

Policy and Procedure Guide

Subject: Sexual Harassment	Date Effective: September 2011
	Review Date: By end of December 2012

Responsible to: General Manager**Applies to:** All staff**Purpose:** The Association shall have established procedures for reporting and taking of action in cases of sexual harassment. These procedures shall be available to employees.**Definitions:** "Sexual harassment" is verbal, written or physical behaviour of an overt or implied sexual nature, which is unsolicited, unwelcome and offensive.**References:**

- Employment Contracts Act 1991 s29, s36
- Human Rights Act 1993 s62

POLICY

1. Staff have the right to work in an environment in which they are free from sexual harassment.
2. Sexual harassment is a serious offence and will not be tolerated by the Association. All staff have the right to perform their duties in a manner that is unimpeded by any form of sexual harassment. Anyone found in breach of this policy statement will be disciplined.
3. Sexual harassment sufficient to constitute detriment or constructive dismissal occurs when an employee is subject to verbal or physical conduct of a sexual nature by another person.
4. The staff member should be able to choose who they want as a support person and who they feel most comfortable with.
5. The Operations Manager is appointed Sexual Harassment Adviser. This role is to advise and support (where appropriate) any person who has concerns about sexual harassment eg.
 - A person who believes that they have been sexually harassed;
 - A person who believes that sexual harassment is happening to someone in the workplace;
 - A person against whom an allegation has been made.
6. Any discussion with the Adviser will be treated in strictest confidence and the decision about making a complaint remains with the person feeling harassed.
7. The Association will ensure all complaints are thoroughly investigated and action taken.

PROCEDURE

1. Any staff member who feels they are being sexually harassed in their employment should report the matter immediately to the Operations Manager (as Sexual Harassment Advisor).
2. The Operations Manager will support and assist the staff member to refer the concern to the General Manager.
3. The General Manager will:
 - (a) take immediate steps to prevent any recurrence;
 - (b) suggest persons/organisations who can offer support to the staff member concerned, as appropriate.
 - (c) monitor the situation until it is resolved.
4. If the staff member wishes, they can refer their concern to a representative, and/or obtain the assistance of a representative eg. NZEI or a lawyer, to take up the concern with the employer.
5. If possible, staff will contact the harasser directly and tell him/her the behaviour is not acceptable.
6. If the behaviour continues after the person has been asked to stop, or it is not possible to confront the harasser directly, further guidance will be given by the Operations Manager.
7. Staff are encouraged to document the following details in relation to the alleged incident time and place of incident:
 - what was said/and or done by whom;
 - name of any witnesses to the incident.
8. Any discussion with the Operations Manager will be in complete confidence and any decision to take further action will be made by the person who believes that they have been sexually harassed.
9. If the staff member decides to make a formal complaint about the incident to the Association this will be handled by the General Manager.
10. A complaint may also be taken to the Human Rights Commission or the staff member's union.

Confidentiality:

1. If a person approaches the adviser but decides to take no action then the adviser's notes will not contain names but only the date and brief account of the interview.
2. If a complaint is found not to have substance all records will be destroyed and nothing about the allegation should be recorded on personal files.

3. If a complaint is made, investigated and substantiated and the respondent has been disciplined, the respondent's personal file will contain a summary of the nature of the complaint, the outcome and the penalty. The full record of the information obtained will be kept in a separate file marked confidential.
4. If it cannot be established whether a complaint has substance or not the details will be kept in a separate confidential file so the situation can be monitored.

Natural Justice:

1. All investigations will be conducted impartially and without bias and the hearing will be procedurally fair.
2. All persons involved will be independent and impartial. Any person who has a conflict of interest in the matter must declare their conflict and step aside from the investigation. There will be no undue delay in hearing or investigating a complaint.
3. Notice of the commencement of an investigation of a complaint will be served on the parties within a reasonable time to enable them to prepare their case. Any factual issues to be discussed will be specified to enable adequate preparation or a reply.
4. The evidence relied upon to support the allegations made should be disclosed within an appropriate time to allow adequate opportunity to comment.