



Australia Catches Up, and What Hope for the Future?

Abstract While slow to begin, Australia has undertaken systematic standards reform since 2021. The Australian parliament is putting in place a set of interlocking new rules and institutions which aim to establish, for the first time, independent regulation and accountability in the parliamentary workplace. An authoritative cross-party body leads the reform process, providing a high level of accountability and driving consensus. The reform agenda draws on a more comprehensive review of parliamentary workplaces than seen elsewhere. The Jenkins Review framed parliament as a workplace in which rights to safety existed and it named gender inequality as a key driver of toxicity. Australian reformers drew on experiences in other Westminster parliaments, especially the UK. One of Australia's distinctive innovations is an independent centralised Human Resources (HR) body, able to make policies and mandate professional employment practices for parliament. While formal institutions have changed across the Westminster world, informal norms such as adversarialism are resilient. There is conscious policy borrowing amongst Westminster reformers, but improving toxic parliaments will be an ongoing project, requiring sustained and committed leadership.

Keywords Australia • Jenkins Review • Codes of conduct • Sanctions • Human resources • Forgetting the new

Australia was slow to start reforming its federal parliamentary workplace, compared to the other Westminster nations examined in Chap. 5. Of the four countries, Australia continued for the longest to use an appeal to parliamentary privilege against a parliamentary code of conduct, at least at the federal level. As we saw in Chap. 3, as late as August 2020 a Senate Committee was still arguing that the best scrutiny mechanism for the conduct of parliamentarians was regular, free and fair elections. Less than six months later there were demonstrations in front of parliament house over the lack of safety for women inside. Reforms began in 2021. They have been characterised by multiparty commitment and extensive consultation and negotiation to achieve consensus about the new arrangements, which are still being put in place in 2024. Through a process of policy borrowing, Australian reformers drew on the experiences of other Westminster parliaments, especially the UK.

Until recently the Australian federal parliament did not address issues of sexual misconduct and sexist behaviour in its workplace. Complaints about sexist treatment of women MPs over many years did not attract sympathy or provoke a serious reaction from within the federal parliament or the community. There was little response to allegations by two female staffers of sexual assault by other staffers, aired in 2019. However, events between November 2020 and February 2021 (described in Chap. 4) pierced the longstanding resistance to addressing sexist conduct in the Australian parliament. Parliamentarians were shaken by ministerial adviser Brittany Higgins' allegations that serious sexual assault had occurred inside the parliament building and disturbed at how poorly it was handled. This was more than salacious gossip; it pointed to serious workplace issues such as lack of a robust and trusted complaints mechanism and precarious employment conditions for staff (Higgins feared losing her job by reporting the events). It is true to say parliamentarians were shocked by the ensuing revelations of what one party leader called 'the atrocious and appalling' experiences of female staff in the parliamentary workplace.

The day after Higgins' televised allegations the Prime Minister launched a review of the procedures for reporting and responding to 'serious incidents that occur during parliamentary employment' to be undertaken by the Department of the Prime Minister and Cabinet. The government swiftly introduced a 24/7 support line for those working in parliament. There was immediate cross-party commitment to undertake a review of workplace culture, with the Labor Opposition leader offering 'to work with anyone in this building who wants to make this a safer and more

respectful workplace'. The government consulted with all parties and independent members and senators about a possible review.

Two weeks later, on 5 March 2021, the Government announced that an *Independent Review into Commonwealth Parliamentary Workplaces* would be conducted by the Australian Human Rights Commission and led by the Sex Discrimination Commissioner, Kate Jenkins. Often referred to as the 'Jenkins Review', it would consider the experiences of current and former parliamentarians, current and former staff of parliamentarians, and other staff working within parliament. The Government was anxious to have the review completed quickly so the issue could be resolved before the forthcoming federal election. The Commissioner negotiated a November deadline, along with the substantial resources she argued would be required for that 'impossible timeframe' to be met. Because of the need to obtain ethics clearance and establish a team from the ground up, the team of 20 staff were not in place until May. While the timeframe was thus compressed, the review was far better resourced and more comprehensive than reviews undertaken elsewhere. In New Zealand, for example, there had been a support staff of only two for the first Francis review.

REPORTS

By the end of 2021 two major reports were delivered. In June 2021 the Department of the Prime Minister and Cabinet delivered its report (*Review of the Parliamentary Workplace: Responding to Serious Incidents*) which led to the establishment of a Parliamentary Workplace Support Service in September. Located inside the parliament building, it was a complaints body tasked with providing 'independent and confidential support ... to all Commonwealth parliamentary workplace participants who have been impacted by serious incidents or misconduct, and workplace conflict that amounts to a work health and safety risk'. Being created while the Jenkins inquiry was still under way, it was reform nested within the existing institutional architecture, placed under the authority of the independent Parliamentary Service Commissioner (a statutory officer who oversees the employment of public sector staff working in the parliamentary departments).

Another immediate action was to extend the *Sex Discrimination Act* to members of parliament and their staff (and judges) in September 2021. Parliamentarians had previously not been protected by the Act, giving them no legal recourse to make complaints about sexual harassment.

