

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

<b>Section</b>	Health and Safety
<b>Contact</b>	University Health and Safety Manager
<b>Last Review</b>	August 2014
<b>Next Review</b>	December 2017
<b>Approval</b>	University Health and Safety Manager

### 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.

### Procedure:

1. A staff member may refuse to do work if he/she believes that the work that he/she is required to perform is likely to cause serious harm to him or her.
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 to him or her.

(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 to the staff member. However the health and safety representative must not give such advice unless he or she has reasonable grounds for believing that the work that the staff member is required to perform is likely to cause serious harm to the staff member).

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 and Safety in Employment Amendment Act 2002.

---

**Audience:**

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, Registrar, 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.

**Relevant legislation:**

Health and Safety in Employment Amendment Act 2002

Employment Relations Act 2000

**Legal compliance:**

Statutory requirement of Health and Safety in Employment Amendment Act 2002 Section 28 (A), and Employment Relations Act 2000 Section 54 and 65.

**Related procedures / documents:**

Health and safety procedures and related People and Organisational Development policies are outlined on the:

- [Health and Safety website](#)
- [People and Organisational Development website](#)

**Document Management Control:**

Prepared by: University Health and Safety Manager  
Authorised by: AVC – People and Organisational Development  
Approved By: University Health and Safety Manager  
Date issued: 16 April 2014  
Last review: August 2014  
Next review: December 2017