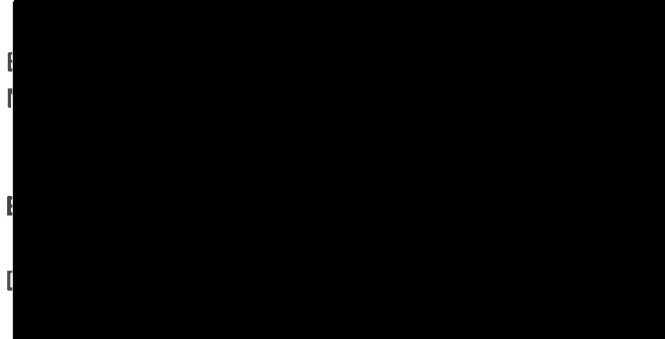


9 September 2019



**Re: Official Information Act request – Hospital Staff Bullying**

I refer to your Official Information Act request dated 23 August 2019 requesting the following information.

With respect, I request the following information under the terms of the Official Information Act 1982:

- 1. The total number of complaints relating to alleged staff bullying, harassment or inappropriate behaviour reported, with a breakdown from each department, each year for the last five years.**
- 2. The total number of complaints relating to staff alleged staff bullying, harassment or inappropriate behaviour formally investigated, with a breakdown from each department, each year for the last five years.**
- 3. The total number of staff disciplined following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.**
- 4. The total number of staff dismissed or whose employment ended (such as a resignation or non-renewal of contract) following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.**

In response to your questions 1 -4, the table below records the number of alleged bullying and harassment complaints and actions taken against staff. We have not split these by department due to the low numbers which would potentially enable identification and would present a breach of privacy for employees within those services. The numbers below are the cases which have been formally tracked. We do not record informal complaints or actions an individual may choose to resolve privately.

All these cases were investigated however in some instances allegations of bullying were not upheld.

#### 2015

Allegation	Number	Action
Bullying and harassment	1	1 No formal outcome

#### 2016

Allegation	Number	Action
Bullying and harassment	6	1 written warning 1 verbal warning 1 letter of expectation 1 apology 1 mediation resolution 1 resignation
Occurred within Radiology, Information Technology, Surgery, Nursing and Midwifery		

#### 2017

Allegation	Number	Action
Bullying and Harassment	6	4 mediated outcomes 2 formal warnings
Occurred within Nursing, Medical Laboratory, Cardiology, Pharmacy		

#### 2018

Allegation	Number	Action
Bullying and Harassment	13	1 termination 6 informal action taken 3 mediated settlements 2 warnings 1 coaching session
Occurred within Nursing, Management, Phlebotomy		

#### 2019

Allegation	Number	Action
Bullying and Harassment	37	9 Didn't meet threshold of bullying 13 Informal action taken 2 Formal Warning 1 Mediated Settlement 3 Withdrawn complaint 1 Resignation 1 Termination 7 Letters of Expectation
Occurred within Adult Community & Long Term Conditions, Adult Medical, Cancer & Blood, Cardiovascular, Child Health, Clinical Support Services, Mental Health, Perioperative, Women's Health		

Auckland DHB has done, and continues to do, extensive work on improving our culture. This includes our 'Speak Up' programme which encourages all employees to speak up if they encounter bullying or any kind of inappropriate behaviour in the work place. You can find out a bit more about our Speak Up programme here: <http://www.adhb.health.nz/about-us/our-people/speak-up-kaua-e-patu-wairua/>

It is important to be clear that the data in this OIA response cannot be interpreted as an increased bullying rate. In fact, an increase in the number of bullying and harassment cases investigated and resolved is a sign that more people are feeling confident to speak up about bullying and other unacceptable behaviour, and that their concerns are being taken seriously.

**5. The total cost of legal fees to investigate alleged staff bullying, harassment or inappropriate behaviour complaints each year for the last five years.**

We are declining this request under section 18(f) as the information requested cannot be made available without substantial collation or research. As per our obligations under section 18B we have tried to consult with you about altering the request but you were not available.

**6. Copies of any legal advice given to the DHB relating to alleged staff bullying, harassment or inappropriate behaviour in the last five years. Please note I am meaning broadly rather than a specific case.**

We are declining this request under section 9(2)(h) as withholding the information is required to maintain legal professional privilege.

**7. The total number of staff employed at the DHB, with a breakdown on the number of staff at each department, each year for the last five years.**

See attached.

**8. Copies of any policy, regulation, protocol relating to alleged staff bullying, harassment or inappropriate behaviour and reporting of such incidents.**

See attached copies of:

- Dealing with harassment, discrimination and bullying
- Discipline and Dismissal
- Harassment and Bullying Policy
- Preventing and Managing Discrimination, Harassment and Bullying
- Speak Up – Reasons to Speak Up
- Speak Up Intranet Site: Kaua e Patu Wairua
- Tips to Help How to Speak Up: Kaua e Patu Wairua

I trust this information answers your questions.

You are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that this response, or an edited version of this response, may be published on the Auckland DHB website.

Yours faithfully

A handwritten signature in blue ink, consisting of several vertical strokes and a horizontal line, enclosed within a hand-drawn oval. To the left of the signature, there are some faint, illegible handwritten marks.

Ailsa Claire, OBE  
Chief Executive

Organisation structure, as at 31 July 2019. Staff contracted to multiple departments are included in each, but counted once in the TOTAL.

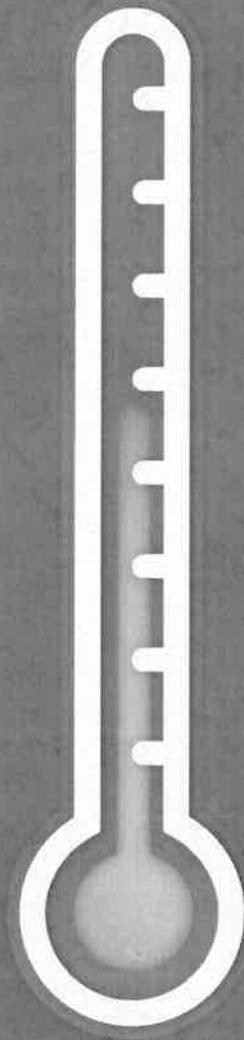
Number of staff. Includes permanent, fixed term, and casual contracts, but excludes staff on long term leave.

Directorate	Department	30 June 2015	30 June 2016	30 June 2017	30 June 2018	30 June 2019
<b>AUCKLAND DHB</b>	<b>TOTAL</b>	<b>9462</b>	<b>9621</b>	<b>9739</b>	<b>10217</b>	<b>10800</b>
Adult Community & LTC	TOTAL	594	577	605	630	694
Adult Medical Services	TOTAL	899	965	982	1077	1117
Cancer & Blood Services	TOTAL	401	416	424	433	443
Cardiovascular Services	TOTAL	591	580	593	625	633
Child Health	TOTAL	1345	1394	1411	1470	1561
Clinical Support	TOTAL	1437	1438	1462	1485	1494
Mental Health & Addictions	TOTAL	777	758	795	769	786
Patient Management Services	TOTAL	751	779	779	890	1010
Perioperative Services	TOTAL	748	763	760	772	806
Public Health	TOTAL	173	158	150	159	173
Support Services	TOTAL	513	552	533	568	673
Women's Health	TOTAL	423	417	403	423	451
Departments no longer exist	TOTAL	44	37	21	0	0

# Dealing with harassment, discrimination and bullying



**Speak Up**  
Kaua ē patu wairua



We're here to support each other to create healthy, happier colleagues, patients and communities.

If you experience, or see, harassment, discrimination or bullying, don't put up with it. Please Speak Up.



**We're privileged to work in a place that makes a real difference to peoples' lives – but that comes with responsibilities as well.**

**To improve the health of our communities, we first have to nurture the health of our own people.**

Harassment, discrimination and bullying have no place in a healthy, supportive environment. Let's work together to confront it, deal with it and remove it.

If you, or someone you know, is being harassed, discriminated against or bullied, please Speak Up about it.

Talk to your manager, team leader or someone you trust. You can also call the Health Integrity Line on 0800 242 888 or visit the Speak Up page on Hippo.

Use this guide to help you recognise unacceptable behaviour and how to deal with it.

There is always support here for you. **You're never on your own.**

## What's the difference between harassment and bullying?

Remember, while they're different behaviours, both are unacceptable.

### Harassment

Harassment is an unreasonable, unwelcome comment or behaviour that offends, humiliates or intimidates. The behaviour is either repeated or a serious, one-off incident that has a negative effect on safety, health, performance or job satisfaction.

### Harassment is:

- Racial, sexual or offensive comments
- Embarrassing remarks
- Unwanted attention
- Undermining authority
- Badmouthing
- Intimidation
- Favouritism
- Offensive jokes
- Gossip
- Personal comments

### Harassment isn't:

- Reasonable work directions
- Feedback about performance or conduct
- Performance management processes
- Differences in opinion

### Bullying

Bullying is intense harassment that involves repeated incidents over time.

### Bullying is:

- Physical assault
- Name calling
- Practical jokes
- Intimidation
- Psychological abuse
- Deliberate exclusion of others
- Impossible deadlines
- Public criticism
- Dominating conversations to exclude others

### Bullying isn't:

- Reasonable work-related instructions (even if you have a different opinion)
- Expressing a difference of opinion
- Warnings or disciplines that have followed fair process according to our policies
- An expectation of reasonable standards of performance at work
- Legitimate criticisms, expressed constructively. (These include criticisms raised during performance appraisals where a request for improvement is justified)
- One-off rudeness or tactlessness

For the full policy on harassment, discrimination and bullying, go to the Speak Up page on Hippo.

## Employees Harassment, discrimination or bullying – don't let it hit fever pitch

At Auckland DHB, we know we're healthier when we work together and respect each other. We'll do what it takes to support our people in creating a healthy place to work.

If you are experiencing harassment, discrimination or bullying, or you see someone who is, here's what to do:

### Make a call to address it yourself

Talk to a manager, Speak Up supporter or someone else you trust – they can give you support and guidance.

You might choose to privately speak to the person you believe is harassing or bullying you and let them know the behaviour is unwanted and you'd like it to stop.

Separately, you might contact that person in writing with your concerns.

Focus on the behaviour, not the person.

Keep your cool and be kind. They may not have done it intentionally.

### Informal action – raise concerns

This is a way to talk about your concerns with the person you believe is behaving badly, using a third party like your manager or someone independent from the situation. This is a "no-blame" approach aimed at reaching agreements and resolution to prevent unwanted behaviour happening again. Agreements can be recorded and monitored.

### Formal action – call the health integrity line or write a formal complaint

A formal complaint is usually made in writing, detailing all aspects of the complaint. Use the 'Speak Up form' on Hippo as a prompt. When you submit your complaint you can be represented by a support person and any investigation is conducted in strict confidence.

