



Te Pūkenga

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9 December 2024

Lauren Doocy

By email: fyi-request-29199-dc864e1d@requests.fyi.org.nz

Tēnā koe Lauren

Request under the Official Information Act 1982

Thank you for your email of 14 November 2024, requesting the following information from Whitireia and WelTec | Te Pūkenga – New Zealand Institute of Skills and Technology (Whitireia and WelTec), your queries have been numbered for ease of reference:

- 1. Please provide rates/numbers of bullying, harassment, discrimination and sexual assault complaints for Whitireia and Weltec over the past five years. Please provide copies of any reports or reviews related to this.*
- 2. Please provide rates/numbers of protected disclosures at Whitireia and Weltec since the new law was introduced in 2022.*
- 3. Please provide all policies, procedures and guidelines, related to bullying, harassment, discrimination, sexual assault and protected disclosures. Where these are not available, provide guidance on what processes and guidance Whitireia and Weltec follow in these instances, whether they are in development, and if not, why not.*

This letter provides a formal decision on your request under the Official Information Act 1982 (OIA).

The decision

Due to the nature of your queries, we have interpreted your request to be in relation to kaimahi (staff) rather than ākonga (students). Your questions and Whitireia and WelTec responses are set out below.

Question One

Between 1 January 2020 and 22 November 2024 there have been 26 kaimahi complaints received at Whitireia and WelTec that fall within the scope of your request. These complaints are set out by calendar year in the table below.

Calendar year	2020	2021	2022	2023	2024*
Number of complaints	4	6	7	5	4

*as at 22 November 2024

These figures include any type of complaint that makes reference to bullying, harassment, discrimination or sexual assault, and includes complaints related to negative behaviour associated with these topics. In line with the policies and procedure documents noted below, all of these complaints have been either informally or formally investigated and documented.

There have been no reports or reviews of the complaints in addition to our standard procedures on these matters.

Question Two

There have been no protected disclosures at Whitireia and WelTec since the new law was introduced in 2022.

Question Three

The five documents listed below fall within the scope of your request ie. are directly related to bullying, harassment (including sexual harassment), discrimination and protected disclosure. Three of these are publicly available and can be found at the links below, a copy of the fourth and fifth is attached.

- Kaupapa-here | Protected Disclosures (Whistleblowing) Policy
www.tepūkenga.ac.nz/assets/Policies/2022-policies/National-Protected-Disclosures-Policy.pdf
- Ngā Hātepe | Protected Disclosures (Whistleblowing) Procedure
www.tepūkenga.ac.nz/assets/Policies/2022-policies/National-Protected-Disclosures-Procedure.pdf
- Kaupapa-here | Bullying, Discrimination and Harassment Policy
www.tepūkenga.ac.nz/assets/Policies/Bullying-Discrimination-and-Harassment-Policy.pdf
- Addressing Bullying, Harassment and Discrimination Procedures
Copy attached as Document One in **Appendix One**.
- Staff Concerns and Complaints Procedures
Copy attached as Document Two in **Appendix One**.

You have the right to make a complaint to the Ombudsman under section 28(3) of the OIA if you are not happy with this response. Information about how to do this is available at www.ombudsman.parliament.nz or by calling 0800 802 602.

We may publish our OIA responses and the information contained in our reply to you on our website. Before publishing we will remove any personal or identifiable information.

Ngā mihi



Gus Gilmore
Tumuaki | Chief Executive



Taikura – Quality Management System

B5.1-P8 Addressing Bullying, Harassment and Discrimination Procedures

1. Introduction

- 1.1 These procedures give effect to B5 People and Capability Policy.
- 1.2 The Institutions are committed to providing a safe and positive working environment which is free from bullying, harassment and discrimination.
- 1.3 These procedures provide a process to address complaints in relation to bullying, harassment and discrimination by staff.
- 1.4 The procedures apply to all staff members and include all contractors.

2. Definitions

- 2.1 **Bullying** is repeated and unreasonable behaviour directed towards a staff member or a group of staff that can lead to physical or psychological harm.

Repeated behaviour is persistent (occurs more than once) and can involve a range of actions over time.

Unreasonable behaviour in this context refers to repeated action/s of victimising, humiliating, intimidating or threatening a person. Bullying may also include harassment, discrimination or violence.

Some examples of bullying:

Direct	Indirect
Belittling remarks, undermining integrity, sense of judgement questioned	Giving unachievable tasks/impossible deadlines Constant criticism of work Unreasonable or inappropriate monitoring
Ignoring, excluding, isolating	Meaningless tasks
Ridiculing, insulting, teasing, sarcasm	Withholding or concealing information
Being shouted or yelled at	Undervaluing contribution – taking credit for work that is not their own Excluding, isolating, ignoring views
Physical attacks	Offensive sanctions (denying leave where there is no reason to do so)

Bullying does not include:

- one-off or occasional instances of forgetfulness, rudeness or tactlessness
- setting reasonable performance standards
- constructive feedback and valid advice or peer review

- a manager requiring reasonable verbal or written work instructions to be carried out
- disciplinary action in line with the *Code of Conduct* and relevant procedures
- a single incident of unreasonable behaviour
- reasonable management actions delivered in a reasonable way
- differences in opinion or personality clashes that do not escalate into bullying, harassment or violence

2.2 **Harassment** is unwanted or unjustified behaviour that is humiliating, offensive or intimidating to a staff member/s and has a detrimental effect on their employment, job satisfaction or performance at work. Harassment can be spoken, written, visual or physical acts. To be considered harassment the behaviour must either be repeated or of such a significant nature that it creates a risk to the health (psychological and physical) and safety of the staff member/s.

