

Speaking Up Policy (Harassment, Discrimination and Bullying)

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

Purpose

The primary purpose of this policy is to encourage our people to speak up when unacceptable or unwelcome behaviour occurs in our workplaces. This is one of three policies that deal with speaking up – Speaking Up About Harassment, Discrimination and Bullying; Speaking Up About Wrongdoing; and Protected Disclosures.

This policy outlines:

- our expectations for a positive, respectful and supportive work environment free from harassment, discrimination and bullying;
- what harassment, discrimination and bullying looks like;
- our refusal to tolerate harassment, discrimination and bullying from or towards our people;
- how we expect and encourage our people to speak up whenever they believe they have experienced or witnessed harassment, discrimination or bullying; and
- how we expect and encourage our people to contribute to workplaces free from harassment, discrimination, and bullying.

Manaaki tangata

Toitū Te Whenua (LINZ) is committed to ensuring we have a diverse and inclusive organisation and that we are an employer of choice. Manaaki Tangata is the framework we have developed to ensure that our people policies are developed with this firmly in mind.

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Policy Owner: Head of People

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The relevant concepts of Manaaki Tangata that are reflected in this policy are set out in the following table:

Concept	Description
Kotahitanga	Unity and connectedness are promoted at LINZ through a commitment to a workplace free of harassment, discrimination and bullying where our people feel included and able to contribute. Kotahitanga is something we must collectively commit to through the respect we show one another.
Whakamana	Inclusion and respect and recognition of different perspectives means eliminating bias, discrimination, harassment and bullying which prevent full and equitable participation at LINZ.
Manaakitanga	We enhance the wellbeing of our people by ensuring they are respected in the workplace. This policy sets the expectation that our people will not be subjected to conduct by others which has the potential to harm them. Our people are expected to show care for the wellbeing of one another in the ways they interact.
Whakapiki	People are enabled to flourish through a workplace that shows them respect and inclusion at all times.

(Refer to Manaaki Tangata – Diversity and Inclusion at LINZ for more information on our policy and the framework we are using).

Policy

Each and every one of us is entitled to come to work, and to undertake our duties and responsibilities, in a safe, supportive, respectful and inclusive work environment.

Harassment and discrimination are unlawful under both the Employment Relations Act 2000 and the Human Rights Act 1993. Bullying can breach the Health and Safety at Work Act 2015. Harassment, discrimination and bullying are types of behaviour that are unacceptable to LINZ. (They are not the only kinds of misconduct however).

Conduct or behaviour that amounts to harassment, discrimination or bullying has no place amongst our people, our leaders, or within our work environment. We are all required to share active responsibility for keeping these behaviours out of LINZ.

Who this applies to

Our expectations and principles apply to all of the people we employ (whether permanent, fixed term or casual) and at all levels of our organisation. The policy also applies to contractors and consultants we engage, and to secondees and all visitors to our workplaces.

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Our policies dealing with potential breaches of conduct apply in our workplaces, to work-related social functions and to work events (such as conferences, travel and training), and to conduct or behaviour that is undertaken in person, in writing (including by text or email messaging), by phone or using social media platforms. They also apply to conduct that occurs outside of our workplaces if it is within the context of a work relationship or it impacts on our people or our workplaces.

1 Policy in detail

We are committed to providing our people with workplaces that are safe, healthy and inclusive and that celebrate and support diversity, respect and tolerance.

We are committed to working together and actively with our people to maintain workplaces and work relationships that are respectful, supportive and free from harassment, discrimination and bullying.

Our first priority is the prevention of harassment, discrimination and bullying. Our people are encouraged to intervene early when they see inappropriate behaviour emerging.

We take all allegations of harassment, discrimination and bullying seriously. We are committed to taking appropriate and proportionate action where harassment, discrimination or bullying are found to have occurred. We are committed to working with our people in ways that maintain their dignity and that are respectful when investigating allegations of harassment, discrimination, and bullying.

1.1 Sexual harassment

Sexual harassment is unwelcome or offensive sexual behaviour that is repeated or significant enough on its own to have a harmful effect on a person's employment, job performance or job satisfaction. It can relate to spoken, visual or written material.

Behaviour is unwelcome if it is unsolicited or uninvited and is regarded as undesirable or offensive at the time. It is important to recognise that in circumstances where a power imbalance exists, it may be very difficult for someone to make it known that they regard behaviour as unwelcome, undesirable or offensive.

Sexual harassment can be dependent on context and can be subtle or entirely unintended. Differing cultural understandings of what is and is not appropriate within LINZ are no excuse.

