

## WORKING IN A SITUATION LIKELY TO CAUSE SERIOUS HARM PROCEDURE

Section	University Services
Contact	Director Occupational Health & Safety, Wellbeing
Last Review	November 2023
Next Review	November 2025
Approval	Director Occupational Health & Safety, Wellbeing

### Purpose:

The purpose of this procedure is to identify:

1. The right that staff members have to refuse to do work that they believe may cause them serious harm, and
2. The process to be followed when refusing to do such work.

### Scope

All Massey University Managers and staff members.

The term “Manager” covers any staff member with authority to supervise other staff, visitors, and persons with business at Massey University. Manager includes titles such as: Vice Chancellor, Pro Vice Chancellor, Assistant Vice Chancellor, Head of Department, Head of School, Head of Institute, Head of College, Head of Section, Director, Manager, and equivalent titles.

### Procedure

1. A staff member may refuse to do work if they believe that the work that they are required to perform is likely to cause serious harm to themselves or others.
2. A staff member who refuses work as described above may continue to refuse to do the work provided:
  - 2.1. The staff member attempts to resolve the matter with the University as soon as practicable after first refusing to do the work; and
  - 2.2. The matter is not resolved; and
  - 2.3. The staff member believes on reasonable grounds that the work is likely to cause serious harm.

(Note: reasonable grounds would include a situation where a Health and Safety Representative has advised the staff member that the work that the staff member is required to perform is likely to cause serious harm. However, the Health and Safety Representative must not give such advice unless they have reasonable grounds for believing that the work that the staff member is required to perform is likely to cause serious harm).

- 3 A staff member may not refuse to do work that, because of its nature, inherently or usually carries an understood risk of serious harm unless the risk has materially increased beyond the understood risk.
- 4 A staff member who refuses to do work must do any other work within the scope of the staff member's employment agreement that the University reasonably requests.
- 5 This document does not limit a staff member's right to refuse to do work under another enactment or the general law.
- 6 To avoid doubt —
  - 6.1. In situations to which this document applies, the University, staff member, and Health and Safety Representative must deal with each other in good faith; and
  - 6.2. A question about the application of this document to a particular situation is an employment relationship problem for the purposes of the Employment Relations Act 2000 (except for members of the Armed Forces), and a right of employees to refuse to perform work likely to cause serious harm for the purposes of the Health & Safety at Work Act 2015.

## **Related documents**

### Legislation

- Health and Safety at Work Act 2015
- Employment Relations Act 2000

### Legal Compliance

- Statutory requirement of Health and Safety at Work Act 2015 Section 83, 84, and 86.
- Employment Relations Act 2000 Section 54 and 65.

### Related procedures

- None