



Submission to the Independent Review into Commonwealth Parliamentary Workplaces.

MEMBERS OF PARLIAMENT STAFF

Part One

Community and Public Sector Union (PSU Group)

July 2021

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Executive Summary

The Community and Public Sector Union (CPSU) is the major union for Commonwealth Public Service employees and for Members of Parliament (Staff) Act (MoP(S) Act) employees. We are committed to providing a strong voice for our members on work health and safety and industrial matters and key public policy and political debates.

Parliamentarians and their staff play a critical role in our democracy. MoP(S) Act employees hold a strong sense of pride and demonstrate commitment regarding their public service, working alongside our nation's leaders endeavouring to make our country a better place for all. The unique and complex environment of parliamentary workers has been recognised in the recent Foster Review.

The CPSU welcomes the opportunity to make a submission to the *Independent Review into Commonwealth Parliamentary Workplaces* (Independent Inquiry). There is an urgent need for action to prevent and better respond to issues of sexual harassment and assault, bullying, harassment, and discrimination which permeate Commonwealth parliamentary workplaces. The CPSU supports all real and meaningful action to achieve these ends.

Sexual harassment, workplace bullying, and harassment are serious and insidious issues in our Commonwealth parliamentary workplaces. There is widespread knowledge of these harms amongst former and current workers. Media commentators and academics have written and spoken at length about the specific culture of parliamentary workplaces as well as the nature of the employment relationship under the MoP(S) Act that contribute to workers being at high risk of these harms.

The CPSU's 2020 survey of currently engaged Members of Parliament Staff found 14% of respondents have experienced workplace sexual harassment in the past 12 months and 40% of respondents have experienced workplace bullying. While broader research would suggest that female employees are more likely to be victims of these inappropriate behaviours, it is not the case that such harms are isolated only to female employees and importantly should not be a problem left to women to solve. Sexual harassment and assault are recognised societal issues arising from gender inequity and discrimination, it is demonstrated in similar inquiries that the prevalence of these issues is driven by cultural and structural factors that make certain workplaces higher risk.

For several years, the CPSU has raised concerns of workplace sexual harassment and bullying with the Department of Finance (Ministerial and Parliamentary Services) (MaPS). Despite such efforts, there has been little meaningful engagement and action by MaPS, Government, and Parliamentarians more generally, to identify and address the broad nature of these issues and their prevention, including the toxic workplace culture and systemic weaknesses enabling such harms.

The Independent Inquiry, coupled with the recent *Review of the Parliamentary Workplace: Responding to Serious Incidents* (Foster Review) offers a turning point for meaningful outcomes and accountability. For the first time, MoP(S) Act employees feel they have an opportunity to be heard on issues that permeate their daily working lives and offer worker-led solutions. Recommendations arising from the Inquiry must create respectful workplaces free from sexual harassment and workplace bullying, where workers feel

safe to speak up knowing they will be supported, wrongdoings acknowledged, and appropriate actions and sanctions applied.

The CPSU will provide two separate submissions to the Independent Inquiry concerning Members of Parliament (Staff) Act employees. This first submission provides the Inquiry with an understanding of the experience and expectations of workers and identified cultural and other risk factors in relation to safe and respectful workplaces. This submission covers the current work health and safety processes and supports available to workers to prevent and respond to sexual harassment and bullying. The second submission will address proposed solutions that the Jenkins Inquiry could recommend to mitigate these risks and create safer workplaces.

Understanding the unique cultural and employment context of MoP(S) Act employees is crucial to finding the right solutions. Our second submission will provide worker-led recommendations and solutions for preventing and better responding to the issues of sexual harassment and workplace bullying and harassment.

Summary of risk factors and systemic weaknesses identified

- Unusual and complex employment arrangements for MoP(S) Act staff.
- A high intensity culture and exposure to constant media and social media scrutiny.
- Asymmetric power imbalance in politics.
- Lack of leadership skills amongst some Parliamentarians.
- Lack of diversity and inclusion amongst MoP(S) workforce.
- Lack of worker engagement and consultation.
- Poor worker and managerial literacy of WHS issues and inadequate training and induction.
- Lack of support for victims of harm.
- Barriers to employee reporting.
- Safety and security at Australian Parliament House.

Every worker has a right to be safe at work. Parliament governs and sets the legislation that applies to all Australian workplaces. It is vital that parliamentary workplaces are themselves an exemplar and set the standard for the rest of the nation.

Members of Parliament Staff

There are approximately 2020 employees engaged under the MoP(S) Act.¹ These workers are dispersed across the country in 227 offices, including approximately 351 employees (17%) in Canberra.² Generally, the MoP(S) Act workforce is divided into two cohorts: electorate officers and personal staff.

Most MoP(S) Act employees work in electorate offices (68%).³ Electorate officers undertake a range of roles including community engagement, constituent support, media support, briefing and preparing the Parliamentarian for events and a range of other undefined activities as directed by their Parliamentarian. Due to the continuous campaigning cycle, electorate officer activities increasingly include campaign work outside of ordinary hours of work i.e., after hours and weekends.

Senior staff include Chiefs of Staff, principal advisors, and senior media advisors.

Personal staff make up approximately one third of the MoP(S) Act workforce and include advisors, media advisors, executive assistants, office managers, secretaries and administrative assistants. Some personal staff will travel with their Parliamentarian to Canberra during sitting weeks and Senate Estimates, and on other parliamentary business outside of Canberra and their electorate.

Whether a MoP(S) Act employee works as an electorate officer or as a personal staff member, each worker faces unique workplace pressures.

