



POLICY

POLICY AGAINST BULLYING

1. Bullying is unacceptable and contrary to law. The Victorian Bar is committed to a working environment free from bullying for barristers and those who come into contact with barristers in connection with their profession.

Objectives of the policy

2. This policy has the following objectives:
 - (i) Creating a respectful working environment for barristers and those who work with barristers which is free from bullying.
 - (ii) Providing those who have experienced or observed bullying with avenues of support and/or complaint that are, to the extent possible, confidential, timely, fair and with protection from reprisal.
 - (iii) Empowering individuals to take action with respect to bullying.
 - (iv) Promoting active leadership within the Victorian Bar of zero tolerance of bullying.
 - (v) Providing those who are concerned that their conduct may constitute bullying with guidance as to avenues to assist in redressing their conduct and prevent its reoccurrence.

Who can make use of this policy?

3. All barristers and anyone who considers that they have experienced, or observed, bullying by a barrister can use the procedures under this policy including:
 - (i) barristers' employees and contractors;
 - (ii) readers;

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- (iii) the Victorian Bar's employees;
- (iv) Barristers Chambers Limited's employees;
- (v) clerks and their employees;
- (vi) solicitors and their employees;
- (vii) court staff;
- (viii) students who work with barristers;
- (ix) volunteers who work with barristers;
- (x) clients; and
- (xi) visitors to premises or events connected with barristers' professional practice.

What is bullying?

4. For the purposes of this policy, bullying means unreasonable behaviour that could reasonably be expected to intimidate, degrade, humiliate, isolate, alienate, or cause serious offence to a person working in a workplace. It can include but is not limited to:
 - (i) aggressive or intimidating conduct;
 - (ii) making belittling or humiliating comments;
 - (iii) intimidation;
 - (iv) unreasonable work expectations;
 - (v) deliberate exclusion from work-related activities; and
 - (vi) pressure to behave in an inappropriate manner.
5. Bullying behaviour can occur in a range of ways, including:
 - (i) physical conduct;
 - (ii) oral conduct; or

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(iii) written conduct (including by email, blogs and social media).

6. Bullying is expressly prohibited by rule 123 of the *Legal Profession Uniform Conduct (Barristers) Rules 2015* ('the Conduct Rules'). It may also constitute conduct which is likely to diminish public confidence in the legal profession or bring the legal profession into disrepute, in contravention of rule 8 of the Conduct Rules. It may constitute professional misconduct or unsatisfactory professional conduct.

Where can bullying happen?

7. Bullying can occur anywhere in the course of, and in connection with, a barrister's professional practice. This includes, for example, in chambers, in court, in clerk's offices, at the Essoign club, at networking events, or at social gatherings connected with the Bar. It can happen online, by telephone, by text or email. It can happen out of hours as well as during them.

What options do you have if you have experienced or observed, bullying by a barrister?

8. If you have experienced, or observed, bullying by a barrister you may:
- (i) Where appropriate, attempt to resolve your concern directly with the barrister;
 - (ii) Seek informal support from a colleague;
 - (iii) Seek support from a Peer Support Barrister;
 - (iv) Seek support from the President and/or Vice Presidents of the Bar Council;
 - (v) Seek support from the Executive Director of the Bar Office;
 - (vi) Seek support from your employer e.g. the Bar Office, Barristers' Chambers Limited or Clerk;
 - (vii) Raise a grievance with the Ethics Committee under the Grievance Protocol;
 - (viii) Make a formal complaint to the Victorian Legal Services Commissioner; or
 - (ix) Report the conduct to Victoria Police.

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9. If you have experienced, or observed, bullying by a judicial officer, you may also be able to make a complaint to the Judicial Commission of Victoria or head of jurisdiction.
10. If you are an employee, you may also be able to make a complaint to the Australian Human Rights Commission, the Victorian Equal Opportunity and Human Rights Commission, WorkSafe, or the Fair Work Commission.

SUPPORT AND GUIDANCE

Seeking informal support

11. If you have concerns about conduct of a barrister which may constitute bullying and would prefer to discuss them informally, consider speaking to:
 - (i) a mentor or other senior member of counsel;
 - (ii) a member of your chambers;
 - (iii) the other barrister's mentor;
 - (iv) your clerk;
 - (v) the other barrister's clerk;
 - (vi) any Peer Support Barrister;
 - (vii) the President and/or the Vice-Presidents of the Bar; or
 - (viii) the Executive Director of the Bar Office.
12. Without in any way limiting the possible outcomes or resolutions, the above persons may:
 - (i) Provide informal peer support to help you decide what, if any, further action you may wish to take;
 - (ii) Provide guidance as to options which are available to you to make informal or formal complaints;
 - (iii) Where appropriate and with your consent, discuss the concern with the other barrister and ask them to redress their behaviour;

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- (iv) Where appropriate and with your consent, discuss the concern with any of the other above persons.

- 13. All discussions with Peer Support Barristers, the President or Vice-Presidents or the Executive Director will be kept confidential and will not be disclosed to any other person without your consent.
- 14. However, if the conduct disclosed may constitute an indictable offence, the President, Vice-Presidents, members of the Bar Council and/or the Executive Director may be obliged to report it to the Police under s 465 of the *Legal Profession Uniform Law*.

Peer Support Barristers

- 15. Peer Support Barristers are barristers who have volunteered to be contacted by, and provide support to, those who have experienced, or observed, bullying.
- 16. A Peer Support Barrister can:
 - (i) Provide informal peer support to help you decide what, if any, further action you may wish to take;
 - (ii) Help you understand your options to make an internal or formal complaint;
 - (iii) Help you raise a grievance or make a formal complaint.
- 17. The Peer Support Barrister is a support person and not a complaint mechanism. Your interactions with a Peer Support Barrister will be confidential. The Peer Support Barrister will not take any action or disclose any information about you or the conduct without your consent. The Peer Support Barrister will not undertake any investigation.

