

HR13: Bullying, Harassment and Unacceptable Behaviour – NZLS events, Sections, and member groups (including host responsibility)

1. Purpose

The New Zealand Law Society (Law Society) | Te Kāhui Ture o Aotearoa supports its membership groups and Sections to connect, learn and develop as lawyers and share their experiences through organised events and membership meetings. The Law Society is committed to creating an environment so that when members attend Law Society events, they feel safe from harassment, bullying and unacceptable behaviour (including discrimination).

2. Scope

This policy applies to:

- All Law Society employees, members, volunteers, contractors, and event attendees.

3. Policy

It is the policy of the Law Society to ensure that everyone who attends Law Society events feels welcome and we respect and enjoy the diversity *all* our members bring to our events, membership groups and Sections. The Law Society wishes to foster a culture that:

- encourages all its members to participate
- has a membership that acknowledges its responsibility to each other; and
- where people feel safe to discuss issues and raise concerns.

The Law Society, its committees and Sections are committed to providing events and meeting opportunities where all attendees are welcome and feel safe, and where all members are treated with respect. Harassment and bullying at Law Society, sections and committee organised events and meetings are unacceptable and will not be tolerated under any circumstances.

4. Responsibilities

It is the responsibility of all employees and members to welcome, respect and enjoy the diversity our members, visitors, and guests.

Law Society Sections, member groups and committees will not tolerate inappropriate, harassing, or bullying behaviour

More specifically we will not tolerate (but not limited to):

- discriminatory action or harassment which may be based on ethnicity, race, gender, sexual orientation, or religion.
- inappropriate comments, or unreasonable behaviour which may be related to ethnicity, race, gender, sexual orientation, or religion.
- unwelcome sexual harassment or behaviour
- bullying, including inappropriate verbal or physical behaviour that is likely to lead to physical or psychological harm.

While it is not possible to define in advance every situation that might amount to inappropriate or unacceptable behaviour, it is likely to:

- involve unwanted, unwarranted behaviour (verbal, physical or otherwise) that a person in the same circumstances would consider unreasonable, including humiliating, mocking, intimidating, or threatening someone.
- be of a serious nature, or repeated to the extent that it has, or could have, a detrimental effect on the recipient.

This policy provides definitions of bullying, harassment, and unacceptable behaviour, so they can be identified and resolved as early as possible.

Definitions:

Bullying is repeated and unreasonable behaviour that is directed towards a person or a group of people that can leave to physical or psychological harm.

Repeated behaviour is persistent (occurs more than once) and can involve a range of actions over time. Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating, or threatening a person. Bullying may also include harassment, discrimination, or violence.

Examples of the types of behaviour which could be deemed bullying, but are not limited to:

- Using verbal abuse, swearing or, or shouting inappropriately
- Deliberate exclusion or isolation
- Behaviour directed at a person which is offensive, malicious, insulting or intimidating
- Excessive or unjustified criticism over minor things, or undermining status and credibility by criticising someone in the presence of others
- Public humiliation and ridicule/teasing
- Deliberately setting unreasonable objectives, tasks, or timeframes.

What is not Bullying?

The following behaviours (by way of example only) are not considered bullying:

- A one-off argument or difference of opinion
- Isolated minor instances of rudeness or forgetfulness
- Differences in opinion, disputes, working styles and difficulties in working relationships
- Constructive feedback and legitimate advice from peers

Policy Number: HR13	Date of Approval: 2/02/2023	Next Review: 2/02/2025
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There are many useful resources which provide comprehensive information on bullying. WorkSafe NZ's website provides various resources on bullying. While some behaviour may not meet the definition of bullying, it could still be inappropriate behaviour. It is important that employees and managers raise any issues or concerns in a timely manner to allow appropriate action to be taken.

Harassment, Discrimination and Victimisation

Racial harassment, sexual harassment, discrimination, and victimisation are defined in the Employment Relations Act 2000 and the Human Rights Act 1993. These definitions are summarised below.

What is harassment?

Harassment is where a person is subjected to repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, in the course of employment that:

- Expresses hostility against or intimidates or ridicules them.
- Is unwanted, hurtful, and offensive to the employee, and has a detrimental effect on their performance, wellbeing, or job satisfaction.