1 Department of Prime Minister and Cabinet, Review of the Parliamentary Workplace: Responding to Serious Incidents (2021) (Foster Review), 20.

2 Ibid.

3 Ibid.

Risk factors for serious workplace harms

Sexual harassment and workplace bullying are serious work health and safety hazards that can cause physical, emotional, psychological, sexual and economic harms.

The Australian Human Rights Commission's (AHRC) National Survey of Sexual Harassment (2018)⁴ revealed over one in three employees in the Australian workforce have experienced sexual harassment, with women experiencing higher rates than men, and other minority groups experiencing 'intersecting' forms of discrimination contributing to their experience of sexual harassment.⁵ The National Survey indicates certain workplace settings are found to have a higher prevalence and therefore risk of experiencing sexual harassment. Such settings are male dominated; workplaces where there is a higher-level contact with clients/customers; and are characterised by hierarchical workplace structures. These are all characteristics common of parliamentary workplaces. In addition, there are several other known factors that contribute to the prevalence of serious harms in the Commonwealth parliamentary workplaces context. These are outlined below.

An evident risk in parliamentary workplaces is an absence of an agreed understanding of what constitutes bullying, harassment, and sexual harassment. The CPSU is aware of instances of the following:

- Leering and staring.
- Inappropriate jokes.
- Questions around personal lives.
- Comments around personal lives.
- Stalking.
- Grooming.
- Verbal assault.
- Physical assault.
- Being cut out of decision making.
- Being made to do humiliating duties which are not in a job description.

Unusual and complex employment arrangements for MoP(S) Act staff

MoP(S) Act employees operate under unusual and complex employment arrangements, distinct from most Australian workplaces.

Under the MoP(S) Act, parliamentarians employ their own staff in accordance with the staffing allocation determined by the Prime Minister having regard to the parliamentarian's duties as a Senator or Member of the House of Representatives, and consideration of whether the parliamentarian is a member of the Government,

4 Australian Human Rights Commission, 'Everyone's Business: Fourth National Survey on Sexual Harassment in Australian Workplaces' (2018) (AHRC Fourth National Survey).

5 Ibid.

opposition, or leader of a minor party. While MoP(S) Act staff are engaged by the parliamentarian they work for, the Department of Finance (MaPS) provides 'back office' human resource functions and shares duties in relation to work health and safety.

The 'triangular relationship' between the employee, their employing parliamentarian, and MaPS, has been described by staff as confusing and challenging to navigate. The peculiarities of the employment arrangements tend to throw up additional issues, most significantly the concern of MaPS' perceived bias towards parliamentarians and MaPS' inability to take substantive action against parliamentarians, particularly in the context of undertaking investigations about (serious and other) workplace incidents.

The MoP(S) Act provides the parliamentarian a high degree of control on staffing – with flexibility to determine the staffing configuration of their office, direction on the day-to-day work of their staff and most notably the ability to terminate their staff at any time, subject to the Fair Work Act.⁶ The precarious nature of the employment relationship has a significant 'chilling effect' on staff speaking up and reporting workplace harms against colleagues and those more senior in the hierarchy of the workplace and political party, including their employing parliamentarian.

Some MoP(S) employees consider each parliamentary office to operate as an autonomous or self-contained workplace. For the parliamentarian, there may be benefits to having flexibility in what the workplace looks like and how it operates, however there are notable adverse ramifications for staff. Such as a lack of human resources oversight and consistency of employment practices across parliamentary offices due to MaPS' disconnect from the day-to-day realities of the working lives of MoP(S) employees. There is a distinct lack of understanding and therefore support for staff to grapple with the lack of transparency in employment decisions, the ambiguities or lack of clarity concerning their role requirements, the lack of insight into the number of additional hours being worked by staff and their unreasonable workloads. There is a lack of either effort, capacity and/or capability to understand the experiences of the 227 separate parliamentary offices and offer better solutions.

There are no existing internal processes of gathering employee insights or experiences, or external processes such as the APS Census that are available to other Commonwealth workplaces. In addition, parliamentarian leadership styles can vary from autocratic and directive with no staff consultation in workplace decision-making to consultative and collaborative with room for staff input. MoP(S) employees count themselves lucky when they have a 'boss' that falls in the latter category – it is understood to be a less common occurrence. There is an inherent and unquantified risk in employees not understanding who employs them and who has obligations to them with regards to their status of employment and health and safety at work.

Under the MoP(S) Act, parliamentarians have complete flexibility and authority to employ their own staff consistent with staffing allocations. There is no established formal recruitment process, or guidelines established by MaPS for recruitment and there is no requirement for selection or promotion to be merit based. Often, recruitment is not an open process and occurs through existing networks. There are not even expectations of a panel to run an interview, let alone a panel displaying diversity,

6 Members of Parliament (Staff) Act, s.9(2).

as is now an minimum expectation in both the public and private sectors. Some MoP(S) Act employees have reflected that the current set up engenders a culture of gratitude from employee towards employer, where the employee may feel beholden to the parliamentarian, driving a culture where the employee feels like they are being measured against unarticulated expectations and having to continuously prove their worth.

There are a lack of effective systems of work to support new and ongoing employees, and managers with ordinary employment matters, these include:

- Ad hoc systems of accessing leave, which may preference some employees over others.
- Pressure to not access personal leave at busy times.
- Inconsistent processes to access studies assistance.
- No formal induction program.
- An absence of job descriptions.
- Ad hoc processes of advertising positions.
- Ad hoc processes to obtaining professional development and training.
- An absence of formalised exit-interviews.

