

Dealing with Toxic Parliaments: Lessons from Elsewhere

Marian Sawer¹

Emeritus Professor, School of Politics and International Relations, Australian National University.

Abstract In February 2021, Brittany Higgins set in motion a wave of protest in Australia concerning women’s experience of Parliament as a workplace. The way her claim of rape in a Minister’s office was treated made it clear the Parliament of Australia was lagging behind reforms taking place elsewhere. In the wake of the 2017 #MeToo movement, women have been emboldened to reveal their experience of Parliament as an unsafe workplace. The problems are widespread due to the unique structure and nature of parliamentary employment coupled with partisan dynamics. This article examines steps taken by other Parliaments, including those in Canada, New Zealand and the United Kingdom, to deal with issues of bullying and sexual harassment and the pitfalls encountered. It ends with some recommendations flowing from lessons learned.

INTRODUCTION

In 2003, the Australian Senate amended its Standing Orders so that breastfeeding Senators could be present in the chamber and their babies would no longer be treated as ‘strangers’. For a while it looked as though the Parliament of Australia might be taking a lead in creating a more inclusive workplace. But 16 years later, when an alleged rape took place in a Minister’s office, it was clear that Australia had lagged behind reforms taking place in other Parliaments.

¹ An early, shorter version of this article appeared in *Inside Story*, 1 March 2021.

This article will address the new international norms concerning Parliament as a workplace and examine the ways in which comparable Parliaments are addressing problems such as sexual harassment, now found to be ubiquitous. For the purposes here, sexual harassment will be taken to include all forms of unwelcome conduct in the workplace that is of a sexual nature. Such conduct is now widely understood to create a hostile work environment and to interfere with work performance. The naming of this conduct as sexual harassment and its identification as a form of sex discrimination for which a legal claim can be made dates from the 1970s and an influential book by the American legal scholar Catherine A. MacKinnon.²

Australia was a pioneer in explicitly including sexual harassment as unlawful conduct under its 1984 *Sex Discrimination Act* and it became the most common ground of complaint under the Act. The most recent national survey by the Australian Human Rights Commission has found that one in three people had experienced workplace sexual harassment in the past five years.³ However, politicians appeared to be exempt from the provisions of the federal Act because they were not technically the employers of staff, although they had hire and fire powers.

The 1994 Griffiths scandal in NSW, when nine former staff of the Police Minister made allegations of sexual harassment against him, led to a Commission of Inquiry which recommended a similar loophole in the NSW *Anti-Discrimination Act* be closed. The inquiry regarded it as essential that Members of Parliament (MPs) be covered by the same workplace rules as other employers and the NSW Act was amended in 1997 to 'prohibit sexual harassment, to ensure that Ministers and other Members of Parliament are liable for their own acts of sexual harassment; and for other purposes'.⁴

In South Australia, similar moves took place to close the loophole exempting MPs, judges and local councillors from prosecution for sexual harassment under the *State Equal Opportunity Act*. Sexual harassment has been found to be particularly prevalent

² Catherine A. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination*. New Haven: Yale University Press, 1979.

³ Australian Human Rights Commission, *Respect@Work: Sexual Harassment National Inquiry Report*, 2020, p.17. Accessed at: <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

⁴ Carmel Niland, *Report of the Independent Commission of Inquiry into Matters Relating to the Resignation of the Former Minister for Police and Minister for Emergency Services, Terry Griffiths MP*. Sydney: The Committee, 1994, p. 27. See *Anti-Discrimination Act 1977 (NSW)*, s22B.

when women have entered traditionally male industries such as construction or mining. However, when women entered the traditionally male institutions of Parliament and the courts and were treated as ‘space invaders’, they lacked the legal remedies available elsewhere. A woman Minister in the South Australian Government, the Hon Jennifer Adamson, took up the issue of sexual harassment after personal experience of being humiliated when she was a new MP. She was pinched on the bottom, not only once but again after she objected, by a male MP in the Members’ Dining Room.⁵

