

BULLYING AND HARASSMENT PREVENTION

Overview

Bullying and harassment in the workplace will not be tolerated or condoned by Nelson Marlborough District Health Board (NMDHB).

NMDHB accepts its responsibilities to:

- Maintain a work environment free from bullying and harassment
- Provide a mechanism for reporting bullying and harassment, ensuring a fair investigation for all staff concerned.
- Take care during the investigation of any complaint of bullying and harassment, and afterwards to prevent any undue disadvantage to the complainant as well as protect the position of other parties, regardless as to whether the complaint is found to be unwarranted.
- Establish preventative measures to stop the offending behaviour in the future, where a complaint is upheld and the person or persons responsible for perpetrating the bullying or harassment remains employed at NMDHB.
- Rely on employees at all levels to facilitate and encourage proper standards of personal and ethical conduct in the workplace.
- All bullying and harassment complaints will be taken seriously and handled with due sensitivity and impartiality.

Scope

All Nelson Marlborough District Health Board (NMDHB) employees, contractors, volunteers and students. Where "employee" or "staff" is referred to this could also be read to apply to contractors, volunteers or students.

Policy

NMDHB shall ensure that all reasonable and practicable steps are taken to ensure that priority is given to the provision of a safe environment, free of physical, emotional, mental, sexual or racial harassment, bullying, intimidation, abuse, or any forms of illegal discrimination, for its employees, patients/clients, contractors and visitors.

All complaints of bullying and harassment will be dealt with promptly, with due sensitivity and with careful attention to the principles of natural justice. Substantiated cases of bullying and serious harassment may result in disciplinary action which may include dismissal (and in the case of volunteers or honorary staff the withdrawal of status).

Definition of Bullying

Bullying is:

"unreasonable repeated behaviour where an individual or group is disempowered or harmed emotionally, physically or psychologically by one or more persons."

Bullying behaviour may be verbal, written, physical or psychological and may take place inside or outside of the workplace. Repeated and unreasonable behaviour of the following kind (although not limited to these examples) constitutes bullying:

- overt or passive aggression
- non communication with person/isolating the person
- exertion of excessive power or control over an individual
- invasion of an individual's privacy
- threats
- spreading of malicious rumours or untruths about person/s
- criticism
- ridicule
- physical assault
- inappropriate gestures and comments
- yelling or threatening comments
- differential treatment
- scapegoating
- electronic bullying
- disrespect
- abuse of position - whether the position is official or procedural
- withholding advancement or resources the person would otherwise be entitled to whether that entitlement is due to common practice or achievement.
- unfair or inequitable treatment of the person being bullied

If the behaviour (e.g., as listed above) is not part of a repeated pattern of unreasonable bullying behaviours, it may still be investigated by the DHB and appropriate action taken by NMDHB.

Bullying is not:

- one-off or occasional instances of forgetfulness, rudeness or tactlessness
- setting high performance standards because of quality or safety
- constructive feedback/performance management and legitimate advice or peer review
- a manager requiring reasonable verbal or written work instructions to be carried out
- warning or disciplining employees in line with the workplace's code of conduct
- a single incident of unreasonable behaviour (but it could escalate).

Definition of Harassment

Harassment may take either a serious or less serious form, and may be a one-off event or repeated events. Harassment and bullying are similar and certain behaviours are aspects of both forms of inappropriate behaviour.

Harassment is:

"A reasonable perception of unwanted, unwelcome and offensive verbal or physical behaviour including sexual harassment, racial harassment, or other forms of harassment by a person or group of people"

Harassment may be expressed in verbal, written, physical or psychological terms. Unreasonable behaviour of the following kind (although not limited to these examples) constitutes harassment:

- offensive teasing or abuse

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- unwelcome inappropriate physical contact e.g., touching, patting
- rude gestures and comments
- offensive jokes
- yelling or threatening comments
- being followed home from work or similar
- offensive pin-ups, calendars, posters
- unwanted attention of a sexual nature
- physical assault
- preferential treatment in return for sexual or other favours
- unwelcome telephone calls, letters or notes
- unwelcome comments about differences between cultures, gender, or other categories of people

Complainant's rights

An employee who believes he or she is subjected to bullying or harassment has the right to:

- confidentially contact a support person for further advice and assistance.
- lodge a written, signed complaint about the behaviour.
- have their complaint investigated fairly, independently, and confidentially, as far as is practicable. It is not usually possible to properly investigate and resolve a complaint in complete confidence. If a complaint is raised in confidence, then the person making the complaint will be advised about options for limited disclosure so that they can make an informed decision about the confidentiality of the matter.
- expect any bullying or harassment to be addressed once it has been brought to the attention of human resources, management, or the perpetrator.
- be treated with respect and not be victimised or disadvantaged for making a complaint.

Accused person's rights

An employee who is accused of being a bully has the right to:

- confidentially contact a support person for further advice and assistance.
- Be provided with a copy of the signed allegation(s) and respond in writing about their alleged bullying behaviour.
- Have their statements investigated fairly, independently and confidentially as far as is practicable.
- Be treated with respect and not be victimised during the investigation and/or disciplinary process.

Manager's responsibilities

Managers and supervisors (as the agents of NMDHB) are responsible for maintaining their workplaces free from bullying and harassment and ensuring that the employees for whom they are responsible understand what is expected in terms of workplace behaviour and what to do if they are subject to or witness bullying and harassment.

They are also responsible for ensuring that the procedures to address bullying or harassment are activated in regard to any matter that comes to their notice, whether a complaint is made or not, and to follow up promptly on any complaint that has been made following the NMDHB's guidelines.

Where a complaint is not made but the manager is aware of bullying or harassment, the manager is still expected to take action to remedy the situation.

In the event of vexacious, mischievous or malicious complaints the disciplinary process may follow.

