

## HARASSMENT AND DISCRIMINATION AT WORK POLICY

<b>Section</b>	People & Organisational Development
<b>Contact</b>	People & Organisational Development
<b>Last Review</b>	February 2018
<b>Next Review</b>	February 2020
<b>Approval</b>	SLT 14/11/294
<b>Effective Date</b>	February 2018

### Purpose:

The purpose of this policy is to:

- Confirm Massey University's commitment to zero tolerance of all forms of harassment
- Promote a work environment free from all forms of harassment
- Provide information to staff about what constitutes harassment

Harassment in this policy, includes discrimination, sexual harassment, personal harassment, abuse of supervisory/managerial authority and bullying.

Please see the [Harassment and Discrimination Resolution Procedures](#) for the processes by which complaints can be resolved both informally and formally.

Please see 'Audience' below for who is covered by this policy.

### Principles:

Massey University is committed to providing a work environment for its staff which is free from harassment, where staff are treated with dignity and respect. Massey University has a zero tolerance for harassment and considers any form of harassment to be unacceptable. It will take all practical steps to eliminate harassment and is committed to resolving issues of harassment as early as possible.

The Massey University Policy of Staff Conduct sets out the expected standards of conduct of all staff.

Massey University recognises that any form of harassment is likely to be harmful to the recipient's emotional and physical health. Harassment can damage working conditions and relationships and may substantially impact on a person's ability to perform by undermining their confidence, concentration and motivation.

Massey University will treat complaints of harassment seriously. There are a number of options for dealing with complaints which may include informal steps, early intervention, formal complaints, dispute resolution and mediation. Formal complaints will be investigated fairly and sensitively.

Any member of staff found to have harassed another member of staff, a student, a contractor or a visitor may be subject to the disciplinary provisions set out in their employment agreement. For those staff covered by the Massey University Collective or Individual Employment Agreements, Part 10 refers.

University Managers are expected to monitor the work environments they manage and to take action to ensure the work environment is free from harassment. Managers are expected to treat alleged instances of harassment seriously and

to take appropriate action and/or seek advice as soon as practicable. Formal complaints must be addressed immediately.

This policy applies to behaviours exhibited on-campus and off-campus, including work and social functions held outside of working hours, that arise from a workplace relationship or where staff represent Massey University. It also applies to staff who may be on secondment or otherwise temporarily located with another organisation either in New Zealand or overseas.

Massey supports the training of managers and staff in relation to harassment and harassment prevention.

**Definitions:**

Harassment is a form of discrimination and is unlawful under both the Employment Relations Act 2000 and the Human Rights Act 1993.

Harassment of any kind is defined broadly as:

*Any behaviour directed towards an individual or group that a reasonable person, having regard to the circumstances would expect to insult, intimidate, victimise or disadvantage the recipient, and which is:*

- *Unwelcome, hurtful or offensive to the recipient; and is*
- *Repeated, and/or is of such significance as to adversely affect the recipient's employment or wellbeing.*

For the purposes of this policy, harassment includes but is not confined to the following categories:

**i. Discrimination:**

Conduct which is likely to result in less favourable treatment, or create a less favourable environment, for any person/group than for another under similar circumstances, by reason of any of the prohibited grounds set out in the Human Rights Act 1993:

- Sex, including pregnancy and childbirth
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race
- Ethnic or national origins, which includes nationality and citizenship
- Disability – physical, psychiatric, intellectual, abnormality of anatomical structure
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation

Massey University includes the following prohibited grounds for discrimination in addition to the grounds covered in the HRA:

- Gender
- Physical size

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 it may have the effect of treating someone differently on a prohibited ground, even if the discrimination is not explicit.

Affirmative actions or policies of the University to assist or advance persons as defined under the Human Rights Act 1993 are not considered to be discriminatory.

**ii. Sexual Harassment:**

Sexual Harassment may occur irrespective of the recipient's gender.

- It is unwanted attention of a sexually orientated nature.
- It may include an implied or express promise of reward for complying with a sexually orientated request and/or
- An implied or expressed threat of reprisal for not complying with a sexually orientated request.

