

# Workplace Conduct Policy

## Purpose

The purpose of this policy is to provide a process for the resolution of workplace grievances and complaints, including sexual harassment and workplace bullying.

## What is bullying?

A worker (employee) is bullied at work if:

- a person or group of people repeatedly act unreasonably towards them or a group of workers, and
- the behaviour creates a risk to health and safety.

Unreasonable behaviour includes behaviour that is victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a reasonable person might see the behaviour as unreasonable in the circumstances.

Reasonable management action (such as employee direction or performance management) that is carried out in a reasonable way is not bullying.

## What is sexual harassment?

The *Discrimination Act 1991* (ACT) provides that “a person subjects someone else to sexual harassment if the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person or engages in other unwelcome conduct of a sexual nature in circumstances in which the other person reasonably feels offended, humiliated or intimidated.”

**Our Union will not tolerate inappropriate behaviour, including bullying and sexual harassment in any workplace, including our own.**

This policy explains how we will eliminate inappropriate workplace behaviour and manage grievances and complaints, with the following structure:

- Part One explains what everyone’s responsibilities are.
- Part Two explains processes for dealing with grievances and complaints relating to inappropriate workplace behaviour.

*\*NOTE: In this policy, wherever a duty is given to the Branch Secretary, it may also be carried out by the Branch President or a Vice President if it is inappropriate for the Branch Secretary to carry out that duty because they are the subject of a complaint, or because they have an irreconcilable conflict of interest.*

## Who is covered by this policy?

- Everyone who works at the Union (at all levels) including contractors and elected officials.
- All visitors including members.

## When does the policy apply?

- At our workplace.
- At work events (such as off-site training or member events).
- Outside of our workplace (when it’s related to our work).

## Part One: Roles and responsibilities

Everyone has a role in preventing inappropriate workplace behaviour.

### 1. The Union will:

#### Build a positive workplace culture:

- Not tolerate inappropriate behaviour, including sexual harassment and bullying
- Eliminate the risks from inappropriate behaviour so far as is reasonably practicable. If the risks can't be eliminated, they will be minimised so far as is reasonably practicable
- Identify factors that contribute to sexual harassment and bullying, and put effective control measures in place
- Put in place a policy that limits the amount of alcohol permitted at work functions
- Establish a work culture that is fair and free of bullying and harassment, by
  - encouraging positive leadership styles and invest in our managers to achieve this
  - focusing on behaviour rather than people, and
  - aiming to promote harmonious relationships across the Union.

#### Provide information, education, and training:

- Openly discuss sexual harassment in both formal and informal settings, and provide information and training about it including consequences of such behaviour (e.g. possible disciplinary actions)
- Set clear expectations about workplace conduct and provide information and training about bullying including the consequences of such behaviours (e.g. possible disciplinary actions)
- Make sure employees know that they have the right to raise a personal grievance under the *Fair Work Act 2009* or submit a complaint under the *Discrimination Act 1991 (ACT)* to the Human Rights Commission
- Make sure independent contractors working under a contract for service know that they have the right to submit a complaint under the *Discrimination Act 1991 (ACT)* to the Human Rights Commission

#### Respond to inappropriate behaviours:

- Make sure workers have a range of ways to report inappropriate behaviour informally, formally or anonymously
- Make sure processes and systems for reporting and responding to inappropriate behaviours are fit-for- purpose and regularly reviewed
- Train key workers (sexual harassment contact persons) to receive sexual harassment reports and give support and advice make sure workers know how to report inappropriate workplace behaviour, as well as what support, protection and advice is available to them, and their rights to representation
- Provide workers who believe they've been subjected to inappropriate workplace behaviour with a range of options to address the issue
- Provide a supportive environment to those who believe they have been subjected to inappropriate behaviour and the alleged perpetrator of the behaviour
- Treat all parties fairly/impartially while allegations are dealt with
- Seek advice from both parties as to how they wish to deal with the situation
- Promote informal solutions before formal actions where appropriate
- Aim to repair the working relationship and promote positive work values

## **2. Managers will:**

- Make sure this policy is visible to all workers, visitors, and others
- Make sure workers have clarity on what their roles entail
- Intervene early to call out and deal with any unreasonable behaviour before it escalates
- Take prompt action in response to any report of inappropriate behaviour
- Seek advice from both parties as to how they wish to deal with the situation
- Where appropriate look for other solutions before escalating an issue to higher levels (e.g. investigation)
- Provide a supportive environment to those who believe they have been subjected to inappropriate behaviour and those accused
- Treat all parties fairly while allegations are dealt with
- Record and investigate complaints impartially and in line with our Union's policies and processes.

