



Operational Policies

3.05 Bullying and Harassment Prevention Policy

Classification: Human Resources

Applies to: All Employees

Approved by: General Manager

Date: March 2023

Review Date: March 2025

Purpose:

- The Association is committed to providing a healthy and safe work environment to all our employees and ensuring that they are treated fairly, with dignity and respect. The Association is also committed to preventing and eliminating all forms of bullying or harassment.
- The purpose of the Association Bullying and Harassment Prevention Policy is to ensure that we prevent actions of bullying, exclusion, unfair treatment and other negative or unreasonable behaviours. This policy has been set in conjunction with guidelines set out by WorkSafe NZ.

References:

- Health and Safety at Work Act 2015
- Employment Relations Act 2000
- Harassment Act 1997
- Human Rights Act 1993
- Harmful Digital Communications Act 2015
- Worksafe NZ

Definition:

- Kaitiaki Kindergartens – is referred to as 'The Association'
- Head Teachers and Centre Managers – are referred to as Service Leaders
- Professional Practice Leaders – PPL
- Kindergartens and Early Learning Centres – are referred to as services
- Senior Management Team – General Manager / Direct Reports



Policy

1. ORGANISATIONAL SCOPE

This Policy applies to situations both at work and outside of the work environment where employees are interacting with other people who work for or with the Association (for example, it applies when you are performing work activities off-site, attending functions or conferences, or travelling for work). We are all responsible for ensuring that we treat each other with respect at all times and our behaviour and actions meet the Association Values.

2. LEGISLATION

a) The legislation that covers this policy includes:

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

b) Under the Health and Safety at Work Act, The Association is required to identify hazards at work. Bullying can be identified as a hazard under the Act. The Association is obliged to create a safe and secure working environment for you. This requires us to take all reasonably practicable steps to manage hazards and eliminate or minimise risk of physical injury or psychological harm.

c) In accordance with the Employment Relations Act, The Association has an obligation to act in good faith and not behave in a way that could damage the relationship of trust and confidence. We are also obliged to adequately address any complaints of workplace bullying. The duty of good faith in the Employment Relations Act also applies to employees, who are required to be responsive and communicative with the Association, and to act honestly towards us.

d) The Human Rights Act makes it illegal to discriminate on the grounds of race, sex, colour, nationality, ethnic origin, marital status, religious or ethical belief, sexual orientation, age, disability, family status, employment status or political opinions.

e) Under the Harassment Act,

- i. a person harasses another person if he or she engages in a pattern of behaviour that is directed against that other person, being a pattern of behaviour that includes doing any specified act (See Section 4 of the Act as Appendix 2) to the other person on at least 2 separate occasions within a period of 12 months.



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- II. a person also harasses another person if—
 - i. he or she engages in a pattern of behaviour that is directed against that other person; and
 - ii. that pattern of behaviour includes doing any specified act to the other person that is one continuing act carried out over any period.

Harassment has the potential to cause humiliation, offence or intimidation and does not need to be intentional.

3. DEFINITION OF WORKPLACE BULLYING

For the purpose of this policy, unless otherwise stated, the following definition, as defined by Safe Work NZ and MBIE, shall apply (see Worksafe 'Bullying at Work: Advice for Workers' <https://www.worksafe.govt.nz/topic-and-industry/bullying/bullying-at-work-advice-for-workers/>) for more details:

Workplace Bullying

Workplace bullying is defined as **repeated and unreasonable** behaviour directed towards a worker or group of workers that can lead to physical or psychological harm.

- ✓ Repeated behaviour is persistent and can include a range of actions.
- ✓ Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It can include victimising, humiliating, intimidating or threatening behaviour.
- ✓ Bullying may also include harassment, discrimination or violence (see section 4 of the Worksafe advice for how these are dealt with).

A single incident of unreasonable behaviour isn't considered bullying but can escalate if ignored.

- a) Bullying can be **overt**. This is usually intentional, direct and 'obvious' behaviour where the bully doesn't do anything to hide their behaviour. It can include such things as physical violence, threats and name calling.
- b) Bullying can be **covert**. This is usually identified by others less easily and can sometimes be done out of sight. It can include such things as nasty rumours, glares, eye rolls and deliberate exclusion.
- c) Both types of bullying are generally described as **unwelcome** behaviour and are intentional actions by the bully. The effect bullying can have on a person/persons is that they may not be able to perform their role safely.



4. EXAMPLES OF NON BULLYING BEHAVIOUR

one-off or occasional instances of forgetfulness, rudeness or tactlessness
setting high performance standards
constructive feedback and legitimate advice or peer review
a manager requiring reasonable verbal or written work instructions to be carried out
warning or disciplining workers in line with the business or undertaking's code of conduct
a single incident of unreasonable behaviour
reasonable management actions delivered in a reasonable way
differences in opinion or personality clashes that do not escalate into bullying, harassment or violence.

