

Policy

Preventing Unacceptable Behaviour, Harassment and Bullying	
Applicable to: Whanganui District Health Board	Authorised by: Chief executive officer
	Contact person: Manager Human Resources

1. Background

Employees are expected to conduct themselves professionally at all times and respect the rights, interests and diversity of their colleagues, and work harmoniously and courteously with others. In addition to Whanganui District Health Board's Code of Conduct Policy which gives guidance to employees on the standards of performance and conduct required, employees are expected to uphold the State Services Commission Standards of Integrity and Conduct and their Professional Body Codes of Conduct where applicable. To this end, it is important that Whanganui District Health Board has a healthy and safe working environment in which all employees feel their contribution is valued and appreciated. The actions and behaviours below are intended to provide a guide and assist all employees to develop and maintain this environment. Employees are expected to:

- care for and support each other to have a safe work environment
- treat each other with trust and respect, recognizing cultural and other differences
- communicate openly, honestly and act with integrity
- enable professional and organizational standards to be met
- support each other to achieve, and acknowledge contributions and successes

Workplace bullying, harassment and unacceptable behaviour have been identified as a contributing factor in low productivity, high staff turnover and excessive use of sick leave.

Whanganui District Health Board (WDHB) is committed to creating a positive work environment which is free from unacceptable behaviour, harassment and bullying, and where every employee feels valued, and is treated with respect.

2. Purpose

The purpose of this policy is to ensure that:

- Employees are aware of their responsibilities in relation to the provision of a workplace environment which is free from unacceptable behaviour, bullying and harassment.
- Appropriate processes are in place to identify, eliminate, reduce or minimise unacceptable behaviours and workplace related harassment and bullying organisation wide.
- Employees are aware of the type of behaviour which constitutes unacceptable behaviour, harassment and bullying and the consequences of such behaviour.
- A formal internal complaints procedure is in place for employees to report incidents of unacceptable behaviour, harassment or bullying, including provision of appropriate, confidential and accessible support for employees involved in or wishing to report these situations in the workplace.
- The principles of natural justice (procedural fairness and due process) will underpin any investigation of any unacceptable behaviour, harassment or bullying complaint.
- Employees are aware of their right to complain if they are subjected to unacceptable behaviour or are being harassed or bullied in their workplace and of the existence of the complaints procedure.

- Appropriate education is provided for all employees.
- WDHB meets its responsibilities in terms of the Human Rights Act 1993 and the Employment Relations Act 2000 which contain provisions specifically relating to sexual harassment.

This Policy should be read in conjunction with the Prevention of Unacceptable Behaviour, Harassment and Bullying Procedure

3. Scope

This policy applies to all Whanganui District Health Board employees (permanent, temporary and casual), visiting medical officers, and other partners in care, contractors, consultants and volunteers.

Note: This policy does not apply to patients. Incidents of inappropriate behaviour, harassment, bullying or abuse from a patient/client should be dealt with through the incident management process (refer Riskman Quality System).

4. Definitions

Employees - All employees of WDHB, including honorary staff.

Complainant - The person who makes a complaint or alleges that unacceptable behaviour, harassment or bullying has occurred.

Respondent - The person who has been alleged to have behaved unacceptably, harassed or bullied someone.

Support Person/Representative - The person or people the employee has chosen to support/represent them, for example a colleague, friend, family member, union delegate/organiser, etc.

Acceptable Behaviour - The following are examples of behaviours that are not considered to be harassment or bullying.

Examples of acceptable behaviour:

Expressing differences of opinion	Free and frank discussion about issues or concerns in the workplace, without personal insults
Constructive and courteous feedback at an appropriate time/place	Managing identified performance/competence issues
Legitimate criticisms about work performance (not expressed in a hostile, harassing manner)	Giving negative feedback, including in a performance appraisal, and requiring justified performance improvement
Legitimate and reasonable management decisions or actions	Warning or disciplining an employee in line with policy and best practice
Insisting on high standards of performance and team cooperation	Allocating work to individuals and setting reasonable goals and deadlines
Making a legitimate complaint about a manager or other employee's conduct/behaviour	Friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments
Friendships, sexual or otherwise, where both people consent to the relationship	Targeted affirmative action policies, parental leave provisions, or reasonable accommodation and provision of work aids for staff with disabilities etc

Unacceptable Behaviour - Unacceptable behaviour can relate to incidents between employees that are inappropriate for the situation and cause an employee distress and anxiety. These tend to be one-off incidents. Where these behaviours are repeated or accumulate, they may be deemed to be bullying (see below).

