



DOIA 1920-0572

Lesley Harbern  
fyi-request-11384-8e8cf9fc@requests.fyi.org.nz

Dear Lesley Harbern

Thank you for your email of 5 October 2019 requesting the following under the Official Information Act 1982 (the Act):

*I am interested in employment equity and fairness*

- 1) *Please quantify your gender pay gap (if possible not just binary male-female but incorporating other gender identifications too).*
- 2) *a) Give numbers of your employees are of which genders at each tier of your hierarchy. Please also provide the same information regarding the other following demographics (to the extent that it is held, it is understood that you may not have all of this data):*
  - b) Marital status*
  - c) Religious belief*
  - d) Ethical belief*
  - e) Ethnic origins*
  - f) National origins*
  - g) Disability*
  - h) Age*
  - i) Political opinion*
  - j) Employment status immediately prior to be employed by yourselves*
  - k) Sexual orientation*
  - l) Physical appearance/body type characteristics*
- 3) *Explain what you are doing to actively address any disparities in any of these areas.*
- 4) *Explain how you go about preventing and combating conscious discrimination and prejudice in these areas.*
- 5) *Explain how you go about preventing and combating unconscious discrimination and prejudice in these areas. Please be aware that providing policy documents that state these discriminations and prejudices are not acceptable does not constitute an answer to these queries. Policy documents are not action. What actual actions are you taking?*
- 6) *Explain how you go about preventing and combating wrongful interpersonal behaviour such as workplace bullying and harassment even if it is not specific to any of these demographics.*

Please note that each part of your request has been numbered for ease of reference.

The Ministry of Business, Innovation and Employment (MBIE) has identified the relevant data held in scope of your request and can provide you with the following information in response.

Levels of seniority within MBIE are grouped as management (M) from the most senior level M2 to M7 and those who are employed at a staff level. Those at the staff level are not responsible for direct management of other MBIE employees. M1 has not been included as it refers to the Chief Executive, who is not employed by MBIE directly. All data provided to you in this response relates to permanent and fixed-term staff who were employed by MBIE as at 2 October 2019. The data does not include locally engaged staff based offshore.

**Questions 1 and 2a - gender pay gap and staff seniority in relation to gender**

Table 1: Current Gender Pay Gap

Gender Pay Gap (%):	<b>15.04</b>
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Table 2: Number of Employees per Gender, per Level of Seniority

Level of Seniority	Female	Male	Not Specified
M2	3	5	
M3	21	22	
M4	111	84	
M5	116	92	
M6	76	48	
M7	34	29	
Staff	2483	1428	3

It is not possible to provide information specifically regarding current employees who identify as a non-binary gender. This would fall under the category of Not Specified which also may include gender that is not declared or the result of an administrative error. Therefore, I am refusing this part of your request under section 18(g)(i) of the Act, as the information is not held.

**Questions 3 e) and f) - staff seniority in relation to ethnic origins and national origins**

The employee demographic data held at MBIE does not differentiate between an ethnic origin and a national origin. The data provided to you in response to this part of your request is defined as where an employee has self-declared their ethnicity.

Table 3: Number of Employees per Ethnicity, per Level of Seniority

Level of Seniority	Asian	European	Māori	MELLA*	Other	Pacific Peoples	Unknown
M2		8					
M3	1	30	1		6	1	4
M4	8	144	8	1	18	5	11

M5	12	148	8	2	17	10	11
M6	14	76	8	1	12	9	4
M7	11	33	9		5	5	
Staff	681	2110	256	61	349	300	157

\* MELLA stands for Middle Eastern, Latin American and African.

### Question 3 h) - staff seniority in relation to age

The data below has been collected where staff have declared their date of birth, the collection of a staff member's age is not compulsory requirement.

Table 4: Number of Employees per Age Group, per Level of Seniority

Level of Seniority	Under 20 years	20-24 years	25-29 years	30-39 years	40-49 years	50-59 years	Over 60 years	Not Recorded
M2					3	4		1
M3			1	1	17	18	5	1
M4				39	77	60	16	3
M5			1	44	73	63	19	8
M6			10	33	42	31	7	1
M7			7	20	23	11	1	1
Staff	2	267	625	1151	838	629	278	124

### Questions 3 b), c), d), g), i), j), k) and l) - staff seniority in relation to the following demographics

- b) Marital status*
- c) Religious belief*
- d) Ethical belief*
- g) Disability*
- i) Political opinion*
- j) Employment status immediately prior to be employed by yourselves*
- k) Sexual orientation*
- l) Physical appearance/body type characteristics*

Your request for information relating to the above demographics is refused under section 18(g)(i) of the Act, as the information requested is not held. MBIE does not ask nor require our employees to declare this information.

### Question 3 g) - staff seniority in relation to disability

MBIE does not require employees to disclose this type of information, except when relevant to their ability to undertake the core duties relevant to their role and to determine what reasonable accommodations are needed. Therefore, the data held in respect to staff disability is not complete as to be representative of the population of interest.

### **Question 3 i) - staff seniority in relation to political opinion**

MBIE employees are State servants and are required to act in the course of their duties in a politically neutral manner, irrespective of what their personal views may be. Political neutrality enables staff to conduct their job professionally, without favouring one political party over another in the way they work.

### **Question 3, 4, 5 and 6 - addressing demographic disparities, preventing bias, prejudice and addressing wrongful interpersonal behaviour**

#### **Supporting Diversity and Inclusion**

In 2017, MBIE specifically identified Inclusion and Diversity (I&D) as an organisational development priority and key focus within our wider People Strategy. For MBIE, this means valuing all people and reviewing practices to ensure that, over time, MBIE reflects the communities it serves. MBIE encourages everyone to engage with the diverse range of experiences, perspectives and backgrounds of its people.

