behaviours typically (91% according to the online survey) seek advice from colleagues or friends at work rather than from other sources. At its best, this strengthens camaraderie. At its worst, it further enables undesirable behaviours or intensifies the feelings of isolation and loss of self-worth suffered by respondents.

Several staff respondents were also not aware of any policies, measures, support arrangements or avenues for disclosure and complaints about bullying and harassment. Only one respondent discussed processes for protected disclosures in the context of bullying or harassment.

And explicit denial was expressed by respondents in a few cases. One employee and two Members said there had been no problems with bullying and harassment in the past and no warning signs about the conduct of Members whose inappropriate conduct had recently come to light.

The lack of effective arrangements for complaints, issues with investigations, and challenges in sanctioning those engaged in bullying and harassment are outlined more fully in the next section.

# CURRENT PREVENTION AND CONTROLS ON POOR CONDUCT

## CURRENT POLICIES NEED UPDATING

My Terms of Reference require me to assess existing policies and procedures relating to bullying and harassment, compare them to best practice, and to make recommendations for improvement. In this section I will do so agency by agency.

I base my standard for best practice approaches to the prevention and management of bullying and harassment on the recommended approaches outlined by WorkSafe and for best practice risk management more generally on the guidance issued by the State Services Commission on best practice standards for risk management in the context of PIF reviews.<sup>18</sup>

### **Parliamentary Service's approach policy and practice need updating**

The Parliamentary Service policy on bullying and harassment dates from 2016 and is due for review this year. It has positive features in that it is principles based and sets out helpful definitions of bullying, harassment, sexual harassment and racism which are broadly aligned with those used by WorkSafe.

The policy proposes an escalation of actions beginning with the option of 'self-help' in which the respondent is encouraged to confront the accused bully directly, 'either in person or in writing'. If this proves unsuccessful, the respondent is encouraged to escalate to a peer, a union delegate, manager or an HR representative. Mediation is the next escalation, followed by a formal written complaint. The policy is clear that complaints may involve other staff, managers, Members or non Parliamentary Service employees.

While this policy appears sound and reflects standard practice regarding escalations, I suggest the Parliamentary Service's policy should be slightly updated to better align with response practices as outlined by WorkSafe's *Good practice guidelines: Preventing and responding to bullying at work*.

My greater concerns, however, based on the perceptions reported to me during this Review process, are that several respondents told me they felt the Parliamentary Service's policy was sometimes poorly used in practice. They suggested that it was neither trusted by staff nor well understood by managers.

For example, some respondents told me they felt uncomfortable with the notion that 'self-help' was sometimes presented by managers or HR advisors as a critical first step in resolving bullying and harassment complaints, particularly in a workplace with such significant in-built power imbalances.

One complainant, on alleging bullying by a Member, described being told: "Lots of MPs do that. Just have a conversation with him." One respondent wrote: "This is where the system fails the victim. People will not make a formal complaint because it involves being at a meeting with the bully."

While self-help is an appropriate first step in resolving a low-level dispute about workplace behaviours, advisors and managers need to be mindful of the challenges that may be entailed in this area in the parliamentary workplace when they provide advice to staff.

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<sup>18</sup>See WorkSafe New Zealand *Preventing and responding to bullying at work: For Persons Conducting a Business or Undertaking (PCBUs)* (March 2017); and State Services Commission "Getting to Great 1 & 2" (12 October 2017) <[www.ssc.govt.nz/pif-getting-great-1-2](http://www.ssc.govt.nz/pif-getting-great-1-2)>.

Respondents who had been targets of bullying and harassment, or observers of such behaviours, described being told by managers or HR that “nothing could be done unless a formal written complaint is received”, which is not what the policy says. Although a formal written complaint is always preferable when such serious allegations are made, a complaint need not be in writing for it to be investigated, though it must be ‘on the record’.

Other respondents described what they alleged to be half-hearted approaches to mediation or what they felt to be short and superficial investigations. Investigations are discussed more fully in the relevant section below.

One respondent wrote, in a comment typical of many:

*“On two occasions I made complaints, along with other staff, in person to Parliamentary Service. Once I was in tears. The result was silence. We were all informed that unless we made complaints in writing they would do nothing. Not even confront the bully or take the problem to his boss.”*

As noted previously, many respondents also told me that they didn’t trust the Parliamentary Service to discharge the policy in such a manner that their confidentiality and welfare were protected. One respondent said:

*“HR tries hard and is improving but we all know they’ll always support the Member. I don’t trust their processes or their confidentiality. I would never voluntarily go to them about anything, let alone bullying or harassment.”*

Others, particularly Member support staff, told me that in practice, when they did complain, they felt that the policy was not followed by HR and managers or they felt that they did not have the skills needed to follow through with the proper process. “When I said I was being bullied HR said ‘and what are you doing to solve this problem? Have you thought about whether you’re suited to this place?’”

Another respondent alleged: “I wouldn’t trust HR. They didn’t seem to know what they were doing.”

Some respondents alleged that HR would rather activate the breakdown than fully investigate their complaint. One said:

*“Their [Parliamentary Service] response to MPs or staff bullying is ‘how much do you want? Do you want to go through the breakdown clause?’ PS [Parliamentary Service] just wants to make it go away.”*

In other words, while the Parliamentary Service’s policy can be easily fixed and updated for best practice, the internal HR culture appears to require a significant reset. The trust of staff that HR will support their welfare as well as the wider interests of the Parliamentary Service will need to be rebuilt.

Policy confusion should also be avoided. The Parliamentary Service has overlapping policies for some workgroups, such as the finance section, on its website and some aspects are inconsistent with the parent policy. This can be addressed through the update process.

### **Office of the Clerk policy can be aligned with that of Parliamentary Service**

The Office of the Clerk’s policy dates from 2016 and is a short, practical one-pager. While expressing clear intent and commitment, it is light on the wellbeing aspects of health and safety and on links to specific policies on bullying and harassment. It also does not link to the Office of the Clerk’s code of conduct.

Given current moves to create a shared service arrangement for HR with Parliamentary Service, it makes sense for the current Office of the Clerk policy on bullying and harassment to be aligned to or included in the revised Parliamentary Service policy.

### **DIA policy is sound but not well known to MaSS staff**

DIA has a 'Managing Unacceptable Behaviour Policy' which was due for review in 2018 and which applies to MaSS staff. It is easy to read and usefully linked to a variety of tactical 'how to' guides. As with the Parliamentary Service, the policy is linked to the code of conduct. A strength of the DIA policy is that it describes what is considered acceptable behaviour at DIA, which aligns to DIA's organisation-wide values and its excellent code of conduct.

In my view this policy needs a straight forward update to better align it with some of the more recent guidance from WorkSafe, but otherwise appears robust.

Again, however, the practice is more important than the paperwork. Most staff who work in ministerial offices told me they did not feel a strong affiliation with DIA and none of those whom I questioned on the subject had any awareness of the policy. One said: "You have to log out and then in again on the DIA systems and it's all such a pain. I can't be bothered with it."

Many MaSS staff said they would never make a complaint about unacceptable behaviour under the policy in view of the event-based employment arrangement and the perceived career risks of being labeled as a 'troublemaker'.

As noted above, most respondents were unclear on who they should talk to or what guidance they should consult either to complain or to seek support and pastoral care. "If you report it, you're not going to be supported. You're going to lose, so why bother?"

MaSS staff also expressed a preference not to go to HR experts with a query on the policy or a complaint under its framework. In this case their reluctance was often because they simply didn't know who the relevant HR person was. "I had no idea MaSS had HR professionals", said one.

Other MaSS staff told me they did not believe that their DIA contact person understood their working context well enough to handle the matter appropriately. "DIA don't understand how Parliament works", said one.

Another respondent alleged that DIA HR would be unlikely to be helpful anyway because: "DIA... should stop assuming Ministers are in the right and entitled. They're not above the law."

## **INVESTIGATIONS ARE SOMETIMES NOT PERCEIVED AS WELL MANAGED**

My Terms of Reference require me to identify any theme or patterns regarding how reports of incidents and complaints about behaviour were handled, and how those reporting incidents or raising complaints were treated. I interviewed a significant number of staff who had made formal complaints, and viewed a small number of closed investigation files from Parliamentary Service and the Office of the Clerk only.

There are limitations on my conclusions here in that I was not able to interview many of the Parliamentary Service HR practitioners who had conducted investigations because they were no longer with the organisation.

In view of these limitations and those related to my Terms of Reference with regard to individual incidents, my observations here are based on the perceptions of complainants and should therefore be treated with some caution.

An interesting finding is the fact that in the online survey, some 51% of respondents said they had experienced some form of bullying and harassment and 52% said they would make a formal complaint if this happened. In fact, the agency data I reviewed suggests that a very small number of formal complaints are received each year.

Other survey findings seem to support this, with significant numbers of online survey respondents saying they would seek counsel from colleagues or friends at work (91%) or from family or whānau (89%). Others (75%) say they would consider leaving. According to survey data, 77% of respondents would raise concerns without making a formal complaint.

Some of the disconnect between those saying they would report and those actually reporting may be due to the barriers to disclosure and reporting outlined above. Another constraint seems to be the anecdotal information that is shared among staff about how some past reports are perceived to have been investigated. Because Parliament runs on gossip, many staff I spoke to pointed to alleged mishandling of complaints and the subsequent investigations as dissuading them from making complaints.

One respondent wrote:

*"I wanted to make a complaint and I looked up [the process] on the intranet and talked to others about what the procedure would be...from that I deduced that even if the complaint was investigated and found to be valid then the outcome would be the MP would get off scot free...I can't see how they could move me to another role so my choice is put up with it or find another job. Pretty disheartening really."*

Another Member support employee in Parliamentary Service wrote:

*"HR said, 'there's no point in pursuing this. We can't tell MPs how to treat their staff because they're elected.'"*

One Member support staff respondent described making an informal complaint that a male boss was "creepy toward young women" and she felt he was "unsafe to be around". She didn't make a formal complaint, "...as there was no one thing that I could point to as a smoking gun, but the innuendo and the body language were just awful".

After initially struggling to work out who she should talk to "that would be safe and would protect me", she went to a senior colleague out a sense of obligation to say something, "in case my stuff was part of a pattern that could lead him to harm others".

The advice she received was "yes this happens with all young women, don't worry about it, it's just how he's always been. We'll keep an eye out for you."

In this case, no investigation appears to have taken place, though it was clear to me from other interviews that there had been multiple informal complaints of this sort about this particular accused.

Some Member support or MaSS staff who had made either informal or formal complaints told me they felt the subsequent investigations were poorly handled, either by the Party or by HR and management.

One Parliamentary Service staff member said:

*"They [HR] just sent me to a counsellor. That's helpful for supporting me but if it's not being formally raised with your employer, what is going to change?"*

Another respondent alleging this told me that their formal written complaint regarding an alleged sexual assault matter did not result in the suspension of the accused, took several months to investigate and the respondent was never provided with written notification of the outcome of the investigation.

The respondent recalls being told that the accused was entitled to a letter about the outcome of the formal investigation, but as the complainant they were not. They told me that while access to EAP was encouraged by Parliamentary Service HR, they struggled to gain access to additional specialist support.



They also described feeling at risk of retaliation by the accused during and after the investigation. Though they requested some protective interventions, it is this respondent's perception that none were put in play.

As a result, the respondent told me they felt they had to constantly devise informal support strategies to keep themselves separate from the accused in the normal course of work and alleged that they continued to suffer ongoing trauma as a result.

It was common for staff or the union representatives who had acted as support persons for staff in Parliamentary Service to describe protracted investigation processes which they saw as opaque, or which they felt were left open ended. "I have no idea what happened to my written complaint", said one respondent. "They told me they were opening an investigation, invited me to a meeting and questioned me, then I heard nothing ever again. It all just stopped, but I never got any conclusions."

One respondent described a similar situation:

*"Sadly, the staff member with the formal complaint reached a point where she was mentally unable to continue working and resigned before the investigation was completed...even though I was interviewed I was not told the investigation had been completed until I asked...nothing changed. It felt like; well she has gone so now we don't need to do anything."*

It is not evident to me that any of the parliamentary agencies operate a formal case management approach to investigations, including regular updates to complainants or the accused.

Another respondent, who had reported two separate incidents of physical harassment, one of which was captured on CCTV, wrote:

*"I had to follow up multiple times over four months in order to find out what was happening...I just didn't hear anything and eventually I left."*

In two cases in the Parliamentary Service, respondents described what they alleged were active efforts to protect the accused during investigations, alleging that relevant evidence was concealed after the fact.

A number of complainants on events-based contracts in both MaSS and the Parliamentary Service felt that they were being subtly or even directly pressured to take what one called "the breakdown offer", rather than persist in their suit:

*"They started the investigation, but they kept telling me that maybe I should just consider taking the three months. Maybe my personality wasn't right for this workplace."*

In quite a large number of cases, particularly in the Parliamentary Service, respondents alleged that employment-based performance management processes had been used to victimise or bully them once they raised an issue or a complaint. Some of these staff alleged that employment-related performance processes were used in bad faith to encourage them to exit.

A number of Member support staff in the Parliamentary Service made allegations along these lines:

*"Every staff member has the right to feel safe in their workplace and that their complaints are listened to and acted on. I have not witnessed this in the Service - only the victim being victimised and made to feel part of the problem."*

# PREVENTION OF BULLYING AND HARASSMENT

## RECOMMENDATIONS IN THIS SECTION ARE EXTENSIVE & AMBITIOUS

In this section I focus on what can be done to prevent bullying, harassment and other inappropriate behaviours in the parliamentary workplace and, should they occur, how bullying and harassment complaints and investigations may be better managed. I also address the removal of barriers to disclosure and arrangements for improved support to respondents.

As I noted in my acknowledgements, I was impressed by the fact that almost all respondents had practical suggestions for improving parliamentary culture. These suggestions were remarkably consistent and are reflected in this section.

It is my underlying contention here that Parliament should invest in a range of protective factors that reduce the risks of bullying, harassment and other adverse behaviours. This is likely to require significant additional resources and funding. Factors that create a strong and healthy culture in Parliament will reduce the risks of harm.

I argue below that the most important of these factors is leadership. Leaders must model and set the tone for positive culture from the top. In addition, good leaders will ensure that the following protective factors are in play:

- Explicit investment in the development of a culture of dignity and respect in the parliamentary workplace
- Additional investment in leadership development
- Enhanced and extended pastoral care
- Greater investment in strategic workforce management, modernised employment approaches and consolidation of HR services
- Improved health, safety and wellbeing policies, processes, engagement and governance
- Removal of barriers to disclosure
- Revised and new policies; and
- A programme of ongoing monitoring, evaluation and audit of the cultural health of the workplace.

All these factors are interconnected. After addressing the size and nature of the implementation challenge, I address each of them below.

Some of my recommendations may appear prescriptive. I have provided this level of detail because I am aware that many readers will not be management or HR professionals. Agencies and Parties will adjust the level of prescription to suit their priorities and resources.

The Terms of Reference have meant that the issues considered above are extensive and wide ranging. The recommendations outlined in this section are likewise extensive.

