
HARASSMENT

Overview

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HARASSMENT

Introduction

Purpose

The purpose of this policy is to:

- Ensure all employees know their rights and responsibilities regarding workplace harassment
 - Provide procedures and guidelines for dealing with incidents of harassment
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Scope

This policy applies to all ADHB:

- Employees
 - Contractors
 - Honorary staff
 - Volunteers
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Associated Document

The table below indicates other documents associated with this policy.

Type	Document Titles
Board Policy	Discipline & Dismissal

Policy Statements

- Auckland District Health Board (ADHB) is committed to providing a workplace environment, which is free of harassment.
 - Harassment of any type is not acceptable and such behaviour will not be tolerated.
 - Harassment fails to respect a person's dignity.
 - Harassment can affect workplace:
 - Morale
 - Performance
 - Service delivery
 - All employees are responsible for:
 - Making themselves aware of this policy
 - Adhering to this policy in all forms of personal harassment.
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Definitions

Harassment

Harassment can be defined as any unsolicited and unwelcome hostile or offensive act, expression or derogatory statement, including incitement to commit such behaviour, which causes distress or offence to an individual.

Harassment may be direct or may be imposed by indirect means. It may be overt or implied and may constitute language, visual material or physical behaviour.

The behaviour may either be repeated or be a one-off incident which is significant enough to have a detrimental effect on an individual or group.

Harassment may be focused on an individual's or group's race, colour, gender, physical characteristics, sexual orientation, disability or any other distinguishing characteristic.

In most cases, harassment is an attempt by one person to inappropriately exert power over another person. However, harassment may be unconscious or stem from ignorance, but the intention or motive of the alleged harasser is not relevant when determining whether the behaviour was offensive and unwelcome.

Harassment can take place between:

- A worker and a manager
- Co-workers
- A worker and a patient
- A worker and another person in the workplace

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Definitions, Continued

Sexual Harassment Sexual harassment is any unwanted, unwelcome, or uninvited behaviour of a sexual nature, which makes a person feel frightened, humiliated, intimidated or offended.

Sexual harassment may take many forms including the following:

- Requests for sexual activity which carry overt or implied threats or promises regarding the employee's employment
- Sex-oriented gestures or comments
- Sex based insults, taunts, teasing or name calling
- Unwanted and deliberate physical contact
- Persistent and unwelcome social invitations or telephone calls
- Leering and suggestive staring at a person or parts of their body
- Obscene phone calls
- Sending sexual material
- Displaying offensive material including that displayed by electronic means such as offensive screen savers
- Innuendo, including sexually provocative remarks and suggestive or derogatory comments about a person's physical appearance

Racial Harassment Behaviour which express hostility against or brings into contempt or ridicule another person on the grounds of the colour, race, ethnic or national origins of that person.

Specific examples include:

- Jokes or songs of a racial nature
- Mocking others' accents
- Deliberately mispronouncing names
- Racial or ethnic oriented jibes or abuse
- Displaying offensive material
- Distribution of racist material
- Using ADHB's facilitator to recruit persons to racist organisations or groups

This list is not exhaustive and ADHB recognise that behaviour that may be regarded as harmless, trivial, a joke or acceptable by one person may be racial harassment to those who find offence.

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Definitions, Continued

Other Forms of Harassment

Other types of harassment can include the sort of behaviour that might cause distress or offence ranges from overt behaviour such as physical assault to covert behaviour, such as continually undermining a colleague.

The following are indications of types of behaviour that may constitute harassment and should not be considered an exhaustive list:

- Bullying
- Physical or verbal assault
- Embarrassing, threatening, humiliating, patronising or intimidating remarks
- Belittling opinions or constant criticism
- Spreading of malicious, unfounded rumour
- Subjecting a person in the workplace to unreasonable scrutiny
- Undermining another's authority/standing in the workplace
- Setting menial or alternatively unattainable work targets/objectives
- Isolating or excluding a person in the workplace (eg dealing with him/her through a third party)
- Publicly insulting/humiliating a person in the workplace;
- Engaging in favouritism (both overt and covert)
- Sabotaging or impeding work performance by deliberately withholding work-related information and/or resources or by supplying incorrect information

Harassment covers many activities, events and situations which may occur in the workplace. Often a person accused of harassing behaviour may be unaware of the effect that their behaviour is having on particular persons. This may be because the behaviour is common and generally thought to be acceptable in a particular office or workplace.

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Definitions, Continued

Other Forms of Harassment, continued

However, no behaviour which causes distress to another employee is acceptable. All employees need to consider their own behaviour and that of their colleagues and reflect whether it might be unacceptable or offensive.

It is the responsibility of the manager or supervisor to ensure that no form of harassment takes place at the workplace and this includes ensuring that a culture of unacceptable behaviour is not allowed to develop. Employees should be given clear guidance about what is acceptable and what is not acceptable.