MoP(S) employees have consistently raised issues regarding the informal delegation of responsibilities and lack of clarity of actual role responsibilities. A lack of job descriptions and blurring of the requirements of a role contributes to an unsafe work environment.

MoP(S) employees are talented, highly capable and ambitious individuals, who are committed to serving the community. All employees should have access to structured professional development opportunities and support – however there is a distinct lack of investment in staff professionalisation and development.

High intensity culture and constant media scrutiny

Whether an individual is working in the Australian Parliament House (APH) or an electorate office, MoP(S) Act employees face unique workplace pressures.

The CPSU notes MoP(S) Act employee numbers have remained largely unchanged since 2003 despite the substantial increase in work intensification experienced by parliamentarians and their staff. Factors contributing to the increase in workloads include the demands of the 24-hour news cycle; exponential growth and influence of social media in Australian politics; an increasing requirement to assist constituents navigate ATO, Centrelink, Immigration and other public services and poorly defined responsibilities around campaign activities. There is an increasing expectation amongst some constituents for electorate officers to be available ‘around the clock’. The CPSU notes risk of excessive workloads and hours is particularly felt by cross-bench and small electorate offices which are often understaffed.

Work intensification is most visible during Parliamentary sitting weeks and Senate Estimates. Ministerial and Shadow Ministerial offices may have staff permanently based in Canberra, while others will require staff to travel to Canberra for these weeks. Sitting

of both Houses varies each year, however in general there are between 15 to 20 sitting weeks and additionally Senate Estimates is scheduled three times per year. On a sitting day, a MoP(S) Act employee can expect to work no less than 12 hours. Additionally, there is an expectation that employees will participate in after-hours events, where alcohol is often in plentiful supply. It is often in these typically male dominated settings where knowledge is shared and there are opportunities for networking. The CPSU notes alcohol is a recognised risk factor amongst employees, however associated risks are very poorly mitigated and/or managed and that parliamentary workplaces have failed to keep up with community expectations and changes in how risks are mitigated in other workplaces. Currently there is no risk mitigation done on the presence of alcohol at work events.

MoP(S) Act employees work long hours and a substantial amount of those hours are unpaid overtime. As part of the recent enterprise bargaining campaign, the CPSU sought to better quantify the number of additional hours worked by employees over a one-month period. Two things were evident from the union's survey. Firstly, employees were reluctant to have any complaint of additional hours linked to their employing parliamentarian and only participated in the union's survey with the promise of anonymity. Secondly, all respondents worked a minimum of 45 hours per week and some respondents worked more than 80 hours per week. The CPSU notes the month in which the survey was undertaken (February 2020) encompassed three sitting weeks.

The current system of overtime is through an electoral support allowance (ESA) paid in lieu of overtime payments. With reference to the above rates of overtime, workers anecdotally refer to the year's ESA being exhausted by February. Untenable systems and expectations of overtime create unsafe workplaces, that are not family-friendly.

A core responsibility of MoP(S) Act employees is constituent engagement, it is frequently articulated as the most important and rewarding aspect of the work. However, there are significant and unmitigated risks involved in this aspect of the work, which further drive cultures and systems which create unsafe work environments. It is not uncommon for constituents to contact the electorate office in a heightened state of distress and at times this can escalate to aggressive behaviours, including threats of violence. There have been instances of death threats issued towards staff directly and/or towards their employing parliamentarian. Only through the CPSU's organising and advocacy, have such incidents of constituent and/or third-party aggression begun to be recorded in quarterly WHS incident reports. Employees cite that they feel an expectation to not always report such incidents and to be able to cope, which in turn drives a culture of silence.

MoP(S) Act employees describe their work as unrelenting, with impossible hours and deadlines, and a need to be "on the ball" on a range of matters at all times. They feel the pressure of making their parliamentarian "look good", the pressure of not making errors and the consequences of any such errors for their parliamentarian and their party. Each of these pressures has been heightened by the constant media and social media scrutiny and can be exacerbated when the office is located in a marginal seat.

There are intense competitive pressures both between political parties and within parties. Some MoP(S) employees speak of a lack of collegiality, that there is a hierarchy amongst colleagues, and that those at the top have learnt they are not subject to admonishment when they treat those below them with disrespect.

There is a common perception among MoP(S) employees that as a ‘political staffer’ you need to prove you can ‘hack it’ i.e., withstand the parliamentary and political culture and all that it brings. There is a pattern of behaviour among many of the young ‘staffers’ of proving you can ‘hack it’ by working until you burn out.

There is an unspoken culture in some parliamentary workplaces where employees are discouraged or dissuaded from taking accrued paid leave, whether for personal or caring purposes or annual leave, because of the impacts of leave-taking on your office. MoP(S) employees have noted that this is particularly true for carer’s leave. Some MoP(S) employees who have returned from parental leave tell of the pressure to not take carer’s leave, both as subtle management commentary or a direct ask. Offices are provided with an electoral support budget (ESB) which is intended to facilitate staffing relief for longer periods of leave. The application of this budget is often a consideration for workers when they decide whether to take leave. This is indicative of resourcing issues preventing safety at work.

In their words:

“You are expected to never say no, no matter what the personal cost is. Every constituent that comes through our doors must be fully serviced, even though we don’t have the resources to do so. The only time I’ve ever been yelled at has been when my boss has thought I said no to a constituent.”

