

HARASSMENT PREVENTION AND COMPLAINTS RESOLUTION POLICY

Section	People & Organisational Development
Contact	People & Organisational Development
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Purpose:

The purpose of this policy is to:

- Confirm Massey University's commitment to a work environment that is free from harassment
- Provide information to staff about what constitutes harassment
- Provide a process by which complaints can be resolved.

Principles:

Massey University is committed to providing a work environment for its staff which is free from harassment. Massey University considers any form of harassment to be unacceptable and will take all practical steps to eliminate it.

Massey University recognises that any form of harassment is likely to be harmful to the recipient's emotional and physical health. Harassment can damage working conditions and relationships and may substantially impact on a person's ability to perform by undermining their confidence, concentration and motivation.

Massey University will treat complaints of harassment seriously and will investigate such complaints fairly and sensitively.

Any staff member found to have harassed another staff member, student, contractor or visitor may be subject to the disciplinary provisions set out in their employment agreement. For those staff members covered by the Massey University Collective or Individual Employment Agreements, Part 10 refers.

University Managers are expected to monitor the work environments they manage and to take action to eliminate where possible any proven instances of harassment, bullying and/or discrimination that occur in that environment.

This policy applies to behaviours exhibited on-campus and off-campus, including work and social functions held outside of working hours, that arise from a workplace relationship or where the staff member represents Massey University. It also applies to staff members who may be on secondment or otherwise temporarily located with another organisation either in New Zealand or overseas.

This policy applies to Massey University staff members who witness harassment or think they have been harassed. Incidents where students witness harassment or think they have been harassed should be dealt with through the student harassment co-ordinators and the student grievance process.

Definitions:

Harassment is a form of discrimination and is unlawful under both the Employment Relations Act 2000 and the Human Rights Act 1993.

Harassment of any kind is defined broadly as:

Any behaviour directed towards an individual or group that a reasonable person, having regard to the circumstances would expect to insult, intimidate, victimise or disadvantage the recipient, and which is:

- *Unwelcome, hurtful or offensive to the recipient; and is*
- *Repeated, or is of such significance as to adversely affect the recipient's employment or wellbeing.*

Harassment includes but is not confined to the following categories:

i. Discrimination:

Conduct which is likely to result in less favourable treatment, or create a less favourable environment, for any person/group than for another under similar circumstances, by reason of any of the prohibited grounds set out in the Human Rights Act 1993:

- Sex, including pregnancy and childbirth
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race
- Ethnic or national origins, which includes nationality and citizenship
- Disability
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation

Discrimination may arise from official statements, actions, omissions, decisions or policies as well as from informal or personal statements or conduct. It may also be indirect, that is it may have the effect of treating someone differently on a prohibited ground, even if the discrimination is not explicit.

Affirmative actions or policies of the University to assist or advance persons as defined under the Human Rights Act 1993 are not considered to be discriminatory.

ii. Sexual Harassment:

Sexual Harassment may occur irrespective of the recipient's gender.

- It is unwanted attention of a sexually orientated nature.
- It may include an implied or express promise of reward for complying with a sexually orientated request and/or
- An implied or expressed threat of reprisal for not complying with a sexually orientated request.

Examples of sexual harassment include but are not limited to:

- Offensive verbal comments of a sexual nature;
- Sexual or smutty jokes;
- Repeated comments or teasing about someone's alleged sexual activities or private life;
- Persistent, unwelcome social invitations, telephone calls or emails from colleagues at work or at home;
- Following someone home from work;
- Offensive hand or body gestures;
- Leering or ogling;
- Unwelcome physical contact e.g. patting, pinching, touching or putting an arm around another person;
- Provocative visual material in either hardcopy or electronic media.

iii. Personal Harassment:

Personal harassment means any behaviour by a staff member, which explicitly or implicitly intimidates, humiliates, undermines or dominates another person; or involves the use of abusive and/or threatening language, verbal or physical threats; or any form of physical assault.

iv. Abuse of Supervisory/Managerial Authority:

Abuse of Supervisory/Managerial authority means conduct by a supervisor or manager in relation to a member of staff who reports to them or over whom they have supervisory or academic authority and which:

- Intimidates, humiliates or undermines another person by belittling them, or excessively, destructively or inappropriately criticising or reprimanding them, or excessively scrutinising their work; or
- Makes demands that are unreasonable or outside that other person's role; or
- Makes a demand to perform an action that is in breach of the principles of any policy of the University.

v. Bullying

Bullying is a form of personal or supervisory/managerial harassment, as described above, which is characterised by repeated and persistent, offensive, abusive, intimidating, malicious or insulting behaviour.