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Obligations & Liability

Obligations & Liability

ADHB has obligations under the Employment Relations Act 2000 and Human Rights Act 1993 to actively address complaints of harassment made by or against staff. Failure to do this may result in ADHB becoming liable for remedies in the event of a successful action being taken by a complainant.

All reported instances of harassment will be treated seriously and if substantiated may result in the disciplinary process being invoked. One possible outcome is termination of the harasser's employment.

Complaints made by or on behalf of patients/clients will be investigated through the ADHB Complaints Process.

Duty of Managers & Supervisors

Managers and supervisors have responsibilities to manage and supervise their employees, particularly with regard to unsatisfactory performance of duties. Therefore, personal harassment must not be confused with advice and comment from managers and supervisors regarding an individual's work performance. Such comment and advice may include critical statements and feedback, along with ongoing monitoring and review of performance.

Managers and supervisors have a positive duty to establish and maintain a workplace free from personal harassment and have a responsibility to make employees aware of what behaviour constitutes personal harassment.

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Harassment Incident Options

Purpose To outline what an employee should do if they believe they are being harassed.

Process There are a number of different options available. Which option is taken depends on the seriousness of the incident/s and the ability of the individual to deal with the issue.

Whilst employees are encouraged to resolve complaints at an informal level, employees may approach the situation from any of the four stages described below:

- Approach the harasser
 - Informal intervention
 - Formal complaint or
 - Formal complaint to an external body
-

Approach the Harasser You may wish to confront the perpetrator. An individual who feels they have been harassed can tell the perpetrator that their behaviour is offensive to them and request that it stop.

The individual should talk to, or write to, the harasser and:

- Explain that their behaviour is unacceptable
- Ask them to stop
- Refer to this policy, which states that “harassment can be defined as any unsolicited and unwelcome hostile or offensive act, expression or derogatory statement including incitement to commit such behaviour, which causes distress or offence to the individual”

In some instances however, it may be difficult or unsafe for this to take place. Therefore, there are a number of other options available as listed below.

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Harassment Incident Options, Continued

Informal Intervention

An individual can discuss the situation with their manager or someone from a [support team](#). Together they may decide to approach the perpetrator directly, write them a letter or request a meeting.

Managers and support team members must ensure that all discussions are held in confidence (with a support person present, if appropriate), with the complainant.

The manager should listen to the complainant, discuss formal and informal options and outline possible outcomes. The complainant should not be made to feel that they should take certain actions because of their responsibility to other employees. It must be stated that there will be no victimisation of the complainant.

If the complainant wishes, the manager should contact the alleged harasser on an informal basis with a view to resolving the complaint without formal action. The alleged harasser should be advised that it is an informal meeting but they may be accompanied by a support person, union representative or sexual harassment contact officer.

Notes must be made of the meeting between the manager and the complainant and agreed by both. Notes must also be made of any meeting between the alleged harasser and the manager. The manager should retain these notes.

If the outcome of the informal complaint is not satisfactory to the complainant, he or she should be informed of the process for taking formal action.

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Harassment Incident Options, Continued

Formal Complaint

An individual can make a formal complaint to ADHB. A formal complaint should be put in writing outlining specific details of the complaint and given either to their manager or the Human Resources Manager for their area. (A Staff Incident Form is not to be used for this purpose)

ADHB will appoint an investigator who will conduct a preliminary inquiry. Following this inquiry, the investigator will determine whether the formal disciplinary policy is to be invoked and an investigation carried out.

The complainant will be given the opportunity to comment on the preliminary investigation and the decision to invoke the investigation process.

Throughout the investigation process it is important that accurate records are kept and that the confidentiality of all people involved is maintained.

If as a result of the investigation process a complaint is substantiated, management will take appropriate steps to ensure that:

- Suitable disciplinary action is taken against the perpetrator
- Suitable support is available to the complainant
- The harassment is not repeated
- Suitable education/training is provided to the perpetrator
- If as a result of the investigation process the harassment is deemed to constitute serious misconduct, the perpetrator may be dismissed.
- Refer to the Discipline and Dismissal Policy for further information.

Formal Complaint to an External Body

An individual has the right to make a formal complaint to the Human Rights Commission.

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Making a False Complaint

Making a False Complaint

It is defamatory to make a false statement about someone which is likely to harm his or her reputation. Complaints found to be false may result in disciplinary action being taken against the complainant.

If making a complaint you should ensure that you:

- Provide a true and accurate description of events
 - Discuss the harassment only with those who need to know
 - Speak about the harassment in private
-

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Support Available

Purpose To provide information about available support systems

Support Team At ADHB there are a number of individuals who are specially trained in dealing with personal harassment.

