

Harassment Prevention			
First Produced:	1985	Authorisation:	Te Kāhui Manukura
Current Version:	17/06/14	Officer Responsible:	Director, Corporate Services
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Review Cycle:	3 year cycle		
Applies From:	immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left hand margin.

1 Introduction

1.1 Purpose

Ara is committed to ensuring all people are treated with respect and dignity in all of their dealings.

Ara does not condone any form of harassment, including bullying.

To create an environment at Ara conducive to study and work free from any form of harassment or unacceptable conduct.

1.2 Scope and Application

- a This policy applies to all Ara staff, students, visitors and contractors. It applies to all:
 - i unwanted attention, including that which occurs off campus during the course of work or study.
 - ii unacceptable conduct which includes innuendo, victimisation, alienation or actions to isolate any particular person.
 - iii harassment that occurs because of a person's skin colour, gender, sexual orientation, membership of any racial, ethnic, religious or national group.
 - iv bullying, intimidation, humiliation, abusive or threatening language, blackmail, and verbal or physical threats.
 - v sexual harassment.
- b All staff are expected to maintain appropriate and professional relationships with other staff members, students, visitors and contractors.
- c A person holding a position of authority must behave with knowledge of the power of that position and not abuse it.
- d Exclusions:

This policy does not cover actions regarding staff performance issues dealt with under the Resolving Staff Performance or Conduct Issues Policy.

There may be some overlap in these policies if, as a result of a complaint, disciplinary processes are started.

1.3 Formal Delegations

- a If an allegation of harassment is made against a contractor, the Director, Corporate Services will determine the appropriate process within the spirit of this policy.
- b For other specified responsibilities relating to this policy refer to Section 3.

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1.4 Definitions

- a **Bullying:** Bullying is ongoing unreasonable behaviour which humiliates or undermines. Bullying can take many forms including:
- i unfair use of disciplinary and assessment procedures.
 - ii creating or continuing rumour or innuendo.
 - iii blocking access to promotion, or training.
 - iv withholding information essential to do a job properly.
 - v public humiliation.
 - vi persistent and undue criticism.
 - vii undermining responsibility.
 - viii negative references to age, sex, race, disability or other personal characteristics or circumstances.
- This list is for illustrative purposes and is not exhaustive.
- b **Complainant:** The person alleging harassment.
- c **Contact Person:** An Ara staff member who has been trained and is identified as an initial contact point for anyone who wishes to discuss any bullying or harassment-related issues and/or make a complaint.
- d **Fairness:** In this policy the concept of fairness ensures that any complaint is handled in a manner that is fair to everyone involved. Fairness means that:
- i a person has the right to be informed of any complaint that has been made against him or her.
 - ii a person has the right to an opportunity to respond to allegations about his or her alleged behaviour before any decision is made.
 - iii everyone involved in investigating and deciding a complaint has the right to be listened to, and to seek advice, support and/or representation.
 - iv fairness also applies to the person raising an issue or making a formal complaint. They are entitled to be heard, taken seriously and have their matter dealt with in the taking into account their wellbeing and ongoing interaction with Ara.
- e **Harassment:** Any form of behaviour that is unwanted by the recipient, that is repeated or of a significant nature.
- f **Racial Harassment:** Behaviour of a racial nature (such as words, gestures, actions or threats relating to skin colour, race, or ethnic or national origin) that is unwanted or offensive to the recipient, repeated, or is of a significant nature.
- g **Respondent:** The person against whom a complaint of harassment has been made.
- h **Sexual Harassment:** Any form of sexual attention that is unwelcome, persistent or offensive to the recipient. It can include any of the following, although the list is not exhaustive:
- i Displaying or distributing offensive pictures, posters, cartoons, graffiti, screen-savers, electronic images or literature.
 - ii Loud conversations of a sexual nature.
 - iii Sexual and smutty jokes in any format.
 - iv Leering (suggestive staring at a person).
 - v Teasing or comments about a person's alleged sexual activities or private life.
 - vi Offensive gestures.
 - vii Unwelcome social attention, including telephone calls or electronic exchanges.
 - viii Unwanted physical contact such as touching, patting, pinching, kissing, or putting an arm around another person's body.

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- ix Unwanted requests for sexual activity.
- x Offering or implying benefits in return for sex.
- xi Threatening a person's career, salary, grades, or wellbeing if sexual activity is refused.

Related Ara Procedures	Related Ara Policies <ul style="list-style-type: none"> • CPP109 Disclosing Personal Information about Students and Staff Policy • CPP116 Protected Disclosures Policy • CPP208 Resolving Staff Performance or Conduct Issues Policy • CPP211 Code of Professional Practice • CPP501 Health & Safety Policy • APP301 Student Rights and Responsibilities
Related Legislation or Other Documentation <ul style="list-style-type: none"> • Human Rights Act 1993 • Education Act 1989 • Employment Relations Act 2000 • Health and Safety in Employment Act 1992 • Harassment Act 1997 	Good Practice Guidelines <ul style="list-style-type: none"> • Preventing and Responding to Workplace Bullying (Best Practice Guidelines – MBIE February 2014)
References <ul style="list-style-type: none"> • NZQA Quality Assurance Framework, 2009 	
Notes <p>This policy is aligned with the Resolving Staff Performance or Conduct Issues policy and the two policies should therefore be reviewed at the same time.</p> <p>This (2014) version contains changes from previous versions of this policy.</p>	

2 Principles

- 2.1 Ara does not condone any form of harassment.
- 2.2 Students and staff have the right of study and work unhindered by any form of harassment.

