



# 2023 Workplace Environment Survey in brief



October 2023

## Background

Following accusations of sexual harassment at some law firm events and the launch of the #metoo movement, the New Zealand Law Society Te Kāhui Ture o Aotearoa (Law Society), in 2018, commissioned Kantar Public (formerly Colmar Brunton) to undertake a workplace environment survey to ascertain the degree to which lawyers were experiencing this type of behaviour in workplaces across the country.

The action points that came from the 2018 survey resulted in the July 2021 amendments to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (RCCC) to specifically refer to bullying, discrimination and harassment and introduce a designated lawyer regime for each law practice with responsibilities to report conduct.

The 2023 Workplace Environment Survey has been undertaken to follow up the 2018 survey and establish any behavioural changes in the legal workplace environment since then.

It should be noted the report uses two different definitions for sexual harassment, two different definitions for bullying, and one definition for employment discrimination. These are identified with the relevant numerical results and detailed in the appendix to this brief.

## Purpose

The 2023 Workplace Environment Survey was created to:

- produce a measure of general legal workplace wellbeing
- scope the current workplace environment in relation to sexual harassment, bullying, and employment discrimination
- highlight any contrast between the experience of lawyers and non-lawyers, and
- determine any changes that have taken place since the 2018 Workplace Environment Survey.

The 2018 survey was completed by lawyers only. Lawyers *and* non-lawyers working in legal workplaces completed the 2023 survey. The non-lawyer results serve as a benchmark for future surveys and contribute to the overall picture of the legal workplace environment in 2023.

*Note: This document is a summary and does not report all the content in the 2023 Workplace Environment Survey report. For full information, please refer to the survey report.*

## Summary of main findings

### 1. General workplace wellbeing

Three quarters of the legal community have a great deal of job satisfaction. While fewer lawyers are regularly working extended hours compared with 2018 (down 11 percentage points to 57%), job satisfaction for lawyers has declined (down 4 percentage points to 75%) and satisfaction with work/life balance has declined (down 3 percentage points to 62%).

Lawyers aged under 25 years and with five years or less in the legal sector have lowest job satisfaction (67% compared with 75% average). Other groups of lawyers have a lower satisfaction with work/life balance compared with the 64% average, including Pacific peoples (51%), partners (57%) and criminal (56%) and family (58%) practice areas.

The majority of the legal community feel respected (78%), that their manager cares about their wellbeing (73%), and that their employer is willing to listen to their work-related problems (72%). Some groups are less likely to feel their manager cares about their wellbeing compared to the 73% average, including criminal law (55%), Pacific peoples (60%) and Māori (66%).

Pacific peoples are also less likely to feel they get the respect they deserve at work (64% compared with 78% average) and are among the groups that are more likely to believe their workplace culture needs major changes than the average (24%) – Pacific peoples (42%), Asian peoples (37%), Māori (30%) and those under 30 years (32%).

Job stressors have reduced since 2018; however, lawyers are less likely to feel that their stress is appropriately managed in 2023.

## 2. Sexual harassment

Two measures of prevalence of sexual harassment are used in this report: the RCCC Rules definition and a behavioural definition (behavioural).

This year, the RCCC Rules definition has been used in place of the Human Rights Commission definition used in the 2018 survey. Care should therefore be taken in interpreting any differences between 2018 and 2023 results using these definitions. However, the behavioural definition remains unchanged, allowing direct comparisons between 2018 and 2023 to be made.

### Using the RCCC definition

In 2018, it was reported that 18% of lawyers (31% of women and 5% of men) had been sexually harassed during their work life (Human Rights Commission definition). This metric has reduced by 3 percentage points, to 15% of lawyers (23% women and 5% men) in the 2023 survey, using the RCCC definition.

The 2018 survey reported that 10% of lawyers had been sexually harassed in the last five years (Human Rights Commission definition). In 2023, this measure has reduced by 3 percentage points, to 7% of lawyers (RCCC definition). Six per cent of the legal community (lawyers and non-lawyers working in law firms) have experienced sexual harassment in the last five years.

Fourteen per cent of the legal community have experienced legal workplace sexual harassment in their lifetime – of the 14%, the majority are women (12%). This is the first time this measure has been taken by the Law Society.

Over the last five years the proportion of lawyers who have encountered sexual harassment, as a bystander, has dropped 9 percentage points, to 19%.

### Using the behavioural definition

The prevalence of sexual harassment for lawyers has declined by 5 percentage points over the last five years to 22% (as compared to 20% for the legal community). The biggest declines in types of behaviour are in sexually suggestive comments, intimidating staring/leering, and inappropriate physical contact.

