

Tasmanian Labor Bullying, Harassment (including sexual harassment), Victimization and Discrimination Policy

1. Scope

This policy applies to:

- 1.1 Australian Labor Party – Tasmania (**ALP**) members;
- 1.2 Persons volunteering for the ALP in Tasmania;
- 1.3 Unpaid officials of the ALP in Tasmania;
- 1.4 Tasmanian ALP employees;

In respect of:

- 1.5 All activities conducted by the ALP in Tasmania from which a complaint is made in respect of bullying, harassment (including sexual harassment), victimisation and/or discrimination.

PROVIDED National Complaints, see Cl. 10.7, may be dealt with pursuant to the equivalent National Policy.

2. Aims

2.1 This policy identifies the relevant sources of obligations, duties, considerations, procedures and outcomes in the event of an allegation of bullying, harassment (including sexual harassment), victimisation and/or discrimination by an unpaid official, ALP member, volunteer, and/or member of the public.

3 Policy Statement

3.1 Bullying, harassment (including sexual harassment), victimisation and/or discrimination are prohibited and will not be tolerated by the ALP.

3.2 Everyone is entitled to participate in ALP activities in an environment that is free from bullying, harassment (including sexual harassment), victimisation and/or discrimination.

3.3. Bullying, harassment (including sexual harassment), victimisation and/or discrimination can cause harm to victims, and these behaviours also have the capacity to damage the ALP.

3.4 This Policy has been developed to ensure that:

- (a) complaints of bullying, harassment (including sexual harassment), victimisation and/or discrimination are treated seriously, promptly and with procedural fairness; and
- (b) a complainant is not victimised or treated inappropriately; and
- (c) a respondent is presumed innocent of wrong doing until the complaint is resolved.

3.5 Those involved in a complaints process under this Policy, including the complainant and respondent, may be referred by the State Secretary to an appropriate counselling service.

3.6 Except for the purposes of obtaining legal advice, those involved in a complaints process under this Policy, including the complainant and respondent, must maintain confidentiality with regards to any complaint and the ALP's handling of the complaint.

4 Application

4.1 Complaints under this Policy may be made by:

- (a) ALP members;
- (b) ALP volunteers;
- (c) ALP unpaid officials;
- (d) general public;

4.2 The ALP requires all ALP members, ALP volunteers and ALP unpaid officials to comply with the Policy.

4.3 The State Secretary is responsible for conducting the process for a complaint under this Policy.

4.4 Where a person makes a complaint of bullying, harassment (including sexual harassment), victimisation and/or discrimination to the State Secretary against an ALP member, ALP volunteer or ALP unpaid official, this Policy should be followed as if that person, ie. the complainant, was bound by this Policy.

4.5 This Policy applies when complaints covered by the scope of this policy are not covered by another policy.

5 Bullying

5.1 Bullying is repeated unreasonable behaviour towards a person, or group of people, which creates a risk to physical or psychological health and safety. It can include behaviour that would reasonably be expected to threaten, intimidate, victimise, offend, degrade, humiliate or cause harm, distress or fear.

6 Harassment

6.1 Harassment is any form of unwanted and uninvited behaviour that offends, humiliates, intimidates, insults or ridicules another person, and which a reasonable person would see as unacceptable and likely to offend, humiliate, intimidate, insult or ridicule a person or a group of persons.

6.2 Harassment is generally associated with Tasmanian and Federal discrimination laws and is in connection with particular attributes. The Tasmanian Anti-Discrimination Act 1998, the Sex Discrimination Act 1984, The Disability Discrimination Act 1992 and the Racial Discrimination Act 1975 all prohibit behaviour that amounts to harassment as defined above. For example, The Racial Discrimination Act 1975 prohibits offensive behaviour based on racial hatred. Harassment is also associated with the Tasmanian Criminal Code Act 1924 regarding offences such as stalking. This Policy has the scope to handle complaints regarding harassment that meet the above definition or are prescribed in the legislation listed in this subclause.

7. Sexual Harassment

7.1 Sexual harassment is unwanted or unwelcome conduct of a sexual nature in circumstances where it is reasonable to anticipate the recipient will feel offended, humiliated or intimidated. It is irrelevant whether the person committing the acts intends to sexually harass the recipient. Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.

7.2 Sexual harassment can take many different forms – it can be obvious or indirect, physical or verbal, and repeated or one-off. Sexual harassment may include:

(a) physical acts, such as unwanted touching or sexual gestures;

(b) verbal acts, such as requests for sexual favours, making promises or threats in return for sexual favours, inappropriate jokes and innuendos, explicit conversations, derogatory comments, insults, taunts, or intrusive questions about a person's private life; or

(c) visual acts, such as viewing, displaying or distributing offensive or explicit material including via the internet.