5. EXAMPLES OF BULLYING BEHAVIOUR

Verbal insult or abuse, ridiculing, teasing, jokes, 'funny surprises'
Intimidation, threats and personal attack
Public humiliation (including through social media; Facebook)
Attacking a person's beliefs, attitude, lifestyle or appearance
Interfering with someone's personal property or work equipment or theft
Deliberately excluding or isolating others from workplace activities
Unwarranted emails and text messages

6. ROLES AND RESPONSIBILITIES

At the Association, we are all obliged to point out inappropriate behaviour that does not meet our Values and Code of Conduct.

It is the role of Service Leaders to address breaches of this policy, to model positive and constructive behaviour with employees, to develop a culture where bullying and



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harassment cannot thrive, and to manage unsatisfactory performance. Service Leaders should take complaints seriously, respond promptly, sensitively and confidentially act on allegations of bullying behaviour. Service Leaders should contact the Senior Management Team for support and advice.

It is everyone's role to treat fellow workers with dignity, and contribute to a positive workplace by demonstrating positive behaviours and respect. You are expected to report any incidences of possible breaches of this policy to your Service Leader or in the event that the breach involves the Service Leader, report directly to the Senior Management Team.

Signed:

A handwritten signature in black ink, appearing to be a stylized 'A' or similar character, followed by a long horizontal stroke.

General Manager

Date: 8/6/23

Endorsed by

Signed:

A handwritten signature in black ink, appearing to be a stylized 'P' or similar character, followed by a long horizontal stroke.

President of the Board

Date: 8/6/23



Appendix 1 - WORKPLACE BULLYING & HARASSMENT GUIDELINES

1. ARE YOU BEING BULLIED OR HARASSED?

- a. **For bullying** - ask yourself if the behaviour is unreasonable, repeated and does or could create a risk to your health and safety (or the health and safety of others within the workplace).
- b. Remember that a single incident of unreasonable behaviour is not considered workplace bullying. Neither is a Service Leader or Senior Management making reasonable demands of you.
- c. **For harassment** - ask yourself whether the behaviour unwelcome, or offensive, or targets an aspect of your person (or another person) such as race, colour or gender or whether the behaviour sexual in nature.
- d. You may want to 'bounce' this off someone that you trust to see if your perceptions are valid.
- e. Consider what you want the outcome of your response to the behaviour to be.

2. WHAT TO DO IF YOU FEEL YOU ARE FEELING BULLIED OR HARASSED?

Below are some options you can choose from. Choosing one option does not prevent you from choosing another option at a later date.

While we encourage you to try and resolve this at a more informal level first, you may be uncomfortable doing this and/or decide to choose a different path of how to respond and resolve it.

Bullying and harassment are taken seriously by the Association and will be addressed in a fair and confidential manner to all parties. You can choose to report this on an informal or formal basis. Your choice will depend on the seriousness of the situation and how you would like to deal with the issue.

Option 1 – Self help

- Approach the person/people in a professional and respectful way as soon as the unreasonable behaviour happens. You should only take this step if you feel comfortable or safe to do so. You may also want to write a letter on a "private and confidential" basis to the person/people, if you do not feel confident approaching them in person, or could ask a support person to be part of the conversation with you.
- Initially, you may not feel comfortable approaching the person or people you feel is/are showing this behaviour. Sometimes, someone doesn't intend to or



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realise that they are behaving that way, but once they are made aware, their behaviour may stop.

- It is best to try and name the unwelcome behaviour and ask that it stops. Let them know that you don't like this and if it continues you may decide to raise your concerns more formally.
- Resolution may include an apology or agreement with the person about appropriate behaviour in the future.

Option 2 – Informal complaint

- If you feel you are being bullied or harassed at work, or you see others being subjected to bullying or harassing behaviour at work, and you do not feel comfortable with attempting self-help (or you do not think that self-help has been successful), you should talk to your Service Leader in the first instance. If your Service Leader is not made aware, the issue cannot be addressed.
- If your Service Leader is the person that you believe is behaving in a bullying or harassing manner, or you do not feel comfortable raising your concern with your Service Leader, then you can talk to your PPL or another member of Senior Management.
You can also talk to a support person or a representative or someone else you trust.
- One outcome of your informal complaint could be for your Service Leader (or the person that you complained to) to arrange a facilitated meeting or mediation to try and reach an agreement for the behaviour to stop. These meetings would be held in strict confidence.

Option 3 – Formal complaint

- If you believe that self-help and an informal complaint will not resolve the problem or you are not comfortable with these options, or the allegation is very serious, then you can formally complain (in writing) to either your Service Leader or Senior Management.
- The complaint should include as much detail as possible such as:
 - Date, time, place and who was present
 - What was said or done
 - How you responded
 - How you felt
- An impartial and prompt investigation will be conducted into your complaint, in accordance with our disciplinary guidelines. Alternatively, the Association may decide that an appropriate outside investigator (who is experienced in investigating and evaluating evidence gathered in harassment/bullying complaints) be engaged.
- Possible outcomes may include counselling, disciplinary action or dismissal of the person against whom the allegations have been made, or mediation/facilitation. The appropriate outcome will depend on whether the allegations have been substantiated.