Sexual harassment can include (but is not limited to):

- Touching, hugging, kissing or encroaching on someone's personal space
- Staring or leering
- Insults or taunts of a sexual nature
- Unwanted invitations to go out on dates
- Requests for sexual favours, or pressure for sex or sexual activity

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- Repeated or inappropriate advances on email or via social networking platforms or social media
- Intrusive questions or comments about a person's private life, clothing or physical appearance
- Sexually explicit pictures, posters, gifts, emails or messages
- Sexual gestures, indecent exposure or inappropriate display of the body
- Behaviour amounting to stalking or sexual assault

Friendly exchanges, inoffensive humour, occasional appropriate compliments or behaviour based on mutual attraction won't generally amount to sexual harassment, but this can change depending on the context and the perspective of those who may witness it. Care should be taken not to cause offense and not to assume attention is welcome or your perspective shared.

1.2 Racial harassment

Racial harassment is unwelcome or offensive behaviour that negatively references, expresses contempt for or ridicules a person's or group's race, colour or ethnic or national origins, which is repeated or significant enough on its own to have a harmful effect on a person's employment, job performance or job satisfaction.

Racial harassment is a form of discrimination and exclusion and is not acceptable within LINZ. It can include (but isn't limited to):

- making offensive remarks about a person's race, colour or origins.
- copying or making fun of the way a person speaks.
- making jokes or stereotypical comments about a person's race or origins.
- calling people by racist names.
- deliberately mispronouncing or mocking people's names.
- disrespecting others for speaking languages other than English.

1.3 Other forms of harassment

Harassment can also occur where a person finds any other form of unwanted and unjustified behaviour offensive or humiliating, and that behaviour has a negative effect on their employment, job performance or job satisfaction either because of its seriousness or because it is repeated.

Spoken, visual or written material or behaviour that express hostility or contempt for or ridicules another person or group because of a particular characteristic they have (other than those related to sex, race, colour, ethnic or national origins which is sexual or racial harassment) is also harassment and won't be accepted.

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Repeated conduct or behaviour of this kind can also amount to bullying, as well as breaching this policy.

1.4 Discrimination

Discrimination within employment occurs where LINZ, or one of our leaders, treats someone differently from others, or allows someone else to do so, by reason of their:

- Sex
- Gender identity
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race
- Ethnic or national origins
- Disability
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation
- Involvement in union activities

Different treatment can be direct or indirect, and means:

- refusing to offer or not offering a person the same terms of employment, conditions of work, fringe benefits or opportunities for training, promotion or transfer as others with similar roles, qualifications, skills and experience because of a discriminatory characteristic.
- dismissing a person or making them retire because of a discriminatory characteristic.
- subjecting a person to any detriment (which includes anything that impacts negatively on their employment, job performance or job satisfaction) because of a discriminatory characteristic.

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In some rare cases, what would otherwise amount to discrimination is not unlawful because an exception exists under the Human Rights Act 1993.

1.5 Bullying

Bullying at work is **repeated and unreasonable** behaviour directed towards a person or group of people that can lead to physical or psychological harm.

Repeated behaviour is persistent (occurring more than once) 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 and includes victimising, humiliating, intimidating or threatening a person.

Assertive, respectful behaviour towards others (even if the message itself is not liked or welcomed), and disciplinary or performance management processes that are carried out consistently with our policies, do not constitute bullying.

Bullying is a health and safety issue because it can cause serious harm to those it affects. It is also entirely unacceptable within LINZ.

1.6 Preventing harassment, bullying and discrimination

We are committed to preventing harassment, bullying and discrimination from occurring within LINZ through education and by creating a positive and supportive environment in which our people feel able to speak up. We will do this by:

- role modeling appropriate behaviour throughout LINZ.
- enforcing this policy and dealing with substantiated harassment, bullying or discrimination promptly and fairly.
- providing ongoing education for all of our people to make harassment, bullying and discrimination, and how to speak-up about it, visible and topical.
- safeguarding the wellbeing of those who are impacted by or accused of harassment or bullying by respecting their legal rights and observing natural justice throughout the investigation process, and through access to EAP support.
- taking appropriate action up to and including termination of employment where harassment, bullying or discrimination is found to have occurred, or where a complaint is found to have been made maliciously.
- monitoring and recording concerns and complaints internally to identify any patterns or areas of concern and responding appropriately to the data that is collected.

1.7 How to speak up about harassment, bullying and discrimination

Resolving a concern means stopping any repeat of the concerning conduct or behaviour.

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1.7.1 Who can help?

You can talk about or 'sense check' suspected harassment, bullying or discrimination, and the options available to you, with:

- your leader or another leader you trust
- a Human Resources Business Partner
- our independent mediator/facilitator (Lesley Ashworth-Lawson)
- a PSA delegate or organiser
- an EAP counsellor (accessible through LINZ's EAP provider)
- another trusted person, who could be a friend, colleague, lawyer or advocate.