Where a complaint is substantiated, we will take appropriate steps to ensure:

- Suitable support is provided to all parties.
- Suitable disciplinary action is taken against the person, where appropriate.
- The bullying is not repeated.

When the investigation can't find substance to a complaint, the person won't be disciplined but the matter may be referred for informal mediation to see if a resolution can be reached that is fair to both parties.



# Leaders and managers

## How to operate at the right end of the scale

As a leader or manager, you play an important role in ensuring we're healthier together, supporting and respecting each other.

**if one of your team feels they've been harassed, discriminated against or bullied, please take the following steps to see they have the help they need:**

### Listen

Set aside plenty of time to listen and fully understand their concerns, the impact it's having and how they'd like it resolved.

### Act promptly

Start the support process as soon as possible. Think about what they need to be safe and supported while the matter is resolved. You'll also need to consider whether you have a conflict of interest in providing ongoing support to the particular team member.

### Support options for your team member:

- EAP Services
- Union representative
- Professional Body
- Health Referral to Occupational Safety and Health
- Their GP

### Explore low-level resolution options

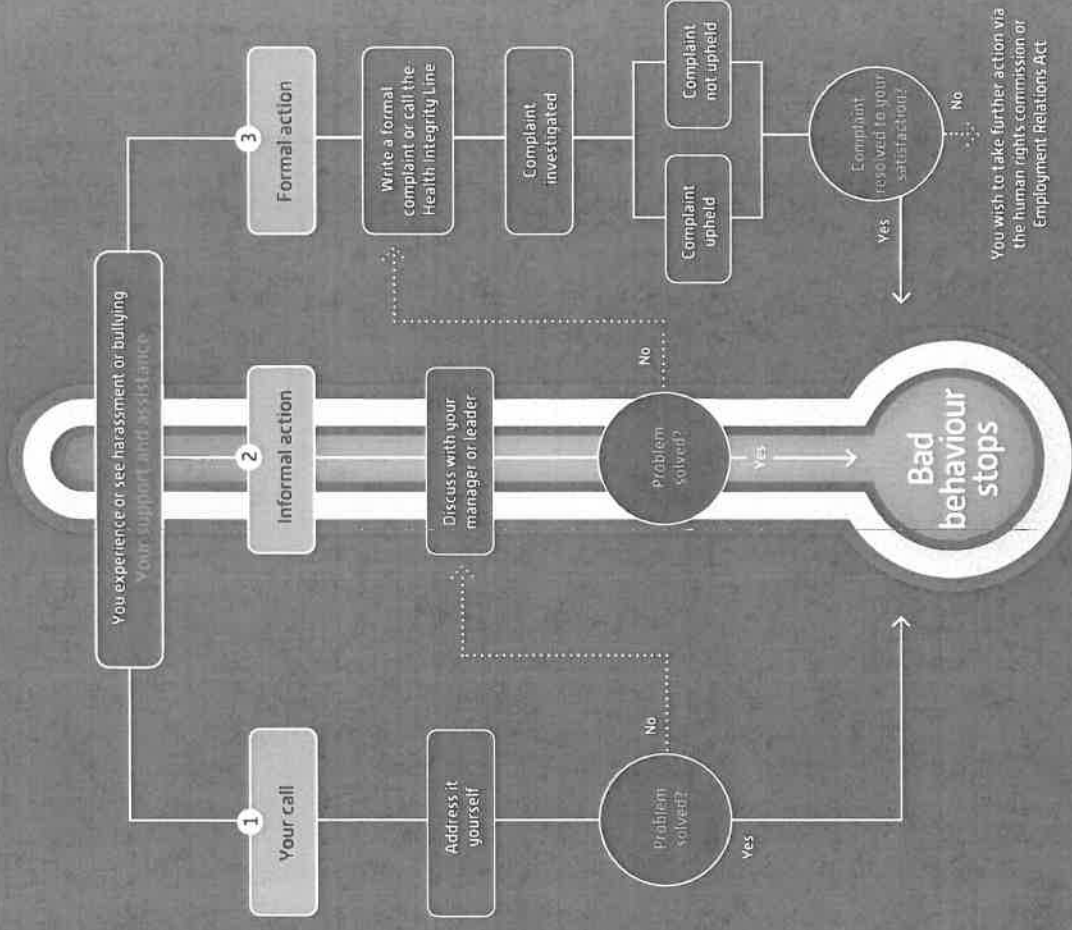
If the allegations aren't at the serious end of the scale, it's in everyone's interest to resolve complaints with a lighter touch. This might simply mean talking to the person concerned, discussing the allegations and requesting the offending behaviour stops. The focus should be on the behaviour, not the person. Please be kind, they may not have done this intentionally.

If the allegations are serious, they need to be treated as a formal complaint requiring an employment investigation. Contact HR if you think this is the case, or if you're unsure. If you're ever in doubt or need advice, please talk to your own manager or professional lead, or go to the Speak Up page on Hippo.

HR is always here to support you and provide advice on the options available to you and those concerned.

# How to turn down the heat on harassment, discrimination and bullying

Talk to your manager or team leader, call the Health Integrity Line on 0800 424 888, or visit the Speak Up page on Hippo.



# Checklist - Healthy Behaviours

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- B** Talk about the **BEHAVIOUR** not the person
  - U** **UNDERSTAND** the context, don't judge, don't ask why
  - I** Describe the **IMPACT** on patients, colleagues or care
  - L** **LISTEN** to their point of view
  - D** Ask 'What would I do **DIFFERENTLY** next time?'
- 

## Who can help you Speak Up?

- Your team leader or manager
- Speak Up supporter
- Occupational Health and Safety staff support team
- Employee Assistance Programme - Tel: 0800 735 343
- Your own support person
- Human Rights Commission - [hrc.co.nz](http://hrc.co.nz)

If you have any questions or would like to know more, check the Speak Up page on Hippo or the Auckland DHB website.



## DISCIPLINE & DISMISSAL

### Overview

Document Type	Policy
Function	Corporate Administration, Management, Governance
Directorates	ADHB Generic
Department(s) affected	Human Resources
Patients affected (if applicable)	None
Staff members affected	All ADHB Employees
Key words (not part of title)	
Author – role only	HR Manager - Operations
Owner (see <u>ownership structure</u> )	Owner: Chief Executive & Endorsed by The Board Issuer: Chief Human Resources Officer
Edited by	Document Controller
Date first published	December 1994
Date this version published	January 2017 - reviewed
Review frequency	3 yearly
Unique Identifier	PP01/STF/006 – v06.00

### Content

This document covers the following topics relating to employee discipline and dismissal.

Topic	See Page
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Grounds for Disciplinary Action.....	4
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Section:	Staff	Issuer:	Chief Human Resources Officer
File:	Discipline-and-Dismissal_2017-01-28.docx	Owner:	Chief Executive & Endorsed by The Board
Classification:	PP01/STF/006	Date Issued:	January 2017 – reviewed

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## DISCIPLINE & DISMISSAL

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### Introduction

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#### Purpose

The purpose of this policy is to ensure that all disciplinary actions, including dismissals, are justified and are carried out in a procedurally fair and legally correct manner.

---

#### Scope

This policy applies to all individuals employed by Auckland District Health Board.

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#### Policy Statements

The following policy statements apply:

- Disciplinary action will be taken in accordance with the principles and processes laid down in this document
  - Disciplinary action will be decided in the context of the overall good of both the organisation and the employee
  - All disciplinary action will be documented and available to the employee
  - Disciplinary decisions are to be arrived at in a fair, reasonable and culturally effective manner
- 

#### Authority

The Delegated Authority Manual details the authorities currently in effect for matters relating to Discipline and Dismissal.

---

#### Records

Copies of disciplinary documentation (interviews, suspension/transfer confirmations, warnings, etc.) will be held in the employees Personal File.

At the employees request, records of disciplinary documentation will be forwarded to the employees representative.

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## DISCIPLINE & DISMISSAL

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### General Principles

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#### Introduction

When taking disciplinary action of any kind the following principles are to be observed:

- Promptness
  - Impartiality
  - Consistency
  - Non-Punitive
  - Fairness
  - Advance Warning
- 

#### Promptness

Disciplinary action must be taken as soon as practicable after the event which warrants the action.

---

#### Impartiality

Disciplinary procedures must be applied in an equitable and fair manner to **all** employees.

---

#### Consistency

Impartiality implies consistency; similar disciplinary action must be taken in respect of similar offences in similar circumstances.

---

#### Non-Punitive

The aim of disciplinary action is to improve the situation and prevent recurrence of unsatisfactory actions or behaviours. It must not be for the purpose of exacting revenge or inflicting punishment for its own sake.

---

#### Fairness

The degree of discipline must be related to:

- The nature of the offence
  - The employee's work record
  - The circumstances
  - Any extenuating factors
- 

#### Advance Warning

Every employee is entitled to know the level of performance expected.

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## DISCIPLINE & DISMISSAL

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### Grounds for Disciplinary Action

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#### Introduction

The need for disciplinary action may arise from any number of situations.

The following list summarises the primary grounds for disciplinary action:

- Incompetence or poor performance
  - Impaired performance through health related reasons
  - Misconduct
  - Serious Misconduct
  - Criminal charges and offences against the law
  - Abandonment of employment
- 

#### Incompetence or Poor Performance

When a person is engaged for a position, there is an implied warranty of competency for the position and of performance to an acceptable standard.

If the employee fails to reach and/or maintain this standard, even after counselling, coaching or training, then there are grounds for disciplinary action.

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#### Impaired Performance due to Health Reasons

An employee whose performance deteriorates for health related reasons (e.g. Illness, alcohol abuse, etc.) should be counselled to seek appropriate professional assistance.

Termination of employment, or transfer to other duties, may on occasion be necessary (e.g. If the employee's performance continues to be unsatisfactory).

Such action will not be taken until the employee has been given a reasonable opportunity to improve, with or without professional assistance.

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*Continued on next page*

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## DISCIPLINE & DISMISSAL

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### Grounds for Disciplinary Action, Continued

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#### Misconduct

Misconduct comprises unacceptable or irresponsible actions or omissions which, regarded in isolation, do not warrant severe disciplinary action.

Each incident must be assessed in context, and appropriate action taken on the basis of that assessment.

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#### Serious Misconduct

Serious misconduct may warrant dismissal without notice and is behaviour by any employee which:

- Undermines the trust and good faith inherent in the employment relationship, **and/or**,
  - Seriously threatens the well-being of the organisation, the staff, or clients
- 

#### Criminal Charges

If an employee is imprisoned, the employment agreement may be terminated, or the employee placed on leave without pay.

An employee on bail awaiting trial for a:

- Non-work related offence, may continue to be employed
- Work-related offence, may be suspended

The fact that an employee has been convicted of an offence committed outside employment should not be regarded as automatic reason for dismissal. The main consideration is whether the offence is one that makes the individual unsuitable for, or disqualified from, continued employment.