Some recommendations below touch on matters beyond my Terms of Reference. This is because, given the nature of the issues and opportunities outlined in this Report, culture change at Parliament requires a *system* of intervention and improvement aimed at restoring dignity and respect to this most important

workplace. I acknowledge that I do not have the authority to require such changes. I merely suggest them for further consideration by the relevant parliamentary agencies, Parties or actors.

Above all, I have been ambitious in my recommendations because my respondents were. Almost all of them felt that this Review constituted a unique opportunity to address these matters during a time of joint agency and Party consensus on the need for change. In the words of one:

*“Recent circumstances mean we need to seize this moment. We need to go big or go home.”*

## THE IMPLEMENTATION CHALLENGE IS SIGNIFICANT

Given the extent of the problems that this Review has identified, it should be apparent that the required changes to parliamentary culture are extensive, complex and will take several years to effect. There is no silver bullet that will improve the situation.

As the respondent quoted at the front of this Report put it:

*“We...need to be wary of adopting point solutions to something so complex as parliamentary culture...it’s a complex ecosystem and if we are to be the best that we can be, it’s going to take collective effort over several years and successive governments.”*

It is important that parliamentary agencies and Parties, all of whom will want to take prompt action on receipt of this Report, resist the urge to execute a few quick fixes and call the work done.

While in the following sections I identify a number of things that *could* be actioned right away, sustainable behavioural and cultural change takes time and must be executed on a systematic basis, accompanied by rigorous progress review and reporting.

Change management research, and recent examples in the New Zealand public sector, such as the culture changes at the Police over the last decade, give us confidence that it can be done; but getting it done will require extraordinary leadership, investment, tenacity and joined-up effort.

This will be difficult to manage in a parliamentary context characterised by short electoral cycles, short attention spans, competitive pressures, changing political leadership, parliamentary agencies that are modestly resourced and no single accountable leader.

Given these challenges, I am pleased that agencies and Parties, along with key stakeholders such as the unions, have been so receptive throughout the process of this Review. Agency chief executives have discussed emerging findings on a regular basis and the Speaker’s cross-Party group of culture ‘champions’ has been engaged constructively throughout.

Parliamentary agencies and Parties have commenced work on their response and action plans in advance of the release of this Review. Their initial responses are included in Appendix I of this Report.

It will be necessary to maintain governance oversight of the total process of change at some central point. Given that the change process will extend over the terms of successive governments, I think governance of the programme of work deriving from this Review should sit with the Speaker, along with the existing group of agency and Party representatives who form the membership of the Parliamentary Service Commission (PSC).<sup>19</sup>

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<sup>19</sup>The PSC is established under the Parliamentary Service Act 2000, which specifies its membership and functions. At present these statutory functions would limit its advisory role in regard to ‘any matter for which the Clerk of the House...has responsibility’. (s 14(4)(c)). They would also limit its functions in respect of MaSS.

Under current settings the Speaker lacks the practical support and resourcing to play this coordinating role. The PSC also lacks functions and representation for MaSS and the Office of the Clerk.

The 2018 ARC Report noted that the PSC has a “significant role in the stewardship of Parliament”. The ARC received feedback that its role could be strengthened to provide more strategic advice to the Speaker.<sup>20</sup> It also recommended establishing an expert advisory board to support the PSC and the Speaker in specialist matters, which would include external advisors.

I suggest that the same argument can be applied to a new, if informal, governance oversight role for the PSC in driving the programme of work reflected in these recommendations, with the support of such an advisory board. The latter could include HR and perhaps union representatives as subject matter experts on cultural change.

I suggest that, given that the PSC does not have functions in respect of MaSS and cannot usurp the obligations of DIA’s leadership, the proposed advisory board be used informally by MaSS leadership with respect to matters that are common across the parliamentary workplace. Alternatively, the Minister for Ministerial Services could join the Speaker and the PSC in establishing the advisory board. A similar approach could be taken in respect of the Office of the Clerk.

1. I recommend the Speaker and the Parliamentary Service Commission establish a specialist advisory board, including external experts, to oversee the transformation of Parliament’s culture as proposed in these recommendations.

I propose additional recommendations designed to ensure effective implementation in the section on monitoring and evaluation later in this chapter.

## PARLIAMENT MUST BUILD A CULTURE OF DIGNITY AND RESPECT

### Leadership drives culture

As argued above, leaders are the most powerful determinants of workplace culture. As one commentator put it:

*“Culture and leadership are two sides of the same coin. When organisations start or when groups start there is always a leader who has a preferred way of doing things, and those preferences are going to be imposed on the group members...leaders create culture.”<sup>21</sup>*

Leaders do this by defining what values get absorbed, transmitted, modelled and defended. They decide the ethics and beliefs that will drive their organisation, including what to do and what not to do. Once these core values are established, leaders then become enforcers of their code of values and behaviours.

This view was frequently expressed by respondents to this Review. One wrote that:

*“Tone, especially around values, ethics and good behaviours, is set at the top by the leader of the Party or a CEO. It’s not set by what they say but by what we see them do.”*

<sup>20</sup>ARC Report, above n 4, at 19–20.

<sup>21</sup>Tim Kuppler “Culture and Leadership: They’re Simply Two Sides of the Same Coin” (12 March 2014) TLNT <[www.tlnt.com](http://www.tlnt.com)>.

As noted in my earlier comments regarding accountability, almost all respondents shared the view of another respondent, who wrote:

*"In some ways it doesn't matter if a leader walks the right talk personally. If they let their senior people get away with bad stuff and don't hold them to account for the values they've set out, then their leadership is inauthentic. That allows others to think they can behave badly."*

I believe it is critical that the chief executives and leaders of agencies and Parties in Parliament individually and collectively affirm their commitment to a culture of dignity and respect at Parliament and express no tolerance for bullying, harassment and sexual harassment in relation to the existing legislation on human rights, employment law and health and safety.

This should include an explicit undertaking to act when breaches do occur, including, for Party leaders, in response to poor conduct by Members.

These reaffirmations are likely to need to be supported by awareness-raising activities and the provision of training on respect and combating bullying and harassment in the parliamentary workplace. Such training is indispensable for making it clear what conduct is acceptable or not and how bystanders or respondents should react.

Most respondents believed that such training needs to be compulsory for all in the parliamentary workplace, and that it needs to be most comprehensive for those in management positions, so they can provide support and guidance to those staff confiding in them.

I suggest that such training be provided by skilled facilitators in confidential settings (such as Party and workplace groups) that are carefully managed to encourage open discussion and the lifting of taboos.

2. I recommend all agency chief executives and Party leaders affirm their no-tolerance approach to bullying, harassment and sexual harassment.
3. I recommend an awareness-raising and training programme on combating bullying and harassment be developed for the entire parliamentary workplace.

### **A Parliamentary Workplace Code of Conduct is a basic requirement**

Some respondents noted that leaders within Parties and parliamentary agencies *did* set a positive tone from the top but that this was often too implicit to be widely understood. Others talked about existing codes of conduct or "those values posters round the walls" but felt these were paid lip service or "don't feel authentic...no one takes a blind bit of notice of that fluffy stuff".

I suggest the leaders of parliamentary agencies and Parties now undertake explicit work, on an inclusive basis with staff and Members respectively, to reaffirm their core values and expectations of good conduct. In the words of one respondent from MaSS:

*"The values are hanging everywhere, but just because they're written down doesn't mean they're followed. They need to be brought to life by discussion."*

These sessions should be facilitated by respected and unimpeachable internal leaders within parliamentary agencies and caucuses and should follow a standard approach based on external best practice. For agencies, I suggest that union involvement would be highly beneficial.

Following internal sessions, the parliamentary agencies and Parties then need to work together to develop a shared Parliamentary Workplace Code of Conduct, that reflects the combined culture of dignity and respect that they all want to establish and model across the parliamentary workplace.

I am aware from Member interviews that some Members view a code of conduct as unnecessarily prescriptive or overly politically correct. While I understand these concerns, culture change research shows the importance of jointly developed codes, which set an aspirational tone, unify across subgroups and are regularly brought to life by leaders.

In my view such a code of conduct is a basic minimum requirement to reset culture and behavioural expectations. It is perhaps the most commonly used and proven tool in complex cultural transformations.

Once the new Parliamentary Workplace Code of Conduct is developed, leaders in Parliament must ensure they personally model the values and behaviours it describes. They must also ensure that it remains dynamic and the subject of regular and open discourse by staff and Members.

Even if leaders within parties stop short of formally sanctioning an elected Member for a code violation, they should foster a shared sense of moral obligation to the code, both by talking about it regularly and by encouraging Members to hold each other to account for behaviours.

The Parliamentary Workplace Code of Conduct should be explicitly understood to establish expectations for the way people treat each other when participating in parliamentary business. For example, chairpersons of committees should be clear that a key part of their role is to ensure that a culture of dignity and respect is always present during committee hearings and other proceedings.

Although values may be flavoured by agency or Party, I would like to think that a shared behavioural Code could be developed across Parliament, to set the tone for the entire parliamentary workplace. Good practice suggests it should also be embedded in employment agreements and in policies.

In view of the confusion reported by respondents about the respective leadership roles of party officers in managing and modelling conduct, it will be important that intra and inter Party processes of Code development include discussion on the various roles of Party office holders, particularly whips and chiefs of staff.

I also suggest the Standing Orders or Privileges Committees be asked to consider whether the Standing Orders should recognise the Parliamentary Workplace Code of Conduct. For example, it could be seen as potentially obstructing or impeding the House if a person fails to treat another participant in proceedings with dignity and respect, as set out in the code.

Because the Press Gallery is a part of the precinct, its member organisations should consider contributing in some manner to the development of the code. I am also of the view that Press Gallery personnel should sign up to the code as a part of the price of doing business on precinct and as quid pro quo for the extensive access they are granted.

Specifically, I suggest that an undertaking of compliance with the Parliamentary Workplace Code of Conduct be a condition of being accredited as a member of the Press Gallery.

4. I recommend agency and Party leaders work with staff (through their unions and elected representatives) and caucuses to develop and agree a Parliamentary Workplace Code of Conduct.
5. I recommend the Parliamentary Workplace Code of Conduct be embedded in the job descriptions, induction materials and employment agreements (individual or collective) of all parliamentary managers and staff.
6. I recommend all Members sign, on commencement, an explicit agreement to abide by the Parliamentary Workplace Code of Conduct and that the Code feature in the Member induction process.
7. I recommend culture and value champions be appointed within each agency and Party who have high integrity, strong people skills and are well respected as leaders. These champions should lead the initial Parliamentary Workplace Code of Conduct work.
8. I recommend the respective obligations for good conduct of the Speaker, Party whips and Party chiefs of staff should be clearly identified in the Parliamentary Workplace Code of Conduct or its supporting documentation.
9. I recommend the Standing Orders Committee or Privileges Committee consider whether the Standing Orders should recognise the Parliamentary Workplace Code of Conduct.
10. I recommend members of the Press Gallery be required to sign the Parliamentary Workplace Code of Conduct as a condition of being accredited for the precinct.

## LEADERSHIP DEVELOPMENT NEEDS INVESTMENT

Almost all respondents believed that one of the most powerful protective factors that would contribute to a positive parliamentary culture was to support Members, Ministers and corporate managers in appropriate forms of leadership development, particularly regarding people leadership.

Most believed that people management training for the parliamentary context needed to be mandatory for all new Members at some point in their first year, regardless of their prior management experience. "I was used to running my own business" said one Member, "but the management gig here is completely different."

If mandatory initial training is to be at 'management 101' level, many respondents also suggested 'management 401' training at transition to a Ministerial role. "I know they'll cry time pressures and the fact they're above all that," said one respondent, "but they could all benefit from a short refresher prior to that first Cabinet meeting."

I agree with these suggestions but would go further. I suggest that diagnostics on leadership attributes should also be conducted up front, so that training and development are tailored to individual Members' needs.

Though this suggestion is well outside my scope, Parties might do this prior to entry as part of candidate college activities, or Members could be guided through such exercises by a skilled psychologist at the time of induction. The Canadian Liberal and NDP parties in Ontario, for example, are starting to use these tools, partly in response to recent #MeToo scandals. The purpose would not be to exclude some candidates, but to assist in planning for their individual development and support needs once elected to Parliament.

For senior corporate managers, psychological assessments should be a conventional part of the recruitment process, as is common elsewhere. The Office of the Clerk has these in place for third-tier and senior managers already and this approach could be considered for wider adoption.

I suggest that, such are the leadership challenges entailed in being a Member and later (perhaps) a Minister, that Members should receive both practical management training and sophisticated leadership development that encompasses intrapersonal awareness and resilience.

This training should be further supported by the assignment of well-trained coaches, selected in response to the known strengths and skill gaps of Members.

This leadership development should be configured as a properly constituted programme based on a leadership framework, rather than as a series of ad hoc or self-selected events.

This idea was traversed in the 2018 ARC report, which suggested that the PSC express support for extended professional development programmes for Members, funded independently of Parliament or the Parties. This responsibility should be shared between the Office of the Clerk (with its existing responsibilities around Member development) and the Parliamentary Service (which is responsible for supporting Members in their work outside the House and Committees and in their electorate and community offices). However, delivery would likely be contracted via the HR shared service entity proposed below.

I also note Members' and Ministers' requests that any mandatory management or leadership development should be "at the right level of sophistication for this place", and "delivered in the right way at the right time for our parliamentary year".

I would be very surprised, given the nature of the audience, if the world's best leadership development providers were not interested in helping develop and deliver curriculum and training modules.

The Speaker has recently created a specific trust to fund leadership development initiatives. Consideration could be given to extending this to support a more systematic, framework-driven approach to the development of Members.

11. I recommend Parties consider the use of assessments as part of candidate induction processes so that development and support are targeted to build on the strengths and complement the skill gaps of Members.
12. I recommend the new HR shared service vehicle (see below) engage with agencies and Parties to develop a leadership development framework and curriculum for Members and managers that reflect the unique requirements of the parliamentary workplace.
13. I recommend new Members, Ministers and senior managers be provided with external coaches, supported by appropriate confidentiality arrangements.
14. I recommend the PSC, through its Advisory Board, work with international parliamentary agencies and providers to secure leadership development modules that are properly targeted to the needs of parliamentarians.
15. I recommend this development be funded and managed through the Parliamentary Education Trust.



## PASTORAL CARE NEEDS TO BE EXTENDED, WITH MORE USE OF SPECIALISTS

Another very common suggestion by respondents was to extend the provision of confidential and skilled pastoral care to Members and staff beyond that currently available through EAP and ensure that barriers to accessing such care are reduced.

Most respondents suggested the need for access to accredited and specialist clinical care. Some also wanted easier access to a wider range of spiritual advisors.

Several respondents suggested that staff, Members and managers have access to an occupational health nurse, located in a neutral location and accessible through multiple channels, who would act as the initial triage point for respondents and survivors, to ensure they got the help best suited to their needs.

For lower-end matters, respondents suggested the careful introduction of an alternative dispute resolution service for Parliament, in order that what one called “niggly things between staff that might grow into big things but don’t currently reach the threshold for employment disputes” could be addressed early and proactively.

