

FAQ'S

Reporting Sexual Harassment

This resource provides information about our processes and procedures regarding informal reports and formal complaints of sexual harassment in the legal profession

How do I contact the Board about an incident/s of sexual harassment?

The Legal Profession Board (LPBT) is responsible for regulating lawyers in Tasmania. Sexual harassment by lawyers is unacceptable conduct that is capable of constituting unsatisfactory professional conduct or professional misconduct. If you have experienced sexual harassment by a lawyer, you are strongly encouraged to report or make a complaint to our designated sexual harassment team by:

- Visiting the Elker reporting tool via our website <https://www.lpbt.com.au/>
- Emailing harassmentcomplaints@lpbt.com.au
- Calling (03) 6226 3000 and asking to speak to a LPBT Response Team Member

We will deal with reports and complaints sensitively and in a way that gives reporters control over their disclosure. If you don't want to make a formal complaint, or would like to stay anonymous, that's okay. We do not have to take any action following an informal report, although it may help us identify areas of concern in the profession, and inform our responses, including education campaigns. If you want to formally complain, we can investigate and we may be able to take disciplinary action against the person complained about.

See also our *Experiencing Sexual Harassment Resource* for more information.

What is the Elker Speak Safely Reporting Tool?

The portal is designed to make reporting incidents of harassment easier for you. This system is designed to keep you safe by allowing you to report something with the option of anonymity, if desired. This allows you to ask questions and understand your options.

You can use this portal to report on any incidents of sexual harassment that you experienced or witnessed. The LPBT Response Team Members are specially trained to receive reports of sexual harassment. Access to reports on the Elker reporting platform or enquiries to the Response Team are accessible only by these team members.

Importantly, you choose whether you wish to be contacted once you have submitted the report, and your preferred method of communication. If you would like to be contacted, you can also indicate your preference for who receives the report within the Response Team (e.g. Female, Male, age, seniority). If you require the use

of an interpreter, or have any other requirements or preferences for communicating with us, please contact us via one of the methods listed above.

The Elker reporting tool is available online 24 hours a day, 7 days per week. You can remain completely anonymous while making your report. While anonymous you can communicate with the Response Team by encrypted 2-way chat (staffed in office hours only).

The Elker reporting tool can be accessed [here](#).

What does the reporting process look like?

The Elker reporting tool will log your matter, provide you with some preliminary information, connect you to the LPBT Response Team and provide you with a mechanism for checking on your matter’s progress.

If you have elected to communicate with one of the LPBT Response Team Members, they will be in contact within 1-2 business days, via your preferred method of communication.

Can I remain anonymous?

By contacting us via one of the methods outlined above, you have the option of remaining anonymous. You are not required to identify the alleged offender either. However, if you choose to stay anonymous, your report cannot be treated as a formal complaint under the *Legal Profession Act 2007 (Tas)* (the Act). This is discussed further below.

What if I am reporting as a bystander?

If you observe or are told about sexual harassment, you are able to report it via one of the methods outlined above. At an informal reporting stage, you might choose to make a report without identifying the person or people being harassed.

If you intend to make a formal complaint however, you should consider having a discussion with the person who was harassed before deciding whether to report their experience. The person who experienced the sexual harassment may not be ready or willing to be involved in a sexual harassment complaints process, and it could cause significant distress to make a report that identifies them, without their consent.

See also our *Witnessing Sexual Harassment Resource* for more information.

What is the difference between an Informal Report vs. a Formal Complaint?

Formal Complaint

Sexual harassment by lawyers can constitute unsatisfactory professional conduct or professional misconduct.

We take all complaints about sexual harassment seriously. To make a formal complaint, you will need to provide your name and contact details and your complaint will need to be recorded in writing. A formal complaint will involve advising the lawyer of the complaint, asking for their explanation and gathering all available evidence.

After preliminary consideration by the Board, the complaint may be dismissed, or an investigation may be commenced.

Possible outcomes of a formal complaint

- The complaint is dismissed
- The Board determines the conduct amounts to unsatisfactory professional conduct. The Board may make orders such as a reprimand, a caution, Continuing Professional Development, or direct the Practitioner to make an apology or make reparation
- The Board determines the conduct amounts to professional misconduct, and refers the matter to either the Disciplinary Tribunal or the Supreme Court of Tasmania.

You can find out more about our complaints process [here](#).

Informal Report

We recognise that those who experience, witness or have knowledge of sexual harassment may not be in a position to disclose their identity or make a formal complaint at this time or at all. Informal reporting allows anyone to disclose their experience or knowledge of sexual harassment conduct to us confidentially and anonymously.

