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# DESIGNING BULLYING AND HARASSMENT POLICIES FOR LAW FIRMS

**DATE**

*November 2021*

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**PRESENTERS**

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## PRESENTERS



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Paul has wide experience in areas of professional discipline and regulation in the legal profession. He has prosecuted numerous cases in the Disciplinary Tribunal and has appeared in the Senior Courts in cases involving discipline and regulation in the legal profession. Paul was a convenor of the National Standards Committee until his nine-year tenure expired and he continues to be involved in litigation and advisory work in relation to complaints and discipline. He is a contributing author to *Professional Responsibility in New Zealand* (LexisNexis) and was consulting editor for *The Laws of New Zealand: Lawyers and Conveyancers*.



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# 1. INTRODUCTION

The *Lawyers and Conveyancers Act (Lawyers: Conduct and Care) Amendment Rules 2021* introduced new and amended rules to meet the challenge of countering bullying and harassment in the profession, with effect from 1 July 2021. In addition to providing defined categories of objectionable behaviour (r 1.2), the innovations introduced by the new Rules included:

- New specified forms of prohibited conduct, and specified duties, not directly addressed in the earlier Rules.
- The requirement that all lawyers practising on their own account have effective policies and systems in place to prevent and protect against the prohibited conduct.
- Related reporting obligations and certification requirements.
- Supplementing the rule against improper threats to prohibit victimisation of complainants or persons making a confidential report.

This part of the seminar is concerned with the requirement to have effective policies and systems in place, in r 11.2, but that Rule must be considered in the context of the other innovations.

## Timing

The amendment rules did not include a lead-in time or transitional period and the concepts and obligations discussed in this seminar took immediate effect from 1 July 2021. The requirement that all lawyers practising on their own account have effective policies and systems in place is a current requirement and it is likely that the first annual compliance certificate, prescribed in r 11.4.4, will be required at the time of the annual practising certificate renewal, coinciding with the first anniversary of the new rules, on or about 1 July 2022. The profession will be notified about that.



## 2. RULES 11.1 AND 11.2

Chapter 11 of the *Conduct and Client Care Rules* is concerned with “Proper professional practice”. Rule 11.2 comes under the sub-heading “Supervision and management” and is set out here with r 11.1 give the context:

### Supervision and management

- 11.1 A lawyer practising on their own account must take all reasonable steps to ensure that—
- (a) the operation of the law practice (including separate places of business) is at all times competently supervised and managed by a lawyer who is practising on their own account; and
  - (b) the conduct of all persons engaged or employed by the law practice is at all times competently supervised and managed by a lawyer who is practising on their own account.
- 11.2 A lawyer practising on their own account must ensure that the lawyer’s law practice has effective policies and systems in place to prevent and protect all persons engaged or employed by the law practice from the effects of unacceptable conduct, including conduct that amounts to 1 or more of the following:
- (a) bullying;
  - (b) discrimination;
  - (c) harassment;
  - (d) racial harassment;
  - (e) sexual harassment;
  - (f) violence.

In a webinar presentation introducing the new Rules to the profession in May 2021, the presenters Michael Hodge and Katie Rusbatch referred to the requirement to have policies and systems in place, in compliance with r 11.2, in the following terms:

There is no one size fits all approach to appropriate policies and systems that a law practice may have in place to comply with this obligation. Much will depend on the nature and size of the law practice.

Policy documents may be prescriptive, but this is not necessarily required. Indeed, r 11.2 refers to policies and systems to reflect the reality that not all aspects of a law practice that are relevant to compliance with the rule can or will be prescribed in the law practice’s formal policy documents. That said, policies designed to prevent and protect persons engaged or employed by the law practice should cover:

- A clear statement that bullying, discrimination, and harassment (and any of the prohibited forms of conduct) is not accepted by the practice at any level and that all persons engaged or employed by the practice can expect to be treated with respect.
- An expectation that senior lawyers and managers actively support the policy, including modelling respectful behaviour themselves.
- A clear and simple reporting process (consultation with employees on this aspect will help to make an effective policy for your practice).