The Parliament of Australia, however, failed to follow initiatives at the state level to ensure that judges and Members of Parliament were personally liable for sexual harassment, despite recommendations from the Australian Human Rights Commission. This was painfully exposed in early 2021 when former ministerial staffer Brittany Higgins made her explosive allegations. Higgins’ courage in speaking out inspired revelations by other women MPs and staffers and demonstrations by some 100,000 women and men around Australia, bringing the issue firmly onto the policy agenda. In response, Independent MP, Zali Steggall, introduced a Private Member’s Bill, The Sex Discrimination Amendment (Prohibiting all Sexual Harassment) Bill 2021, seconded by another Independent MP, Dr Helen Haines. The Prime Minister, however, responded that the Government would await the findings of an independent review of the parliamentary workplace before assessing the issues raised in the Bill.⁶

There is a long history in Australia of devoting a stage in the policy development process to the study of how other countries have addressed a problem that has arrived on the policy agenda. The introduction of old-age pensions is a good example. Learning from other jurisdictions can be extremely helpful and is my focus in this article.

THE NATURE OF THE PROBLEM

In the 1990s, the representation of women in Parliament became a priority issue on many international agendas and the under-representation of women became accepted as an indicator of democratic deficit. The global movement for candidate quotas

⁵ Bunty Parsons, ‘Drunken MP and a Pinch Triggered Her Crusade’. *The Advertiser*, 4 August 1980.

⁶ Scott Morrison, *Commonwealth Parliamentary Debates*, House of Representatives, 23 March 2021, p. 22.

contributed to an increased presence of women in Parliament but by the second decade of the 21st century it was being discovered that increased presence did not necessarily amount to equal rights at work for either women MPs or staff.

The increased presence of women MPs, has sometimes meant that long-standing traditions of parliamentary behaviour, including aggressive debating styles and personalised attacks, have taken on newer sexist forms, whether in *sotto voce* commentary in the chamber or sexualised images and threats in social media. Failure by the Parliament of Australia to uphold non-sexist standards and denounce the circulation of sexually explicit material about Julia Gillard while she was Prime Minister has been described as an attack on her rights at work.⁷ Online sexual harassment and trolling has become a common experience of women MPs and one that is difficult to deal with.⁸ Inside the Parliament, one Senator remarked there was behaviour one might expect in a nightclub rather than in a workplace.⁹

Apart from parliamentary culture, another longstanding tradition, that of parliamentary privilege, is also a possible constraint on action to deal with offensive speech and behaviour. It was invoked in a court case brought by Senator Sarah Hanson-Young after she was told by another Senator at the conclusion of a vote that she should stop shagging men. Parliamentary privilege was also raised in Canada as one of the main obstacles to a new code of conduct to combat harassment between Members of the Canadian House of Commons.¹⁰

For women staffers, the precarious and very unequal nature of employment relationships, high pressure, long hours and the demands of party loyalty have made workplace bullying and harassment a common feature of the parliamentary workplace.

⁷ Anne Summers, 'Her Rights at Work: The Political Persecution of Australia's First Female Prime Minister'. *The Economic and Labour Relations Review* 23 (4) 2012, pp. 115–126.

⁸ Kate Ellis, *Sex, Lies and Question Time*. Melbourne: Hardie Grant Books, 2021, Ch.5.

⁹ Katina Curtis, 'Senator Thorpe Tells of Harassment by MPs'. *The Age*, 24 March 2021, p. 4.

¹⁰ Cheryl N. Collier and Tracey Raney, 'Understanding Sexism and Sexual Harassment in Politics: A Comparison of Westminster Parliaments in Australia, the United Kingdom and Canada'. *Social Politics: International Studies in Gender, State and Society* 25(3) 2018, p. 439. See also Tracey Raney and Cheryl N. Collier, 'Privilege and Gendered Violence in the Canadian and British Houses of Commons: A Feminist institutionalist Analysis'. *Parliamentary Affairs* 2021. doi: 10.1093/pa/gsaa069

¹⁰ House of Commons, Canada, *Members of the House of Commons Workplace Harassment and Violence Prevention Policy*, 28 January 2021.

Surveys of staffers repeatedly find that a significant number report experience of bullying or harassment. For example, a large survey of workers in the Scottish Parliament, found that 30 percent of female respondents and six percent of male respondents reported having experienced sexual harassment, a figure similar to that found in surveys of the New Zealand and South Australian parliamentary workplaces.¹¹ Regardless of who is the legal employer, Members of Parliament generally have the right to hire or fire their staff, creating a huge power imbalance. On top of this, many newly elected MPs have little or no previous experience as an employer.