---

#### Abandonment of Employment

Abandonment of employment is defined as absence without notification and without adequate explanation or cause for the period specified in the employee's employment agreement, or, in any other case for a period exceeding three (3) normal working days.

Abandonment of employment may constitute grounds for dismissal. (See also Abandonment of Employment)

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## DISCIPLINE & DISMISSAL

### Disciplinary Process

#### Introduction

The table below describes the disciplinary process for ADHB.

Stage	Description
1.	Incident occurs.
2.	Complaint/report made.
3.	Preliminary investigation completed: <ul style="list-style-type: none"> <li>• Check</li> <li>• Investigate</li> <li>• Confirm facts</li> </ul>
4.	Disciplinary interview(s) performed.
5.	Due consideration of all facts.
6.	Action plan implemented.

If Action Required Is	Action Implementation Is
<b>Formal</b>	<ul style="list-style-type: none"> <li>• Warning:                             <ul style="list-style-type: none"> <li>– Verbal</li> <li>– First Written</li> <li>– Final Written</li> </ul> </li> <li>• Dismissal:                             <ul style="list-style-type: none"> <li>– With notice</li> <li>– Without notice</li> <li>– Including downgrading</li> </ul> </li> </ul>
<b>Informal</b>	Alternative: <ul style="list-style-type: none"> <li>• Counselling</li> <li>• Corrective coaching</li> <li>• Redirection/retraining</li> <li>• Reorganise/redeploy</li> </ul>
<b>None</b>	Matter dropped

#### Note

Suspension on pay or transfer of duties could be appropriate at any point prior to Stage 6 of the above process.

Refer to Suspension on Pay and Transfer of Duties.

Section: Staff	Issuer: Chief Human Resources Officer
File: Discipline-and-Dismissal_2017-01-28.docx	Owner: Chief Executive & Endorsed by The Board
Classification: PP01/STF/006	Date Issued: January 2017 – reviewed



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## DISCIPLINE & DISMISSAL

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### Disciplinary Interviews & Investigation

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#### Introduction

When disciplinary action is being considered, a careful investigation must be made.

The investigation must include:

- Collection and recording of witness accounts (if available)
- Verification of records and facts (if possible)
- Advice from a suitably qualified professional when it is relevant to the matter being investigated

No disciplinary action, including verbal or written warnings, is to be decided upon, or taken, before the relevant facts have been evaluated.

---

#### Employee Rights

The employee to be interviewed is to be given:

- Prior warning of the nature and subject of the allegations being investigated and the type of disciplinary action that could result
  - The opportunity to be accompanied at the interview by a representative of their choice
  - The opportunity to explain, or deny, the allegation
  - Prompt written advice of the result of the investigation
- 

#### Independent Corroboration

The manager conducting a disciplinary interview must be accompanied by another person so that details of the interview and outcome can be corroborated later.

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#### Records

Written records outlining a summary of the disciplinary interview(s), including the outcome, must be made and kept in the employees Personal File

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## DISCIPLINE & DISMISSAL

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### Suspension & Transfer

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**Introduction** Suspension or transfer of duties are not, in themselves, disciplinary actions. They are intermediary steps which may be taken while attempting to ascertain if disciplinary action is needed.

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**Pay** During a period of disciplinary related suspension or transfer, the employee will normally be on full, unaltered pay.

---

**Transfer of Duties** In some instances an employee may be transferred to other duties:

- While an allegation of misconduct or incompetence is being investigated
- Where the employees presence would hinder the investigation

---

**Suspension** Suspension is used when an employee is required not to carry out normal duties:

- Due to an allegation of serious misconduct or incompetence being investigated
- Where the employees presence would hinder the investigation

---

**Written Confirmation** Suspension or transfer must be promptly confirmed in writing to the employee.

---

**Confirmation Content** The written confirmation must contain, as a minimum:

- Dates and duration of suspension/transfer
- Reason for suspension
- Employee reporting requirements

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**Employee Reporting Requirements** In the event of suspension the employee must:

- Advise where they can be contacted
- Remain available for interview at reasonable notice

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## DISCIPLINE & DISMISSAL

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### Forms of Disciplinary Action

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#### Introduction

The forms of disciplinary action which may be taken are:

- Verbal warning
  - Written warning
  - Dismissal
- 

#### Advice to Employee

Any disciplinary action must be formally advised to the employee in writing.

---

#### Recording Disciplinary Action

At each stage of the disciplinary process, a record must be kept.

This record is to be placed on the employees Personal File and include:

- Copies of warnings and/or correspondence (e.g. Disciplinary letters, etc.)
- Meeting details (who was present; the matter discussed; any input received from third parties; etc.)

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## DISCIPLINE & DISMISSAL

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### Verbal Warning

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#### Introduction

Verbal warnings are usually the first level of disciplinary action.

A verbal warning should **not** normally be the first indication to an employee of shortcomings in performance or behaviour.

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#### Objective

The objective of a verbal warning is to correct the behaviour or performance of an employee and avert more serious disciplinary action in the future.

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#### Content

Verbal warnings must clearly state the grounds for concern and the likely consequences of non-improvement.

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#### Right to Respond

An employee who is in receipt of a verbal warning, may if they wish, respond in writing and/or in person, and have a copy or record, of the response placed in their Personal File.

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## DISCIPLINE & DISMISSAL

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### Written Warning

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#### Introduction

Written warnings are usually the second level of disciplinary action.

Depending upon the “degree of misconduct” it may be appropriate to issue written warnings in two stages (i.e. A **first** written warning and then a **final** written warning).

In other more serious circumstances, a single final warning will suffice.

---

#### Content

Written warnings must contain, as a minimum, details of:

- The interview (i.e. Date and names of those present)
  - The unsatisfactory conduct or behaviour
  - Reference to any previous relevant verbal/written warnings
  - Any explanations offered
  - Any agreement made to rectify the problem
  - The type of warning given and its duration
  - Consequences of failure to improve (a final warning must state that dismissal will result from behaviour which causes a further level of disciplinary action to be taken)
- 

#### Recording Disciplinary Action

A copy of the written warning must be given to the employee, and a further copy signed by the employee acknowledging receipt is to be placed in the Personal File.

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#### Right to Respond

An employee who is in receipt of a written warning, may if they wish, respond in writing and/or in person, and have a copy or record of the response placed in their Personal File.

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## DISCIPLINE & DISMISSAL

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### Dismissal

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#### Introduction

An individual's employment may be terminated by:

- **Notice of termination** – giving notice in accordance with the employees' employment agreement
  - **Summary Dismissal** – immediate cessation, without notice
- 

#### Rule

No employee will be dismissed without previous warnings, except in cases of serious misconduct, or abandonment of employment.

---

#### Abandonment of Employment

Dismissal resulting from abandonment of employment may only be made after reasonable attempts to contact the employee have failed.

The employee must be advised in writing (to their last known address) that they are deemed to have “abandoned their employment”.

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#### Downgrading

After consideration of the circumstances, an employee may be offered other duties, at a lower grading, as an alternative to dismissal.

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#### Process

The process is equivalent to a dismissal followed by re-employment, and must be carried out in the same manner as a dismissal to ensure it is both justified and procedurally fair.

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#### Authority

Authority to downgrade is the same as that specified in the Delegated Authority Manual for dismissal.

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## HARASSMENT & BULLYING POLICY

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### Overview

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Document Type	Policy
Function	Corporate Administration, Management and Governance
Directorates	Organisation Wide
Department(s) affected	All departments, services and units
Applicable for which Patients, Clients or Residents?	n/a
Applicable for which Staff?	All workers
Keywords (not part of title)	
Author – role only	Human Resource Director Partnering and Management
Owner (see <u>ownership structure</u> )	Owner: Chief Executive Issuer: Chief of People & Capability
Edited by	Document Controller
Date first published	Yet to be determined
Date this version published	10 May 2017 - updated
Review frequency	3 yearly
Unique Identifier	PP01/STF/026

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Section:	Staff	Issued by:	Chief People & Capability
File:	Harassment-&-Bullying_2017-05-10.docx	Authorised by:	Chief Executive
Classification:	PP01/STF/026	Date Issued:	10 May 2017 - updated

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## HARASSMENT & BULLYING POLICY

### Overview, Continued

**Content**

This document covers the following topics relating to harassment and bullying.

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## HARASSMENT & BULLYING POLICY

---

### Introduction

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#### Purpose

The purpose of this policy is to:

- Ensure all workers know their rights and responsibilities regarding workplace bullying and / or harassment.
  - Provide definitions for identifying workplace harassment and bullying.
- 

#### Associated Document

The table below indicates other documents associated with this policy.

Type	Document Titles
NZ Legislation	<ul style="list-style-type: none"><li>• Employment Relations Act 2000</li><li>• Health and Safety at Work Act 2015</li><li>• Human Rights Act 1993</li></ul>
Board Policy	<ul style="list-style-type: none"><li>• <u>Complaints Management</u></li><li>• <u>Discipline &amp; Dismissal</u></li><li>• Values &amp; Behaviours (Consultation Draft)</li></ul>
Other	<ul style="list-style-type: none"><li>• College codes of practice and associated documents</li></ul>

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File:	Harassment-&-Bullying_2017-05-10.docx	Authorised by:	Chief Executive
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## HARASSMENT & BULLYING POLICY

### Definitions

Term	Definition
<b>Workers</b>	<ul style="list-style-type: none"> <li>• Employees</li> <li>• Contractors</li> <li>• Honorary staff / observers</li> <li>• Volunteers</li> <li>• Partner-organisation employees and representatives</li> </ul>
<b>Harassment</b>	<p>Harassment is any type of unreasonable, unwelcome comment or behaviour which offends, humiliates or intimidates the person at whom it is directed.</p> <p>Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable.</p> <p>Some forms of harassment, such as sexual and racial harassment (defined below), are unlawful and are prohibited under the New Zealand Human Rights Act 1993 (HRA) and the Employment Relations Act 2000 (ERA).</p> <p>Harassment can take many forms – it may be verbal, physical, written or pictorial. <u>Examples include, but are not limited to:</u></p> <ul style="list-style-type: none"> <li>• Verbal or written abuse or comments</li> <li>• Physical or verbal assault</li> <li>• Bullying (set out in detail below)</li> <li>• Embarrassing, threatening, humiliating, patronising or intimidating remarks</li> <li>• Belittling opinions or constant criticism</li> <li>• Spreading of a malicious, unfounded rumour</li> <li>• Subjecting a person in the workplace to unreasonable scrutiny</li> <li>• Undermining another's authority / standing in the workplace</li> <li>• Isolating or excluding a person in the workplace (eg dealing with him / her through a third party)</li> <li>• Publicly insulting / humiliating a person in the workplace;</li> <li>• Engaging in favouritism (both overt and covert)</li> <li>• Sabotaging or impeding work performance by deliberately withholding work-related information and / or resources or by supplying incorrect information</li> <li>• Jokes or offensive gestures.</li> </ul>