Examples of unacceptable behaviour (note this list is not exhaustive):

Undermining professional standing or reputation in the presence of others	Isolating or excluding
Undervaluing or ridiculing the person's contribution	Displaying a contemptuous attitude towards other employees
Public reprimands, yelling and/or speaking all the time and not allowing others to be heard	Imposing punishment without reasonable justification
Hostile, verbal and non-verbal communication	Rude gestures and comments
Sarcastic innuendo to undermine credibility, belittling, patronising comments, stereotyping of persons or groups	Ignoring and working around someone who should be involved in the process
Shouting, swearing, abuse, threats,	
Touching, hitting, grabbing, pushing, jostling	Offensive letters or memos or e-mails
Racist jokes or ridicule	Practical jokes

Harassment - Harassment is unwanted, unwelcome and offensive verbal or physical behaviour by a person or group of people, and might reasonably be perceived as unwanted, unwelcome, offensive and not legitimate. Harassment is generally a pattern of repeated behaviour over time, but may be a one-off occurrence (e.g. a physical assault), and may have a negative effect on an individual's employment, job performance, job satisfaction or opportunity.

Harassment may be in respect of gender, ethnic origin, colour, religion, marital status, age, sexual orientation, disability, health status, and may include abuse of authority, unfair or inequitable treatment of an employee by his or her superior and other similar behaviours. Harassment also includes sexual harassment as defined in section 108 of the Employment Relations Act 2000.

Examples of harassment (note this list is not exhaustive):

Offensive teasing or abuse	Yelling or threatening comments
Unwelcome, inappropriate physical conduct, e.g. touching, patting	Being followed home from work
Physical assault	Offensive pin-ups, calendars, posters
Rude gestures and comments	Unwanted attention of a sexual nature
Offensive jokes	Repeated teasing or comments about the differences between cultures

Bullying - Bullying is a pattern of persistent, unwanted and unwarranted and detrimental behaviour that a person finds offensive, intimidating, or humiliating, and is repeated so as to have a detrimental effect upon a person's dignity, safety and wellbeing and that is intended to target and victimise the recipient.

Bullying may be overt or covert and may include acts to undermine and/or humiliate the recipient. Bullying can be an abuse of power and makes the recipient feel upset, threatened, humiliated or vulnerable.

Overt behaviour - Is yelling, displays of hostility or rage, swearing at someone, personal insults, ridicule, demeaning language, constant criticism, unwanted teasing/taunting, public reprimands, unjustified threats of dismissal or unfavourable treatment, pushing, shoving, stand-over tactics, throwing objects or destroying property, professional ambushes.

Covert behaviour - Is undermining professional standing or reputation, unnecessarily overloading with work, setting impossible deadlines, isolating or excluding, spreading gossip or rumours, inflicting inappropriately menial tasks, removing responsibility unfairly, withholding information or support, sabotaging work or processes, setting someone up to fail, taking credit for another’s work, failing to give due credit, and issuing unreasonable administrative sanctions.

Group bullying - Is collusion of a group of individuals who work together to target a person, using covert, passive-aggressive, undermining behaviour, including blame allocation, scape-goating and labelling of their target.

Is a group who actively and intentionally inflict mental/ psychological or physical harm upon an individual with the purpose of expelling them from the workplace.

Examples of bullying (note this list is not exhaustive)

Behaviour which is offensive, malicious, insulting or intimidating or humiliating	Changing an individual’s duties or responsibilities to that individual’s detriment without reasonable justification
Threats, blackmail, lying & evasion and coercion	Degrading &/or belittling comments
Using verbal abuse or swearwords or shouting inappropriately, shouting or yelling, unexplained rages	Undermining status and credibility by criticising in the presence of others
Excessive or unjustified criticism over minor things	Deliberate exclusion from meetings that an individual might reasonably expect to attend
Undervaluing or ridiculing an individual’s contribution	Imposing punishment without reasonable justification
Deliberately setting unreasonable objectives or tasks with impossible timescales	Isolation, non co-operation or exclusion from departmental social events
Non-verbal Communication; i.e., eye rolling, or other inappropriate body language	

What Bullying is Not - For the purposes of clarity, the following are examples of behaviours that are ***not*** considered to be bullying:

Insisting on high standards of performance in terms of quality, safety and team cooperation;	Allocating work to individuals and setting reasonable goals and deadlines;
Constructive and courteous feedback at an appropriate time/place;	Issuing of reasonable instructions in line with delegated authority and expecting them to be carried out;

Managing identified performance/competence issues;	Legitimate criticisms made to a staff member about their behaviour or work performance (not expressed in a hostile, harassing manner);
Giving negative feedback, including in a performance appraisal, and requiring justified performance improvement;	Warning or disciplining a staff member in line with policy and best practice;
Making a legitimate complaint about a manager or other employee's conduct or behaviour;	Friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments;
Friendships, sexual or otherwise, where both people consent to the relationship;	Assertive expressing of opinions that are different from others';
Words or actions that are directed at the advancement of knowledge, add to critical debate and which are not targeted at individuals;	Free and frank discussion about issues or concerns in the workplace, without personal insults;
Targeted affirmative action policies, parental leave provisions, or reasonable accommodation and provision of work aids for staff with disabilities etc.	