2.3 **Sexual harassment** is language, visual material or physical behaviour of a sexual nature which is unwelcome or offensive to an employee, and which is either repeated or significant enough that it has a detrimental effect on the staff member's employment, job performance or job satisfaction. Sexual harassment occurs if a staff member directly or indirectly asks another staff member for sexual intercourse, sexual contact, or any other form of sexual activity.

Their request contains an implied or overt:

- a) promise of preferential treatment in their present or future employment status if they accept
- b) threat of detrimental treatment in that staff member's present or future employment status if they reject the request

Some examples of sexual harassment:

- personally sexually offensive comments or jokes
- unwanted comments or teasing about a person's sexual activities or private life
- offensive hand or body gestures
- physical contact such as patting, pinching, or touching

2.4 **Racial harassment** is unwelcome language, visual material or physical behaviour that directly or indirectly expresses hostility against, brings into contempt, or ridicules an employee on the grounds of their race, colour, ethnicity or national origin, which is offensive or hurtful to the staff member and which is either repeated or so significant that it has a detrimental effect on that person's employment, job performance or job satisfaction.

Some examples of racial harassment:

- making offensive remarks about a person's race
- copying or making fun of the way a person speaks
- making jokes about a person's race
- calling people by racist names
- deliberately mispronouncing or mocking people's names.

2.5 **Discrimination** refers to practice that results in a staff member who is in a similar or same situation being treated less favourably than any other staff member due to a prohibited ground. Prohibited grounds under law are gender, marital or relationship status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, sexual orientation as well as being affected by domestic violence and involvement in union activities.

3. Roles and Responsibilities

All staff are responsible for fostering a working environment which is free from bullying, discrimination and/or harassment.

4. Principles

- 4.1 The Institutions do not tolerate bullying, harassment, sexual harassment and discrimination of any nature.
- 4.2 Complaints of bullying, harassment and discrimination are treated seriously, confidentially and acted on promptly and fairly and where substantiated, are considered serious acts of misconduct resulting in disciplinary action including dismissal.
- 4.3 All parties involved are treated with sensitivity and respect.
- 4.4 The complainant and the subject of the complaint have the right to seek independent advice.
- 4.5 The subject of the complaint has an opportunity to present evidence and respond to the information supplied in the complaint.
- 4.6 All parties may engage a support person to assist them during the investigation process.
- 4.7 All parties to the complaint are kept fully informed of their rights and obligations under this process and of the progress of the complaint resolution.
- 4.8 Anyone making a complaint of bullying, harassment and discrimination is protected from retaliation or victimisation from the person/people subject to the complaint or any other person in the Institutions.
- 4.9 Malicious, false or dishonest complaints are treated as misconduct in accordance with the Performance, Behavioural and Conduct Concerns Management Procedures.

5. Informal Process

- 5.1 If the staff member feels comfortable to do so, they speak directly with the person who is causing the problem. If the staff member feels that they are not in a position to do so without causing further stress or issues, the staff member/s with a support person or can speak directly with their Manager or HR Advisor.
- 5.2 After considering the nature of the complaint, the Manager or HR Advisor may with the consent of the complainant, convene a meeting between the parties, to discuss the issue and agree on a way forward or resolution that helps continue the employment relationship.
- 5.3 If the issue is not resolved using the informal process, the staff member may elect to follow the formal process below.

6. Formal Process

- 6.1 A formal complaint should be lodged in cases where:
 - a) The Informal approach has not resolved the problem.
 - b) The complaint is serious that, if substantiated, could result in disciplinary action being taken. In this situation, the complainant is to be advised by his or her supervisor / manager or the Director People and Capability that a formal complaint is the most appropriate option.
- 6.2 The complainant may lodge a formal complaint by filling out the complaints form and sending to their HR Advisor.
 - a) The investigation procedure is conducted according to the complaints' procedure.
 - b) If the complaint is substantiated, potential disciplinary action may include:
 - warnings
 - suspension
 - dismissal

- c) Retaliation, victimisation or discrimination against a complainant is not tolerated and anyone engaging in such behaviour may be subject to disciplinary action.

7. Third-party Accredited Investigation Process

- 7.1 Where a complaint is received and facilitation of mediation/ investigation process does not work or is rejected by parties, a third party (independent) accredited investigator may be appointed to investigate the complaint.

