

PURPOSE

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EIT is opposed to any form of unacceptable behaviour and as an institution, we accept responsibility for providing and maintaining a work and learning environment free from unacceptable behaviour.

All members of the EIT community have an individual and collective responsibility for their behaviour. They must ensure that they neither perpetrate nor tolerate unacceptable behavior in the working or learning environment, including whether on campus, a field trip, a clinical placement or participating in an activity organised by EIT.

Where unacceptable behaviour issues arise, it is a shared responsibility to ensure they are dealt with effectively and fairly. In some circumstances a low-key, non-adversarial and informal approach to resolve concerns can be the most effective and satisfactory way of dealing with unacceptable behaviour. Intervene early, intervene light and make sure there is a shared understanding as to who is responsible for what.

However, a low-key approach is not always possible or appropriate depending on the seriousness of the allegations and the views of the person (or group) raising the concern. EIT also recognises that there can be a fundamental trust, power and status differentials implicit in the relationship between senior and less senior staff and also in teacher to student relationships; this can impact upon people's experiences of unacceptable behaviour. All members of the EIT community must be mindful of and sensitive to those differentials, particularly when responding to or assessing complaints.

EIT reserves the right to take immediate action to defuse or make safe a situation of unacceptable behaviour.

Unacceptable behaviour can come to EIT's attention through either an aggrieved party lodging a formal or an informal complaint; or an incident being reported; or where unacceptable behaviour is observed. EIT encourages all staff and students to raise concerns about unacceptable behavior and it will strive to create a culture where people feel comfortable speaking up.

The principles of natural justice will apply to the investigation of any complaint. Care will be taken during any investigation to take all reasonable steps to prevent any disadvantage to the complainant or respondent. Complaints or incidents of unacceptable behaviour will be addressed as quickly as possible.

EIT is committed to maintaining confidentiality for the parties involved. However, EIT may be required to disclose information to investigate and address a complaint, in order to comply with the principles of natural justice and its good faith obligations, or to address a serious incident or risk. EIT may also sometimes have to share information where required by law. EIT may however

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choose not to share confidential information (including a complainant's or witness' identity) in certain situations, including circumstances involving a potential risk to the health or safety of any individual.

Any complaint that is found to be false, vexatious or made for an ulterior motive, or any obstructive or otherwise inappropriate behaviour during a complaints process, may result in sanctions being applied through the appropriate disciplinary process.

SCOPE

All members of the EIT community which includes all staff, students, contractors, council members and visitors.

OTHER RELEVANT DOCUMENTS

Other key information about managing and responding to unacceptable behaviour is found in:

- Unacceptable Behaviour Procedure (PH142)

DEFINITIONS OF UNACCEPTABLE BEHAVIOUR

1. Sexual Harassment

Sexual harassment has the meaning given to it in section 62 of the Human Rights Act 1993, which defines sexual harassment as:

- the making of a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment; or
- the use of language (whether written or spoken) of a sexual nature, or of visual material of a sexual nature, or by physical behaviour of a sexual nature, to subject any other person to behaviour that:
- is unwelcome or offensive to that person (whether or not that is conveyed to the person complained about); and
- is either repeated, or of such a significant nature, that it has a detrimental effect on that person.

Nothing in this section shall apply to the use or presentation of language or materials, which is reasonably required for bona fide educational purposes, but staff and students are expected to be sensitive to the impact that the use of certain language or materials can have on others, and to act accordingly.

2. Racial Harassment

Racial harassment is defined in Section 63 of the Human Rights Act 1993, as the use of language (whether written or spoken), or visual material, or physical behaviour that:

- expresses hostility against, or brings into contempt or ridicule, any other person on the ground of the colour, race, or ethnic or national origins of that person; and
- is hurtful or offensive to that other person (whether or not that is conveyed to the person complained about); and
- is either repeated, or of such a significant nature, that it has a detrimental effect on that other person.

Nothing in this section shall apply to the use or presentation of language or materials, which is reasonably required for bona fide educational purposes, but staff and students are expected to be sensitive to the impact that the use of certain language or materials can

have on others, and to act accordingly.

3. Discrimination

Discrimination means conduct which:

- results or is likely to result in less favourable treatment, or
- creates or is likely to create a less favourable environment, for any person or group of people than for another person or group of people in the same or similar circumstances by reason of any of the prohibited grounds set out in section 21 of the Human Rights Act 1993; and similar circumstances by reason of any of the prohibited grounds set out in section 21 of the Human Rights Act 1993; and
- does not fall within any of the relevant exceptions in Part II of the Human Rights Act 1993. More information can be found on www.hrc.co.nz

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, have the effect of treating someone differently even if the discrimination was not intended.

