

Tasmanian Bar

21 January 2021

Legal Profession Board of Tasmania
GPO Box 2335
HOBART TAS 7001

Attention: Frank Ederle and Gayle Johnston

Dear Frank and Gayle,

Sexual Harassment Working Group

You invited members of the working group to provide information about initiatives taken or in progress and suggestions about future action or approaches.

After I issued a Media Release on behalf of the Tasmanian Bar regarding sexual harassment and discrimination, the Bar Council established a committee to ascertain what if any steps should be taken to address these issues in the profession, and particularly for Barristers.

The Committee and Bar Council have progressed some initiatives and others are “on hold” due to a desire to ensure collaboration with other stakeholders and consistency. A summary of the steps taken by the Bar are as follows:

1. The Bar Council resolved to support the call for a Federal Judicial Commission. This is being promoted through the Australian Bar Association (ABA) and in collaboration with the LCA.
2. As there were no formal measures in place to address judicial conduct with State Courts, the Bar Council resolved to propose a Judicial protocol with the Supreme Court and Magistrates Court. This has been favourably received and is in progress. The Law Society of Tasmania is also involved having been invited to participate and be a signatory to the Protocol. The Protocol largely mirrors one that is in place between the ABA and the heads of the Commonwealth jurisdictions.
3. As representative on the ABA’s Diversity and Inclusion Committee, I have been working with the committee to identify potentially suitable education about sexual harassment and discrimination, including cultural change for barristers. This committee works cooperatively with the Ethics Committee of the ABA and together we have proposed amendment of Rule 123 of the uniform Barristers Rules, to ensure its prohibition of sexual harassment and discrimination is wider than conduct in the

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course of practice. Mary Anne Ryan, as our representative of the Ethics Committee is also involved with this.

Other initiatives discussed but put on “hold” are:

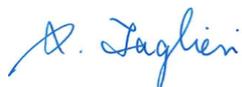
- a. A Guidance note specific to practice at the Bar and which identifies expectations around the prohibition in Rule 123.
- b. Development of an informal grievance procedure for the Tasmanian Bar itself. This would provide a **voluntary**, mutual agreed and confidential process for prompt resolution of grievances between members or members and others. This could only apply where the person with the grievance does not wish to raise a formal complaint with the LPBT. As it was understood other Bars and the LST were considering such a process or developing one, it was decided to consult and also avoid reinventing the wheel.

The need for cultural change now seems to be commonly accepted. Education is critical to creating cultural change and so, my suggestions are –

- Delivery of a presentation or education session to students of the Legal Practice Course. Simple and not costly.
- CPD training being included in the mandatory ethics points required by practitioners. This is not to suggest that sexual harassment and discrimination be a topic required to be covered each year, but that it be included in the mandatory ethics point materials and offered at least every two years, in conjunction with other ethics topics.
- Development of an online tool or resource, eg podcast or video-clip available on the Tasmanian Bar and LST and possibly also LPBT website. The concept of this would be to demonstrate visually and audibly the type of conduct that consciously and subconsciously occurs that constitutes prohibited conduct. A secondary function would be to convey impacts of the conduct on the recipients of the prohibited conduct. This resource could also be used during ethics training for the CPD point made available and or at the Legal Practice Course.

I am not aware of the above suggestions already having been implemented, but they may have been. I look forward to discussion at the meeting on 11 February.

Yours faithfully



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PRESIDENT

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