The I&D strategy and work programme was refreshed in December 2019 with actions planned towards an inclusive culture and a diverse organisation. To inform the I&D strategy, MBIE undertook an internal survey early in 2019 to understand current perceptions and experiences of inclusion and diversity. The findings from the survey also serve as a baseline from which to measure progress.

MBIE has also been running a series of People Experience sprints to better engage with various groups of staff to better understand their experience throughout the employee lifecycle at MBIE. A sprint involves pulling together a collaborative cross-functional project team over a two week period to discover the current experience within MBIE and co-design and test options with our people before designing a solution. These sprints provide a rich source of information towards building an inclusive, diverse and supportive culture.

MBIE also supports a number of related staff networks and programmes including:

- Women in Leadership; a staff-driven network that encourages women in all positions to take opportunities to lead, influence and achieve their career goals;
- Te Aka Matua – Māori Staff Network Forum, a staff-driven kaupapa that encourages and supports all MBIE staff to participate in Māori events. Te Aka Matua supports cultural capability, diversity and inclusion throughout the organisation;
- Ngāi Kahukura - Rainbow Network, a staff-driven network that encourages and supports the LGBTQI+ community within MBIE;
- Te Aumangea - Mental Health Network, a staff-driven network to promote the interests of MBIE people with experience in mental health issues; and
- Tupu Tai, an internship programme that supports Pasifika students to explore career pathways within the public sector.

MBIE has also recently established its first Inclusion and Diversity Council. The purpose of this Council is to help ensure MBIE's I&D strategy and work programme works for our people, and to support and encourage employee led networks.

## **Supporting diversity through recruitment**

MBIE supports diversity through the recruitment process and uses policy and practices to ensure the best person is appointed for genuine reasons relating to the role. The policy statements which apply to this are:

- Recruitment and selection decisions are open, honest, consistent, fair and merit based, hiring the best person for the role;
- Recruitment and selection decisions are professional and objective, with selection based on disclosed relevant, specific selection criteria;
- MBIE is committed to being an inclusive organisation that values, promotes and supports diversity;
- MBIE employees can seek a review of an appointment and there are clear procedures to support this.

The actions that MBIE undertakes to ensure that the statements are fully supported are as follows:

- All permanent roles, and temporary roles of longer than six months are advertised, to ensure all staff have an opportunity to apply;
- MBIE selects against criteria relevant to the specific role, which is disclosed to applicants through the advert and position description. The criteria does not include factors that are not relevant to the role specifically, for example, a qualification is only required where it is genuinely necessary, otherwise “equivalent experience” is accepted;
- Tools are available, such as a shortlisting matrix, to encourage objectivity throughout the process, and to test that applicant scores are consistent against the confirmed criteria required;
- The recruitment team work with managers to think more broadly about roles advertised, to encourage a diverse range of applicants, i.e. different locations, flexible hours and remote working;
- Interview panels are made up to reflect MBIE’s diversity where appropriate;
- A review process is in place for staff if they believe MBIE have not achieved their responsibilities in appointing the best person for the role.

MBIE is also committed to providing work arrangements and environments for our employees that balance personal priorities with professional commitments. This includes but is not limited to family, culture, community, voluntary work and wellbeing.

In addition, MBIE actively encourages flexible working arrangements. Flexible working is where we make changes to when, where and how we work. As a large employer, our threshold for declining requests for flexible working is high compared to what it would be for a small or medium sized business. This means that we will fully support any reasonable proposal for flexibility.

## **Reducing the gender pay gap**

The gender pay gap is a key focus in the I&D strategy. MBIE continues to reduce the gender pay gap year on year, and ensures causal factors continue to be identified and remediated where possible. MBIE’s gender pay gap has been steadily reducing from 20.2 per cent in June 2016 to 15.04 per cent in October 2019, as noted earlier in this response.

MBIE has targets in place to close the gender pay gap which are also in alignment with Government expectations, and has recently established a joint action group with the Public Service Association (PSA) to review our 2019 Gender Pay Action Plan and redevelop a plan for 2020.

The Career and Pay Progression (CAPP) framework, recently implemented in association with the PSA, was designed to resolve identified issues associated with pay, market alignment, high turnover in frontline roles and opportunities for career progression. The CAPP framework provides MBIE with a strong platform on which to plan further initiatives in the Gender Pay Action Plan.

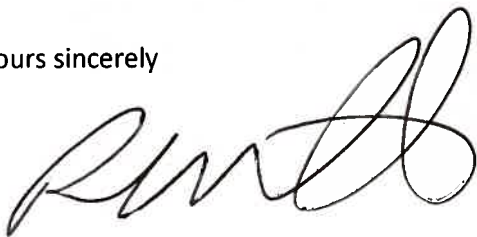
### **Combating prejudice and addressing wrongful interpersonal behaviour**

An unconscious bias online learning module is available to all staff, supporting our people to gain insight and promote an inclusive culture at MBIE, and as part of our re-developed I&D work programme, further learning modules will be scoped and developed. In addition to this, MBIE's Code of Conduct sets the expected behaviour of all current staff. It focuses on acting fairly, impartially, responsibly and in a trustworthy manner, all of which are key to MBIE's work as public servants. The Code of Conduct highlights a need to be fair and respect the backgrounds, differences and perspectives of all people we work with. Where behaviour breaches these requirements, this is dealt with as an employment relations matter.