Actions by EIT constituting affirmative actions and policies to assist or advance a particular group are not discrimination. These actions and policies will be made public to the EIT community.

4. Personal Harassment

Harassment is any objectionable or unwelcome behaviour (expressed or implied) that makes a person feel offended, humiliated, intimidated, frightened or uncomfortable.

To be considered harassment the behavior must be either repeated, or be of such a significant nature that it has a detrimental effect on the person leaving him/her fearing for his/her own safety or feeling that his/her health and wellbeing or performance at work has been adversely affected.

5. Bullying

Workplace bullying is a form of personal harassment which is especially characterized by repeated and unreasonable behaviour directed towards a staff member or a group of staff that creates a risk to their health and safety and/or has a detrimental effect on that staff member or group of staff. 'Unreasonable behaviour' means actions that a reasonable person in the same circumstances would see as victimising, humiliating, intimidating and/or threatening towards a person.

It may include emotional or verbal abuse, isolation, economic abuse, abuse of authority, denying and blaming, coercion and threats that create a risk to an individual's health and safety. It may also include encouraging other people to engage in unacceptable behaviour.

Generally, bullying will be intentional, with the aim being to gain power and dominance over another person and/or to cause fear and distress to that person. However, bullying can also be unintentional, where although the perpetrator's actions are not intended to cause fear or distress; they do so and should reasonably have been expected to cause that effect.

Bullying in the workplace is not generally characterised by behaviours and actions such as:

- Friendly banter and light hearted exchanges that are mutually agreeable.
- Staff assertively expressing opinions that are different to those held by others without personal insults.
- Managers making reasonable instructions in a reasonable manner and expecting them to be carried out.
- Managers or colleagues raising legitimate concerns about performance or behaviour in the workplace or insisting on high standards of performance.
- Informing a staff member about inappropriate behaviour in an objective and confidential way.

It is recognised that bullying and harassment may be perpetrated either directly (face to face), or indirectly using a range of means of communication (including written correspondence, electronic correspondence, text messaging, symbolic messages via the learning management system or internet by an individual or by a group of people.

A single incident of unreasonable behaviour is not considered workplace bullying, but it is nevertheless unacceptable, could escalate and should not be ignored.

WorkSafe New Zealand provides advice, guides and checklists for employees which are useful to read if you think you may be experiencing bullying or other unacceptable behaviour. Please visit <https://worksafe.govt.nz/the-toolshed/tools/bullying-prevention-toolbox/>

PERSONS/GROUPS AFFECTED

- All staff
- Students
- Council members
- Visitors
- Contractors

CONSULTATION PROCESS

The policy was developed by the HR Director in consultation with managers, unions and staff and was externally peer reviewed in 2019.

QUALITY OUTCOMES

- The Institute has an effective and timely procedure for dealing with complaints of unacceptable behaviour in fair manner
- The Institute protects staff and students from malicious or vexatious complaints of unacceptable behaviour.
- Staff and students do not tolerate unacceptable behaviour and feel able to raise concerns.

OUTPUT STANDARDS

- Parties involved in the complaints process consider the procedures were fairly and effectively implemented.
- Staff and students are made aware of the requirements of the Unacceptable Behaviour policy and the procedures for addressing unacceptable behaviour.

COMPLIANCE STANDARDS

- All complaints concerning unacceptable behaviour follow correct procedures.
- Formal complaints are registered on the Faculty and Central Registers (for student complaints).
- Rights to natural justice and privacy are protected.

REPORTING STANDARDS

The Director, Human Resource will review the complaints register and report any issues or trends to the Executive Team annually. Unacceptable behaviour will also be considered a health and safety hazard and reviewed and managed by EIT accordingly.

LEGISLATION

The Human Rights Act 1993

The Health and Safety at Work Act 2015

The Privacy Act 2020

The Employment Relations Act 2000

Document information – Office use only	
Document Name	Unacceptable Behaviour
Document Number	QH142
Executive	Executive Director, Human Resources and Operations
Owner	Executive Director, Human Resources and Operations
Developer	Human Resources Advisor
Review Frequency	36
Last Review	2/09/2019
Next Review	2/09/2022
Related Items	Click here for Related Documents (available only on Staffnet)
Version history	New format May 2018