



Yachting New Zealand Discrimination, Harassment, Bullying and Victimisation Prevention Policy

V1 August 25, 2020

Review Protocol	Policy Reviewed By:	Yachting New Zealand Board
	Document implemented:	August 2020
	Document reviewed:	April 2021
	Next Review Date:	2022

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Purpose

Yachting New Zealand is committed to providing a work environment and culture free from discrimination, harassment, bullying and victimisation.

This policy aims to establish clear expectations of behaviour, responsibilities and procedures for dealing with complaints of discrimination, harassment, bullying and victimisation.

Who is covered by this policy?

All employees and people engaged to work in the workplace, including key stakeholders and sport sector representatives, are covered by the policy, whether they experience harassment by another employee, contractor, visitor, volunteer or member of the public.

Summary

This policy applies within the workplace as well as other work-related situations, for example, when employees are travelling on company-related business, attending work-related gatherings outside of the workplace and dealing with customers, sport sector representatives, athletes and key stakeholders.

This policy also applies to all communications, whether in person or by telecommunication, internet or social media activity:

- On behalf of Yachting New Zealand
- Inside and outside of work hours, which references Yachting New Zealand, its services, employees, contractors, temporary staff, customers, athletes, key stakeholders or other organisations or individuals that Yachting New Zealand has relationships with
- Inside and outside of work hours that could bring Yachting New Zealand into disrepute
- Inside and outside of work hours that could bring into doubt a Yachting New Zealand employee/contractors' ability to carry out their role and/or adequately represent Yachting New Zealand
- That relates to Yachting New Zealand post-employment, and
- That is using Yachting New Zealand-provided equipment or under our brand e.g. work email

Obligations and responsibilities

Yachting New Zealand has a statutory obligation to provide a safe workplace, free from the stress that discrimination, harassment, bullying and victimisation can cause.

Staff responsibility

Every staff member has a responsibility to:

- Be aware of the terms of this policy (as varied from time to time) and their rights and obligations under it
- Comply with the policy at all times
- Ensure the Yachting New Zealand complaints procedure is followed
- Maintain confidentiality concerning any complaint and/or investigation so far as the Yachting New Zealand complaints procedure allows

Individual legal liability

Any individual who discriminates against, harasses or bullies another person in the workplace, or engages in behaviour otherwise prohibited by legislation and/or this policy may be held personally liable for their unlawful actions under New Zealand law. This behaviour will also be addressed with regard to the relevant circumstances as potentially constituting either serious misconduct or a breach of the Health and Safety Policy that may result in disciplinary action.

In circumstances where your conduct may involve a breach of legislation, Yachting New Zealand may be legally obliged to notify the police or other relevant government authority.

Management responsibility

The CEO, managers and team leaders are expected to actively promote, implement and support this policy.

The law imposes vicarious liability in situations where a person or company is in a position to prevent conduct but does not do so. Failure by a manager or team leader to act reasonably to prevent or resolve incidents of discrimination, harassment, bullying and victimisation may lead to disciplinary action and personal liability under health and safety legislation.

1. Discrimination

Yachting New Zealand is committed to providing a workplace free of discrimination. It is important that no staff member or job applicant, contractor, temporary staff, customer, athlete, key stakeholder or other organisation or individual that Yachting New Zealand has a relationship with is discriminated against or denied equal treatment.

Unlawful discrimination occurs when a person is treated less favourably because they have, or are imputed to have, a particular characteristic or attribute which is protected by law. These include:

- age
- race or colour
- ethnicity or national origins
- gender
- sex (including pregnancy or childbirth)
- sexual orientation
- disability
- religious or ethical belief
- marital or family status
- employment status
- political opinion
- being affected by domestic violence

Discrimination can be both direct and indirect. Direct discrimination occurs when a person is treated differently because of a particular characteristic. Indirect discrimination can occur when a requirement, which is the same for everyone, has an unfair effect on some people because they possess a particular characteristic.

Discrimination (whether direct or indirect) is a breach of this policy and is strictly prohibited by Yachting New Zealand.

2. Harassment

Yachting New Zealand does not tolerate behaviour which may offend its employees, create a hostile or distressing work environment, undermine morale or reflect adversely on the integrity of the organisation.