Option 4 – Complaining externally

If you are not satisfied with the outcome of your complaint, you can also use external parties such as:

- WorkSafe; or
- the Mediation Service (available through the Ministry of Business, Innovation and Employment (MBIE), to assist in resolving an employment relations problem); or
- the Employment Relations Authority; or
- NZEI

For completeness, complaints will normally only be investigated where a staff member elects to make a formal complaint. However, in some circumstances, the Association may investigate a situation if there is evidence to suggest that there are grounds for it (e.g. where there are serious health and safety concerns about a person's behaviour). The possible actions for to the Association to address bullying or harassment may, be limited, if a complaint is made but on an anonymous basis, or where no complaint is made.

3. QUESTIONS & ANSWERS

a) Who will investigate my complaint?

Either your Service Leader or someone who is objective to the situation will investigate. It may also include Senior Management or a Health and Safety Representative depending on the circumstances.

b) What other options of support besides my Service Leader do I have available to me?

If you are concerned about harassment or bullying, you are encouraged to seek help from your Service Leader in the first instance. If you do not feel comfortable reporting to anyone at your service, then your complaint can be directed to Senior Management.

You may wish to talk to a counsellor from our employee assistance programme, Raise Mental Health (formerly EAPWorks). To find the number of a counsellor, go to the web address: <https://www.raisementalhealth.co.nz> .

You can contact Raise Mental Health on 0800 SELF HELP (0800 735 343) and let them know you are from Kaitiaki Kindergartens and which centre.

You may choose to seek support from a colleague, another Service Leader, a family member, your GP or a Legal Advisor. Whoever you decide to use as a support person or representative, needs to understand to keep the matter confidential.

c) Do I get to know the details or the outcome of the investigation?

You can be assured that a fair and reasonable process will be followed and you will be advised that the matter has been addressed and investigated; however, the actual outcome may not always be divulged as this could breach the individual's privacy.



d) What do I do if I think my Service Leader is bullying me?

If your Service Leader is the person you think is demonstrating unwanted behaviour, then you should raise this with Senior Management who will follow the disciplinary guidelines and investigate the matter.

e) What do I do if I think my PPL or other Support Office staff member is bullying me?

If your PPL is the person you think is demonstrating unwanted behaviour, then you should raise this with another member of the Senior Management team, or the General Manager, who will follow the disciplinary guidelines and investigate the matter.

f) What if after I have complained or made people aware of the bullying behaviour, the behaviour becomes worse?

Bullying behaviour is not tolerated in the Association and you need to make your Service Leader, Senior Management or support person aware of any additional behaviour or information that arises during the investigation process so that this can be addressed immediately.

g) What if I have been wrongly accused of bullying and someone has made a false complaint about me?

A bullying complaint should be a true and accurate description of what has occurred. If a bullying claim is found to be dishonest or to have been made for malicious reasons (or otherwise in bad faith), the person making the false claim could be subject to our disciplinary guidelines as this behaviour could constitute serious misconduct.

h) What other options do I have if after my concern has been investigated, and completed, I do not consider the matter has been resolved?

You can initiate mediation through MBIE, lodge a personal grievance through the Employment Relations Authority or lodge a complaint through WorkSafe NZ.



Appendix 2 - Section 4 of the Harassment Act 1997 (as at May 2023)

4 Meaning of specified act

- (1) For the purposes of this Act, a **specified act**, in relation to a person, means any of the following acts:
- (a) watching, loitering near, or preventing or hindering access to or from, that person's place of residence, business, employment, or any other place that the person frequents for any purpose:
 - (b) following, stopping, or accosting that person:
 - (c) entering, or interfering with, property in that person's possession:
 - (d) making contact with that person (whether by telephone, correspondence, electronic communication, or in any other way):
 - (e) giving offensive material to that person or leaving it where it will be found by, given to, or brought to the attention of that person:
 - (ea) giving offensive material to a person by placing the material in any electronic media where it is likely that it will be seen by, or brought to the attention of, that person:
 - (f) acting in any other way—
 - (i) that causes that person (**person A**) to fear for his or her safety; and
 - (ii) that would cause a reasonable person in person A's particular circumstances to fear for his or her safety.
- (2) To avoid any doubt, subsection (1)(f) includes the situation where—
- (a) a person acts in a particular way; and
 - (b) the act is done in relation to a person (person B) in circumstances in which the act is to be regarded, in accordance with section 5(b), as done to another person (person A); and
 - (c) acting in that way—
 - (i) causes person A to fear for his or her safety; and
 - (ii) would cause a reasonable person in person A's particular circumstances to fear for his or her safety,—whether or not acting in that way causes or is likely to cause person B to fear for person B's safety.
- (3) Subsection (2) does not limit the generality of subsection (1)(f).
Section 4(1)(d): amended, on 3 July 2015, by [section 33\(1\)](#) of the Harmful Digital Communications Act 2015 (2015 No 63).
Section 4(1)(ea): inserted, on 3 July 2015, by [section 33\(2\)](#) of the Harmful Digital Communications Act 2015 (2015 No 63).