NSW LABOR

COMPLAINTS HANDLING PROCESS

1. INTRODUCTION

1.1. This Complaints Handling Policy is to be read in conjunction with the NSW Labor Code of Conduct; the NSW Labor Sexual Harassment and Bullying Prevention and Response Policy; and the NSW Labor Harassment and Bullying Prevention and Response Policy.

2. SCOPE AND PATHWAYS

2.1. NSW Labor reserves the right to develop complaints handling policies for individual workplaces or gatherings where appropriate which are consistent with the principles outlines in the Code and policies.

2.2. The following table may assist complainants in determining the best pathway for them. However NSW Labor recognises that many members are involved in the Party in a variety of ways and encourages anyone who may with to make a complaint to speak to any of the designated persons listed at section 3.5 for further guidance.

Coverage	**Relevant Policies**
NSW Labor members, elected NSW Labor parliamentary representatives, officials (paid and unpaid), staff, contractors, volunteers and any person who attends a NSW Labor gathering or event (state level).	NSW Labor Code of Conduct NSW Labor Policy on Sexual Harassment Prevention and Response NSW Labor Policy on Workplace Harassment and Bullying Prevention and Response NSW Labor Complaints Handling Policy
Parliamentary Staff & Volunteers of Members of Parliament and Members of Parliament in relation to workplace matters	Members of Parliament (Staff) Act 1984 (Cth), Members of Parliament (Staff) Act 2013 (NSW), or Work Health & Safety Act 2011 (Cth), or Fair Work Act 2009
State and Territory Labor Members attending jurisdictional gatherings and events.	The relevant state and territory branch rules, procedures and processes
NSW Labor Organisational Staff and Paid Officials	NSW Labor Workplace Health & Safety Policy and Employment Terms and Conditions

3. WHO TO TALK TO

3.1. NSW Labor is committed to ensuring that allegations of sexual harassment, workplace harassment, bullying and other breaches of the NSW Labor Code of Conduct or associated policies are dealt with promptly, confidentially and in accordance with the principles of procedural fairness for all parties involved.

3.2. It is important that the resolution or investigation of any complaint is undertaken in a manner that is respectful, trauma informed, culturally safe, particularly for First Nations people, and avoids additional distress to complainants, survivors and alleged victims.

3.3. As outlined in NSW Labor harassment policies, part of the resolution process is ensuring that a complainant has been adequately supported and is aware of available reporting options.

3.4. While any complaint or allegation must be dealt with on an individual basis, in general a person receiving an initial allegation of harassment can show support by:

3.4.1. taking their complaint seriously;

3.4.2. listening without interrupting;

3.4.3. letting the person express how they feel and respecting the words they use in reference to the incident or incidents;

3.4.4. acknowledging if the person is in distress and may have difficulties in expressing themselves;

3.4.5. respecting their decisions; and

3.4.6. referral where appropriate to counselling or other avenues of professional advice and assistance, including independent victim support services and helplines who have the capacity to support the complainant, with their consent.

3.5. The below designated persons can provide informal advice to potential complainants or receive complaints formally.

DESIGNATED PERSONS

Name	Contact Details
Trish Marinozzi	Trish.marinozzi@nswlabor.org.au
Lyndal Howison	C/- (02) 9207 2000 or nswlabor@nswlabor.org.au
Crystal Validakis-Betar	C/- (02) 9207 2000 or nswlabor@nswlabor.org.au
NSW Labor Governance Director Complaints Manager Glenn Bacic	(02) 9207 2000 glenn@nswlabor.org.au

4. INFORMAL RESOLUTION

4.1. Different methods of resolution may be used to resolve potential complaints, depending on the nature of the allegations, the seriousness of the alleged behaviour, and the wishes of the complainant.

4.2. This can include self-resolution or informal resolution. Under this pathway, a complainant may express the wish to deal with a situation themselves but may seek advice on possible strategies from a support person, including an independent advocate before determining whether the matter has been resolved to their satisfaction.

4.3. Informal resolution is aimed at allowing the respondent to understand that their conduct is causing offence, acknowledge any behaviour that breaches the code or associated policies, and ensure that the offending behaviour ceases.

4.4. Depending on the seriousness and nature of the incident or behaviour, if the complainant or potential complainant feels able to do so, they may confront the person directly (including in writing), tell the person that they do not like the behaviour, and ask that it stop.

4.5. An agreed resolution may be facilitated, but any outcome may be dependent on the parties' willingness to engage in that process. Informal action may result in acknowledgement and an apology from the respondent.

4.6. If a person does not feel that an issue can be resolved by self-resolution, they should be able to seek advice from a suitably trained support person or NSW Labor official as to other options available for resolution, including formal action.

5. HOW COMPLAINTS ARE RECEIVED AND REFERRED

5.1. Formal complaints can be made in writing by the complainant or following discussion with one of the designated persons. When a complaint is formally received, the following details should be recorded with appropriate confidentiality maintained:

5.1.1. The dates, times and facts of the incident(s), including any witnesses;

5.1.2. Ascertaining initial views of the complainant about the outcome they want;

5.1.3. Confirmation that the complainant understands the process for dealing with the complaint;

5.1.4. Summary of the next steps, including likely investigative steps where relevant.

5.2. In the case of complaints involving children, all complaints, including anonymous or third party will be accepted, and mandatory reporting requirements to police or child protection authorities may apply depending on the nature of the allegation.

