

APPROVED BY:
AIRWAYS BOARD OF DIRECTORS



ANTI BULLYING AND HARASSMENT POLICY

This policy provides guidelines to help identify what behaviours might constitute bullying or harassment and to provide options for addressing situations that arise.

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1 WHY DO WE HAVE THIS POLICY?

We have this policy to actively commit to supporting the principles of Equal Employment Opportunity (EEO) and to ensure 'we value safety' by providing a safe working environment in which all Airways people are treated with dignity and respect. We expect all of our people to be able to work in an environment that is free from harm caused by bullying or harassment.

Airways will not tolerate bullying or harassment under any circumstances. Bullying or harassment in any form is deemed to be misconduct or serious misconduct, and disciplinary action may be taken (up to and including dismissal) if this policy is breached.

Not all unwelcome behaviour will amount to bullying or harassment (for example, some personality conflicts or legitimate performance management). This policy provides guidelines to help identify what behaviours might constitute bullying or harassment and to provide options for addressing situations that arise.

2 WHO DOES THIS POLICY APPLY TO?

While this policy does not apply to non-employees, any independent contractors, trainees and those engaged in work experience are expected to act in a way consistent with the principles contained in this policy. However, if any of these people experience harassment they are still encouraged to make a complaint.

Equally if an Airways employee experiences harassment from any of these people, they are also encouraged to make a complaint.

If the conduct being complained about amounts to a serious wrongdoing due to it creating a serious risk to the health or safety of any individual, and the complainant would like to make a protected disclosure, the complainant should refer to the process set out in the Whistleblower Policy and the Whistleblower Procedure.

3 RELEVANT LEGISLATION

Airways' Anti Bullying and Harassment policy complies with the following Acts:

- ▶ State Sector Act 1988, which outlines minimum standards or integrity and conduct in the workplace.
- ▶ Human Rights Act 1993, which requires equality of treatment for all and prohibits discrimination.
- ▶ Health and Safety at Work Act 2015, which requires Airways to take all practicable steps to ensure the health and safety of employees and contractors.
- ▶ Harassment Act 1997, which provides criminal and civil remedies in respect of harassment.
- ▶ Employment Relations Act 2000, which prohibits discrimination in employment and make sexual and racial harassment unlawful within employment.
- ▶ Protected Disclosures (Protection of Whistleblowers) Act 2022, which protects individuals who disclose serious wrongdoing in an organisation.

4 DEFINITIONS

4.1 Bullying

Bullying is behaviour that:

- ▶ is repeated; and
- ▶ is unreasonable; and
- ▶ is directed towards an employee or contractor or a group of employees or contractors; and
- ▶ creates a risk to health and safety.

A single incident of unreasonable behaviour is not considered workplace bullying, but it could escalate and should not be ignored.

Examples of bullying **include**:

- ▶ Victimising, humiliating, intimidating or threatening a person
- ▶ Exclusion or isolation from activities or conversations
- ▶ Discrediting a person
- ▶ Blaming a person for someone else's mistakes
- ▶ Spreading lies and/or rumours about a person
- ▶ Abusing authority to unfairly discipline a person
- ▶ Constant unfounded criticise
- ▶ Ganging up – encouraging others to criticise

This list is not exhaustive and other behaviours and actions may be considered to be bullying.

Bullying **does not include**:

- ▶ One off instances of rudeness;
- ▶ Setting high performance standards; or
- ▶ Constructive feedback.

4.2 Harassment

Harassment is defined as unsolicited verbal or physical conduct in relation to:

- ▶ race, colour, ethnic or national origin, gender, age, disability, marital or family status, religion, ethical belief, political opinion, sexual orientation, or health status; and is:
 - unwelcome and offensive (or might reasonably be perceived by the receiver as unwelcome and offensive); and
 - of a serious nature or persistent to the extent that it has a detrimental effect on the individual's employment, job performance, opportunities or job satisfaction.

Harassment will generally require repeated behaviour over a 12-month period. However, there are circumstances that, due to its nature, a one-off incident may be sufficient to amount to harassment.

Examples of harassment include:

- ▶ Following a person;
- ▶ Entering someone's property without their permission;
- ▶ Harassment through phone calls or letters;
- ▶ Giving offensive material;
- ▶ Doing something that makes someone fear for their safety.