MBIE treats any allegation of bullying, harassment or discrimination extremely seriously and has a policy and procedure in place to guide the actions that follow when a complaint is made. Bullying and harassment complaints are handled sensitively and with urgency by MBIE's Wellbeing, Health and Safety team. A copy of the policy and procedure have been attached for your information.

I trust that you find this information helpful. You have the right to seek an investigation and review by the Ombudsman of my decision to withhold information relating to this request. The relevant details can be found at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Richard Griffiths', written in a cursive style.

Richard Griffiths  
**General Manager People & Culture**





**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

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# **Procedure for Managing Workplace Bullying and Harassment**

June 2018

Version 3

HSW-HW-Pr-1

# Procedure for dealing with workplace bullying and harassment

This procedure outlines how the Ministry of Business, Innovation and Employment (MBIE) manages workplace bullying and harassment. This procedure includes information:

- for the person being bullied
- for the person being identified as the bully
- on what to do if you observe bullying behaviour

It also includes information on:

- MBIE's response to workplace bullying and harassment
- the role of trusted people (union delegates, Health, Safety and Wellbeing team, HR and mental health first aiders)
- how to report a workplace bullying and harassment incident
- three steps to manage reports of workplace bullying and harassment
- three approaches to manage an incident: initial, informal or formal approach
- general principles for dealing with workplace bullying and harassment incidents

## Person being bullied or harassed

**If you think you're being bullied, collect information about each incident.**

Keep records of:

- date, time and where it occurred
- what happened – who was there, what was said/done and by whom
- if there were witnesses – if so note down their details
- how the incident made you feel.

**You could:**

- **Seek advice and support:**
  - check what you're experiencing by talking with a trusted person – friend, manager or co-worker
  - seek advice from manager, co-workers, mental health first aiders, union delegate, Health, Safety & Wellbeing team or HR (a trusted person)
  - have a support person – this would not be the same person who may be providing support to the person you believe may be bullying you
- **Deal with it yourself:**
  - approach the person you believe may be bullying you to talk about your concerns. Only do this if you feel ok to do so
- **Report the incident:**
  - review the Workplace Bullying and Harassment Policy and this process, including:
    - how to report a workplace bullying and harassment incident
    - three steps to manage reports of workplace bullying and harassment

Name of document: Procedure for Dealing with Workplace Bullying and Harassment

Date of issue: June 2018

Approved: 1 June 2018

Procedure author: Advisor, Workplace Bullying and Harassment

Next review: June, 2019

Procedure owner: GM, Enterprise Risk & Assurance



## **Person against whom a complaint of bullying or harassment is made**

**If you have had an informal complaint of bullying raised against you:**

- if this can be resolved with no further action (i.e. it is withdrawn), you will not be informed of the allegation
- if the allegation is not resolved, a formal complaint will be made

**If you have had a formal complaint of bullying raised against you, you can expect to be notified about:**

- the details of the incident report and who made it
- the process and your rights (including having a support person)
- the requirement for confidentiality
- the possible consequences and outcomes
- expectations of behaviour during the process (Code of Conduct)
- interim measures that will be taken by the Principal Advisor Health, Safety and Wellbeing, to ensure the safety and welfare of all individuals identified in the incident

You should consider what has been said and how the person who reported the incident may be thinking/feeling, to have made this complaint.

You can seek advice from others including your manager, Health, Safety & Wellbeing team or HR. You shouldn't have the same support person as the person reporting the bullying.

## **What to do if you observe bullying behaviour or harassment**

Bystanders can have an important role when dealing with bullying and harassment, or suspected bullying and harassment.

**What you could do:**

- if you feel safe, you could use words and actions to safely and effectively help a person being bullied – speak up to the person involved about unreasonable behaviour
- if you don't feel safe raising issues with the person you believe is bullying, make sure you let the person being bullied know that you're aware of the behaviour and it's not right
- make a record of the events – who, when, how and what was happening
- make sure the person being bullied is okay and aware of what they can do to get help
- you can report bullying on someone's behalf
- make sure you're feeling safe and supported too
- review the Workplace Bullying and Harassment Policy and this process, including:
  - how to report a workplace bullying and harassment incident
  - three steps to manage reports of workplace bullying and harassment.

## **MBIE's response to workplace bullying and harassment**

MBIE has obligations as a good employer to provide a safe environment. To support this, MBIE has general principles and processes in place to:

- ensure reporting incidents is easy and confidential
- take reasonable steps to ensure the person reporting, and witnesses, are protected from reprisals
- ensure all parties (including the person against whom a bullying claim is made and third parties raising a claim on behalf of someone else) are supported through the process and kept informed, including follow up
- put interim measures in place to protect the safety and welfare during any investigation – including how the parties will communicate and work during this time.

### **Anonymous reporting**

Bullying can't be reported anonymously.

- The nature of these incidents means we must gather all facts, so we can fully investigate and deal with any incident, and support all parties.
- Our system allows confidential reporting and at all times information will be kept within a closed group of agreed people.
- Once a formal complaint is made, this confidentiality extends to the alleged bully, who will be provided with the details of the incident report and who made it.
- Our process supports all workers, to remove any fear of reprisals.

### **Health, Safety & Wellbeing team manages reports of bullying and harassment**

The Health, Safety & Wellbeing (HS&W) team manages reports of bullying and harassment:

- the HS&W team is the initial reporting point
- the HS&W team manages the investigation process and deals with the parties, up to the point where HR may need to be involved
- the Wellness Advisor heads the management of reports and is supported by the wider HS&W team, as required
- the HS&W team is trained in no blame incident investigation, and how to handle incidents in an unbiased way
- the email address for reporting bullying and harassment incidents is on the Link. The emails go to a closed group email inbox, managed by the Principal Advisor Health, Safety and Wellbeing.