The watershed moment came on 30 November 2021 when Sex Discrimination Commissioner Kate Jenkins presented the report *Set the Standard*, with 28 recommendations to ensure parliamentary workplaces were safe and respectful, reflecting ‘best practice in preventing and handling bullying, sexual harassment and sexual assault’.¹ Its recommendations were radical and wide-ranging, and included three new codes of conduct and an Independent Parliamentary Standards Commission to receive and investigate complaints about breaches of the codes, make findings of misconduct and recommend sanctions. It recommended an independent human resources office be established to manage staff employment, professionalise the workplace and drive cultural transformation. It recommended that parliament deliver a statement acknowledging experiences of bullying, sexual harassment and sexual assault and making a commitment to change.

The timing of delivery of the report was strategic. Jenkins was aware the report needed to be completed before parliament rose in December for its long Christmas break. By submitting the report on the second last sitting day of 2021, it could be immediately tabled before parliament rose for the summer. The report laid out a detailed plan of action and a time line, which meant action could begin without debate and there could be accountability for the nature and speed of parliament’s response.

On the first sitting day of the new year (8 February 2022) both houses of parliament delivered an acknowledgement of the ‘unacceptable history’ of bullying, sexual harassment and sexual assault in their workplaces and stated:

Any bullying, sexual harassment and sexual assault is unacceptable and wrong. We say sorry. ... This place and its members are committed to bringing about lasting and meaningful change to both culture and practice within our workplaces. We have failed to provide this in the past. We today declare our personal and collective commitment to make the changes required. ... While we know we cannot undo the harm that has already been done, we are committed to acknowledging the mistakes of the past and continuing to build safe and respectful workplaces.

The Speaker of the House of Representatives, the President of the Senate and major party leaders committed in parliament to implement all 28 recommendations of the *Set the Standard* report.

THE JENKINS REPORT: FRAMING THE PROBLEM

The Jenkins review differed in some ways from comparable inquiries in New Zealand and the UK. Commissioner Jenkins had delivered a major report on sexual harassment in Australian workplaces in the previous year (2020), revealing high levels of sexual harassment across all workplaces in Australia.² The Human Rights Commission had also reviewed the culture of the police, the defence force and sporting bodies such as gymnastics. It brought this expertise to the review and significantly, it framed parliament as simply another industry, characterised by certain risk factors and systemic problems which led to bullying and sexual harassment. Its focus was on parliament as a workplace that should be subject to the work and safety protections that exist in other industries (Fig. 6.1).

The Australian data collection was larger than for any comparable inquiry. As noted in Chap. 3, special legislation was passed in March making submissions to the inquiry exempt from Freedom of Information (FOI) requests, allaying fears of staffers over the confidentiality of their

Fig. 6.1 Sex Discrimination Commissioner Kate Jenkins undertook a landmark review of Australian parliamentary workplaces. (Photo: Kristoffer Paulsen)



submissions. The inquiry received over 900 survey responses from people currently working in parliament, undertook 490 interviews and led 11 focus groups. It found 37 per cent of people currently working in parliament had experienced some form of bullying in these workplaces and 33 per cent had experienced sexual harassment. Women had experienced bullying and sexual harassment at a higher rate than men, and people identifying as LGBTIQ+ reported sexual harassment at a higher rate than those identifying as heterosexual. Eighty-one per cent of harassers were male.

Unlike reviews in New Zealand and the UK, the Jenkins review focused on all the different actors within the parliamentary ecosystem, many of whom worked under different employment conditions. While reviews in New Zealand and the UK largely focused on the experiences of staff, the Jenkins review also included the experiences of parliamentarians. There is often little sympathy for female MPs who complain about the ‘rough and tumble’ of adversarial politics and women who complain about abuse in the chamber may encounter backlash. Staff are seen as more vulnerable, because of the extreme power imbalances in their employment relationships and precarious working conditions. Staff are also employees, seen as having the right to safe workplaces, a frame less likely to be applied to parliamentarians.

While reformers have been motivated by concerns for staff, the experiences of women parliamentarians also permeate the Jenkins Review. Its survey found 41 per cent of current parliamentarians reported having experienced sexual harassment in a parliamentary workplace and 16 per cent had experienced bullying. Sexual harassment was a major problem for women representatives. As many as 63 per cent of female parliamentarians had experienced sexual harassment within parliamentary workplaces compared to 24 per cent of male parliamentarians. Certain types of sexual harassment were far more likely to be experienced by parliamentarians than others, especially sexually explicit comments made in emails, SMS messages, on social media or other online channels. The broad focus of the Jenkins report allowed sexist conduct and discrimination against MPs also to be addressed in its recommendations.