## **3. Workers will:**

- Build a common understanding about expectations of behaviour, including an understanding about what sexual harassment and bullying is
- Behave in a manner that does not sexually harass others
- Behave appropriately towards others
- Challenge inappropriate behaviour if they feel safe and comfortable to do so
- Tell their managers or a sexual harassment contact person if they experience or see any inappropriate behaviour – if the manager is the alleged perpetrator, then advise the Branch President or Branch Secretary, or a Vice-Presidential member of Branch Executive
- Keep an eye out for other people – provide support when seeing a person being isolated or experiencing reprisals.

## **When dealing with an allegation of inappropriate behaviour our Union will:**

- Treat all matters seriously
- Make sure complaints are taken seriously, dealt with promptly and fairly and impartially investigated, and the alleged harasser is given the opportunity to offer an explanation
- Make sure investigations are completed in a timely manner
- Make sure neither the person who complained nor the alleged perpetrator are victimised (e.g. being punished, bullied, intimidated, isolated)
- Support all parties involved (including witnesses and support people)
- Find appropriate remedies and consequences for confirmed inappropriate behaviour as well as knowingly false and vexatious reports
- Communicate the process and its outcome
- Ensure confidentiality
- Keep good documentation
- Get help from specialist external advisors as required.

See Part Two for further details.

## Part Two: Processes for dealing with inappropriate behaviour

*(adapted from WorkSafe NZ's guidance)*

### What workers can do if they experience or see inappropriate behaviour

Workers could take one or more of the following four options:

#### 1. Seek advice and support

Talk with a trusted person (e.g. a friend) about what happened.

Workers could seek advice and support from others at the Union such as a colleague, their manager, one of our sexual harassment contact people (Bianca Hennessy and Jacob Dunne), the Branch Secretary or the employee assistance program (EAP).

Workers could seek advice and support from public sector agencies or other organisations (e.g. unions), helplines, counsellors, lawyers etc.

Workers can have a support person present at interviews and meetings. To avoid conflicts of interest, the same support person should not support both parties involved.

#### 2. Deal with it themselves

This means approaching the other person(s) involved to challenge their behaviour. Workers could have a support person when they do this.

**Workers don't need to do this - they should only do it if they feel safe and comfortable to do so.**

#### 3. Report inappropriate behaviour to the Union

To report the inappropriate behaviour, workers can make a written or verbal report. The Union will look into all reports.

Written reports:

- Workers may choose to make a verbal report but can make a written report if they wish.
- There is no required form for written reports. An email outlining the concerns is sufficient.
- If workers wish to access a template form, there is one attached to this policy.
- If a written report is received that requires further clarification, the person receiving the report will consult with the worker about how and when the information will be clarified.

***Workers can report inappropriate behaviour to:***

- ***one of our sexual harassment contact people – Jacob Dunne and Bianca Hennessy***
- ***their manager or***
- ***the Branch President or Branch Secretary, or a Vice-Presidential member of the Branch Executive***

#### 4. Report the inappropriate behaviour to outside agencies

Workers could instead decide to first seek help from an outside organisation (eg the Police for physical assaults and criminal harassment).

Workers could also decide to raise a personal grievance under the *Fair Work Act 2009*, or submit a complaint under the *Discrimination Act 1991* with the Human Rights Commission.

