

**PERSONNEL POLICY
FOR THE MANAGEMENT OF
ENVIRONMENT CANTERBURY**

HARASSMENT FREE WORKPLACE - POLICY NO.5

APPROVED BY: Dr Bryan Jenkins

DATE: 16 April 2008

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| 5.1 | Coverage | All employees of the Chief Executive of Environment Canterbury. |
| 5.2 | Purpose | To ensure all employees and contractors are treated with dignity, courtesy and respect and able to work in an environment which is free from harassment. |
| 5.3 | Rationale | Harassment is a form of discrimination and is unlawful under the Human Rights Act 1993. Environment Canterbury is promoted as a place of work ¹ , which is free from harassment and other discriminatory or offensive behaviours. |

Harassment is any behaviour which is unwelcome, uninvited and unreciprocated, and which a reasonable person, having regard to all circumstances, would anticipate as being offensive, humiliating, intimidating or adversely affects the employee's ability to perform their duties. It relates to behaviours that occur in the place of work affecting employees and non-employees (including customers, contractors or visitors to the workplace) or outside at any work related environments (such as a conference, a business trip, a function or an Environment Canterbury function). However, behaviour which occurs outside any work related environment may also be considered harassment, if it has consequences which adversely affect the employee's ability to perform their job. Harassment may involve a single act or repeated act(s) and maybe the result of behaviour which is not intended to offend or harm.

Harassment may also be related to gender, marital status, religious or ethical belief, ethnic or national origins, disability, age, political opinion, employment status, family status, sexual orientation, involvement in the activities of an employee organisation or involves the improper use of power in a way that causes another person to be humiliated, manipulated, or disadvantaged.

¹ Under the Health and Safety in Employment Act 1992, place of work is defined as anywhere that an employee is doing work, whether on our own premises or not.

Harassment takes many forms. These can range from direct forms such as abuse, bullying, threats, name-calling and sexual advances, to less direct forms such as the creation of a hostile work environment without any direct action toward a person. Direct threats do not have to be made against an individual for harassment to have occurred. Examples of harassment in the workplace include but are not limited to:

- lewd or racist comments/jokes;
- taunting/name-calling;
- unwelcome practical jokes;
- threatening someone;
- offensive language;
- the display or presence of offensive material;
- pinching, ogling/staring, or massaging someone; and
- displaying offensive screen savers, e-mail jokes or viewing inappropriate websites.

Sexual harassment is a specific form of harassment. It is defined as unwelcome, uninvited and unreciprocated behaviour of a sexual nature which makes the person feel humiliated, intimidated or offended. It can arise from lewd comments/jokes, boasting about sexual performance, touching, uninvited kisses or embraces, displays of sexually graphic material (including posters/pictures/calendars/magazines/videos), repeated invitations to go out after prior refusal, sexually explicit conversations or offensive phone calls, letters and e-mails.

Sexual harassment does not include behaviour based on mutual attraction, friendship and respect.

Racial harassment occurs when another person directly or indirectly shows hostility, ridicule or contempt based on the employee's race, colour or ethnic or national origins through language, visual material or physical behaviour that the employee finds hurtful or offensive. This behaviour is of such a nature, or is repeated so often, that it has a negative effect on the employee's employment, job performance or job satisfaction.

Bullying, although it is not unlawful under the Human Rights Act, can contribute to either a personal grievance or a discrimination case.

5.4 Policy Harassment (including bullying) by any member of the Chief Executive's employees, Environment Canterbury's clients, contractors or customers in an Environment Canterbury work setting will not be tolerated. It is unacceptable in an Environment Canterbury work setting and breaches this policy.

5.5 Investigation Investigations into allegations of harassment will be conducted in a sensitive manner, and to the extent that it is practicable, will remain confidential. An investigation may require conferring with parties. If the case is proven, the person(s) responsible will be disciplined. This could include dismissal.

The Chief Executive encourages harassment complaints to be settled internally.

The complainant may contact the Human Rights Commission (discrimination as per the Human Rights Act 1993) or the Department Of Labour (where it impacts on the employment relationship it can be notified as a "personal grievance" as per the Employment Relations Act 2000.) directly who can then initiate an investigation.

- 5.6 What should I do if I am being Harassed? If you believe you have experienced some form of harassment you do not have to feel it is your fault and you can do something about it. You are encouraged to act promptly to seek help and support.
- You can try to resolve the complaint yourself by speaking directly to the person perceived to be the source of harassment and asking them to stop.
- If you do not feel comfortable doing this, you may choose to approach your manager/next level manager/ HR/ Union/ Director/ Chief Executive to speak directly to the person.
- You may wish to approach the Human Rights Commission or the Department of Labour for assistance and advice.
- Refer to the flowchart below for more information on dealing with a harassment complaint: What Should I Do If I Am Being Harassed?
- 5.7 What should I do if I am accused of Harassment? If someone tells you that your words or actions are considered to be harassment or bullying, please STOP. Consider their point of view.
- If a complaint has been made about your alleged behaviour you are entitled to information about what it is that you are said to have done and the identity of the person making the allegations and an opportunity to respond to these allegations.
- 5.8 Formal Complaint
- Formal complaints of Harassment can be directed to the Chief Executive (or to the employee's Director if preferred) or the Human Rights Commission or the Department of Labour. Where employees want advice or assistance, they can approach Human Resources, the Union or OCP (Organisational Counselling Programme).
- Internal Formal Complaint
- When an internal formal complaint is lodged it will be dealt with as follows:
- The Chief Executive will either conduct the investigation or arrange for a person, mutually acceptable to both the complainant and the alleged offender, to conduct the investigation.
 - The complaining Staff Member will be advised that a full investigation will be made, confidentially, promptly, and impartially and in a manner that preserves the dignity and respect of the parties.
 - The alleged offender will be advised as soon as possible of the exact nature of the complaint and be given an opportunity to give their version of events. (The alleged offender is entitled to know the name of the complainant.)
 - Both parties will be given an opportunity to have a representative present as a witness/ advocate.
 - The Chief Executive will maintain a fair and impartial investigation and appeal process. This process will be culturally appropriate and adequate records will be kept.
- To complete an effective investigation the following may occur:
- Current and possibly ex employees and other persons may be interviewed.
 - One or both parties may be suspended with pay during the investigation.
- 5.9 Victimisation Protections
- The Protected Disclosures Act 2000 allows people to make disclosures to appropriate authorities about serious wrongdoing without needing to fear victimisation. (Refer to Policy Number 40)
- For more information on the Protected Disclosures Act contact the Manager Secretariat or the Office of the Ombudsmen PH: 0800 802 602.*

- 5.10 Other relevant Documents For more information refer to the following Environment Canterbury documents:
- Flowchart – What Should I Do If I Am Being Harassed?
 - Harassment and Bullying Brochure – What is it & how to deal with it

WHAT SHOULD I DO IF I AM BEING HARASSED?

THIS DOCUMENT SHOULD BE READ IN CONJUNCTION WITH THE HARASSMENT FREE WORKPLACE POLICY

*Manager, HR or Union can provide advice / assistance
For Confidential support and assistance contact OCP on 0800 377 990*