It is usually based on a feeling of being offended, humiliated, intimidated or disadvantaged whether real or perceived. It may include (by way of example only):

- Intimidating, threatening or degrading behaviour
- Offensive language, gestures, or actions
- Behaviour outside that may include social media posts
- Derogatory comments

Harassment is not (by way of example only):

- Giving someone a hug (unless they have asked you not to)
- Complimenting someone's appearance (relevant to context in which the comment was made)
- Having a joke between workmates (that does not offend others)

Context and intention are important and each of these examples could easily become harassment if they were given in an inappropriate way or setting and repeated after being told they were unacceptable or unwelcome.

Racial harassment is where a person:

Uses language (whether written or spoken), visual material or behaviour that expresses hostility against an employee on the ground of race, colour, or ethnic or national origin, which is hurtful, offensive to that employee and has a detrimental effect on the employee's employment, job performance, or job satisfaction, either by its nature or through repetition.

Sexual Harassment is defined as:

A situation where either a person’s employer, or a representative of their employer, directly or indirectly requests from the employee sexual intercourse, sexual contact, or other form of sexual activity that contains:

- an implied or overt promise of preferential treatment in that employee's employment; or
- an implied or overt threat of detrimental treatment in that employee's employment; or
- an implied or overt threat about the present or future employment status of that employee.

An employee may also be sexually harassed using language whether written or spoken, visual material, or physical behaviour of a sexual nature which subjects an employee to behaviour that is unwelcome or offensive and that either by its nature or reputation has a detrimental effect on the employee’s employment, performance, or job satisfaction.

Examples of sexual harassment may include sexual jokes or innuendos, offensive hand or body gestures, provocative posters, or emails with a sexual connotation, in addition to more explicit forms of sexual harassment.

Sexual harassment breaches both the Employment Relations Act 2000 and Human Rights Act 2000.

The Harassment Act 1997 deals with other serious types of harassment (and allows the person being harassed to obtain trespass or restraining orders and provides sanctions if the orders are breached). Harassment that is not a criminal offence under the Harassment Act will still be dealt with by the Law Society as bullying or unacceptable conduct in terms of this Policy. The same applies to sexual or racial harassment under the Employment Relations Act 2000.

Discrimination is any behaviour that breaches the Human Rights Act 2000.

It occurs when an employee is treated unfairly or less favourably than another person in the same or similar circumstances. Discrimination can be direct or indirect and typically takes the form of exclusion or rejection from something.

Discrimination on the basis of a person’s sex, marital status, religious belief, ethical believe, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status or sexual orientation is prohibited under the Human Rights Act 1993.

Not all discrimination is unlawful. The Human Rights Act 1993 and the Employment Relations Act 2000 permit different treatment in certain circumstances (for example where the duties of a role are such that a person with a particular disability could not perform those duties without a risk of harm to themselves or others).

Unacceptable behaviour is a very broad term that encompasses a wide range of behaviours that an employer may consider do not meet the acceptable standards or values of the organisation. These may

include (by way of example only, not exhaustive):

- Behaviour that may not meet all the elements of bullying
- Harassment types of behaviour that have not yet been repeated
- The tone and attitude with which a comment or message is delivered
- Malicious gossip
- Inappropriate jokes, comments or behaviour that may be of a sexual, discriminatory, or derogatory nature

Bullying, harassment, and unacceptable behaviour are referred to in the Law Society's Code of Conduct and where established, may result in disciplinary action up to and including dismissal.

Victimisation is defined in the Human Rights Act 1993.

For the purposes of this Policy, victimisation also includes unjustifiably treating a person (or threatening to treat a person) less favourably than they would otherwise have been as a result of, an allegation (by that person or another person) of bullying, harassment, or discrimination (this extends to giving evidence or information in an investigation of an allegation).

An example of victimisation could include, but is not limited to:

- Being unreasonably excluded by colleagues because an employee made an allegation
- Being pressured to drop the idea of making a complaint

Members

All members and event hosts are responsible for:

- Supporting and strongly encouraging members or guests who experience or observe any incidents of harassment, bullying or discrimination, at a Law Society, Section or member group organised event, to report this immediately.