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## HARASSMENT & BULLYING POLICY

### Definitions, Continued

Term	Definition
<p><b>Harassment, continued</b></p>	<p>The behaviour may either be repeated or be a one-off incident which is significant enough to have a detrimental effect on the recipients(s) health and safety, employment, job performance or satisfaction. Repeated behaviours do not have to be directed at one individual to constitute harassment.</p> <p>The intentions of the alleged harasser are not relevant to the definition of harassment; it is the effect of the behaviour on the individual and its reasonableness which are key to defining behaviour that constitutes harassment.</p> <p><u>Harassment can take place in a range of relationships, including between:</u></p> <ul style="list-style-type: none"> <li>• A worker and a manager</li> <li>• Co-workers</li> <li>• A worker and a patient</li> <li>• A worker and another person in the workplace</li> <li>• A worker and a member of the public.</li> </ul> <p>Harassment may also occur through electronic means such as electronic messages, voicemail, phone and / or video calls, Internet chat-rooms and other social media platforms or chat-rooms, both inside or outside the workplace and / or work time.</p>

<p><b>Sexual Harassment</b></p>	<p><u>Sexual harassment in the workplace occurs when:</u></p> <ul style="list-style-type: none"> <li>• a person makes a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment or an implied or overt threat about present or future employment status; or</li> <li>• a person is subjected to behaviour that is unwelcome or offensive to that person and has a detrimental effect on that person's employment, job performance or job satisfaction through: <ul style="list-style-type: none"> <li>– the use of language (whether written or spoken) of a sexual nature;</li> <li>– the use of visual material of a sexual nature; or</li> <li>– physical behaviour of a sexual nature.</li> </ul> </li> </ul>
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### Definitions, Continued

Term	Definition
<b>Sexual Harassment,</b> continued	<p>Sexual harassment is one form of unlawful harassment and it includes any unwanted or unwelcome conduct of a sexual nature that makes a person feel offended, humiliated or intimidated. As with harassment, conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.</p> <p><u>Sexual harassment may take many forms including the following:</u></p> <ul style="list-style-type: none"> <li>• Requests or demands for sexual activity which carry overt or implied threats or promises regarding the employee's employment</li> <li>• Offensive sex-oriented gestures or comments</li> <li>• Sex based insults, taunts, teasing or name calling</li> <li>• Unwanted and deliberate physical contact, including pinching, touching, grabbing, kissing or hugging</li> <li>• Persistent and unwelcome social invitations or telephone calls and / or propositions / inappropriate attention.</li> <li>• Leering and suggestive staring at a person or parts of their body</li> <li>• Obscene phone calls. Sending rude or offensive emails, attachments, text messages or movie files. Sending sexual material in any form or format</li> <li>• Displays or circulation of sexual material such as posters, magazines, pictures, screen savers, internet material etc.</li> <li>• Accessing, downloading or transmitting sexually explicit or inappropriate material in the workplace;</li> <li>• Sexual jokes, comments or innuendo, including sexually provocative remarks and suggestive or derogatory comments about a person's body or physical appearance</li> <li>• Questions or probing about a person's sex life</li> <li>• Sexually explicit conversations.</li> </ul>

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## HARASSMENT & BULLYING POLICY

### Definitions, Continued

Term	Definition
<p><b>Racial Harassment</b></p>	<p><u>Racial harassment occurs in the workplace when a person uses:</u></p> <ul style="list-style-type: none"> <li>• Language (written or spoken); or</li> <li>• Visual material; or</li> <li>• Physical behaviour that directly or indirectly expresses hostility against or brings into contempt or ridicule another person on the grounds of their colour, race, ethnic or national origins, is hurtful or offensive to that person and has a detrimental effect on that person's employment, job performance or satisfaction.</li> </ul> <p><u>Racial harassment may take many forms including the following:</u></p> <ul style="list-style-type: none"> <li>• Making offensive remarks about a person's race;</li> <li>• Jokes or songs of a racial nature</li> <li>• Mocking others' accents or mimicking the way they speak</li> <li>• Deliberately mispronouncing names</li> <li>• Racial or ethnic oriented jibes or abuse</li> <li>• Calling people by racist names</li> <li>• Displaying offensive material</li> <li>• Distribution of racist material.</li> </ul> <p>Auckland DHB recognises that behaviour that may be regarded as harmless, trivial, a joke or acceptable by one person may be racial harassment to those who find offence. However, conduct can amount to racial harassment even if the person did not intend to hurt or offend the other person.</p>

<p><b>Other Forms of Harassment</b></p>	<p>Harassment covers many activities, events and situations which may occur in the workplace. This policy cannot identify every behaviour or conduct that may constitute harassment. In general, Auckland DHB will consider any conduct that creates a hostile and / or offensive environment as breaching this policy.</p>
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## HARASSMENT & BULLYING POLICY

### Definitions, Continued

Term	Definition
<p><b>Other Forms of Harassment, continued</b></p>	<p>What constitutes acceptable behaviour to one person may not be acceptable to another. This can be for various reasons such as different backgrounds, experiences and / or personal beliefs that people hold, or because a worker is new to a workplace and has not formed relationships with the other workers, and is unfamiliar with the behavioural norms (ie what is and is not acceptable) of that particular workplace.</p> <p>For these reasons, workers should be careful in all of their dealings with colleagues to ensure that their behaviour is acceptable.</p> <p>Additional details on appropriate behaviour can also be found in Auckland DHB's Values and Behaviours Policy.</p> <p>However, no unreasonable behaviour which causes distress to other workers is acceptable. All workers need to consider their own behaviour and that of their colleagues and reflect whether it might be unacceptable or offensive.</p>

<p><b>Bullying</b></p>	<p>Workplace bullying is a form of harassment. It is behaviour directed towards a person or group of people within Auckland DHB that is:</p> <ul style="list-style-type: none"> <li>• Repeated; and</li> <li>• Unreasonable; and</li> <li>• Creates a risk to health and safety.</li> </ul> <p>Repeated behaviour is persistent and includes a range of actions and behaviours over time. One-off incidents of unreasonable behaviour are not generally considered to be workplace bullying. However a single, serious incident may constitute harassment and / or a breach of Auckland DHB's policies, and such behaviour is not acceptable.</p> <p>Violent behaviour is a highly objectionable form of direct bullying. However, bullying can be manifested in more subtle ways that impact on the health and well-being of the victim.</p>
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## HARASSMENT & BULLYING POLICY

### Definitions, Continued

<b>Bullying,</b> continued	<p><u>Examples of bullying include (but are not limited to):</u></p> <ul style="list-style-type: none"> <li>• Physical assault or threats;</li> <li>• Initiation rites;</li> <li>• Verbal abuse or name calling;</li> <li>• Practical jokes;</li> <li>• Teasing / inappropriate comments;</li> <li>• Intimidating actions;</li> <li>• Psychological abuse such as excluding or isolating workplace participants;</li> <li>• Deliberately withholding information necessary for effective work performance.</li> <li>• Giving unachievable tasks / impossible deadlines;</li> <li>• Persistent and / or public criticism.</li> </ul>
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#### **Behaviour That Is Not Harassment or Bullying**

Managers have responsibilities to manage their workers, particularly with regard to unsatisfactory performance of duties. Therefore, harassment and / or bullying must not be confused with advice, feedback and comment from managers regarding an individual's work performance.

Some examples of behaviour that are not bullying or harassment include are:

- A Manager reasonably counselling a worker about their performance or behaviour. Performance management and / or counselling is a necessary part of ensuring that workers meet company standards of work and behaviour;
- Setting high standards because of quality, safety and team cooperation;
- The raising of genuinely held concerns by a manager about a worker's conduct or behaviour;
- Constructive and / or negative feedback;
- A Manager requiring reasonable verbal or written work instructions to be carried out;
- Other reasonable managerial actions such as disciplinary action, organisational change, work directions and orders, and allocation of work and leave in compliance with business needs and systems;

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## HARASSMENT & BULLYING POLICY

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### Definitions, Continued

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Other examples of behaviours that are not bullying or harassment include:

- Personality conflicts or difference of opinions;
  - One off or occasional instances of forgetfulness or tactlessness.
  - Mutual friendships or relationships or physical contact based on mutual consent.
  - Constructive peer review.
  - Friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments;
  - A single incident of unreasonable behaviour (unless serious).
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## HARASSMENT & BULLYING POLICY

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### Policy Statements

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#### Policy Statements

- Auckland DHB is committed to providing a safe workplace free of harassment and bullying.
- Harassment or bullying of any type is not acceptable at Auckland DHB and such behaviour will result in disciplinary consequences, including dismissal or summary dismissal.
- Harassment and bullying fail to respect a person's dignity.
- Harassment and bullying can affect workplace morale and performance including patient safety

All workers are personally responsible for:

- Making themselves aware of this policy;
  - Behaving in a responsible, respectful and professional manner;
  - Listening and responding appropriately to the views and concerns of others; and
  - Treating others in the workplace with courtesy and respect.
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## HARASSMENT & BULLYING POLICY

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### Scope

#### Scope

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This policy applies to all Auckland District Health Board (Auckland DHB):

- Employees
- Contractors
- Honorary staff / observers
- Volunteers
- Partner-organisation employees and representatives

For purposes of this Policy the above parties are defined as workers.

This policy applies to behaviours that occur:

- Within the workplace and / or during work hours
  - In connection with work, even if it occurs outside normal working hours and / or away from the workplace
  - During work activities, for example when dealing with patients
  - On social media where workers interact with colleagues and their actions may affect them directly or indirectly.
- 

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## HARASSMENT & BULLYING POLICY

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### Obligations & Liability

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#### Obligations & Liability

Auckland DHB has obligations under the Employment Relations Act 2000, Human Rights Act 1993 and Health and Safety at Work Act 2015 (and amendments) to actively address complaints of harassment or bullying made by or against workers.

All reported instances of harassment and / or bullying will be treated seriously and, if substantiated, may result in the disciplinary process being invoked. One possible outcome of a disciplinary process is termination of the offender's employment.

Where Auckland DHB becomes aware of harassment or bullying related incidents, Auckland DHB may, at the discretion of the Chief of People and Capability, decide to investigate, even in the absence of an allegation from an individual (or the retraction of a complaint by an individual), depending on the seriousness of the issue.

Complaints made by, or on behalf of, patients / clients will be investigated through the Auckland DHB Complaints Process.

Workers are legally responsible for their own behaviour and as such they may be personally fined or convicted by a relevant court for unlawful conduct. In circumstances where a worker's conduct may involve a breach of any New Zealand law and could be a criminal offence (eg some forms of sexual harassment). Auckland DHB may be legally obliged to notify the Police.