Compared to other nations, Australia’s federal parliament has long suffered from a deficit in institutional leadership. Unlike the UK Parliament, which has the House of Commons Commission and House of Lords Commission, and the New Zealand Parliament, which has the Parliamentary Service Commission, the Australian Parliament does not have an overarching body responsible for its governance and management. The two

Canadian Houses of Parliament also have such governing bodies: the Board of Internal Economy (for the House of Commons) and the Committee on Internal Economy, Budgets and Administration (for the Senate). Although responsibility for managing the Australian parliamentary environment is vested in the Presiding Officers, they lack authority to act on behalf of all MPs and Senators. The lack of cohesive parliamentary leadership structures may have contributed to the slowness to reform the Australian parliamentary workplace. To begin, a leadership group had to be created.

NEW RULES AND STRUCTURES

Reforms in the Australian parliament occurred in the absence of pre-existing rules of behaviour or leadership bodies. They required new rules and structures to be built. A single cross-party cross-chamber leadership group was established specifically to steer the implementation of the Jenkins recommendations. The Parliamentary Leadership Taskforce (PLT) has been an effective innovation and is distinctive compared to leadership bodies in other parliaments: it includes parliamentarians from both chambers (the House of Representatives and the Senate) as well as ministers, and is led by an independent (external) chair. Its single focus and public reporting (including a monthly ‘Implementation Tracker’) creates strong accountability for its work.³

Unlike in other parliaments, the Speaker of the House and President of the Senate are not members of this leadership group. However, its nine members include people at the centre of power, such as Senator Katy Gallagher who combines the roles of Minister for Finance and the Public Service, Minister for Women and Manager of Government Business in the Senate. Also included are the Special Minister of State, key shadow ministers and other party leaders and deputy leaders, and Sharon Claydon, the Deputy Speaker of the House of Representatives. Almost exclusively comprised of female parliamentarians, it is an important new vehicle for women’s leadership, across parties and chambers, tasked with the job of reforming parliament and creating culture change. Its work has been characterised by sustained commitment to implementing the recommendations. Unfortunately, it will cease to exist when the main reforms have been initiated.

As part of the Jenkins Review implementation, a Joint Select Committee on Parliamentary Standards was created in February 2022 to develop codes of conduct for parliamentary workplaces, chaired by Sharon

Claydon. UK Parliamentary Commissioner for Standards Kathryn Stone gave evidence at its hearings and provided advice and submissions to the committee. It reported in November 2022 and then disbanded. The three proposed Behaviour Standards and Codes it developed were endorsed by both houses of parliament in February 2023: one for all who enter the parliament space, one for parliamentarians and one for staff.⁴ In early 2024, these codes were yet to take effect (they awaited a mechanism to enforce the codes and legislative change). However, the resilience of the idea that parliamentarians should be exempt from external scrutiny and regulation had collapsed.

Following the UK and New Zealand models, the committee drafted a Behaviour Code covering all those who enter parliamentary workplaces, which stipulates that they must:

- Act respectfully, professionally and with integrity
- Encourage and value diverse perspectives and recognise the importance of a free exchange of ideas
- Recognise your power, influence or authority and do not abuse them
- Uphold laws that support safe and respectful workplaces, including anti-discrimination, employment, work health and safety and criminal laws
- Bullying, harassment, sexual harassment or assault, or discrimination in any form, including on the grounds of race, age, sex, sexuality, gender identity, disability, or religion will not be tolerated, condoned or ignored.

Australian reformers consciously built on the work of other parliaments, drawing some phrases directly from codes in New Zealand, the UK and Canada. The code of conduct for parliamentarians of both houses states they must ‘treat all those with whom they come into contact in the course of their parliamentary duties and activities with dignity, courtesy, fairness and respect’, foster ‘a healthy, safe, respectful and inclusive environment’ and respect diversity in their workplace. The Joint Committee focused on discrimination and intersectionality in its report. The parliamentarians’ code of conduct states that ‘Bullying and harassment, sexual harassment and assault, discrimination in all its forms including on the grounds of race, age, sex, sexuality, gender identity, disability, or religion is unacceptable. Such behaviour will not be tolerated, condoned or ignored’. Staff of parliamentarians and of ministers will be bound by a code with similar conduct provisions.

Australia is distinctive in having elected representatives in both chambers regulated by the same code and both legislative and executive staffers under one code. This coherence is an advantage compared to the array of codes found in some other parliaments. However, the joint committee rejected the Jenkins Review recommendation that the staff code be legislated, instead suggesting it be placed in employment mechanisms such as contracts. This was a concession to staff concerns that it was unfair if a code for staff were enacted in legislation while the code for parliamentarians was enacted in standing orders, seemingly holding staff to a ‘higher standard than parliamentarians’.⁵

While the Australian Parliament lacked a code of conduct for parliamentarians before 2023, Australian Prime Ministers have issued codes of conduct for ministers since 1996. The ministerial code is issued and overseen by the Prime Minister and lacks any independent statutory or regulatory force. As mentioned in Chap. 4, Prime Minister Malcolm Turnbull inserted into it a prohibition on ministers having sexual relations with their staff. Labor Prime Minister Anthony Albanese issued a new ministerial code in June 2022 which kept the ‘bonk ban’ but included it more appropriately in a new section called ‘Safe and Respectful Workplaces’. This sets out the requirement for ministers to maintain a safe and respectful workplace for their staff, to ‘act consistently with all parliamentary resolutions relating to workplace culture’, to undertake mandatory training and to engage in good faith with an independent complaints mechanism.⁶