### **The role of trusted people**

An initial step for any worker believing they may have been bullied or harassed is to seek support to assist with what to do in these situations. In the first instance, a person may discuss the matter with a manager. If this is not appropriate, then the matter can be raised with a trusted person. MBIE has identified these trusted people as:

- Health, Safety & Wellbeing team members
- Health & Safety Reps
- Human Resources team members

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- Union Delegates
- Mental Health First Aiders (when trained).

The expectation is that a trusted person ensures that the worker has a non-judgmental person to speak to in the first instance. They are responsible for ensuring the worker is aware of the policy and procedure about bullying and harassment and have accessed the information on what is and what is not bullying.

Trusted people are not to offer opinions on the information that has been shared, but are about ensuring the safety of the parties and that they have access to the right information. They may suggest following the process and/or accessing EAP.

A job description of a Mental Health First Aider is being developed and will have greater detail on the training and responsibilities of this role. For more information email [safetyandwellbeing@mbie.govt.nz](mailto:safetyandwellbeing@mbie.govt.nz).

## How to report a workplace bullying and harassment incident

### To report an incident:

Send an email to: [safetyandwellbeing@mbie.govt.nz](mailto:safetyandwellbeing@mbie.govt.nz)

### The minimum information required when you are reporting an incident is:

- date, time and place where the incident happened
- what happened – who was there, what was said/done and by who
- if there were witnesses – note down their details.

## Steps to manage reports of workplace bullying and harassment

The Principal Advisor Health, Safety and Wellbeing will follow three steps once a bullying and harassment incident is reported.

- Step 1: Review email and start the case file.
- Step 2: Contact the person reporting the incident.
- Step 3: Decide what approach to take. Taking into account the seriousness of the incident, parties involved and steps already taken

## Step 1: Review email and start the case file

The Principal Advisor Health, Safety and Wellbeing will review the email report of the bullying and harassment incident.

This review includes the following details:

- start a case file (and assign the case file a unique number)
- update the Bullying and Harassment spreadsheet (confidential) with:
  - date reported
  - date/s of incident/s
  - MBIE business group
  - Who are involved, for example, is it alleged manager/co-worker/subordinate/customer bullying
- review initial information in the report and assess against the guidance in the [Bullying prevention toolbox](#). This is just an initial assessment and the final decision may be different once all the facts are collected.
- if there is no clear evidence/indication that bullying has happened, the Principal Advisor Health, Safety and Wellbeing will let the person reporting the incident know, and provide other support if needed.
- if the incident isn't bullying, but is about another type of undesirable behaviour, or if it's a malicious, frivolous, or troublesome complaint, the Principal Advisor Health, Safety and Wellbeing will follow the processes for dealing with these behaviours. It might be that the incident is handed to Human Resources or line managers to manage.

## Step 2: Contact the person reporting the incident

The Principal Advisor Health, Safety and Wellbeing will contact the person reporting the incident and let them know the process.

This process includes:

- explaining what will happen if it's concluded that the situation isn't bullying
- setting up a meeting (or call) to start collecting facts – and reminding the person reporting that they can have a support person with them
- making sure the person reporting is feeling safe – if they're not, the Principal Advisor Health, Safety and Wellbeing will discuss how the situation could be made safer during the investigation
- asking the person reporting what type of outcome they're seeking/what will work for them
- reminding the person reporting that it's a no blame investigation – the Principal Advisor Health, Safety and Wellbeing will gather the facts, look at ways to resolve issues and make recommendations to improve the situation
- letting the person reporting know that the Principal Advisor Health, Safety and Wellbeing will need to speak to the other party and any witnesses listed.

### Step 3: Decide what approach to take

The Principal Advisor Health, Safety and Wellbeing, in conjunction with the Head of Health, Safety and Wellbeing will decide what approach to take.

There are three types of approach:

- 3a) initial approach
- 3b) informal approach
- 3c) formal approach.

When deciding on the approach, the Principal Advisor Health, Safety and Wellbeing will consider:

- the views of the person reporting (or person involved in the incident), when deciding on the approach
- if lower level approaches have already been taken
- Some incidents may be more serious or complex in nature because they:
  - happened over a long period of time
  - involve multiple workers or vulnerable workers
  - or repeated incidents from the same respondent
- For more serious or complex incidents, consideration will be given to:
  - establishing a fourth tier review group
  - establishing a third tier group to make the decision, following the investigation

It may be appropriate to use more than one approach if the first attempt isn't successful.

#### Step 3a: Initial approach

The aim of the initial approach is to raise the concerns over behaviours in a way that has the minimal intervention. This approach would be communicated as the "first step" - if the Principal Advisor Health, Safety and Wellbeing thinks the person reporting is experiencing behaviours that make them feel uncomfortable.

The initial approach may include the following actions:

- encouraging the person reporting that they need to speak up if the behaviour doesn't feel right. For example, the person reporting could address it directly with the person using the behaviour, but only if they feel safe to do so.
- the person reporting can also speak to someone they trust, including a Wellness First Aider, Health and Safety representative, HS&W team, HR, union delegate or a manager. This will help the person reporting to get an objective view of whether the behaviours they're experiencing are unreasonable or are appropriate management actions.
- speaking to the person against whom bullying is alleged to remind them of expected behaviour standards and our [Code of Conduct](#). This could be done by a third party, especially if the third party has witnessed the behaviour.

