

A Workplace Free from Unwelcome or Inappropriate Behaviour (Zero Tolerance)

Issue date May 2018
Policy Owner Group Manager Human Resources

This policy supersedes all previous versions and is valid until further notice.

Policy

LINZ is committed to ensuring our workplace is free from unwelcome or inappropriate behaviour. This means a workplace free of harassment, discrimination, bullying, violence of any kind, or any other form of unwelcome or inappropriate behaviour.

LINZ will not tolerate unwelcome or inappropriate behaviour in any context. We are committed to early intervention when behaviours do not meet our expectations. We are also committed to taking appropriate action when unwelcome or inappropriate action is reported or is found to have occurred. If disciplinary action for unwelcome or inappropriate behaviour is found to be appropriate, in respect of a staff member, this may include a range of outcomes up to and including dismissal. Contractor engagement may be terminated when the behaviour of the contractor does not meet LINZ's conduct expectations.

LINZ's commitment to a working environment free from unwelcome or inappropriate behaviour applies to behaviour by or directed towards:

- LINZ staff
- Contractors (LINZ or external contractors)
- Other agency staff
- Customers of LINZ
- Members of the public

Definitions

Unwelcome and inappropriate behaviour refers to:

- Harassment (of any kind)
- Discrimination (of any kind)
- Bullying (behaviour that meets the definition of bullying)
- Violence of any kind
- Any other form of unwelcome or inappropriate behaviour

More information defining what these terms mean is provided under each of the relevant headings in this policy (including what does and does not amount to unwelcome or inappropriate behaviour).

Prevention and Early Intervention

Prevention is the best way to ensure we have a working environment free from unwelcome or inappropriate behaviour. LINZ's prevention strategy includes:

- The engagement of an [independent third party](#) who is available to staff to raise matters of unwelcome or inappropriate behaviour informally and to facilitate resolution of matters between the person raising the issue and the person who is alleged to have behaved inappropriately;
- A policy statement intended to actively promote a culture that does not tolerate unwelcome or inappropriate workplace behaviour and challenges it when it occurs;
- A commitment from the Chief Executive, senior leaders and all managers:
 - to promote a workplace free from unwelcome or inappropriate behaviour;
 - to ensure any instances of these behaviours are dealt with actively and on a timely basis; and
 - to ensure that our people feel safe to speak up.
- Regular monitoring, through Urupounamu, to provide LINZ with assurance that unwelcome or inappropriate behaviour is not occurring or is being dealt with appropriately.

When conduct does not meet LINZ's expectations, then early intervention is essential and is actively encouraged. Behaviour that is not raised and rectified in a timely way can result in repeated behaviours that are inappropriate, permanently damaged relationships and entrenched positions that are difficult to heal.

Early intervention is intended to be educational and awareness raising for the person whose behaviour has been unwelcome or inappropriate, particularly as inappropriate behaviour can be thoughtlessness, lack of tact, misplaced attempts at humour, and/or insensitivity. Early intervention should mean that minor matters are dealt with at the lowest possible level before they become a sustained pattern of behaviour that warrants more formal action.

To achieve an organisational culture that is self-regulating and solutions focused, the most effective first response to instances of unwelcome or inappropriate behaviour is to challenge the behaviour so that matters are nipped in the bud. A timely reminder of what is or is not acceptable allows people to see their behaviour from other people's perspective and to self-regulate it accordingly.

People who experience or witness inappropriate behaviour should either challenge the behaviour directly in a constructive and non-threatening way or raise it with an appropriate person. This is appropriate when the nature of the behaviour may be at the lower end of the scale (one-off thoughtlessness, lack of tact or insensitivity), but nonetheless inappropriate in the workplace.

Approaches for dealing with behaviour at the lower end of the scale include the following options:

- Raise the matter directly with the person who behaved inappropriately.
- Raise the matter with the person's manager.
- Raise the matter with your own manager.
- If the inappropriate behaviour was by your own manager and you do not feel able to raise this with them directly, raise it with your manager's manager.

- Seek advice and/or assistance from your Human Resources Business Partner or other member of the Human Resources team.
- Raise it with and seek advice and/or assistance from LINZ's independent third party ([Lesley Ashworth-Lawson](#))
- If a member of the PSA, seek advice and/or assistance from your PSA Delegate or PSA Organiser.

In all cases, describe what you observed and how it made you feel or the impact you observed on another person. You may wish to record in writing the behaviour you considered to be inappropriate, the time it occurred, the date it occurred, and the names of those present when it occurred.

If you are raising a matter personally and informally, all you need to do is describe what you observed and how it made you feel or the impact you observed on another person.