An Independent Parliamentary Standards Commission (IPSC) will be created to enforce the codes of conduct, investigate breaches and apply sanctions. However in early 2024 its development is still under way. While it follows the UK regime in being independent from MPs, it is unlikely to include lay members to the same degree. The Jenkins Report recommended the IPSC be a multi-member commission, with investigations by a single commissioner and appeals able to be made to a panel of other commissioners, to provide an appeals avenue without bringing the findings into the political arena. The Jenkins Report recommended a new Joint Select Committee on Parliamentary Standards have oversight of the IPSC. There are consultations and negotiations underway within the PLT about the scope of the body’s investigation function, delaying its planned establishment to October 2024. Some parliamentarians complain that progress has been far too slow. By the time it is established three years will have passed since the delivery of the Jenkins Report. Greens Senator and PLT member Larissa Waters said, ‘work to set up that body ... is complex, but there is no doubt it’s been too slow’.⁷

As has been seen in the UK and New Zealand, the independent complaint-handling body may prove to be the most difficult and controversial reform, and it may test parliament's current commitment to implementing all recommendations. It involves balancing the rights of parliamentarians with the need for independence from parliamentarians. In September 2023, former chair of the Joint Select Committee on Parliamentary Standards and member of the PLT Sharon Claydon urged parliamentarians to stay the course in developing the Commission and a range of enforceable sanctions, saying: 'That is a big body of work that is yet to be undertaken by this parliament. Not one of us should be under any false illusion here; that is critical work yet to be done... There is no place for us to get weak at the knees now'.⁸

A NEW APPROACH TO HR

One of the distinctive, and possibly most powerful, recommendations of Australia's Jenkins Report was to establish a new independent human resources organisation for staff and parliamentarians. The report made it clear, as also found in the UK and New Zealand, that many of the risks present in parliamentary workplaces arise from inadequate HR systems, under-resourced or non-existent induction, training and people management, and leadership skills deficits. Ministerial and electorate staff in Australia have reported that jobs are rarely advertised publicly and may lack any job descriptions, and parliamentarians often terminate staff contracts rather than managing workplace issues fairly.⁹ Professionalising employment practices is vital to creating safe workplaces and plays a key role in prevention of misconduct and culture change.

Previously in Australia the Department of Finance performed the role of administering staff employment and providing HR support, but since parliamentarians are the employers, it lacked the levers and controls that HR would usually have to influence workplace practices. Staff did not trust the Department and were critical of its weakness in being able to resolve issues, and inability to compel parliamentarians to take action, even when misconduct or poor practices were reported. The Jenkins Report argued the remedy was to give an HR body powers of compulsion and authority to drive accountability for professional workplace conduct. It stated that a new people and culture body should be able to compel compliance with required policies, influence standardised recruitment and career development practices, and drive the professionalisation of the workforce. While parliamentarians would retain flexibility and control

over employment decisions, they should be required to ‘consistently apply best practice employment principles’.¹⁰ Importantly, it would gather information about employment practices, addressing the concerns expressed by one staffer: ‘I want to know, and I want my MP to know, that someone is watching what they do inside the office’.¹¹

The new body, known as the Parliamentary Workplace Support Service (or PWSS) began on 1 October 2023, and is an independent statutory agency headed by an independent chief executive officer (CEO).¹² (It is built upon the small complaints service with this name established in 2021.) The government allocated \$51.7 million to establish and operate the new agency. The CEO cannot be directed by any person in the performance of their functions or exercise of their powers. Unlike HR units in other countries, it is entirely independent of parliamentary and executive governance structures, and derives its authority to make policies and practices mandatory through an Advisory Board (see Table 6.1). This four

Table 6.1 Standards reforms in Australia

	<i>Australia</i>
Codes of conduct for parliamentarians which reference sexual harassment and/or bullying	Ministerial Code of Conduct (2022); Behaviour Code; Code of Conduct for MPs and Senators; Staff Code of Conduct (all endorsed in 2023, not yet in standing orders or legislation)
When modern standards regime began	2021, but still being created by a single, effective cross party leadership group (Parliamentary Leadership Taskforce)
Anti-bullying and sexual harassment training	Mandatory for staff of legislators and ministers, but at present voluntary for parliamentarians
Distinctive features	High independence from parliamentarians: Independent Parliamentary Standards Commission (planned for October 2024); Independent centralised HR body (PWSS) for parliamentarians and staff with authority deriving from an Advisory Board external to parliament; A formal ongoing structure for consulting staff
Challenges within the standards regime	Independent Parliamentary Standards Commission not yet established The independent HR body (PWSS) may lack legitimacy, powers and the engagement of parliamentary actors Power asymmetries in staff employment have not been addressed

person Board consists of a Chair who is a former senior public servant, a former federal court judge, a former political staffer and a social inclusion policy expert, appointed by the Special Minister of State.¹³ The governance architecture includes a PWSS Consultative Committee, comprised of parliamentarians and staff members. Formalising ongoing consultation with staff is an important, and distinctive, feature of the Australian standards regime.