In some cases, the matter may be escalated by LINZ to a formal complaint. You will be consulted before this occurs and provided with appropriate support.

It is wise to keep a written record of any incidents as they occur, as this will become valuable information later on if the conduct or behaviour continues. (Linked to this policy is a form for recording incidents).

1.7.2 Self-help and supported help

Self-help means that you let the person allegedly responsible know directly that their behaviour is unwelcome, inappropriate or offensive, or considered to be bullying, discrimination or harassment, and you would like it to stop. The aim is to stop the conduct or behaviour and restore a productive working relationship.

This could involve telling the person directly, writing a 'private and confidential' letter or email, or taking a support person with you to help deliver the message.

Resolution could involve an apology, or some private agreements about how each person will behave towards one another in future.

This option does not result in any decisions by LINZ about whether the alleged behaviour occurred or not. LINZ leaders will not generally be involved or will not be involved in an official capacity and may not even be made aware of the situation.

Self-help is **not** appropriate if you feel unsafe or uncomfortable about directly addressing the issue with the person concerned.

1.7.3 Informal intervention – a leader or Human Resources

Informal intervention means asking either a leader, or a Human Resources Business Partner, to help you raise and resolve the issue informally.

Again, this option will **not** result in any decisions about whether or not the alleged behaviour occurred, or in any disciplinary action being taken at this stage.

The person intervening will facilitate impartially, following a process they consider to be appropriate to the situation (which may be meeting separately with each person, or together with both, or a mixture of both).

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The aim is to assist each person to understand the other's perspective about what has happened, and to see if and how the situation can be resolved by agreement.

While the process is informal (in the sense that no decisions about fault or conduct will be made), the person intervening will document the situation and any outcomes or agreements that are reached by the parties.

Any agreements that are reached are likely to become expectations of each person, and if they are not met, this could result in the situation being investigated as a potential disciplinary matter.

In some cases, the person intervening may escalate the matter as a formal complaint (and you will be consulted and supported before this occurs).

1.7.4 Informal intervention – our independent adviser

You may choose to seek informal assistance through our independent mediator/facilitator, Lesley Ashworth-Lawson. Our speaking-up adviser will facilitate impartially, following a process they consider to be appropriate to the situation (which may be meeting separately with each person, or together with both, or a mixture of both).

The aim is to assist each person to understand the other's perspective about what has happened, and to see if and how the situation can be resolved by agreement.

While the process is informal (in the sense that no decisions about fault or conduct will be made), the independent adviser intervening will document the situation and any outcomes or agreements that are reached by the parties.

1.7.5 Formal Mediation

In some cases, it **may** be appropriate for LINZ to arrange for mediation, although this is unlikely where there is a power imbalance between the parties.

Both parties will need to agree to this form of intervention, which could be undertaken by a skilled private mediator, or using the Ministry of Business, Innovation and Employment's mediation service.

It may be appropriate for a leader to attend the mediation, and/or for any agreed ways forward to be formalised as expectations and monitored.

1.7.6 Formal Complaint

A formal complaint can be made if you want your allegations of harassment, bullying or discrimination investigated, and findings made about whether or not the alleged conduct occurred.

A formal written complaint must be made to the Chief Executive, or a DCE or the Head of People, or any Manager in the Human Resources Team.

In your written complaint, you should detail what has happened, who was involved, when and where it happened, and give the names of any potential witnesses. There needs to be enough detail provided to enable the person alleged to have been involved to understand what they are alleged to have done and be able to respond.

A copy of your complaint, and your name, will need to be provided to the person the complaint is about as a key step in any investigation process.

We will generally be unable to act upon or investigate anonymous reports or complaints unless they are made as a protected disclosure and concern suspected serious wrongdoing where maintaining anonymity is possible.

All complaints will be investigated, but what the investigation will look like will depend on the circumstances of each complaint.

The decision whether or not to proceed to a formal investigation, and/or what any investigation will look like, will be made by the Chief Executive or their delegate in consultation with Human Resources.

The Chief Executive or their delegate will also determine who will investigate, including whether that person will be internal or external to LINZ.

We are committed to investigating complaints of alleged harassment or bullying promptly, fairly, efficiently, as confidentially as possible and in accordance with natural justice, which means:

- providing the person allegedly responsible with all relevant information, including the identity of the complainant.
- advising the person allegedly responsible of their right to legal representation.
- advising the person allegedly responsible of the possible disciplinary consequences (which may include termination of employment) should the complaint be found to have substance.
- providing the person allegedly responsible with a full opportunity to respond to the information gathered before any decisions are made.
- considering all of the information with an open mind and common sense in reaching any decisions.
- providing appropriate support to both parties as the process moves forward and keeping them updated about progress.