Steps for Managers who receive a complaint

Any manager who receives a report of unwelcome or inappropriate behaviour in the workplace has an obligation to consider what next steps are appropriate in terms of early intervention.

The steps to be taken by someone who receives a report of unwelcome or inappropriate behaviour (when more informal action is appropriate) are:

- Consider the issue raised
- Assess whether you are comfortable raising this matter with the person who is alleged to have behaved inappropriately
- If not, discuss the matter with the person's manager
- The person who is going to raise the matter with the person who is alleged to have behaved inappropriately should:
 - make informal low level enquiries about the incident if this is possible
 - talk directly to the person who has raised the unwelcome or inappropriate behaviour
 - ask the person who is alleged to have behaved inappropriately to respond to the behaviour alleged and to provide their view of what happened.
 - genuinely consider the perspectives of each party
 - broker a commitment to a change in behaviour where this is appropriate.
 - facilitate clarification of the different perspectives where this is appropriate.
 - seek support from your HR Business partner.
 - inform the person who has raised the matter that action has been taken. Advice should be sought from HR on what may and may not be relayed to this person in order to ensure all parties' rights are protected.
 - keep a record of these events. (This may be destroyed once it is established the behaviour has been corrected and there is no on-going pattern of inappropriate behaviour).
 - All complaints must be registered with the Human Resources team and this can be done by copying the complaint to you Human Resources Business Partner. Anyone receiving a formal complaint must take this step.

Making a Formal Complaint

A formal complaint will preferably be submitted in writing. However, a formal complaint may also be given verbally to an appropriate manager. The manager receiving a verbal complaint must record the details of the verbal complaint in writing.

A formal complaint should set out as much detail as possible including the name of the person alleged to have behaved in an unwelcome or inappropriate manner; the nature of the behaviour that was unwelcome or inappropriate and any context necessary to understand this; how the person reacted to the behaviour and the impact it had on them; the time and date of the incident/s or events at which the incident occurred (to the extent possible); details of other people present when the incident occurred; any suggested resolutions from the person who experienced the unwelcome or inappropriate behaviour.

A formal complaint may be lodged with:

- Your manager
- Your manager's manager
- The manager of the person alleged to have behaved in an unwelcome or inappropriate manner (or that manager's manager)
- The Group Manager Human Resources
- A Deputy Chief Executive

Support Available

Support is available through the Employee Assistance Programme for staff who have experienced unwelcome or inappropriate behaviour. Support is also available through the Employee Assistance Programme for staff who it is alleged have behaved inappropriately or in an unwelcome manner.

PSA members may also seek support and assistance from the PSA whether they are someone who experienced inappropriate behaviour, witnesses it or they are the person who it is alleged has behaved inappropriately or in an unwelcome manner.

Confidentiality and Anonymity

LINZ will have respect for the rights of individual's to have these matters treated with due care and confidentiality. LINZ will respect the rights of all parties, including those who have complained of unwelcome or inappropriate behaviour and any person who is alleged to have behaved inappropriately.

Where a formal complaint is lodged, the person lodging the complaint is unable to remain anonymous. LINZ is obligated to provide a "natural justice" process to anyone who is being investigated for unwelcome or inappropriate behaviour. One of the natural justice principles guiding any employment investigation is the right of the person to know the identity of the person who is alleging the inappropriate behaviour. (The right to know the identity of the person who made the allegation).

Investigations

LINZ must and will treat any formal complaint received as serious. Both the complainant and the person who is the subject of the complaint are entitled to support throughout the resolution of any complaint. When a formal complaint is received, preliminary enquiries will be made by an appropriate person to assess whether, on the face of it, an

employment investigation should be commenced. If disciplinary action is an appropriate outcome should the allegation of unwelcome or inappropriate behaviour be upheld, then an employment investigation is the appropriate course of action. In forming a view whether an employment investigation is warranted, regard will be had for the standards of behaviour LINZ can reasonably expect from employees including as set out in our code of conduct.

An employment investigation is a serious matter. If the complaint does not meet the threshold for disciplinary action, the person making preliminary enquiries may recommend an alternate resolution process. For example, seeking agreement from the parties to a facilitated meeting; taking steps consistent with the early intervention approach; engaging the assistance of HR or LINZ's independent third party to assist to resolve matters.

If an employment investigation is commenced, it will be conducted in accordance with LINZ's disciplinary policy.

An appropriate investigator will be appointed and will be expected to complete an employment investigation in accordance with LINZ policy. The investigator/decision maker will be given authority to determine:

- 1) Whether or not the allegations against the person alleged to have behaved in an unwelcome or inappropriate manner are upheld;
- 2) Following consideration of submissions, what the penalty for the misconduct or serious misconduct will be.