### Step 3b: Informal approach

The aim of the informal approach is to stop the unreasonable behaviour and restore a productive working relationship between the parties. Throughout the informal approach, the Principal Advisor Health, Safety and Wellbeing will be mindful of the personal safety of parties and possible reprisals.

This approach:

- is designed to resolve concerns through dialogue, without a formal complaint
- isn't disciplinary and doesn't disadvantage those involved
- can have positive results and be dealt with quickly – the person against whom the complaint of bullying is made accepts the feedback and the unreasonable behaviour ceases
- may result in the person against whom the complaint of bullying is made having a negative reaction and not changing their behaviour. If this is the case, the formal approach may be warranted.

The Principal Advisor Health, Safety and Wellbeing will keep records of conversation details, times and dates, and follow this process:

- a) once the person reporting the alleged bullying emails the report to the HS&W team, the Principal Advisor Health, Safety and Wellbeing will identify any risks and take steps to reduce these risks
- b) the Principal Advisor Health, Safety and Wellbeing will speak to the person against whom the complaint of bullying is made:
  - i. as people can become defensive and rationalise their behaviour, clear boundaries are needed to show the person against whom the complaint of bullying is made what is and isn't acceptable.
  - ii. the Principal Advisor Health, Safety and Wellbeing will let the person against whom the complaint of bullying is made know that they can have a support person present during all meetings, if required.
- c) if requested, the Principal Advisor Health, Safety and Wellbeing will organise early mediation:
  - i. the goal of mediation is to reach an agreement that's understood by all parties. Any agreement is put in writing and becomes an official record of the incident
  - ii. both parties should request mediation and agree to participate
  - iii. mediation can be used as part of the informal approach (or the formal approach below)
  - iv. during the informal approach, the "mediation" may just be a meeting chaired by a member of the HS&W team
  - v. mediation for either the informal or formal approach, if requested, involves:
    - a trained and impartial mediator sitting with all parties concerned (and their support people)
    - trying to get an agreement and way forward
- d) it's important that mediation creates a safe and constructive environment
- e) the Principal Advisor Health, Safety and Wellbeing will set a follow up period with the person reporting, to ensure bullying and harassment behaviours have stopped.



### Step 3c: Formal approach

The process for the formal approach is as follows:

- a) raise and receive a formal complaint
- b) appoint the investigator
- c) decide what to do
- d) follow-up with parties involved
- e) ongoing monitoring.

#### ***a) Raise and receive a formal complaint***

- i. Raising and receiving a formal complaint can be done by:
  - the person reporting the bullying and harassment incident, or
  - a member of the HS&W team, if they believe there's a serious issue
- ii. A formal complaint must be made in writing and sent to the HS&W team. The complaint should be as specific as possible and needs to include the specific allegation, behaviours, dates, times and names of any witnesses. On receiving a formal complaint, the Principal Advisor Health, Safety and Wellbeing will:
  - take reasonable steps to protect the person raising the formal complaint from reprisals
  - ensure that the privacy of all parties is maintained
  - ensure all parties are supported (access to EAP and or support systems)
  - organise an investigation and communicate the process to all parties
  - decide if security or interim measures are needed for either party – this may include removing a party from the environment while the investigation takes place. If this is required, HR will provide assistance to manage this process
  - give guidance to all parties on how to respond to each other, if they remain in day to day contact.
  - keep in touch with all parties during the process, to ensure everyone's welfare
- iii. The subject of the formal complaint will be notified by the Principal Advisor Health, Safety and Wellbeing as soon as possible and notified about:
  - the details of the complaint and who made it – including a copy of the formal complaint and any investigation material
  - the process being taken and their rights – including support person
  - the requirement for confidentiality and non-victimisation
  - possible consequences – if it becomes a formal employment investigation that could result up to and including dismissal
  - expectations of behaviour during the investigation.

## ***b) Appoint investigator***

- i. An investigator will be appointed by the Principal Advisor Health, Safety and Wellbeing. The investigation will be carried out by an unbiased and experienced investigator (external if the matter is extremely serious or can't be unbiased):
  - the person in charge of the investigation or resolution process shouldn't be directly involved in the incident and must avoid any professional or personal bias
  - workers need to be assured by the Principal Advisor Health, Safety and Wellbeing of the impartiality of the investigator – if either party has concerns there may be a need to change investigator or go external
- ii. The investigator will develop a plan that covers:
  - expected timeframes – investigation and solving the complaint
  - how the complaint will be investigated
  - who'll receive copies of statements and records of interviews
  - who can be present at interviews
  - whether parties can refuse to participate and likely outcomes if they do
  - what support will be available for parties
- iii. The investigator will interview all parties and witnesses involved, and review any relevant documentation to determine the facts
- iv. The investigator will consider all the facts and make a decision on recommended solutions.
- v. The investigator will provide a written report on the findings and the recommended solutions. These could include mediation or actions that may require input from HR.
  - mediation involves a trained and impartial mediator sitting with all parties concerned (and their support people), to try to get an agreement and way forward
  - it's important that mediation creates a safe and constructive environment.

## ***c) Decide what to do***

- i. The Principal Advisor Health, Safety and Wellbeing handling the formal complaint reviews the findings and recommendations from the investigator, and recommends what to do:
  - this may require a discussion with HR for advice but not for HR to take over the process at this point.
- ii. If the allegation can't be proven:
  - it doesn't mean there aren't behaviours that need to be addressed, so the Principal Advisor Health, Safety and Wellbeing needs to find ways to return the parties to a constructive working relationship
  - the situation may require mediation or addressing other organisational issues that may have contributed to the complaint
  - the situation may also include counselling for the person raising the formal complaint, if the complaint is found to be distressing
  - the Principal Advisor Health, Safety and Wellbeing will set a review period with all parties to check in on the situation.

