

PURPOSE

To ensure everyone is aware of the Institute’s opposition to any form of unacceptable behaviour and the procedures to follow should an incident of unacceptable behaviour occur. For further information about the processes see the Unacceptable Behaviour Policy (QH142).

PROCEDURE

It is in the interests of all parties that action is taken as soon as possible after the alleged unacceptable behaviour occurred. No one is required to make a complaint if they do not wish to, but EIT reserves the right to formally investigate an incident or concern irrespective of whether a formal complaint has been received.

If a person other than the person affected by the unacceptable behaviour makes a complaint (ie. because they observed the behaviour happening to someone else), the contact person or manager will always raise the concern to the person affected first, so that they can understand their options and decide what action they want to take. (See Appendix One for information on the Harassment Contact role)

The following options are available to complainants or respondents. While these options may be taken in any order, both complainants and respondents are encouraged, where they feel comfortable, to first seek to resolve matters informally, using options 1, 2 or 3, before proceeding to the more formal processes of option 4 and the other options set out below.

Step	Responsibility	Evidence
<p>1. Private Resolution A complainant may self-manage incidents of unacceptable behaviour independently, without any assistance from contact persons or managers of EIT. This could include telling the person or persons, in private, that their behaviour is seen by the complainant as unacceptable and requesting that it stop.</p>	Complainant	N/A

<p>2. Self Help with contact person's support</p> <p>A complainant may speak to a contact person to discuss the options and, if appropriate, possible ways of dealing with the situation. Following this discussion the complainant may feel able to resolve the issue themselves. In addition to the suggestion above, this could include:</p> <ul style="list-style-type: none"> • Writing to the person or persons about their behaviour, sealing and marking the letter personal and confidential. • Speaking to the person or persons in private, and/or in the presence of one of the contact persons. 	Complainant/ Contact Person	N/A
<p>3. Informal Intervention with management support</p> <p>The complainant may approach the respondent's Programme Coordinator or equivalent or Manager (referred to as 'Manager' for the purposes of these guidelines) to discuss their concerns and seek assistance addressing the matter informally between the parties.</p>	Complainant/ Contact Person/ Programme Coordinator or equivalent manager	Record of outcomes (confidential)
<p>In this informal intervention the role of the Manager is to act as a support and facilitator. The Manager must first discuss the complaint with the complainant, explain the alternative option of and procedure for informal intervention and then, if the complainant chooses the informal route, seek to resolve the matter directly with both parties (either separately or together depending on what the parties would prefer).</p>		
<p>Possible informal interventions and resolutions might include but are not limited to:</p> <ul style="list-style-type: none"> • Agreement from the respondent not to repeat the behaviour in question, • an apology to the complainant, • an agreement by the respondent to avoid future contact with the complainant where practical, • other solutions appropriate to the circumstances and as agreed by the parties. <p>All parties must maintain confidentiality outside any such discussions, although parties may disclose what information they need in order to obtain EAP or other support. As part of any agreed solution, the Manager may meet other specified people to achieve agreed outcomes and may seek advice and guidance from the HR Director on a confidential and need to know basis only.</p>		
<p>If informal intervention is unsuccessful, or if the Manager does not feel that the matter is suited to the informal approach, then the procedures involved in laying a formal complaint should be discussed with the complainant.</p> <p>The Manager will record key information on the nature of the complaint and the outcome of informal intervention (on either the Investigation Report Complaints Register (for students) or the Personal File (for staff). Both the complainant and respondent can request copies of the notes kept.</p> <p>The Manager will remind the complainant of the supports available to them, including staff union (for members), the EAP services for staff members, students association and student counselling</p>		

<p>4. Formal Complaint</p> <p>If self-help or informal intervention has not worked, or if in the complainant's or Manager's view, the allegation is serious and warrants formal investigation, a formal complaint to the relevant Senior Manager, Head of School/Services Manager (for students) or to the Human Resources Director (referred to as the "Senior Manager" for ease of reference) should be made. The Senior Manager will consider the complaint (or appoint someone to do so) and determine appropriate next steps, including investigation.</p>	<p>Senior Manager, Head of School/Services Manager (for students) or Human Resources Director</p>	<p>Investigation Report Complaints Register (for students) Personal File (for staff)</p>
<p>The formal complaint can be made in writing or verbally. Where the complaint is verbal, the Senior Manager must record the complaint and then ensure that the complainant has signed and dated the document confirming that it is accurate and complete.</p> <p>The complaint (whether it is written by the complainant or recorded by the Senior Manager) should include:</p> <ul style="list-style-type: none"> • Who or what the incident is about; and • What happened (including, to the extent possible, the time, date, place, and what was said and done); and • How the complainant responded and what impact the behaviour had on them; and • Whether anyone else witnessed the behaviour and, if so, who. <p>Formal complaints should be submitted as soon as practicable after the unacceptable behaviour occurred or the other resolution methods have failed.</p>		

<p>Once the complaint has been formally recorded, the manager will then follow the student or staff procedure as appropriate:</p> <ul style="list-style-type: none"> • Unacceptable Behaviour Procedure - PH142 • Student Concerns and Formal Complaints Procedure - PI108 (from 2.1 onwards) • Staff Disciplinary Procedure PH115 <p>If a person involved is a contractor or visitor, the Senior Manager will discuss the matter with the Director HR and seek advice on an appropriate process to follow</p> <p>NB: A complaint of unacceptable behaviour may lead to the commencement of a formal staff or student disciplinary investigation. The complainant(s) will not normally be advised of the outcome of a disciplinary investigation, although they will usually be given a summary of whether their complaint has been upheld and general information about the process to demonstrate that the matter has been considered and addressed appropriately.</p> <p>EIT reserves the right to formally investigate an incident or concern irrespective of whether a formal complaint has been received.</p>		
<p>5. Appeal</p> <p>If the complainant is a student, the student may appeal the decision as per the Student Concerns and Formal Complaints Procedure PI108.</p> <p>If the complainant is a staff member, formal procedures for resolving employment relationship problems will apply as per the staff member's employment agreement.</p>		

6. Other Options

Either party may also consider the following options before, during or after the formal investigation is concluded if they wish.

