
ANTI-HARASSMENT POLICY

1. Policy Statement

Te Papa is committed to fostering a workplace and culture that is free from harassment and discrimination. Harassment is unlawful and will not be tolerated. Te Papa will not condone in any circumstance the harassment of anyone, including an employee, manager, client, or visitor to Te Papa.

All forms of harassment and discrimination will be dealt with seriously. Harassment can constitute misconduct or serious misconduct. Any staff member found to have harassed another staff member, client or visitor to Te Papa will be liable for disciplinary action, up to and including dismissal.

The procedures set out in this policy are guidelines. Te Papa may adopt any appropriate process or procedure for managing complaints of harassment, provided it is a fair and reasonable process.

2. Principles

- Te Papa is committed to proactively implementing the Anti-Harassment Policy, which includes a prevention and awareness programme that includes ongoing education, training and provision of information to staff to ensure:
 - i. Information on the Anti-Harassment Policy and its implementation is freely available to management and staff throughout the organisation
 - ii. Management and staff have detailed understanding of what harassment is
 - iii. Management and staff know their rights and responsibilities, and
 - iv. That there are skilled and trained people to achieve and support the goals of this policy.
- Te Papa will treat any complaints sensitively and seriously, and will provide effective procedures to manage complaints based on the principles of natural justice.
- Te Papa will provide support to any staff member who wishes to raise an informal or formal complaint. This includes support during and after the complaint process, and protection from victimisation for anyone making a complaint.
- Te Papa will ensure that Contact Persons are available for staff to seek advice or discuss any harassment issues in confidence, and who will act with discretion in the prevention and support of any harassment issues.
- Te Papa will provide access to an external confidential support system for staff to seek advice or discuss any harassment issues.
- Unions are committed to working together with Te Papa to achieve the goals of the policy.

3. Scope of Policy

3.1 To Whom the Policy Applies

This policy applies to all Te Papa employees, including full-time, part-time, casual and contracted/fixed term staff. As outlined in the *Code of Professional Conduct* all Te Papa employees must obey the law, respect the rights of the public and their colleagues, and be familiar with and abide by Te Papa policies.

The *Contractors Code of Conduct* also provides that inappropriate behaviour such as the use of offensive or obscene language, sexual harassment, or behaviour likely to upset staff,

visitors or clients, or passers by, will not be tolerated, and that Te Papa will exclude from site any persons involved in breaches of this requirement.

3.2 Harassment by Visitors to the Museum

Harassment of Te Papa employees by visitors to the Museum or members of the public will not be tolerated. In such a case, the staff member should raise the issue immediately with the House Manager, their Manager, the Harassment Coordinator (HC) or Human Resources (HR).

3.3 Responsibility of Staff

All staff must:

- Comply with Te Papa's Anti-Harassment Policy and model appropriate behaviour at all times
- Participate in any training on the policy
- Ensure that anyone who makes a complaint of harassment is not victimised for doing so,
- Cooperate with the investigation of any complaint, including maintaining strict confidentiality.

4. Legal Framework

This policy is guided by the principles of natural justice.

Sexual and racial harassment, and discrimination constitute grounds for a personal grievance under the Employment Relations Act 2000 and a complaint under the Human Rights Act 1993. There is also a duty of care imposed on organisations under the Health and Safety in Employment Act 1992.

Relevant legislation can be located at www.legislation.co.nz or directly from Human Resources.

5. Definitions

5.1 Complainant/Respondent

For the purpose of this policy, the person making a formal/informal complaint regarding alleged harassment against them will be referred to as the "complainant".

The person whom the harassment complaint is made against (ie the alleged harasser) will be referred to as the "respondent".

5.2 Harassment, Bullying and Discrimination

The definitions of harassment, bullying and discrimination are a guide only. There may be conduct which does not come within these definitions which may nevertheless be regarded as harassment, bullying or discrimination, or which is not, but may still amount to serious misconduct. Equally, there may be conduct described in this policy which in the circumstances although it falls within the definition, does not amount to harassment, bullying or discrimination.

5.2.1 Harassment (including racial and sexual harassment)

Harassment can be defined, in broad terms, as any unwanted and inappropriate attention, approach, comment, or behaviour by one or more individual(s) to another party. This includes bullying and discrimination.

Harassment takes many forms and covers a range of verbal and/or physical behaviour.

Note:

- i. Harassment can take place even if the threats or promises were suggested or implied rather than stated openly.

- ii. The fact that an employee does not say that certain behaviour is unwelcome or offensive at the time does not mean that the behaviour is acceptable and that no harassment has taken place.

