



ANTI-HARASSMENT AND ANTI-BULLYING GUIDELINES

May 2019

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ORGANISATION: [insert society name] (“organisation”, “we”, “us”)

DESIGNATED CONTACT: [insert name, contact details, phone number etc.]

POLICY PURPOSE

1. We are committed to providing an environment which is free of bullying and harassment.
2. All volunteers, members, employees, visitors, guests and contractors (“personnel”, “person”, “persons”) are responsible for making themselves aware of and adhering to this policy against all forms of bullying and harassment. This policy applies to all personnel.
3. The purpose of this policy is:
 - (a) to make it clear that harassment and bullying are unacceptable and not to be tolerated;
 - (b) to ensure all personnel know their rights and obligations regarding bullying or harassment;
 - (c) to provide procedures and guidelines for dealing with incidents of bullying or harassment; and
 - (d) to encourage anyone to report anything they observe that breaches this policy.

POLICY STATEMENT

4. The organisation has obligations under the Employment Relations Act 2000, Health and Safety at Work Act 2015, Human Rights Act 1993 and Harassment Act 1997 to actively address complaints of bullying or harassment made by or against any one or more of its personnel. In accordance with the requirements of these Acts, we do not and will not condone any form of harassment or bullying of any of our personnel or of any other third party.
5. All reported instances of bullying or harassment will be treated seriously and, if substantiated, may result in disciplinary action in accordance with this policy. Any person who reports incidents of bullying or harassment can be assured their complaint will be thoroughly investigated by us.

TERMINOLOGY

Harassment

6. Harassment can be defined as any unsolicited and unwelcome hostile or offensive act, expression or derogatory statement, including incitement to commit such behaviour, which causes distress or offence to an individual or that creates a risk to their mental or physical health and safety.
7. Harassment may be overt (blatant) or implied and may involve use of language, visual material or physical behaviour. Although the harassing behaviour is most often repeated, it may be a one-off incident which is significant enough to have a detrimental effect on an individual or group.
8. Harassment may relate to a person’s gender, marital status, religious or ethical belief, disability, age, political opinion, employment status, family status, sexual orientation, or involvement in the activities of an organisation. It can take many forms but examples include:
 - (a) Written or verbal abuse or threats;
 - (b) Spreading malicious rumours or insulting someone;
 - (c) Unwelcome remarks about such things as a person’s appearance, race, sex or sexual orientation;
 - (d) Practical jokes which cause embarrassment or awkwardness;

- (e) Sending offensive emails, letters or phone calls;
- (f) The display of visual materials which are offensive; and
- (g) Acts of violence, assault or physical intimidation.

9. Harassment includes the following categories.

Bullying

- 10. Bullying is a form of harassment. Bullying is defined as unreasonable and repeated behaviour towards a person or group that can lead to physical or psychological harm. Repeated behaviour is persistent and can include a range of actions. Unreasonable behaviour covers actions which a reasonable person would not do in similar circumstances, including victimising, humiliating, intimidating or threatening a person. A single incident isn't considered bullying but can escalate if ignored.
- 11. Bullying and harassment may be **overt** (blatant or obvious) or **covert** (hidden or concealed). In most cases, bullying or harassment is an attempt by one person to inappropriately exert power over another person. Both bullying and harassment may be unconscious or stem from ignorance but it is important to be aware that bullying and harassment are not determined by the intention of the person who has caused offence. This includes cyberbullying (the use of electronic communication to bully, harass or frighten a person, typically by sending messages of an intimidating or threatening nature).
- 12. There are a number of behaviours that are considered to constitute bullying, including, but not limited to the following:

Overt bullying

- (a) Threats;
- (b) Intimidation, stand-over tactics;
- (c) Coercion;
- (d) Verbal abuse or degrading language/gestures;
- (e) Shouting or yelling or screaming at another person;
- (f) Unexplained rages;
- (g) Unjustified criticism and insults;
- (h) Nit-picking and fault-finding without justification;
- (i) Constant humiliation;
- (j) Belittling remarks;
- (k) Punishment imposed without reasonable justification; and
- (l) Dismissive behaviour/gestures, non-verbal communication during interactions such as eye-rolling, sighing.