Employees

All employees are responsible for:

- Reporting any incident of unacceptable, harassment or bullying behaviour that they experience, observe, or have reported to them, by following the procedure contained in the Law Society HR12 - Bullying Harassment and Unacceptable Behaviour and CE3 - Complaints and Protected Disclosures (Whistle Blowers) complaints policies found [here](#).

Policy owner

A policy owner is responsible for:

- ensuring all policies within their control are written in accordance with the CE1: Policy and Procedure Development and Maintenance.
- actively monitoring their policies and associated procedures to ensure they remain up to date.
- maintaining knowledge of all relevant legislation and regulations.

Policy Number: HR13	Date of Approval: 2/02/2023	Next Review: 2/02/2025
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- promulgating their policies and associated procedures in accordance with policy review dates.

Executive Leadership Team (ELT)

The ELT is responsible for:

- reviewing and endorsing additions to, and major changes in, Law Society policies prior to approval by the Chief Executive.

Chief Executive

The Chief Executive is responsible for:

- authorising policies following the consultative process.

5. Procedure/s

Reporting an incident and making a complaint

All Law Society and Section members are strongly encouraged to notify any incidents of harassment, bullying or discrimination, that you experience or observe, at an organised event, to a facilitator, staff member or organising committee member who will report the incident by contacting human.resources@lawsociety.org.nz. The harassment, bullying or discrimination could be of a fellow member, any event or meeting attendee, Law Society employee, contractor, supplier, or partner of a member.

All complaints will be handled in accordance with the Law Society's CE3: Complaints & protected disclosures (whistle blowing) policy. A copy of this policy can be provided on request or will be provided by the Law Society after an incident is reported or after receiving a complaint.

We note that the Sections committees may, at their discretion, terminate a member's Section membership (as set out in each Section's rules).

We remind you that all lawyers are now required to submit a confidential report to the Law Society if they have reasonable grounds to suspect another lawyer may have engaged in misconduct. Lawyers may also make a confidential report if you have reasonable grounds to suspect another lawyer may have engaged in unsatisfactory conduct. You can do this by contacting the **Lawyers Complaint Service on 0800 261 801 or complaints@lawsociety.org.nz** (the service can also assist to determine if the behaviour should be reported).

For more information on:

- how to make such a complaint about a lawyer, please refer to the information on the Law Society's website <https://www.lawsociety.org.nz/professional-practice/practising-well/bullying-and-harassment/report-and-complain/>
- the assistance and support that is available to you through the Law Society when you have been affected by bullying, discrimination or harassment <https://www.lawsociety.org.nz/professional-practice/practising-well/bullying-and-harassment/assistance-and-support/>

Creating a safe and respectful environment

To create an environment where people feel safe and respected the Law Society and Section Committees will seek to, wherever possible, for any event:

- accommodate physical access requirements for events.
- have one or more persons available at any Law Society or Sections organised event, who an attendee can raise any safety or harassment concerns with.
- require anyone to leave an event if they are harassing or otherwise demonstrating inappropriate behaviour towards someone based on ethnicity, race, gender, sexual orientation, or religion.
- require anyone who is intoxicated and there is a risk that they are a danger to themselves or others to leave the event.

If appropriate, the event organiser will also notify the relevant authority (such as venue security or Police) if a person is threatened or hurt by another member or attendee.

6. Related Law Society policies and forms

- *[specify – e.g., other policies, processes, guidelines, relevant legislation]*

Example shown below:

A list of associated policies and forms is to be included.

Document name	Doc number
<i>New Zealand Law Society Glossary</i>	<i>PF001</i>
<i>HR12: Bullying Harassment and Unacceptable behaviour</i>	<i>HR12</i>
<i>HR08: Code of conduct</i>	<i>HR08</i>
<i>CE3: Complaints & Protected disclosures (whistle blowing)</i>	<i>CE3</i>

Authorisation

Approved by



Katie Rusbatch

Chief Executive

Policy owner: General Manager People & Culture

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