Asymmetric power imbalance in politics

Power dynamics continue to play out in interactions, behaviours, and expectations among and between colleagues, senior staff and parliamentarians. Behaviours may include demeaning and undermining behaviour, being shouted at or humiliated, being excluded from meetings, intimidation, complaints being dismissed, or being told to ‘deal with it,’ as well as more serious behaviours and further extreme behaviours include sexual harassment, stalking and assault.

There is a distinct culture within parliamentary workplaces and politics to minimise and keep quiet instances of bad behaviour, given reputational and electoral risks to the individuals concerned and the political party. As a result, the culture reinforces and normalises such behaviours and practices. The more difficult problem concerns the almost complete lack of accountability mechanisms when it comes to parliamentarians engaging in inappropriate behaviours. This is a significant problem requiring genuine attention and action in the context of this Inquiry.

While some will argue this is the nature of politics, this seems to be an easy excuse or cop out. Other Australian workplaces and industries, including most notably the legal and medical professions, facing similar hierarchical workplace/ training structures and power imbalances have recognised the risk and are attempting to overcome them. It is time parliamentary workplaces did the same.

Leadership

Some MoP(S) Act employees have observed that there is a distinct lack of leadership skills exhibited by some parliamentarians. Being a good parliamentarian does not mean you are equipped with the managerial skills needed to manage a small and complex workplace. Some parliamentarians have not developed or had the opportunity to develop the necessary skills to lead a workplace, to model and set expectations about behaviours, or to set the tone to address important issues such as the workload pressures that their staff face, and the prevention of sexual harassment and workplace bullying. Parliamentarians must be assisted to develop and strengthen such skills, as a lack of leadership in the workplace will only heighten other existing risk factors.

Lack of diversity and inclusion

The current make-up of the Australian Parliament does not come close to reflecting the diversity of the Australian population, its breadth of talent and experience. While a lack of diversity in the Australian Parliament is a shortcoming affecting the strength of our democracy, lack of diversity within parliamentary workplaces is a genuine risk factor for serious harms of sexual harassment and assault, discrimination, bullying, and harassment. There is clear data on the lack of women in senior positions, however, there is an absence of data or measurement of other forms of diversity.

The CPSU notes while female employees make up a significant portion of the workforce (approximately 57%), this same make up is not reflected in senior leadership positions. At the Chief of Staff 1, Senior Advisor 1 and Senior Media Advisor 1 levels: 36% of positions are undertaken by female employees; at the Senior Advisor 2 and Senior Media Advisor 2: 32% of positions are undertaken by female employees; and Chief of Staff, Senior Media Advisor 3, Senior Advisor 3, Principal Advisor: 26% of positions are undertaken by female employees.⁷

At 4 June 2021, MaPS reported there were 2155 employees covered by the Members of Parliamentary Staff Enterprise Agreement. Of those 2155 employees, MaPS identified 5% of employees were under the age of 21; 33% over the age of 45 with 62% of employees between the age of 22 and 45.⁸

MoP(S) Act employees have shared concerns with us that in addition to a lack of gender diversity at senior levels, there is a lack of other forms of diversity amongst parliamentary staff, and on investigation it has become apparent that no data is collected in this respect. The CPSU understands MaPS does not formally hold or seek data regarding diversity metrics including employees that identify as LGBTQIA, Aboriginal and Torres Strait Islander, a person with disability, or those of culturally and linguistically diverse backgrounds. This information may be kept separately by individual parliamentarians, however there is no central repository for diversity metrics. This lack of measurement is a significant gap for improving diversity and inclusion and for

⁷ This information was provided to CPSU by MaPS in bargaining. Data is accurate as at 27 November 2020.

⁸ This information was provided to the CPSU as part of bargaining and Fair Work Commission approval for the MoP(S) Enterprise Agreement.

developing measures to better prevent and respond to workplace bullying and sexual harassment including for vulnerable groups.

The AHRC's Respect@Work Report recognises that people experiencing 'intersecting' forms of discrimination may as a consequence experience sexual harassment at higher rates, and for the same reason make it harder to report. This includes employees who identify as Aboriginal and Torres Strait Islander, people with disability, LGBTQIA, gender diverse and people of culturally and linguistically diverse backgrounds.

MoP(S) Act employees have observed that individuals falling into these vulnerable groups are at heightened risk of being subject to sexual harassment and assault, but their experiences are not often reflected in the way these issues are viewed and discussed in the workplace, and that compounds the previously stated barriers to action or reporting.

The CPSU is aware of male MoP(S) employees who have experienced sexual harassment and assault, and have observed that they do not see their experience reflected in workplace, media and/or other relevant public discussions of these issues, again compounding those barriers.

There has been much public discussion of the Australian Parliament House not being a family-friendly workplace for parliamentarians who have young babies and children, this is also the case for MoP(S) Act employees. The current nature and demands of the role have not been adapted to accommodate a carer's responsibilities. For example, the current culture and expectations of a political staffer include unsociable work hours, travel, and attendance at out-of-hours events to progress your career. MoP(S) employees with caring responsibilities face additional barriers to accessing flexible work arrangements available to workers in most other modern Australian workplaces such as access to part-time work, job-share, work from home, compressed hours, and time off in lieu (TOIL).

In their words:

“There are so many unspoken rules that are hard and if you are from a minority group you are less likely to have someone to help navigate you through the system, and you have to learn by making mistakes and it is all about access. Not only a reluctance to change the systems but also a reluctance to admit they might need to be changed.”