- Avenues of support for complainants.
- General procedures for the investigation of complaints.
- Confidentiality and privacy (noting that these cannot operate to exclude mandatory reporting requirements to the Law Society).

This part of the seminar will expand on these requirements to assist lawyers in compliance with r 11.2. However, as the presenters said, there is no one-size-fits-all formula and this seminar will not provide a template policy document. Apart from the difficulty in providing a single policy document which suits every law practice, there is good reason to ensure that every lawyer responsible for compliance with r 11.2 and the surrounding rules – every lawyer practising on their own account – has carefully considered and understood their obligations. A template may provide an appealing shortcut but may not serve the underlying interests the new rules seek to promote. However, assistance is provided at the end of this paper with a form of checklist providing the essential contents which should be included in every firm’s policy.

This seminar will have achieved its purpose if it promotes thoughtful commitment to compliance with the new rules – the spirit and the letter – emphasising prevention of and protection against the defined behaviours. It is hoped that deliberation about lawyers’ responsibilities in this area will result in meaningful outcomes, reducing the incidence of the objectionable behaviours and promoting responsible dealing when they do occur.

For convenience, this presentation will use the following terminology:

- The defined forms of objectionable behaviour in r 1.2 with which the effective policies and systems are concerned, in six separate categories, will be described collectively as “the behaviours”.
- The forms of legal practice entity to which r 11.2 applies are discussed separately but will be referred to generically as “the firm”.
- The generic term “principal” will be used to refer to lawyers practising on own account including partners or directors in an incorporated law firm.
- The term *policies and systems* in r 11.2 suggests two distinct concepts. This presentation makes that distinction. *Policies* are the written expression of the firm’s values and standards, and related procedures, set down in writing to give certainty about compliance with acceptable standards and to promote the prevention of and the protection against the behaviours. On the other hand, the *systems* are the practical working of the policies. A policy will be ineffective if it is not outworked through a suitable system. A system will be less effective if it is not expressed in a set of appropriate and compliant policies.
- Another important term used in this presentation is *workplace conduct*. It is important because it is intended to reflect the broad scope of the Rules preventing and protecting against the behaviours, beyond a conventional and narrow concept of the legal workplace. The application of the policies and systems has significantly wider reach than that and the term *workplace conduct* is used to define the intended scope of the Rules, discussed further in this seminar.

## The defined behaviours

The definitions of the behaviours, in r 1.2, are at the forefront of this topic. All the categories of behaviour to be addressed in the effective policies and systems required by r 11.2 are defined, in addition to the term “behaviour” itself:

**behaviour** includes the use of language (whether written or spoken), the use of digital or visual material, and physical behaviour

**bullying** means repeated and unreasonable behaviour directed towards a person or people that is likely to lead to physical or psychological harm

**discrimination** means discrimination that is unlawful under the Human Rights Act 1993 or any other enactment

**harassment**—

- (a) means intimidating, threatening, or degrading behaviour directed towards a person or group that is likely to have a harmful effect on the recipient; and
- (b) includes repeated behaviour but may be a serious single incident

**racial harassment** means behaviour that—

- (a) expresses hostility against, or contempt or ridicule towards, another person on the ground of race, ethnicity, or national origin; and
- (b) is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person)

**sexual harassment** means—

- (a) subjecting another person to unreasonable behaviour of a sexual nature that is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person); or
- (b) a request made by a person of any other person for sexual intercourse, sexual contact, or any other form of sexual activity, that contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment

**violence** includes the following:

- (a) physical violence
- (b) psychological violence
- (c) sexual abuse
- (d) sexual assault.



### 3. OTHER RELEVANT CONDUCT AND CLIENT CARE RULES

Rule 11.2 intersects with other rules and an understanding of all the relevant rules is essential to the establishment of effective policies and systems.