Covert bullying

- (a) Deliberately sabotaging a person's work or activity by withholding information that is required to fulfil a task;
- (b) Hiding documents or equipment;
- (c) Constantly changing targets or guidelines;
- (d) Not providing appropriate resources or training;
- (e) Isolating or ignoring a person on a consistent basis (e.g. dealing with him/her through a third party);
- (f) Changing the duties or responsibilities of a person to that person's detriment, without reasonable justification;
- (g) Undermining another's authority/standing in the organisation;
- (h) Circulation of negative rumours;
- (i) Manipulation; and
- (j) Emotional abuse.

Sexual Harassment

13. Sexual harassment is any unwanted, unwelcome, or uninvited behaviour of a sexual nature, which makes a person feel frightened, humiliated, intimidated or offended. Sexual harassment may take many forms including:

- (a) Requests for sexual activity which carry overt or implied threats or promises regarding the employee's employment or continued involvement;
- (b) Sex-oriented gestures or comments;
- (c) Sex based insults, taunts, teasing or name calling;
- (d) Inappropriate touching;
- (e) Difference in treatment on the basis of gender;
- (f) Unwanted and deliberate physical contact;
- (g) Persistent and unwelcome social invitations, telephone calls, or correspondence through social media or text messaging;
- (h) Leering and suggestive staring at a person or parts of their body;
- (i) Obscene phone calls or text messages;
- (j) Sending sexual material;
- (k) Displaying offensive material including that displayed by electronic means such as offensive screen savers; and
- (l) Innuendo, including sexually provocative remarks and suggestive or derogatory comments about a person's physical appearance.

Racial Harassment

14. Behaviours which express hostility against or bring into contempt or ridicule another person on the grounds of the colour, race, ethnic or national origins of that person. Specific examples may include:

- (a) Jokes or songs of a racial nature;
- (b) Mocking others' accents;
- (c) Deliberately mispronouncing names;
- (d) Racial or ethnic oriented jibes or abuse;
- (e) Denying people the opportunity to fulfil ethnic requirements;
- (f) Displaying offensive material;
- (g) Distribution of racist material; and
- (h) Using as a facilitator to recruit persons to racist organisations or groups.

15. The lists within these categories above are not exhaustive and recognise that bullying and harassment cover many activities, events and situations which may occur in the organisation. Often a person accused of bullying/harassing behaviour may be unaware of the effect that their behaviour is having on particular person.

Discrimination

16. Discrimination can occur directly or indirectly, and can be unlawful. Whilst similar to the above, it is worth separately noting:

- (a) **Direct discrimination** occurs when a person is treated less favourably than another person, in the same or similar circumstances, because of a prohibited ground such as their sex, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability.
- (b) **Indirect discrimination** occurs when there is a requirement, rule, policy, practice or procedure that is the same for everyone, but has an unequal effect on particular groups. This type of requirement is likely to be indirect discrimination unless the requirement is reasonable in all the circumstances.

- (c) **Unlawful discrimination** occurs when one person is treated less favourably than someone else is treated, or would be treated, in the same or similar circumstances, because that person has a particular attribute, such as sex, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability that is specifically listed in Human Rights legislation.

Other

- 17. **Stalking** - a pattern of repeated, threatening or harassing behaviours that directly or indirectly communicate a threat or place the victim in fear.
- 18. **Victimisation** – if someone suffers detrimental treatment because they have made, or propose to make, in good faith, an allegation of harassment, or appear as a support, or a witness, or provide information about such an allegation.

What is not bullying or harassment?