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## HARASSMENT & BULLYING POLICY

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### Obligations & Liability, Continued

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#### **Duty of Managers & Supervisors**

Managers are responsible for:

- promoting appropriate standards of conduct in the workplace;
  - making workers aware of, and providing guidance on, what behaviour constitutes harassment and / or bullying and that harassment and / or bullying will not be tolerated at ADHB;
  - ensuring that a culture of unacceptable behaviour is not tolerated or allowed to develop;
  - ensuring that no form of harassment or bullying takes place at the workplace;
  - taking reasonable steps to make sure any person complaining of harassment and / or bullying is protected and supported;
  - identifying and mitigating any risk when harassment or bullying concerns are raised or identified.
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#### **Making a false or misleading complaint**

It is defamatory to make a false statement about someone which is likely to harm his or her reputation. Complaints or allegations found to be false or misleading or malicious may result in disciplinary action being taken against the complainant.

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#### **Formal Complaint to an External Body**

An individual has the right to make a formal complaint to the Human Rights Commission.

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## HARASSMENT & BULLYING POLICY

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### Support Available

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**Purpose** To provide information about available support systems

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**Support Team** At Auckland DHB there are a number of individuals who are specially trained in dealing with bullying and harassment.

These include:

- Human Resources Manager
- Occupational Health and Safety Staff Support team

Their role is to:

- Provide workers with information on bullying and harassment and clarify any questions or concerns they may have
  - Provide confidential advice on the options that are available for dealing with bullying and harassment
  - Support an individual who wishes to confront a person displaying harassing or bullying behaviours themselves
- 

**Employee Assistance Programme (EAP)** In some circumstances employees may wish to seek confidential counselling services. EAP can be used to address issues of a work or personal nature that may be impacting on health and wellbeing. EAP contact details are available 0800 SELF HELP (0800 735 343)

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**Other Support** Alternatively, an individual may seek support and guidance from another individual that they choose as a support person. This could be a union representative, whanau, family doctor, a friend or solicitor. In many cases it will not be appropriate to have a colleague act as a support person due to confidentiality and in case they need to be interviewed as part of an investigation.

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

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## HARASSMENT & BULLYING POLICY

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### Support Available, Continued

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#### **Human Rights Commission**

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](http://www.hrc.co.nz) and its toll free number is 0800 496 877.

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# Preventing and managing discrimination, harassment and bullying

A guide for managers and leaders

## Speak Up

Kaua ē patu wairua

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## Introduction

We are lucky to work in a place that makes a difference to people's lives. By preventing discrimination, harassment and bullying we help each other work in a safe, healthy and supportive environment, where we can do the best work of our lives.

As a manager or leader you are responsible for:

- preventing harassment and bullying
- investigating harassment and bullying conduct and complaints (either formally or informally) or manage an Independent investigator
- Resolving complaints and concerns.

This guide provides you with information, tools and resources to help you prevent, and respond to harassment and bullying concerns.

For more information see the Speak up section on the website talk to your manager, or HR manager.

If you are being bullied contact your manager, call HR or the Health Integrity Line (a service of the Ministry of Health).

## Why prevent or respond to discrimination, harassment and bullying?

Bullying and harassment have a negative impact on people and workplaces:

- It decreases employee health and wellbeing, motivation, and commitment
- It can cause sickness harm
- It makes staff end their employment
- It leads to questions about patient safety
- It diminishes the capability of people who witness it and who are subject to it to solve problems
- It affects productivity
- It gives an organisation a bad name and affects recruitment and retention.

Research shows that those who witness bullying are as impacted as those who are the direct subject of the behaviour. Great people don't want to work with bullies or around bullies and great people have options, which means we don't get to work with the best people possible and our ability to be at our best can be compromised.

All managers have legal obligations to take all practicable steps to prevent bullying and deal with it when it occurs.

## Who is affected?

Managers or leaders can be bullied by their direct reports, for example when a direct report refuses to complete reasonable instructions, staff group together to make demands, criticise the manager behind his or her back, or discuss the manager's performance in a group.

Colleagues can bully colleagues, for example isolating a team member, not inviting them to social functions, excluding people from discussions, threatening consequences unless the person covers a shift are all examples of how staff bully each other.

Patients and suppliers can also bully and harass staff and these situations should be reported.

Employers who do not deal with bullying and harassment risk action under:

- Employment Relations Act 2000
- Health and Safety at Work 2015
- Human Rights Act 1993
- Harassment Act 1997.

## Preventing discrimination harassment and bullying – steps for managers

There are many things you can do as a manager to prevent inappropriate behaviour from happening:

- Set out expected standards for work and behaviour
- Discuss the values as a team and run the values workshops
- Have regular catch ups with individuals and as a team
- Challenge inappropriate behaviour as soon as possible
- Always focus on the behaviour not the person
- Always include everyone in team meetings and seek everyone's opinions
- Let staff know about Speak Up

Here is some detail:

<b>Expectations and Performance</b>		
<input type="checkbox"/>	<b>Expectation</b>	<b>How</b>
<input type="checkbox"/>	Auckland DHB values are displayed and the team have agreed behaviours to show the values are being followed	Run the "Values in Practice" work shop Refer to "Values" on the intranet Reinforce behaviour that meets the values
<input type="checkbox"/>	Position descriptions are accurate and up to date	PD template on the intranet/HR Talk to your HR Consultant
<input type="checkbox"/>	Expected standards of work and behaviours are set out	Have a conversation in your team meeting Orientation of new staff – set the standards from the start Performance Management workshop
<input type="checkbox"/>	Regular catch ups occur to discuss work, recognise good performance and any barriers to success	Coaching Conversations workshop
<input type="checkbox"/>	Performance reviews occur annually	Intranet/HR/Performance
<input type="checkbox"/>	Team meetings occur monthly	Intranet/HR/how to run a meeting
<input type="checkbox"/>	Recognition for good work/feedback for behaviour	Reinforce behaviour that meets the values Coaching Conversations workshop
<input type="checkbox"/>	Staff are involved in decisions and know how to give the manager constructive feedback	Coaching Conversations workshop
<input type="checkbox"/>	Inappropriate behaviours are challenged as soon as possible/immediately	Reinforce behaviour that meets the values Performance Management workshop Intranet/speak up

<input type="checkbox"/>	Team has the resources to do their work	Manager's manager involved to seek resources
<input type="checkbox"/>	Processes and policies are clear	HR/Intranet/Policies
<input type="checkbox"/>	Staff have the training to do their job	CPE Development Plans

#### **Health and Safety**

<input type="checkbox"/>	Team have the resources to do their jobs	Manager's manager involved to seek resources
<input type="checkbox"/>	Safety committee has strong representation from staff	Intranet/Safety

#### **Communication, Collaboration and Consultation**

<input type="checkbox"/>	Change management processes are understood	<i>Under development</i>
<input type="checkbox"/>	Team understand communication styles	<i>Under development</i>
<input type="checkbox"/>	Team meetings include everyone and all opinions are sought	<i>Under development</i>

#### **Leadership and Management**

<input type="checkbox"/>	Managers know how to resolve conflict	<i>Under development</i>
<input type="checkbox"/>	Managers have strong communication skills	<i>Under development</i>
<input type="checkbox"/>	Managers are skilled at managing performance	Performance Management workshop Intranet/HR/Speak Up
<input type="checkbox"/>	Managers are skilled in change management	<i>Under development</i>
<input type="checkbox"/>	Educate staff about bullying and harassment and the processes to speak up	Intranet/HR/Speak Up

## Organisational factors that can lead to bullying

Organisational Factor	Characteristics	Controls
Negative leadership	Autocratic No guidance Inadequate supervision Micromanagement	Coaching workshop Leadership development Cognitive Institute programme Leadership programme
Work organisation	Poor/lack of resources Lack of training Unreasonable performance standards	Process improvement
Poor work relations	Constant negativity/criticism Conflict Not listening to others Dominating conversations Not seeking other input	Team behaviour standards Chairperson for meetings Process for meetings - check in for everybody's views Values in Practice workshop Coaching Programme
Workforce Characteristics	Vulnerable workers Injured workers returning to work Off-site/causal workers Workers in a minority Different professional groups??	Connections for workers such as professional leads, support groups, other staff Return to work plans Regular contact with offsite staff All casual staff have a contact point in the team Working as 'real teams'
Lack of accountability	No performance reviews No feedback Managers do not seek feedback No consequences for poor performance/inadequate behaviour	Employee engagement survey and actions Performance reviews Staff receive feedback and ongoing conversations to check how they are going Change management practices Set expectations which are reasonable, measurable, specific and time bound Assist prioritise work Check in and discuss progress Help remove obstacles of achievement Encourage and support

## How to create an environment where bullying is less likely to occur

Here are some tips for creating a work environment that makes bullying less likely

<b>When it is less likely...</b>
When people are asked for feedback, everyone is involved, everyone is valued for what they bring, everyone in a meeting is asked for their view Relationships and trust are built through regular contact
Unacceptable behaviours are noticed and people speak up
Everyone speaks up and we are all responsible for calling out behaviour Values are demonstrated
Disciplinary consequences occur when bullying is confirmed
Staff feel supported by their colleagues, managers, human resources, professional bodies, and leadership to speak up. This only occurs when work-related relations are strong.
Honest regular feedback between people who work together Reviews of situations occur and everyone is invited to speak People speak up about the behaviour and do not personalise the matter or exaggerate
There are consequences for people who claim bullying when this has not happened
Unacceptable behaviours are noticed and people speak up Witnesses speak up
Feedback is honest, people express opinions without personalising the issue
Processes are clear, behaviours are clear, expectations are set and everyone takes accountability for their work and their behaviour (what you do and how you do it are equally important)

## What is bullying?

### Definition

The Auckland DHB policy “Harassment and Bullying” Policy states:

“Workplace bullying is a form of harassment. It is behaviour directed towards a person or group of people within Auckland DHB that is:

- Repeated - persistent and includes a range of actions and behaviours over time, and
- Unreasonable - actions that a reasonable person in the same circumstances would see as unreasonable., and
- Creates a risk to health and safety.”

Bullying can be manifested in many ways that impact on the health and well-being of the victim.

Examples of bullying include:

- Physical assault or threats
- Initiation rites
- Verbal abuse or name calling
- Practical jokes
- Teasing or inappropriate comments
- Intimidating actions
- Psychological abuse such as excluding or isolating workplace participants
- Deliberately withholding information necessary for effective work performance
- Giving unachievable tasks/impossible deadlines
- Persistent or public criticism.