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Bipartisan Responsibilities

It is the responsibility of Management, Human Resources and Unions/ Associations to collaboratively address and reduce bullying or harassment.

Bullying and Harassment Investigation Team (“Team”)

The primary mechanism to directly address bullying and harassment is the Bullying and Harassment Investigation Team (“Team”). This Team contains a resource pool of experienced DHB union officials, management, and HR. The Team is tasked with the oversight, monitoring, investigation, and implementation of policies and processes to manage alleged bullying and harassment cases and to prevent their occurrence in future.

The Team comprises three representatives, one from DHB unions, one from management, and one from HR. The Team has its own charter and operates according to the following guiding principles:

- Act to eliminate or reduce workplace bullying and harassment
- Act with fairness and natural justice
- Act with due confidentiality and impartiality
- Display sensitivity and concern for human dignity
- Speed and responsiveness

Procedure

What to do if you believe that you are being bullied or have been subject to harassment.

Informal Resolution

An employee who feels he or she may be subject to bullying or harassment should talk to someone they trust (whether this is a friend, colleague or family member, or another person) about what they have experienced.

Further information about what to do in cases of possible bullying or harassment may be accessed in confidence from the following sources :

- NMDHB Human Resource Advisor
- General Manager - Human Resources (the NMDHB Organisation designated contact person)
- Union organiser or workplace delegate
- Intranet (under bullying and harassment prevention)
- The employee’s manager

Options for the employee are explained on the intranet and include:

- Self Help
- Informal intervention
- Formal complaint for referral to the General Manager, Human Resources

Support provided

It is recognised that such situations are challenging for all concerned including those who consider they have been bullied/harassed and those accused or otherwise involved. Some options for support to anyone involved include:

- DHB Health, Safety & Wellbeing Service
- EAP (Employee Assistance Programme) a counselling and support service contacted via the Health, Safety & Wellbeing Service or via information on Intranet
- DHB Chaplain
- Union - if a member of a union
- Whanau or Maori Health support
- Friends (and peers as appropriate)

Formal Complaint

This approach should be used in cases where either an informal approach has not resolved the problem, is unlikely to resolve the problem, or the allegations have been serious enough to warrant a formal investigation rather than be dealt with on an informal basis.

An employee who feels he or she is being bullied or harassed (or who has witnessed what they consider to be bullying or harassment) is required to report this directly to the General Manager - Human Resources, or confidentially via the Bullying and Harassment Site on the NMDHB Intranet which is automatically forwarded to the General Manager, Human Resources.

The employee's information will be treated confidentially and the General Manager, Human Resources will co-ordinate the formation of an Investigation Team, if the complaint progresses to a formal investigation.

The composition of the Team shall be chosen with due regard to the principles of natural justice impartiality, and the advantage of minimising potential conflicts of interest as much as practicable. If either the complainant or person being complained against objects to any of the Team composition, then the grounds for this objection must be made clear to the General Manager, Human Resources, who will make the final decision.

Immediately an allegation of bullying or harassment is made, steps will be taken to minimise the exposure (of the person allegedly being bullied or harassed) to the environment and/or the perpetrator of the bullying. This shall not disadvantage the person allegedly being bullied. They shall not be required to take any form of leave or otherwise have their employment environment or conditions compromised. Similarly the person being accused of bullying/harassment should not be disadvantaged. This may involve negotiation by the General Manager, Human Resources to ensure both parties are not disadvantaged while the investigation proceeds.

This step has a two-fold purpose to ensure:

- the person(s) who is allegedly being bullied comes to no further harm or risk of harm,
- a rapid and effective response to the complaint that is fair to all parties. As far as is possible care will be taken to ensure information is kept confidential to those directly involved.

The complainant will first meet with the General Manager, Human Resources to discuss their complaint. The General Manager will explore with the complainant all aspects of the situation. The General Manager will request a second meeting with the complainant. At that meeting the complainant will present their complaint(s) in written form. The General Manager will further discuss the specific complaint(s) with the complainant and the approach that could/should be taken for resolution.

If the decision is to proceed formally with the complaint(s), the General Manager, Human Resources will bring together the three person Investigation Team as described above. The Team will consider whether an investigation should proceed based on the information provided to it. This may involve an initial interview with the complainant or person who alleges that bullying/harassment has occurred to clarify details in their written complaint. If the team decides to proceed with the investigation it shall follow the investigation procedures below.

Investigation

The Team is responsible for ensuring that a fair and impartial investigation is undertaken and that the rights and dignity of all concerned is upheld in accordance with principles of natural justice and employment law.

The team will engage an outside person of reputation and expertise to carry out the investigation. Procedural fairness will be paramount in conducting the investigation. The rights of the person complained about must be respected and due confidentiality maintained.

- To ensure an objective investigation, the members of the Investigation Team, explanations and other evidence, should be as remote from and independent of the involved parties as is practicable. The investigator and the Investigation Team must hear the complaint impartially, and act in a culturally appropriate manner. For this reason, while the manager of the service is to be kept informed of all procedural events, it is the responsibility of the Team to ensure the procedures are carried out appropriately.
- The person accused of bullying must be told of the complaint which will take the form of a formal written notice from the General Manager, Human Resources to the person accused of bullying.
- Each involved party must be given the opportunity to be represented, and given a reasonable opportunity to answer the allegations and rebut the defences.
- Documentary evidence or records of allegations, defences, and rebuttals should be kept and signed as accurate, with corrections as necessary.
- Decision making should be based only upon the facts established during the investigation and arrived at by logical steps (i.e. reasonably) and should be documented.

The utmost care must be taken to prevent any disadvantage to the person against whom the complaint has been laid if the complaint has been unable to be substantiated or found to be unwarranted.

Care must also be taken to prevent the complainant being made to suffer in any way for having made the complaint.