Racial harassment refers to language (spoken or written), visual material, or physical behaviour that directly or indirectly expresses hostility against, or brings into contempt or ridicule, an employee on the grounds of race, colour, or ethnic or national origins of the employee, and is hurtful or offensive to the employee.

Examples of racial harassment include racist jokes or comments; graffiti, posters cartoons; verbal or physical abuse; unwanted nicknames; or shunning a person because of their race.

Sexual harassment occurs when a person is subjected to verbal, physical, written or visual behaviour of a sexual nature by another person or group, and

- The behaviour is unwelcome and/or offensive,
- It is either persistent or an occurrence so serious as to have a detrimental effect on that person's employment, job performance or opportunities.

Examples of sexual harassment include:

- Personally offensive verbal comments about physical attributes or appearance, sexual or smutty jokes
- Physical contact such as patting, pinching or touching in a sexual way or deliberate physical contact that is unnecessary eg brushing up against a person
- Repeated comments or teasing about a person's alleged sexual activities, private life or sexual orientation
- Persistent and unwelcome social invitations or telephone calls at work or at home;
- Using or displaying words or pictures of a sexual nature (including opening and/or forwarding offensive email)
- Sexually oriented jibes or abuse
- Offensive gestures or comments
- Offering benefits in return for sex
- Indecent exposure or sexual assault, or
- Any unsolicited, unwelcome or persistent sexual advances.

Sexual harassment is **not** friendly repartee, light-hearted exchanges or occasional compliments.

5.2.2 Bullying

Bullying is when someone uses strength or power to unjustly put others down by fear or intimidation.

Examples of bullying include:

- Intimidating behaviour, sarcasm and other forms of demeaning language or threats
- Deliberate isolation of someone, verbal abuse, shouting, coercion, punishing behaviour
- Offensive behaviour that may embarrass or humiliate an employee or group of employees
- Unwanted comments or teasing
- Practical jokes which cause awkwardness or embarrassment, endanger a persons safety or negatively affect a persons performance, or
- Spreading rumours deliberately excluding or ignoring people with the intention of isolating or hurting them.

5.2.3 Discrimination

Discrimination occurs when someone is treated differently to another person(s) because of their sex (including trans-gender), marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status or sexual orientation. Discrimination in the workplace is unacceptable and unlawful.

6. Options for Dealing with Harassment or Making a Complaint

Any staff member who believes they are being harassed or is concerned that a situation of harassment may be developing or occurring is encouraged to discuss the situation with a Contact Person, Manager, Harassment Coordinator or Human Resources. The roles of the Contact Person and other relevant staff members are further explained in Section 7. *Roles of Support Staff in Complaint Process*.

There are a number of options available to staff who feel they have been, or are being, subjected to harassment or discrimination. Employees are encouraged to take action immediately.

Any staff member who believes they are being harassed and seeks assistance should consider the options available to them for dealing with the harassment as outlined below.

1. *Self-Help* – Confronting the respondent in private or writing a letter to the respondent.
 - a. *Informal Intervention* – Making a complaint to Te Papa’s Harassment Coordinator/ Management, where the process of resolution may be: informal e.g. mediation; or
 - b. formal i.e. the complaint fully investigated.

Note: Any staff member who believes they are being harassed by a client/visitor they should raise the issue immediately with the House Manager, their Manager, the Harassment Coordinator or Human Resources.

Option 1. Self Help – Confronting the Harasser in Private or Writing a Letter to the Harasser

Some people may feel they are able to deal with the problem themselves to stop the offending behaviour.

There are two self-help approaches for employees to consider:

- Clearly explain to the alleged harasser, in private, how and why their behaviour is offensive and unacceptable, describe the effect it has on them, request that it stop, and advise that a complaint may be made if the unacceptable behaviour does not. This may be done with or without the presence of an appropriate support person, **or**
- Clearly explain in writing to the person, how and why their behaviour is offensive and unacceptable, describe the effect it has on them, request that it stop, and advise that a complaint may be made if the unacceptable behaviour does not. Any written communication **must** be marked “Private and Confidential”.

Option 2. Complaint to Te Papa’s Harassment Coordinator/ Management

If the employee feels unable to deal with the situation on their own or if harassment continues following the self-help option, the employee may seek to make a complaint. The person the complaint should be made to should be appropriately trained and skilled, for example, the Harassment Coordinator; a Director; Manager/Team Leader; or Manager Human Resources.

Depending on the particular circumstances and nature of the complaint, this may be dealt with by:

- Informal intervention; or
- Formal investigation.

Informal Intervention

An informal intervention may include any of the following:

- Talking with the complainant to gather and record all the facts, including the impact of the behaviour on the complainant and what they might like to happen to resolve their complaint at that point.