- iii. If the complaint is upheld, HR will be involved and a decision must be made on how to:
  - address the bullying
  - protect the person raising the formal complaint from further bullying or reprisals – set a check in period
  - make the person bullying accountable for their conduct – including any circumstances that may have led to the behaviour. This may include asking the person bullying to apologise and agree to change their behaviour, giving a formal warning, or taking other disciplinary action – after HR involvement.

Note – where a case is of a more serious or complex nature, consideration will be given to establishing a fourth tier review group and a third tier group to reach a decision.

- iv. Meet with each party separately to discuss the formal complaint – explain rights to appeal and what that process is. The person against whom the complaint of bullying is made should have the opportunity to respond to allegations and findings in the report.

#### ***d) Follow up with parties involved***

- i. With any outcome, the Principal Advisor Health, Safety and Wellbeing should regularly check in with all parties after the agreed actions have been taken (or no action if that was required). This will ensure that old behaviours haven't crept back in, all parties feel supported and the business can monitor the success of the process.

#### ***e) Ongoing monitoring***

- i. Outcomes of investigations will help to identify if current policies, process and systems are working to reduce bullying and deal with incidents or formal complaints successfully.
- ii. Reviews of the bullying and harassment data will help keep the senior leadership team informed on progress to manage this workplace risk, and could also identify areas where more support and training is needed.

### **Formal complaint if withdrawn**

If someone withdraws a formal complaint partially through the process, it's important that the Principal Advisor Health, Safety and Wellbeing reviews the information available. If the unreasonable behaviour has been uncovered, this will still need to be dealt with and intervention from HR may be required.

### **Natural justice**

When investigating allegations of bullying behaviour, the concept of natural justice must come into play for both parties.

#### ***What natural justice can look like during an investigation***

Before taking any action against the subject of the formal complaint, the Principal Advisor Health, Safety and Wellbeing should:

- raise allegations/concerns with the subject of the complaint
- carry out an impartial and independent investigation into the allegations/concerns
- give the subject of the complaint a reasonable opportunity to respond to the allegations/concerns

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- genuinely consider the explanation given by the subject of the complaint.

Other principles include:

- making sure the decision-maker is as impartial as possible
- treating workers equally, avoiding “disparity of treatment”
- allowing support people and/or representatives to be present
- maintaining privacy (confidentiality).

## General principles for dealing with workplace bullying and harassment

MBIE uses these principles when dealing with bullying and harassment incidents.

MBIE principle	What does it mean?
Treat all matters seriously	<ul style="list-style-type: none"> <li>• Take all complaints and reports seriously. Assess all reports on their merits and facts.</li> <li>• Ensure the internal and external people who deal with the incident/formal complaint are trained to do a fair and thorough investigation, and use the principles of natural justice.</li> </ul>
Act promptly	<ul style="list-style-type: none"> <li>• Deal with reports quickly, courteously, fairly and within established timelines.</li> </ul>
Ensure non-victimisation	<ul style="list-style-type: none"> <li>• It’s important to ensure that anyone who raises a bullying or harassment incident isn’t victimised for doing so. In addition, whomever the complaint is made against and any witnesses should be protected from victimisation. This should also be the case if the claim is withdrawn or unsubstantiated.</li> </ul>
Support all parties	<ul style="list-style-type: none"> <li>• Once an incident has been reported/formal complaint has been made, both parties should be told what support is available. For example, employee assistance programmes or peer support systems.</li> <li>• Treat all parties involved with sensitivity, respect and courtesy.</li> <li>• Anyone involved is entitled to have a support person present at interviews or meetings. For example, a Health and Safety Representative, Wellness First Aider, contact person, a union or friend.</li> </ul>
Be neutral	<ul style="list-style-type: none"> <li>• Impartiality towards everyone involved is critical during the process.</li> <li>• Where possible, the person in charge of the investigation or resolution process shouldn’t have been directly involved in the incidents and must avoid any personal or professional bias.</li> </ul>
Communicate the process and outcomes	<ul style="list-style-type: none"> <li>• All parties need to be told what to expect during the process, how long it will take, the reasons for any delays and what will happen at the end.</li> <li>• Give all parties clear reasons for any actions that are taken or not taken.</li> </ul>
Maintain privacy (confidentiality)	<ul style="list-style-type: none"> <li>• The process should ensure privacy for all parties involved. Details of the</li> </ul>

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	<p>matter should only be known to those directly concerned, including their representative or support person.</p>
<p>Keep good documentation</p>	<ul style="list-style-type: none"> <li>• Documentation is important to any formal investigation. Even if the issue isn't formally investigated, keep a record of all informal conversations, meetings and interviews. Include the dates and times, who was present, what was discussed and the agreed outcomes.</li> <li>• Collect data on the numbers of reported incidents/formal complaints and types of outcomes achieved. This data doesn't include reporting on actual details that can identify individuals in reporting.</li> </ul>

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**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

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# Workplace Bullying and Harassment Policy

June 2018

Version 3

HSW-HW-P-2



## Purpose

The purpose of this policy is:-

- to outline MBEs principles and commitment to the provision of a safe work environment and respectful work culture.
- to ensure that all workers know their role and contribution to the provision of a safe and respectful workplace.

## Scope

This policy applies to all MBE employees, managers, other employees, contractors and volunteers (Workers as defined by Health and Safety at Work Act 2015) working in the organisation.