Following the Investigation

Following the investigation by the external investigator, the Investigation Team will meet with the investigator and consider the report of the investigation including the recommendation(s) made.

The Investigation Team may require further work be undertaken by the investigator. Once the report is in its final form the Investigation Team may make recommendations within its mandate, which may include: preventative measures, education, facilitation and /or provision of support, review and monitoring and if appropriate disciplinary action.

Management, who have responsibility for considering and implementing the agreed recommendations must take all practicable steps to ensure that any substantiated offending behaviour does not continue or recur. In order that the relevant staff involved can resume work in a non-threatening environment, it may be necessary to ensure that the two parties are not required to work together for a period.

If the reported behaviour constitutes bullying or harassment in any form, then disciplinary action can result. If the Team considers there could be grounds for serious misconduct, the matter will be referred to the relevant member of the NMDHB Executive Leadership Team to address.

Regardless of the outcome, if the behaviour does not constitute bullying or harassment, all parties involved (both the complainant(s) and the accused) will be contacted and receive appropriate support.

A review of the outcomes will be undertaken at one (1) month, three (3) months, and a final review at six (6) months, or as otherwise decided by the Team, to ensure that the inappropriate behaviours have not recurred and that the intervention has proved effective.

Alternative Avenues

Where an employee feels their complaint has not been dealt with to their satisfaction, or does not wish to follow the above internal procedures, they may pursue other avenues:

- Investigation by the Human Rights Commission, Equal Opportunities Tribunal or Race Relations Conciliator within its brief
- Personal grievance procedure pursuant to the Employment Relations Act
- Civil action through a lawyer or complaint to Police

Note:

If an employee wishes to lay a personal complaint of assault or harassment against a patient/client, the Police will be called where the patient/client is deemed capable of knowing the consequences of their action and where there appears to be purposeful intent. The DHB will provide support where appropriate.

Associated documents

NMDHB Disciplinary policy

References

- Human Rights Act 1993
- Employment Relations Act 2000

COMMUNICATION CHANNELS

Overview

All employees of Nelson Marlborough District Health Board (NMDHB) must ensure that they follow the correct communication channels for putting forward a request, suggestion or complaint about work situations.

Scope

All Nelson Marlborough District Health Board (NMDHB) employees

Policy

Where an employee wishes to put forward a request, suggestion or complaint, verbally or in writing, the first approach is to be to their immediate manager, unless the matter relates to that manager in which case the employee is to approach the manager at the next level. This should take into consideration dual reporting lines and appropriate alternative managers, as relevant for certain positions.

If an employee is dissatisfied with the outcome of their request, suggestion or complaint within a fair timeframe, the employee may take the matter to the next level of management.

All employees have the right to approach the Chief Executive directly if any matter is not able to be resolved through the above channels.

Associated Documents

NMDHB *Protected Disclosures (Whistle-blowing)* policy (HR/01/0037)

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DISCIPLINARY

Overview

The aim of this policy is to ensure appropriate behaviour on the part of the employee, and, where appropriate, to initiate a change of behaviour. This should ensure that standards of conduct and work performance are met. The policy also details procedures for dealing with a breach of the Disciplinary Code. In applying this policy the principles of fairness, common sense and courtesy are to be observed at all times.

The contents of this document are not to be construed as in any way depriving an employee of any rights they may have under the personal grievance provisions of the Employment Relations Act 2000, or of any other legal redress which may exist.

Scope

All Nelson Marlborough District Health Board (NMDHB) employees.

Policy

It is the policy of NMDHB to adhere to the principles of fairness to individual employees when dealing with disciplinary matters and the effective management of NMDHB's services.

Discipline must be prompt, impartial, consistent, fair and non-punitive.

- **Promptness** - Remedial action should be initiated as soon as practicable after the event. Promptness, however, does not diminish the requirement that a proper investigation is made and that all facts are considered fully.
- **Impartiality** - Disciplinary procedures must be applied in an equitable and fair manner. Personal considerations must be put to one side. One employee or group of employees should not be favoured in disciplinary matters at the expense of another employee or group of employees.
- **Consistency** - Similar disciplinary action should normally be taken for similar offences.
- **Fairness** - Disciplinary action must be related to the nature of the offence, the employee's responsibilities and record of service/ performance records. Any manager involved in the investigation of a potential disciplinary matter must have no personal interest in the outcome of the investigation apart from their normal concern as a manager.
- **Non-punitiveness** - Disciplinary action should focus on prevention and not on retribution.
- **Advance Warning** - Managers and supervisors must ensure that employees are familiar with and understand the obligations of employees, the Disciplinary Code, other standards for staff conduct and the standard of work performance required, and understand the consequences of not meeting the required standards.

At any time when an employee is being interviewed in connection with a disciplinary matter, the employee is entitled to have a union representative, or a support person of their choice present.

Employee Obligations

Employees of NMDHB have an obligation to the Organisation to:

- Be present at work as required and to be absent from the workplace only with proper authorisation or cause.
- Maintain expected standards of performance, carrying out their duties in an efficient and competent manner and avoiding behaviour, which might impair their work performance.
- Respect the rights of others. In performing their duties, employees should respect the rights of their colleagues and the public. In meeting this obligation, employees are expected to:
 - avoid behaviour which might endanger or cause stress to other employees, or otherwise contribute to disruption of the workplace;
 - refrain from allowing workplace relationships to adversely affect the performance of official duties;
 - respect the privacy of individuals when dealing with personal information;
 - not discriminate against clients/ patients or colleagues because of their sex, age, marital status, colour, race, ethnic or national origins, ethical beliefs, disability, religious belief, political opinion, employment status, family status or sexual orientation;
 - respect the cultural background of colleagues and clients/ patients in all official dealings;
 - have due regard for the safety of themselves and others in the use of NMDHB property and resources.
- To treat all clients/patients/service users with respect and dignity, whilst adhering to safety protocols, procedures and policies.
- Obey all lawful and reasonable employer instructions and policies and work as directed and comply with all statutes, regulations and by-laws in the course of their employment.
- Show reasonable care, and neither use, nor allow the use of, NMDHB property, resources, or funds for anything other than authorised purposes.
- Support and promote actions and initiatives in the workplace which enable risks to be identified and eliminated or reduced.
- Incur no liability on the part of NMDHB without proper authorisation.
- Maintain all necessary qualifications (including registration and annual practising certificates) to enable them to perform their duties legally and efficiently, and notify NMDHB at any time where they may be subject to any litigation or professional disciplinary proceedings that would impact on their employment or professional registration.
- Not to demand, claim or accept any fee, gratuity, commission or benefit for personal gain from any person or persons other than the employer in payment for any matter or thing concerned with their duties and responsibilities, except with the prior written consent of the employer.
- Not to knowingly or without due care disclose confidential information, or information relating to any of the business affairs, software, property or other activities of NMDHB, and use their best endeavours to prevent the publication or disclosure of the same.
- Not engage in any private activity (or employment), whether paid or unpaid, or accept gifts or personal benefits that could conflict with the employee's work for, or business of, NMDHB, unless with the written consent of NMDHB.

Ensure that where a media inquiry shifts from a purely clinical issue to a policy matter, that in the first instance, the reporter is referred to the Communications Co-ordinator or the Chief Executive. Clinical staff are free to speak to the news media about their speciality.

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Disciplinary Code

The Chief Executive has identified a range of offences that could result in disciplinary action, and these are listed in the Code.

This list is not exhaustive and is not intended to cover every possible situation. The Code is divided into two sections:

- Work-Related Offences (including those occurring on NMDHB property or whilst on NMDHB business) – a breach of which may lead to disciplinary action being taken. If the offence is of a serious nature, it may lead to dismissal, including summary dismissal. The level of offending will determine whether the offence is serious.
- Non-Work-Related Offences – may lead to disciplinary action or dismissal, including summary dismissal.

Work Related Offences

- Unsatisfactory performance of duties.
- Abuse of a patient/client/service user. "Abuse" includes sexual abuse, physical abuse, emotional/psychological abuse, verbal abuse, financial/material abuse and neglect. Abuse is defined as any action that can be harmful, injurious or offensive to another person. Abuse can result from actions as well as omissions (the failure to act). Please refer to NMDHB's *Abuse and Neglect of Patients/Clients/Service Users* policy.
- Use of such language as to cause offence to another person, including inappropriate emails.
- Inappropriate and/or disruptive behaviour including bullying, sexual, verbal or personal harassment of any other person.
- Behaviour adversely affecting the safety of a patient, client, visitor or another employee.
- Fighting or abusing (physically or verbally) any fellow employee, patient or client.
- Failure to comply with established clinical protocols, which could lead to a potential risk for a patient or client.
- Failure to maintain a standard of dress appropriate to the duties being performed.
- Failure to follow policies and procedures required by the Manager or Supervisor and/ or the Organisation.
- Posting offensive notices on the notice-boards or elsewhere on the premises.
- Failure to observe and practice personal and environmental hygiene policies.
- Failure to report to the Manager or Supervisor any incident at work involving personal injury, or damage to property.
- Unauthorised use of fire protection or safety equipment.
- Using the Organisation's computers to make unauthorised copies of any computer software, or the use of any unauthorised software.
- Failure to record and report any accident affecting patients/ clients/ employees.
- Reporting to work in such a condition that the employee is unable to perform the required duties in a safe and/ or proper manner.
- Sleeping in working hours. (This does not include situations where staff are on-call for immediate availability or sleepover staff.)
- Gambling on the Organisation's premises during working hours.
- Misuse or unauthorised use of the Organisation's property including tools, vehicles, computers, plant and equipment, or damaging and/ or defacing the Organisation's property, or removal of the Organisation's property from the Organisation's premises without authorisation.

- Leaving the assigned place of work during working hours without authority.
 - Without good reason, failure to notify the Manager or Supervisor within 30 minutes after normal commencing time that the employee is unable to commence work.
 - Late arrival for duty without good reason.
 - Failure to complete normal hours of work, without good cause and approval.
 - Refusal to perform duties or walking off the job except where the working conditions are unsafe.
 - Failure to observe posted safety rules or working in an unsafe manner, or failing to make proper use of safety equipment when such equipment is installed or provided.
 - Any attempt to mislead the Organisation or any employee, or a patient/ client, or a member of the public in connection with the Organisation's business. This includes falsification of attendance records or submitting false claims for expenses or reimbursement.
 - Possession of a patient's, client's or the Organisation's property without proper authorisation or possession of another person's property without that person's consent.
 - Exacting, attempting to exact or accepting any fee, reward, gratuity or remuneration, other than the salary or allowance pertaining to the employee's employment agreement, on account of anything done in the execution of the duties.
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- Failure to forward to management any donations or monetary gifts.
 - Misrepresenting the Organisation for personal gain.
 - Unauthorised possession and/ or unauthorised consumption of drugs or intoxicating substances on the Organisation's property.
 - Having offensive weapons on the Organisations property.
 - Giving false or incomplete information on job application forms and/ or producing false references/ testimonials.
 - The unauthorised disclosure of or access to confidential information.
 - Unauthorised use of the Organisation's time, facilities, premises or equipment to undertake other employment.
 - Acts detrimental to the quality and/or efficiency of the Organisation's business.
 - Acts likely to bring the Organisation into disrepute.

Non-Work Related Offences

In most cases what employees do in their own time is not considered to be the business of NMDHB. Exceptions to this are where an employee's off-duty conduct reflects adversely on, or is detrimental to the best interests of NMDHB or suggests the employee is no longer suitable for the position in which they are employed.