The first of those are rr 2.8 – 2.10 concerning mandatory and discretionary reporting of perceived misconduct or unsatisfactory conduct, and protection against victimisation of persons making complaints or reports:

#### Reporting misconduct

- 2.8 Subject to the obligation on a lawyer to protect privileged communications, a lawyer who has reasonable grounds to suspect that another lawyer may have engaged in misconduct must make a confidential report to the Law Society at the earliest opportunity.
- 2.8.1 This rule applies despite the lawyer’s duty to protect confidential nonprivileged information.
- 2.8.2 If a report by a lawyer to the Law Society may breach the lawyer’s duty to protect confidential non-privileged information, the lawyer should also advise the lawyer’s client of the report.
- 2.8.3 A report submitted in accordance with rules 2.8 and 2.9 must—
- (a) be in written form; and
  - (b) identify—
    - (i) the person making the report; and
    - (ii) the person or persons to whom the report relates; and
  - (c) specify details of the alleged conduct; and
  - (d) be supported by any appropriate documentation held by or available to the person making the report.
- 2.8.4 This rule does not apply to—
- (a) a lawyer who has received information in the course of providing confidential advice, guidance, or support to another lawyer, including a member of a panel under a “friend” system, unless disclosure of the information is necessary to—
    - (i) prevent the anticipated or proposed commission of a crime or fraud; or
    - (ii) prevent a serious risk to the health or safety of any person; or
  - (b) a lawyer who is a victim of the suspected misconduct; or
  - (c) circumstances where a lawyer reasonably believes the disclosure would pose a serious risk to the health (including mental health) or safety of a victim.
- 2.9 Subject to the obligation on a lawyer to protect privileged communications, a lawyer who has reasonable grounds to suspect that another lawyer may have engaged in unsatisfactory conduct may make a confidential report to the Law Society.

- 2.10 A lawyer must not use, or threaten to use, the complaints or disciplinary process for an improper purpose.
- 2.10.1 A lawyer must not victimise a person who, in good faith,—
- (a) makes a complaint or a report under rule 2.8 or 2.9; or
  - (b) is otherwise connected with a complaint or a report under rule 2.8 or 2.9.
- 2.10.2 For the purposes of this rule, examples of victimisation include (but are not limited to)—
- (a) unwarranted adverse employment-related actions;
  - (b) unwarranted withdrawal of instructions;
  - (c) conduct that amounts to 1 or more of the following:
    - (i) bullying
    - (ii) harassment
    - (iii) lack of professional co-operation
    - (iv) racial harassment
    - (v) professional disparagement
    - (vi) sexual harassment.

The other rules intersecting with r 11.2 are rr 11.3 – 11.5, concerning the requirement to have a “designated lawyer” for reporting and certification, and the obligation to establish and maintain a complaints mechanism. The latter is not new and replaces the former r 3.8. The establishment of effective policies and systems under r 11.2 complements lawyers’ long-existing obligation to establish and maintain a complaints mechanism, now under r 11.5:

**Designated lawyer**

- 11.3 A lawyer practising on their own account must ensure that at all times the lawyer’s law practice has a lawyer who is designated for meeting the requirements specified in rules 11.4 and 11.5. A lawyer designated for this purpose must be practising on their own account.
- 11.4 A lawyer designated under rule 11.3 must notify the Law Society, within 14 days, if any person is issued a written warning or dismissed by the law practice for conduct that amounts to 1 or more of the following:
- (a) bullying:
  - (b) discrimination:
  - (c) harassment:
  - (d) racial harassment:
  - (e) sexual harassment:
  - (f) theft:
  - (g) violence.
- 11.4.1 A lawyer designated under rule 11.3 must notify the Law Society, within 14 days, if—
- (a) any person leaves the law practice; and
  - (b) within the 12 months before the person’s leaving, the law practice had advised that person that it was dissatisfied with, or intended to investigate, their conduct in relation to any of the types of conduct referred to in rule 11.4.