The person alleged to have behaved in an unwelcome or inappropriate manner will:

- be advised of the alleged behaviours/conduct that breach LINZ's expected standards of conduct;
- have the right to know who is making the allegations and the details supporting the allegation;
- have the right to representation, to respond to the allegations and be heard, to identify who else should be interviewed and to have their version of events genuinely considered.

The person alleging unwelcome or inappropriate behaviour will be:

- asked to participate in the employment investigation to outline the alleged events and the circumstances in which they occurred. The record of this will be provided to the person alleged to have behaved in an unwelcome or inappropriate manner as part of the investigation process;
- kept informed of progress with the investigation and its outcome.

An appropriate person to undertake preliminary enquiries include the person who has received the formal complaint, a manager associated with the person alleging unwelcome or inappropriate behaviour or the person alleged to have behaved in an unwelcome or inappropriate manner. It may be someone asked by Human Resources to undertake this step, or someone asked by a DCE. Human Resources can advise on an appropriate person. The person who makes the preliminary enquiries will not be asked to be the investigator, should the matter proceed to an employment investigation.

LINZ is committed to treating all complaints seriously. People raising complaints need to ensure they are doing so genuinely. The submission of an unfounded, malicious complaint could be cause for disciplinary action if the complaint is not genuine and is raised for the purpose of causing distress to another.

Responsibilities

Responsible for:

Executive Leadership Team

- demonstrating personal leadership and commitment to LINZ's approach to unwelcome or inappropriate behaviour in the workplace
- the development and promotion of an organisational culture necessary to support this policy
- the identification and removal of organisational work practices, policies, structures or requirements that result in or lead to the perpetuation of unwelcome or inappropriate behaviour.

Managers

- building awareness that unwelcome and inappropriate behaviour will not be tolerated in LINZ
- demonstrating personal leadership and commitment to LINZ's approach to unwelcome and inappropriate behaviour in the workplace
- monitoring the work environments they manage to ensure they are free from unwelcome or inappropriate behaviour
- treating complaints seriously, taking appropriate action, and seeking advice where necessary.

Staff

- assessing any unwelcome or inappropriate behaviour in terms of this policy and for speaking up and reporting any unwelcome or inappropriate behaviour in the workplace – irrespective of whether they are the recipient or a witness.

Group Manager Human Resources

- ensuring there are appropriate guidelines in place for addressing allegations of unwelcome or inappropriate behaviour
- ensuring there are appropriate systems and processes in place to monitor instances of unwelcome or inappropriate behaviour
- monitoring workplace morale and standards of behaviour and reporting to the Executive Leadership Team any patterns, practices or matters of concern.
- recommending, as appropriate, corrective action to promote a workplace free from unwelcome or inappropriate behaviour
- increasing awareness and understanding of LINZ's policy for a Workplace Free from Unwelcome or Inappropriate Behaviour.
- maintaining this policy.

PSA

- Representing members who seek assistance in connection with unwelcome or inappropriate behaviour. (This may include a person who has experienced, witnessed or is alleged to have behaved inappropriately).
- Raising issues with LINZ as required.

Independent Third Party

- Assisting people who use this avenue to seek assistance with any instances of unwelcome or inappropriate behaviour.
- Facilitating resolution of matters raised

Support People

- Assisting people who have experienced inappropriate behaviour, witnesses it or they are the person who it is alleged has behaved inappropriately or in an unwelcome manner

Unwelcome and Inappropriate Behaviour Described in Detail

The reference to “unwelcome or inappropriate behaviour” is an umbrella term for harassment, discrimination, bullying, violence and other inappropriate behaviour. People may personally have different views of what is or is not offensive or unwelcome. The aim of this policy is to promote an inclusive culture that is aware of and sensitive to individual difference.

Harassment

Harassment is any unwelcome verbal or physical behaviour, conduct or display of material that has no legitimate workplace function and that has the effect of offending, humiliating or intimidating another person in the workplace.

A person behaving in such a way may consider it good natured behaviour, but it is harassment if the person on the receiving end considers it unwelcome. Harassment is not:

- friendly banter
- light-hearted exchanges
- occasional compliments
- behaviour which is based on mutual friendship or respect
- interaction which is consensual, welcome and reciprocated.

Harassment can involve the actions of an individual or a group and can be from a colleague, manager, staff member, member of the public, contractor, agent or a person that a staff member meets in their official capacity. It includes behaviour that occurs at work or between workplace participants in settings outside the workplace. Harassment can occur through the inappropriate use of devices such as phones and computers.