For sexual harm, respondents suggested the need for access to trained adult sexual assault support persons, perhaps through a dedicated hotline. They emphasised the need, in these cases, for survivors to secure support without revealing their identity. Survivors also stressed the importance of receiving prompt post-incident help, without the immediate added pressure of deciding whether to make a complaint to management or Police.

Electorate and community office staff were also keen to access skilled pastoral care by providers with a good understanding of the context within which they operated. A number suggested a professional supervision model for themselves, operated by a trained and roving social worker or psychologist.

For Members, most believed that their best pastoral care came from whānau and that time spent with family reduced stress and increased their resilience.

Several perceived that the current prescriptive travel and accommodation determinations by the Remuneration Authority made it difficult to spend enough time with family.

This does appear to be an increasing need as Members become more diverse and their family circumstances create support needs not anticipated in the Speaker’s Directions or the other instruments that guide Member entitlements.

This suggestion for enhanced travel and accommodation support aligns with the 2018 ARC Report’s suggestion that the Speaker and the PSC consider widening the scope of the “Additional support for Members” Appropriation within Vote: Parliamentary Service, to make it easier to respond to a wide range of reasons for requiring additional support.<sup>22</sup>

The potential for harassment and threat to Members and their staff both at Parliament and at electorate offices has been recognised. An innovative approach to dealing with fixated members of the public through a combined Police and mental health service has been piloted. A full FTAC will be operative from 1 July 2019. The roles of the parliamentary security service will include screening and assisting in interventions for those that are fixated, as well as providing education and training to staff dealing with difficult individuals who may be fixated.

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<sup>22</sup>ARC Report, above n 4, at 29.

16. I recommend, given the importance of whānau to the wellbeing of Members and Ministers, the Remuneration Authority consider relaxing its current determination on family travel.
17. I recommend a confidential mental health helpline be provided for all those on the precinct, with 24/7 access to clinical professionals.
18. I recommend Parliament secure the services of an occupational health nurse, to act as an initial triage point for Members or staff suffering from health, safety and wellbeing issues.
19. I recommend the services of accredited social workers or psychologists with experience in sexual harm be secured, on precinct, in regions and accessible via a confidential, dedicated helpline.
20. I recommend a designated space on the parliamentary precinct be set aside for spiritual advisors, such as kaumātua, chaplains and imams and that the Speaker's office work with the relevant providers to contract for access on a regular basis.
21. I recommend psychologists or counsellors working in Parliament are formally approved by the Speaker to ensure their independence and credentials.
22. I recommend an alternative resolution service be developed by the HR shared service (see below) for use in low level disputes or workplace conflicts.
23. I recommend that a professional supervision model is developed for electorate and community staff to ensure that appropriate practice standards and personal safety are maintained in their dealings with the public.
24. I recommend the Speaker, parliamentary agencies and Parties continue to offer their full support to the new Fixated Threat Assessment Centre for Parliament.

## **FURTHER INVESTMENT IN STRATEGIC WORKFORCE MANAGEMENT SHOULD BE MADE**

### **Agency HR should be consolidated into a shared service group**

Given the challenges in implementation described above, there is a need for exceptionally skilled strategic workforce management across the parliamentary precinct, ideally delivered from a single centre of excellence.

I agree with those respondents who felt that people management in the parliamentary workplace was overly fragmented, complex and confusing for the size of the workforce.

While I understand the need for agencies in different branches of government to be separate, I do not believe that constitutional requirements preclude the establishment of some form of combined HR service group.

There are barriers to the establishment of a standalone shared services entity in both the Clerk of the House of Representatives Act 1988 and the Parliamentary Service Act 2000 because both Acts restrict the ability of the Clerk and the Parliamentary Service General Manager to delegate any of their functions to people who are not employees of their respective agencies. The current moves by the Office and the Service to develop joint HR services are challenged by these provisions. The establishment of a cross workplace shared service entity will therefore require either statutory change or some creative employment arrangements.

For example, Parliamentary Service could create a shared service group for HR, to which HR staff from the other agencies are seconded. For operational purposes these staff could then report to the General Manager of the Service.

Such a group would not be an employing body; rather, it would be a shared service provider delivering contracted services on behalf of all three employers in support of Members.

A revamped and consolidated HR function would allow for improved alignment of employment arrangements, remuneration, policies and services. It would also provide a deeper pool of capability and capacity in strategic workforce management that can better address the specialist challenges entailed in managing and supporting this unique workforce.

The creation of a fresh group would also allow for a reset in HR operating model and culture. The new shared service group might also deliver services around the country in a more distributed and proactive way.

The new shared services group would need renewed focus on strategic HR as an enabler and supporter of all its customers - whether they be staff, managers or Members. Staff must feel that HR is there to listen to and support them. Members and managers must receive responsive and expert customer support.

I would also encourage this shared services group to continue to work in partnership with the unions on workforce issues and the potential changes to the employment model recommended below. These relationships should operate at both operational and strategic levels.

As a part of this consolidation and reset, I suggest that a Parliamentary Chief People Officer be appointed to lead the new shared services group. I expect that the first action of this appointee would be the development of a workforce strategy for the entire parliamentary workforce.

This strategy should include clear progress and outcome measures for workplace health, safety, wellbeing and productivity. I would like to see both tactical and strategic and both lead and lag measures used in a series of 'HR scorecards' through which the shared service entity can report to its client agencies, the Speaker and the PSC Advisory Board. Within the bounds of privacy requirements and the need not to interfere with the statutory obligations of agency chief executives, measures should include the known 'red flag' warning issues for bullying and harassment, as well as some joined up analytics and insights for the combined workforce.

As a shared service group, the new HR vehicle should have properly constituted governance arrangements that allow for both customer representation and skills-based membership. Accordingly, I suggest that the parliamentary agencies establish an advisory board or committee by mutual consent. This body might include some overlap with external members of the proposed PSC Advisory Board. Consideration could also be given to its membership being endorsed by the House.

25. I recommend mechanisms be investigated for the establishment of a new, unitary HR shared services group to deliver strategic people management services to the parliamentary workplace. Consideration should be given to the HR services currently delivered by the Parliamentary Service, Office of the Clerk and Ministerial and Secretariat Services being consolidated into this group by means of secondments.
26. I recommend consideration be given to recruiting an experienced Chief People Officer for the parliamentary workforce to lead the new HR shared services group.
27. I recommend the structure, function and skills requirements of the centralised parliamentary HR team be externally reviewed at the same time the HR shared services group is established.

28. I recommend a single Parliamentary Workforce Strategy be developed by the new shared services group, which reflects modern best practice and responds both to trends in strategic human resource management and the unique needs of the parliamentary workplace.
29. I recommend the HR shared service adopt a strongly customer centric operating model (supporting staff and enabling leaders).
30. I recommend a performance dashboard of key HR, health and safety and engagement metrics, as well as supporting analytics, be developed by the new HR group, for regular reporting to all parliamentary managers and leaders.
31. I recommend HR manager service nodes be developed in regions to ensure that in person HR support and specialist pastoral care are readily available to electorate staff.
32. I recommend the parliamentary agencies establish a skills-based advisory board for the HR shared services group, perhaps with membership endorsed by the House, to advise on the execution of the Parliamentary Workforce Strategy.

### **Recruitment and onboarding must improve**

As noted in the earlier section describing the current parliamentary employment model, recruitment processes for parliamentary staff appear sometimes insufficiently rigorous and inconsistent with best practice. They are sometimes worked around by Members and Ministers to appoint support or political staff who are unsuitable, either in terms of skills and attributes or because the appointment creates perceived or actual conflicts of interest.

While I believe that it is critically important that Members select their staff, they should do so through a robust process led by HR. It is also time for the Member nominations process to end. A Member might suggest or shortlist, but they should not have the power to override proper process.

The recruitment process overall needs to be held to higher standards of rigour and should utilise modern tools, including propensity analysis and testing, that take account of the attributes and behaviours of the applicant, in addition to skills and experience.

Once staff are appointed, their induction to both agency and position needs to be more extensive, and should form part of a six- to 12-month process of onboarding, not only to ensure that the new employee is well supported, but also so that feedback about their first impressions is captured and can inform ongoing improvements. Formal coaching arrangements should be part of the onboarding process, and coaches - whether peers or managers - should be properly trained to undertake their roles.

I suggest public service departments and parliamentary agencies develop more systematic and consistent approaches to the induction of departmental private secretaries into their parliamentary roles. They should invest in ongoing coaching support for them while in role, and carefully manage their reintegration to the department. A few agencies already do this very well. This should be the rule rather than the exception.

33. I recommend, while Members should be closely involved in the selection processes for staff, the current Member nominations system for staff be ended.
34. I recommend the rigour entailed in recruitment processes for parliamentary staff be increased to ensure that all staff clearly demonstrate the skills, experience and attributes required for a particular position.

35. I recommend mandatory induction and onboarding packages be developed for all parliamentary staff positions, including electorate office staff.
36. I recommend onboarding include an onboarding survey to receive early feedback from new joiners.
37. I recommend public service departments (or the State Services Commission to source from existing good practices) develop or continue systematic induction, pastoral care, coaching arrangements and transition support for departmental private secretaries.

## **The employment model should be modernised**

### ***The triangular relationship should be redefined as a conventional employment relationship***

In my view, it is time to restate and 'rebrand' the current employment model for Member support and ministerial support staff. The current talk of a triangular relationship is too confusing for both staff and Members. "They always go on about the triangle," said one respondent. "But in reality it's always the MP that's seen as the employer." I would like to see the term 'triangular relationship' fall from use.

The employers of Member or ministerial staff are the Parliamentary Service or MaSS and these agencies need to reaffirm the employment relationship they have with staff. They should also defer less readily than at present to that minority of Members who do not select or treat their employees well. The quid pro quo for this, from the perspective of Members, is improved and more consistent customer service on employment matters from the Service and MaSS.

I know that this recommendation that the Parliamentary Service and MaSS be more proactive employers is likely to be unpopular with some Members, but I would encourage them to view it as part of an overall package of improvements that better enables them as leaders. Under the proposed rebalancing, they will operate in a manner akin to that of a partner in a professional services firm, in that they will have someone supporting them proactively on HR matters (the HR shared service and the portfolio manager or SPS on the ground in the case of Ministers) but they will still, as the customer, have a key decision making role in appointments and provide feedback on staff performance.

### ***Better balance between flexibility and job security is needed***

While I understand the need for flexible employment arrangements that reflect electoral cycles or change in the tenure of Members or Ministers, I think that the current fixed-term agreement should change in favour of an arrangement that better balances the necessary flexibility with improved security and opportunity for Member support staff.

This suggestion has two key aspects. The first is a revision of the current fixed-term agreements and the way they are used in practice. The second involves the development of a higher proportion of permanent staff in the parliamentary support staff workforce, in some key positions.

As noted above, while the use of fixed-term contracts in the parliamentary workplace is unexceptional, it is the way they appear to be used and the way they are perceived to be used, that constitute the current problem.

Parliament should surely model modern, caring and flexible employment practices, rather being the only workplace in the country where employees perceive – rightly or wrongly – that they can be fired at will.

These changes are fundamental to developing the culture of dignity and respect all those who work in Parliament want to see. They are also crucial to developing greater diversity - of age, ethnicity, gender and experience - in the parliamentary workforce.

On what staff call the 'event-based contract', HR professionals, unions and their legal advisors should develop revised fixed term employment agreements that retain flexibility while increasing protections for staff, perhaps by providing a greater range of deployment and reassignment options. In principle, it would be helpful to minimise the number of 'events' to cases only where the employee's role no longer exists or is significantly changed.

Consideration could also be given to aligning the irreconcilable difference clauses in the agreements for both Parliamentary Service Member support and MaSS staff, so that reciprocity exists in both.

With regard to the way the agreement is applied in practice, I would like to see greater rigour applied to the activation of the 'breakdown clause', consistent with standard employment practice, in that it should be used only as a matter of last resort.

From the perspective of Members and Ministers as customers, I would also like to see more responsive and faster interventions from HR in the event of difficulties in the employment relationship. HR professionals need to have sufficient maturity in their relationships with their client Members and Ministers that they can challenge them as required and support them as proactively as possible.

As with many of the recommendations in this section, this is also likely to have implications for the resourcing of parliamentary agencies and the proposed shared service HR group.

### ***Parliament should move in part towards a standing workforce***

I suggest breaking the link between individual MPs and their electorate or community office staff. Members should have a role in short listing and selection, as any boss would, but I do not think that these staff should be tied to individual MPs by event-based contracts.

Thus, the model would align more closely to that used in several other Westminster systems. Post elections, Members would 'inherit' nonpolitical support staff in their regions, most of whom would be on permanent, though often part time, employment agreements.

These core staff could be supplemented by fixed-term political staff, but the distinction between the two would be clear: one group never does political work and is invested in as a standing workforce. The other group is fixed term and contingent on the Members' continuation in their job.

Good selection, induction and support processes would apply to both groups.

These suggestions are bold. I think it is time to get tougher about the current blurring between parliamentary and political work. Staff feel ethically challenged in this area. The current system makes it almost impossible to maintain a pure separation between work for a parliamentary purpose and work that crosses the boundary into 'political work'. The constant arguments and 'policing' that happen now between the Parliamentary Service and Members also inhibit the development of an ethos of good customer service.

These suggestions have potential implications for office accommodation and funding models. Over time, I would like to see the situation that exists in some Australian states: a physical separation of regional offices into low turnover Member support groups with largely permanent staff and higher turnover political offices.

### ***Transition and redeployment arrangements can be improved***

I would like to see improved and streamlined processes for the redeployment and reassignment of staff, rather than all staff having to reapply 'from scratch' for their positions as currently. The current process of a post-election 'holding pen' for staff should also end.

I also suggest that parliamentary agencies explore options, within the bounds of constitutional constraints, for wider reassignment or secondment of some staff into the broader state sector so that maintaining a pool for Parliament can be balanced with better career opportunities for staff.

### ***Terms and conditions should be aligned***

Work needs to be done to align and streamline collective employment agreements and remuneration frameworks for staff across the parliamentary agencies. I would like to see the Part A and B elements of the current collective agreement – for Member support and political staff respectively – consolidated for consistency.

For political staff in ministerial offices, I would have not only the same employment agreement as for support staff, but also a more consistent approach to remuneration. An implication of greater alignment is a likely need to review the overall remuneration arrangements for Member support and political staff. I suggest that this review include external subject matter experts on remuneration and reward or that it be undertaken by the Remuneration Authority.

To some extent this improved alignment has already started, with the recent work between parliamentary agencies and unions on job families. Under the proposed new arrangements, there is an opportunity to accelerate this work.

This will have implications both for agency and Member appropriations and Party allocations.

Many of the above suggestions will also have implications for the work of the Appropriations Review Committee, which will need to seek feedback on their collective impact at the time of its next review in 2021.

I would also expect the new HR shared services group to align and revise job descriptions as part of the process of treating staff as a single workforce. Again, good work has been done by parliamentary agencies in recent times on improving the quality of job documentation and this should continue.