- 11.4.2 Rule 11.4.1 does not apply to circumstances where the investigation has been concluded and there were no grounds to report the matter under rule 2.8 or 11.4.
- 11.4.3 A report submitted under rules 11.4 and 11.4.1 must—
- (a) be in written form; and
  - (b) identify—
    - (i) the person making the report; and
    - (ii) the person or persons to whom the report relates; and
  - (c) specify details of the alleged conduct; and
  - (d) be supported by any appropriate documentation held by or available to the person making the report.
- 11.4.4 A lawyer designated under rule 11.3 must certify to the Law Society annually, by a date prescribed by the Law Society, whether—
- (a) the law practice has complied with all of the mandatory reporting obligations imposed under the Lawyers and Conveyancers Act 2006; and
  - (b) the law practice has policies and systems in place as set out in rule 11.2 and is complying with its obligations under the Health and Safety at Work Act 2015; and
  - (c) the designated lawyer has complied with rule 11.4.
- 11.4.5 For the purposes of this rule, person includes any lawyer or any other person who ceases to perform legal or non-legal services for the law practice, including after the termination or expiry of a fixed-term contract, resignation, or otherwise.

### **Complaints mechanisms**

- 11.5 A lawyer practising on their own account must ensure that the lawyer's law practice establishes and maintains appropriate procedures for handling complaints by clients with a view to ensuring that each complaint is dealt with promptly and fairly by the law practice.
- 11.5.1 When a lawyer owns a sole law practice, the complaints procedure may include the reference of complaints to an independent lawyer for consideration.
- 11.5.2 This rule does not bind a lawyer whose status in a law practice is solely that of an employee.



#### **4. WHO MUST HAVE EFFECTIVE POLICIES AND SYSTEMS IN COMPLIANCE WITH R 11.2?**

The term *a lawyer practising on their own account* is not itself defined but is drawn from the legislation relevant to eligibility to practice on own account, in ss 30 and 31 of the Lawyers and Conveyancers Act and regs 3 and 12 – 15 of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008. In simple terms, *practising on their own account* means any person practising with an own account practising certificate. That will include:

- Partners, including salaried partners where they are held out to clients and the public as partners will be expected to have an own account practising certificate;
- Directors of incorporated law firms;
- Sole practitioner barristers and solicitors; and
- Barristers sole (but not employed barristers).

All these categories of lawyer are subject to r 11.2 and the related rules concerning; supervision and management of their practice, the requirement to have a designated lawyer responsible for the reporting and certification, and the requirement to have a complaints mechanism. The status of a lawyer within a firm as the designated lawyer under r 11.3 does not relieve other principal lawyers in the same firm of their individual responsibility to have effective policies and systems in place to prevent and protect against the behaviours.



## 5. WORKPLACE CONDUCT – ACTIVITIES COVERED BY POLICIES AND SYSTEMS

The limited concept of regulated professional conduct as relating only to legal work at the office or in Court is outmoded. In *Orlov v New Zealand Lawyers and Conveyancers Disciplinary Tribunal* [2015] 2 NZLR 606 the High Court applied broadly the concept of regulated activity being anything connected with the provision of regulated services, in the analysis of the categories of misconduct defined in s 7 of the Lawyers and Conveyancers Act. More recently, the New Zealand Lawyers and Conveyancers Disciplinary Tribunal confirmed the approach taken by the National Standards Committee in a case known as *Mr X (ZTUVK)* 25 October 2018 under the pre-amendment rules concerning the regulation of lawyers' conduct at social or practice-development events away from the office. It is helpful to set out the Tribunal's discussion about the reach of professional discipline in this context, in the liability decision in *National Standards Committee No.1 v Gardner-Hopkins* [2021] NZLCDT 21 at [98] (24 June 2021) concerning the concept of "legal services" and the inclusion of social and practice development events, relevant to the definition of misconduct:

... The concept of 'legal services' is linked to the provision of legal work for any person. We consider that embraces all aspects of a lawyer's work that is connected to the legal services actually supplied to the client. That includes interactions among partners, professional staff, and other employees of a firm that are designed to enhance inter-personal relationships and to build a competent and trustworthy team whose combined talents will ensure a high standard of professional services are rendered. On that basis, we accept the Standards Committee's submission that the firm-sponsored team building events in issue is 'conduct that occurred at a time when the practitioner was providing regulated services within the meaning of s 7(1)(a) ...'. Put more simply (albeit with double negatives) – the conduct is not unconnected with the provision of legal services. Therefore, it must be professional conduct.

An effective policy and system preventing and protecting against the behaviours must be expressed as covering all forms of *workplace conduct*. That includes:

- Obviously, any conduct while working within the firm's premises.
- Conduct away from the firm's premises including clients' premises, courts, mediation meetings, or educational or professional development events.
- Off-site firm social events.
- Any activities incidental to those categories of activity.

While difficult questions can arise about the limits of the reach of professional regulation – such as a gathering of colleagues in a bar after work – the important point for compliance with r 11.2 is that an effective policy, and effective systems, must cover all categories of activity connected with legal work and the provision of legal services. Anything on the boundaries will inevitably be determined as a matter of purpose and context.

An effective policy and system must provide for a responsible senior lawyer to supervise off-site and social workplace activities. That person should be:

- Senior and respected in the firm.
- Willing to accept responsibility for a particular event.

- Committed to minimal alcohol consumption themselves at the event.
- In a position of authority to deal appropriately with potentially difficult situations including making arrangements for safe transport (if not already in place) and to ensure a safe and compliant environment generally.

### **Categories of person subject to policies and systems**

An effective policy must specify the persons who are subject to it and who are required to comply with its terms. Wherever possible, compliance with the policy should be a term of any employment agreement or contract for services with the firm. An effective policy should be expressed as applying to:

- All categories of person working at the firm including principals, employed lawyers and legal executives, personal assistants and secretaries, and support staff.
- Where private contractors regularly undertake work at the firm premises, for example information technology support, it is recommended that such persons be provided with a copy of the policy with an expectation of compliance. Ideally, compliance with the policy should be a term of any contract for the supply of services.

While it may be intrusive and unrealistic to expect clients to agree to the firm's policy, it should be kept in mind that one of the innovations in the amendment rules was the extension of the grounds, described as "good cause" in r 4.2, for the lawyer to legitimately terminate the contract of retainer, to include (new r 4.2.1(f)):

conduct by the client directed towards the lawyer or a person associated with the law practice that amounts to 1 or more of the following:

- (i) bullying;
- (ii) discrimination;
- (iii) harassment;
- (iv) racial harassment;
- (v) sexual harassment;
- (vi) threatening behaviour;
- (vii) violence.

Where a firm's terms of engagement refer to the permissible grounds for terminating the retainer, this rule should also be referred to.

## 6. STATEMENT OF ACCEPTABLE STANDARDS – PROHIBITION OF BEHAVIOURS

This is the central part of an effective policy, with a statement of the firm’s commitment to providing a safe working environment and one that complies with the *Conduct and Client Care Rules*, the Human Rights Act 1993 (in matters of unlawful discrimination) and the Health and Safety at Work Act 2015 (the obligation to provide a safe workplace). The policy should express the prohibition in all categories of behaviour, referring to them individually and drawing from the definitions in r 1.2. A suitable statement about the behaviours would read;

The following behaviours are not permitted at any time in this workplace, including any work related off-site social or other activities. Engaging in these behaviours is contrary to r 10.3 of the Conduct and Client Care Rules and is incompatible with the values and standards of this firm. Any instances of such conduct, or any complaints about such conduct, will be dealt with in accordance with this policy:

Discrimination is prohibited, in all the forms of unlawful discrimination specified in s 21 of the Human Rights Act 1993, including discrimination on grounds of:

- Sex, which includes pregnancy and childbirth;
- Marital status;
- Religious or ethical belief;
- Colour or race;
- Ethnic or national origins which includes nationality or citizenship;
- Disability which includes any physical disability or illness or any psychiatric, intellectual or psychological disability or impairment;
- Age;
- Political opinion;
- Employment status;
- Family status;
- Sexual orientation.

Discrimination in any of these categories is contrary to the right to freedom from discrimination and the rights of minorities in ss 19 and 20 of the New Zealand Bill of Rights Act 1990.

Bullying, which is concerned with repeated and unreasonably behaviour directed at another person or group of people, which is likely to lead to physical or psychological harm to one or more of those persons.

Harassment, which means intimidating, threatening or degrading behaviour directed toward a person or group of persons that is likely to have a harmful effect on one or more of those persons ... or may be repeated behaviour or a serious single incident.

Sexual harassment which means:

- (a) subjecting another person to unreasonable behaviour of a sexual nature that is likely to be unwelcome or offensive to that person; or
- (b) a request made by a person of another person for sexual intercourse, sexual contact, or any other form of sexual activity, that contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental.....

Violence which means any:

- (a) physical violence;
- (b) sexual violence;
- (c) sexual abuse;
- (d) sexual assault.

Victimisation, concerning retaliation against a person who makes a confidential report or complaint to the Law Society or to this firm in good faith.

This statement forms the nucleus of the policy, accompanied by the other matters addressed in this seminar and in the “Essentials” document. That includes the scope of activities subject to the standards of behaviour, including the firm’s social and practice development events on-site or off-site, and the categories of person to whom it applies. A statement to that effect must be included in the policy.

## 7. DESIGNATED LAWYER – REPORTING AND CERTIFICATION

Compliance with rr 11.3 and 11.4 forms part of an effective system to prevent and protect against the behaviours. Rule 11.3 requires the designated lawyer to be practising on their own account. Consequently, sole practitioners, including barristers, must be their own designated lawyer. In a multi-principal practice (incorporated firm or partnership) an individual partner or director must be appointed the designated lawyer.

The regime of reporting and certification in r 11.4 is essential to an effective system. The distinct concepts of reporting and certification relate to cause-driven reports, where a person has been issued with a warning or who has left the firm after being notified of an investigation concerning any of the behaviours, and mandatory annual certification which applies to every practice. The certificate must address:

- a. The firm's compliance with the mandatory reporting obligations during the year covered by the certificate, under rr 2.8 (Reporting misconduct) and 11.4 (Reporting written warnings or dismissals because of the behaviours);
- b. Certifying the firm's compliance with the requirement to have policies and systems in place under r 11.2 and compliance with its obligations under the Health and Safety at Work Act 2015 to provide a safe workplace; and
- c. Certifying that the designated lawyer has personally complied with the reporting requirements in r 11.4.

Rule 2.5 (concerning professional standards in relation to certificates) applies to a certificate issued under r 11.4.4:

### Certificates

- 2.5 A lawyer must not certify the truth of any matter to any person unless he or she believes on reasonable grounds that the matter certified is true after having taken appropriate steps to ensure the accuracy of the certification.
- 2.6 If a lawyer subsequently discovers that a certificate given by the lawyer was or has become inaccurate or incomplete to a material extent, the lawyer must immediately take reasonable steps to correct the certificate.

The requirement to have a person in charge of social and professional development events, discussed earlier, is separate from the designated lawyer requirement in r 11.4. A lawyer appointed to be responsible for a social event can be someone other than the designated lawyer.