These include:

- Human Resources Managers
- Occupational Health and Safety Staff Support team

Their role is to:

- Provide employees with information on personal harassment and clarify any questions or concerns they may have
 - Provide confidential advice on the options that are available for dealing with personal harassment
 - Support an individual who wishes to confront the perpetrator themselves
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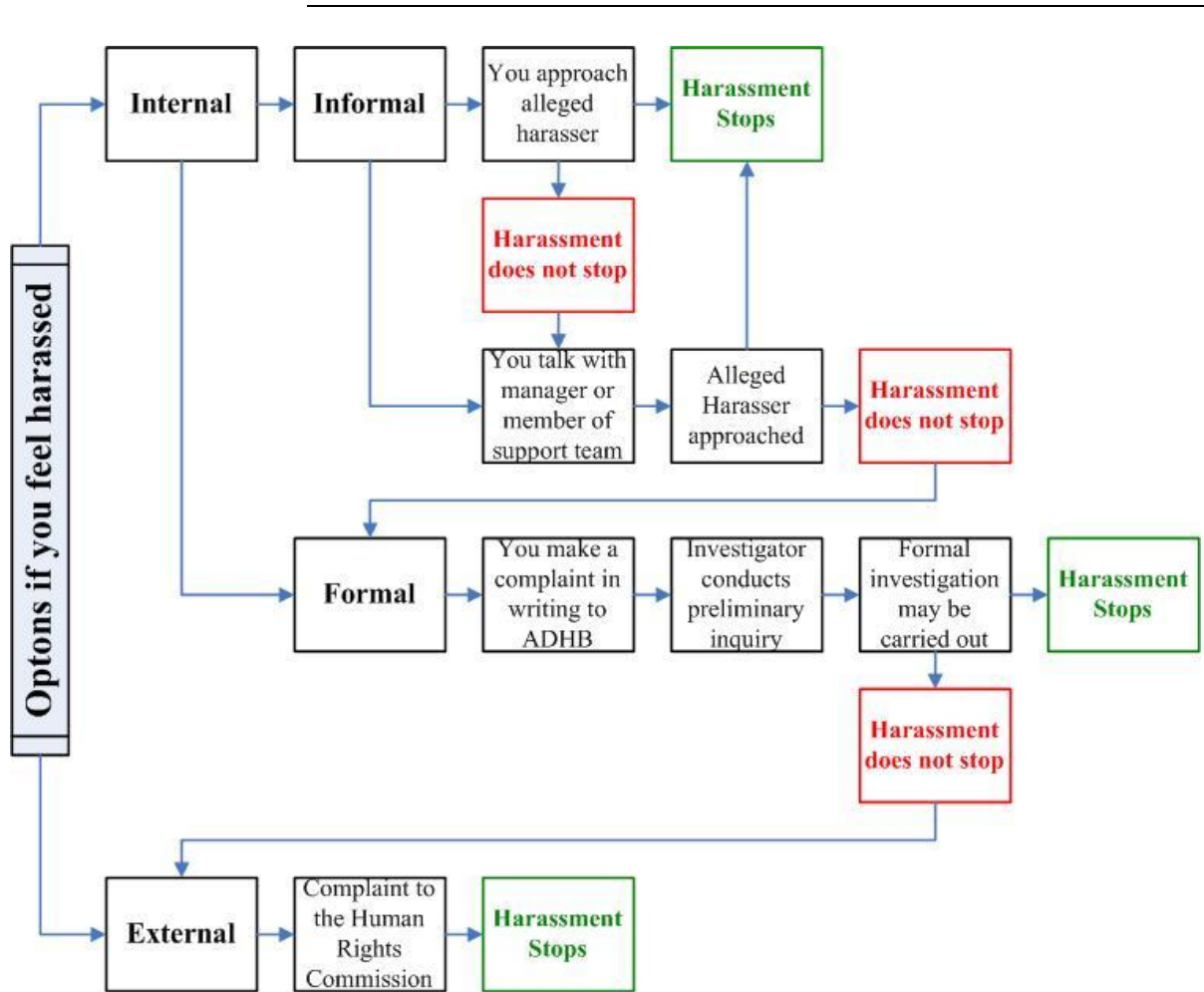
Other Support Alternatively, an individual may seek support and guidance from another individual they choose as a support person. This could be another employee, a manager, union representative, whanau, family doctor, or solicitor.

Any individual approached, as a support person must be aware of the requirement to regard any information discussed with them as confidential.

Human Rights Commission The Human Rights Commission is a statutory body, which administers the Human Rights Act 1993. The commission's primary functions are to promote human rights through education of the public and to investigate and attempt to resolve complaints of discrimination. The Commission's website is www.hrc.co.nz and its toll free number is 0800 496 877.

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Options if you Feel Harassed – Flowchart



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