The policy covers behaviours that may occur in the workplace, between work associates, during work events (such as a conference or training) and outside the workplace if it is in the context of the employment relationship or affects the workplace.

## Help

In the first instance, discuss with a manager (if appropriate) or colleague. If this is not appropriate, discuss with a Wellness First Aider, the Principal Advisor Health, Safety and Wellbeing, a member of the Enterprise Risk & Assurance (ER&A) Health, Safety and Wellbeing team, Human Resources team, a union delegate (where applicable) or other support person, about the options.

## Policy statements

MBE aims to provide a safe and enjoyable work environment for all workers and requires high standards of personal behaviour consistent with its Code of Conduct; being accepting of diversity and doing the right thing.

### Principles

- All workers are expected to show respect and courtesy in their interaction with others in the course of their work.
- All workers should have ready access to the complaint and investigation process if they feel that they have been bullied or harassed.
- Complaints will be dealt with in a timely manner and with sensitivity and confidentiality, as far as possible while ensuring the principles of natural justice are met.
- All workers will be protected from intimidation, victimisation, and discrimination when making a complaint, having a complaint made against them or assisting with an investigation, whether the complaint is withdrawn, unsubstantiated or upheld, under the Workplace Bullying and Harassment Policy.

## Definition of terms

In this policy, harassment has the definitions as set out in the Human Rights Act 1993, the Employment Relations Act 2000, and the Harassment Act 1997, which are summarised below. The bullying definition is from WorkSafe New Zealand's definition in their best practice guidelines.

### Bullying

Workplace bullying is defined by WorkSafe New Zealand as the repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

Repeated behaviour is persistent and can involve a range of actions over time.

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Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating, or threatening a person.

The following are examples of some of the behaviours that may be associated with bullying:

- Constant blaming for errors
- Extreme criticism of target's ability
- 'Rules' made up or misapplied
- Insults and put-downs
- Ignoring accomplishments
- Unreasonable demands
- Shouting and verbal aggression
- Taking credit for other's achievement
- Selective sharing of information (unless there are genuine business reasons)
- Isolating or ignoring a worker on a constant basis
- Social exclusion

## Harassment

Where a person is subjected to repeated or one-off inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, at the place of work and/or in the course of employment that:

- expresses hostility against or intimidates or ridicules them
- is unwanted, hurtful or offensive to the worker, and affects their performance or job satisfaction
- carries/promotes/suggests a negative connotation about a person's actual or perceived characteristics, ethnicity, race, colour, national origin, sex, gender, disability, sexual orientation, gender identity/expression or religion.

Examples of harassment are:

- requesting contact or activity of a sexual nature which contains an implied or overt promise of preferential treatment or detrimental treatment in employment; or
- subjecting a worker to language (written or spoken), visual material or physical behaviour that might reasonably be perceived by the receiver to be unwelcome or offensive or of such a significant nature that it has a detrimental effect on that person's employment, job performance or job satisfaction.
- this includes but is not limited to:
  - telling or circulating offensive jokes
  - making comments about cultural differences
  - offensive labels
  - making derogatory remarks about groups or the attributes of groups on the basis of difference.

Incidents of harassment that are determined to fit the definition of sexual and racial harassment will be referred to HR to manage.

## What is not bullying and harassment

Occasional differences of opinion, conflicts, and problems in working relationships are part of working life and do not necessarily constitute bullying or harassment. This can reasonably include assertively expressing opinions that are different from others, or having a free and frank discussion about issues or concerns in the workplace. This does not, however, include discussions descending into personal insults or intimidating language or behaviour.

Fair management coaching, managing under-performance or other legitimate actions in accordance with MBIEs' policies and procedures are not harassment or bullying. Nor are targeted affirmative action policies, parental leave provisions, or reasonable accommodation and provision of work aids for staff with disabilities, etc.

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Additional information about what does and does not constitute bullying can be found on the WorkSafe website in the [Bullying prevention toolbox](#).

### Who might be involved

Bullying and harassment can occur:

- between co-workers (including direct reports to their manager)
- where a senior worker uses their position of authority to take advantage of another worker or to control or affect the career, salary or job of that worker
- in dealing with contractors, clients or members of the public.

### How to deal with bullying/harassment

See [Procedure for Managing Workplace Bullying and Harassment \[PDF 453KB\]](#)

Any person who feels they have been subject to or has observed workplace bullying or harassment has a number of options open to them:

- initial approach
- informal intervention
- formal intervention

It is expected that if a third party observes behaviour that could be perceived as bullying or harassment, they have an obligation to report this so it can be investigated.

### Anonymous reporting

Bullying and harassment can't be reported anonymously.

- The nature of these incidents means we must gather all facts, so we can fully investigate and deal with any incident, and support all parties.
- Our system allows confidential reporting and at all times information will be kept within a closed group of agreed people.
- Once a formal complaint is made, this confidentiality extends to the alleged bully, who will be provided with the details of the incident report and who made it.
- Our process supports all workers, to remove any fear of reprisals.

## Key accountabilities and responsibilities

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

### Chief Executive

- Role models authentic leadership to promote MBIEs' principles and commitment to the provision of a safe work environment and respectful work culture.
- Approves this policy and procedures.
- Is responsible for the Ministry meeting its obligations under this policy.

### Senior Leadership team and Policy and Procedures Sub-Committee

- Role models authentic leadership to promote MBIEs' principles and commitment to the provision of a safe work environment and respectful work culture.

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- Are responsible for reviewing and endorsing this policy and associated procedures or recommending changes to the policy.

#### Deputy Chief Executive(s)

- Role models authentic leadership to promote MBIEs' principles and commitment to the provision of a safe work environment and respectful work culture.
- Embed this policy in their business groups.
- Ensure their business groups are compliant with this policy.