8. Victimisation

8.1 Victimisation means subjecting or threatening to subject a person to some form of detriment because they have:

- (a) lodged, or proposing to lodge, a complaint pursuant to this policy or in any other jurisdiction relating to the scope of this policy;
- (b) Provided information or documents to an investigation pursuant to this policy or in any other jurisdiction relating to the scope of this policy;
- (c) Attended a conciliation conference or hearing pursuant to this policy or a conciliation conference or hearing in any other jurisdiction relating to the scope of this policy;
- (d) Reasonably asserted their rights, or supported someone else's right, under State or Federal laws pertaining to the scope of this policy;
- (e) Made an allegation that a person has acted unlawfully under laws pertaining to the scope of this policy; eg. the Tasmanian Anti-Discrimination Act 1998.

9. Discrimination

9.1 Discrimination, for the purposes of this policy, is as provided for in the Tasmanian Anti-Discrimination Act 1998.

10 Procedure for complaints

10.1 All complaints must be made in writing by the identifiable complainant. Only complaints contained within the scope of this policy may be made. To ensure procedural fairness, no

anonymous or third party complaints will be considered (except for complaints involving children in which case the State Secretary may accept third party complaints).

10.2 Complaints can be made to one of the following contact points:

Stuart Benson, State Secretary, Tasmanian Labor Party; email:

stuart.benson@tas.alp.org.au.

10.3 The ALP will ensure that allegations of bullying, harassment (including sexual harassment), victimisation and/or discrimination are dealt with promptly, confidentially, and in accordance with the principles of procedural fairness for all parties involved. Procedural fairness, includes but is not limited to, ensuring the respondent to a complaint is provided, by way of notice, with full, detailed and specific particulars of the complaint against them and is given fair and reasonable time and opportunity to provide a response. At any stage a respondent may be represented or have a support person present. (see procedure listed at Cl 12 below)

10.4 The ALP will treat allegations of bullying, harassment (including sexual harassment), victimisation and/or discrimination seriously and fairly. A person who believes that he or she has experienced bullying, harassment (including sexual harassment), victimisation and/or discrimination is encouraged to report it to the State Secretary.

10.5 The State Secretary may refer a dispute in respect of the complaint to the disputes committee for determination pursuant to the ALP Tasmania Rules.

10.6 The State Secretary may facilitate or implement, if the parties consent, a process aimed at informal resolution of the complaint at a preliminary stage (see Cl. 11 below).

Alternatively, the State Secretary may take formal action (see Cl. 12 below). Formal action details the procedural fairness elements required in determining the complaint.

10.7 Where a person makes a complaint of bullying, harassment (including sexual harassment), victimisation and/or discrimination behaviour to the Tasmanian State Office in relation to or in connection with the National Office of the ALP including a complaint made in connection with a Federal Campaign or Federal Office (**National Complaint**):

(a) the State Office will refer the National Complaint to the National Secretary;

(b) the National Secretary, in their sole and absolute discretion may either deal with the National Complaint or refer the National Complaint to the appropriate State Office (provided that there is one) only if the National Secretary believes the National Complaint can be resolved by the State Office; and

(c) in circumstances where the National Complaint is also made to the National Secretary, subject to the decision of the National Secretary under paragraph (b) above, only one of the relevant State Office or the National Secretary will respond to the complaint.

10.8 In the event that a complaint is made against the State Secretary, or the State Secretary otherwise has an actual conflict of interest in relation to the complaint, the State President will make a ruling on the conflict and then determine the most suitable state official who will facilitate the process with the same authority as the State Secretary.

10.9 In the event that time or other circumstances do not permit the State Secretary to conduct the process for a complaint pursuant to this policy, the State Secretary may appoint another state official to facilitate the process with the same authority as the State Secretary.

10.10 After a referral to the State Secretary under clause 10.7(b) by the National Secretary, if the National Complaint has not been resolved by informal action (see clause 7 below) by the appropriate State Office, then the State Office must refer the National Complaint to the National Secretary who may:

(a) in consultation with the complainant, take informal action;

(b) take formal action; or

(c) where the complaint includes allegations in respect of criminal conduct, refer the complaint to the police or other investigative agency, and the complainant will consent, and be deemed to have consented to that referral. Complaints referred to the police or other agency for investigation and prosecution will be determined by the outcome of the investigation or Court verdict.

11 Informal action

11.1 Informal action is intended to allow the State Secretary to contact the parties and facilitate, through any means the State Secretary deems reasonable and appropriate, a resolution of the complaint without embarking on the formal process prescribed by Cl. 12.