## Examples of bullying

<b>Personal attacks (direct)</b>	<b>Task-related attacks (indirect)</b>
Belittling remarks “of course you would think that” “you’re full of it” “no one is interested in what you have to say”	Setting unachievable tasks, deadlines, workload, being set up to fail
Ignoring, excluding, silent treatment, isolating	Meaningless tasks, unpleasant jobs
Ridiculing, insulting, teasing, “funny surprises”, sarcasm	Undervaluing contribution to work, not giving credit for contribution, taking credit for contribution
Physical attacks, tampering with personal effects	Putting someone in harm’s way
Humiliating others	Not being supported to complete tasks
Persistent and / or public criticism	Criticising the way things are done
Obscene language	Declining leave when others get leave
Ganging up (group bullying) – “we have all talked about it and don’t like you”	Not being rostered fairly across team
Condescending comments	Hinting that job is not secure
Intruding on privacy – stalking, calling when off duty, emailing when not work related	Unjustified disciplinary processes
Inaccurate accusations	Giving incorrect information, not giving all the information to do work
Personalising matters rather than talking about an incident	
Encouraging someone to feel guilty,	Excluding or isolating behaviours
Threatening to fail in course work (rather than constructive feedback with an explanation of possible consequences)	Withholding resources, training or development opportunities, removing responsibilities with no good reason



## What is harassment?

### Definition

The Auckland DHB “Harassment and Bullying” Policy states:

“Harassment is any type of unreasonable, unwelcome comment or behaviour which offends, humiliates or intimidates the person at whom it is directed.”

Harassment can take many forms, examples include:

- Verbal or written abuse or comments
- Physical or verbal assault
- Embarrassing, threatening, humiliating, patronising or intimidating remarks
- Belittling opinions or constant criticism
- Spreading of a malicious, unfounded rumour
- Subjecting a person in the workplace to unreasonable scrutiny
- Undermining another's authority in the workplace
- Isolating or excluding a person in the workplace for example, dealing with him or her through a third party
- Publicly insulting or humiliating a person in the workplace
- Engaging in favouritism
- Sabotaging or impeding work performance by deliberately withholding work-related information or resources or by supplying incorrect information
- Jokes or offensive gestures.

The behaviour may either be repeated or be a one-off incident which is significant enough to have a detrimental effect on the person's health and safety, employment, job performance or satisfaction. Repeated behaviours do not have to be directed at one individual to constitute harassment.

The intentions of the alleged harasser are not relevant to the definition of harassment. It is the effect of the behaviour on the individual and its reasonableness which are key to defining behaviour that constitutes harassment.

Harassment can take place in a range of relationships, including between:

- An employee and a manager or leader
- Co-workers
- An employee and a patient
- An employee and another person in the workplace.

Harassment may also occur through electronic means such as electronic messages, voicemail, phone and video calls and social media both inside and outside the workplace or work time.

### Sexual harassment

Sexual harassment is one form of unlawful harassment and it includes any unwanted or unwelcome conduct of a sexual nature that makes a person feel offended, humiliated or intimidated. As with

harassment, conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Sexual harassment may take many forms including:

- Requests or demands for sexual activity which carry overt or implied threats or promises regarding the employee's employment
- Offensive sex-oriented gestures or comments
- Sex based insults, taunts, teasing or name calling
- Unwanted and deliberate physical contact, including pinching, touching, grabbing, kissing or hugging
- Persistent and unwelcome social invitations, telephone calls or propositions or inappropriate attention.
- Leering and suggestive staring at a person or parts of their body
- Obscene phone calls
- Sending rude or offensive emails, attachments, text messages or movie files
- Sending sexual material in any form or format
- Displays of circulation of sexual material such as posters, magazines, pictures, screen savers, internet material etc.
- Accessing, downloading or transmitting sexually explicit or inappropriate material in the workplace
- Sexual jokes, comments or innuendo, including sexually provocative remarks and suggestive or derogatory comments about a person's body or physical appearance
- Questions or probing about a person's sex life
- Sexually explicit conversations.

### **Racial harassment**

Racial harassment occurs in the workplace when a person expresses hostility against or brings into contempt or ridicules another person on the grounds of their colour, race, ethnic or national origins, is hurtful or offensive to that person and it has a detrimental effect on that person's employment, job performance or satisfaction.

Racial harassment may take many forms including:

- Making offensive remarks about a person's race
- Jokes or songs of a racial nature
- Mocking others' accents or mimicking the way they speak
- Deliberately mispronouncing names
- Racial or ethnic oriented jibes or abuse
- Calling people by racist names
- Displaying offensive material
- Distribution of racist material.

Auckland DHB recognises that behaviour that may be regarded as harmless, trivial, a joke or acceptable by one person may be racial harassment to those who find offence. However, conduct can amount to racial harassment even if the person did not intend to hurt or offend the other person.

### **Other Forms of harassment**

Harassment covers many activities, events and situations which may occur in the workplace. This policy cannot identify every behaviour or conduct that may constitute harassment. In general, Auckland DHB will consider any conduct that creates a hostile or offensive environment as breaching this policy.

What constitutes acceptable behaviour to one person may not be acceptable to another. This can be for various reasons such as different backgrounds, experiences or personal beliefs that people hold, or because an employee is new to a workplace and has not formed relationships with the other staff, and is unfamiliar with the behavioural norms (i.e. what is and is not acceptable) of that particular workplace.

No unreasonable behaviour which causes distress to another employee is acceptable. All employees should consider their own behaviour and that of their colleagues and reflect whether it might be unacceptable or offensive.

Additional details on appropriate behaviour can also be found in Auckland DHB's Code of Conduct.

## What is discrimination?

### Discrimination

Discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances.

It is a breach of the Human Rights Act 1993. The Human Rights Act 1993 makes it unlawful to discriminate based on:

- Sex – includes pregnancy and childbirth, transgender and intersex people because of their sex or gender identity
- Marital status – includes marriages and civil unions that have ended
- Religious belief – not limited to traditional or mainstream religions.
- Ethical belief – not having a religious belief
- Colour, race, or ethnic or national origins – includes nationality or citizenship
- Disability – including physical, psychiatric, intellectual or psychological disability or illness
- Age – people are protected from age discrimination if they are over 16 years old
- Political opinion – including not having a political opinion
- Employment status – being unemployed, on a benefit or on ACC. It does not include being employed or being on national superannuation
- Family status – includes not being responsible for children or other dependants
- Sexual orientation – being heterosexual, homosexual, lesbian or bisexual.

These grounds apply to a person's past, present or assumed circumstances. For example, it is unlawful to discriminate against someone because they have a mental illness, had one in the past, or someone assumes they have a mental illness.

### Indirect discrimination

Indirect discrimination is when an action or policy that appears to treat everyone the same actually discriminates against someone. For example, if the only entrance to a shop is by climbing stairs, that indirectly discriminates against someone who uses a wheelchair.

## What bullying and harassment isn't

Bullying and Harassment are not:

- One off occasional incident of rudeness, annoyance, tactlessness, poor taste joke
- High standards of performance
- Accountability for doing the work
- Constructive feedback about performance or conduct from managers or peers
- Manager requiring reporting on work and achievements
- Manager requiring work to be completed (that is reasonable and legitimate)
- Disagreements about matters where varying opinions can exist
- A single act of unreasonable conduct (but it could escalate)
- Making a mistake even if it has a negative impact
- Not getting absolutely everyone's views on every matter
- Managers making decisions that they are entitled under their delegated authority to make
- Reasonable management actions directed at an employee in a reasonable way
- Poor management skill – manager might not give feedback in the best way but this does not make it bullying.

Conflict is not necessarily bullying but it can escalate into bullying. Conflict or differences in views can bring about new ideas and different approaches. However if the conflict involves personal attacks, shouting, anger etc. then it can cross a line into inappropriate behaviour, bullying or harassment.

## How to manage a complaint or situation

### Questions to consider

#### **Does there need to be a complaint?**

The person who has been the subject of Harassment or Bullying does not need to lay a complaint for the matter to be dealt with either informally or formally. Bullying and harassment are unacceptable, possibly in breach of the Health and Safety Act and create an environment that is not safe for patients. Managers must confront any examples of harassment or bullying that they witness or become aware of.

#### **Does there need to be an Investigation?**

This depends on the nature of the complaint. For low level conduct which is the first time, informal resolution is appropriate. For repeat or serious matters, then a formal investigation and outcome should occur.

#### **What if it is clinical matter?**

It is unacceptable for a patient or family member to harass, bully or be violent to a staff member. Much of this guide has been focused on work and employment related incidents. For patient related matters, a Risk Pro should be completed and the clinical lead for the patient involved.

<b>Clinical –v- safety –v- Employment</b>			
<b>Clinical</b>	<b>Unsafe behaviour or practice</b>	<b>Safety at work</b>	<b>Behaviour of a staff member to another staff member or a patient</b>
<b>Responsibility of staff to Speak Up</b>	Your code of practice Health Practitioners Act Your employment agreement	Your employment agreement Health and Safety at Work Act 2015	Your code of practice Your employment agreement Health and Safety at Work Act 2015 Employment Relations Act Human Rights Act
<b>How to Speak Up:</b>			
<b>System to file a report</b>	<b>Risk pro</b>	<b>Kiosk/safety</b>	<b>Email the note of behaviour form to your manager or HR</b>
<b>Internally</b>	<b>Talk to:</b> <ul style="list-style-type: none"> <li>➤ your manager</li> <li>➤ the clinical lead for clinical safety</li> <li>➤ your Professional Lead/Supervisor</li> <li>➤ the Director or Chief for your area</li> <li>➤ Call the Chief Nurse/Chief Medical Officer/Chief Allied Health</li> </ul>	<b>Talk to:</b> <ul style="list-style-type: none"> <li>➤ your manager</li> <li>➤ Health and Safety Rep</li> <li>➤ your Professional Lead/Supervisor</li> <li>➤ the Director or Chief for your area</li> <li>➤ Call OSH (is it still called this now or H&amp;S?)</li> <li>➤ Call the Chief of Quality and Safety</li> </ul>	<b>Talk to:</b> <ul style="list-style-type: none"> <li>➤ your manager</li> <li>➤ your Professional Lead/Supervisor</li> <li>➤ the Director or Chief for your area</li> <li>➤ Call HR</li> <li>➤ Call the Chief HR Officer</li> </ul>
<b>External</b>	Health Integrity Line	Health Integrity Line MBIE (Ministry responsible for work place safety)	Health Integrity Line MBIE (Ministry responsible for work place safety)
<b>Support</b>	Someone you trust Professional Lead/Supervisor Union EAP	Health and Safety Rep for your area Union EAP	Union HR EAP GP

## Key points to deal with a complaint

Do not jump to conclusions	The complainant may genuinely feel bullied but this does not mean that the behaviour meets the test of bullying. Alternatively, the behaviour might be inappropriate or poor management skill but not bullying.
Confidentiality	Do not discuss with people who do not need to know.
Ensure that the complainant is safe	It is important that people who speak up are safe. Confidentiality and respect are the key to this.
Support all parties	Offer EAP, remind people that their union can assist them and most professional bodies offer wellness support.
Be neutral	Until you gather the information you do not know what has happened. Do not judge anything.
Communicate Communicate Communicate	Keep people informed about where things are at even if it is just that you are still investigating.
Keep notes	Keep a diary of what you have done – who you meet with, what you say, when and who else was present. One sheet of paper with the dates and meetings is acceptable.