5.3. In the case of anonymous and third-party complaints, responses will depend on the nature and content of the complaint.

5.4. Where the complaint includes allegations in respect of criminal conduct the complainant should be actively supported in obtaining advice and assistance from qualified independent victim support services (see indicative referral list pg. 8). With the complainant's consent, the complaint should be referred the complaint to the police or other investigative agency. Complaints referred to the police or other agency for investigation and prosecution will be determined by the outcome of the investigation or court verdict.

5.5. A designated person should refer a formal complaint to the General Secretary, with the consent of the complainant.

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

5.7. In the event that time or other circumstances do not permit the General Secretary to conduct the process for a Complaint, the General Secretary may appoint another NSW Labor official or independently qualified person to facilitate the process with the same authority as the General Secretary.

6. FORMAL ACTION FOR NON-CRIMINAL COMPLAINTS (INVESTIGATION PROCESS)

6.1. Where a complaint is not resolved by informal resolution and does not constitute a criminal offence or give rise to a civil claim it may be necessary for the National Secretary to take more formal action.

6.2. By way of general guidance, and having regard to the principles set out at clause 3.2, the following steps may be included as part of formal action:

6.2.1. an independent third party may be appointed by the General Secretary for the purpose of investigating the complaint (Investigator);

6.2.2. the complainant may be asked to provide written details of the complaint or may be interviewed, with a support person or adviser if required;

6.2.3. the complainant may be required to provide an affidavit or statutory declaration verifying the truthfulness of the complaint;

6.2.4. relevant details of the complaint will be conveyed to the respondent;

6.2.5. the respondent will be given 7 days to respond, or as otherwise reasonably determined by the General Secretary;

6.2.6. 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;

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

6.2.8. if there is a dispute over facts, other relevant evidence may be gathered and witnesses may be interviewed;

6.2.9. a finding may be made as to whether the complaint is substantiated to the comfortable satisfaction of the Investigator; and/or

6.2.10. a written report may be prepared, documenting the evidence, the finding and the recommended outcome.

6.3. If the complaint is substantiated, the General Secretary will determine the appropriate outcome.

7. ALLEGATIONS OF SEXUAL ASSAULT

7.1. Where an allegation of sexual assault is made, NSW Labor should be active in its support of the complainant by appropriate referral to relevant counselling, medical, police or legal services.'

7.2. Survivors of sexual assault should be in control of the decisions affecting them, especially their right to decide whether to seek counselling, medical services, police or legal intervention.

7.3. At all times their privacy should be respected and no information should be shared without their consent.

7.4. It must always be remembered that sexual assault is a traumatic incident and every individual will differ in the impact upon their ability to make immediate decisions and to communicate.

7.5. The decision to proceed with making any complaint of sexual assault to police is the decision of the person who has made the allegation or complaint. Some individuals will prefer to go directly to police as they are clear that they wish to make a report.

7.6. Independent victim support services (see below) are best placed to provide advice about legal options, investigatory processes, court preparation and court support.

8. PROCESS WHILE A COMPLAINT IS UNDER REVIEW

8.1. NSW Labor 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.

8.2. NSW Labor 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.

8.3. NSW Labor recognises that measures may be required to ensure that interactions between a complainant and a respondent are managed during any investigation, process or action while a complaint is under review.

9. CONSEQUENCES AND DISCIPLINARY ACTION

9.1. A breach of the Code and associated policies, depending on its nature and severity, may lead to disciplinary action being taken by the General Secretary or State Executive, which may include:

9.1.1. counselling;

9.1.2. requiring a formal apology;

9.1.3. conciliation/mediation conducted by an impartial third party;

9.1.4. training on expected standards of behaviour;

9.1.5. performance management;

9.1.6. a formal warning;

9.1.7. demotion;

9.1.8. suspension; or

9.1.9. expulsion.

The list above is not exhaustive and other appropriate outcomes may be determined by the State Executive.

9.2. Disciplinary action may also be taken against a person who takes any action to victimise a complainant for making a complaint, if applicable.

9.3. Disciplinary or other action may be taken against a complainant if there is evidence that the complaint was malicious or vexatious, if applicable.

OTHER SUPPORT SERVICES
Sexual Assault & Domestic Violence National Help Line 1800 Respect (1800 737 732) www.1800respect.org.au/
Lifeline 13 11 14 24-hour crisis support and suicide prevention. www.lifeline.org.au
Beyondblue 1300 224 636 Mental health support https://www.beyondblue.org.au/
Women's Legal Service NSW 1800 801 501 www.wlsnsw.org.au
NSW Sexual Violence Helpline 1800 424 017
CPSU Member Service Centre 1300 772 679 Confidential advice and support
Media, Entertainment and Arts Alliance (MEAA) 1300137636
United Services Union 1300 136 604
ASU Member Service Centre (02) 9310 4000