38. I recommend the triangular relationship for Member support and political staff be restated to reinforce the direct employment relationship between Parliamentary Service and DIA/MaSS, and that these agencies act as more proactive employers in the recruitment, development and deployment of staff.
39. I recommend Member staffing appropriations and allocations be reviewed in the light of these recommendations.
40. I recommend the current event-based contracts for Member support and political staff be replaced by new fixed term employment agreements which include more flexible redeployment and reassignment clauses than at present.
41. I recommend the new agreements include a revised disputes and severance process and that this be used as a last resort, consistent with the approach generally applied in New Zealand employment law.
42. I recommend electorate and community office Member support staff be employed directly by the Parliamentary Service in fixed electorate offices.

43. I recommend locally based staff funded by political parties be located separately from Parliamentary Service Member support staff.
44. I recommend HR works with Parties and the unions to agree a more consistent, fair and reasonable approach to the reassignment of parliamentary staff during post-election transition periods.
45. I recommend a review of the remuneration system be undertaken, with specialist external or Remuneration Authority input, with a view to creating a more consistent remuneration and reward framework for all parliamentary staff.
46. I recommend the parliamentary HR shared services vehicle work with the unions on behalf of agencies to better align existing agreements.

### **The workforce should be further professionalised**

In addition to ensuring that the right people are appointed to the right positions, I suggest that the new HR entity consider a range of initiatives aimed at further professionalising the parliamentary workforce. It is unacceptable that so many dedicated and skilled staff feel 'disposable' and unsupported.

The lack of career pathways and low accessibility of professional development must be addressed. This should be done in partnership with the unions.

I believe that although flexibility in position descriptions is important to Members and Ministers, greater consistency in positions, conditions and remuneration is a key element of the professionalisation process. This also relates to the need for a higher proportion of continuing staff in the overall workforce discussed above.

I see two roles as particularly in need of greater consistency and professionalisation: the Member and Minister EA position (and variants) and the SPS for Ministers.

I think the EA and private secretary administration or executive support positions need to be held to higher levels of skills and attributes during the recruitment process than is sometimes the case at present. These staff should be invested in more in terms of their professional development and career pathways. These are critical and complex customer service and problem-solving roles.

I think the SPS position should consistently be viewed as a senior people and office management role, requiring a high level of people management skill and the ability to work under intensity and ambiguity.

I would also like to see a more enduring EA and SPS workforce. I understand that many such staff have Party affiliations and thus a preference for whom they work, and that Members prefer to work with affiliated staff. However, this is not the case for all staff in these positions, some of whom are happy to work with any Member or Party.

I do not propose a return to the prior management model in which these staff were managed as an old fashioned 'secretarial pool', but I do suggest that the HR entity treat these staff as an investable and flexible cadre of talent who may request and receive redeployment and whose loss would be regrettable.

Consideration could be given to placing a core group of EAs and SPSs on permanent employment agreements as a standing workforce.



Senior EAs and SPSs should also be used to develop others. The current system of roving, overload staff works well and could be extended.

Above all, the intra-parliamentary movement of EAs and SPSs should be based more on HR's objective analysis of their skills and the needs of a Member or Minister alongside proper selection processes and less on anecdote or the whim of individual Members.

Another key element of professionalisation of the workforce is to ensure that staff are no longer expected to undertake menial or inappropriate tasks for Members, Ministers or managers.

If the customers of the Parliamentary Service believe that there is a shortage of personal support services – such as dry cleaning or provision of basic personal items – the Service should consider how to provide these on precinct.

Parliamentary staff have a passion for democracy, important skill sets and deep understanding of the machinery of government. They should not be treated as an easily replaceable and quasi-casual workforce. They are key talent; for Parliament, the state sector and beyond.

Accordingly, the proposed HR entity should develop a professional development curriculum for parliamentary staff which is aligned to different positions and levels of responsibility and which is accessible through channels that align to the distinctive rhythm of the workplace.

Electorate and community office staff, while often part time workers, also require investment, particularly in view of the complex and specialist matters they manage for constituents. Professional development should be readily accessible to them in regions or online.

New nomenclature for these staff would encourage greater respect for their work.

47. I recommend the position description for the role of Senior Private Secretary (SPS) be reviewed to reflect the responsibilities of a key operational leadership role within Ministers' offices.
48. I recommend a pool of senior EAs and SPSs, both within and across parties be developed, on permanent but flexible employment arrangements, who can be utilised across Parliament, including in coaching and training roles.
49. I recommend a permanent but flexible pool of EAs be developed to support Members and Ministers, both within and across parties.
50. I recommend EAs and other staff should not be required to perform menial, intimate or domestic tasks for Members or Ministers.
51. I recommend tailored career pathways and professional development be developed for key Member and Minister office positions, particularly EA and SPS positions.
52. I recommend staff promotions along the identified career pathways be based on merit and good process.
53. I recommend use of the term 'out of Parliament staff' (OoPs) be dropped and the term 'electorate and community office staff' be adopted.
54. I recommend a new professional development package be developed with and for electorate and community office staff, which includes input from other government agencies to support improved management of constituent matters.

### **Flexible working must be encouraged**

As noted above in the sections outlining the unique working conditions in Parliament, the workplace operates 24/7, under intense pressures. No Member support, ministerial or political staff and managers work a 40-hour week.

And yet, almost all Member support staff in the Parliamentary Service are employed on 40-hour week employment agreements, have limited flexibility to create work life balance and few modern tools to support the flexible working that is required.

In part, this is a matter of resourcing. Almost everyone to whom I spoke commented on the slender resourcing of agencies and parties to operate in such an intense and demanding environment. As one respondent wrote:

*"We need to grow up as a country and realise we can't run Parliament or these agencies on a shoestring anymore. This all needs to be better resourced and better staffed with the very best people. That costs, but we're all running around scared of the taxpayer reaction."*

As noted above, it is my view that agency and Member appropriations do need to be considered and increased to support the change proposed here, but the next ARC will not be convened until 2021, with changes made from 2024. Additional investment is required in advance of this. There is also much that could be done within available resources to make this workplace safer, healthier and more productive for Members and staff.

Increased flexibility would also allow for greater workplace diversity in that work will not be limited, as is often the case now, to those without dependents. The parliamentary workplace, if it is to be reflective of New Zealanders, needs to allow for a wide range of people to bring their whole identities to work.

I suggest, in particular, flexible rostering arrangements that allow for some Parliamentary Service staff to work on a specialist part time basis. Member support staff could develop specialisations in Committee work, for example, or some staff may wish to support the evening shift in the House only, leaving them flexibility during the day. Job sharing and more generous parental or family leave arrangements could also be considered.

Staff will also likely need new IT tools and services to better support remote and flexible working.

I suggest that the Speaker and the Clerk of the House, with the Standing Orders Committee, consider changed House sitting rules that would make the pressure during sitting weeks less onerous for all.

Current time-in-lieu arrangements for staff are inconsistent and inadequate. Work should be undertaken, in partnership with the unions, to better standardise the approach and to make it more transparent.

With regard to corporate staff, particularly those in the Parliamentary Service, I would like to see the traditional command-and-control management arrangements relaxed considerably. The Office of the Clerk already has a flexible workplace policy that allows part-time work from home. This could be considered across the three agencies.

This is likely to include improved rostering to risk in the Security Service, for example, and a shift in focus across the organisation to allow improved staff voice, less hierarchy and a stronger customer focus.

55. I recommend a greater range of flexible work opportunities for parliamentary staff be developed, including flexible shifts, leave purchasing, role sharing and support arrangements for new parents, those supporting whānau or others wanting flexible working arrangements.
56. I recommend chief executives, managers and Members model family friendly practices in terms of workplace flexibility and work life balance.
57. I recommend a fair and transparent system of days or time in lieu be developed in all agencies and applied consistently.
58. I recommend the Parliamentary Service and DIA consider how best to provide staff with better tools to support flexible working, including IT systems and devices.
59. I recommend the Speaker and the Standing Orders Committee consider how House sitting arrangements might be adjusted to allow for improved work life balance and flexibility for Members.

### **Parliament needs to improve workforce diversity**

I noted above that the new HR shared services group must produce a new strategy encompassing the entire parliamentary workforce. A critical subset of this should be a strategy to promote greater workforce diversity and inclusion.

As a part of developing this, Parliament must examine its structures, processes and practices through the prism of different gender, ethnic, religious and sexual identity needs to ensure that its agencies can attract and cater for a wider range of talent.

While some of this will be achieved through the adoption of the flexible working arrangements described above, I would also expect the diversity and inclusion strategy to include training on unconscious bias for all Members and managers.

It will be very important to ensure that those who reflect the prevailing majorities: men, Pākehā New Zealanders and so on, are actively engaged in the diversity and inclusion strategy and its implementation. It is not minorities that need to change.

Members of prevailing majorities have a duty to get involved and to promote no tolerance of racism, sexism and other harmful and exclusionary practices and behaviours.

I would like to see Parliament create and report on a diversity and inclusion scorecard as part of an overall diversity and inclusion strategy. The strategy needs to focus on methods for attracting, retaining and supporting ethnic, gender and other minorities. It is important to the health of democracy that our Parliament better reflects the diversity of the citizens it represents.

60. I recommend a diversity and inclusion strategy be developed as a subset of the workforce strategy and that progress against desired results be regularly reported.

### **Staff need more opportunities for voice and innovation**

Related to flexibility as a protective factor in workplace cultural health and safety is the provision of avenues for staff voice. If staff feel that their suggestions for change and improvement - to policies, processes, systems and so on - are welcomed and acted upon, they are much more likely to be happy and engaged. They are also less likely to get their satisfaction from gossip and intrigue.

At present, many of the same barriers that limit disclosure or seeking support also act as barriers to voice and creativity.

Parliamentary staff are almost universally passionate and the variety of talent and experience on display has been evident to me in the course of this Review. These staff are capable of great innovation if encouraged and enabled.

Providing avenues for feedback acts a safety valve in the workplace and encourages leaders to do more listening and less telling.

As all good leaders know, staff, particularly those closest to the customer on the front line, need to be enabled both to speak truth to power and to design new and better ways of doing things that bring them improved satisfaction and results.

61. I recommend safe mechanisms through which staff can provide ideas for workplace improvement be developed using innovation or other feedback applications.

### **Every aspect of the employee lifecycle can be improved**

I argued above that strategic HR management requires further investment. Most of the 'organisational development' tools in play in other modern, complex, high intensity workplaces are not yet mature in Parliament.

Typically, these tools include online upwards feedback mechanisms to leaders on their management styles and how well their leadership behaviours align to those in the Parliamentary Workplace Code of Conduct or job descriptions. This approach is currently in place in the Office of the Clerk but needs to be applied more broadly.

In the parliamentary context, these would need to be carefully managed to preserve confidentiality. Such feedback is almost always confronting to leaders but is also critical to developing self-awareness and insight into leadership effectiveness.

Modern trends in performance management tend to be away from the big box performance management systems currently used by parliamentary agencies towards more frequent, less formal feedback.

Similarly, with engagement surveys, it is increasingly common to replace annual comprehensive surveys with short pulse surveys and 'always on' feedback mechanisms. These are more suited to the time-poor parliamentary environment and are an excellent gauge of workplace climate and the success or otherwise of specific initiatives.

Increasingly, organisations also pay great attention to exit interview data as a useful learning device to enable improved talent retention or to identify workplace problems. Currently, the data generated by these is generated from a small sample and is not consistently shared with management. Invitations to these interviews should be mandatory, and ideally, they should be conducted by an independent provider.

I would also like to see more attention paid to helping parliamentary staff and Members when they end their service and transition out of the parliamentary workplace. The former are a valuable resource in view of their understanding of the machinery of government. The latter, given their extraordinary service and contribution to New Zealand, should be able to access some assistance into new roles as well as ongoing engagement.

I believe it would be in the best interests of our democracy for the new HR group to develop at least basic support mechanisms for alumni placement and ongoing alumni relationships.

### **Parliament needs to be a learning workplace**

At present Parliament does not do enough to learn as an organisation. It needs to improve its management of the data and insights generated by the various feedback and survey mechanisms described in this section and previously.

I would expect the HR shared services group to provide, in addition to regular dashboard reporting, periodic in-depth reports on workforce trends. Systematic 'lessons learned' exercises should also be undertaken on specific programmes or projects.

At the least, HR must use objective data more systematically to inform ongoing improvements in policies and to guide the development of new treatments and interventions.

62. I recommend upwards feedback or 360-degree appraisal systems, based on the Parliamentary Workplace Code of Conduct, be introduced for all Members of Parliament and parliamentary agency managers.
63. I recommend it be mandatory for agencies to offer exit interviews to departing staff, conducted by an independent consultant and reported on to the relevant parliamentary agencies.
64. I recommend former staff and Members continue to be engaged via online communities or other alumni management tools.
65. I recommend the current formal annual performance review systems for Parliamentary Service staff be replaced with regular and simple review checkpoints, supported by relevant HR apps.
66. I recommend large-scale engagement surveys for staff be replaced with more frequent pulse surveys and 'always on' feedback mechanisms.
67. I recommend the new HR entity develops and maintains appropriate knowledge management systems and provides analysis of organisational learning to agencies and Parties.

## **HEALTH, SAFETY AND WELLBEING MATURITY CAN IMPROVE**

### **Policies and processes need reform**

As noted above, the current policies of the parliamentary agencies require updating so they align to best practice in preventing and managing bullying and harassment. This should be undertaken through a high engagement process involving managers, staff and unions.

The parliamentary agencies will need to demonstrate, through this process and any subsequent publications, that they view health, safety and wellbeing holistically, and that it includes the maintenance of a healthy workplace culture.

Consideration should be given to the development of single combined policies, rather than agency-specific policies. Whole-of-Parliament policies can still reference agencies and reflect agency and other PCBU obligations as required.

These revised policies must include information on the processes for worker engagement and on how to make a complaint and receive support.

They should also clearly show how health, safety and wellbeing risks are reported, investigated and managed.

In addition, and linked to the health, safety and wellbeing policies, I would like to see Parliament develop new and specific policies on bullying and harassment, and sexual harassment. These should reflect the best practice guidance provided by WorkSafe and include clear definitions of bullying, harassment and sexual harassment, as well as examples of unacceptable behaviour.

These documents should reiterate the policy of no tolerance of harassment, advise on the procedures to follow in the event of harassment and whom to contact.

They should also provide procedures for making oral or written complaints that will be handled in confidence and may be dealt with by internal or external investigation.

Members, managers and staff should be informed of these policies when they start work in Parliament, and the policies and practical guides should be readily available on the parliamentary intranet.

68. I recommend the parliamentary agencies update their current health, safety and wellbeing policies, risk registers and reporting mechanisms and align them with best practice.
69. I recommend aligned or collective stand-alone policies on bullying, harassment and sexual harassment be developed or revised and that these policies be accompanied by training for all Members and staff.
70. I recommend the above policies be readily accessible via multiple channels and be accompanied by practical 'how to' guides for staff and managers.
71. I recommend a central health, safety and wellbeing risk register for Parliament be readily accessible via the intranet.
72. I recommend a safe and confidential channel for the reporting of health, safety and wellbeing breaches be developed, referenced in policies and well publicised.