Harassment is defined by the Harassment Act 1997. The Employment Relations Act 2000 (ERA) also provides specific definitions for both sexual and racial harassment. Harassment as defined by either of these acts will constitute harassment in an employment setting and for purposes of this policy.

Harassment Act 1997

Under the Harassment Act 1997, harassment occurs when a person engages in a pattern of behaviour that is directed against another person. A pattern of behaviour includes doing any 'specified act' to a person on at least two occasions within a period of one year. A 'specified act' includes:

- a) Watching or loitering, or hindering access to or from a person's home, workplace or any other place they frequent
- b) Following, stopping or accosting
- c) Entering or interfering with a person's property
- d) Making contact or giving a person offensive material, whether it be directly, indirectly or electronically
- e) Acting in a way that causes a person to fear for their safety

The Harassment Act considers certain serious types of harassment as criminal offences and allows the person being harassed to obtain protection orders against the offender.

Sexual and racial harassment under the Employment Relations Act 2000 (ERA)

Sexual harassment

The ERA stipulates an employee is sexually harassed if their employer, or representative of that employer, directly or indirectly requests sexual intercourse, sexual contact or other form of sexual activity from that employee that includes:

- a) The implication of preferential treatment
- b) The implication of detrimental treatment or
- c) The implication of overt threat about the employment status of that employee

This can be the use of language, visual material of a sexual nature or physical behaviour of a sexual nature that subjects the employee to behaviour that is unwelcome or offensive to that employee. It is immaterial if the employer did not consider their conduct harassment. What is important is how it was interpreted by the affected employee.

Examples

Some examples of behaviour which could constitute sexual harassment include:

- Offensive or demeaning comments, jokes or innuendo
- Offensive gestures, staring or displaying offensive material
- Remarks or insinuations about a person's sexual activities or private life
- Demands for sexual favours
- Sexual propositions or advances
- Physical contact
- Sending sexually explicit or offensive photos or videos via electronic media

Sexual harassment does not have to be intentional or directed at a particular individual to be unlawful. Behaviour which creates a sexually-hostile working environment for others can also be unlawful.

For the avoidance of doubt, mutual attraction or friendship between two people is not harassment. Yachting New Zealand is concerned only with behaviour that affects the wellbeing of its workplace and its employees.

Racial harassment

The ERA stipulates that an employee is racially harassed if the employer or representative of that employer uses language (written or spoken), visual material or physical material that:

- a) Expresses hostility towards an employee or brings into contempt or ridicule by reason of their race, colour, ethnic or national origins; and
- b) Is hurtful or offensive to the employee; and
- c) Has a detrimental effect on the employee's employment

Inciting racial disharmony is also racial harassment for the purposes of this policy. This occurs when a person publishes, distributes or broadcasts written material or words, or uses words in a public place, which may be insulting on the ground of the person's colour, race, ethnic or national origins.

Examples

Some examples of behaviour which could constitute racial harassment include:

- Abuse, insults, or 'jokes' about a person's racial, ethnic or national origin, physical features or accent
- Derogatory or belittling name calling
- 'Jokes' about food preferences, or religious and/or social customs

Other forms of harassment

Yachting New Zealand considers that harassment includes any unwanted and unjustified behaviour which another person finds offensive or humiliating and, because it is serious or repeated, has a negative effect on the person's employment, job performance or job satisfaction. Such behaviour could also constitute bullying if repeated.

Examples of other forms of harassment:

- Comments or behaviour that express hostility, contempt or ridicule, repeated put-downs for people of a particular age, body shape, gender identity etc
- A general work atmosphere of repeated jokes, teasing, or 'fun' at someone else's expense because of a particular characteristic they have

All forms of harassment, vilification and inciting racial disharmony are in breach of this policy and are strictly prohibited.

3. Bullying

Workplace bullying is a significant hazard. It affects people physically and mentally, resulting in increased stress levels, decreased emotional wellbeing, reduced coping strategies and lower work performance.

Definition

Workplace bullying is unreasonable and repeated behaviour towards a person or group that can lead to physical or psychological harm.

Repeated behaviour is persistent i.e. occurs more than once and can involve a range of actions over time.

Unreasonable behaviour covers actions which a reasonable person would not do in a similar circumstance, including victimising, humiliating, intimidating or threatening a person.