Examples of sexual harassment include but are not limited to:

- Offensive verbal comments of a sexual nature;
- Sexual or smutty jokes;
- Repeated comments or teasing about someone's alleged sexual activities or private life;
- Persistent, unwelcome social invitations, telephone calls or emails from colleagues at work or at home;
- Following someone home from work;
- Offensive hand or body gestures;
- Leering or ogling;
- Unwelcome physical contact e.g. patting, pinching, touching or putting an arm around another person;
- Provocative visual material in either hardcopy or electronic media.

**iii. Personal Harassment:**

Personal harassment means any behaviour by a member of staff, which explicitly or implicitly intimidates, humiliates, undermines or dominates another person; or involves the use of abusive and/or threatening language, verbal or physical threats; or any form of physical assault.

**iv. Abuse of Supervisory/Managerial Authority:**

Abuse of Supervisory/Managerial authority means conduct by a supervisor or manager in relation to a member of staff who reports to them or over whom they have supervisory or academic authority and which:

- Intimidates, humiliates or undermines another person by belittling them, or excessively, destructively or inappropriately criticising or reprimanding them, or excessively scrutinising their work; or
- Makes demands that are unreasonable or outside that other person's role; or
- Makes a demand to perform an action that is in breach of the principles of any policy of the University.

**v. Bullying**

Bullying is a form of harassment and a misuse of power, whether formal or informal, which is characterised by repeated and persistent, offensive, abusive, intimidating, malicious or insulting behaviour. It makes the recipient or target feel upset, threatened, humiliated or vulnerable and undermines self-confidence. It has a detrimental effect on a person's dignity and well-being and may cause them to suffer stress. Bullying can be exercised by anyone in any position in an organisation and occur at all levels: manager to staff; staff to manager; and staff to staff.

Overt bullying can include:

- Threats and intimidation;
- Manipulation and coercion;
- Verbally abusive or degrading language or gestures;
- Shouting, yelling; using a raised voice and unpleasant tone;
- Unexplained displays of rage;
- Nit-picking and fault finding without justification;
- Constant humiliation;
- Belittling remarks either to the recipient or behind their back;
- Unjustified threats of dismissal or other disciplinary procedures; and
- Punishment imposed without reasonable justification.

Covert bullying can include acts such as:

- Deliberately overloading someone with work and imposing impossible deadlines;

- Sabotaging someone's work by withholding information that is required to fulfil tasks;
- Hiding documents or equipment;
- Constantly changing targets or work guidelines;
- Preventing someone from receiving necessary resources and training;
- Isolating or ignoring an employee on a consistent basis; and
- Changes in the duties or responsibilities of a member of staff to their detriment, without reasonable justification.

**vi. What Harassment Is Not:**

The following are examples of behaviours that are **not** considered to be harassment or bullying:

- Friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments;
- Friendships, sexual or otherwise, where both people consent to the relationship;
- Assertive expressing of opinions that are different from others';
- Words or actions that are directed at the advancement of knowledge; add to critical debate; or which serve as a pedagogical framework and which are not targeted at individuals';
- Free and frank discussion about issues or concerns in the workplace, without personal insults;
- Legitimate criticisms made to a staff member about their behaviour or work performance (not expressed in a hostile, harassing manner);
- Issuing of reasonable instructions in line with delegated authority and expecting them to be carried out;
- Warning or disciplining a member of staff in line with University policy;
- Insisting on satisfactory standards of performance in terms of quality, safety and team cooperation; and
- Giving negative feedback, including in a performance appraisal, and requiring justified performance improvement.

**vi. Other Inappropriate Behaviour**

Please refer to Massey University Staff Code of Conduct for matters related to other inappropriate behaviour

**Advice, Information and Support:**

As an employee you can access the following for personal support to discuss any issues or concerns you have, to seek advice on resolving the issues or concerns you have or to discuss how to make a complaint:

- Friend or family member
- A senior colleague
- Your manager
- A Human Resources Advisor
- A union representative [www.teu.ac.nz](http://www.teu.ac.nz); [www.epmu.org.nz](http://www.epmu.org.nz); [www.psa.org.nz](http://www.psa.org.nz); [www.tiasa.org.nz](http://www.tiasa.org.nz)
- Employee Assistance Programme (EAP) 0800 327 669
- A Health Professional
- Massey University Harassment Contact Network
- Massey University Disputes Advisor on extension 83227
- [Massey University Mediation Service](#)

External agencies such as the Equal Employment Opportunities Trust [www.eeotrust.org.nz](http://www.eeotrust.org.nz), or the Human Rights Commission [www.hrc.co.nz](http://www.hrc.co.nz).