3 Associated procedures for

Ara Corporate Policy on: Harassment Prevention

Contents:	3.1	Timing
	3.2	Available Procedures
	3.3	Ara Harassment Prevention Procedure

3.1 Timing

In all cases it is preferable that a complaint be made as soon as possible after the alleged incident(s). The reasons for this are:

- a Recollection is likely to be clearer.
- b Witnesses are more likely to be available.
- c If the behaviour is unacceptable appropriate action needs to be taken as soon as possible.

3.2 Available Procedures

There are a number of different procedures or options available to an individual who believes they have been subjected to any form of unacceptable conduct as outlined in this policy. The aim of

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early intervention is to prevent this behaviour from continuing and to gain resolution as close to the source as possible.

Informal: Self-resolution is where an individual believes they have concerns and are comfortable and/or supported to raise those concerns by means of direct discussion or by a written communication.

If self-resolution is not possible or practicable they may choose to discuss the matter and seek guidance from an appropriate person. For a staff member, this can be their Head of Department, Manager, Human Resources staff member, Harassment Contact person or Union.

For students this will include Head of Department, another appropriate Manager, Student Advocacy Service, Student Wellbeing Group member or Complaints Officer who can guide the student through early resolution options.

The aim of these discussions is to assist the person raising the concerns to determine whether the behaviour experiences constitutes unacceptable conduct – bullying or harassment, and assist in developing options for resolution of the concerns.

Formal:

Should the above process not be of assistance or not appropriate in the circumstances the concerns should be raised formally, in writing. A formal complaint can take a number of pathways and the following procedures are available to complainants:

- a by making a complaint under this Policy.
- b by complaining to the Human Rights Commission.
- c by raising a personal grievance.
- d by making a Police complaint.

Using one of these procedures does not preclude using any of the other procedures.

3.3 Ara Harassment Prevention Procedure

a Overview

The application of this policy, when involving one or more staff members, is under the control of the Director, Corporate Services, who is responsible for investigating all allegations of harassment whether they are made against a staff member, student, or any other person.

The Director, Corporate Services has the authority to delegate all of his or her powers under this policy to any nominated person.

b Investigative Powers

The Director, Corporate Services may obtain additional information for the purposes of investigating any complaint under this policy from any source he or she considers appropriate.

c Other powers during an investigation

The Director, Corporate Services may, during an investigation into a complaint against a staff member or made by a staff member, take some or all of the following steps:

- i to suspend the staff member a complaint is made about on pay;
- ii to suspend the staff member concerned without pay;
- iii to temporarily re-assign the staff member concerned to other duties or to limit his or her duties;
- iv to delay a course or programme or adjust work commitments during the investigation;
- v to limit the level of service offered.

d Variations

This policy must be flexible to allow Ara to adequately investigate each complaint. This policy may be departed from in any case provided that:

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- i the person complained about is advised of that departure; and
 - ii at all times the revised procedure is fair.
- e Initiating a Formal Complaint

A complaint must be made in writing with sufficient information to enable Ara and the person complained about to understand it.
- f Investigator or Investigators

At the sole discretion of the Director, Corporate Services the whole or part of an investigation into a complaint may be delegated to an investigator or investigators.

Where the Director, Corporate Services determines to appoint an investigator or investigators the provisions of clause 3.5 of the CPP208 Resolving Staff Performance or Conduct Issues apply with all necessary modifications.
- g Investigation and Decision by Director, Corporate Services
 - i This stage is the most formal part of dealing with a complaint. The purpose is to investigate allegations made in a complaint where there has been no prior resolution of it, and to determine what action, if any, should be taken.
 - ii If the person complained about is a staff member, the Director, Corporate Services will ensure that all details of the complaint and the investigation into that complaint are supplied to him or her prior to a decision being made. The decisions available to the Director, Corporate Services in relation to a complaint which is upheld include, but are not limited to:
 - taking no further action;
 - providing support to change behaviours or actions and other education based alterations to ensure appropriate workplace behaviour;
 - administering a formal admonition to the staff member but taking no further action;
 - issuing a warning (in which case the procedures applying in the Policy: CPP208 Resolving Staff Performance or Conduct Issues will apply);
 - taking other disciplinary action, including dismissal;
 - where the person complained about is a contractor, in addition to the powers available in this policy, that person may be directed to leave the Ara campus or formally be asked to not return, should this be appropriate;
 - if the person complained about is a student, the procedures regulating probation, suspension, and cancellation of enrolment as provided for in Ara policies and in the Education Act apply. (For the avoidance of doubt, the available powers include expulsion or exclusion from Ara and for the student to be declined further enrolment).
- h These powers may be exercised by the Director, Corporate Services or his or her delegate. The existence of these powers does not preclude alternative decisions being made if the circumstances warrant that outcome.
- i There are circumstances in which it may be necessary for Ara, in order to comply with its legal obligations, to report the outcome of an investigation into a complaint to the complainant and/or other parties. While Ara will take every reasonable step to protect the privacy of the complainant, witnesses, or the respondent, these obligations may require information be disclosed to fulfil Ara legal objections.
- j The Director, Corporate Services has exercised the delegations provided by this policy and procedure and has appointed the Head of Department in each department to initially investigate into, and report on, complaints.
- k False accusations, vexatious complaints

All matters, including complaints and investigations, need to be raised and dealt with in good faith. Should a situation arise that results in an investigation finding that a complaint is vexatious or deliberately false this would be viewed extremely seriously and actions taken to deal with this appropriately.

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