4.3 Sexual Harassment

Examples of sexual harassment include:

- ▶ Telling jokes which embarrass or offend;
- ▶ Hostile or bullying behaviour, remarks or teasing about or based on a person's gender, alleged sexual activities, sexual orientation, or personal life;
- ▶ Persistent, unwelcome social invitations or telephone calls from colleagues at work or at home;
- ▶ Persistent hand or body gestures that may offend;
- ▶ Unwanted and deliberate physical contact such as patting, pinching, touching or putting an arm around another person's body at work;
- ▶ Suggestive remarks and innuendo;
- ▶ Displaying offensive posters or pictures;
- ▶ Requesting sexual favours in exchange for a job, or for better working conditions (implied or overt);
- ▶ Using authority or physical strength to place someone in a sexually threatened position;
- ▶ Sexual assault and/or rape.

This list is not exhaustive and other behaviours and actions may be considered as sexual harassment.

4.4 Racial Harassment

Examples of racial harassment include:

- ▶ Mimicking the way a person speaks;
- ▶ Making jokes about a person's race or national origin;
- ▶ Calling a person racist names;
- ▶ Deliberately pronouncing a person's name wrongly;
- ▶ Making offensive remarks about a person's race;

- ▶ Displaying of racially offensive visual material or pictures;
- ▶ Physical behaviour that expresses hostility against a person based on their race, ethnic or national origin, or colour.

This list is not exhaustive and other behaviours and actions may be considered as racial harassment.

5 RESPONSIBILITIES

Everyone has a part to play in eliminating bullying and harassment in the workplace.

As Airways people, we all have the responsibility to:

- ▶ comply with this policy and ensure that their behaviour is not offensive to others; and
- ▶ keep an eye out for other people, providing support when a person appears to be being isolated or experiencing reprisals; and
- ▶ inform Airways (via their managers) if bullying or harassment has been or is occurring, through the informal or formal complaints processes in this policy.

Managers must notify the HR Business Partner Team or a manager in the People and Capability Team and seek advice as soon as they become aware of a bullying or harassment complaint.

6 POLICY PROCEDURES

Throughout the process of investigating any bullying or harassment complaint, the rights of all individuals should be respected and confidentiality maintained wherever possible.

7 DEALING WITH COMPLAINTS

Employees who wish to make a complaint of bullying or harassment need to consider three possible courses of action. These are:

- ▶ Self-help
- ▶ Informal intervention
- ▶ Formal complaint (in-house resolution)
- ▶ External complaint

At any time, employees may discuss these options or seek advice from a People and Capability Team manager in confidence. Employees may also contact Airways' Employee Support Services for advice and support. Information leaflets are available from all Airways locations.

Details regarding these processes are set out in Appendix A of this policy.

Airways has health and safety obligations to its employees, all its people and to the public. Where the conduct complained of is of such a serious nature that it has the potential to impact the health and safety of Airways' employees, its people or the public, Airways may be required to undertake an investigation, which may result in the disclosure of the complaint and the complainant, even if the complainant wishes that their complaint or their identity remain anonymous.

8 SUPPORTING POLICIES

- ▶ Code of Conduct
- ▶ Safety and Security Policy
- ▶ Whistleblower Policy

9 RECORD AND QUALITY MANAGEMENT

No records have been specified for retention under the Information Management Policy, NZ Archives General Disposal Authority or the Airways Retention & Disposal Authority; however, some supporting processes may detail record keeping requirements.

Refer to Te Kete for more information on records and information management.

APPENDIX A Courses of Action

A.1 Self-Help and Information

If the employee is confident in dealing with the matter themselves, they may take the matter back to the person bullying or harassing them, telling them that they find their behaviour unacceptable and ask them to stop. Self-help is about making the alleged bully or harasser aware (in a low-key manner) that their behaviour is unacceptable and/or offensive, and request them to stop. An individual could choose to do this verbally or in writing and/or with the support of a colleague or friend.

In requesting the alleged bully or harasser to stop, the individual should:

- 1 State clearly that the behaviour is offensive or unacceptable; and
- 2 State clearly that they wish the behaviour to stop; and
- 3 State clearly what they want the alleged bully or harasser to do or not do in future.

In some circumstances, the person may not realise that their behaviour is offensive and this approach may make them aware of your feelings. The person not realising that their behaviour is offensive is not an acceptable excuse for the behaviour to continue; request that they stop.

A.2 Informal intervention – attempt to resolve the issues themselves but with our help.

If the employee does not want to escalate the matter to a formal complaint and full investigation but does not feel confident or does not wish to address the person harassing them on their own, they may request we support them to facilitate their addressing the harasser about their behaviour.