- 19. Some actions or activities such as occasional differences in opinion or conflicts do not constitute bullying or harassment. Behaviours which are not considered to be bullying or harassment include:
 - (a) Friendly banter, light-hearted exchanges, mutually accepted jokes and compliments;
 - (b) Friendships, sexual or otherwise, where both people consent to the relationship;
 - (c) Issuing reasonable instructions and expecting them to be carried out;
 - (d) Warning or disciplining someone in line with organisational policy;
 - (e) Insisting on high standards of performance in terms of quality, safety, team co-operation;
 - (f) Legitimate criticisms about performance;
 - (g) Assertively expressing opinions that are different from others; and
 - (h) Free and frank discussion about issues or concerns in the organisation, without personal insults.

ROLES AND RESPONSIBILITIES

Duty of Board/Executive/Management/Committee

- 20. We have a positive duty to establish and maintain an organisation free from personal harassment/bullying and have a responsibility to make personnel aware of what behaviour constitutes bullying/harassment.

Duty of Individuals

- 21. Behaviour which causes distress to another person is unacceptable. All personnel need to consider their own behaviour and that of others and reflect whether it might be unacceptable or offensive.
- 22. Individual members including witnesses or bystanders have a responsibility to report incidents of bullying or harassment to ensure the behaviour is addressed and appropriate action implemented.

PROCESS FOR DEALING WITH BULLYING/HARASSMENT INCIDENTS

Purpose

- 23. To outline what you should do if you believe you are being bullied or harassed.

Options

- 24. There are a number of different options available. Which option is taken depends on the seriousness of the incident(s) and the ability of the individual to deal with the issue.

25. Whether bullying or harassment has occurred is an objective test (not subjective in the eyes of the person affected). However, it is expected that all comments and actions should be considered in terms of whether they are likely to cause offence or hurt. It is up to that person to decide whether they are being bullied or harassed in terms of taking the matter further.

26. Personnel are encouraged to resolve complaints at an informal level; however, a person may approach the situation from any of the four stages described below.

27. It is acknowledged that addressing bullying behaviour can be stressful. A person may, at any time, seek support and guidance from the Designated Contact or anyone else.

28. If making a complaint, you should ensure that you:

- (a) Provide a true and accurate description of events;
- (b) Discuss the bullying or harassment only with those who need to know;
- (c) Speak about the bullying or harassment in private; and
- (d) Maintain confidentiality about all issues and people concerned at all times.

Process

STAGE	DESCRIPTION
1. Approach the person directly	<ol style="list-style-type: none"> 1. You may wish to confront the person you believe is harassing you directly. An individual who feels they have been bullied or harassed can tell the person that their behaviour is offensive to them and request that it stop. 2. The individual should talk to, or write to, the person and explain that their behaviour is unacceptable to them, ask them to stop and refer to the harassment policy. 3. Speak to the person(s) in private in the presence of the Designated Contact.
2. Informal Action	<ol style="list-style-type: none"> 1. An individual can discuss the situation with the Designated Contact. Together they may decide to approach the alleged harasser directly, write them a letter or request a meeting. 2. The Designated Contact must ensure that all discussions with the complainant are held in confidence (with a support person for the complainant present, if appropriate). 3. The Designated Contact should listen to the complainant, discuss formal and informal options and outline possible outcomes. The complainant should not be made to feel that they should take certain actions because of their responsibility to other persons. It must be stated that there will be no victimisation of the complainant. If the complainant wishes, the Designated Contact should contact the alleged bully/harasser on an informal basis with a view to resolving the complaint without formal action. The alleged bully/harasser should be advised that it is an informal meeting but they may be accompanied by a support person. 4. Notes must be made of the meeting between the parties and agreed. The Designated Contact should keep these notes, but note privacy considerations below. 5. If the outcome of the informal complaint is not satisfactory to the complainant, he or she should be informed of the process for taking formal action.