- Sexual or racial harassment, inciting racial disharmony, and certain forms of discrimination are prohibited under the Human Rights Act 1993 and a complaint may be laid with the Human Rights Commission.
- Unacceptable behaviour may provide grounds for a personal grievance under the Employment Relations Act 2000 and staff members may wish to contact the Director, Human Resources or their union (if the Union are a member) about this process.
- A complaint about harassment or assault may be laid with the Police. In particular, complaints involving physical assault or rape should be laid with the Police.
- International students may lay a complaint with the International Education Appeal Authority.
- All students can lay a complaint with the Ombudsman.
- Occupational safety and health concerns can be taken to WorkSafe New Zealand.
- Relevant Registration Authorities (for example if the person is a registered professional, such as a social worker, health practitioner or teacher).

APPENDIX ONE: HARASSMENT CONTACT ROLE

APPOINTMENT

Being a Contact Person is a voluntary role. Appointments are made by the Director, Human Resources following consultation with Senior Managers and are usually for a period of two years, although the appointment may be ended at any stage and for any reason, by either EIT or by the contact person themselves.

Note: The student or staff member may choose someone else to support them when approaching a contact person, or to act as their support person throughout the process instead of one of the nominated contact people.

THE ROLE OF CONTACT PERSONS

The role of the contact person is to provide immediate support and information to complainants, respondents, or witnesses, advise them of their options and provide a connection with the Human Resources Director if appropriate. They will assist with writing a complaint or response to a complaint if needed.

Both complainants and respondents are entitled to the support of a person who may be a contact person. A contact person may attend informal intervention and formal investigation meetings in a support role if asked, but will not have a formal role in presenting the complainant's or respondent's case.

Their role is not to resolve the issue, but to provide information and support to assist a party in reaching an acceptable resolution.

The contact person is expected to:

- Listen sensitively to the complaints or concerns; and
- If necessary explain what unacceptable behaviour is and answer any questions; and
- Provide information and options for dealing with unacceptable behaviour; and
- Discuss possible ways the individual can deal directly with the other party, but only if this is the individual's preferred course of action; and
- Provide general information on EIT unacceptable behaviour policy and procedures to any enquirer.
- If necessary, provide support after the complaints process has been concluded.
- Provide information about the wider supports available, including EAP services for staff members and students association and student counselling for students

The Contact person's role is not to decide whether unacceptable behaviour has occurred in a particular instance.

Contact persons must respect confidentiality. The only time that a contact person can share the information they receive in their role is either with the person's permission, or where the issue is of such a serious nature that the contact person feels that action needs to be taken, in which case appropriate and limited disclosures may be made to the Director of HR or other appropriate member of the Senior Leadership Team. The contact person will always tell the complainant if they are going to share their concerns.

Contact persons will record the number of people who have contacted them for advice, whether they were a student or staff member and the nature of the alleged unacceptable behaviour. The Director, Human Resources, will hold these records in order that the operation of this policy may be monitored and will review these records and statistics on a periodic basis. Contact persons will not record names, positions or other information, which might identify individuals.

If a person other than the person affected by the unacceptable behaviour makes a complaint (because they observed the behaviour happening to someone else), the contact person will always take that concern to the person affected, so that they can understand their options and decide what action they want to take from there.

KEY COMPETENCIES

Contact persons need to demonstrate competence in the following areas to undertake the role:

- Excellent interpersonal skills - active listening, empathy, verbal and written communication, interview skills.
- Analysis and judgement both about the nature of the issues and about appropriate next steps.
- An understanding of unacceptable behaviour issues.
- Knowledge of EIT unacceptable behaviour policy and procedures.
- Ability to maintain confidentiality.
- An understanding of the relevant legislation.

SELECTION

Contact persons will be drawn from both faculty staff and staff holding welfare/support roles at EIT. They will have undergone training in offering support and in EIT policy and procedures before taking up their role. Contact persons will be appointed by the Director, Human Resources for a two year period (which may be renewed or ended for any reason where the Director, Human Resources considers that to be appropriate, without affecting that person's ongoing employment). In appointing contact persons consideration will be given to the need to have a mix of characteristics, which is broadly representative of the EIT community. Contact persons will be required to undergo training and meet the competencies above. They may be vetted by the New Zealand Police, if deemed necessary by EIT.

SUPPORT

Case supervision will be arranged by the Director, Human Resources on request from a Contact person.

Document information – Office use only	
Document Name	Unacceptable Behaviour
Document Number	PH142
Executive	People and Culture Manager
Owner	People and Culture Manager
Developer	People and Culture Advisor
Review Frequency	36
Last Review	1/09/2019
Next Review	1/09/2022
Related Items	Click here for Related Documents (available only in TeMahau)
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