The proportion of lawyers, who have been sexually harassed in the last five years, who feel that sexual harassment was common in their workplace has nearly halved, from 23% in 2018, to 12% in 2023. The drop is even greater for law firms with four to nine directors/partners, down 16 percentage points to 9%.

### Reporting sexual harassment

Eight per cent of the legal community who have been sexually harassed in the last five years made a formal report. The main barriers to seeking support or making a complaint are a perception that the experience was not serious enough (53%), a fear of the consequences (47%) and distrust in the process and/or outcome (39%). However, lawyers who have been sexually harassed in the last five years are less likely to have experienced a loss in confidence or be labelled a “troublemaker”.

## 3. Bullying

Two measures of the prevalence of bullying are used: the RCCC Rules definition and a behavioural definition (NAQ-r). This year, the RCCC Rules definition has been used in place of the Employment New Zealand definition of bullying. Care should therefore be taken in interpreting any differences between 2018 and 2023 results using these definitions. However, the behavioural definition remains unchanged, allowing direct comparisons between 2018 and 2023 to be made.

### Using the RCCC definition

Bullying remains a common experience in the legal community. Half of respondents have experienced bullying in a legal setting in their lifetime. This rate has not changed for lawyers between the 2018 survey and the 2023 survey. Non-lawyers are less likely to have been bullied than lawyers (39% versus 52%).

The incidence of lawyers experiencing bullying *in the last six months*, has decreased from 21% in 2018 to 17% in 2023 – 4 percentage points.

In the six months prior to the survey, 17% of the legal community (lawyers and non-lawyers) experienced bullying. Prevalence was higher for these subgroups:

- Women 19%
- Māori 23%
- Indian 29%
- Criminal law 24%
- Family law 24%

In comparison to the 2018 survey responses among lawyers, bullying is more likely to be carried out by women (up 9 percentage points to 40%), as opposed to men (down 7 percentage points to 45%).

There has been a 5 percentage point decrease in the person carrying out the bullying being in a position of employment authority (to 60%), including a 4 percentage point decrease in judges being perpetrators of lawyer bullying (to 11%) since the 2018 survey.

The personal effects of bullying remain at similar rates to the 2018 survey. With anxiety and loss of confidence being the most common personal effects, but also including resigning, affecting career prospects, and feeling ostracised, victimised, or ignored by colleagues.

More affected persons are seeking advice for bullying compared with responses from the 2018 survey – up 5 percentage points to 38%. They are seeking advice from another lawyer at work less (down 9 percentage points to 52%) and seeking private counselling more (up 5 percentage points to 18%).

The formal reporting of bullying behaviour rate has not changed significantly since 2018 (14% in the 2023 survey).

#### Using the behavioural definition (NAQ-r)

Physically intimidating behaviour (in the last six months) has declined since 2018 among lawyers (down 5 percentage points). In particular, being the target of shouting or spontaneous anger (down 4 percentage points), and intimidating behaviour such as finger pointing (down 3 percentage points).

Some person-related bullying behaviours are also less prevalent among lawyers in 2023. These include gossip/spreading of rumours (down 4 percentage points) and being ignored or facing hostile reactions (down 3 percentage points).

Pressure not to access or claim something to which by right you are entitled (in the last six months) showed an increase between 2018 and 2023, in those who had experienced bullying, up 3 percentage points to 21%.

## 4. Employment discrimination

Employment New Zealand's definition of employment discrimination was used for the 2023 survey. Details can be found in the appendix.

We asked a new set of questions about employment discrimination in the 2023 survey. The responses provide a benchmark for comparison of future surveys.

Eleven per cent of the legal community (lawyers and non-lawyers) have experienced employment discrimination in the last five years.

Particular subgroups that have experienced high rates of discrimination are:

- Pacific women 32%
- Pacific peoples 28%
- Local government workplace 25%
- Law firm lawyer employee 20%

Most lawyers of the legal community who have faced employment discrimination attribute it to their gender (48%), age (29%), or ethnicity (23%); with family responsibilities, social background, and appearance also believed to be motives in employment discrimination.

The personal effects of employment discrimination on lawyers include affected career prospects (73%), affected emotional or mental wellbeing (61%), and feeling ostracised, victimised, or ignored by colleagues (20%).

## 5. Demographics

The people who completed this survey were made up of lawyers (1,992) and non-lawyers working in legal workplaces (363). The gender proportions of lawyer respondents to both the 2018 and 2023 surveys are reflective of the gender proportions of the profession at the time (50% female, 50% male in 2018 and 54% female, 45% male, 1% another gender in 2023).

Demographics are in the survey report appendix.

