

Staff Guidelines for Resolving Concerns and Complaints about Bullying, Harassment and Discrimination

The University of Waikato motto is “*ko te tangata*”, which emphasises the role of collegiality and the importance that we place on people. The University has a high level of concern for the wellbeing of its staff and students, and believes that all who work in or use the University’s facilities have the right to be treated with dignity and respect and to be free from fear of being bullied or harassed.

What is bullying?

Bullying means unreasonable behaviour, repeated over time, which is deliberate and intended to humiliate, undermine or otherwise have a detrimental effect on the recipient(s) and/or pose a risk to their health and safety even though it may not be unlawful.

The key features of bullying behaviours are:

- They are deliberate (the behaviour is intentional and targeted at an individual or individuals);
- They are unreasonable (the behaviour is not acceptable in the circumstances);
- They are repeated; and
- They are perceived to have a detrimental effect on the target (physically, emotionally, financially, or otherwise) and/or pose a risk to their health and safety.

For bullying to have occurred, all four features must be present. For instance, a legitimate work-based request could be deliberate (i.e. purposeful in its intent), repeated, and have a perceived detrimental effect on the staff member’s psychological or physical health. However it would not be unreasonable since we need to make requests of others in order to get work done. The request does not constitute bullying as not all four features are present.

What is not bullying?

- Constructive feedback and advice from the staff member’s manager or peer review
- Reasonable employer instructions and work directions
- Performance management or disciplinary procedures in accordance with the provisions of the Staff Code of Conduct
- A single incident of unreasonable behaviour.

What is harassment?

Harassment is defined as any unwelcome comment, conduct or gesture that is insulting, intimidating, humiliating, malicious, degrading or offensive. It might be repeated or an isolated incident but it is so significant that it adversely affects someone’s performance, contribution or work environment. It can include physical, degrading or threatening behaviour, abuse of power, isolation, discrimination, sexual and/or racial harassment. It is behaviour that is unwanted by the recipient even if the recipient does not tell the harasser that the behaviour is unwanted. It may be unintentional.

Discrimination, sexual harassment and racial harassment are defined in the Human Rights Act 1993. They are unlawful.

What is discrimination?

Discrimination has the meaning defined in the Employment Relations Act 2000, as set out in [Appendix 1](#).

How do we deal with bullying, harassment or discrimination?

The University recognises that the prevention of bullying, harassment and discrimination is a collective effort, requiring the collaboration and co-operation of all members of the University community to ensure that such behaviours are not tolerated.

The University provides training opportunities for staff on how to deal effectively with behaviours they perceive as bullying, harassment or discrimination, provides an external process for investigating bullying, harassment and discrimination complaints, and assists in the resolution of complaints.

University staff with line management responsibilities must take all reasonable steps to ensure that the work or learning environment is free from any form of bullying, harassment or discrimination and deal as promptly as possible with any concerns raised.

The University also provides training opportunities for line managers on how to deal with conflict constructively and manage any matters of concern about behaviours which are raised with them.

Bullying, harassment and discrimination of any kind, if proven, constitutes unacceptable behaviour. The University may consider disciplinary action if a staff member is found to have bullied, harassed or discriminated against another staff member.

What procedures are in place?

Staff who believe they have experienced some form of bullying, harassment or discrimination should act promptly. They are encouraged to use any of the options outlined below to try to stop and prevent future occurrences of the behaviours. The complaints processes are confidential, follow principles of natural justice and procedural fairness, and are designed to protect the integrity and self-esteem of individuals involved.

1. Initial self-help

Where staff feel confident and safe to do so, they should communicate (face to face or in writing if necessary) with the person they believe is bullying, harassing or discriminating against them and clearly describe the behaviours they have experienced and the consequences of those behaviours on them. Clarity around how each behaviour is perceived in terms of the policy would be helpful. They should then ask the individual to stop the behaviour. It is recognised that it is not always appropriate or feasible to approach someone directly with a concern about their behaviour.

This may require some dialogue and reflection as sometimes individuals are unaware of the consequences of their behaviour on others or that some behaviours are unacceptable in some circumstances. It is an opportunity to assist individuals to change their behaviours and help create an environment which is free from bullying, harassment and discrimination.

Staff may also access the [Employee Assistance Programme](#) for support and advice about actions and approaches that they may take.

2. Raising a concern

This procedure is relatively informal and involves seeking advice from a line manager or neutral third party. Staff can also contact other parties such as [Human Resource Advisors](#), staff Union representatives or the [Employee Assistance Programme](#). Third parties can assist by listening to concerns and providing advice around self-help actions or other options, including formal complaints.

Steps 1 and 2 offer the most success in terms of all parties involved being able to move forward positively, including restoring and maintaining relationships.

3. Making a formal complaint – internal University process

Formal complaints **must be made in writing** to the Director of People and Capability who will instruct law firm Harkness Henry to initiate an investigation of the complaint.

The University will not act on anonymous complaints.

The University, or Harkness Henry, will inform any person who is the subject of a formal complaint about the nature of the complaint and the identity of the complainant, and will give them the opportunity to respond.

The Director of People and Capability has authority to remove the complainant and/or the subject of the complaint from the work situation while an investigation is being undertaken.

An investigation by Harkness Henry will involve discussion with the individuals concerned. Once an investigation has been conducted, Harkness Henry will report their findings to the Director of People and Capability.

The Director of People and Capability, having taken account of Harkness Henry's report, will determine whether bullying, harassment or discrimination has occurred. Where the Director of People and Capability determines that bullying, harassment or discrimination has occurred, disciplinary action under the [Staff Code of Conduct](#) may result.

If Harkness Henry recommends, as part of their report to the Director of People and Capability that mediation is appropriate then any proposed mediation must be agreed to by all parties concerned. In this context, mediation is a facilitated meeting of the individuals concerned. It is private, confidential and without prejudice; it aims to reach agreement, resolve the problem and ensure the behaviour does not continue or recur.

A staff member, whether a complainant or the subject of a complaint, who is dissatisfied with the decision of the Director of People and Capability with respect to a formal complaint has the right to either make a complaint to the Human Rights Commissioner, or raise a personal grievance (but not both) as set out under the alternative formal complaints processes below.

4. Alternative formal complaints processes

As an alternative to following the internal University processes outlined above, staff have the right under the Human Rights Act 1993 to make a complaint to the Human Rights Commission about discrimination, sexual harassment or racial harassment, or, in cases of alleged racial or sexual harassment, to raise a personal grievance under the Employment Relations Act 2000; staff may choose to pursue either option, but may not pursue both. A personal grievance under the Employment Relations Act 2000 must be raised within 90 days of the grievance occurring or coming to the staff member's notice, whichever is later.

Where a staff member has lodged a formal complaint with the University and subsequently makes a complaint to the Human Rights Commission or raises a personal grievance, the University's internal process related to the formal complaint will be terminated.

The procedure for resolving employment relationship problems and raising personal grievances is available online [here](#).