11.2 The parties must consent to a process of informal action.

11.2 Informal action is aimed at allowing the respondent to understand that their conduct may be causing offence, acknowledging any behaviour that may breaches this Policy, and ensure that any offending behaviour ceases.

11.2 If the complainant feels able to do so, they may meet the respondent to the complaint directly (including in writing), for the purpose of telling the person that they do not like the behaviour, and ask that it stop. This may be facilitated by, and/or in the presence of the State Secretary.

11.3 Any agreed resolution is dependent upon the parties initial and ongoing commitment to it.

11.4 Informal action may result in acknowledgement and an apology from the respondent.

12 Formal action for Complaints

12.1 Where a complaint is not resolved by informal action, or the State Secretary determines that resolution by informal action is not appropriate, and, the complaint is not the subject of either criminal or civil legal proceedings, the State Secretary is entitled to take more formal action.

12.2 The following steps are to be followed as part of a formal action:

(a) an independent third party may be appointed by the State Secretary for the purpose of investigating the complaint (**Investigator**);

(b) the complainant may be asked to provide written details of the complaint, including full, detailed and specific particulars of the complaint or may be interviewed, with a support person or adviser if required;

(c) the complainant may be required to provide an affidavit or statutory declaration verifying on oath the truthfulness of the complaint;

(d) relevant details of the complaint will be conveyed to the respondent within 7 days of it being received, or, if that is not practicable, as soon as practicable;

(e) the respondent will be given 7 days to respond, or as otherwise reasonably determined by the State Secretary. A response may be made either verbally or in writing. If the complaint does not provide full, detailed and specific particulars the respondent to the complaint is under no obligation to respond until, with 7 days, after full, detailed and specific particulars are provided.;

(f) the respondent may be asked to provide written details of the response to the complaint or may be interviewed, with a support person or advisor, if required;

(g) the respondent may be required to provide an affidavit or statutory declaration verifying on oath the truthfulness of the response to the complaint;

(h) if there is a dispute over facts, other relevant evidence may be gathered and witnesses may be interviewed;

(i)The State Secretary may conduct a conciliation conference between the parties in respect of the complaint and response.

(j)The State Secretary may conduct a hearing in respect of the complaint and response. In order to do so the State Secretary is to seek that the Administrative Committee approve two non-Administrative Committee members of the ALP with appropriate skills, experience and independence to sit as part of a panel of three with the State Secretary to hear the complaint and response.

(k) A complaint cannot be found to be substantiated following a hearing unless a majority of , the decision making panel is comfortably satisfied that the complainant had reasonable grounds to believe that bullying, harassment (including sexual harassment), victimisation and discrimination had occurred and that a reasonable person, taking into account all the circumstances of the matter, would have reasonable grounds to believe bullying, harassment (including sexual harassment), victimisation and/or discrimination had occurred.

(l) a finding may be made as to whether the complaint is substantiated to the comfortable satisfaction of the decision making panel; and/or

(m) a written report may be prepared, documenting the evidence, the finding and the recommended outcome to the State Secretary.

12.3 If the complaint is substantiated, the outcome is as prescribed by Cl. 14.

13 Interim procedures

13.1 The ALP will not comment on any complaint while it is being investigated or subject to any process or action in relation to a complaint save to say that this Policy is being complied with.

13.2 The ALP recognises that it may be unfairly prejudicial for a respondent to be suspended or removed from their position before the resolution of any investigation, process or action in relation to a complaint.

13.3 The ALP recognises that measures may be required to ensure that interactions between a complainant and a respondent are managed during any investigation, process or action in relation to a complaint without admission. The State Secretary has power to administer any such measures that are reasonable in the circumstances.

14 Consequences and disciplinary action

14.1 A breach of this Policy may lead to disciplinary sanction being recommended by the State Secretary, provided the State Secretary may recommend a sanction prescribed by Cl. 14.1(e), (f) and (g) below in conjunction with a decision of the disputes committee (if applicable) and/or the Administrative Committee, to approve the sanction. The sanctions that may be imposed include:

- (a) counselling;
- (b) requiring a formal apology;
- (c) conciliation/mediation conducted by an impartial third party;
- (d) training on expected standards of behaviour;
- (e) a formal warning;
- (f) termination of ALP membership.
- (g) any other action listed in the Tasmanian Labor Party Branch Rule 12.14

This list is not exhaustive and other appropriate outcomes may be determined by the State Secretary, and, if appropriate the disputes committee and/or Administrative Committee.

14.2 Disciplinary or other actions listed above at 14.1 must be taken against a complainant if there is evidence that the complaint was malicious or vexatious, if applicable.

15. Decisions of Committees

15.1 Any decisions of any investigation resolved by the Disputes Committee and Administrative Committee will be communicated to the complainant and respondent from the State Secretary.