Disciplinary Procedure

These disciplinary procedures set out the action to be taken following an alleged breach of the Disciplinary Code. It should be noted, however, that some alleged breaches of the Code may be serious enough that the procedure may commence at any stage or that immediate suspension and/ or dismissal is warranted. Variations to the disciplinary procedure may occur in any particular case as long as the procedure used complies with employment law.

Prior to any interview in connection with a disciplinary matter, the employee is to be advised in advance of their right to bring a union representative or support person to the interview, and given adequate notice for this to be arranged.

Notification of Allegation

Where ever possible, the Manager and HR Advisor if required will hand deliver a letter outlining the allegation and any supporting evidence. The letter will invite the employee to an initial interview to discuss the allegation. The employee is not required to respond prior to the initial interview.

Initial Interview: The complaint, incident or concern is outlined for the employee, and the employee's explanation sought in respect of this. Possible outcomes from this interview include:

- It is decided that no further action is necessary, and the incident is deemed to be closed. If considered appropriate in the circumstances, a record of the interview will be placed on the employee's personal file, stating that no disciplinary action was taken in respect of the event.
- It is decided that further investigation is necessary, and following this the employee will be further interviewed, and a decision proposed as to whether or not disciplinary action is to be taken.
- It is proposed after considering the employee's response, that disciplinary action should be taken.

Disciplinary Action: First Warning

If, after considering the employee's response to the complaint, incident or concern, disciplinary action is considered necessary, the employee will receive a written warning outlining that if their conduct does not improve to the organisation's standard, or if they further breach the Rules of Conduct in any way, then further disciplinary action may be taken, or their employment may be terminated.

Where appropriate, a plan for improvement will be developed with the employee, implemented. The time allowed for improvement will be for a set period depending upon the nature of the issue(s).

A copy of the written warning will be placed on the employee's personal file.

Disciplinary Action: Second Warning

If the employee's performance does not improve to a standard acceptable to NMDHB within the set timeframe, or if there are further breaches of the Disciplinary Code and the employee's explanation is not acceptable, then a written warning may be given, that might be a Final Warning, or the employee's employment may be terminated or some other reasonable action taken.

In the event of a written warning the employee will be given a clear indication of the standards expected and a further review date set as appropriate. A copy of the written warning will be placed on the employee's personal file.

Disciplinary Action: Dismissal

The summary dismissal of an employee will only be carried out where there are substantial reasons.

Dismissal may occur following the first or second warning, depending on the nature of the breach(es) of the Rules of Conduct.

Dismissal is preceded by an investigation, and the employee has the right to representation and to give their explanation, as for all other stages of the disciplinary process.

Suspension

Suspension is not, in itself, a disciplinary action, and should continue only until management has sufficient information to make a decision on the matter.

An employee may be suspended from duty where it is considered that there are clear reasons why the employee should not remain on duty. Please refer to the Interim Delegated Powers Policy for authority levels. Examples of when suspension is considered include:

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- where a cool-off period is considered necessary or desirable
- where issues of health and safety are involved
- where the alleged conduct, if proved, would mean the employee should not have direct contact with patients/ clients
- the employee's presence in the work place could hamper the completion of a full and fair investigation into the matter.

The suspension will be confirmed in writing by the Unit/Service Manager. Where there is no specific contractual right to suspend, the suspension during the time of investigation will be on full pay.

Associated Documents

NMDHB *Prevention of Workplace Bullying and Harassment* policy (HR/01/0019)

NMDHB *Abuse and Neglect of Patients/Clients/Service Users* policy (HR/01/0015)

NMDHB *Interim Delegated Powers* policy (BD/01/0010)

References

Employment Relations Act 2000

Human Rights Act 1993

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Protected Disclosures (Whistleblowing)

Overview

The Protected Disclosures Act 2000 (the Act) promotes the public interest by:

- facilitating the disclosure and investigation of matters of serious wrongdoing; and
- protecting employees who, in accordance with the procedures set out in the Act, disclose information about serious wrongdoing in, or by, an organisation.

Nelson Marlborough Health (NMH) is required to have in place internal procedures for receiving and dealing with information about serious wrongdoings in, or by, NMH. These procedures will:

- comply with the principles of natural justice; and
- identify the people in the organisation to whom a disclosure may be made; and
- refer to the fact that disclosure may be made to the Chief Executive (CE), "Appropriate Authorities", a Minister of the Crown, or an Ombudsman under certain circumstances.

Protected Disclosures should not be confused with the statutory and professional obligations employees may have in regard to reporting or disclosing certain information to relevant bodies (e.g. the Medical Council, the Nursing Council, professional colleges etc).

Scope

All NMH employees or people contracted to NMH.

Policy

If you wish to report a serious wrongdoing in, or by, NMH, you must follow the internal procedures as detailed in this policy.

NMH will not tolerate any attempt by any manager or employee to apply any sanction or detriment to any person who has reported serious wrongdoing, and will treat such action as a serious disciplinary matter.

Definitions

Serious Wrongdoing

For the purposes of this policy serious wrongdoing includes:

- Unlawful, corrupt, or irregular use of public funds or resources
- An act or omission or course of conduct that:
 - seriously risks public health, or safety, or the environment; or
 - constitutes an offence; or
 - is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement; or
 - constitutes serious risk to the maintenance of law.

Protected Disclosure

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Protected disclosures are those where:

- the information is about serious wrongdoing in, or by, an organisation; and
- the employee believes on reasonable grounds that the information is true or likely to be true; and
- the employee wishes to disclose the information so that the serious wrongdoing can be investigated; and
- the employee wishes the disclosure to be protected.