Current systemic weakness in WHS process and supports

Lack of worker engagement and consultation

Sexual harassment, workplace bullying and harassment are serious and insidious issues in parliamentary workplaces. The prevalence of these harms is common knowledge among former and current workers, yet until the Foster Review and Independent Inquiry there has been a distinct lack of recognition by MaPS and parliamentarians generally to address the broad nature of these issues and their prevention.

The Work Health and Safety Act (2011) (WHS Act) does not expressly prohibit sexual harassment and bullying. However, it does impose a positive duty on employers (i.e., person conducting a business or undertaking (PCBU) and office holders) to eliminate, minimise or manage risks to a worker's health including their psychological health and therefore sexual harassment and bullying. Importantly, the WHS Act provides for worker consultation, representation and participation in such matters.

Under the WHS Act, it is the PCBU's primary duty to identify, control and address risks so far as reasonably practicable, which may affect both physical and psychological health of workers.

Safe Work Australia provides guidance on how to determine what is reasonably practicable to meet health and safety requirements in general. More recently, Safe Work Australia has published national guidance materials on preventing workplace sexual harassment.

In the current context, MaPS and parliamentarians have shared duties as the PCBU, to eliminate, minimise and manage risks to workers' health and safety, including from potential incidents of sexual harassment and bullying.

For many years, the CPSU has attempted to engage with MaPS about the prevalence of sexual harassment, assault and bullying and their prevention. These attempts have frequently been met with resistance, and an unnecessarily combative environment has developed. It is only through the CPSU's organising and advocacy that a bullying and harassment policy was finally rewritten to include reference to sexual harassment in 2018, albeit at the time a stand-alone sexual harassment policy was not agreed by MaPS (and parliamentarians). Additionally, the CPSU won MaPS' agreement to include these issues as a standing item for discussion in each Work Health and Safety Committee meeting.

More recently, the CPSU has pursued in enterprise bargaining a 'Sexual Harassment and Gendered Violence Mitigation in the Workplace' model clause (*Attachment A*), with the aim of securing MaPS' (and parliamentarians') agreement for a worker-led risk mitigation plan for these risks. Despite broad worker support for the claim, MaPS (and parliamentarians) refused to adopt the clause.

In 2020-21, the CPSU formed a steering group of members to work together to address sexual harassment and gendered violence in their workplace. CPSU members, led by the steering group, pushed for an independent inquiry into parliamentary workplaces, including the Australian Parliament House. CPSU members have taken action to demand the government adopt the 55 recommendations of the Respect@Work Report. The CPSU notes that the government has responded to the Respect@Work Report, however key recommendations have still not been adopted. The steering group has been critical in setting goals and expectations of the CPSU to work facilitatively and collaboratively with all stakeholders to mitigate the risks and build safe parliamentary workplaces. The steering group and broader membership expect that the union advocate for worker-led mitigation and drive our contributions to inquiries and opportunities such as this independent inquiry. In addition, the CPSU held a mass member meeting at Australian Parliament House earlier this year where over 100 MoP(S) Act and other Parliament House employees endorsed an open letter (*Attachment B*) stating what action was required to make their workplaces safer. These demands include:

1. An independent and confidential complaints process, which is victim-centric, that staff can have confidence in, and that ensures there are consequences for poor behaviour;
2. A safe workplace that guarantees workers' workplace health and safety rights, that includes mandatory training for parliamentarians and staff, safe reporting mechanisms, and data reporting to workplace health and safety committees or equivalent;
3. Provisions to mitigate gendered violence and sexual harassment agreed to in the MOPS Enterprise Agreement [currently under negotiation at the time], and in the current workplace health and safety policies for the Department of House of Representatives, Department of the Senate, Department of Parliamentary Services, Department of Finance and Parliamentary Budget Office, until they can be inserted into relevant industrial agreements;
4. Appropriate, specialised, and ongoing support services for all workers in Parliamentary workplaces; and
5. The immediate implementation of the 55 recommendations of the Respect@Work report.

There has been no shortage in CPSU delegate, HSR and member efforts to raise the issues of sexual harassment and assault, bullying and harassment and discrimination with MaPS (and parliamentarians). The CPSU will continue to advocate for action in respect of these issues and seek collaboration and openness with relevant stakeholders when it comes to implementing the recommendations of both the Foster Review and Jenkins Inquiry. The CPSU's letter to Minister Birmingham seeking consultation on the recommendations of the Foster Review is annexed to the submission (*Attachment C*).

The lack of union and delegates' rights in the workplace, such as the dismissive attitude outlined above, and the absence of formal delegates' rights in the Enterprise Agreement, has significantly contributed to the creation of an unsafe workplace.

Training and induction inadequacies

In December 2020, the CPSU conducted a survey of MoP(S) employees to better understand their experiences of workplace bullying and sexual harassment and current systems in place to prevent and respond to such incidents.⁹The CPSU's survey of MoP(S) Act employees found:

- 55% of respondents strongly agreed or agreed that training on sexual harassment is a priority for MaPS.
- 31% of respondents agreed that MaPS have made workers aware of what behaviours constitute sexual harassment and gendered violence.
- 14% of respondents had attended training on sexual harassment in the last 12 months.
- 23% of respondents had attended training on bullying in the last 12 months.
- 28% of respondents agreed that expected workplace behaviours are covered in their induction.
- 16% of respondents were aware of additional training and supports for managers regarding sexual harassment and gendered violence.
- 44% of respondents strongly agreed or agreed that managers talk to staff about workplace bullying and harassment and expected behaviours.