Overt bullying can include:

- Threats and intimidation;
- Manipulation and coercion;
- Verbally abusive or degrading language or gestures;
- Shouting, yelling; using a raised voice and unpleasant tone;
- Unexplained displays of rage;
- Nitpicking and fault finding without justification;
- Constant humiliation;
- Belittling remarks either to the recipient or behind their back;
- Unjustified threats of dismissal or other disciplinary procedures; and
- Punishment imposed without reasonable justification.

Covert bullying can include acts such as:

- Deliberately overloading someone with work and imposing impossible deadlines;
- Sabotaging someone's work by withholding information that is required to fulfil tasks;
- Hiding documents or equipment;
- Constantly changing targets or work guidelines;
- Preventing someone from receiving necessary resources and training;
- Isolating or ignoring an employee on a consistent basis; and
- Changes in the duties or responsibilities of a staff member to their detriment, without reasonable justification.

vi. What Harassment Is Not:

The following are examples of behaviours that are **not** considered to be harassment or bullying:

- 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; or which serve as a pedagogical framework and which are not targeted at individuals';
- Free and frank discussion about issues or concerns in the workplace, without personal insults;
- Legitimate criticisms made to a staff member about their behaviour or work performance (not expressed in a hostile, harassing manner);
- Issuing of reasonable instructions in line with delegated authority and expecting them to be carried out;
- Warning or disciplining a staff member in line with University policy;
- Insisting on satisfactory standards of performance in terms of quality, safety and team cooperation; and
- Giving negative feedback, including in a performance appraisal, and requiring justified performance improvement.

Unsubstantiated Allegations:

The potential consequences for someone accused of harassment are severe. Therefore an allegation of harassment against another staff member which is found to be malicious and/or unfounded could itself be considered an act of

harassment. An unsubstantiated allegation which is found to be malicious and/or unfounded may result in disciplinary action against the complainant.

This should in no way discourage a staff member from making a legitimate complaint.

Audience:

This policy applies to all University staff. This policy does not apply to students. Incidents of student harassment should be dealt with through the student harassment co-ordinators and the student grievance process.

Relevant Legislation:

- Employment Relations Act 2000
- Health and Safety in Employment Act 1992
- Human Rights Act 1993
- Privacy Act 1993
- State Sector Act 1988

The Employment Relations Act 2000 and the Human Rights Act 1993 codify forms of discrimination which are unlawful and which the University will not permit. The provisions contained in these Acts are drawn to the attention of all members of the University community. Copies of relevant Acts are available on line at www.legislation.govt.nz.

Legal Compliance:

The Employment Relations Act 2000 requires Massey University to comply with Part 9 - Personal grievances, disputes, and enforcement and Part 10 - Institutions and abide by the criteria set out in this Act.

The Health and Safety in Employment Act requires Massey University as an employer to identify hazards in the work place and if they are deemed significant either eliminate if practicable, isolate where the elimination is impracticable or minimise and protect employees where elimination and isolation is impracticable (Part 2, Sections 6-10).

The Human Rights Act 1993 prohibits Massey University from discriminating against any employee, job applicant or contractor on the grounds of sex, marital status, religious belief, colour, race, ethnic or national origin, disability, age, political opinion, employment status, family status or sexual orientation.

The Privacy Act 1993 requires Massey University to comply with its 12 Principles in regards to the collection of personal information, the manner in which it is collected and the storage and security of personal information. In addition, Massey University is required to provide the individual concerned with access to their personal information and the ability to request correction of information if necessary. The University must adhere to the limits on the use of personal information collected in that the University may only collect personal information for the intended purposes of selection for appointment of the individual and this information can not be used for any other purpose. It is essential that the personal information gathered is checked before use to ensure the information is accurate, up to date, complete, relevant and not misleading. The personal information obtained shall not be kept for longer than it is required for the purposes for which the information may lawfully be used.

The State Sector Act 1988 requires Massey University to maintain appropriate standards of integrity and conduct among employees (Section 57).

Related Policy, Procedures & Guidelines:

[Harassment Prevention and Complaints Resolution Procedures](#)
[Health and Safety policies/procedures](#)



[Policy on Staff Conduct](#)

[Use and Access to Information Technology Services Systems Policy](#)

[Conflict of Commitment and Interest Policy](#)

Advice can also be sought from

- The University's harassment support provider (EAP) 0800 327 669
- Human Resources Section (for managers)
- Employee representatives (for staff members)
- External agencies such as the Equal Employment Opportunities Trust www.eeotrust.org.nz , or the Human Rights Commission www.hrc.co.nz

Document Management Control:

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