Any investigation will be undertaken consistently with our Employment Investigations policy.

1.7.7 External avenues for complaint

You can make a complaint about alleged sexual or racial harassment, or discrimination, to the Human Rights Commission. Complaints of bullying can also be referred to WorkSafe New Zealand. In both cases, those organisations have their own investigation and decision-making processes.

We encourage you to raise any concerns internally first, as external complaints can take time to progress.

2 LINZ commitments and obligations

Our leaders are expected to:

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- **Ensure our people understand our expectation of appropriate and respectful behaviour**
educate our people regularly about harassment and bullying, and the options available for resolving concerns
- **Role model appropriate and respectful behaviour**
lead from the front by role modelling appropriate, respectful and professional behaviour and conduct at all times
- **Be mindful of the impact they have**
think very carefully about personal relationships within the workplace, and the potential these have to create conflict and concern, especially where they involve an imbalance in power or position
- **Respond promptly, sensitively and appropriately to alleged harassment, discrimination or bullying**
respond to any approaches by people who are concerned about potential harassment or bullying promptly sensitively, professionally and confidentially
- **Consider informal approach before formal**
Consider whether an informal approach such as a facilitated conversation is appropriate and discuss with the staff member raising the complaint and HR.
- **Elevate concerns where this is appropriate**
exercise sound judgement in deciding whether a particular concern needs to be elevated as a formal complaint. Seek advice on how to deal with any matter if unsure.
- **Investigate concerns consistent with policy when appointed to be the investigator**
if required, investigate any potential breaches promptly and in accordance with natural justice principles

Human Resources will:

- monitor and report on harassment, discrimination and bullying complaints or concerns as required
- review this policy, and related policies, regularly and in consultation with our people and their unions to ensure they remain fit for purpose
- assist our people to access and understand this policy, their rights and options both proactively, and when approached with concerns
- assist our leaders in resolving or investigating alleged harassment or bullying as necessary
- assist our leaders in implementing any outcomes that arise from resolving or investigating alleged harassment or bullying.

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3 Employee commitments and obligations

Our people are required/need to:

- **Understand what acceptable and unacceptable behaviour is**
take self-responsibility for thinking carefully, sensibly and critically about our behaviour and how it might be perceived by others
- **Behave appropriately and consistently with our expectations**
take self-responsibility for understanding what harassment and bullying are, and avoid any conduct or behaviour that is unreasonable or unacceptable
- **Be aware of the impact their behaviour may have on others**
take self-responsibility for understanding the difference between bullying and assertive, respectful and reasonable behaviour and processes
- **Speaking up early if they see or experience inappropriate behaviour**
take self-responsibility for our own health and safety and that of others by speaking up early and appropriately if we see or experience suspected harassment, discrimination, or bullying.
- **Participate constructively in any investigation**
participate constructively in any investigation about suspected harassment regardless of your role in this.

4 Delegated authority

Decisions under this or any policy must be made in accordance with the authority delegated by the Chief Executive. Reference should be made to the schedule of delegated Human Resources authority which is included in the links below. Care is recommended as exceeding your authority to make decisions may be considered a disciplinary matter.

Definitions

Term	Definition
Sexual Harassment	Unwelcome or offensive sexual behaviour that is repeated or significant enough on its own to have a harmful effect on a person's employment, job performance or job satisfaction.
Racial Harassment	Unwelcome or offensive behaviour that negatively references, expresses contempt for or ridicules a person's or group's race, colour or ethnic or national origins, which is repeated or significant enough on its own to have a harmful effect on a person's employment, job performance or job satisfaction

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Discrimination

Discrimination within employment occurs where different treatment arises by reason of a persons' sex; gender identity; marital status; religious belief; ethical belief; colour; race; ethnic or national origins; disability; age; political opinion; employment status; family status; sexual orientation; involvement in union activities.

Bullying

Repeated and unreasonable behaviour directed towards a person or group of people that can lead to physical or psychological harm.

Useful links

[Employment Relations Act 2000](#)

[Human Rights Act 1993](#)

[Health and Safety at Work Act 2015](#)

[Code of Conduct](#)

[Speaking Up about Wrongdoing Policy](#)

[Protected Disclosures Policy](#)

[Lesley Ashworth-Lawson](#)

[EAP Services](#)

[HR Delegations](#)

[Positive and Safe Workplaces Policy](#)

[Manaaki Tanagata; Diversity and Inclusion Policy](#)

[Disciplinary policy](#)

[Employment Investigations policy](#)

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Approved 25 March 2022 as a Toitū Te Whenua Administrative Policy

Te Tumu Whakarae

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