How to tell harassment and bullying apart

Harassment	Bullying
A single incident, a few incidents, many incidents	Accumulation of many small incidents
Obvious that you are being harassed	May not realise you are being bullied for weeks or months
Revealed through offensive vocabulary or actions, e.g., jokes	Trivial criticisms, false allegations, etcetera
Has a strong clear focus (race, sex, disability)	Focus is on competence (envy) and popularity (jealousy)
Often for peer approval, bravado, image	Tends to be secret – no witnesses
Target is perceived as 'easy'	Target is a threat to control
Harasser lacks self-discipline	Driven by envy and jealousy

5. Roles and responsibilities

General managers/directors/managers/team leaders

Responsible for ensuring that:

- they role model appropriate, respectful professional behaviour in accordance with WDHB's Code of Conduct, State Services Commission Standards of Integrity and Conduct and the relevant professional body (as appropriate);
- they encourage and enable a positive work environment
- they take responsibility for and directly challenge instances of unacceptable behaviour, harassment or bullying;
- employees are aware of their responsibility to report actual or potential situations of unacceptable behaviour, harassment or bullying in the workplace, and understand the procedures for doing so;
- employees are aware of the education programme and encourage participation;
- appropriate steps are taken to deal with identified potential or existing cases of unacceptable behaviour, harassment or bullying in the workplace;
- confidentiality of all parties is maintained, including no inappropriate sharing of information;
- appropriate support is offered to complainants and respondents;

- ensure that no retaliation or victimisation occurs after allegations of unacceptable behaviour, bullying or harassment

Employees

Responsible for:

- showing respect to one another;
- role modelling appropriate, respectful professional behaviour in accordance with WDHB's Code of Conduct, State Services Commission Standards of Integrity and Conduct and the relevant professional body (as appropriate);
- taking responsibility and accountability for their behaviour towards others;
- promptly reporting actual or potential situations of unacceptable behaviour, harassment or bullying in the workplace, preferably using the procedures set out in the attached appendix;
- attending the education programme as required;
- challenging individuals when they observe unacceptable behaviour;
- supporting individuals when they are subject to bullying or harassment behaviour and if necessary report any observed incidences of unacceptable behaviours;
- taking all practicable steps to ensure that they do not present themselves to others in a manner that is perceived as unacceptable behaviour, harassment or bullying; and
- Participating in and taking the steps required to achieve a safe workplace environment for WDHB and in healthy work initiatives as appropriate.

Complainants

Responsible for ensuring that:

- they maintain confidentiality and only discuss the complaint with their support person or representative, and not other staff;
- any complaint they make is genuine and is made in "good faith";
- they do not act maliciously; and
- they respect that WDHB has obligations to all of its employees and that it needs to investigate matters fairly.

Respondents

Responsible for ensuring that:

- they maintain confidentiality and only discuss the complaint with their support person or representative, and not other staff;
- they do not contact the complainant(s) directly about the complaint, unless requested to do so by the complainant or as required in the normal course of their work;
- they do not act maliciously towards the complainant or retaliate in any way in response to the complaint; and
- they respect that WDHB has obligations to all of its employees and that it needs to investigate matters fairly.

Support person or representative

Responsible for ensuring that:

- they maintain confidentiality and only discuss the complaint with the person they are supporting/representing;
- they are not personally involved in the complaint;
- they do not refer to the complaint in communications that the support person/representative is required to have with the complainant in the normal course of their work; and
- they are unbiased towards the respondent and uphold that in every form of communication if the support person/representative is required to have contact with the respondent in the normal course of their work.

Directors/managers responsible for oversight of contractors

Responsible for:

- ensuring that contracts with companies contracting services to WDHB include an obligation to comply with a workplace that is free from unacceptable behaviour, harassment or bullying while working on WDHB sites; and
- in the event of a WDHB employee having a complaint of unacceptable behaviour, harassment or bullying against an employee of a contractor providing a service to WDHB, requesting that contractor to co-operate in the complaints and resolution process.