A.3 Formal Complaint

A.3.1 Airways People and Contractors

An employee or contractor may seek a formal investigation or resolution to their complaint where self-help has not solved the problem, or they do not wish to use the self-help option. Complaints are normally made to the employee's manager, to the HR Business Partner Team or to a People and Capability Team manager.

A complaint may be made verbally or in writing. Once the complaint is received, the complainant is usually asked to put their complaint in writing to avoid any risk of a misunderstanding later.

To assist with the resolution process, the complainant should write down as much of the following information as they can:

- ▶ Details of what has happened, when and where it happened.
- ▶ Where possible, the exact words spoken by the person or the specific behaviours that occurred.
- ▶ The names of any people who may have observed the incident or behaviour.

There may be circumstances in which Airways may be required to take a formal approach to any complaints, despite this not being the complainant's preferred course of action. The complainant will be consulted before this occurs.

A.3.2 Line Managers and the People and Capability Team

If the complaint is made to the manager, they are accountable for ensuring the matter is fully and promptly investigated. It may be that the investigation should be carried out by an independent and external investigator. At this point, the manager should contact the HR Business Partner Team or a manager from the People and Capability Team for advice and guidance.

Airways may decide to initiate an investigation in the absence of a formal complaint. An assessment will be made on the veracity of the complaint prior to any investigation commencing.

The investigation of events is likely to involve either the manager or an independent investigator:

- ▶ Interviewing the complainant
- ▶ Interviewing the person accused of bullying and/or harassment
- ▶ Interviewing witnesses or other employees as necessary

It is essential that full records be kept of any formal interviews, discussions and actions taken.

It is important to note that the person accused of harassment is able to know the nature of the complaint made against them, and the name of the complainant. The rights of both the person accused of bullying and/or harassment and the complainant are protected and both parties will be instructed not to discuss the matter with other employees.

A.3.3 Outcome

Following the investigation, the manager, in consultation with the People and Capability Team manager, needs to review the findings of the investigation (or receive the findings and/or recommendations from the independent investigator) make a decision about whether or not bullying or harassment has or may have taken place.

Options for the decision are:

- 1 There has been no bullying or harassment established, and the matter will go no further.
- 2 While bullying or harassment has occurred on the balance of probabilities, it is of such a nature that disciplinary action is not required. Sometimes, it may be that informal counselling is appropriate.
- 3 The parties agree on a solution that they and the manager are happy with, for example an apology, an agreement that the incident was a misunderstanding, and so on.
- 4 Bullying or harassment has or may have occurred, and the matter is handled in accordance with the Airways disciplinary procedure (see Code of Conduct). As the matter would have already been investigated at this point, a further investigation of events as part of the disciplinary process may not be necessary.

In addition to considering disciplinary action, the manager should consider:

- 1 Reporting the decision back to the complainant (insofar as that is possible while still maintaining privacy of the bully or harasser) so they know the issue has been taken seriously and has been dealt with.

- 2 Offering the complainant counselling.
- 3 How to address the bullying or harassment and protect the complainant on an ongoing basis, which may include moving the bully or harasser into a different work unit, requiring the bully or harasser to undergo counselling and/or appropriate training.
- 4 Monitoring the complainant's wellbeing and the bully or harasser's behaviour on an ongoing basis to ensure the solution is still working satisfactorily.
- 5 Ensuring there is no possibility of any disadvantage to the complainant occurring in terms of their future career and work environment or their performance assessments.
- 6 If the internal procedures do not solve the problem satisfactorily, or the complainant does not elect to consider them, the complainant can lay a formal complaint externally.

A.4 External Resolution

Before choosing a course of action, the complainant may wish to discuss the different options with their manager, another manager, the People and Capability Team, the Human Rights Commission, or consider whether they pursue the complaint through an external avenue.

The options include:

- ▶ Raising a personal grievance under the Employment Relations Act 2000. The procedures followed will be those described in the 'Employment Relationship Problems' section of your employment agreement.
- ▶ Taking a complaint to the Human Rights Commission, who will investigate it and where the complaint has substance, will negotiate settlement of that complaint. If this option is taken, the employee is unable to take a personal grievance case. You can contact the Human Rights Commission on 0800 496 877.
- ▶ If a settlement cannot be reached, the Human Rights Commission may forward the complaint to the Complaints Review Tribunal who will adjudicate the matter.
- ▶ The Police can take action on a complaint of harassment (including sexual harassment) if the complainant has been subjected to physical harassment or behaviour involving obscene language or threats.

If you have any questions about this policy or would like any further information, please contact the People and Capability Team. Any enquiry will be treated confidentially.