The CEO of the PWSS can make a training course, policy or procedure mandatory for parliamentarians only if the following process occurs: the CEO must consult the Consultative Committee about the proposal; and the Advisory Board must approve the proposal. The mandatory policy or procedure is then made by a legislative instrument, which means it can be disallowed by parliament, providing parliamentary oversight of these powers. Extensive consultation, and negotiations within the PLT, delivered consensus about the design and powers of the PWSS.

The structural independence of the new HR body is both interesting and potentially problematic. Its independence was deemed essential by stakeholders (staff and parliamentarians) in an extremely low trust environment, characterised by suspicion of any agency answering to executive government or which could be subject to political influence. However, its powers do not derive from the parliament, but rather from an Advisory Board, meaning it cannot draw on the authority of parliament for its decisions and for cultural leadership of the parliamentary workplace. Its decisions may be difficult to enforce, with its only recourse being to name non-compliant parliamentarians in a public report. It will be essential for parliamentarians and staff to see the body as legitimate and for strong engagement with all those in the parliamentary workplace if it is to effectively drive cultural change.

The PWSS is modelled on an existing independent regulatory agency that in turn was modelled on a UK precedent (see Chap. 4). The Independent Parliamentary Expenses Authority (IPEA) administers travel entitlements for parliamentarians and staff and while its role is educative and advisory it also enforces compliance. This requires a delicate balance and trusting relationships with parliamentarians. The PWSS is likely to face similar challenges in fulfilling both its supportive and prescriptive role.

As well as its cultural change and professionalisation mandate, the PWSS will advise on the new codes of conduct and receive and initially deal with complaints informally, before referring them for investigation by the Independent Parliamentary Standards Commission when it is created. Complaints can be received from the many groups of people working in

parliamentary workplaces, such as parliamentarians, staff, Parliamentary Service employees, volunteers, interns, journalists and café workers. It will also collect data and must report annually on key indicators of cultural change such as gender and diversity characteristics of parliamentarians and staff, gender equality of their remuneration, and responses to misconduct. These annual reports will provide a constant check on the progress of change. The PWSS will also develop policies and provide education and training.

It will be interesting to track the effectiveness of this innovative approach: resourcing and empowering an independent centralised HR body sitting outside the existing institutions of parliament and tasking it with cultural leadership of a space and body it does not inhabit. (Its main office will be located down the hill from the parliament building, with a small presence inside parliament house).

One of the significant drivers of toxicity for staff of parliamentarians and of ministers in Australia is their employment framework. They are employed under ‘events-based’ contracts which are relatively easily terminated, creating extreme power asymmetries with their employers. Under the *Members of Parliament (Staff) Act*, their employment can be terminated at any time. While no reasons are specified in the Act, in practice this can be due to office restructures, unsatisfactory performance, conflicts of interest or that the parliamentarian ‘has lost trust and confidence’ in the staffer.¹⁴ Recruitment or promotion is often done informally, based on patronage, reputation and loyalty, making it perilous to raise complaints. The Jenkins Report found there were ‘fundamental structural and functional limitations’ in the *Members of Parliament (Staff) Act* and recommended it be comprehensively reviewed, focusing on its governance frameworks, recruitment and employment security.¹⁵

The Department of the Prime Minister and Cabinet undertook the review in 2022 and, disappointingly, concluded that the framework of the Act was ‘broadly appropriate’ and recommended only a few significant changes. One was to insert employment principles, which set (non-binding) expectations for employment under the Act including that the workplace is safe, free from bullying, harassment and discrimination, and fosters diversity and a culture of professionalism and integrity. With regard to recruitment, before employing a person, parliamentarians must now ‘assess whether the person has the capability to perform the role’, suggesting job descriptions and selection criteria will be required when employing staffers. (This falls short of mandating external advertisement of staff positions, which was argued in many submissions to be important for bringing more diversity into the parliamentary workplace.)

With regard to the precarious nature of staff employment, amendments seek to slow down the termination process by requiring parliamentarians to consult the PWSS before ending a staffer's contract. Whether an MP does or does not consult the PWSS does not affect the termination but the PWSS may report a failure to do so publicly. Though this clause is meant to 'promote fair decisions about terminations of employment', the power remains solely in the hands of parliamentarians and it grants no greater employment security to staffers. A new power is given to the PWSS to suspend a staffer if their conduct poses risks to the workplace, addressing past situations where parliamentarians failed to act on allegations of misconduct by their staff. This can only occur, however, with the agreement of the employing parliamentarian. Overall, the amendments impose only light conditions on parliamentarians and don't unsettle the problematic power imbalances: agency within employment relationships remains firmly and solely in the hands of individual parliamentarians. While the PWSS may advise and possibly require certain practices, there are no consequences for non-complying parliamentarians, except for being named in a PWSS report.