STAGE	DESCRIPTION
3. Formal Action	<ol style="list-style-type: none"> 1. An individual can make a formal complaint to the Designated Contact. A formal, signed complaint should be put in writing, detailing the specific facts of the complaint (date, location, who else was present, what was said/done), and given to the Designated Contact. 2. The Designated Contact may appoint an investigator (which could be themselves, an internal member of the organisation, or an external person) who will conduct a preliminary inquiry. Following this inquiry, the investigator will determine whether a formal investigation needs to be carried out. 3. The complainant will be given the opportunity to comment on the preliminary investigation and the decision to invoke the investigation process. 4. If a formal investigation is undertaken, it is important that accurate records are kept and that the confidentiality of all people involved is maintained. 5. If, as a result of any investigation process, a complaint is substantiated, the Designated Contact will take appropriate steps to ensure that: <ol style="list-style-type: none"> (a) Suitable disciplinary action is taken against the bully/harasser. This could include a warning, or the bully/harasser could be barred or expelled from the organisation's membership and activities in accordance with the organisation's constitution/rules; (b) Suitable support is available to the complainant; and (c) If appropriate, suitable education/training is provided to the bully/harasser to ensure the bullying/harassment is not repeated.
4. Formal complaint to an external body	<ol style="list-style-type: none"> 1. An individual has the right to make a formal complaint to the Human Rights Commission. 2. In the case of the bullying or harassment being serious or potentially criminal in nature, an individual has the right to make a formal complaint to the Police.

29. The Designated Contact may at any time (with the consent of the complainant) elevate the matter to the organisation's board, committee or executive.

30. When dealing with an allegation of bullying the organisation will:

- (a) Treat all matters seriously and investigate promptly and impartially;
- (b) Ensure neither the person who complained nor the alleged bully are victimised;
- (c) Support all parties involved;
- (d) Find appropriate remedies and consequences for confirmed bullying as well as false reports;
- (e) Communicate the process and its outcome;
- (f) Ensure confidentiality;
- (g) Use the principles of natural justice; and
- (h) Keep good documentation.

OTHER MATTERS

Privacy

31. All information relating to alleged or proven breaches of this policy will be treated in accordance with the requirements of the Privacy Act.

32. Information must not be disclosed without the complainant's consent, unless the complaint is serious and it is believed that action needs to be taken. In such a situation it may not be possible to maintain absolute confidentiality even if a complainant does not wish the matter to be taken further; however the complainant is to be advised of the disclosure.

33. The obligation of confidentiality does not prevent us from using or disclosing any material necessary to:

- (a) Instigate or defend any legal proceedings; or
- (b) Make submissions in relation to any enquiry or complaint; or
- (c) Refer a matter to the Police.

34. Any investigation into a complaint will be conducted fairly with respect to both a complainant and a recipient of a complaint. We will abide by our responsibilities in terms of trust, confidence and good faith to both parties as well as any privacy or confidentiality obligations. In particular, you need to be aware:

- (a) Any statements made by the complainant may be shown to the recipient of the complaint; and
- (b) The complainant may not know the outcome of any disciplinary action taken against the recipient of a complaint, should the allegations be determined to be correct.

Making a false complaint

35. Any complaint must not be frivolous or vexatious. It is defamatory to make a false statement about someone which is likely to harm his or her reputation. Complaints found to be false may result in action being taken against the complainant.

Support Available

36. The role of the Designated Contact is to:

- (a) Provide personnel with information on bullying/harassment and clarify any questions or concerns;
- (b) Provide confidential advice on the options that are available for dealing with bullying/harassment; and
- (c) Support an individual who wishes to confront the bully/harasser themselves in accordance with the process outlined above.

Other Support Available

37. Alternatively, an individual may seek support and guidance from another individual they choose as a support person. This could be family/whanau, friend, family doctor, or a solicitor.

38. Any individual approached as a support person must be made aware of the requirement to regard any information discussed with them as confidential.

Human Rights Commission

39. The Human Rights Commission is a statutory body, which administers the Human Rights Act 1993. The Commission's primary functions are to promote human rights through education of the public and to investigate and attempt to resolve complaints of discrimination. The Commission's website is www.hrc.co.nz and its toll free number is 0800 496 877.