The survey findings reflect a low prioritisation of workplace sexual harassment and bullying training. MoP(S) employees have indicated current training modules are inadequate and there is a need for customised, facilitated training. There is a need for specific awareness on what constitutes sexual harassment and bullying, how to report should a worker be personally affected or witness an incident, what are the complaint handling process and outcomes, and what can an individual expect in terms of support from MaPS. In addition, there must be specific and mandatory training for managers, senior staff and parliamentarians and bystander training for all individuals working in parliamentary workplaces. Leaders must encourage all their staff to attend and provide paid time for this to occur.

Lack of support for victims of harm

MoP(S) Act employees have identified significant gaps in the level of support offered to victims of sexual harassment and/or bullying and harassment incidents in the workplace. The feedback below is consistent with the feedback provided to the Foster Review earlier this year. Identified gaps include:

- The victim is provided no access to trained counsellors or specialised support outside of employee assistance program (EAP). EAP has been described by employees as not fit for purposes of serious workplace incidents. This was until the Parliamentary Support Line was introduced in March 2021 following media reports on serious incidents in parliamentary workplaces.

⁹ Ninety-eight MoP(S) Act employees completed the survey; 75 female, 22 male and 2 non-binary.

- The complainant often will experience difficulties accessing information about the status of their own complaint, having to rely on FoI application to access their own files.
- There is a need for more comprehensive, wrap around trauma informed support throughout any investigative process and on-going support while an individual continues to recover from any incident.
- There is a need for face to face support, as well as support via a Helpline, and that support must be independent of MaPS and parliamentarians, guaranteeing confidentiality.
- While MoP(S) employees note the availability of internal party support, it is important to understand that not all individuals will have access or be able to rely on such supports given the isolation and size of some parliamentary offices, and the nature of some roles.

The CPSU notes the recommendations of the Foster Review have touched on most of these concerns. The CPSU will provide further comment on the Foster Reviews recommendations in our second submission.

Barriers to reporting

MoP(S) Act employees have identified significant barriers to reporting incidents of workplace sexual harassment, bullying and harassment and other inappropriate behaviours. This is consistent with the feedback provided to the Foster Review earlier this year. Identified barriers include:

- Lack of clarity on reporting a serious incident, including how and who to report to.
- A complicated system of reporting, including the use of an outsourced service provider where there is a lack of clarity on that provider's role in reporting. This is particularly significant in what might be termed a low level incident. MoP(S) Act employees report that they consider reporting something and then get frustrated by the system so forgo a complaint.
- Lack of confidence that a report by an employee will be treated impartially, i.e., significant perception of MaPS bias towards the parliamentarian.
- Employees' concern (real and perceived) for their own career development, as well as job security given the precariousness of MoP(S) Act employment arrangements.
- Employee's loyalty to parliamentarian and political party acts as a key factor in not disclosing – therefore the individual bears the burden of the harm, this can be prevalent in instances which should be reported to the AFP.
- Lack of confidence in a complaint being handled confidentially and sensitively by MaPS.
- Where a matter concerns a parliamentarian, MoP(S) employees have expressed the view that MaPS is powerless to sanction any parliamentarian, so there is a sense of hopelessness and futility with any process.
- Hopelessness in relation to ability to change entrenched hierarchical structures within parliamentary workplaces and embedded cultures which protect 'high value' employees and parliamentarians.

- The absence of reporting codes and definitions of what would constitute an incident, risk or hazard prevents reporting.

The CPSU has been advised of situations where reporting has negatively impacted employees' careers. It is not uncommon, once a complaint has begun to be aired for the process to become about getting the worker a payout or moving them on in a way that limits damage to their employer. In some cases, employees will be required to sign non-disclosure agreements on termination of their employment.

The CPSU notes the recommendations of the Foster Review touch on some of these concerns. The CPSU will provide further comment on the Foster Review's recommendations in our second submission.

Safety and security at Australian Parliament House

Some MoP(S) Act employees have raised concerns about the actual physical safety and security risks of working at Australian Parliament House. There has been commentary about risks of working late, particularly when the Senate is sitting late, and available support for staff and concerns about the inadequate level of communication by the Department of Parliamentary Services (DPS) to visiting MoP(S) Act employees. DPS will send out communications about some risks and incidents, and not others. For example, staff are not aware of any plan or testing for potential terrorist threats, none of which have been communicated to MoP(S) Act employees. Some MoP(S) Act employees have expressed a lack of clarity on reporting a WHS incident when it occurs in APH, how to go about and to whom.

Conclusion

The CPSU has welcomed this opportunity to make a submission in this critical independent Inquiry to prevent and better respond to and address sexual harassment and assault, bullying, harassment and discrimination in Commonwealth Parliamentary workplaces. As indicated, the CPSU will be providing a subsequent submission that will address proposed solutions that the Jenkins Inquiry could recommend to mitigate these risks and create safer workplaces.