Appropriate Authorities

Include:

- The Commissioner of Police
- The Director of the Serious Fraud Office
- The Solicitor-General
- The Health & Disability Commissioner
- An Ombudsman
- The Parliamentary Commissioner for the Environment
- The Police Complaints Authority
- The State Services Commissioner
- The Inspector-General of Intelligence and Security
- The Head of every public sector organisation
- A private sector body that comprises members of a particular profession or calling and has the power to discipline its members.

Do not include:

- A Minister of the Crown
- A Member of Parliament.

Making a Disclosure

You can make a disclosure in writing or orally to the following designated persons: Internal Auditor/Risk Manager, Human Resources, or a General Manager. Disclosures may also be made to the Chief Executive (CE) if you believe on reasonable grounds that:

- the person to whom the wrongdoing should be reported to is, or may be, involved in the alleged serious wrongdoing; or if
- it is not appropriate to make a disclosure to the person to whom the wrongdoing should be reported to due to their relationship or association with a person who is alleged to be involved in the serious wrongdoing.

Investigation

On receipt of a disclosure, the designated person will investigate the validity of the disclosure and interview any person thought appropriate. Interview notes should be taken. Within 20 working days the designated person will report the progress and/or result of the investigation to the person making the disclosure and to the CE (if appropriate). The only time that the CE will not be informed of the investigation is if the disclosure is about serious wrongdoing by the CE, in which case the investigation will be reported to the NMDHB chair.

Disclosures to an Appropriate Authority

You may make a disclosure to an appropriate authority if you believe on reasonable grounds that:

- the CE is, or may be, involved in the alleged serious wrongdoing; or
- it is justified by the urgency of the matter, or some other exceptional circumstances; or
- there has been no action or recommended action on the matter within 20 working days after the date on which the disclosure was made to a designated person.

Disclosure to a Minister of the Crown or Ombudsman

You may make a disclosure to a Minister of the Crown or to an Ombudsman if you:

- have already made substantially the same disclosure in accordance with the above; and we
 - have decided not to investigate the matter; or
 - have decided to investigate the matter but have not made progress with the investigation within a reasonable time after the date on which the disclosure was made to the person or appropriate authority; or
 - have investigated the matter but have not taken any action nor recommended the taking of action in respect of the matter, as the case may require; and
- continue to believe on reasonable grounds that the information disclosed is true or likely to be true.

Confidentiality

Every person to whom a protected disclosure is made or referred must use their best endeavours not to disclose information that might identify the employee who made the disclosure unless:

- the employee consents in writing to the disclosure of that information; or
- the person to whom the protected disclosure has been made reasonably believes that disclosure of the identifying information is essential to:
 - the effective investigation of the allegations in the protected disclosure; or
 - prevent serious risk to public health, or public safety, or the environment; or
 - have regard to the principles of natural justice.

Employee Protection

If you make a protected disclosure, you will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure. (This protection provided under the Act does not apply if you make an allegation you know is false or where you have acted in bad faith).

If, after making a protected disclosure of information under the Act, you suffer retaliatory actions from us, or an employee of ours, you may bring a personal grievance proceeding under the Employment Relations Act.

Associated Documents

- NMH Disciplinary policy
- NMH Communication Channels policy

References

- Protected Disclosures Act 2000
- Employment Relations Act 2000
- Human Rights Act 1993
- Official Information Act 1982

Prevention of Workplace Aggression Policy

Objective:

The objectives of this policy are to:

- Provide a framework for the prevention and management of workplace aggression
- Promote a *zero tolerance* to workplace aggressive behaviour and aggressive violence
- Promote a safe working environment for all workers
- Promote strategies for the management of workplace aggression.

Policy Statement:

The Nelson Marlborough Health (NMH) workforce has the right to work in a safe and healthy work environment free from violence and aggression. Workplace aggression and violence is recognised as a significant workplace hazard. Aggressive and violent behaviour towards NMH workers will not be tolerated.

NMH is committed to preventing and managing risks associated with aggression to ensure a safe environment for workers, patients (clients, service users) and visitors.

Scope:

This policy applies to all locations where work is undertaken by NMH workers, contractors (excluding Planning and Funding Contracts), volunteers and students whether on site or off site. This also encompasses patients, members of the public, volunteers and others who have accessed NMH services and support: or are visiting/supporting a patient, service user or client.

Definitions:

Zero tolerance: a complete refusal to tolerate aggressive behaviours. It is important to differentiate unacceptable workplace aggressive behaviour from that of behaviour demonstrated as a result of a medical condition such as dementia, hypoxia or brain injury, for example.

Workplace aggressive behaviour: incidents, perceived or real to individuals, when they are abused, threatened or assaulted in circumstances arising out of, or in the course of their employment, involving an implicit challenge to their safety, health or wellbeing.

Workplace violence: an action or incident that physically or psychologically harms another person. It includes situations where workers and other people are threatened, attacked or physically assaulted at work.

Non-physical violence such as verbal abuse, intimidation and threatening behaviour, may also significantly affect a person's health and wellbeing. Threats may be perceived or real and there does not have to be physical injury for the violence to be a workplace hazard. Workers may be affected by workplace violence even if they are not directly involved.

Physical violence: the use of physical force against another person or group that results in physical harm. It includes, but is not limited to, pinching, biting, pushing, spitting, slapping, kicking, and beating, shooting and stabbing.

Psychological violence: the use of power against another person or group that results in psychological harm or an inability to develop professionally. This includes, but is not limited to, verbal abuse, suggestive behaviour, threats of physical abuse, intimidation and bullying.

