



Australian Government

Parliamentary Workplace Support Service (PWSS)

Workplace Review Factsheet

What is a workplace review?

A workplace review is an administrative process the PWSS may be able to undertake if a MOP(S) Act employee or parliamentarian make a complaint against another MOP(S) Act employee or parliamentarian relating to a serious incident or misconduct (including workplace conflict that amounts to a work health and safety risk) in the course of parliamentary employment.

A workplace review will be commissioned when other early intervention or local resolution options have been explored and are either unsuccessful or inappropriate. This means that the PWSS will likely work with you and the subject of the complaint to explore options such as facilitated conversations or mediation prior to a workplace review being considered.

Where appropriate, the PWSS will engage an independent, highly experienced reviewer to undertake the review. The reviewer will:

- Gather relevant evidence, including interviewing witnesses and gathering relevant documents
- Review the evidence and make a finding on the balance of probabilities as to whether the evidence substantiates the alleged conduct
- If the conduct is substantiated, make recommendations for action, where appropriate.

What conduct can be reviewed?

The PWSS' support services (encompassing trauma-informed support, early intervention and resolution) are available for all Commonwealth Parliamentary Workplace participants who experience a serious incident or misconduct. While a workplace review is only available to MOP(S) Act employees and parliamentarians, as outlined below, the PWSS is able to assist in referring clients back to their employing entity for complaint review.

A workplace review may be commissioned if:

- You are a current MOP(S) Act employee or parliamentarian or were a MOP(S) Act employee or parliamentarian at the time of the alleged incident; AND
- The subject of the complaint was a MOP(S) Act employee or parliamentarian at the time the alleged conduct occurred; AND
- You experienced a serious incident or misconduct connected to your employment
 - NOTE: this includes
 - Sexual assault or assault
 - Harassment or sexual harassment
 - Bullying, and
 - Unreasonable conduct creating a risk to work health and safety.

Is a workplace review appropriate?

Prior to a workplace review being commissioned, the Head of the PWSS will undertake an assessment to determine if a workplace review is appropriate in the circumstances.

In considering whether a workplace review should be commissioned, the Head of the PWSS will keep in mind the purpose of a workplace review and whether it can be achieved in a particular case.

More information about the considerations taken by the Head of the PWSS in commissioning a workplace review is outlined in the factsheet **Will a Workplace Review be commissioned?**

Criminal conduct

It may be appropriate to consider a workplace review where the conduct is clearly a workplace matter with strong connections to employment. Such a review would not be an investigation into the criminal allegation and no findings would be made that a person has engaged in criminal conduct. The review would consider whether the person has breached a workplace policy or the outline of the current duties and responsibilities of parliamentarians and their staff employed under the MOPS Act set out by the Minister for Finance and communicated to MOP(S) Act employees and parliamentarians, and what action is necessary to protect the safety of other employees.

If the incident you have experienced relates to criminal conduct, your case coordinator will work with you to offer support and advice on your options going forward, including providing appropriate referrals.

What can I expect from the workplace review process?

Workplace reviews are conducted by independent, highly experienced and skilled reviewers who are engaged on a case-by-case basis, based on specific expertise. Reviews follow procedural fairness and best practice in administrative decision making. The independent reviewers are also bound by the PWSS' **Conflict of Interest Policy**. You will be given the opportunity to comment on any adverse findings made against you before they are finalised in the reviewer's report. Both parties and any witnesses will be given the opportunity to be heard and will be interviewed in a fair and impartial manner.

Confidentiality

Both parties to the workplace review, as well as your nominated support persons, will be required to sign a good faith confidentiality agreement at the commencement of the review. This is to protect the privacy of the parties and achieve better outcomes by ensuring the integrity of the workplace review process.

Support persons

All parties (i.e. the complainant and respondent) can be accompanied by a support person to any interaction during the course of the workplace review. A support person could be a friend, family member, partner, counsellor or advocate, or a union representative or legal professional. Your PWSS case coordinator will support you through the workplace review process.

Who is notified about a workplace review?

If you are a complainant and decide to request a workplace review, the respondent will be notified, as will their employing parliamentarian, if applicable. In most cases due to exploration of local resolution options, the PWSS will have engaged with the respondent prior to the commissioning of a workplace review. In some circumstances, particularly in relation to historical matters, there may be some practical difficulties with respect to contacting or engaging with a respondent and the PWSS will discuss these with you during the process.

The Parliamentary Service Commissioner (PSC), who has oversight of the PWSS, is also notified at the point a workplace review is initiated.

Who receives the reviewer's final report?

Before finalising the report, the reviewer will give all parties an opportunity to comment on any adverse findings.

The reviewer will provide their final report to the Head of the PWSS, who will then give it to all parties, as well as to the relevant employing parliamentarian and the Parliamentary Service Commissioner. The PWSS will not publish workplace review reports.

Actioning the recommendations

At the conclusion of the review, the reviewer will make findings about the alleged incident(s) and may provide recommendations for action and appropriate timeframes.

Depending on the nature of the conduct and the role of the party who is the subject of the complaint, the recommendations could include remedies already available under employment law or a recommendation as to remedial action e.g. that the person undertake training or counselling.

The expectation is that the relevant employing parliamentarian (or parliamentarian, if they are the subject of the complaint) acts on the recommendations within the timeframes. The Head of the PWSS will advise the complainant when the recommended actions are complete.

Resolutions were passed in both Houses of parliament to ensure that parliamentarians are accountable for implementing the recommendations. If the parliamentarian fails to act, the reviewer's report will be escalated to the Parliamentary Service Commissioner, and in the event action is still not taken, to the relevant Presiding Officer. The Presiding Officers do not have any discretion, and must refer a report that is not acted on to the Privileges Committee for review. The complainant will be asked to confirm that they are comfortable proceeding, before the PSC escalates the report to the Presiding Officer.

Where a complaint relates to former MOP(S) Act employees and/or parliamentarians, the recommendations and escalation process may be more limited (for example because employment or parliamentary sanctions are no longer available). The PWSS will discuss the options and available remedies with each complainant to ensure they understand the process, scope of the review and possible outcomes.

Internal review

If you are dissatisfied with the outcome of a workplace review, in some circumstances, you can apply for an internal review by a second reviewer

Participating in a workplace review through the PWSS does not preclude you from pursuing external options such as making an application through the Australian Human Rights Commission or Fair Work Commission.