DIVERSITY AND BEYOND

Three other recommendations of the Jenkins Review are notable. One was its identification of gender inequality and lack of diversity as causal factors in the toxic culture revealed in its surveys. It therefore recommended a 10-year strategy to advance gender equality, diversity and inclusion with targets to achieve gender balance and diverse representation amongst parliamentarians and their staff, and specific actions to increase the representation of first nations people, people from CALD (culturally and linguistically diverse) backgrounds, people with disability and LGBTIQ+ people. The Review argued that increasing diversity would improve the culture and safety of the parliamentary workplace. It recommended annual reporting of diversity characteristics. However, the PLT deemed diversity strategies to be outside its remit and a matter for political parties.

Second, the Review recommended that the standing orders and 'unwritten parliamentary conventions' be reviewed to improve 'everyday respect' in the parliamentary chambers and 'eliminate sexism and other forms of exclusion'. The House of Representatives Procedure Committee duly recommended that standing order 89 be amended to specify that sexist, racist, homophobic and otherwise exclusionary or discriminatory

language was offensive and thus prohibited in the chamber. The committee recommended the Speaker be given more power to deal with disorderly conduct in the chamber. While there was broad agreement to this change, the Opposition dissented from another of the Committee's recommendations—that a standing committee on gender equality, diversity and inclusion be established, to scrutinise the potential effects of proposed legislation and inquire into matters related to gender, diversity and inclusion. The committee's recommendations remain 'subject to ongoing consideration'.¹⁶ By contrast, the Senate Procedure Committee decided not to recommend any changes to its standing orders which it deemed 'sufficiently flexible' to prevent offensive language and conduct. Behaviour in the chamber is an arena that appears resistant to reform.

Thirdly, the Jenkins Review recommended these issues be kept on parliament's agenda. There should be an annual discussion in parliament of behaviour, conduct and workplace standards. This began in February 2023 and is planned for each February. It also recommended there be an external independent review of progress in implementing its recommendations. The PLT stated this would occur in April 2025.

The PLT plays a critical role in leading Australia's standards regime creation. It functions to iron out points of disagreement between parties early on and provides a forum to thrash out and resolve issues. It faces the challenges of consensus policymaking in a context of strong adversarialism, which may explain the slow pace of change. That it is led by an independent chair may be a feature of its success. It is also notable for creating a Staff Reference Group it consults on all proposals, comprising a wide range of staff in the parliamentary workplace, including Press Gallery journalists.

While slow to begin standards reform, Australia has seen systematic and radical change since 2021. Shocked by the experiences of staff and an outpouring of anger in the community, the Australian parliament is putting in place a set of interlocking new rules and institutions which will establish, for the first time, independent regulation and accountability in its workplace. In the absence of existing codes of conduct or leadership bodies, it is developing a more coherent and simpler system of rules compared to other countries and two new institutions with independent powers and roles: a standards body based on the UK model and an innovative central HR body with powers to mandate professional employment practices. Australian reformers hope that a well-resourced independent HR body will provide the support and guidance needed to improve the

parliamentary workplace and change its culture. The powers of the HR body, however, are drawn from outside of parliament itself, and ultimately rest on public naming and shaming of non-compliant parliamentarians. How effective it will be remains to be seen. The multiparty parliamentary leadership group leading the reforms provides a model for other countries. It is authoritative, includes legislators and ministers from both chambers, and has ownership of the reform process. Consulting and building consensus has drawn out the progress of reform but when legislation is introduced, it is quickly and unanimously passed. Unfortunately, the group lacks a continuing mandate, beyond the implementation of the Jenkins Review recommendations. Without effective ongoing leadership institutions, it is hard to know if this consensus will endure and if the Australian parliament will maintain, protect and develop its new rules and institutions.

PROSPECTS FOR REFORMING TOXIC PARLIAMENTS

This book introduced the concept of toxic parliaments. By extending our focus beyond parliamentarians to all those who work in parliamentary spaces, we can see that parliaments may be not only hostile but harmful and damaging to those who work within them. Extreme power differentials and lack of accountability can produce workplaces where bullying, sexual harassment and sexist misconduct is prevalent. Change is needed.

There have been significant reforms to standards regimes across the four Westminster countries focused on in this book. While in some cases rules and institutions have evolved slowly, in others change has been radical and dramatic. In the case of Australia, the events of 2021 can be seen as a critical juncture, with exogenous pressures helping to overcome resistance to independent oversight of parliamentary conduct, leading to the creation of new rules and institutions. Canada has not followed the same institutional path as the other nations, possibly due to the lack of an external review. Independent reviews, providing clear recommendations, help prompt and guide reform and provide a basis against which reformers can be held accountable.

All such reforms challenge long-standing gender norms and power hierarchies. Attempts to reform toxic parliaments are not settled. Viewing parliament as a workplace is a radical reframing of the institution, allowing the values of safety and respect to be activated as workplace rights. But the introduction of independent regulation of conduct involves shifts in power that are contested. Reform requires strong leadership by both men and

women, consensus building and cross-party commitment. Culture change is necessary but difficult to achieve and to track.