Meeting the respondent privately on a one to one basis to convey the complainant's concerns, and reiterate Te Papa's Harassment Policy to the alleged harasser without assessing the merits of the case.

- If there is agreement on what happened and what will remedy the situation, the issue may be resolved confidentially between the immediate parties.
- Mediation or facilitation may be undertaken (as set out below).

Both the complainant and the respondent/alleged harasser will be informed of and have a right to representation and/or support during this process.

Mediation or Facilitation

Sometimes mediation or facilitation may be an appropriate way to resolve the issue. These are not suitable processes for determining the facts of a situation, but can be powerful tools for both parties to understand the intention and impact of the alleged behaviours and to find practical solutions that will facilitate an ongoing working relationship. Mediation or facilitation may be appropriate when:

- There is basic agreement on the facts
- Both parties are interested in trying to resolve the situation through mediation
- The harassment is of a low level, and
- An appropriately trained and skilled mediator is available who has the confidence of both parties.

Formal Investigation

Any formal disciplinary investigation will be conducted in accordance with Te Papa's Disciplinary Policy and Procedures.

Rights of Complainant and Respondent

The rights of the Complainant and Respondent are to:

- Be accompanied by a support person/legal adviser at all meetings/interviews;
- Be informed of the nature and extent of the complaint, as it relates to them;
- Respond to all relevant evidence;
- Have all contributing factors taken into account;
- Have reasonable access to support, such as Employment Assistance Programme (EAP) counselling, during the complaint process or thereafter.

Complainants should put details of their complaint in writing or advise the Harassment Coordinator, Human Resources or a Manager, and include:

- Who the complaint is about;
- What happened (including the time, date, place, what was said and done);
- How they responded and what impact the behaviour had on them;
- Any action to date to deter the harassment eg self-help or informal intervention;
- Whether anyone else witnessed the behaviour.

Te Papa will not refuse to investigate a complaint because the complainant cannot recall all the details of what happened.

Principles of Natural Justice

The rights of both parties to a formal complaint should be protected by the principles of natural justice. These are:

- Freedom from bias on the part of the person making the decision/judgement, and
- Transparency and fairness of the procedure.

Guidelines for a fair process include:

- Take a complaint seriously and act on it immediately

- Maintain confidentiality
- Give the problem resolution procedure priority and respond in a timely manner
- Inform a respondent of the allegations against them
- Give both parties a full opportunity to read/see and respond to evidence relevant to them, before a decision is made
- Give a respondent the opportunity to respond to the allegation
- Keep both parties informed about progress of an investigation
- Ensure the parties safety is protected during an investigation, including protection from retaliation or victimisation
- Consider all the evidence and weigh it carefully before deciding whether there is substance to the complaint, and
- Ensure any disciplinary action is appropriate for the conduct which occurred.

Interviewing the Complainant and Respondent

As part of the investigation, the Complainant and Respondent will be interviewed and advised:

- Who will be advised of the findings and involved in the decision making process
- That the decision maker will determine the outcome for both parties
- That they will be given the opportunity to review the notes and sign them as a true account of what has been reported
- That neither party is to speak to any possible witnesses
- That the investigation will be conducted in private and should not be discussed with anyone other than a support person.
- That the respondent will be given an opportunity to read and respond to relevant parts of the signed off interview notes made by the complainant and witnesses about the complaint.

Interviewing witnesses and further investigation

People identified by the parties as potentially having relevant information will be interviewed at the discretion of Te Papa.

Witnesses will be provided with details of the allegations only as necessary or relevant. Where this occurs witnesses will be advised that all discussions will be confidential

The investigator may also review relevant documents or request further information such as camera footage, swipe access reports, email/internet records, photographs etc.

Investigation report

Following an evaluation of the evidence, if the person carrying out the investigation is not the decision maker, a report stating the facts and the investigator's conclusion as to whether or not harassment has occurred will be produced.

The Investigator will list the allegations and determine whether harassment has occurred, and/or whether any other unacceptable or inappropriate conduct has occurred, from the evidence obtained, and outline the evidence supporting their conclusion. The Investigator can comment on any broader organisational issues that become apparent through the investigation.

The report will be given to the decision-maker as soon as practicable. The decision-maker will meet with the respondent (and if necessary and appropriate, the complainant) prior to making a decision about the outcome of the investigation, and any disciplinary action. These meetings are to enable the respondent to comment on the report outcomes/findings and the appropriateness of any action to be taken.

Investigation outcome

Where appropriate, disciplinary action may be taken against the respondent. Appropriate disciplinary action will depend on the circumstances of each case.