### **Health and safety training should be mandatory**

I am concerned that not all Members and managers fully understand their obligations as PCBU's or duty holders under the HSWA, particularly regarding workplace wellbeing and culture. I believe that this needs restating and that training in this area should be included in Member and manager induction, as well as the subject of ongoing training.

Such training must be delivered at a level that is appropriate for Members and the mode of delivery must take account of their unique needs.

73. I recommend Member and staff induction modules on health, safety and wellbeing be reviewed and updated in line with these findings and recommendations.
74. I recommend modules of continuing education be developed for staff, managers and Members, covering matters of health, safety and wellbeing, consistent with the revised policies and practices.

### **Governance and reporting can be improved**

While I have formed the impression that the existing bodies for governance of parliamentary health and safety are taking their obligations seriously, I am concerned that parliamentary agency chief executives do not meet regularly to monitor risk and mitigations and I am unclear how the current governance arrangements relate to each other.

I have not seen a single risk register or consolidated risk and incident report for the precinct that includes wellbeing risks and mitigations or actions. Nor have I seen joined up analysis on trends and emerging risks.

I suggest that both current bodies review their terms of reference and that one of the chief executives of the parliamentary agencies chairs the Joint PCBU Committee.

75. I recommend the respective governance roles of the current parliamentary health and safety committees (PSC subcommittee and Joint PCBU Committee) be reviewed and aligned to these recommendations.

## **INDEPENDENT AND SAFE REPORTING CHANNELS ARE NEEDED**

### **Protected channels for disclosure are needed**

Almost all respondents suggested the need for new, confidential channels for disclosing workplace harm, including bullying, harassment and other inappropriate behaviours.

Most were strongly of the view that these channels should be independent from Parliament.

Respondents' opinions varied about what one called "the scariness of the channel". Suggestions ranged from the provision of anonymous helplines, to the creation of a Parliamentary Ombudsman for conduct, to the creation of something akin to an Independent Police Complaints Authority.

In my view there should be two new channels created, both of which are operated independently from the parliamentary agencies.

One should take the form of readily accessible phone and online helplines for anonymous disclosures and access to support. For such anonymous disclosures, many organisations run such things as the Crimestoppers' 'Integrity Line' which simply receives verbatim information in full confidence and then relays it to the employer. Such information can sometimes act as pieces of a jigsaw puzzle or an additional data point about concerning patterns of behaviour.

The second independent channel should take the form of a new, independent body that can both receive and investigate serious complaints relating to parliamentary conduct and breaches of the code or relevant policies by Members.

I suggest the creation of an Independent Commission for Parliamentary Conduct, to be led by a Commissioner with respected skills and experience in investigations management and dedicated to receiving complaints or disclosures regarding the conduct of Members.

This Independent Commission would be a critical vehicle in the system of prevention and improved management. Members do not wish to be judged by their peers or experience a process that may be characterised by political point scoring. Staff do not trust mechanisms under the control of Members or parties. Such an Independent Commission is a critical component in addressing the perceived lack of accountability for conduct by Members.

Such an Independent Commission would not handle complaints relating to employment matters, as these are matters for the respective agency employers.

In view of the power imbalance between respondents and aggressors (when a Member or Minister is accused), the media interest around such matters and the influence that may be brought to bear by parties wishing to preserve their public brand, an independent and confidential approach appears best suited to the unique features of the parliamentary workplace.

There should be an official process, reflected in policies, for lodging complaints about the behaviours of Members directly with the new Independent Commission. This should allow for both oral and written notifications and make it possible for complainants to avoid any reprisals and contact with the accused.

Investigations must be totally confidential.

Establishment of the proposed Independent commission will require further joint work by agencies and parties. I envisage a consent-based approach under which investigative findings might be conveyed to Parliament's Privileges Committee if they pertain to matters of contempt, to agencies if they relate to health and safety matters, to Party leadership and so on. The Commissioner might raise concerning patterns of conduct or systemic suggestions with the Speaker. I also envisage the Commissioner potentially playing, by agreement between the subjects, a dispute resolution role with respect to Member-to-Member bullying or harassment.

Regarding existing channels for protected disclosures under the relevant legislation, respondents suggested awareness-raising and clarification of the relevant procedures for all staff and managers.

I suggest that the Independent Commission would not handle protected disclosures. Under the Protected Disclosures Act 2000 the definition of serious wrongdoing may be too high a threshold to apply to most bullying and harassment, except for physical and sexual assault. Disclosure to a third party, such as the proposed commissioner, may also breach reporting requirements and could mean that the complainant would not have the protections of the Act.

Since almost no respondents to this Review mentioned protected disclosures however, and the few who did expressed confusion as to how it might apply to poor parliamentary conduct, I suggest that agencies also recommunicate the processes around protected disclosures to all staff.

76. I recommend the parliamentary agencies establish an independently hosted 24/7 'integrity line' or similar, through which anonymous complaints can be made, which are reported verbatim to agencies.

77. I recommend an Independent Parliamentary Commissioner for Conduct be appointed, with investigative powers for complaints of poor conduct on the part of elected Members.

78. I recommend the Commissioner publish annually a high-level public report of matters investigated, patterns discerned, and changes recommended, while preserving the anonymity of accuser and accused.

79. I recommend the parliamentary agencies recommunicate the procedures for making disclosures under the Protected Disclosures Act to their staff.



### **A case management approach to investigations is required**

Once investigations are initiated, whether they take the form of employment investigations or health and safety investigations (or both), these must be well managed, and progress must be reported on to both the complainant and the accused.

I suggest that the proposed new HR shared services group adopt a case management approach to employment related complaints and investigations management.

All interviews conducted as part of an investigation must be logged, and each party must be informed of the progress of investigations.

While an investigation is ongoing, the employer must ensure that the harassment has ceased, and the parties must have access to occupational health support and pastoral care.

These complaint and investigation arrangements should be emphasised in training for new managers and Members and presented to new employees through the induction process. Awareness-raising programmes may also need to be introduced.

Reporting on patterns and trends in complaints and investigations to the commissioning agencies should be undertaken on a regular basis.

80. I recommend a case management approach be taken to the investigation of complaints of bullying, harassment and sexual harassment, including deadlines for progress updates and outcomes to both complainants and accused.

### **There should be sanctions for poor conduct by Members**

As many of my respondents observed, there are real limitations on the sanctions that can be applied to Members who breach the proposed new Code or otherwise behave poorly to staff and others. This is a difficult issue which several other Westminster parliaments are grappling with at present.

In some cases, even where sanctions for Members are contemplated (such as in the policies of the European Parliament, which allow for its President to impose sanctions ranging from a reprimand to the suspension or removal of a range of Parliamentary functions), there appear to have been no sanctions imposed to date against a Member for bullying or harassment.

This is a point about which respondents feel strongly, as will have become evident from the above narrative. They want a range of sanctions available to the Speaker or Party leaders for Members who transgress against the new Code. Suggestions included formal reprimands, enforced training, financial penalties and removal of staff and privileges.

For Members, respondents suggested sanctions must be applied when the health and safety of staff had been found to be compromised. Many said something along these lines:

*“How can the Service knowingly put staff back into a Member office where bullying or harassment are known to happen on a regular basis? As PCBU’s they can’t knowingly put staff at risk. Something has to happen to the Member in this case.”*

Most suggested that Parliamentary Service should not employ staff for that Member until some remedial activity had occurred at the direction of the Party.

As noted above, there are also challenges with respect to the transmittal of investigative findings from the proposed Independent Commissioner to Parliament. Another issue is whether the Commissioner would have recommendatory obligations or powers regarding sanctions on elected Members.

It will be important that recommendations do not cut against parliamentary privilege or other matters relating to the powers of the Speaker or internal matters for parties.

81. I recommend a Sanctions Working Group be established, chaired by the Speaker, and including the Party chiefs of staff, senior representatives of the Parliamentary agencies, and an independent expert from another Westminster parliament. The group would determine and agree the suite of available sanctions for poor conduct by a Member or Minister, particularly where that behaviour may not be covered by matters of contempt addressed by Parliament's Privileges Committee.

## OTHER POLICIES ON CONDUCT NEED TO BE REVIEWED OR CREATED

While policies alone cannot make for a healthy workplace culture, the process of developing and updating policies, when well managed, can help ensure that the matters addressed by a policy become part of workplace discourse and thus more top of mind for leaders and staff.

As noted above, I strongly suggest that current bullying and harassment policies be reviewed and updated in line with my earlier comments on their appropriateness. I also suggest that policies on sexual harm need to be separated from those on general bullying and harassment.

There are several other current policies on matters relating to workplace behaviours - such as the alcohol policy and others listed below - that would benefit from being updated once the proposed Parliamentary Workplace Code of Conduct is completed.

For example, a new conflicts of interest policy might help ensure that intimate or familial relationships are properly declared, so that the relevant employer or Party might establish management protocols if required.

82. I recommend the new parliamentary HR shared services group develops the following new and revised standalone policies for the parliamentary workplace:

- Anti-bullying and harassment
- Sexual harassment and sexual assault
- Protected disclosures
- Alcohol use within the parliamentary precinct
- Conflicts of interest in Parliament
- Racist, homophobic, sexist and transphobic comments
- Balancing parliamentary and political work; and
- Behavioural protocols for interactions between Members of Parliament and Members of the Parliamentary Press Gallery.

83. I recommend the revised or new policies be accompanied by simple 'how to' guides for staff and Members, which are readily accessible on the parliamentary intranet.

## A PROGRAMME OF MONITORING AND AUDITING WILL ENSURE EFFECTIVE IMPLEMENTATION

As noted at the commencement of this section, making the changes recommended here is a significant body of work and will require sustained effort from agencies and Parties.

It will take three to five years to see meaningful cultural change in the parliamentary workplace that better addresses health, safety and wellbeing risks and reduces or eliminates bullying, harassment, sexual harm and other inappropriate conduct.

As one respondent eloquently noted, in a comment that serves as a fitting conclusion to this Report:

*"This is so worth doing, even though it will be hard going. This is Aotearoa. We're proud to of being a high integrity, nice, caring nation. We're proud of our healthy democracy. We're understated as a people and we don't do entitlement and arrogance. I think all New Zealanders want the leaders of our democracy – in fact all those who work in Parliament – to model the positive values of our nation."*

It will be important that progress toward these recommendations and on agency and Party plans is independently reviewed and that the monitoring and auditing process is sustained across the terms of successive governments.

84. I recommend the Speaker, with the PSC Advisory Board, request, in three years' time, that an external expert review progress against these recommendations and the agency and Party responses appended here.
85. I recommend the Speaker, with the PSC Advisory Board, then develops a further five-year plan of external auditing to ensure the changes in culture are implemented, monitored and reported upon to parliamentary agencies, unions, Parties and the public.

## APPENDIX A: SUMMARY OF RECOMMENDATIONS

1. I recommend the Speaker and the Parliamentary Service Commission establish a specialist advisory board, including external experts, to oversee the transformation of Parliament's culture as proposed in these recommendations.
2. I recommend all agency chief executives and Party leaders affirm their no-tolerance approach to bullying, harassment and sexual harassment.
3. I recommend an awareness-raising and training programme on combating bullying and harassment be developed for the entire parliamentary workplace.
4. I recommend agency and Party leaders work with staff (through their unions and elected representatives) and caucuses to develop and agree a Parliamentary Workplace Code of Conduct.
5. I recommend the Parliamentary Workplace Code of Conduct be embedded in the job descriptions, induction materials and employment agreements (individual or collective) of all parliamentary managers and staff.
6. I recommend all Members sign, on commencement, an explicit agreement to abide by the Parliamentary Workplace Code of Conduct and that the Code feature in the Member induction process.
7. I recommend culture and value champions be appointed within each agency and Party who have high integrity, strong people skills and are well respected as leaders. These champions should lead the initial Parliamentary Workplace Code of Conduct work.
8. I recommend the respective obligations for good conduct of the Speaker, Party whips and Party chiefs of staff should be clearly identified in the Parliamentary Workplace Code of Conduct or its supporting documentation.
9. I recommend the Standing Orders Committee or Privileges Committee consider whether the Standing Orders should recognise the Parliamentary Workplace Code of Conduct.
10. I recommend members of the Press Gallery be required to sign the Parliamentary Workplace Code of Conduct as a condition of being accredited for the precinct.
11. I recommend Parties consider the use of assessments as part of candidate induction processes so that development and support are targeted to build on the strengths and complement the skill gaps of Members.
12. I recommend the new HR shared service vehicle (see below) engage with agencies and Parties to develop a leadership development framework and curriculum for Members and managers that reflect the unique requirements of the parliamentary workplace.
13. I recommend new Members, Ministers and senior managers be provided with external coaches, supported by appropriate confidentiality arrangements.
14. I recommend the PSC, through its Advisory Board, work with international parliamentary agencies and providers to secure leadership development modules that are properly targeted to the needs of parliamentarians.

15. I recommend this development be funded and managed through the Parliamentary Education Trust.
16. I recommend, given the importance of whānau to the wellbeing of Members and Ministers, the Remuneration Authority consider relaxing its current determination on family travel.
17. I recommend a confidential mental health helpline be provided for all those on the precinct, with 24/7 access to clinical professionals.
18. I recommend Parliament secure the services of an occupational health nurse, to act as an initial triage point for Members or staff suffering from health, safety and wellbeing issues.
19. I recommend the services of accredited social workers or psychologists with experience in sexual harm be secured, on precinct, in regions and accessible via a confidential, dedicated helpline.
20. I recommend a designated space on the parliamentary precinct be set aside for spiritual advisors, such as kaumātua, chaplains and imams and that the Speaker's office work with the relevant providers to contract for access on a regular basis.
21. I recommend psychologists or counsellors working in Parliament are formally approved by the Speaker to ensure their independence and credentials.
22. I recommend an alternative resolution service be developed by the HR shared service (see below) for use in low level disputes or workplace conflicts.
23. I recommend that a professional supervision model is developed for electorate and community staff to ensure that appropriate practice standards and personal safety are maintained in their dealings with the public.
24. I recommend the Speaker, parliamentary agencies and Parties continue to offer their full support to the new Fixated Threat Assessment Centre for Parliament.
25. I recommend mechanisms be investigated for the establishment of a new, unitary HR shared services group to deliver strategic people management services to the parliamentary workplace. Consideration should be given to the HR services currently delivered by the Parliamentary Service, Office of the Clerk and Ministerial and Secretariat Services being consolidated into this group by means of secondments.
26. I recommend consideration be given to recruiting an experienced Chief People Officer for the parliamentary workforce to lead the new HR shared services group.
27. I recommend the structure, function and skills requirements of the centralised parliamentary HR team be externally reviewed at the same time the HR shared services group is established.
28. I recommend a single Parliamentary Workforce Strategy be developed by the new shared services group, which reflects modern best practice and responds both to trends in strategic human resource management and the unique needs of the parliamentary workplace.
29. I recommend the HR shared service adopt a strongly customer-centric operating model (supporting staff and enabling leaders).
30. I recommend a performance dashboard of key HR, health and safety and engagement metrics, as well as supporting analytics, be developed by the new HR group, for regular reporting to all parliamentary managers and leaders.
31. I recommend HR manager service nodes be developed in regions to ensure that in person HR support and specialist pastoral care are readily available to electorate staff.