There has been notable structural change. The norm of parliamentary privilege, which allowed parliaments to self-regulate and resist external accountability for conduct, has ceded ground to legal and employment-based regulatory imperatives. Parliamentarians can now be held to account for providing a safe workplace, and independent regulatory bodies have been created (or planned) in all countries except Canada. In the UK, an independent Parliamentary Standards Commissioner can evaluate the conduct of parliamentarians, and recommend sanctions. Australia and New Zealand plan to follow this model, though their institutions are in their infancy or not yet in place. The protracted negotiations in New Zealand to establish a Commissioner for Parliamentary Standards, and the recent challenges to the authority and role of the Commissioner in the UK, demonstrate the tension surrounding such a model, which must balance independence with fairness to parliamentarians. The current UK House of Commons review of ‘the landscape of bodies and processes that have some role in regulating the conduct of MPs’ shows that new institutions must evolve over time but also may need to restate and bolster their legitimacy, when under challenge.¹⁷

Some structures that generate toxicity remain resilient. For the staff of legislators and ministers, while institutional remedies have been created in the form of codes of conduct and independent complaints bodies, the inherent power imbalance in their employment models remains intact. In her 2023 follow-up report on culture in the New Zealand parliament, Debbie Francis argued the employment model for staff needed transformative structural change, as it was one of the ‘deep drivers of a less than healthy culture’, creating risks for workplace toxicity, bullying, sexual harassment and sexist misconduct.¹⁸ While she found there was a safer and more respectful culture in the New Zealand parliament than in 2019, she attributed this to the efforts of individuals, rather than fundamental change. There is little appetite for change to the employment framework for political staff in New Zealand, despite the extreme power imbalance being a recognised source of toxicity, and this is also true in Australia and elsewhere.

Francis felt these inherent risks could be mitigated by significantly improved HR functions. The centrepiece of the unfolding Australian standards architecture is a centralised and independent HR body, drawing its authority to impose policies and practices from an external advisory board.

It has been allocated substantial funding. In her 2023 report, Francis strongly supports this approach. It will be important to track whether this institutional innovation effectively performs its envisioned role.

One of Francis's insights, like those of Gemma White QC in the UK, is that very few staff are likely to make formal complaints due to the precarious nature of their employment, low trust in complaints channels and the high stakes consequences of speaking up. For this reason, Francis argues HR bodies need to carefully track 'weak signals and emergent risks',¹⁹ emphasising the importance of data collection and surveys by well-resourced HR bodies in preventing misconduct and responding to it.

There has been significant policy learning and policy borrowing within the Westminster world as standards institutions evolve—for example, Australia and New Zealand drew on the UK's model of an independent standards body. Other countries may learn from Australia's experiment with an empowered independent HR agency and its reform leadership.

As emphasised within feminist institutional theory, the way formal institutions operate depends on their interaction with informal norms and practices. Adversarialism is a norm with a long history and importance in Westminster systems and one which works against the cultural change sought by new standards regimes. It sustains a gendered logic of appropriateness within these parliaments. A classic example of 'remembering the old and forgetting the new' occurred during the 2023 debate in the Australian Parliament, endorsing new codes of conduct for parliamentarians and staff. Major and minor party leaders as well as a representative of the cross bench joined in praising the cross-party work that had been done to make the parliamentary a safer and more respectful workplace. The Leader of the Opposition shared in this non-partisan approach—so vital for parliamentary reform—but then lapsed into partisan point scoring, blaming the shortfall of conservative women in parliament on the fact that: 'women of centre-right views are subjected to some of the disgusting vitriol online and on social media dominated by the extreme and vociferous Left'.²⁰ The representative of the cross bench assured the Leader of the Opposition that it was women across the political spectrum, not just conservative women, who were receiving 'a revolting amount of vitriol and abuse on line' and that leaders needed to set the standard.

One area that highlights the tension between existing norms and new standards of 'everyday respect' is that of parliamentary language. While standing orders prohibit offensive language or personal reflections on members, such as calling them a 'liar', the rules have not kept up with the

increased diversity of parliamentary representation. In pursuing improved ‘everyday respect’ within these more diverse parliaments, some countries propose to ban parliamentarians from subjecting others to ‘unreasonable and excessive personal attacks’ as well as to prohibit language that is sexist, racist, homophobic and otherwise exclusionary or discriminatory. This challenges a parliamentarian’s traditional right to express ‘robust views without fear or favour’.²¹

The distinction between legitimate robust debate and sexism or bullying remains contested ground, as can be seen in several Australian cases. In October 2022, almost a year after the Jenkins Report had been delivered, conservative MP Michelle Landry accused Prime Minister Albanese of bullying during Question Time in parliament. She had left the chamber distressed after the Prime Minister answered her question in an aggressive tone. At a media conference she said: ‘He was yelling at me, he was pointing at me. ... I’ve been humiliated in front of the whole parliament ... he was looking at me and screaming at me’.²² Despite this complaint occurring in the midst of parliament’s focus on improving conduct, the Speaker of the House said he did not believe the Prime Minister had shown disrespectful behaviour.