As a manager, you can seek advice from the following:

- Massey University Disputes Advisor
- Massey University Mediation Service
- Human Resources Advisor

Additionally, courses are available through the development programme and managers are also referred to the Managers Handbook and Checklist for Harassment Prevention.

#### **Malicious Allegations or Complaints:**

The potential consequences for someone accused of harassment are severe. Therefore an allegation or complaint of harassment against another member of staff which is found to be malicious, vexatious or frivolous could itself be considered an act of harassment and may result in disciplinary action against the complainant.

Genuine complaints, even where not able to be substantiated do not fall into this category. Therefore, this should in no way discourage staff from making a legitimate complaint.

#### **Audience:**

This policy applies to all University staff, including temporary or casual staff.

This policy does not apply to students. Incidents of harassment between students; or by students towards staff should be dealt with through the student harassment co-ordinators and procedures.

Where students are employed as staff, this policy covers them in their capacity as staff only.

#### **Relevant Legislation:**

- Employment Relations Act 2000
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Privacy Act 1993
- State Sector Act 1988

The Employment Relations Act 2000 and the Human Rights Act 1993 codify forms of discrimination which are unlawful and which the University will not permit. The provisions contained in these Acts are drawn to the attention of all members of the University community. Copies of relevant Acts are available on line at [www.legislation.govt.nz](http://www.legislation.govt.nz).

#### **Legal Compliance:**

The Employment Relations Act 2000 requires Massey University to comply with Part 9 - Personal grievances, disputes, and enforcement and Part 10 - Institutions and abide by the criteria set out in this Act.

Under Health and Safety at Work Act 2015 Massey University has a primary duty of care to ensure that as far as reasonably practicable, the health and safety of workers and of others persons is not put at risk from work carried out by Massey University (Section 36). Massey University also has a duty to eliminate risks to the health and safety so far as is reasonably practicable, and if is not able to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable (Section 30).

The Human Rights Act 1993 prohibits Massey University from discriminating against any employee, job applicant or contractor on the grounds of sex, marital status, religious belief, colour, race, ethnic or national origin, disability, age, political opinion, employment status, family status or sexual orientation.

The Privacy Act 1993 requires Massey University to comply with its 12 Principles in regards to the collection of personal information, the manner in which it is collected and the storage and security of personal information. In addition, Massey University is required to provide the individual concerned with access to their personal information and the ability to request correction of information if necessary. The University must adhere to the limits on the use of personal

information collected in that the University may only collect personal information for the intended purposes of selection for appointment of the individual and this information cannot be used for any other purpose. It is essential that the personal information gathered is checked before use to ensure the information is accurate, up to date, complete, relevant and not misleading. The personal information obtained shall not be kept for longer than it is required for the purposes for which the information may lawfully be used.

The State Sector Act 1988 requires Massey University to maintain appropriate standards of integrity and conduct among employees (Section 57).

**Related Policy, Procedures & Guidelines:**

- [Harassment Resolution Procedures](#)
- [Health and Safety policies/procedures](#)
- [Massey University Policy on Staff Conduct](#)
- [Use and Access to Information Technology Services Systems Policy](#)
- [Conflicts of Commitment and Interest Policy](#)
- WorkSafe New Zealand and the Ministry of Business, Innovation and Employment Best Practice Guidelines: [Preventing and Responding to Workplace Bullying](#)

**Document Management Control:**

Prepared by:	Employment Relations Manager
Authorised by:	The Assistant Vice-Chancellor (People & Organisational Development)
Approved by:	SLT 14/11/294
Date issued:	20 February 2008
Last review:	February 2018
Review Date:	February 2020