The Board does not have the power to investigate informal reports under the Act. However, making an informal report does not prevent a person from making a formal complaint at a later time. Please note that an informal report is not considered as a formal complaint.

Possible outcomes of an informal report

The information disclosed in informal reports helps alert the Board to sexual harassment occurring within the Tasmanian legal profession. Your report may help inform education and training or help us monitor hot spots of harassment.

Possible outcomes of an informal report are:

- No further action is taken and the matter is finalised.
- You decide to lodge a formal complaint (at the time or in the future)

Making an informal report may have many other positive outcomes, including:

- empowering you to talk about your experience and how the conduct made you feel
- preventing similar conduct happening to you or someone else
- obtaining an outcome that may be personally significant, such as a change in the law practice's or chambers' policies and culture

Is an informal report confidential?

The LPBT Response Team is solely responsible for managing reports or complaints concerning sexual harassment, and are the only ones who can access or review the information you submit. The LPBT privacy policy can be accessed via the Elker reporting tool.

All data that is submitted through the Elker reporting tool is encrypted. This means that no one aside from you and the person you choose to communicate with will be able to view your confidential or private data at any time.

In some circumstances we may be required to provide information to other state and Commonwealth agencies, or as otherwise required by legislation, a Court or Tribunal. For example, we have a duty to report serious criminal offences to Police or other authorities where there are reasonable grounds to do so. However, we are determined to do everything in our power to safeguard the confidentiality of any information you are willing to provide to us, and we will always communicate with you in these circumstances.

Data received from reports or complaints will be collected in a de-identified format. Information provided in reports may provide valuable information about trends and areas of concern which may be addressed through other avenues.

What is the role of the LPBT Response Team Members?

The Board has a dedicated team to support reporting of sexual harassment. The LPBT Response Team are responsible for receiving and handling reports and complaints of sexual harassment, and have received specialised training in managing sexual harassment reports and complaints.

The LPBT Response Team Members are there to:

- Listen
- Provide information on the reporting and complaints processes
- Refer you to appropriate services and resources
- Keep a confidential record of your disclosure

The LPBT Response Team are unable to:

- Provide legal advice
- Act as a counsellor
- Intervene or stop the behaviour

What if the person who engaged in sexual harassment is not a lawyer?

You can still make an informal report about the sexual harassment. Under Work Health and Safety legislation, workplaces have a duty to create safe workplaces, including doing all things reasonable to remove or reduce risks of such conduct. This may include preventing sexual harassment by persons who are not lawyers. Any information you are willing to provide will help us improve the culture in our profession.

How much information do I have to provide?

You can provide us with as much or as little information about yourself or the incident as you like when you make an informal report. All information provided to us is confidential, subject to our obligations outlined above. Bear in mind that the more information you can provide to us, the more equipped we are in addressing sexual harassment within the legal profession.

An opportunity to provide us with further information is available to you if you decide you feel able to do so at a later time.

Can I also make a formal complaint at a later time?

Yes. A formal complaint can be made anytime within 3 years after the conduct occurred. The Board may be able to deal with matters that fall outside of the 3 year timeframe in certain circumstances.

If in doubt, you can speak to one of the LPBT Response Team Members to understand the process and how best to lodge your formal complaint in the circumstances.

If I want to make a formal complaint does the lawyer have to be notified?

Yes, the Board has an obligation to ensure lawyers are afforded an opportunity to respond to allegations being made against them. This is to ensure they receive procedural fairness as part of the complaints process.

There are some circumstances where a request to withhold notification to the lawyer of a complaint may be warranted for example, if the Board is of the opinion that the giving of the notice will or is likely to place the complainant at further risk of harassment or intimidation.

We will take all reasonable steps to advise you prior to notifying the lawyer of the complaint.



Can I withdraw my complaint if I change my mind?

You are entitled to withdraw your complaint at any time during the complaints process, unless disciplinary proceedings have been instituted in the Tribunal or the Supreme Court.

If you choose to withdraw your complaint, you will be precluded from making a further complaint about the conduct subject of the withdrawn complaint unless the Board deems it appropriate to do so in the circumstances. The Board may also make its own complaint about the conduct irrespective of your withdrawal.

Do I have to report the incident to my boss/manager /HR before I can make a report or formal complaint?

No, you do not need to have taken any action prior to making a report or complaint to the Board if you do not feel comfortable. It is helpful to provide us with information about any other actions you have taken prior to or at the same time as reporting to us.

Visit our *Experiencing Sexual Harassment factsheet* for more information about other reporting avenues.