32. I recommend the parliamentary agencies establish a skills-based advisory board for the HR shared services group, perhaps with membership endorsed by the House, to advise on the execution of the Parliamentary Workforce Strategy.
33. I recommend, while Members should be closely involved in the selection processes for staff, the current Member nominations system for staff be ended.
34. I recommend the rigour entailed in recruitment processes for parliamentary staff be increased to ensure that all staff clearly demonstrate the skills, experience and attributes required for a particular position.
35. I recommend mandatory induction and onboarding packages be developed for all parliamentary staff positions, including electorate office staff.
36. I recommend onboarding include an onboarding survey to receive early feedback from new joiners.
37. I recommend public service departments (or the State Services Commission to source from existing good practices) develop or continue systematic induction, pastoral care, coaching arrangements and transition support for departmental private secretaries.
38. I recommend the triangular relationship for Member support and political staff be restated to reinforce the direct employment relationship between Parliamentary Service and DIA/MaSS, and that these agencies act as more proactive employers in the recruitment, development and deployment of staff.
39. I recommend Member staffing appropriations and allocations be reviewed in the light of these recommendations.
40. I recommend the current event-based contracts for Member support and political staff be replaced by new fixed term employment agreements which include more flexible redeployment and reassignment clauses than at present.
41. I recommend the new agreements include a revised disputes and severance process and that this be used as a last resort, consistent with the approach generally applied in New Zealand employment law.
42. I recommend electorate and community office Member support staff be employed directly by the Parliamentary Service in fixed electorate offices.
43. I recommend locally based staff funded by political parties be located separately from Parliamentary Service Member support staff.
44. I recommend HR works with Parties and the unions to agree a more consistent, fair and reasonable approach to the reassignment of parliamentary staff during post-election transition periods.
45. I recommend a review of the remuneration system be undertaken, with specialist external or Remuneration Authority input, with a view to creating a more consistent remuneration and reward framework for all parliamentary staff.
46. I recommend the parliamentary HR shared services vehicle work with the unions on behalf of agencies to better align existing agreements.

47. I recommend the position description for the role of Senior Private Secretary (SPS) be reviewed to reflect the responsibilities of a key operational leadership role within Ministers' offices.
48. I recommend a pool of senior EAs and SPSs, both within and across parties be developed, on permanent but flexible employment arrangements, who can be utilised across Parliament, including in coaching and training roles.
49. I recommend a permanent but flexible pool of EAs be developed to support Members and Ministers, both within and across parties.
50. I recommend EAs and other staff should not be required to perform menial, intimate or domestic tasks for Members or Ministers.
51. I recommend tailored career pathways and professional development be developed for key Member and Minister office positions, particularly EA and SPS positions.
52. I recommend staff promotions along the identified career pathways be based on merit and good process.
53. I recommend use of the term 'out of Parliament staff' (OoPs) be dropped and the term 'electorate and community office staff' be adopted.
54. I recommend a new professional development package be developed with and for electorate and community office staff, which includes input from other government agencies to support improved management of constituent matters.
55. I recommend a greater range of flexible work opportunities for parliamentary staff be developed, including flexible shifts, leave purchasing, role sharing and support arrangements for new parents, those supporting whānau or others wanting flexible working arrangements.
56. I recommend chief executives, managers and Members model family friendly practices in terms of workplace flexibility and work life balance.
57. I recommend a fair and transparent system of days or time in lieu be developed in all agencies and applied consistently.
58. I recommend the Parliamentary Service and DIA consider how best to provide staff with better tools to support flexible working, including IT systems and devices.
59. I recommend the Speaker and the Standing Orders Committee consider how House sitting arrangements might be adjusted to allow for improved work life balance and flexibility for Members.
60. I recommend a diversity and inclusion strategy be developed as a subset of the workforce strategy and that progress against desired results be regularly reported.
61. I recommend safe mechanisms through which staff can provide ideas for workplace improvement be developed using innovation or other feedback applications.
62. I recommend upwards feedback or 360-degree appraisal systems, based on the Parliamentary Workplace Code of Conduct, be introduced for all Members of Parliament and parliamentary agency managers.

63. I recommend it be mandatory for agencies to offer exit interviews to departing staff, conducted by an independent consultant and reported on to the relevant parliamentary agencies.
64. I recommend former staff and Members continue to be engaged via online communities or other alumni management tools.
65. I recommend the current formal annual performance review systems for Parliamentary Service staff be replaced with regular and simple review checkpoints, supported by relevant HR apps.
66. I recommend large-scale engagement surveys for staff be replaced with more frequent pulse surveys and 'always on' feedback mechanisms.
67. I recommend the new HR entity develops and maintains appropriate knowledge management systems and provides analysis of organisational learning to agencies and Parties.
68. I recommend the parliamentary agencies update their current health, safety and wellbeing policies, risk registers and reporting mechanisms and align them with best practice.
69. I recommend aligned or collective stand-alone policies on bullying, harassment and sexual harassment be developed or revised and that these policies be accompanied by training for all Members and staff.
70. I recommend the above policies be readily accessible via multiple channels and be accompanied by practical 'how to' guides for staff and managers.
71. I recommend a central health, safety and wellbeing risk register for Parliament be readily accessible via the intranet.
72. I recommend a safe and confidential channel for the reporting of health, safety and wellbeing breaches be developed, referenced in policies and well publicised.
73. I recommend Member and staff induction modules on health, safety and wellbeing be reviewed and updated in line with these findings and recommendations.
74. I recommend modules of continuing education be developed for staff, managers and Members, covering matters of health, safety and wellbeing, consistent with the revised policies and practices.
75. I recommend the respective governance roles of the current parliamentary health and safety committees (PSC subcommittee and Joint PCBU Committee) be reviewed and aligned to these recommendations.
76. I recommend the parliamentary agencies establish an independently hosted 24/7 'integrity line' or similar, through which anonymous complaints can be made, which are reported verbatim to agencies.
77. I recommend an Independent Parliamentary Commissioner for Conduct be appointed, with investigative powers for complaints of poor conduct on the part of elected Members.
78. I recommend the Commissioner publish annually a high-level public report of matters investigated, patterns discerned, and changes recommended, while preserving the anonymity of accuser and accused.



79. I recommend the parliamentary agencies recommunicate the procedures for making disclosures under the Protected Disclosures Act to their staff.
80. I recommend a case management approach be taken to the investigation of complaints of bullying, harassment and sexual harassment, including deadlines for progress updates and outcomes to both complainants and accused.
81. I recommend a Sanctions Working Group be established, chaired by the Speaker, and including the Party chiefs of staff, senior representatives of the Parliamentary agencies, and an independent expert from another Westminster parliament. The group would determine and agree the suite of available sanctions for poor conduct by a Member or Minister, particularly where that behaviour may not be covered by matters of contempt addressed by Parliament's Privileges Committee.
82. I recommend the new parliamentary HR shared services group develops the following new and revised standalone policies for the parliamentary workplace:
- Anti-bullying and harassment
  - Sexual harassment and sexual assault
  - Protected disclosures
  - Alcohol use within the parliamentary precinct
  - Conflicts of interest in Parliament
  - Racist, homophobic, sexist and transphobic comments
  - Balancing parliamentary and political work; and
  - Behavioural protocols for interactions between Members of Parliament and Members of the Parliamentary Press Gallery.
83. I recommend the revised or new policies be accompanied by simple 'how to' guides for staff and Members, which are readily accessible on the parliamentary intranet.
84. I recommend the Speaker, with the PSC Advisory Board, request, in three years' time, that an external expert review progress against these recommendations and the agency and Party responses appended here.
85. I recommend the Speaker, with the PSC Advisory Board, then develops a further five-year plan of external auditing to ensure the changes in culture are implemented, monitored and reported upon to parliamentary agencies, unions, Parties and the public.

## APPENDIX B: REVIEW TERMS OF REFERENCE

### PARLIAMENTARY SERVICE, MINISTERIAL AND SECRETARIAT SERVICES, AND OFFICE OF THE CLERK

#### Terms of Reference for Independent External Review of Bullying and Harassment of Staff in New Zealand's Parliamentary Workplace

Independent External Reviewer:	Debbie Francis
Sponsor:	The Speaker of the House of Representatives of New Zealand
Parliamentary Service Primary Contacts:	General Manager, Parliamentary Service Chief People Officer, Parliamentary Service
DIA/Ministerial and Secretariat Services	
Contacts:	Chief Executive, Department of Internal Affairs (DIA) General Manager Ministerial and Secretariat Services (DIA)
Office of the Clerk	Clerk of the House of Representatives
Legal Adviser to Parliamentary Service:	MinterEllisonRuddWatts
Legal Adviser to Ministerial and Secretariat Services:	Dyhrberg Drayton
Services:	Employment Law
Legal Adviser to the Clerk:	Counsel for Office of the Clerk

In this document Parliamentary Service (as the lead agency for this review), DIA/Ministerial and Secretariat Services, and the Office of the Clerk set out the following terms of reference in respect of the review to be carried out by an independent external reviewer, Debbie Francis (the **Reviewer**) into the bullying and harassment of staff in New Zealand's Parliamentary Workplace (the **Review**).

## 1. Agencies to this Review

The agencies to this Review are:

- (a) Parliamentary Service (PS);
- (b) DIA/Ministerial and Secretariat Services (MaSS); and
- (c) Office of the Clerk (OoC);

together the **Agencies**.

## 2. Objectives of the Review

The objectives of the Review are:

- (a) to establish whether, and if so to what extent, bullying and harassment (including sexual harassment and any systemic behaviours) of staff employed or engaged by the respective Agencies from the 51st Parliament (since October 2014) may have occurred and who are otherwise within the scope of this Review;
- (b) to identify any themes and patterns regarding how previous reports of incidents and complaints about such behaviour were handled and how those reporting incidents or raising complainant were treated and any barriers to reporting or making complaints;
- (c) to assess existing policies and procedures relating to bullying and harassment and to complaints about behaviour, comparing them to best practice, with a view to making any recommendations for improvement in any way in which such complaints are handled or will be handled in the future;
- (d) to consider and comment upon the New Zealand Parliament as a place of work with regard to ensuring the treatment of PS, MaSS and OOC Staff with dignity and respect and maintaining an open and supportive culture
- (e) to establish whether the Agencies have appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe NZ;
- (f) to establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved; and
- (g) any other matters the Reviewer needs to consider as part of this Review;

(the **Review Objectives**).

## 3. Staff in scope for this Review

The following staff employed or engaged by each of the Agencies from the 51st Parliament (since October 2014) are in scope will be offered the opportunity to participate in this Review:

- (a) All PS contractors and employees including Corporate support, Member support and Political office staff both on and off-precinct (**PS Staff**);

- (b) All Ministerial and Secretariat Services contractors and employees including Corporate support and Ministers office staff on precinct (**MaSS Staff**); and
  - (c) All OOC contractors and employees (**OOO Staff**);
- (together the **PS, MaSS and OOC Staff**).

#### 4. Background

- (a) PS employs or engages most (not all) of the staff working either in the parliamentary precinct or in the electoral offices of Members of Parliament around New Zealand. In addition, the Department of Internal Affairs acting through their Ministerial and Secretariat Services unit (**MaSS**) employ or engage staff supporting Ministers. The Office of the Clerk (**OOO**) employs or engages staff to support the operations of the House of Representatives. PS, MaSS and OOC are also Persons Conducting a Business or Undertaking (**PCBU**) under the Health and Safety at Work Act 2015 (**HSW Act**) (as are Members of Parliament, political parties and some others) For completeness, the term "officer" under the HSW Act does not include a Minister of the Crown acting in that capacity. However, Ministers are 'workers' under the HSW Act.
- (b) Bullying and harassment is not acceptable in any workplace and, in accordance with the Agencies' respective responsibilities and obligations, they wish to ensure that the Parliamentary workplace is free of such behaviour. The Agencies need to ensure, so far as is reasonably practicable, the health and safety of their workers and that other persons are not put at risk by their work. This includes taking steps to ensure that their workers and others in the workplace do not carry out, and are free from, bullying and harassment.

#### 5. Approach and methodology

- (a) The Review will provide the PS, MaSS and OOC Staff and others with relevant perspectives with the opportunity to share their relevant perspectives by outlining in person or in writing their experiences of perceived bullying and harassment, including sexual harassment. For the avoidance of doubt, no PS, MaSS or OOC Staff can, or will, be compelled to participate in this Review.
- (b) All such information collected from the PS, MaSS and OOC Staff will be treated in strict confidence and will not be published or liable to release. Any references to such information in any report resulting from the Review will be anonymised and no individual will be identified or identifiable.
- (c) It is not the objective of this Review to reopen past complaints of alleged or upheld bullying and harassment or to investigate new reports of incidents or complaints against specific individuals. However, if any such matters come to the Reviewer's attention then she will ensure that information regarding appropriate support and any specialist assistance is made available and that people are encouraged to raise any such matters with the appropriate Agency and/or other body.
- (d) No existing avenue of complaint open to the PS, MaSS and OOC Staff will be affected by this Review and those who take the opportunity to share their experiences will be given details of any existing avenues, which may be taken, and of available support or counselling services or other pathways for the resolution of such complaints.

- (e) The Reviewer will be provided with:
  - (i) all necessary resources and administrative assistance via a Project Steering Group as set out in the **Appendix**; and
  - (ii) all necessary guidance on any questions which may arise for the Reviewer including best practice management controls and in making recommendations, via a Review Steering Group as set out in the **Appendix** and with involvement and input from the respective Agencies' legal advisers as may be required.
- (f) The Reviewer will utilise an approach to gather a point in time snapshot of matters in scope for the Review. This will include a mix of interviews (including Party Chairpersons, political Party leaders, Chiefs of Staff, Chief Whips, Members (both targeted and randomly selected), focus groups (comprising separate parliamentary staff groups, member and political staff groups, with each group comprising individuals from the same political party, not a combination from different political parties) and survey techniques.
- (g) Enhanced personal support options will be made available to those participating in the Review, should exposure to this subject matter in itself create or revive trauma. This will include enhanced Employee Assistance Programme (EAP) support and access to a mental health phone line through which any affected individuals can access trained support to clinical levels if required. All such services will protect the privacy of those individuals.

## 6. Reporting

The Reviewer will provide a draft, and ultimately a final, written report addressed jointly to the Speaker, and the Clerk, and to PS and MaSS General Managers which:

- (a) outlines the review process;
- (b) sets out any matters of concern;
- (c) includes a summary of the information collated (with such information to be presented in a manner and which does not disclose the identity of those who have been interviewed by the Reviewer); and
- (d) sets out the Reviewer's findings and any recommendations on the matters which are in scope of this Review.