The New Zealand parliamentary survey found that, in the perception of many respondents, the power imbalance is not only between parliamentarians and their staff but also between parliamentarians and the human resources (HR) area of the legal employer of these staff, the parliamentary Service. For example: ‘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”’.¹²

In Australia, a February 2021 survey conducted by the Community and Public Sector Union of Members of Parliament (Staff) employees found similar beliefs about the reluctance of HR in the Department of Finance, the legal employer, to stand up to MPs guilty of misbehaviour. Over 80 percent of survey respondents said they didn’t know if the Department of Finance, ‘would support them if they reported bullying or harassment in the workplace’.¹³

Unlike others with responsibility for employees, politicians are elected representatives who cannot generally be dismissed for bad behaviour. Accountability is largely left to

¹¹ Scottish Parliament, Sexual Harassment and Sexist Behaviour Survey, Final Report, February 2018, p. 3. Accessed at:

https://archive2021.parliament.scot/StaffAndManagementResources/10130_Sexual_Harassment__Sexist_Behaviour_Survey_-_Final_Report_260218.pdf; Debbie Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, External Independent Review, May 2019, p. 37. Accessed at: <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/corporate-documents/independent-external-review-into-bullying-and-harassment-in-the-new-zealand-parliamentary-workplace-final-report/>; Government of South Australia, Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, February 2021, p. 23. Accessed at: <https://eoc.sa.gov.au/review-harassment-south-australia-parliament-workplace>

¹² Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, p. 17.

¹³ Shannon Jenkins, ‘Political Staffers Don’t Trust Their Bosses to Investigate Sexual Harassment Reports Impartially’. *The Mandarin* 26 February 2021. Accessed at: <https://www.themandarin.com.au/150166-political-staffers-dont-trust-their-bosses-to-investigate-sexual-harassment-reports-impartially-cpsu-survey-finds/>

their parties or to their constituents at election time. This is true not only of national and subnational Parliaments but also of transnational Parliaments such as the European Parliament, where MEPs may employ three or sometimes four ‘accredited parliamentary assistants’, who often travel with them and whose contracts may be terminated at any time if there is a loss of trust.¹⁴

The after-hours networking that is often part of political work, together with receptions, travel and the use of alcohol, may blur professional and personal boundaries and lead to unsafe work conditions for women. While young women are particularly vulnerable, women in positions of power are not immune; subordinates or colleagues may resort to harassment as a ‘power equalizer’.¹⁵

The consumption of alcohol, reflecting the persistence of a ‘men’s club’ culture in Parliament, is frequently mentioned as aggravating the risks for women. After-hours drinks or functions form an extension of the parliamentary workplace. Survey respondents have called for policy limits around alcohol consumption in the parliamentary precinct and also while travelling offsite with MPs.¹⁶

The structural problems of the parliamentary workplace are exacerbated by the relatively large numbers of political staff to be found in the Australian Parliament. For example, at the beginning of 2019 the Australian Government had over 450 publicly funded staffers (not counting electorate staff) compared with the UK Government’s 99 ‘special advisers’, despite the UK’s population being two and a half times larger.¹⁷ Within Australian political staff, women have been under-represented in senior policy roles and more likely to be allocated support roles, contributing to vulnerability.¹⁸

¹⁴ Valentine Berthet and Johanna Kantola, ‘Gender, Violence and Political Institutions: Struggles over Sexual Harassment in the European Parliament’. *Social Politics* 28(1) 2021, p. 147.

¹⁵ Heather McLaughlin, Christopher Uggen, Amy Blackstone, ‘Sexual Harassment, Workplace Authority, and the Paradox of Power’. *American Sociological Review* 77(4) 2012, pp. 625–647. <https://journals.sagepub.com/doi/10.1177/0003122412451728>

¹⁶ For example, Government of South Australia, *Review of Harassment in the South Australian Parliament Workplace*, pp. 33–34.

¹⁷ Marian Sawyer, ‘The Concept of the Level Playing Field: Assessing Fairness in Electoral Competition’. *Australian Journal of Public Administration*, 2020, p. 9. DOI: 10.1111/1467-8500.12458

¹⁸ Marija Taflaga and Matthew Kerby, ‘Who Does What Work in a Ministerial Office: Politically Appointed Staff and the Descriptive Representation of Women in Australian Political Offices, 1979–2010’. *Political Studies* 68(2) 2020, pp. 463–485.