Attachment A



Sexual harassment and gendered violence mitigation in the workplace

1. The Department of Finance (DoF), Ministerial and Parliamentary Services (MaPS) and the Commonwealth recognise that sexual harassment, gendered violence, third party violence and bullying are all serious health and safety hazards;
 - 1.1. That unique risks and hazards exist in the employment of Members of Parliament Staff (MoPS) including but not limited to the asymmetrical power structures of the workplace and obstacles that exist in reporting incidents.
 - 1.2. That no worker should experience these hazards.
 - 1.3. The Department of Finance and the Commonwealth have an obligation to provide a working environment that is safe and without risk to health and safety. This obligation includes a requirement to take all reasonable steps to remove sexual harassment, gendered violence, third party violence and bullying from the workplace.
2. Definition: Sexual harassment and gendered violence is any behavior, action, system or structure that causes physical, sexual, psychological or economic harm to a worker because of their sex, gender, sexual orientation or because they don't adhere to dominant gender stereotypes.
 - 2.1. Gendered violence includes but is not limited to:
 - Violence experienced by women because they are women
 - Violence experienced by a person because they identify as LGBTQTI
 - Witnessing gendered violence directed at somebody else, such as a co-worker.Examples of sexual harassment include but are not limited to:
 - Stalking
 - Intimidation or threats
 - Verbal abuse
 - Ostracism or exclusion
 - Rude gestures
 - Offensive language and imagery
 - Put downs
 - Being undermined in your role or position
 - Sexual harassment
 - Sexual assault or rape
3. Measures to address sexual harassment: gender inequalities, asymmetrical power imbalances, homophobia, and transphobia drive sexual harassment and gendered violence at work. Sexual harassment and gendered violence can be perpetrated by those who are third parties to the workplace, and those who are internal

to the workplace – clients (including constituents), work peers, managers, and Parliamentarians.

4. The Department of Finance will therefore take positive steps to:
 - Eliminate gender inequalities that exist in the workplace
 - Eradicate cultures of sexism and misogyny
 - Eradicate homophobia and transphobia; and
 - Promote ease of reporting around such hazards.
5. Addressing cultural factors and policies that underpin sexual harassment and gendered violence will assist in preventing and eliminating that violence. This includes developing risk mitigation plans which are inclusive of all stakeholders and addressing issues of underreporting of sexual harassment and gendered violence in the workplace.
6. Addressing policy and culture which underpin sexual harassment and gendered violence will assist in preventing and eliminating that violence.

The Department of Finance therefore agrees to put in place an action plan. This action plan will be developed in consultation with employees and their relevant union representatives, within six months of the coming into effect of this agreement. The plan will be designed to:

- 6.1. Eliminate gender inequalities that exist in the workplace.
- 6.2. Risk mitigate around issues of asymmetrical power imbalances that make people unsafe at work.
- 6.3. Mitigate the risks associated with cultures of sexism and misogyny; eradicate workplace homophobia.
- 6.4. Ensure that job design and systems of work do not cause or increase the risk of sexual harassment and gendered violence or perpetuate gender inequality.
- 6.5. The action plan will give specific attention to mitigating third party violence.
- 6.6. The action plan will assess and address the risk of exposure to sexual harassment and gendered violence:
 - In the work environment, with a clear definition of the work environment.
 - In the way work is designed and managed.
 - In the workplace policies and procedures and practices, which will be developed in consultation with employees and the CPSU and other nominated employee representatives.
7. Assessment of Action Plan Implementation
 - 7.1. Progress on the implementation of this action plan will be a standing item for discussion at the Employee Consultative Group and the Workplace Health and Safety Committee.
 - 7.2. The action plan will have monitoring and evaluation guidelines to ensure best practice implementation.

- 7.3. The action plan will include the possibility to provide recommendations on risk mitigation.
8. Allocation of resources to deal with sexual harassment and gendered violence in the workplace.
 - 8.1. The Department of Finance will provide adequate resourcing for the development of a risk assessment and risk mitigation plan.
 - 8.2. Assess the sexual harassment and gendered violence risks in the workplaces including Australian Parliament House and Electoral Offices. The Department of Finance will develop a strategy to remove these risks in conjunction with employees, the CPSU and other relevant union/s.
 - 8.3. Development of guidelines: The Department of Finance will develop and publish guidelines on solutions to overcome sexual harassment and gendered violence in the workplace. Ensuring that data including incident reports pertaining to sexual harassment and gendered violence are recorded in order to assist in and identify instances of sexual harassment and gendered violence and to review progress towards achieving a sexual harassment and gendered violence free workplace. This data will be made available to the Employee Consultative Group, and the workplace health and safety committee. The relevant union/s will also have access to this data. Guidelines will be developed to be consistent with this clause and other relevant industrial policies.
 - 8.4. The Department of Finance acknowledges that correct reporting on the instances of violence in the workplace ensures all responsible parties can better mitigate the risks. Incident reports should be maintained and recorded. Quarterly WHS reports should report on instances of sexual harassment and gendered violence in the workplace.
 - 8.5. The Department of Finance will undertake to communicate to all MoPS employees how to report incidents of sexual harassment and gendered violence in the workplace. This undertaking will include: mandatory gendered violence training for Parliamentarians and senior staff, visible posters in all workplaces with clear instructions on how to report and updating of intranet pages and policy handbooks.
9. Gendered Violence and Sexual Harassment contact persons: The Department of Finance will identify contact people throughout the organisation in consultation with employees, the CPSU and other relevant unions. All gendered violence and sexual harassment contact persons will receive training on: the operation of this clause, the operation of other industrial instruments which interact with this clause, understanding gendered violence and sexual harassment as a serious health and safety issue, and; how to respond to and report incidences of gendered violence and sexual harassment.
10. Parliamentarian and senior staff training: The Department of Finance will facilitate training for Parliamentarians and senior staff about the operation of this clause.