## 7. Timing

- (a) The majority of interview and focus groups are expected to take place between December 2018 to the end of February 2019.
- (b) A draft Report outlining findings and specific recommendations (if any) are expected to be delivered to the Agencies and their legal advisors by the Reviewer by the end of April 2019.
- (c) Once the Agencies have provided input into the Reviewer's draft findings and recommendations, then the Reviewer will:
  - (i) consider any such input from the Agencies;

- (ii) make any changes to the Report she considers appropriate; and
- (iii) provide a final Report to the Speaker, to the Clerk, and to the PS and MaSS CE/General Managers, expected to be around May 2019.
- (d) The Clerk, and the PS and MaSS General Managers will consider the Reviewer's written report, including the Reviewer's findings and any recommendations, and will consider whether any further action is appropriate in all the circumstances.

## **8. Protection of privacy**

- (a) It is desired that the Review will be carried out with the benefit of free and frank disclosures and open discussion by those participating. In order to facilitate this and protect individuals' privacy, all aspects of the Review including documentation produced will be treated as confidential.
- (b) However, at an appropriate time the Reviewer's findings and any recommendations on the matters which are in scope of this Review will be made public.

## **9. Documentation**

- (a) The following documentation is **enclosed**:
  - (i) WorkSafe guidance for businesses and workers on preventing and responding to sexual harassment at work, issued October 2018; and
  - (ii) WorkSafe NZ guidance: "Preventing and responding to bullying at work" issued March 2017.
- (b) The Reviewer is to be provided with relevant HR policies and procedures and any other documentation relevant to this Review, upon her requesting it from any person.

## APPENDIX C: PROJECT STEERING GROUP AND REVIEW STEERING GROUP

- The **Project Steering Group** below will be established to ensure the Reviewer is provided with all necessary resources and administrative assistance as may be required by the Reviewer. The Project Steering Group members will comprise:
  - General Manager, PS (Chair)
  - General Manager, MaSS
  - General Manager HR, DIA
  - Clerk of the House of Representatives
  - A representative from OOC
  - A representative from MaSS/DIA
  - PS Chief People Officer
  - IT Specialist (if required)
  - PS Administrator (EA to GM PS)
  - PS Communications Advisor; and
  - The Reviewer.
- A **Review Reference Group** will be established to provide specialist expertise on matters arising for the Reviewer. This Group will be chaired by the Speaker of the House. Other members of this Group will include Counsel for Office of the Clerk (or Parliamentary law), specified Party Leaders or nominees (4), appropriate representatives from the Unions (PSA and/or E tū) and from specialist bodies such as WorkSafe New Zealand and the New Zealand Police.

### Role/Responsibilities of Review Reference Group

- The Group members serve as a source of advice, counsel, and include an external perspective to assist the Reviewer throughout the review period.
- The Group includes a source of external perspective and strategic thinking with a view to:
  - Supporting the successful delivery of the Review
  - Monitoring the progress on the Review's deliverables against the agreed objectives,
  - Monitoring delivery and providing feedback to the Reviewer on any concerns or draft findings
  - Providing direction and alignment with industry best practice; and
  - Providing advice on the management of risk.
- An important aspect of the Group's purpose is its dual role to provide both support and challenge to the Reviewer during the Review process.

## APPENDIX D: WHAT ARE BULLYING AND HARASSMENT?

In this Review of the Parliamentary workplace I utilised the definitions of bullying, harassment and sexual harassment used by WorkSafe New Zealand in their Guide to the Prevention of Bullying and Harassment at Work and Sexual harassment: Advice for Businesses.<sup>23</sup>

### **Bullying**

Bullying at work is repeated and unreasonable behaviour directed towards a worker or group of workers that can lead to physical or psychological harm. Bullying behaviour is persistent. It involves actions that a reasonable person in the same circumstances would view as unreasonable.

Workplace bullying can happen from managers, colleagues, clients, visitors, and, in the Parliamentary context, Members of Parliament and Ministers.

Bullying can be physical, verbal or relational. Bullying includes victimising, humiliating, intimidating or threatening a person through direct and personal attacks.

It can also be indirect and task-related where work tasks are manipulated to disadvantage and humiliate an individual or group.

### **Harassment**

Harassment is defined in the Harassment Act 1997 as a pattern of behaviour directed at someone which makes that person feel distressed or unsafe.

Harassment includes watching someone's place of residence or employment, following someone, entering or interfering with that person's property, contacting someone or providing them with offensive material or threats.

Hadyn Olsen, a New Zealand workplace trainer in this field, has defined harassment as:

*"... unwanted and unwarranted behaviour that a person finds offensive, intimidating or humiliating and is repeated, or significant enough as a single incident, to have a detrimental effect upon a person's dignity, safety and well-being"*<sup>24</sup>

The Employment Relations Act provides for protection from sexual and racial harassment at work. Sexual or racial harassment are therefore grounds for a personal grievance. Sexual and racial harassment are both also prohibited under the Human Rights Act.

### **Racial Harassment**

Racial harassment is uninvited behaviour that humiliates, offends or intimidates someone because of their race, colour, or ethnic or national origin. It can involve spoken, written or visual materials or a physical behaviour.

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<sup>23</sup>For additional examples of these behaviours, readers should go to the WorkSafe website at <[www.worksafe.govt.nz/about-us/news-and-media/workplace-bullying-and-harassment/](http://www.worksafe.govt.nz/about-us/news-and-media/workplace-bullying-and-harassment/)>.

<sup>24</sup>Hadyn Olsen *Workplace Bullying and Harassment: A Toolbox for Managers and Supervisors* (2nd ed, Wolters Kluwer, New Zealand, 2005).



### **Sexual Harassment**

Sexual harassment is an uninvited direct or indirect request for sexual activity or unwanted physical behaviour of a sexual nature. Sexual harassment occurs if an employee is subject to unwanted or offensive sexual behaviour that negatively affects their employment, job satisfaction or job performance. Sexual harassment can be committed or experienced by someone of any gender.

### **Bullying, harassment and harm**

In line with the Terms of Reference of this Review,<sup>25</sup> I examine these behaviours largely through the lens of workplace health, safety and wellbeing.

As well as workers being bullied, bystanders can also suffer harm.

Bullying can negatively impact the entire workforce and result in:

- A hostile work environment
- Decreased worker health and well-being, motivation, performance and commitment
- Workers attending work while sick, or taking more sick leave; and
- Increased worker turnover.

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<sup>25</sup>See Appendix A.

# APPENDIX E: THE PARLIAMENTARY AGENCIES

## **The Parliamentary Service**

The Parliamentary Service (the Service) supports the institution of Parliament by providing administrative and support services to the House of Representatives, Members of Parliament and the agencies working within the precincts of Parliament. The Service is a non-Public Service department that is part of the Legislative branch, not the Executive branch, of government.

The principal duties of the Service are defined under section 7 of the Parliamentary Service Act 2000 and are:

- To provide administrative and support services to the House of Representatives and to Members of Parliament, and
- To administer, in accordance with directions given by the Speaker, the payment of funding entitlements for Parliamentary purposes.

To assist Members in the fulfilment of their roles as legislators and elected representatives, the Service provides Members with the tools, staff and working spaces they require to work effectively.

Services are provided to Members, both in Parliament and at their out-of-Parliament offices, as well as to other agencies within the Parliamentary precinct. The variety of services provided to Members includes the provision of personnel services to Members in relation to Member support staff, security services, provision of information and library research services, and travel and catering services.

The Service also provides a range of shared services to other agencies on the parliamentary precinct, including finance, ICT, payroll and information and research services.

As of 15 April, 2019, the Service employed 708 staff: 261 corporate staff and 447 Member support staff. The total expenditure in 2017/18 was \$60million. Expenditure was allocated as follows: \$26.5m on building and operational management; \$17.8m on ICT; \$9.7m on HR, finance, Member services and advisory services; and \$5.5m on the Parliamentary library.

## **Parliamentary Service Commission**

The Parliamentary Services Act 2000 also establishes the Parliamentary Service Commission (the Commission). The Commission is constituted by various Members of Parliament across political parties and is chaired by the Speaker. The Commission advises the Speaker on the nature of the services required by Members of Parliament and on the Speaker's proposed directions relating to funding for Parliamentary operations. The Commission also considers reports drafted by the Appropriations Review Committee.

## **The Office of the Clerk**

The Office of the Clerk of the House of Representatives is the House's secretariat. It assists the Clerk of the House in supporting sittings of the House and meetings of select committees. It communicates Parliament, promotes parliamentary engagement and keeps the record of the House. The Clerk also advocates for Parliament and carries out any other functions or duties conferred by law, the Standing Orders and practice of the House.

The Office of the Clerk belongs to the legislative branch of government. It is a non-public service department, established under the Clerk of the House of Representatives Act 1988. Although it is a separate agency to the Parliamentary Service, several of the back-office support services are shared between the two agencies. All staff of the Office are employees of the Clerk and operate under delegation from the Clerk. The Office of the Clerk is impartial and politically neutral.

The Clerk is a statutory officer who is responsible to the Speaker, on behalf of the House, for the efficient, effective, and economic management of the Office of the Clerk. The Clerk exercises constitutional powers and provides advice and services independently of the Speaker and the Executive.

### **Ministerial and Secretariat Services**

Ministerial and Secretariat Services (MaSS or Ministerial Services) is a business unit within the Department of Internal Affairs (DIA), which is part of the core Public Service. Its primary role is to ensure members of the Executive have access to the services, resources and support to which they are entitled as Ministers of the Crown, so that they can perform their duties effectively and transparently.

MaSS' core functions are:

- Employing and managing all ministerial office staff and resources, and overseeing seconded portfolio private secretaries (approximately 300 staff in total)
- Administration of ministerial entitlements, allowances and expenses, and the management of properties that support the Executive
- Provision of VIP Transport services to Ministers and other eligible users
- The coordination of official guest of Government visits, and national ceremonial and commemorative events.

DIA receives annual funding of \$43.5m to deliver these services. Staff budgets are included in this funding but are centralised, rather than being allocated to individual Ministers (as they are for Members of Parliament).

### **The Speaker**

The Speaker is a Member of Parliament who is elected by the House of Representatives to communicate with the Sovereign on the House's behalf. The Speaker is usually a senior Member of Parliament who, although belonging to a political party, is neutral and treats all political parties equally.

The Speaker also issues annual directions that determine the travel entitlements and support services for Members of Parliament. The Speaker's directions also determine political party entitlements.

### **Members of Parliament**

Members of Parliament are elected by the public of New Zealand to represent them in the House of Representatives. As a collective whole, the 120 Members constitute the House of Representatives. The House passes legislation and supervises the work of government. There are two types of Member: those who are voted by constituents to be the electorate representative in Parliament; and list MPs who are appointed by a political party.

Members are employed by New Zealand's voters. The Remuneration Authority determines the salaries and allowances to be paid to Members. Extra entitlements to travel and administrative services for MPs are established in the Speaker's Directions.

### **Ministers of the Crown**

Ministers of the Crown are part of the executive branch of government and are appointed by the Governor-General on the advice of the Prime Minister. A Minister must also be a Member of Parliament in the House of Representatives. Ministers are from the political parties that form a Government. They have portfolios and public service departments that are responsible to them.

A Minister has a role in establishing the policy direction of their portfolio and is responsible to the House of Representatives for their departments' performance. Collectively, Ministers are responsible to the House for the general conduct of government.

Ministers' offices are staffed by employees of the Department of Internal Affairs and by secondees from relevant public sector departments and agencies.

# APPENDIX F: LEGISLATION RELEVANT TO THIS REVIEW

## **Legislation**

- Clerk of the House of Representatives Act 1988
- Constitution Act 1986
- Electoral Act 1993
- Employment Relations Act 2000
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Members of Parliament (Remuneration and Services) Act 2013
- Official Information Act 1982
- Parliamentary Privilege Act 2014
- Parliamentary Service Act 2000
- Public Finance Act 1989
- Remuneration Authority Act 1977
- State Sector Act 1988
- Harmful Digital Communications Act 2015

## **Remuneration Authority Determinations**

- Members of Parliament (Accommodation Services for Members and Travel Services for Family Members) Determination 2017
- Members of Parliament (Former Prime Ministers Travel Services) Determination 2017
- Ministers' Travel Services within New Zealand Determination 2017
- Parliamentary Salaries and Allowances Determination 2017 (pay freeze from 1 July 2018-30 June 2019)
- Parliamentary Superannuation Determination 2003

## **Other Instruments**

- Directions by the Speaker of the House of Representatives 2017
- Speaker's Rulings as at 2017
- Standing Orders of the House of Representatives, 2017

## APPENDIX G: REVIEW METHOD AND APPROACH

The Independent External Review into Bullying and Harassment at Parliament was announced on the 27 November 2018 and sponsored by the Speaker of the House. The Reviewer was assisted by two independent support staff.

Only the Reviewer and her two independent staff had swipe access to the Review office in Bowen House. The computers and email addresses used were connected to a separate server, independent to the Parliamentary IT system.

Review staff, legal advisors and external reference group members all signed confidentiality agreements.

The Review established four channels for participants to contact the Reviewer.

1. A dedicated email address to the Reviewer was established and widely publicised. Individuals were able to send written submissions to this email address. 102 written submissions were received. The email address inbox was only accessed by the Reviewer. Although a PO Box was created, no written submissions were sent via post.
2. An online survey link was emailed to current and former employees in December 2018. The survey was sent to all staff who had worked in the three lead agencies, Parliamentary Services, Ministerial and Secretariat Services and Office of the Clerk, since the 51st Parliament in 2014. The survey asked respondents whether they strongly disagreed, disagreed, were neutral, agreed or strongly agreed with statements. These statements related to behaviours witnessed or experienced in the parliamentary workplace or statements about the culture of Parliament and avenues for complaint and support. Respondents were also asked 33 yes/no questions in the survey. The survey closed on 28 February 2019. The survey was not initially sent to departmental secondees to Ministers' offices. However, secondees were provided with a link to the survey if they so requested.
3. Individuals were also able to request a one-on-one interview with the Reviewer. These interviews took place away from the parliamentary precinct. Interviews took place in Auckland and Wellington, though they were also offered by phone around the country. Electorate office visits were undertaken in Auckland and Wellington.

Respondents were offered the opportunity to bring a support person to their interview. The interviews were also attended by an independent note-taker working for the Review's legal advisor, Minter Ellison Rudd Watts. Note-takers signed confidentiality agreements. 146 self-nominated individuals attended interviews with the Reviewer.

4. The Reviewer also offered phone calls to those unable or unwilling to interview face-to-face. Interviewees were generally also supplied with a list of bullying and harassment behaviours, with respondents indicating whether they had experienced or observed any of the listed behaviours.

The Reviewer also conducted 55 interviews with Ministers, Members of Parliament and Party officials. These individuals were randomly selected by the Reviewer for a diverse group across Party, tenure in Parliament, age, gender and ethnicity.

Interview notes were stored in a secure filing cabinet off Parliament grounds. Two independent individuals had access to the cabinet, both of whom had signed confidentiality agreements.