Procedures:

NMH will achieve the elimination/minimisation of workplace violence or aggression by implementing the following:

1. The promotion of a policy and framework supporting a risk management approach to workplace violence/aggression;
2. Ensure compliance of obligations/duties owed, as stated in Health and Safety at Work Act 2015 and the Health and Safety at Work Regulations 2016 in ensuring a safe work environment/ for the workforce.
3. Review and update integrated systems to prevent and manage occupational violence and aggression based on a risk management framework, involving the proactive identification, assessment and implementation of appropriate risk controls, with timely review and evaluation of risk controls;
4. Provide a secure and safe physical environment, including buildings, grounds and car parking areas;
5. Provide information, training and education to workers on the Policy and procedures, including capacity and capability to respond to incidents; measures to prevent and control risk of violence and aggression; and to respond to , de-escalate and defuse situations;
6. Ensure appropriate equipment for summoning assistance in an emergency: an audit of all equipment; alarm testing, maintenance and replacement where appropriate of emergency equipment; and adequate training/refresher for those who will activate equipment.
7. Provide accessible and supportive information and resources for demobilising, defusing and debriefing for all NMH workers;
8. Ensure adequate emergency response systems are available, known to all workers, relevant to the work environment, work tasks and work undertaken; and are tested in a timely manner to ensure effectiveness and allow continual improvement.
9. Ensure workers are aware of and encouraged to report all incidents/injuries/events; and all incidents/injuries and events are investigated to ensure the effectiveness of risk controls and in consideration and application of continual improvement.

Responsibilities:

Officers (NMH Board Members, CEO, ELT)

- To ensure that NMH meets its' obligations under the HSWA (2015) to provide, a safe and healthy work environment.
- To take reasonably practicable steps to:
 - Check that NMH has processes in place to communicate and consider information about workplace aggression and to respond to that information;
 - Check that NMH has appropriate resources and processes to eliminate or minimise workplace aggression risks, and that these are used
 - Understand the work of the organisation and the workplace aggression risks that workers and volunteers may face when working for the organisation;
- To ensure that there is an organisation-wide systematic approach to the risk management actions for the prevention of workplace aggression.
- To ensure that there are reasonable resources available to the PCBU's to implement the Prevention of Workplace Aggression

PCBU (Persons Conducting Business or Undertaking) General Managers

- To provide leadership and support for zero tolerance of workplace aggression.
- To ensure compliance with policies and procedures which eliminate/minimises the risk of workplace aggression/violence?
- Ensure there is adequate information, training, instruction or supervision provided for work tasks/activities with an assessed risk of workplace aggression.
- Ensure appropriate monitoring of the health and wellbeing of workers, where there is a high risk of workplace aggression – for the purpose of preventing physical or psychological injury/impact.
- Provide and maintain a work environment without risks; and has considered physical and psychological work environments.

Managers, Team Leaders, and Supervisors (Those who have control or influence over work: environment, task, equipment and workers)

- To promote a workplace that is free of workplace aggression
- Ensure all workers are aware of and have access to: procedures, resources, appropriate training and relevant information regarding the prevention of workplace aggression.
- To implement the Prevention of Workplace Aggression Policy in the workplace.
- To provide a supportive process for workers to discuss workplace aggression concerns either in relation to themselves, regarding another worker or involving client/patient/service users or their relevant support persons.
- To ensure that workers complete an online reportable event in Safety 1st for all workplace aggression related incidents/injuries/PTCH (potential to cause harm) events.
- To investigate all reported incidents of workplace aggression; ensure significant learnings are communicated in a timely manner to the relevant workgroup; provide adequate feedback to individual workers and relevant workgroup/s; and consult with workers when developing/implementing additional risk controls.

Workers (Includes contractors, volunteers and students)

- To comply with and promote the Prevention of Workplace Aggression Policy and procedures to maintain a safe and healthy workplace
- To participate in training/education opportunities about the impact and signs workplace aggression
- To participate and contribute to workplace audits, review of policy and procedures regarding workplace aggression
- To inform the designated Manager if they have any concerns regarding workplace aggression
- Report all incidents, injuries or PTCH (Potential to Cause Harm) events on Safety 1st.
- To participate and contribute in the development and implementation of risk controls applicable both organisation-wide and within a designated work area.

References:

Health and Safety at Work Act 2015

Health and Safety at Work Regulations 2016

Nelson Marlborough Health – policies and procedures

Staying Safe at Work Policy

Staying Safe at Work

Nelson Marlborough Health (NMH) is committed to providing a safe and healthy workplace, promoting the wellbeing of all staff, persons contracted to complete work at an NMH site or owned premises, patients and others. The NMH will do all that is reasonably practicable to ensure healthy and safe work practices with the elimination or minimization (utilizing a hierarchy of controls) of any conditions, risks or hazards that could result in occupational injury and ill health.

This will be achieved by:

- Provision of clear and succinct policies and procedures;
- Including health and safety goals and objectives in strategic and service planning;
- Providing a system that promotes worker engagement and enables employees participation and representation in health and safety matters;
- Providing and promoting orientation, education and training to enable workers to function safely and effectively in their roles;
- Providing supported and well-guided injury management; including health monitoring, rehabilitation and return to work strategies and education on prevention of work related injury and illness;
- Ensuring there is flexible decision making in managing workplace risks;
- Appropriate emergency preparedness; and
- To ensure the review and audit to monitor compliance and to assist the organisation to achieve continuous improvement in work place health and safety.

The NMH will meet all obligations under Health and Safety at Work Act 2015(HSWA 2015), the Health and Safety at Work Regulations 2016 (as referenced below) and other relevant legislation. Consideration will be given to Best Practice Standards, Approved Codes of Practice where applicable.

Scope

This policy must be followed by all workers employed by or contracted to Nelson Marlborough Health. For the purpose of this policy when referring to employees or workers, this referral will include students and volunteers, employed or contracted to work on Nelson Marlborough Health sites and premises.