#### Policy Owner (General Manager, Enterprise Risk & Assurance)

- Ensures the policy is working effectively through regular monitoring and reporting of compliance to the policy.
- Promotes awareness of this policy, in particular during orientation for new staff.

#### Managers

- Ensure a safe and respectful work environment and assist with any complaints or investigations in a sensitive, competent and fair manner.
- Ensure their behaviour is not offensive or harmful to others.
- Ensure that new workers know where to find a copy of this policy and the Procedure for Dealing with Workplace Bullying and Harassment and understand their options for next steps.
- Promote awareness of this policy, in particular during orientation for new staff.

#### Principal Advisor Health, Safety and Wellbeing

- When informed of a bullying and harassment incident the Principal Advisor Health, Safety and Wellbeing will:
  - ensure that the employee has a copy of this policy and the Procedure for Dealing with Workplace Bullying and Harassment and understands their options for next steps
  - ensure that appropriate support is in place for the parties concerned with the complaint
- A worker may find it difficult or embarrassing to instigate a complaint of bullying/harassment. Where an approach has been made by someone who believes they are being bullied or harassed the Principal Advisor Health, Safety and Wellbeing will ensure that the person has appropriate support (e.g. through an Employee Assistance Programme or counsellor).
- Ensure the rights of the person accused of bullying/harassment ("the respondent") are also protected. The respondent will also be offered support and be given the opportunity to seek representation if appropriate and time to prepare a response. There should be no presumption ahead of a proper investigative process that the respondent has engaged in bullying/harassment.
- Ensure that the process set out in the Procedure for Dealing with Workplace Bullying and Harassment is followed at all times.
- Compile data to enable accurate reporting of outcomes of incidents raised.
- Escalate incidents:
  - that require formal intervention to HR if an outcome could be disciplinary action
  - incidents of harassment that could be deemed to fit the definition of sexual or racial harassment

Note – where a case is of a more serious or complex nature, consideration will be given to establishing a fourth tier review group and a third tier group to reach a decision.

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## Health, Safety & Wellbeing Team

- When informed of a bullying and harassment incident the Health, Safety & Wellbeing team will:
  - ensure that the employee has a copy of this policy and the Procedure for Dealing with Workplace Bullying and Harassment and understands their options for next steps
  - ensure that appropriate support is in place for the parties concerned with the complaint.
- Promote awareness of this policy, in particular during orientation for new staff.

## Human Resources

- When informed of any incidents of bullying and harassment, HR will forward these to the Principal Advisor Health, Safety and Wellbeing to action and will:
  - ensure that the employee has a copy of this policy and the Procedure for Dealing with Workplace Bullying and Harassment and understands their options for next steps
  - ensure that appropriate support is in place for the parties concerned with the complaint.
- Promote awareness of this policy, in particular during orientation for new staff.
- Take responsibility for managing incidents of sexual or racial harassment, in line with HR procedures.
- When informed of incidents that require disciplinary action, HR will involve managers in line with HR procedures for action.

## Workers

- All Workers have a responsibility to ensure that their behaviour is not offensive or harmful to others.
- Anyone who believes they or someone else at work is being harassed or bullied should take immediate, appropriate steps to raise it.
- Anyone who observes this type of behaviour must report it to the Health, Safety and Wellbeing team.

## Mandatory procedures

See [Procedure for Managing Workplace Bullying and Harassment \[PDF 453KB\]](#)

## Related MBIE policies and documents

[MBIE's Code of Conduct](#)

[Protected Disclosure Procedure](#)

[Addressing Conduct and Behaviour Policy and Procedure](#)

## Relevant legislation and regulations

[Employment Relations Act 2000](#)

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

[Harmful Digital Communications Act 2015](#)

[Human Rights Act 1993](#)

[Harassment Act 1997](#)

[Crimes Act 1961](#)

[Protected Disclosures Act 2000](#)

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## Measures of the success of the policy

This policy will be monitored by the Enterprise Risk & Assurance Branch and measures for success are:

- accurate reporting of actual incidents of bullying and harassment being reported
- over time a lessening of the
  - amount of incidents recorded
  - the percentage of EAP referrals being attributed to bullying and harassment
  - reports via exit interviews of workers leaving because of bullying and harassment
- positive feedback via employment surveys.

## Consultation processes in developing or reviewing this policy

This policy was developed in consultation with Human Resources, Enterprise Risk & Assurance Health, Safety & Wellbeing, business managers across MBIE, PSA, Rainbow Network and MBIE workers through a Link article and at drop in sessions and workshops in Wellington, Napier, Christchurch, Hamilton, Auckland and Palmerston North.

## Compliance management

The Enterprise Risk & Assurance Branch will oversee the general compliance with this policy through internal reporting.

### Compliance reporting and information

Compliance information regarding this policy will be provided to the Compliance Team of Risk and Assurance on a quarterly basis.

## Training and communication

The policy will be posted on the policy section of the Intranet (The Link).

Procedures and any other supporting documents will also be available on The Link.

The policy will be promoted in news articles on The Link, manager updates, stand-ups and special events (e.g.: pink shirt day) will be planned to promote the policy and awareness.

An on-line module supporting the policy and procedures will be developed.

Any staff appointed in management roles will be provided with appropriate training to manage staff in a supportive manner and foster resilience.

Any staff appointed to the ER&A Health, Safety & Wellbeing team and Wellbeing First Aiders will undergo Wellbeing First Aid training to enable them to support staff going through issues around bullying and harassment.

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