### Notification and availability of policy

Once formulated, the policy should be published to all staff in paper and/or in electronic form and should also appear on the firm's website, if any. The following further steps are recommended:

- A copy should be included with any employment agreement, with a corresponding term requiring compliance with the policy.
- It should be provided to all persons regularly working at the firm's premises.

- A copy should be given to any person making a complaint.

The sole practitioner or principal directly responsible for the policy and systems – the designated lawyer under r 11.3 – must also ensure the policy is kept up-to-date, to reflect any changes in the firm including changes of relevant personnel or the addition of branch offices.

### **Investigating complaints**

The requirement for the proper investigation of a complaint – or an investigation commenced on reasonable cause in the absence of a complaint – is a substantial topic on its own. The breadth and formality of any investigation must be determined as a matter of sound judgement and knowledge of the applicable legal principles, including natural justice, depending on the circumstances and seriousness of the complaint. Any complaint alleging one or more of the behaviours in anything more than trivial circumstances will require (and the policy should provide for) an investigation characterised by the following matters:

- The investigation must be undertaken by a person or persons of seniority and who are independent of the issues and of the individuals involved. This can be difficult in a small practice and more is said about that.
- Strict confidentiality must be observed.
- Compliance with the principles of natural justice are essential, including notice of full particulars of the complaint to the person complained against and an opportunity to respond.
- The availability of support persons, including support for the complainant.
- The entitlement of a person complained against to be represented by legal counsel.
- Finality of the decision and notice to the parties including notice of the action intended to be taken.
- Compliance with any reporting obligations under rr 2.8 and 11.4.

All of these aspects of investigation procedure should be included in the policy.

### **Independent person in case of small practice or sole practitioner**

For the integrity of any system under r 11.2 it is necessary to consider the possibility of:

- The unwelcome situation where an allegation is made against a sole practitioner (including a barrister sole).
- The possibility that a sole practitioner, or a partner or director in a small firm, will be too close to the individuals involved in the investigation to be truly independent.

An effective system must accommodate the independent receipt and investigation of a complaint and the opportunity for a complainant to approach someone other than the person they are complaining against or a lawyer who is close to that person. In this respect, the policies and systems under r 11.2 should follow the example of complaints mechanisms in r 11.5, in which r 11.5.1 contemplates a lawyer in a “sole law practice” referring complaints to an independent lawyer for consideration.

An arrangement with a suitably independent person, who should be a lawyer practising on their own account and who should be identified in the policy, is recommended for sole practitioners and small firms. That person should have full authority to investigate, make findings, and implement remedies, in addition to accepting responsibility for making a report under rr 2.8 or 2.9.



## 8. RULE 11.2 POLICY ESSENTIALS

<p>Introductory statement</p> <p>Expectation of standards of compliance with:</p> <p>Lawyers and Conveyancers Act 2006 including <i>Conduct and Client Care Rules</i>;</p> <p>Human Rights Act 1993;</p> <p>Health and Safety at Work Act 2015.</p>
<p>Statement of prohibited behaviours, listing each category in r 11.2 with reference to the definitions in r 1.2.</p>
<p>Workplace conduct: include off-site/social/professional development activities.</p>
<p>Identify persons to whom policy applies, including term of employment agreement where possible and acceptance by contractors regularly on premises.</p>
<p>Refer to reporting requirements under rr 2.8, 2.9 and 11.4.</p>
<p>Identify designated lawyer and describe responsibilities including reporting and certification and ensuring policy kept up-to-date.</p>
<p>Describe complaints procedures including investigation and determination:</p> <ul style="list-style-type: none"> <li>• Compliance with rules of natural justice.</li> <li>• Strict confidentiality.</li> <li>• Availability of support person.</li> </ul>
<p>Requirement to have person in charge at social and off-site events, to remain until end of event.</p>
<p>If sole practitioner or small firm, designate independent person to receive and investigate complaints.</p>
<p>Notice of policy to all principals, employees and persons working at premises.</p>