Adversarial political cultures, such as those found in Westminster systems, are sometimes singled out for blame for the gendered harms experienced by women in Parliament. Those who wish to complain about treatment in the workplace are likely to find that protecting the party against criticism from political opponents trumps commitment to any kind of equality in the workplace.

The issue of partisanship is not just a matter of parties regarding harassment complaints as a political problem. It is also a matter of party loyalty on the part of the staffer. The 2018/19 New Zealand parliamentary survey of bullying and harassment found that personal party affiliation and the risk of a complaint being used against their party often provided ‘a disincentive to disclose’.¹⁹ The 2019 UK inquiry into bullying and harassment of parliamentary staff found similar concern that making a complaint would damage the staffer’s political party or their MP’s chance of re-election.²⁰

Separately, making a complaint was seen as damaging the career prospects of a staffer because of the need to be seen by the party as a ‘team player’.²¹ Many staffers have political ambitions and increasingly political employment is the most common pathway to elected office.²² The fact that the parliamentary workplace can be so problematic for women has direct implications for political careers and may result in a retreat from politics or foregoing career opportunities.

The culture of silence induced by partisan considerations extends beyond Westminster Parliaments. staffers often echo a response recorded in an IPU survey: ‘I didn’t want to make the incident public. I didn’t want to damage my party’.²³ The European Union

¹⁹ Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, p. 32.

²⁰ Gemma White QC, *Bullying and Harassment of MPs’ Parliamentary Staff*. Independent Inquiry Report, July 2019. https://www.parliament.uk/globalassets/documents/conduct-in-parliament/gwqc-inquiry-report-11-july-2019_.pdf See also, Government of South Australia, *Review of Harassment in the South Australian Parliament Workplace*, pp. 62–63.

²¹ White, *Bullying and Harassment of MPs’ Parliamentary Staff*, p. 29.

²² Tom McIlroy, ‘Australia’s Career Political Class: Rising Number of Australian MPS are Former Staffers and Ministerial Advisers’. *Sydney Morning Herald*, 25 March 2017. <https://www.smh.com.au/politics/federal/australias-career-political-class-rising-number-of-australian-mps-are-former-staffers-and-ministerial-advisers-20170323-gv4ne9.html>

²³ IPU, *Sexism, Harassment and Violence against Women in Parliaments in Europe*, 2018, p. 10. Accessed at: <https://www.ipu.org/resources/publications/issue-briefs/2018-10/sexism-harassment-and-violence-against-women-in-parliaments-in-europe>

has had since 2002 a legally binding Directive on Equal Treatment that defines sexual harassment as sex discrimination. However, while the European Parliament has had an Anti-Harassment Committee from 2014, five years later not a single case of sexual harassment had been investigated.²⁴

From 2017, the #MeToo movement and the number of women speaking out about their workplace experiences has emboldened women MPs and staffers around the world to reveal their own experiences of sexual harassment and gender-based violence. In the European Parliament, elected Members shared their own experiences in a debate on sexual harassment, displaying signs with #MeToo in their respective languages such as #moiaussi. Soon there was also a staff-led MeTooEP group. This published 30 anonymous testimonies of sexual harassment including harassment of young interns (<https://metooep.com>). Partisan constraints mean that it is often easier for former politicians and staffers to provide this testimony. Those still in Parliament may experience violent backlash for speaking out, including online threats and abuse.

By 2020, when the South Australian Equal Opportunity Commission undertook a review of harassment in the South Australian Parliament workplace, it was able to draw on seven international reports on harassment in parliamentary environments.²⁵ When critics dismissed such reports as ‘the cost of doing politics’, the Washington-based National Democratic Institute launched a global #NotTheCost campaign. While women from ethnic and LGBTI minorities and young and feminist women have been particular targets of gender-based violence, it acts as a more general deterrent to women’s political participation.²⁶ The effects on legislative recruitment and performance of elected representatives have motivated the Inter-Parliamentary Union (IPU) to set new standards for Parliament as a workplace.

NEW INTERNATIONAL STANDARD

The adoption in 1979 by the UN General Assembly of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) signalled the beginning of a

²⁴ Berthet and Kantola, ‘Gender, Violence and Political Institutions’, p. 148.

²⁵ Government of South Australia, Equal Opportunity Commission, *Review of Harassment in the South Australian Parliament Workplace*, p. 3.