The fourth channel for involvement was through focus groups. 40 focus groups were held across the country. They were held for separate groups including corporate Parliamentary Service staff, political staff by Party, departmental secondees, union representatives, Ministerial staff and more. Focus groups enabled individuals with similar experiences to come together to discuss general issues and provide solutions. They were not a channel for individual grievances.

Ultimately, participants (aside from Members) were self-selecting. A wide and representative range of people was contacted for the Review. However, those providing written submissions, attending focus groups and requesting interviews ultimately contacted the Review themselves. For this reason, survey data from one-on-one interviews was kept separate to the data from the main survey, as it became clear that there were two different data sets.

The Reviewer was supported by an external reference group consisting of Judge Coral Shaw, a representative from NZ Police (Detective Superintendent Tim Anderson or Assistant Commissioner Richard Chambers), psychiatrist Dr Justin Barry-Walsh, a representative from the PSA (Glenn Barclay or Lauren Hourigan) and a representative from WorkSafe NZ (Angela Mansell).

This Report contains figures from the two surveys conducted and verbatim quotes from interviews, focus groups and written submissions. Identifying information has been removed from such quotes to protect the privacy of the individuals who shared their stories.

The Review did not act on any individual experience of bullying or harassment. Those with particularly traumatic experiences were provided with independent channels of support by the Reviewer.

## APPENDIX H: MAPPING OF TERMS OF REFERENCE TO REPORT

The objectives of the Review, as set out in paragraph two of the Terms of Reference, are set out below. For the full Terms of Reference see Appendix A.

The sections of the Report that correspond to each objective are noted alongside each objective.

The objectives of the Review are:

- (a) to establish whether, and if so to what extent, bullying and harassment (including sexual harassment and any systemic behaviours) of staff employed or engaged by the respective agencies from the 51st Parliament (since October 2014) may have occurred and who are otherwise within the scope of this Review.

*See Observations: bullying and harassment (page 37); and Observations: sexual harassment. (page 52).*

- (b) to identify any themes and patterns regarding how previous reports of incidents and complaints about such behaviour were handled and how those reporting incidents or raising complainant were treated and any barriers to reporting or making complaints.

*See Risk factors for bullying and harassment in the parliamentary workplace (there are major barriers to speaking out) (page 10); Observations: sexual harassment (sexual harassment and sexual violence are likely to be under-reported) (page 53); and Current prevention and controls on poor conduct (investigations are sometimes not perceived as well managed). (page 59).*

- (c) to assess existing policies and procedures relating to bullying and harassment and to complaints about behaviour, comparing them to best practice, with a view to making any recommendations for improvement in any way in which such complaints are handled or will be handled in the future.

*See Current prevention and controls on poor conduct (page 59); and Prevention of bullying and harassment (health, safety and wellbeing maturity can improve (page 64); and Independent and safe reporting channels are needed). (page 85).*

- (d) to consider and comment upon to the New Zealand Parliament as a place of work with regard to ensuring the treatment of PS, MaSS and OOC Staff with dignity and respect and maintaining an open and supportive culture.

*See Risk factors for bullying and harassment in the parliamentary workplace (page 10); Impacts on respondents (page 56); and Prevention of bullying and harassment (Parliament must build a culture of dignity and respect). (page 66).*

- (e) to establish whether the agencies have appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe New Zealand.

*See Current prevention and controls on poor conduct. (page 59).*

- (f) to establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved.

*See Prevention of bullying and harassment (leadership development needs investment; pastoral care needs to be extended, with more use of specialists; further investment in strategic workforce management should be made; health, safety and wellbeing maturity can improve; independent and safe reporting channels are needed; and other policies on conduct need to be reviewed or created). (page 64).*

- (g) any other matters the Reviewer needs to consider as part of this Review.



# APPENDIX I: AGENCY, UNION AND PARTY RESPONSES

## Office of the Clerk and Parliamentary Service: Joint Response

We welcome the Report and its recommendations. We would like to thank Debbie Francis for the excellent work she has done. We also thank the current and former staff who came forward to tell their stories.

We care enormously about our staff and we are both committed to being employers of choice. Parliament is very important to both of us. The people who come to work every day to make Parliament strong for all New Zealanders deserve a totally safe work environment where they can thrive and be their best. Bullying and harassment is not something that either of us will tolerate, and it must not be part of the culture we are working hard to build.

We are committed to implementing the recommendations set out in the report over which we have responsibility. This will involve looking at all areas of the HR function, including employment arrangements, career development, on-boarding, and pastoral care. We will also liaise with Ministerial and Secretariat Services (MaSS) and the Department of Internal Affairs to explore ways of working together to achieve the positive outcomes envisaged by the report.

The next step is for us to consider the recommendations in more detail, consult as required with all relevant stakeholders and develop action plans. We will make available our proposed timeline to establish this change framework as soon as practical.

The Office and the Service are now working closer than ever before. We have combined some of our functions to eliminate duplication and achieve more consistency in our policies and practices. One of these functions is the Human Resources (HR) function. For many years the Office has had a well-performing HR function. With our recently combined Office and Parliamentary Service HR function we have an exciting opportunity to build a team that is strategic and provides great service, with empathy and care at its core.

This new HR team will be vital to achieving the report's recommendations. The provision of HR services should have a whole-of-Parliament view, rather than being siloed. People that work for our organisations should be able to see themselves as working for Parliament. We agree that their employment should have standardised systems and processes, clear career paths, and a sense of continuity, regardless of whether they work for a Minister, a Member, the Office or the Service.

Our message to the people leaders in both our organisations is that we have a number of expectations of you: Be clear and open, be ambitious, be inspiring, own it, and care. We expect you to be positive role models and to treat everyone with respect and dignity. Staff should be able to raise issues with you and be confident that those issues will be dealt with appropriately, no matter how difficult that may be. We also expect you to look after the people who work here, to protect them, and help them grow. This is essential to the future of both the Office and the Service, and parliamentary democracy in New Zealand.

To our staff: You all have a voice, please use it. Never be afraid of raising difficult issues or situations, including those involving bullying and harassment, for fear of repercussions. We can assure you that you will be heard. Both our doors are always open. Know that you can come and see us with any issues you wish to raise, and we will act upon them.

Finally, we look forward to working with the Speaker and political parties in order to make Parliament one of the best work environments in New Zealand.

**David Wilson**  
Clerk of the House of Representatives

**Rafael Gonzalez-Montero**  
General Manager – Parliamentary Service

## DIA Response

Thank you to everyone who provided feedback and insights for the Francis Review. For many, coming forward to speak up took a lot of courage, and I would like to acknowledge your time and effort in doing so.

The report highlights systemic bullying and harassment in the parliamentary workplace. I'm deeply disappointed by what the findings reveal and the personal impacts they represent.

Please know, I have heard what you have said in this report. As many of you have noted, the parliamentary workplace is a complex and unique environment, but this doesn't mean we tolerate unacceptable behaviour.

You have said that resources to support you in this environment are not visible enough. As a result, we are immediately committing to ensuring you are aware of the channels you can use to "speak up" and raise concerns, and that you feel supported in doing so. We are also committing to improving inductions for all our people working in the precinct, including Portfolio Private Secretaries. We are thoroughly considering all recommendations in this report, and I'll keep you up to date as we go.

The report also acknowledges that we do have some good frameworks in place such as a separate Code of Conduct for Ministerial staff, a leadership development programme, and resources such as our Unconscious Bias training. We will build on these by making them more visible, trusted and relevant to you.

Making positive, tangible and meaningful change for our people working in the Parliamentary precinct will take time but I am determined to see this through. We will work closely with the Parliamentary Service and Office of the Clerk on this.

We are all entitled to work in a safe and inclusive workplace where we treat each other with respect, working together to deliver for New Zealand and New Zealanders. As I said earlier, I am fully committed to ensuring that this happens. We take pride in what we do and the changes that we will make, will make us stronger together.

Ngā mihi

**Paul James**

Chief Executive, Department of Internal Affairs

## Combined Union Response

### **PSA & E tū response to the Francis Review: Bullying and Harassment in the NZ Parliamentary Workplace**

The unions have been supportive and engaged throughout this review process. We acknowledge Debbie for her fortitude in hearing many personal stories and experiences and in giving them voice in this report. The courage of those who participated is not to be underestimated.

The price of democracy is eternal vigilance in enhancing the standing and status of Parliament, a central pillar of our democracy. In these times of an increasingly polarised world especially in the post Christchurch period of New Zealand society, we must modernise the operation of our Parliament and its culture. We also have a responsibility to ensure those who work each day to enable our Parliament are safe in their workplaces.

Parliament is a unique and complex workplace with not only multiple employers but a vast range of specialised occupations and services. Our union members at Parliament are passionate and committed to their work and the value it brings to our society.

But this commitment in no way reduces their right to be safe, respected and recognized in their workplace.

In many ways the traditional approach to union organisation is also suspended in this environment, we have no recourse under employment law to hold elected Members to account and our members are aware that their actions will reflect not only on them and their employer but also on the political parties and potentially public faith in our democratic systems.

The unions generally support the recommendations of this Review particularly those that will provide greater clarity for our members in the triangular employment relationship, leadership roles and health and safety responsibilities.

We note that many of the identified risk factors and issues could be alleviated or addressed by properly increasing the resourcing of these agencies and Members' offices so staff are not under such pressure in their roles. We are also cautious that the new bodies proposed in these recommendations must have clear purposes and accountability and union representation as key parties in achieving culture transformation.

The themes of isolation, health and safety structures, remuneration and funding, and the complex employment relationship are core union business and we must be partners on the detail of solutions to address these. We are committed to working with the agencies to ensure that these recommendations are implemented in such a way that they do not undermine existing protections and choices in their employment but provide greater protection in times of employment dispute. Our delegates provide invaluable support to members in times of tension and bring workers' voice to their employers over and above their substantive roles. We need to ensure they are enabled to fully participate in the work required long term to improve their workplace.

Finally, we echo the call in this Report to ensure that our parliamentary agencies are resourced to provide appropriate services. We must be mature enough to see that properly funding the work needed to support our Parliament is about the health of our democracy and not partisan politics and ensure our decision-making systems are future proofed to ensure this.

## Green Party Response

The Green Party would like to acknowledge the Speaker and Debbie Francis for a comprehensive independent review of bullying and harassment in the New Zealand parliamentary workplace. They have together acted quickly, carefully and with significant skill to address concerns and provide potential solutions.

The report provides evidence of a significant and systemic problem. Too many staff and Members have seen or experienced bullying and/or harassment. While there is also evidence of positive and inspiring leadership, too often people who have been bullied or harassed have not complained because they did not believe there was any point, or if they did report, they were unsatisfied with the outcome.

It is clear the imbalance of power between elected MPs, staff and HR needs to be addressed.

It's fantastic to see Parliament transparently acknowledge we have a problem.

Collectively we have a duty now we have been provided with this evidence to take the necessary actions to change this.

The review offers us 85 recommendations for change. It is clear this is not a window dressing response.

The recommendations address culture, policies, systems, staffing, support services, leadership and accountability, and need to be understood as a whole workplace response, with individual recommendations addressing critical components.

There are some recommendations that we are not convinced about yet, though we are very open to being persuaded. In particular we have an interest in exploring whether there are ways to adequately protect different party work programmes and cultures and ensure a safe, secure, inclusive work environment.

The Green Party welcomes this report and looks forward to working through the recommendations with the Speaker, unions, other parties and agencies to ensure the safety and wellbeing of staff and members of Parliament. The country deserves a Parliament that is inclusive, productive and walks its talk.

Jan Logie

## Labour Party Response

We commend the Speaker for his initiative and Debbie Francis for her open, confidential and collaborative approach to developing the Report.

We are confident it can lead to improvements in the culture of the parliamentary workplace. We support the need for such improvements and the pathway for achieving them.

A set of principles should be agreed to accompany the desired outcome of a safe and respectful workplace, with appropriate ways of dealing with issues of inappropriate behaviour that arise.

We broadly agree with the recommendations but add the following comments:

- Greater attention must be paid to the power differential that exists in the relationships between elected Members and staff. A priority must be that elected Members are held to account.
- Everyone working within Parliament and Party or elected Members' offices must be bound by the Code of Conduct when developed.
- We disagree with ending the current Member nominations system but agree this has sometimes resulted in inappropriate appointments and, therefore, a solution to this problem needs to be found.
- Recommendation 42 does not appear to solve a problem identified in the review and is not supported.
- Likewise recommendation 43.
- Drug use should be added to recommendation 82.

In addition, the lack of cultural competence in the processes of Parliament must be addressed.

In summary:

This is a huge opportunity for Parliament to improve its culture and we welcome that.

We need a highly professional human resources team that is trustworthy and accessible. The role of an independent commission is particularly supported.

The Code of Conduct must be developed collaboratively if it is to bring about meaningful change.

Ongoing training and development will be a key factor in ensuring the aims of the review are met.

**Hon Ruth Dyson**

## National Party Response

The National Party welcomes the opportunity to consider this independent Report.

Now it is public, Caucus will carefully review and discuss the Report and its recommendations.

We acknowledge that it shows, collectively as a Parliament, we can and must do better.

Bullying and harassment in the workplace is not acceptable.

We agree it shows a need to lift conduct in general given the issues this Report has identified in the parliamentary workplace.

National is proud to attract highly skilled and professional staff and Members of Parliament, but we recognise the need for continuous improvement.

We commit to actively and constructively progressing the work ahead with Parliamentary Services to create a balanced and appropriate work environment for all who work within the parliamentary workplace.

**Barbara Kuriger and Anne Tolley,**

On behalf of National Caucus.

## New Zealand First Response

The Francis Review into Bullying and Harassment in New Zealand's Parliamentary Workforce makes for sobering reading. No party can condone these behaviours and New Zealand First believes that renewed effort must be made to encourage safer and more collegial behaviours from, and between, Members of Parliament, ministerial, parliamentary, media and services staff.

Leadership is required across all of these groups. Ministers, particularly, but also Members of Parliament more generally, need to be socialised into the leadership norms expected of the privileged positions they hold. Many come to Parliament after successful careers outside politics however most do not have leadership experience.

Our Parliament is itself physically set up to be adversarial, unlike many European parliaments, which sets the standard for the type of behaviours modelled to the rest of the staff.

New Zealand First endorses many of the recommendations in the Francis report and will be forwarding our support or otherwise for the 85 recommendations separately.

However New Zealand First notes that those modelling the desired workplace practice should also be acknowledged, to balance incentive with repercussions. For example in the 52nd Parliament New Zealand First Ministerial and Parliamentary offices have had virtually zero turnover of staff. The New Zealand First Leader has always been clear to his MPs that every staff member has a mortgage or rents to pay, and families to support, so they must be treated with the respect they deserve.

In the 52nd Parliament New Zealand First has not received any personal grievances, has 63 percent of its parliamentary staff female, and has a diverse and hard-working staff across ministerial and parliamentary offices. What visitors will most often hear inside our stable ministerial offices is laughter. New Zealand First believes that our staff work hard in the service of the New Zealand public but we also believe that they must be confident, comfortable and safe in their workplace to be their best for New Zealand.