Sexual and racial harassment have specific definitions set out in the Employment Relations Act 2000 and the Human Rights Act 1993.

Employment Relations Act 2000:

S108 An employee is sexually harassed when an employer or representative of the employer directly or indirectly makes a request for any kind of sexual activity with and implied or overt promise of preferential or detrimental treatment in employment or threatens current or future employment by use of language, visual material or physical behaviour of a sexual nature.

Sexual harassment may also be committed by co-workers or customers.

S109 An employee is racially harassed in their employment if the employer or a representative of the employer uses language (written or spoken), visual material, or physical behaviour that directly or indirectly expresses hostility, is contemptuous of, or ridicules the employee on the grounds of the employee's race, colour, ethnicity or national origins of the employee. Racial harassment also occurs if the language, visual material or physical behaviour is hurtful or offensive or where the

actions by their nature or through repetition have a detrimental affect on the employee.

Human Rights Act 1993

- S61 It is unlawful to publish or distribute or broadcast material that is threatening, abusive or insulting to excite hostility against or bring into contempt and group or individual on the grounds of colour, race, or ethnic or national origins.
- S63 It is unlawful to use language, visual material, or physical behaviour that expresses hostility against, brings into contempt or ridicule, or is hurtful or offensive to a group or a person on the grounds of colour, race, or ethnic or national origins.
- S62 It is unlawful in respect of employment matters to make a request for sexual activity containing an implied or overt promise of preferential treatment or threat of detrimental treatment. It is also unlawful in respect of employment matters to use language, visual material of physical behaviour of a sexual nature.

Discrimination

Staff are discriminated against in their employment where they are, for reason of a prohibited ground/s for discrimination:

- not given the same terms of employment, conditions of work, benefits, or opportunities for training, promotion, and transfer as are made available for other staff of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances; or
- dismissed or disadvantaged, in circumstances in which other staff employed by LINZ on work of that description are not or would not be dismissed or disadvantaged.

Employment Relations Act

- S104 Discrimination in employment occurs when an employee is not afforded the same terms and conditions of employment. Benefits or opportunities as other employees of the same or similar qualifications, experience or skills, or subjects the employee to detriment, requires them to retire or resign on the basis of a prohibited ground.
- S105 The prohibited grounds include sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origin, disability, age, political opinion, employment status, family status, sexual orientation.

Human Rights Act 1993

- S22 It is discrimination in employment to refuse or omit to employ someone, to offer or afford them less favourable terms and conditions of employment/benefits/opportunities etc, or to terminate employment, or to retire or cause to retire or resign in respect of an employee on any of the prohibited grounds of discrimination.
- S21 The prohibited grounds include sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, sexual orientation. These grounds are explained in more detail in this section.

Workplace Bullying

[WorkSafe](#) defines workplace bullying 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 involve a range of actions over time
- unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating, threatening, shunning/by-passing a person directly or indirectly.

A single incident of unreasonable behaviour is not considered workplace bullying, but it could escalate and should not be ignored. It might, however, be harassment or discrimination - they have their own definitions and are explained in this policy.

The following is not bullying:

- 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 staff in line with our code of conduct
- a single incident of unreasonable behaviour
- differences of opinion and disagreements
- performance management conversations or processes conducted honestly and respectfully

Reasonable management actions directed to a staff member can't be construed as bullying as long as they're delivered in a reasonable way.

Workplace Violence

Violence is any incident in which a person is abused, threatened or assaulted by someone else. Violence can be verbal (including, for example, verbal abuse, threats, shouting, swearing) or physical (including, for example, stalking, throwing objects, hitting, damage to property).

Where appropriate, violence in the workplace will be referred to the Police.

Relevant Legislation

Relevant legislation may be found at www.legislation.govt.nz and includes:

- Health and Safety at Work Act 2015
- Employment Relations Act 2000
- Human Rights Act 1993
- State Sector Act 1988
- Protected Disclosures Act 2000
- Privacy Act 1993
- Harassment Act 1997

Helpful Links and Contacts

The Health and Safety incident reporting tool can be found on the InLINZ Home Page and this is linked below.

Log an incident
or hazard

A variety of agencies provide sources of information and support including:

- Human Right Commission (call free 0800 496 877)
- Race Relations Commission (call free 0800 496 877)
- Worksafe NZ (call free 0800 303 040)
- Ministry of Business, Innovation and Employment (mediation service call free 0800 20 90 20)
- Public Service Association (members call free 0508 367 772)
- Citizens Advice Bureau
- Employee Assistance Programme (24/7 free phone 0508 664 981)



Approved as a LINZ Administrative Policy

Andrew Crisp
Chief Executive
Land Information New Zealand