Examples of bullying behaviours include:

- Yelling, screaming, or abusive language
- Subtle intimidation (such as inappropriate comments about personal appearance)
- Continual criticism
- Manipulation
- Isolating or ignoring a person
- 'Ganging-up'
- Practical jokes gone wrong
- Setting impossible deadlines
- Sabotaging someone's work or their ability to do their job by not providing them with vital information and/or resources

A single incident is not considered bullying but can escalate if ignored.

Reasonable performance management in line with business policies and processes is not bullying. Other examples of behaviours that do not constitute bullying include:

- One-off or occasional instances of forgetfulness, rudeness or tactlessness
- Setting high performance standards because of quality or safety
- Constructive feedback and legitimate advice or peer review
- A manager requiring reasonable verbal or written work instructions to be carried out
- Warning or disciplining staff members in line with the workplace's policies/code of conduct

Bullying is in breach of this policy and is strictly prohibited by Yachting New Zealand.

4. Victimisation

What is victimisation?

The Human Rights Act 1993 provides that it is unlawful for any person to treat or threaten to treat another person less favourably than other persons on the basis that person intends to make a complaint or disclosure or exercise their right to do so.

Yachting New Zealand will not tolerate victimisation of any nature and will take all necessary action to protect their staff from victimisation. Victimisation is in breach of this policy and is strictly prohibited by Yachting New Zealand.

Procedures for resolving complaints

If you feel you have been discriminated against, victimised, harassed or bullied, we encourage you to address your complaint as soon as possible so that a resolution can be promptly achieved. There are several options available to you. These include:

- a) Self-help
- b) Management intervention or mediation
- c) Formal complaint

Please refer to the Yachting New Zealand Reporting Concerns Policy ‘Whistleblowing’ for further details and guidance in relation to the options available.

All allegations and complaints will be treated seriously and dealt with expeditiously and confidentiality, whether they are raised formally or informally.

If you become aware of any conduct (whether internal or external) that may breach this policy, you should report the conduct to your manager, team leader or CEO regardless of your relationship to the breach. Managers should ensure that any concerns or complaints that are reported to them or observed by them are managed in accordance with Yachting New Zealand’s complaints procedure.

In line with Yachting New Zealand’s responsibility under the relevant legislation, we will investigate and respond to any concerns of inappropriate workplace behaviour (including conduct which could constitute discrimination, harassment or bullying) which comes to our attention through your complaint or through the receipt of other separate claims or issues.

Breach of this policy

Any breach of this policy may be deemed to be misconduct or serious misconduct (depending on the severity of the breach). A breach may result in a disciplinary investigation. Following an investigation, disciplinary action up to and including summary dismissal may be taken. For further information, please refer to the Yachting New Zealand Reporting Concerns Policy “Whistleblowing”.

If you think you may have breached this policy, either intentionally or unintentionally, it is your responsibility to inform your manager, team leader or CEO as soon as practically possible.

Who is responsible for what?

Position	Responsible for:
CEO/team leaders/legal counsel	<ul style="list-style-type: none"> • Investigating formal complaints and assisting managers with any disciplinary processes that may follow • Engaging an external investigator when appropriate and/or law enforcement • Maintaining appropriate confidential records
People managers	<ul style="list-style-type: none"> • Liaising with the CEO, team leader (legal counsel) in the first instance • Acting on discrimination, harassment or bullying concerns immediately • Ensuring that complainants are not victimised • Behaving in a respectful manner towards all employees, contractors, customers, athletes and key stakeholders • Complying with this policy
Employees and contractors	<ul style="list-style-type: none"> • Maintaining confidentiality concerning any complaints • Liaising with CEO, team leaders (including legal counsel) in the first instance • Acting on discrimination, harassment or bullying concerns immediately Ensuring that complainants are not victimised

Relevant legislation

Applicable legislation influencing this policy includes but is not limited to the following acts:

- Employment Relations Act 2000
- Health and Safety at Work Act 2015
- Harassment Act 1997
- Human Rights Act 1993

Links

- [Human Rights Commission](#)
- [WorkSafe New Zealand](#)

References

- Yachting New Zealand Reporting Concerns Policy 'Whistleblowing'
- Health, Safety and Wellbeing Policy Health Safety and Wellbeing