²⁶ IPU, *Sexism, Harassment and Violence against Women in Parliaments in Europe*, p. 13.

new era of global and regional commitments to the advancement of gender equality. A large array of both intergovernmental bodies and specialised international agencies have worked to translate the normative framework created by CEDAW into standards and codes of practice, including those on the prevention of sexual harassment.

Among regional intergovernmental bodies, as we have seen, the EU extended the scope of its Directive on Equal Treatment in 2002 to cover sexual harassment in the workplace. Among international intergovernmental bodies, the International Labor Organization (ILO) now has C190—the Violence and Harassment Convention, due to enter into force in June 2021. Its Preamble recognises the right of everyone to ‘a world of work free from violence and harassment, including gender-based violence and harassment’.²⁷ Among the international agencies conducting the ‘norm work’ of translating CEDAW into governance standards have been the IPU, the Organization for Economic Cooperation and Development (OECD) and the International Institute for Democracy and Electoral Assistance (International IDEA).²⁸

The goal of achieving gender equality in public decision-making has encompassed mechanisms for increasing the legislative recruitment of women. After legislated candidate quotas were pioneered by Argentina in 1991, this approach was soon disseminated both regionally and internationally. However, the gendered nature of the parliamentary institutions to which women were gaining entry meant there were still significant barriers to equal opportunity.

Even before the IPU took up the issue, the Commonwealth Parliamentary Association had prepared a 2001 report on *Gender Sensitizing Commonwealth Parliaments*. The report defined the goal as ‘removing the barriers which inhibit the fullest participation by women’ and specified barriers including aggressive Westminster-style debating and disrespectful comments with sexual undertones.²⁹ The IPU began publishing its own

²⁷ International Labor Organization, C190—Violence and Harassment Convention, 2019. Accessed at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

²⁸ Sonia Palmieri and Julie Ballington, ‘Tools of the Trade: Feminist Governance in the Field’, in Marian Sawer, Lee Ann Banaszak, Jacqui True and Johanna Kantola (eds), *Handbook of Feminist Governance*. London: Edward Elgar, 2022.

²⁹ Commonwealth Parliamentary Association, *Gender-Sensitizing Commonwealth Parliaments: The Report of a Commonwealth Parliamentary Association Study Group*. London: Commonwealth Parliamentary Association Secretariat, 2001, ¶156. Accessed at: <http://old.agora-parl.org/sites/default/files/Gender%20Sensitizing%20Commonwealth%20Parliaments.pdf>

work on gender-sensitive Parliaments (GSP) a decade later. These standards include the responsibility of Parliaments to provide a non-discriminatory workplace and to eliminate gendered bullying and sexual harassment.

In 2012, the 127th IPU Assembly in Québec City unanimously adopted a GSP plan of action that included parliamentary staff as one of seven ‘key action areas’. The actions recommended for parliamentary staff included development and implementation of ‘anti-discrimination and anti-harassment policies applicable for all parliamentary staff, including the establishment of an independent body to which complaints can be submitted and addressed’.³⁰ This plan of action was adopted unanimously by IPU members. One member of the Australian delegation, Harry Jenkins MP, told the special session on GSP about how in the Australian Parliament the Members’ Bar had become a childcare centre and about the arrangements [in the House of Representatives] for nursing mothers to vote by proxy.³¹ Mentioning the replacement of a Members’ Bar, with its men’s club connotations, by the more inclusive childcare centre was perhaps meant to emphasise a shift in workplace culture. Nonetheless, Jenkins was unable to mention any anti-harassment policies adopted by the Australian Parliament or the need for them, despite examples given in the misogyny speech made by Australian Prime Minister Julia Gillard in the House of Representatives a few days earlier.

The IPU, the Commonwealth Parliamentary Association, the OECD and the European Institute for Gender Equality (EIGE) have all produced toolkits to assist in achieving gender equality norms in the parliamentary workplace, with examples of good practice and self-assessment methodology. Standards recommended include making explicit that sexism, sexual harassment and gendered bullying are ‘unparliamentary behaviour’ and ensuring that independent complaints mechanisms are available, whether for

³⁰ IPU Plan of Action for Gender-sensitive Parliaments. Geneva: IPU, 2012. Accessed at: <http://archive.ipu.org/pdf/publications/action-gender-e.pdf>

³¹ Parliament of the Commonwealth of Australia, 127th Inter-Parliamentary Union Assembly in Quebec City, Canada: Report of the Australian Delegation, 2013, p. 6. Accessed at: https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2FHSTP017761_2010-13%22 Note that Senators can vote in person, or indeed put forward a motion while breastfeeding, as did Senator Larissa Waters in 2017.