In September 2023, only hours after the House of Representatives had passed the bill to establish the new PWSS, supported by many parliamentarians advocating culture change, Kylea Tink MP rose to complain about ‘confronting’ treatment she had experienced the previous day in the chamber. Not only was the tone of the debate ‘overly aggressive and personalised, with numerous examples of condescending and offensive language ... designed to intimidate others’ but after voting she had been attacked personally by another MP who ‘yelled aggressively’ at her as they returned to their seats. She said she ‘did not feel safe’, but when she reached out to the PWSS for support, she found it had no remit within the chamber.²³ The new willingness to call out bullying in the chamber marks a change in long-standing Westminster norms. Norm change can be slow, but it begins with naming certain behaviours as unacceptable.

It remains difficult to recognise and prevent bullying inside parliamentary chambers and to draw boundaries around the tradition of ‘robust’ debate protected by parliamentary privilege. Palmieri argues that while such political combat in parliamentary chambers may be ‘theatrical’ it normalises conduct that may leak from chambers to other parliamentary workplaces, and it can have a devastating impact on those against whom it is directed.²⁴ Bullying of witnesses can also discourage participation by civil society groups in parliamentary committee hearings.

Parliaments are gendered institutions animated by long-standing conventions, norms and practices. These are under challenge, but as this book shows, informal norms and practices remain embedded and potent in Westminster countries. The dynamic of partisan adversarialism remains as strong as ever. Its gendered effects include the masculine bias of performance standards ('claiming scalps'), the weaponising of sexual gossip and the viewing of issues of misconduct through a partisan lens.

Much work has been done to change parliaments from a masculine domain into a workplace that is more inclusive and family friendly. But to ensure parliaments are no longer toxic, and to strengthen and maintain new standards regimes, more needs to be done to challenge the gendered logic of adversarialism so central to the Westminster tradition.

NOTES

1. Kate Jenkins (2021). *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*. Australian Human Rights Commission, p. 3. <https://humanrights.gov.au/set-standard-2021>
2. Australian Human Rights Commission (AHRC) (2020). *Respect@Work: Sexual Harassment National Inquiry Report*. <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>
3. Parliamentary Leadership Taskforce (2023). https://www.aph.gov.au/About_Parliament/Parliamentary_Leadership_Taskforce
4. Joint Select Committee on Parliamentary Standards (2022). *Final report*, November. https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Parliamentary_Standards/ParlStandards47th/Report
5. *Ibid.*, p. 93.
6. *Code of Conduct for Ministers* (2022). <https://www.pmc.gov.au/sites/default/files/resource/download/code-of-conduct-for-ministers.pdf>
7. Sarah Basford Canales (2023). Crossbenchers express anger about delays to federal parliament workplace enforcement body. *The Guardian* 12 September. <https://www.theguardian.com/australia-ews/2023/sep/12/crossbenchers-express-anger-about-delays-to-federal-parliament-workplace-enforcement-body>
8. House of Representatives Hansard, 7 September 2023.
9. Maria Maley (2021). Problematic working conditions for female political staffers: what can be done? *Australasian Parliamentary Review* 36(2): 54–69.
10. Kate Jenkins (2021). *Set the Standard*, p. 183.
11. Maley (2021). Problematic working conditions for female political staffers, p. 68.

12. The PWSS began operation on 1 October 2023 under the *Parliamentary Workplace Support Service Act 2023*
13. Appointments to the *Parliamentary Workplace Support Service 21 March 2024*. <https://www.smos.gov.au/media-release/2024/03/21/appointments-parliamentary-workplace-support-service>
14. Department of Finance (2022). Ceasing employment. <https://maps.finance.gov.au/pay-and-employment/mops-act-employment/ceasing-employment>
15. Jenkins (2021). *Set the Standard*, p. 210.
16. It is now a matter for the House of Representatives to consider making any changes to the Standing Orders.
17. Committee on Standards *Inquiry: House of Commons standards landscape* <https://committees.parliament.uk/committee/290/committee-on-standards/news/196548/committee-on-standards-launches-new-inquiry-into-the-standards-landscape/>
18. Debbie Francis (2023). *Culture in the New Zealand Parliamentary Workplace: A future excellence horizon*, p. 10. <https://www.parliament.nz/en/footer/about-us/parliaments-workplace-culture/culture-in-the-new-zealand-parliamentary-workplace-a-future-excellence-horizon/>
19. *Ibid.*, p. 32.
20. Peter Dutton (2023). Parliamentary Standards. *House of Representatives Hansard*, 8 February, pp. 10–12. https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/26419/&sid=0000
21. House of Commons Committee on Standards (2022). *New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament* First report of session 2022–2023. <https://committees.parliament.uk/publications/22338/documents/165774/default/>
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24. Sonia Palmieri (2023). Can language rules improve everyday respect in the parliamentary chambers? *Australasian Parliamentary Review* 38(1), p. 16.

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