## Deciding how serious an issue is

You should review the issue, decide how serious the allegation is and what the appropriate process to deal with the complaint is.

Here is a guide to help you:

### Least serious:

- Low level conduct
- One off low level conduct
- Not bullying or harassment but inappropriate behaviour
- Lapse in judgement
- Single inappropriate comment
- Person immediately apologies, recognises behaviour and attempts to put right when low level behaviour

### More serious:

- Re-occurrence (formally noted)
- Impact is significant
- Conduct is serious or escalates or involves multiple behaviours - shouting, swearing, and threatening.
- Patient safety compromised
- Patient witnesses behaviour

### Most Serious:

- Senior staff or management
- Serious conduct
- Long period of time
- Series of workers report problems or behaviour
- Vulnerable workers
- Patient safety compromised
- Impact on people or service is significant
- Repeated
- Discrimination - sexual, racial, religion
- When other approaches fail.

## What to do if you receive a complaint?

<b>Complaint received</b>		
1.	Review complaint	Is the nature of the complaint clear? Date, time, what happened, the names of witnesses, has the complainant said what action they want?
2.	Complaint is not clear	Return to complainant and be clear about the information that is required for you to understand what has happened
3.	Complaint is clear	Is the nature of the complaint Serious? See point 4 below  Is the complaint at the low level end? See point 5 below
4.	<b>Complaint is serious</b>	Potentially the alleged behaviour fits within the definition of bullying and/or harassment
4.1	Acknowledge	Acknowledge receipt of complaint and set out what will happen from here <i>Template</i>
4.2	Meet complainant	Ensure you have all the information, the complainant understands what the process will be and that the complaint will be shown to the person accused, ensure that they understand the support that can be in place
4.3	Prepare letter to the accused	Prepare a letter for the accused of what the allegation is (attach all information), what the process will be and their rights (to have a support present at all meetings) <i>Template</i>
4.4	Meet with the accused and give letter	Explain what has happened Give the letter Ensure you have given the accused all the information you have and that the person understands what the process will be and understands support that can be in place including their right to be represented <i>Template</i>
4.5	Investigation	Tape record meetings as this it easiest. Ask HR for a tape recorder, or use your phone. People should be given a copy of the recording and of the transcript. Note: it is not illegal to tape meetings even without

		permission (it is illegal to tape phone conversations). <i>Template</i>
4.6	Interview witnesses	Ask what happened Clarify any answer with closed questions – do not ask leading questions or make suggestions about what happened Ensure that people actually answer the questions and say what happened If in doubt keep asking the questions Put any contradictory information and ask for explanations
4.7	Interview complainant if necessary	Get more information from the complainant or further explanations
4.8	Gather information	Get any other information required
4.9	Send all the information to the accused	The person is entitled to all the information you have so that they can answer <i>Template</i>
4.10	Interview accused	Ask what happened Clarify any answer with closed questions – do not ask leading questions or make suggestions about what happened Ensure that people actually answer the questions and say what happened If in doubt keep asking the questions Put any contradictory information and ask for explanations
4.11	Ensure you have all the information	
4.12	Make a preliminary decision	Decide what do: Is the allegation likely to have happened based on the information? Would a reasonable manager think that the behaviour occurred? (This is not a court of criminal law; you do not have to prove beyond reasonable doubt). <i>Template – ask HR</i>
4.13	Written decision – record you decision in writing	This needs to be short simple and clear. State your finding based on the allegation made and the information you have used to make the decision. Send the decision to the accused <i>Template – ask HR</i>
4.14	Meet with the accused to get their views	Ask for any comments.  You have to consider their response but you don't

		have to change your mind. <i>Template</i>
4.15	Ensure you have all the information	
4.16	Make a final decision	Give the decision to the accused. State the actions and what will happen next. <i>Template – ask HR</i>
4.17	Let the complainant matter concluded	Ensure complainant understands that the matter has been investigated and as far as possible what the outcome is. <i>Template – ask HR</i>
4.18	Disciplinary action	If your first letter said that a disciplinary outcome might occur, implement the action.  If the first letter said a disciplinary process would begin, being the disciplinary process.
4.19	Documentation to HR file	Send all documents to HR file Send documents to the complainant's HR file

<b>Complaint is low level</b>		
5.	Complaint is low level <ul style="list-style-type: none"> <li>○ One off inappropriate behaviour</li> <li>○ Not serious in nature</li> <li>○ Person realises made a mistake and apologises</li> <li>○ Other extenuating circumstances</li> <li>○ Complainant only wants a low level response</li> </ul>	
5.1	Acknowledge the complaint	Meet the complainant confidentially This is not about accepting the behaviour is bullying or harassment but rather than it made the other person feel bullied or harassed.  Find out what the complainant wants Tell the complainant the options – low level so low key approach to individual, or less formal direct approach to employee directly or through their manager and why this approach is appropriate

		<p>Offer the complainant support – even low level incidents take a toll on people</p> <p>Ask the person to be involved in the approach</p>
	<p>Approach individual directly or approach individual through their manager</p>	<p>Explain the behaviour</p> <p>Explain the impact on the person</p> <p>Say what you want to happen</p> <p>Let the other person speak</p> <p>Agree outcome of meeting</p>
5.2	<p>If the other person accepts no responsibility and / or does not acknowledge the impact on others</p>	<p>Consider formal meeting to discuss and record in writing for the person what has happened, the impact on the other person and a suggested better approach in the future. The aim is a polite respectful note with a clear statement about how others found their behaviour.</p> <p>This is not saying that the person is guilty of anything rather this is explaining how someone else felt. (If a repeat of the behaviour occurs then there would be a formal process to decide if bullying or harassment.)</p>
<p><b>Complaint is not about bullying or harassment</b></p>		
6.	<p>The behaviour is not bullying or harassment but is not appropriate, breaches an employment standards or needs investigating</p>	<p>Use informal process if low level or use disciplinary processes is serious</p>

How to Speak Up			
	In the moment	After the event and to the person	After the event/through someone else
What	<p>Take the direct approach</p> <p>Be polite</p> <p>Be clear</p> <p>Name the behaviour</p> <p>State exactly what you want or how you are feeling</p> <p>Use just a few words</p> <p>Do not be judgmental</p> <p>You are not entering a discussion</p> <p>You are calling it out and ending the event (for now)</p> <p>Walk away – get up and walk away</p> <p>You do not have to stay and listen or watch the behaviour</p> <p>If you think the behaviour is inappropriate walk away</p>	<p>Approach the person and tell them the impact of what they did</p> <p>You are not entering a discussion</p> <p>You are stating your view</p> <p>They don't have to agree or accept anything</p>	<p>Approach your manager or their manager, tell them of the event, the impact on you and ask for help approaching the person directly for a low level conversation</p>
How	<p>If you are going to say something, keep an even tone of voice, loud enough to be clear</p> <p>Suggested words:</p> <p>Ouch</p> <p>Please stop shouting</p> <p>Stop pointing</p> <p>Stop speaking like that</p> <p>If it doesn't stop, walk away</p> <p>Name the behaviour and say what you want</p> <p>"You are criticizing us and we can't think straight when that happens. Let's take a moment and be quiet"</p> <p>"Take a step back, you are too close"</p> <p>"That is really rude, stop talking"</p>	<p>Approach the person</p> <p>Remind them of the event</p> <p>Say the behaviour you considered inappropriate</p> <p>State the impact on you or others</p> <p>State you want it to stop</p> <p>Do not be rude</p> <p>Do not personalise</p> <p>Be kind and polite</p> <p>Suggested words:</p> <p>When you said/did.....I felt/saw others....."</p>	<p>Approach the person</p> <p>Remind them of the event</p> <p>Say the behaviour you considered inappropriate</p> <p>State the impact</p> <p>State you want it to stop</p> <p>Do not be rude</p> <p>Do not personalise</p> <p>Be kind and polite</p>
			Complain

**Escalate**

## Support for managers and leaders

To support you with making decisions and manage the process, please contact:

- Your manager
- HR
- Your professional lead
- The General Manager of the service.
- EAP
- Training

## What do you do if you see a situation of discrimination, harassment or bullying?

Write it down so you have a record of what happened, then decide how best to deal with it; low-key approach, informal or formal. Another manager or leader, your manager or HR can assist or carry out an investigation for you to ensure that there is independence, if that is required.

## Violence

This guide focusses on discrimination, harassment and bullying. Violence, for example, verbal abuse, shouting, throwing objects, hitting a person, and damage to property, can be a form of bullying and harassment. They are also totally unacceptable behaviours and warrant disciplinary investigations and, if substantiated, disciplinary action.

### A guide for managers and leaders

This is a guide to help you understand the discrimination, harassment and bullying and the actions you should take to prevent discrimination, harassment and bullying and manage a complaint.

Your manager or a member of the HR Team can assist on each occasion with specific advice.

*Some of the information in this guide is based on the Best Practice Guidelines by Work Safe New Zealand (MBIE).*

Date: October 2016

Document Owner: Human Resources Director – partnering and management



## Speak Up – Reasons to Speak Up

### What are the advantages of Speaking Up?

You may be experiencing unreasonable and unwanted behaviour from another employee but you may be deciding whether you should speak up about it. Below is some information on why you should speak up:

- Often a person isn't aware that their behaviour is unacceptable or offensive to others or makes others feel uncomfortable. If they are made aware of this, the behaviour may stop. You could use the [BUILD model](#) to give them this feedback directly.
- If you Speak Up you could stop the unacceptable behaviour continuing and becoming the normal and accepted way of behaving.
- You are giving the person the opportunity to change.
- If you don't Speak Up the behaviour will probably continue and the situation may get worse.
- If the behaviour is addressed with the individual, there is a smaller chance of others being affected by the same or similar behaviour from this individual.
- You are letting the manager of the person know who may be unaware of the behaviour.
- Unacceptable behaviours can have an adverse effect on patient care and safety, research shows:
  - Rudeness between staff in hospitals increases the likelihood of safety incidents
  - There is a drop in mortality rate when people work together. You can see statistics and research on our [values leaflet](#)



## Speak Up: Kaua e patu wairua

Our Organisation   Policies & Guidelines   Forms & Templates   Clinical Toolkit   Working Here   Departments   myHR   A-Z   ADHB website

Search Hippo  
Staff Search   Staff directory

### Speak Up: Kaua e patu wairua

Everyone has the right to Speak Up if they experience or witness harassment, discrimination or bullying. Kaua e patu wairua (do not offend my spirit or my soul) captures the essence of Speak Up.

On this page you will find what you can do if you experience or witness bullying, harassment or discrimination. How bullying, harassment and discrimination are defined. How to report bullying, harassment or discrimination and how to feel safe doing so.

By preventing harassment, discrimination and bullying we help each other work in a safe, healthy environment where we can do our lives best work.