Where an employee is dissatisfied with the process which has been followed, they may consider other procedures. This includes:

1. *Personal Grievance/ Employment Relations Act* – Lodging a personal grievance under the Employment Relations Act 2000
2. *Human Rights Act* – Lodging a complaint with the Human Rights Commission
3. *Police/ Crimes Act* – In cases of sexual or physical assault, lodging a complaint with the Police under the Crimes Act

Depending on the nature and seriousness of the harassment, Te Papa may refer the complaint to the Police.

Although employees are encouraged to work through internal processes, the complainant may instigate any of the above options prior to initiating or completing an internal complaint.

7. Roles of Support Staff in Complaint Process

7.1 Role of Contact Person

A Contact Person is trained to provide information and support to individuals who believe they have an issue with harassment, or have concerns that a situation is developing or occurring. The Contact Person will listen to and advise the complainant on the options open to them. The complainant may wish just to talk.

The Contact Person does not undertake counselling, does not speak for a complainant and will respect the wishes of the complainant.

The role of the Contact Person is to:

- Listen sensitively to the complaint or concerns
- Explain what harassment is
- Advise of Te Papa's Anti-Harassment policy and procedures, and of rights under the relevant legislation
- Provide information on the options (self-help, informal, formal) for dealing with harassment and resolving the issue, including resolution procedures, and the Te Papa persons responsible for each procedure
- Provide support and assistance to identify the option appropriate to circumstances
- Explain any additional support services available eg Employee Assistance Programme, and
- Follow up with the complainant during the process to ensure the problem is resolved.

A Contact Person will:

- Keep details confidential, and not disclose information or discuss the situation with anyone else unless authorised by the complainant, or if the Contact Person considers someone's safety is at risk
- Support the complainant if choosing a self-help options, such as meeting with or writing to the respondent
- Explain the need for the complainant (and family and friends) to keep the allegation confidential.

The full list of contact people is attached in Appendix I.

7.2 Managers

Managers have a responsibility to:

- Make it clear to staff that Te Papa will not tolerate any form of harassment
- Model exemplary standards of professional conduct and the Anti-Harassment Policy at all times
- Ensure that the work environment does not condone language, behaviour or visual material that is unwanted by, or offensive to any staff member, and

- Have a role within Te Papa promoting and explaining the policies in these areas.

If a complaint is brought to a Manager's attention, or they suspect or witness any form of harassment, Managers must:

- Act quickly and effectively where a complaint is brought to their attention
- Treat any complaint with confidentiality and sensitivity, and
- Seek advice from and/or inform the Harassment Coordinator or Human Resources where appropriate.

7.3 Harassment Coordinator

The responsibilities of the Harassment Coordinator of Te Papa's Harassment Prevention Programme are to:

- Regularly distribute and promote the policy at all levels of the organisation, and
- Ensure Te Papa has sufficient trained Contact People able to respond sensitively to employees who seek advice on harassment (representing both genders, different cultures and accessible to all work groups).

7.5 Human Resources

Human Resources will:

- Ensure that complaints are actioned
- Provide the policy and appropriate information and training on harassment to all new staff as a standard part of the induction programme
- Provide appropriate advice and training to Managers, and
- Provide appropriate advice and training for a Harassment Coordinator.

8. Documentation/ Record Keeping

Any written records will be kept confidential and maintained in a secure environment.

If the allegation is upheld:

- Appropriate documentation will be retained on a secure HR file, and on the Respondent's personnel file.
- A note may be appended to the complainant's file to advise that further information which concerns the complainant is held on a secure HR file.

If the allegation is not upheld:

- Appropriate documentation will be retained on a secure HR file.
- Appropriate documentation will only be retained on the respondent's personnel file if, as part of the process, the respondent has been reprimanded (including informally) in relation to their inappropriate conduct.
- A note may be appended to the complainant's file indicating that further information which concerns the complainant is held on a secure HR file.
- If the complainant's complaint is found to be frivolous, malicious, vexatious, or entirely without merit, appropriate documentation may be held on the employee's personnel file.

9. Confidentiality

The processes executed at each stage of a complaint are confidential (including all details and information), and all parties involved may discuss them only with those persons who have a 'genuine need to know' as part of the investigation.

All issues raised with a Contact Person will be held in confidence until a decision for dealing with issues is determined. This means the Contact Person will not disclose any names or information until the complainant has made a decision and agreed for the information to be provided to the appropriate persons, unless the contact person considers that someone's safety is in danger.

All information regarding the complaint will be used with discretion and contained to only those that need to know.

Anyone involved in an informal or formal harassment complaint or investigation must maintain strict confidentiality, and only discuss the complaint with those who have responsibility for dealing with it e.g. their support person, union representative.

These procedures and guidelines are designed to support staff with harassment concerns, and to safeguard staff from malicious accusation.