What options do you have if you are concerned that your conduct may constitute bullying?

- 18. All barristers are required to adhere to the Conduct Rules at all times. The Victorian Bar expects all barristers to comply with their obligations and be mindful of their interactions with others in connection with their practice.
- 19. If you have concerns that you have engaged in bullying, or that your conduct or

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manner may have offended, humiliated or intimidated any person to whom this policy applies, you should consider:

- (i) Apologising for your conduct;
- (ii) Reflecting on the reasons for your conduct and how you might avoid repeating it; and
- (iii) Seeking guidance from a Peer Support Barrister.

20. Peer Support Barristers can provide informal assistance and guidance to help you:

- (i) Improve your understanding of bullying; and
- (ii) Access help to change your behaviour.

21. Discussions with Peer Support Barristers are confidential. The Victorian Bar encourages members to seek assistance to better understand and manage their behaviour.

22. If you are concerned about your behaviour and would like assistance to change it, you can also access psychological support from the following independent counselling services:

- (i) Re-Vision Group: 03 96505540
- (ii) Converge International: 1300 687 327

23. The Bar funds five free sessions with either of these services for barristers and their family members.

External sources of support

24. Professional support is available to anyone who has experienced or observed bullying.

25. You can access psychological support from the following independent counselling services:

- (i) Re-Vision Group: 03 96505540
- (ii) Converge International: 1300 687 327

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26. The Bar funds five free sessions with either of these services for barristers and their family members.
27. Beyond Blue provides mental health support and can be contacted on 1300 224 636 or <https://www.beyondblue.org.au/>.
28. The Australian Human Rights Commission website has information about bullying, where to get support, and how to be a supportive bystander: <https://humanrights.gov.au/our-work/employers/workplace-bullying-violence-harassment-and-bullying-fact-sheet>.
29. If you are an employee, the Fair Work Commission website has information about your workplace rights in relation to bullying: <https://www.fwc.gov.au/disputes-at-work/anti-bullying/where-to-get-help-about-bullying>.
30. WorkSafe has information about bullying and an employer's obligations under the *Occupational Health and Safety Act 2004* (Vic): <https://www.worksafe.vic.gov.au/workplace-bullying-and-law>.

COMPLAINTS

Raising a grievance with the Ethics Committee

31. The Grievance Protocol is the Victorian Bar's informal grievance process. A copy of the Grievance Protocol is attached to this Policy. The following is a summary of key aspects of the Grievance Protocol and so you should read and consider the entire Grievance Protocol before raising a grievance.
32. You can raise a grievance by contacting any member of the Ethics Committee or sending an email to ethics@vicbar.com.au.
33. A grievance under the Grievance Protocol will result in the Ethics Committee undertaking an informal investigation.
34. The Ethics Committee may then:
 - (i) Attempt to resolve the grievance with the consent of the parties involved;
 - (ii) Conclude that the conduct complained of would not amount to a breach of the Conduct Rules; or

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- (iii) Conclude that the conduct complained of could amount to a breach of the Conduct Rules.
- 35. The Ethics Committee does not have power to impose any disciplinary consequences or make findings of unsatisfactory professional conduct or professional misconduct. If you wish to pursue disciplinary consequences, you will need to make a formal complaint to the Victorian Legal Services Commissioner.
- 36. The Ethics Committee may attempt to resolve the grievance by taking a number of actions which include:
 - (i) encouraging or facilitating resolution by agreement;
 - (ii) recommending an apology or training; or
 - (iii) recommending changes to a barrister's practices or behaviour.
- 37. If the Ethics Committee concludes that the conduct complained of could amount to a breach of the Conduct Rules, it may request the President of the Victorian Bar to convey its recommendations to the barrister who is the subject of the grievance.
- 38. In conducting the investigation, the Ethics Committee will not, where possible, disclose the identities of the persons involved and information they provide to any person not involved in the investigation. The identity of the person raising the grievance will be disclosed to the barrister who is the subject of the grievance. In some circumstances, information and identities relating to a grievance may be disclosed to the President and the Bar Council or the Victorian Legal Services Commissioner. These are described in the Grievance Protocol and you should consider them before deciding to raise a grievance.

Formal complaint to the Victorian Legal Services Commissioner

- 39. A formal complaint can be made to the Victorian Legal Services Commissioner under the *Legal Profession Uniform Law*.
- 40. A formal complaint may result in a finding of unsatisfactory professional conduct or professional misconduct. The Victorian Legal Services Commissioner may impose disciplinary sanctions.
- 41. Information about how to make a complaint is on the Victorian Legal Services

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Commissioner's [website](#).

Complaint to the Judicial Commission of Victoria or head of jurisdiction

42. The Judicial Commission of Victoria has published a guideline about judicial bullying following consultation with the Victorian legal and court sector. The guideline can be accessed below:
- [Judicial Conduct Guideline – Judicial Bullying](#)
43. Bullying by a Victorian judicial officer can be reported to the Judicial Commission of Victoria. Information about making a complaint is on the [website](#).
44. Bullying by a Commonwealth judicial officer can be reported to the head of jurisdiction under legislative complaints procedures. These are described on the Federal Court of Australia [website](#) and the Federal Circuit Court of Australia [website](#).
45. The Victorian Bar also has protocols with some courts under which the President can raise concerns with the relevant head of jurisdiction about conduct of judicial officers or court staff. Information about these protocols is on the Victorian Bar [website](#). You can discuss raising a complaint in this manner by contacting the President of the Victorian Bar or Executive Director.

Police report

46. If you believe that a criminal offence has been committed, you can report it to the police.

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