Members of Parliament, staff or visitors.³² The EIGE toolkit makes explicit the link between equal opportunity to participate in parliamentary work and the need for a safe working environment with protection from sexual harassment.³³

Parliaments have responded in different ways to these new international standards concerning Parliament as a workplace, as shown in surveys such as those conducted by the IPU in 2016 and 2018 and by EIGE in 2019. Numerous respondents to the 2018 IPU survey mentioned the importance of making responses to sexism and sexual harassment a non-partisan issue, to overcome the culture of silence mentioned earlier in this article. This meant the need to have codes of conduct and internal procedures within the political parties, so that complaints could be dealt with effectively without becoming partisan ammunition.³⁴

Example of codes adopted by parties include the Australian Greens anti-sexual harassment policy, adopted in 2018, the Liberal Party's national code of conduct adopted in 2019 and the Australian Labor Party's national policy for sexual harassment prevention and response, adopted in February 2021. The latter includes provision for mandatory training of new MPs and senior staff, a register of those who have received this training, and a policy of active bystander intervention.³⁵ In 2018, a federal Labor MP faced at least 44 allegations from former staff and blamed her downfall in part on the absence of training in office management.³⁶ The Community and Public Sector Union, which has coverage of political staffers, has also asked for sexual harassment prevention training as well as improved complaint procedures to be covered in the

³² Sarah Childs, *Gender Sensitizing Parliaments Guidelines: Standards and a Checklist for Parliamentary Change*. Commonwealth Parliamentary Association, 2020, p. 17. Accessed at: https://issuu.com/the-parliamentarian/docs/cwp_gender_sensitizing_guidelines

³³ Tània Verge, Nazia Chowdhury and Irina Ulcica, *Gender Equality in National Parliaments across the EU and the European Parliament*. Vilnius: EIGE, 2019, p. 12. Accessed at: <https://eige.europa.eu/publications/gender-equality-national-parliaments-across-eu-and-european-parliament>

³⁴ IPU, *Sexism, Harassment and Violence against Women in Parliaments in Europe*, p. 16.

³⁵ ALP, *National Policy for Sexual Harassment Prevention and Response*, February 2021. Accessed at: <https://www.alp.org.au/media/2348/alp-national-policy-for-sexual-harassment-prevention-and-response.pdf>

³⁶ Kylar Loussikian, 'Former Staff Reignite Husar Row'. *The Age*, 3 December 2018, p. 8.

enterprise agreement being negotiated in 2020–21, in recognition of the ‘unique risks and hazards’ created by the asymmetrical structure of the parliamentary workplace.³⁷

In Europe, the EIGE survey showed that out of the EU Parliaments surveyed, nine national Parliaments and the European Parliament had public information available about mechanisms to prevent gender discrimination, sexism and sexual harassment.³⁸ In Canada, Iceland and the European Parliament, MPs must sign a declaration committing them to contribute to a work environment free of sexual harassment. In the European Parliament, failure to do so disqualifies an MP from being appointed as a rapporteur or participating in official delegations.³⁹ The European Parliament also provides courses for parliamentarians on the management and staffing of their offices, something universally called for in reports on bullying and harassment in the parliamentary workplace.

While some Parliaments have adopted codes of conduct that explicitly prohibit sexual harassment, it has been observed that in general far less attention has been paid in parliamentary codes of conduct to gendered harms than to integrity issues such as conflict of interest.⁴⁰ Successive codes of conduct have been adopted to deal with integrity issues such as the cash-for-questions scandal in the UK House of Commons and the sponsorship scandal in Canada. The integrity focus is certainly true of Australia, where all Parliaments have registers of pecuniary interests of parliamentarians but none has a code of conduct specifying the prohibition of sexual harassment or an independent oversight body.⁴¹ The Australian Government’s Statement of Ministerial Standards, although largely concerned with integrity issues, does include a bald

³⁷ Sally Whyte, ‘Govt Rejected Sexual Harassment, Bullying Clause in Staffer Agreement’. *Canberra Times*, 18 February 2021.

³⁸ Verge et al., *Gender Equality in National Parliaments across the EU and the European Parliament*, p. 25.