## 6. Counselling and LawCare

**Vitae** – 0508 664 981 The Law Society has partnered with Vitae to offer a free and confidential counselling service to anyone experiencing distress in a legal workplace, whether they're a lawyer or not. Since its launch in May 2019, over 1,320 people have accessed the Law Society counselling service. In the reporting year ending 30 June 2023, 420 people attended nearly 870 sessions.

**LawCare** – 0800 0800 28 for confidential assistance on sensitive matters, 8.30am – 4.30pm Mon-Fri (answerphone available outside business hours). Between January 2022 and September 2023, the LawCare 0800 line has taken 32 calls from people needing assistance with sensitive matters such as sexual harassment, bullying, and other unacceptable behaviour.

## 7. How to report a lawyer

If you or someone else has been affected by bullying, discrimination, harassment, or other forms of unacceptable behaviour, you can report this to the Lawyers Complaints Service.

Unacceptable behaviour can be reported to 0800 261 801, or on the [Report a lawyer website page](#). You can also [raise a concern](#) and have a Professional Standards Officer call you back. The Law Society has a specialist team in the Lawyers Complaints Service that handles sensitive matters and can discuss these matters with you on a confidential basis.

The Law Society has published [Guidance on professional standards and reporting obligations](#). This guidance is intended to help lawyers to understand their obligations, and to support and empower people who are affected by unacceptable behaviour.

**National Friends Panel** – lawyers are available to discuss sensitive matters such as workplace harassment. Please use the [link](#).

## Appendix: Behavioural definitions

### Sexual Harassment:

#### RCCC Rules definition (RCCC)

“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.”

(r 1.2 Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008)

#### Behavioural definition (Behavioural)

Respondents were asked about their personal experience regarding 15 behaviours. These have been grouped at the analysis stage into types of sexual harassment, as follows:

#### Unwanted sexual attention:

- Unwelcome touching, hugging, cornering, or kissing
- Inappropriate staring or leering that made you feel intimidated
- Repeated or inappropriate invitations to go out on dates
- Intrusive questions about your private life or physical appearance that you found offensive
- Repeated or inappropriate advances on email, text, social networking websites or internet chat rooms by a work colleague

#### Crude/offensive behaviour

- Sexual gestures, indecent exposure, or inappropriate display of the body
- Sexually suggestive comments or jokes that made you feel offended
- Sexually explicit pictures, posters or gifts that made you feel offended
- Sexually explicit emails, texts, or social media messages
- Inappropriate commentary, images, or film of you distributed by your work colleague(s) on some form of social media without your consent

#### Sexual assault

- Inappropriate physical contact
- Actual or attempted rape or sexual assault

#### Sexual coercion

- Requests or pressure for sex, or other sexual acts
- Implied or actual threats of differential treatment if sexual activity not offered

#### Other

- Other unwelcome conduct of a sexual nature

## Bullying:

### RCCC Rules definition (RCCC)

The RCCC Rules definition of workplace bullying was shown to survey respondents:

“Bullying means repeated and unreasonable behaviour directed towards a person or people that is likely to lead to physical or psychological harm.”

(r 1.2 Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008)

### Negative Acts Questionnaire (NAQ-r)

Prevalence of workplace bullying was measured with the Negative Acts Questionnaire (revised; NAQ-r), developed by Einarsen, Hoel et al. (2009). This is a widely used tool to assess the prevalence of bullying in the workplace. The first part of the NAQ-r asks respondents to score how often they have experienced 22 types of behaviours\* over the past 6 months (never=1, seldom=2, sometimes=3, often=4, always=5). Overall scores were computed for each individual with a possible range of 22 (never experienced any behaviours) to 110 (experiencing all behaviours on a daily basis). The NAQ-r comprises three interrelated subscales of bullying – work-related (W), person-related (P), and physically intimidating bullying (F) – which enables an analysis of the prevalence of the different types of negative behaviours.

Bullying prevalence from the NAQ-r was established according to Leymann’s criteria as experiencing at least one negative act on a daily or weekly basis over a 6-month period (Leymann 1990). For both witnessed and self-reported responses, bullying was identified if any of the affirmative responses (i.e., seldom, sometimes, often, and always) were endorsed.

## Employment discrimination:

**Employment New Zealand’s definition** of employment discrimination was shown to survey respondents:

“In New Zealand, employment discrimination is where an employer treats an employee unfavourably in some way due to a discriminatory ground, which includes ethnicity, age, gender, disability, pregnancy, marital status, religion and other protected grounds.”

(Employment New Zealand)

\* In 2018, this survey used the Employment New Zealand definition of bullying: “Workplace bullying is repeated and unreasonable behaviour directed towards a worker or group of workers that can be physical, verbal or relational/social (excluding someone or spreading rumours).”