*Note: As the Fair Work Act is only relevant for employer/employee relationship problems, independent contractors should direct their complaints to the Human Rights Commission or Worksafe ACT.*

## What the Union will do with reports of inappropriate behaviour

When the Union is given a report it will do the following:

- **Take all reports of inappropriate behaviour seriously**
- **Act promptly:**
  - Set timelines and deal with reports as soon as they can.
  - Carefully and clearly consider response options for the specific circumstance.
- **Clearly communicate the process:**
  - Tell everyone involved what the process is.
  - Let the people involved know if there are delays to timelines.
- **Protect the people involved:**
  - Protect all the people involved (including both sides of the complaint, support people and witnesses) from victimisation (e.g. being punished, bullied, intimidated).
- **Support the people involved:**
  - Anyone involved can have a support person present at interviews or meetings (e.g. in-house support person, their union delegate, colleague, friend, legal representative).
  - Tell everyone involved what support and representation is available to them.
- **Maintain confidentiality:**
  - Ensure details of the matter are only known to those directly concerned (including their representative or support person) and those involved in investigating and considering the reported behaviour.
- **Treat everyone involved fairly:**
  - Get someone unbiased and trained to look into the report of inappropriate behaviour.
  - Make decisions based on the facts.
  - Clearly tell the people involved what actions will be taken (taking privacy into account).
- **Keep good documentation:**
  - Ensure actions and decisions are documented.
  - Store all information securely and where access is restricted.

### Checking how well the control measures are working

- Every year the Branch Secretary will carry out an anonymous survey asking workers about sexual harassment, bullying and other inappropriate behaviours.
- The survey will be developed in consultation with workers and the results provided to Branch Executive.
- When workers leave, the Branch Secretary and relevant manager/Branch President will carry out exit interviews (with the consent of the worker), and ask specific questions about inappropriate behaviour.

The results will be used by Branch Executive to review and if needed improve the control measures.

**This policy was developed after consultation with workers and their representatives and approved by Branch Executive and Branch Council.**

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*This policy will be reviewed yearly in July.*

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## Appendix 1: Steps in the formal investigation process

### First steps:

1. Inform the subject of the complaint as soon as possible after a complaint has been received.
2. Support everyone involved.
3. Treat the complaint confidentially – this information will only be provided to the subject of the complaint, support persons and those who will investigate/consider it.
4. Decide what interim measures to take to ensure the safety and welfare of the people involved during the investigation. Depending on the circumstances, options could include:
  - reassignment to other duties or relocation to another part of the Union until the investigation is complete
  - the subject of the complaint taking a voluntary leave of absence or being suspended pending the outcome of the investigation
  - the complainant taking leave.

### Investigation

1. Choose the investigator in consultation with the parties (someone who is trained to carry out investigations into behavioural complaints and is unbiased/not involved in the incident).
2. Prepare a terms of reference document after consulting with the parties about the intended process.
3. Engage the investigator.
4. The investigator:
  - confirms the process and timelines with everyone involved
  - interviews all parties involved and any witnesses, and reviews any relevant documentation to determine the facts
  - gives the subject of the complaint reasonable opportunity to respond to the allegations/concerns in writing and in person
  - gives the Branch Secretary, President or relevant Executive member (as appropriate) a written report on their findings.

### Resolution

1. Give the people involved a copy of the report.
2. Meet with the people involved separately to discuss the report and the actions the Union proposes to take if the complaint is upheld. Seek the views of the people involved about this.
3. Tell the people involved what the final decision is.
4. Tell the people involved what the processes are if either is unhappy with the outcome.

### Review and monitoring

1. Regularly check the wellbeing of the people involved for a period of time.
2. Repair working relationships and put things right if the situation has resulted in a hostile work environment.

## Workplace concern report

Use this form to report workplace concerns such as inappropriate behaviour. It can be used by someone experiencing or seeing sexual harassment, bullying or other inappropriate behaviour.

- If you need to, get someone you trust to help you fill it in.
- Give the completed form to the appropriate person in the organisation.

*This report will be treated confidentially. It will only be provided to the subject(s) of the complaint, support persons (including representatives) and those involved in investigating and considering it.*

Name	Add your name here.
Position within organisation	Add your position.
When did it happen?	Click here to enter a date.
Provide details of the incident, for example: <ul style="list-style-type: none"><li>- Where did it occur?</li><li>- Who was present?</li><li>- What was said or done? Who by? What's their position?</li><li>- Who witnessed this incident?</li><li>- How did this incident make you feel?</li><li>- How has this incident affected you?</li><li>- Have you taken any actions? If so, what?</li><li>- What would you like to happen next?</li></ul>	Enter details here.

- I understand that I can seek help to complete this form.
- I understand that the information provided in this report will be disclosed to the parties involved.
- I declare to the best of my knowledge the information provided in this form is true and correct.

Name or signature	Add your name here.
Date	Click here to enter a date.