³⁹ Tània Verge, ‘Too Few, Too Little: Parliaments’ Response to Sexism and Sexual Harassment’. *Parliamentary Affairs*, 2020, pp. 8–9. <https://academic.oup.com/pa/advance-article/doi/10.1093/pa/gsaa052/5917165?login=true>

⁴⁰ Verge, ‘Too Few, Too Little’, p. 9.

⁴¹ There are policies such as the Harassment Free Workplace Policy first adopted in 2013 in the NSW Parliament and the subject of mandatory training for parliamentary staff and staffers, but not apparently for Ministers or ministerial staff. See the Hon. Pru Goward, *Review of Policies and Procedures for Ministerial Offices—Bullying, Harassment, and Sexual Misconduct*, 19 April 2021, p. 45. Accessed at: <https://www.dpc.nsw.gov.au/publications/reviews/review-of-policies-and-procedures-for-ministerial-offices-bullying-harassment-and-sexual-misconduct-by-the-hon-pru-goward/>

statement (¶ 2.24) that ‘Ministers must not engage in sexual relations with their staff’. This is commonly referred to as the ‘bonk ban’ introduced by Prime Minister Malcolm Turnbull in the context of a scandal involving the Deputy Prime Minister.

WESTMINSTER RESPONSES

To date the Australian Parliament has undertaken little action to address the standards adopted by the IPU concerning sexual harassment or bullying in the parliamentary workplace, despite sending delegations to IPU Assemblies twice a year. The delay does mean, however, that it is able to draw on the experience of comparable Parliaments in addressing this common problem. Most relevant to Australia are the policies, codes of conduct and complaints mechanisms recently adopted in Canada and the United Kingdom (UK). In both countries, staffers are publicly funded but in effect directly employed by MPs with the power to hire and fire, creating the same structural problem as in Australia. The Canadian House of Commons led the way in 2014 with a policy on preventing and addressing harassment of political staffers. The policy was criticised for lack of a fully independent grievance process; staffers were required to raise matters first with their employing MP regardless of the power dynamics when employment is largely dependent on the MP’s good will.⁴²

An updated version of the Canadian policy was approved in January 2021.⁴³ The Office of the Chief Human Resources Officer has primary responsibility for training on harassment and violence prevention and all new MPs and employees are required to receive such training within three months of starting their position and again every three years. The Office also handles complaints and provides an annual report to be found on the House of Commons website. In 2019–20, it handled two complaints of abuse of authority, two of harassment and one of sexual harassment. The Canadian House of Commons has a separate code of conduct dating from 2015, dealing with sexual harassment between MPs—said to be the first such code in the world.⁴⁴

⁴² Raney and Collier, ‘Privilege and Gendered Violence’, p. 10.

⁴³ House of Commons, Canada, Members of the House of Commons Workplace Harassment and Violence Prevention Policy, 28 January 2021. Accessed at:

https://www.ourcommons.ca/Content/Boie/pdf/policy_preventing_harassment-e.pdf

⁴⁴ Raney and Collier, ‘Privilege and Gendered Violence’, p. 9.

In the wake of the 2017 ‘Pestminster’ scandal in the UK, an independent inquiry into bullying and harassment of staff was established, headed by Dame Laura Cox. Even before it reported, a behaviour code and complaints procedure were adopted by the UK House of Commons.⁴⁵ The behaviour code is now displayed widely through the UK Parliament, telling visitors, as well as those working in the Parliament, that if they have experienced bullying, harassment or sexual misconduct they are encouraged to report it.

An independent complaints and grievance scheme was also established, a process in which Cox recommended MPs should play no part. In a further development, an Independent Expert Panel was established in 2020 with power to recommend serious sanctions such as the suspension or expulsion of an MP. Recommendations need to be approved by the House of Commons, but without debate in the interests of the complainant’s confidentiality

Another independent inquiry, by Gemma White QC, heard from over 220 people, most of whom worked or had worked for MPs in different roles, including as interns. It emphasised the uniquely vulnerable position of those working in MPs’ offices: ‘Their collective testimony provides a solid foundation for concluding that a minority of Members of Parliament have bullied and/or harassed staff in the past and continue to do so, despite the introduction of the new Parliamentary Behaviour Code’.⁴⁶

White noted that until July 2018 any complaint about the behaviour of an MP or fellow staff member had to be made directly to the MP or the relevant political party and few complaints were made. The introduction of the independent complaints and grievance scheme was seen as a step forward but staffers expressed scepticism about the new procedures. Many considered complaints about bullying and harassment still to be career suicide.⁴⁷

White recommended the extension of the complaints and grievance scheme to former staffers, the group more likely to take advantage of it. She anticipated that extending

⁴⁵ Richard Kelly, *Independent Complaints and Grievance Scheme*, Briefing Paper 08369, House of Commons Library, 27 April 2021. Accessed at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8369/>

⁴⁶ White QC, *Bullying and Harassment of MPs’ Parliamentary Staff*, p. 5.