11. Employee training and inductions: The Department of Finance will undertake to provide training for all workers employed under the Members of Parliament (Staff) Act 1984 as part of the organisational commitment to eradicate sexual harassment and gendered violence in the workplace. The Department of Finance will ensure all new workers receive training on the operation of this clause and ensure all new workers understand the Department's commitment to achieving a safe workplace for all.
12. Department of Finance commits to ensuring that no adverse action will be taken on any employee who reports sexual harassment or gendered violence. No adverse action will be taken on any employee who experiences sexual harassment or gendered violence at work. No adverse action will be taken on any employee whose performance or attendance suffers as a result of them experiencing or witnessing sexual harassment or gendered violence in the workplace.
13. Treatment of risks or reports. Any action the Department of Finance takes to stop or address sexual harassment and gendered violence in the workplace and associated risks will:
 - Effectively and efficiently deal with instances of sexual harassment or gendered violence without blaming or persecuting the victim; address the behaviours that constitute sexual harassment and gendered violence.
 - Reinforce that the perpetrator is responsible for their behaviour and choices.
 - Ensure reporting and investigative processes are efficient, confidential and do not harm or penalise those employees who have experienced sexual harassment or gendered violence in the workplace.
 - Ensure that the investigative processes apply the principles of natural justice and procedural fairness, and do not penalise or cause further harm to employees who have experienced or witnessed sexual harassment and gendered violence.
 - Allow any employee who is involved in an investigative process to have access to a representative of their choosing.
 - A worker or group of workers who experience or witness sexual harassment may if they choose raise the issue as a dispute in accordance with the dispute resolution procedures of this Enterprise Agreement.
14. Support for workers who have experienced workplace sexual harassment or gendered violence: The Department of Finance will:
 - 14.1. Ensure that any worker who has experienced sexual harassment or gendered violence will have access to appropriate counselling services. Including that they can access counselling services on paid time. And have access to their representatives on paid time.
 - 14.2. Ensure that information about services available is readily visible throughout the workplace including posters and updates to the intranet.
15. Operation of this clause:
 - 15.1. Policies and procedures and industrial instruments will be updated to ensure they are consistent with the operation of this clause.

Attachment B

Open Letter from CPSU members in Parliament House

We're CPSU members and workers in Parliamentary Offices.

We deserve to be safe and respected in our workplace.

The revelations of widespread gendered violence of the last month have been deeply disturbing and have impacted many of our colleagues.

The work we do for our democracy is incredibly important, but our workplaces have significant power imbalances, which at times allows bullying, sexual harassment, and sexual assault to fester and go unpunished.

There is an intense national public debate about issues of sexual assault and sexual harassment in our workplace. We are workers, and like all workers, we deserve to be safe at work. As unionists we will work together through our union to make sure our voices are heard.

We want:

1. An independent and confidential complaints process, which is victim-centric, that staff can have confidence in, and that ensures there are consequences for poor behaviour;
2. A safe workplace that guarantees workers' workplace health and safety rights, that includes mandatory training for parliamentarians and staff, safe reporting mechanisms, and data reporting to workplace health and safety committees or equivalent;
3. Provisions to mitigate gendered violence and sexual harassment agreed to in the MOPS Enterprise Agreement currently under negotiation, and in the current workplace health and safety policies for the Department of House of Representatives, Department of the Senate, Department of Parliamentary Services, Department of Finance and Parliamentary Budget Office and other APS agencies, until they can be inserted into relevant industrial agreements;
4. Appropriate, specialised, and ongoing support services for all workers in Parliamentary workplaces; and
5. The immediate implementation of the 55 recommendations of the Respect@Work report.

There are now multiple reviews and processes underway examining workplace culture in Parliament House and associated workplaces.

It is incumbent on the Government, all political parties, parliamentarians, parliamentary departments, and APS agencies to act now in the interests of workers in Parliament House.

We want action.

Endorsed by Meeting 5.30pm.

Attachment C



Community and Public Sector Union
Melissa Donnelly – National Secretary

25 May 2021

Senator the Hon Simon Birmingham
Minister for Finance
Leader of the Government in the Senate
Parliament House
CANBERRA ACT 2600

By email: financeminister@finance.gov.au

Dear Minister Birmingham,

I am writing to you in relation to the outcomes of the Foster Report announced this morning.

CPSU members, Work Health and Safety Representatives and delegates have long advocated for positive measures to improve the workplace safety of Parliamentary workplaces.

The CPSU first proposed mandatory training for sexual harassment and bullying in 2017 when seeking improvements to workplace policies on these matters. The Department of Finance rejected our proposal.

Indeed, the CPSU has consistently advocated for mandatory training, improved support for staff and an independent, confidential complaints mechanism for staff.

The CPSU, therefore, welcomes the Foster Report recommendations on these matters. It is, however, crucial that employees and the union are consulted on the proposals arising from the Foster Report and their implementation.

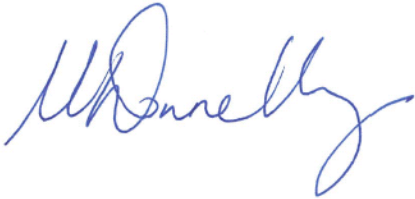
Accordingly, the CPSU requests that the Foster Report be released to staff and their union. We also request a detailed briefing on the Report's recommendations and the work already undertaken to give effect to those recommendations.

Finally, the CPSU again raises our concerns with the Government's response to our sexual harassment and gendered violence mitigation in the workplace claim in MOPS bargaining. The

Government's response to this clause does not adequately address the concerns of employees or the union. It is unfortunate that the draft Enterprise Agreement to be voted on next week does not make material steps to make Parliamentary workplaces safer.

I look forward to hearing from you in relation to these matters.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M Donnelly', with a stylized, cursive script.

Melissa Donnelly
CPSU National Secretary