8. Related documents

- *B5-R1 Code of Conduct*
- *B5.1-P6 Performance Behavioural and Conduct Procedures*
- *B5-Px Staff Complaints Procedures*
- Employment Relations Act
- Human Rights Act
- Work Safe – Preventing and responding to bullying at work

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Taikura – Quality Management System

B5.1-P1 Staff Concerns and Complaints Procedures

1. Introduction

- 1.1 These procedures give effect to *B5.1 People and Capability Policy*.
- 1.2 *B5.1-P6 Performance, Behavioural and Conduct Management Procedures* and *B5.1-P8 Addressing Bullying, Harassment and Discrimination Procedures* address complaints from, and about staff members (and contractors) in relation to their conduct and behaviour.
- 1.3 Concerns or complaints can be dealt with at an informal level or may warrant a more formal investigation.

2. Principles

- 2.1 All parties are treated fairly and in accordance with the principles of natural justice.
- 2.2 The complainant and the subject of the complaint have the right to seek independent advice.
- 2.3 Concerns are resolved informally at the lowest possible level and with those directly involved wherever possible.
- 2.4 Information related to concerns or complaints is confidential and is only disclosed to those directly involved on a 'need to know' basis.
- 2.5 The staff member who is the subject of the complaint has an opportunity to present evidence and respond to the information supplied in the complaint.
- 2.6 All parties may engage a support person to assist them during the process.
- 2.7 All parties to the complaint are kept fully informed of their rights and obligations under this process and of the progress of the complaint resolution.
- 2.8 Complainants and the subject of the complaint is protected from retaliation or victimisation from parties to the complaint or any other person in the Institutions.
- 2.9 Malicious, false or dishonest complaints are treated as misconduct in accordance with the *B5.1-P6 Performance, Behavioural and Conduct Concerns Management Procedures*.

3. Informal Process for Concerns

- 3.1 Informal action is appropriate when:
 - The staff member/person with a concern wants it dealt with informally.
 - The allegations are less serious.
 - There is a chance of quickly preventing a problem before it develops.
 - The parties involved are likely to have an ongoing working relationship.
- 3.2 If the staff member/person with the concern feels comfortable to do so, they speak directly with the staff member who is causing the problem.
- 3.3 If the staff member/ person with the concern feels that doing so may cause further stress or issues, the complainant could approach the staff member with a support person or directly with their manager or HR Advisor.

- 3.4 When a person approaches a Manager/HR Advisor with a concern, the Manager/HR Advisor, with the consent of the person raising the concern, convenes a meeting between the parties, to discuss the issue in an attempt, in good faith to resolve the issue, to help continue the working relationship and have the concern resolved as quickly as possible.
- 3.5 Depending on the nature of the issue, an external facilitator may be engaged to facilitate a meeting between the parties.
- 3.6 If the issue is not satisfactorily resolved using the informal process, the person with the concern may escalate it to a complaint and elect to follow the formal process below.

4. Formal Process for Complaints

- 4.1 A formal complaint is lodged in cases where:
- the informal approach has not resolved the problem
 - the complainant opts for the formal process
 - the allegations are serious and may amount to serious misconduct under the Code of Conduct (for example bullying, sexual harassment)
 - disciplinary action is a possible outcome if the allegations are substantiated
 - the person raising a concern has been victimised for complaining
 - the complaint is against a senior person and a formal procedure helps ensure the people involved are not disadvantaged
- 4.2 In the cases outlined in 4.1, the relevant supervisor/manager or the Director People Services advises the complainant that a formal complaint is the most appropriate action.
- 4.3 The complainant may meet with their HR Advisor and discuss the issue before lodging a formal complaint.
- 4.4 The complainant lodges a formal complaint by completing the [Staff Complaints Form](#) which contains the following information:
- Name and contact details
 - Description of issue
 - Supporting evidence
 - Details of attempt/s if any, to resolve the concern informally
- 4.5 The complainant submits the form online or emails the completed form to hrenquiries@wandw.ac.nz where it is directed to the People Services Manager or appropriate HR Advisor for action. The complaint is logged in the Staff Complaints Register where the relevant HR Advisor monitors it until the complaint is resolved.
- 4.6 Within three (3) working days of receipt of the complaint, the People Services Manager/HR Advisor refers it to the appropriate manager to lead the handling the complaint.
- 4.7 The Manager in consultation with People Services refers to the *B5.1-P6 Performance, Behavioural and Conduct Management Procedures* to determine the best course of action. Particular attention is paid to the Procedural Fairness section and the Conduct Concerns section when the complaint allegation indicates a potential breach of the *B5-R1 Code of Conduct*.
- 4.8 Once the decision is issued to the staff member, the HR Manager/Advisor notifies the complainant whether the allegations of the complaint was upheld.
- 4.9 The People Services team regularly report the number and nature of complaints received to JLT.

5. Related Documents

- [Employment Relations Act](#)
- [Privacy Act 2020](#)
- [Protected Disclosures Act 2000](#)

- *B5.1 People and Capability Policy*
- *B5-R1 Code of Conduct*
- *B5.1-P6 Performance, Behavioural and Conduct Management Procedures*
- *B5.1-P8 Addressing Bullying, Harassment and Discrimination Procedures*

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