#### Quicklinks:

- Who to speak to if you experience or observe bullying?
- How to resolve bullying, discrimination or harassment?
- Leaflets
- Guide for managers
- Speak Up Navigators
- Online Speak Up form
- Note of Behaviour form
- Definitions of bullying, harassment and discrimination

#### Speak Up posters

- | Name                                   |     |
|--|-----|
| Is this bullying - Speak Up poster     | ... |
| Is this bullying (2) - Speak Up poster | ... |

#### Useful documents

- | Name   |     |
|--|-----|
| AOA - August 2017 eNews  | ... |
| Dealing with harassment, discrimination and bullying                 | ... |
| Im a witness - Speak Up leaflet                                      | ... |
| Im being accused - Speak Up leaflet -                                | ... |
| Im being bullied - Speak Up leaflet                                  | ... |
| Manager's guide to preventing harassment discrimination and bullying | ... |
| Memorandum of understanding RACS                                     | ... |
| Reasons to Speak Up  | ... |
| Speak Up Navigator - Clarity of Role                                 | ... |

### Who to speak to if you experience or observe bullying?

If you are unsure if what you are experiencing or observing is unreasonable, check the **bullying, harassment and discrimination definitions** below. Sound out your experience by talking to someone you trust like a manager, leader, a friend. You can also speak to anyone of the people below, who can listen to your concerns:

- Speak to your manager or a trusted colleague who can help you speak up.
- Speak to one of the Auckland Speak Up navigators
- Call the Employee Assistance Programme (EAP) on 0800 755 543. Someone is available 24/7
- Contact your Human Resources (HR) Consultant
- Talk to your union representative or professional lead

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[Speak Up Navigator role description](#)

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## How to resolve bullying, harassment or discrimination?

You can report any concerns about harassment, discrimination or bullying in a number of ways:

- Report it to your manager or leader or manager's manager
- Complete an online Speak Up form - your HR Consultant will receive this and will be in touch
- Speak to your HR Consultant

Deal with it directly

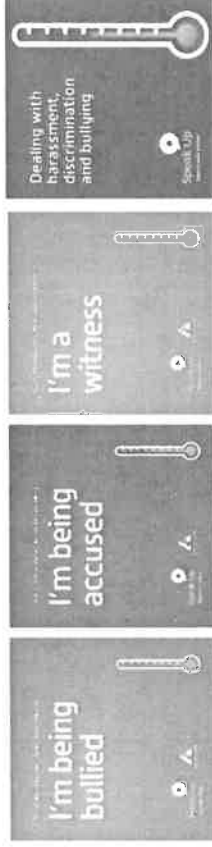
If you can, talk to the person and explain how their behaviour is making you feel - but only if you feel okay to do this. Sometimes people don't realise the impact their behaviour is having, especially if no one has spoken to them before. Read our [Speak Up tips](#) to help start a conversation.

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## Leaflets

Three leaflets and a short booklet have been produced providing more information to help you Speak Up.

You can download a copy of the leaflets or ask your HR Consultant for a printed copy.



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## Guide for managers

We are lucky to work in a place that makes a difference to people's lives. By preventing discrimination, harassment and bullying we help each other work in a safe, healthy and supportive environment, where we can do our life's best work.

As a manager or leader you can help create a great environment for your team to work in. To find out more about Speak Up take a look at [this short presentation](#).

Here are some of the things you can do to prevent bullying, harassment and discrimination in the workplace:

- Set out expected standards for work and behaviour

Related links

- Online Speak Up form (report your speak up concern directly to HR Speak Up team)
- Note of Behaviour form to help you articulate your concern)
- Teamtalk Blog by Avend Martle
- Memorandum of Understanding with Royal Australasian College of Surgeons media
- Australian Orthopaedics Association editorial on bullying

- Set out expected standards for work and behaviour
- Discuss the values as a team and run the values workshops
- Have regular catch ups with individuals and as a team
- Challenge inappropriate behaviour as soon as possible
- Always focus on the behaviour not the person
- Always include everyone in team meetings and seek everyone's opinions
- Let staff know about Speak Up

If a member of your team reports a case of harassment and bullying it is your responsibility to investigate it, either formally or informally or manage an independent investigator.

For information, tools and resources to help you prevent, and respond to harassment and bullying concerns please read the [Manager's guide](#).

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## Clinicians speaking up

Arend Merrie, Director Surgical Services led the team that developed Speak Up. You can watch him talking about Speak Up [here](#).

Ian Incoli, President of the Australian Orthopaedics Association (AOA), discusses 'why bullies win' in the August 2017 edition of the AOA newsletter – it's a great examination of the process of, and reactions to, calling out bullying and you can [read it here](#). (Thanks to the AOA for their permission to share this.)

*"This newsletter will make some of you angry... Almost everyone undertaking the initial conversation with a bully finds it intimidating and discomforting. It is not why we chose medicine. This is partly because we have the normal human emotions of empathy, courtesy and compassion."*

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## Speak Up Navigators

Speak Up navigators are members of the Auckland DHB team who have volunteered to provide support for anyone experiencing bullying, harassment and discrimination. They can be a sounding board if you want to check what you are experiencing is unacceptable. They can also provide you with information about the Speak Up programme and support you through the reporting process.

They can't attend meetings as your representative or approach other staff or managers confidentially on your behalf.

You can find details of our Speak Up navigators [here](#).

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## Definitions of bullying, harassment and discrimination

**What is bullying?**

Workplace bullying is behaviour directed towards a person or group of people that is:

- Repeated - persistent and includes a range of actions and behaviours over time
- Unreasonable - actions that a reasonable person in the same circumstances would see as unreasonable
- A risk to health and safety.

Examples of bullying include:

- Physical assault or threats
- Initiation rites
- Verbal abuse or name calling
- Practical jokes
- Teasing or inappropriate comments
- Intimidating actions
- Psychological abuse such as excluding or isolating workplace participants
- Deliberately withholding information necessary for effective work performance
- Giving unachievable tasks or impossible deadlines
- Persistent or public criticism.

#### **What is harassment?**

Harassment is any type of unreasonable, unwelcome comment or behaviour which offends, humiliates or intimidates the person it is directed at. It may be repeated or be a one-off incident which is significant enough to have a detrimental effect on the person's health and safety, employment, job performance or satisfaction. Harassment may also occur in person or through email and social media both inside and outside of the workplace or work time.

Examples of harassment include:

- Verbal or written abuse or comments
- Physical or verbal assault
- Embarrassing, threatening, humiliating, patronising or intimidating remarks
- Belittling opinions or constant criticism
- Spreading of a malicious, unfounded rumour
- Subjecting a person in the workplace to unreasonable scrutiny
- Undermining another's authority in the workplace
- Isolating or excluding a person in the workplace for example, dealing with him or her through a third party
- Publicly insulting or humiliating a person in the workplace
- Engaging in favouritism
- Sabotaging or impeding work performance by deliberately withholding work-related information or resources or by supplying incorrect information
- Jokes or offensive gestures.

## Sexual harassment

Sexual harassment is any unwanted or unwelcome conduct of a sexual nature that makes a person feel offended, humiliated or intimidated.

Examples of sexual harassment includes:

- Requests or demands for sexual activity which carry overt or implied threats or promises regarding the employee's employment
- Offensive sex-oriented gestures or comments
- Sex based insults, taunts, teasing or name calling
- Unwanted and deliberate physical contact, including pinching, touching, grabbing, kissing or hugging
- Persistent and unwelcome social invitations, telephone calls or propositions or inappropriate attention.
- Leering and suggestive staring at a person or parts of their body
- Obscene phone calls
- Sending rude or offensive emails, attachments, text messages or movie files
- Sending sexual material in any form or format
- Displays of circulation of sexual material such as posters, magazines, pictures, screen savers, internet material etc.
- Accessing, downloading or transmitting sexually explicit or inappropriate material in the workplace
- Sexual jokes, comments or innuendo, including sexually provocative remarks and suggestive or derogatory comments about a person's body or physical appearance
- Questions or probing about a person's sex life
- Sexually explicit conversations.

## Racial harassment

Racial harassment happens when a person expresses hostility against or brings into contempt or ridicules another person on the grounds of their colour, race, ethnic or national origins, is hurtful or offensive to that person and it has a detrimental effect on that person's employment, job performance or satisfaction. Racial harassment may take many forms including:

- Making offensive remarks about a person's race
- Jokes or songs of a racial nature
- Mocking others' accents or mimicking the way they speak
- Deliberately mispronouncing names
- Racial or ethnic oriented jibes or abuse
- Calling people by racist names
- Displaying offensive material
- Distribution of racist material.

## What is discrimination?

Discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances because of their gender, race, age, disability etc.

The Human Rights Act 1993 makes it unlawful to discriminate based on:

- Sex – includes pregnancy and childbirth, transgender and intersex people because of their sex or gender identity
- Marital status – includes marriages and civil unions that have ended
- Religious belief – not limited to traditional or mainstream religions.
- Ethical belief – not having a religious belief
- Colour, race, or ethnic or national origins – includes nationality or citizenship
- Disability – including physical, psychiatric, intellectual or psychological disability or illness
- Age – people are protected from age discrimination if they are over 16 years old
- Political opinion – including not having a political opinion
- Employment status – being unemployed, on a benefit or on ACC. It does not include being employed or being on national superannuation
- Family status – includes not being responsible for children or other dependants
- Sexual orientation – being heterosexual, homosexual, lesbian or bisexual.

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## How to Speak Up: Kaua ē patu Wairua



Tips to help you deal directly with unprofessional behavior at work.

### In the moment

- Be polite
- Be clear
- Name the behaviour
- State exactly what you want or how you are feeling
- Use just a few words
- Do not be judgmental
- You are not entering a discussion, You are calling it out and ending the event (for now)
- If it doesn't stop, walk away

Keep an even tone of voice and talk loud enough to be clear. Here are some suggested words to get attention:

- Ouch
- Please stop shouting
- Stop pointing
- Stop speaking like that
- You are criticising us and we can't think straight
- Let's take a moment and be quiet
- Take a step back, you are too close
- That is really rude, please stop.

### Walkaway

Get up and walk away if you think the behavior is inappropriate. You do not have to stay and listen or watch the behavior.

May 2017





## How to Speak Up: Kāua ē patu Wairua

Tips to help you deal directly with unprofessional behavior at work.



### After the event

Approach the person and tell them the impact of what they did

- Remind them of the event and tell them what the behavior was that you considered inappropriate
- State the impact on you or others and that you want it to stop
- Do not be rude
- Do not make it personal – focus on the behavior not the person.
- Be kind and polite, they may not realise the impact they are having.

You are not entering a discussion, you are stating your view. They don't have to agree or accept anything.

Words you might want to use:

“When you said/did.....I felt/saw others.....”

### Walkaway

Get up and walk away if you think the behavior is inappropriate. You do not have to stay and listen or watch the behavior.

Go to the [Speak Out](#) page on Hippo to find more resources to help and find out how to report unacceptable behaviour at work.

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