⁴⁷ White QC, *Bullying and Harassment of MPs’ Parliamentary Staff*, p. 6.

access to former staffers would influence MPs' behaviour and benefit current staff.⁴⁸ Access to the scheme for historic cases was duly extended in July 2019.

In the UK, as in Canada, all newly elected MPs and office managers are also now required to attend training sessions on preventing bullying, harassment and sexual misconduct. White found there were low expectations that British MPs would turn up for such training and suggested that the Independent Parliamentary Standards Authority might consider making staff allowances conditional on the MP completing it.⁴⁹

In New Zealand, although staffers are employed centrally by the Parliament Service, many of the same dynamics are in play. While staff understand that their employment relationship is technically with the Parliamentary Service, 'in most practical respects their employer is actually their member'.⁵⁰ In 2018, Speaker Trevor Mallard launched an independent review of bullying and harassment of staff, which found serious bullying and bad behaviour, including sexual harassment and even sexual assault. A new code of conduct to create a safer workplace was drafted by a cross-party group of MPs and has been signed up to by all parties on a voluntary basis, leaving the Speaker and party whips to enforce it. There is no agreement yet on an independent commissioner to handle complaints but in 2020 the Speaker said he had begun requiring 'the worst-behaving MPs' to undergo workplace training before being allowed staff in their office. This link with the ability to have staff was the same incentive for training recommended by White in the UK the previous year.⁵¹

CONCLUSION

What can Australia learn from elsewhere? First, to acknowledge the problem of what many women regard as the toxic culture of Parliament.

⁴⁸ White QC, *Bullying and Harassment of MPs' Parliamentary Staff*, pp. 36–37.

⁴⁹ White QC, *Bullying and harassment of MPs' parliamentary staff*, p. 53.

⁵⁰ Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, p. 15.

⁵¹ Craig McCulloch, 'Mallard Releases Code of Conduct Following Bad Behaviour in Parliament', RNZ, 24 July 2020. <https://www.rnz.co.nz/news/political/421956/mallard-releases-code-of-conduct-following-bad-behaviour-in-parliament>

Second, the need for an independent inquiry to assess the extent of bullying and harassment, including sexual harassment, and to make recommendations informed by the views of staffers themselves. At the federal level this is now under way in the form of the independent inquiry being conducted by Kate Jenkins, the Commonwealth Sex Discrimination Commissioner, which is due to report in November 2021. Optimally, there should be regular surveys to gauge the relationship between reported experience of sexual harassment and actual complaints made, an indication of confidence in complaint-handling procedures.

Third is the need to develop a code of conduct for both parliamentarians and staff explicitly addressing the issue of sexual harassment and clarifying what is unacceptable behaviour. In South Australia, a parliamentary committee was established in March 2021 with a brief to draft such a code. It was established the day after national protests (including in Adelaide) sparked by the allegations by Brittany Higgins of rape in a Minister's office when she was a junior staffer in the Australian Parliament.

Fourth is the need for an independent body with an oversight role and responsibility for supporting appropriate employment practices in parliamentary offices. This would include handling complaints—requiring amendment of the *Members of Parliament (Staff) Act*. As in the UK context, this body should be able to handle complaints from former staffers, those most likely to come forward. This process would not only serve the interests of justice but it might also modify the behaviour of those who could be subject to a future complaint.

Fifth, as in comparable Parliaments, training in office management and harassment prevention should be mandatory for new parliamentarians and senior staff.

Those working in Parliaments must have the same rights as employees in other workplaces and MPs should be accountable for their behaviour towards their staffers. Parliaments need to model good behaviour, not bad, if they are to earn respect. Above all, now that women are present in sizeable numbers both as parliamentarians and staffers, they need equal opportunity to perform well, without the career-limiting constraints imposed by bullying and harassment. Let us hope that this is the Australian Parliament's #MeToo moment.