Manager, Human Resources

Responsible for:

- facilitating the provision of an education programme to be available for all employees, which includes:
 - how to prevent or deal with unacceptable behaviour, harassment or bullying situations; and
 - how to identify and control actual or potential unacceptable behaviour, harassment or bullying in the workplace;
- collating the data on the number and nature of complaints every six months (30 June and 31 December) to allow monitoring of the level of unacceptable behaviour, harassment or bullying complaints/concerns, identification of trends and where practices need to be altered to eliminate, reduce or minimise unacceptable behaviours and workplace related harassment and bullying (in consultation with the Team Leader/Manager and Occupational Health Unit as appropriate);
- reporting high level, aggregate data on the number and nature of complaints (as per the above) to the Bipartite Action Group on request; and
- facilitating the complaints process once a complaint has been reported ensuring correct processes are followed.

6. Policy

WDHB shall ensure that all reasonable and practicable steps are taken to ensure that priority is given to the provision of a safe work environment, free of physical, emotional, mental or sexual harassment or abuse, for its employees.

A formal internal complaints procedure will be available for the use of all employees to report incidents of unacceptable behaviour, harassment or bullying involving employees.

All complaints of unacceptable behaviours, harassment or bullying will be dealt with promptly, seriously, with sensitivity and with scrupulous attention to natural justice (procedural fairness and due process). Proven cases of unacceptable behaviours, harassment or bullying may result in disciplinary action being taken, and in the case of honorary staff members, the withdrawal of honorary staff status.

Unsubstantiated allegations

The potential consequences for someone accused of unacceptable behaviour, harassment or bullying are serious. Therefore, an allegation of unacceptable behaviour, harassment or bullying against another employee which is found to be malicious and/or unfounded could itself be considered an act of unacceptable behaviour, harassment or bullying. An unsubstantiated allegation which is found to be malicious and/or unfounded may result in disciplinary action against the complainant.

The utmost care must be taken to prevent any disadvantage to the person against whom the complaint has been laid if the complaint has been unable to be substantiated or found to be unwarranted; and to prevent the complainant being made to suffer in any way for having made the complaint.

This should in no way discourage an employee from making a legitimate complaint about unacceptable behaviour, harassment or bullying.

Retention of documentation

If an employee approaches a support person for discussion and the employee decides that they want no further action to be taken, or self-help or informal intervention has resolved the complaint, the support person may keep a note of the date and brief account of the interview, and the names of the parties involved.

Details of all complaints are to be forwarded to the Manager, Human Resources.

If a formal complaint is made, investigated and substantiated, a record of the complaint (excluding the complainant's name/identity) and the outcome should be placed in a sealed envelope on that person's personal file. Access will be in accordance with the procedures for all information held on employee personal files.

Confidentiality

WDHB is committed to maintaining confidentiality unless there are circumstances involving probable risk to the safety of any person/s, or where maintaining confidentiality would be unlawful, or when this would compromise the principles of natural justice.

Defamation

Due to the possibility of defamation proceedings, all information must be kept as confidential as possible. Unless expressly authorised, the complainant and respondent are not to discuss any matters pertaining to a complaint with anyone other than those directly involved (manager, investigator, and representative/support person/s).

Alternative avenues

Where an employee feels their complaint has not been dealt with to their satisfaction, or does not wish to follow the above internal procedures, they may pursue other avenues:

- Mediation through the Human Rights Commission, or the Race Relations Conciliator or an external providers such as the EAP Services
- Personal grievance procedure pursuant to the Employment Relations Act 2000
- Legal action through the Police or a lawyer

Note: *Although this policy does not apply to patients, if an employee wishes to lay a personal complaint of assault against a patient where the patient is deemed, by an appropriate medical practitioner, as being capable of knowing the consequences of their action and appears to have the intention to assault, the Police may be called after consultation with the relevant General Manager and Chief Executive Officer.*

AND,

If a patient or family/whanau member seeks to establish or maintain a relationship with an employee, which is inappropriate, intrusive, unwarranted and unwelcome, and this continues after requests to cease the alleged harassment, the Police may be called after consultation with the relevant General Manager and Chief Executive Officer.

7. Measurement criteria

Number and nature of formal unacceptable behaviours, harassment or bullying complaints received and addressed.

8. References

- Harassment Act 1997
- Privacy Act 1993
- The Employment Relations Act 2000
- The Health and Safety in Employment Act 1992
- The Human Rights Act 1993
- MidCentral District Health Board, Preventing Unacceptable Behaviour, Harassment and Bullying

The Employment Relations Act 2000 and the Human Rights Act 1993 codify forms of discrimination which are unlawful and which WDHB will not permit. Copies of relevant Acts are available online at www.legislation.govt.nz.

9. Related Whanganui District Health Board documents

- Whanganui District Health Board Code of Conduct and State Services Commission Standards of Employment.

10. Key words

Unacceptable behaviour Bullying Harassment Abuse Internal complaints procedure Complaints Investigation Mediation Personal grievance Legal action