Procedures

Nelson Marlborough Health will meet its commitment to Health, Safety and Wellbeing by:

- implementing an occupational health, safety and wellbeing strategy and systems to effectively manage Health, Safety & Wellbeing
- integrating risk management into all operational activities;
- providing managers, workers and contract personnel with the necessary information, instruction, training and supervision so as to ensure that they can meet their responsibilities under the HSWA 2015, the Health and Safety at Work Regulations 2016 (HSWR 2016) and all relevant legislation, Approved Codes of Practice and Industry best practice guidelines
- acknowledging that NMH workers and contract personnel have a duty of care which incorporates the responsibility to work safely, to take all reasonable care for their own health and safety and to consider the health and safety of other people who may be affected by their actions
- implementing effective risk and hazard management systems which are relevant and suitable for NMH's risk exposure and provides for the review and evaluation of hazard management

- ensuring all workers understand, have access to and comply with all applicable relevant NMH policies and procedures
- effectively disseminating health and safety information to all persons in the workplace
- actively responding to, and investigating all incidents, and ensuring injured employees are returned to suitable work at the earliest possible opportunity through rehabilitation practices
- providing safe plant and equipment; for controlled work, ensure there are appropriate plans in place to schedule servicing of equipment and a documented procedure for the maintenance of equipment
- providing personal protective equipment where necessary
- implementing effective information systems that will monitor, evaluate and to continually improve Health, Safety & Wellbeing performance including the development of consistent objectives and targets across NMH aimed at the elimination of work-related injury and illness
- delegating Health, Safety & Wellbeing responsibilities to all levels of management, workers and contract personnel within the NMH and holding ALL persons accountable for meeting their responsibilities
- planning and establishing emergency systems to manage hazardous events and provide effective post incident management
- implementing effective HEALTH, SAFETY & WELLBEING engagement, participation and representation arrangements to ensure employees and relevant representatives are consulted on all health, safety and wellbeing issues which may affect their Health, Safety & Wellbeing at work
- promotion of timely campaigns and initiatives for staff to improve wellness and workplace wellbeing.

Responsibilities

Board Members, Chief Executive, Executive Leaders (Officers)

The Chief Executive will ensure that consultation and participation mechanisms are in place and are promoted and supported by senior leadership. The CEO will ensure adequate resources are provided for all Workplace Health and Safety (WHS) responsibilities and delegate authority to Executive Leaders for everyday management of WHS. The Board will develop and approve an overall Board Policy on WHS as part of their Risk Management and will maintain an up to date knowledge of services to enable effective WHS Management. The CEO and Executive Leaders will review relevant safety data, analysis and management reports as part of the due diligence in ensuring the NMH risk profile is assessed and where risks are unable to be eliminated there is appropriate minimisation, monitoring and mitigation.

General Managers

General Managers will maintain a comprehensive knowledge of all services and be responsible for developing, implementing, reviewing and using consultation mechanisms, policies and procedures, hazard identification and risk management systems, incident investigation, reporting systems and injury management. General Managers will also ensure resources for training employees, the provision of staff amenities; Personal Protective Equipment (PPE) and safety equipment are adequate. General Managers will ensure Managers (those who have some control and influence over work tasks, workers, work environments and equipment/machinery or vehicles) will have adequate authority and resources so they can meet their WHS responsibilities.

Managers (those who will control and influence over work tasks, workers, work environments and equipment/machinery or vehicles)

Managers are responsible for:

- integration of the principles of relevant *HSWA 2015*, The HWS Regulations 2016 and related legislation into all aspects of the workplace
- effective provision for, and maintenance of, a healthy, safe workplace
- providing orientation, instruction, training and supervision in occupational health and safety as a normal component of all aspects of work
- the planning, development, implementation and monitoring of effective occupational health and safety systems and programmes relevant to their workplace
- a commitment to hazard identification and control, injury management and the rehabilitation of injured employees
- supporting elected H&S Reps in fulfilling the duties of their role, ensure the allocated 4 hours per month is provided in an appropriate manner.

Health, Safety and Wellbeing Team

- 1 To provide support, update and advisory to The Board, CEO, Executive Leadership Team;
- 2 To educate, provide support /advisory and dissemination of information to:
 - All levels of management (those who have control and influence over work areas; safe systems of work/work tasks and work environments); and
 - Workers
- 3 Support the training, education, orientation of new workers, contracted services, and Health and Safety Representatives.
- 4 To ensure adequate workplace health and safety management of all employee related reportable events.
- 5 To facilitate the review, evaluation and data analysis of health and safety management systems and procedures.

Employees (Workers)

All employees have both individual and shared responsibility to:

- be involved in the provision and maintenance of a healthy, safe workplace
- carry out their work in a healthy and safe manner, and encourage and assist others to work in the same way
- report and rectify any unsafe workplace conditions/practices
- accurately log and submit, using the on-line Reportable Event System(Safety1st), a report on a work related Incident/Injury/illness/near-miss within 24 hours. Complete a Reportable Event Form (gold form) if you do not have computer access
- ensure, in the case of injury, that their supervisor or manager is notified within 24 hours
- be an active participant in their own rehabilitation programme
- co-operate with, support and promote occupational health and safety actions and initiatives in the workplace
- understand or seek support to understand the Health & Safety Management, any relevant chemical information (Material Safety Data Sheets) and the Emergency Plan for their area
- ensure their knowledge of identified hazards, is current.

Health and Safety Representatives (HSR)

(HSR will be elected in all designated work areas.) The functions of HSR shall be: (As per the Participation Agreement – South Island

- to foster positive health and safety management practices in the place of work
- to identify and bring to the employer's attention hazards in the place of work and discuss with the employer ways that the hazards may be dealt with
- to consult with inspectors on health and safety issues
- to promote the interests of employees in a health and safety context generally and in particular those employees that have been harmed at work, including in relation to arrangements for rehabilitation and return to work
- conduct Health and Safety Representative duties in
- any other functions conferred under the Act or approved code of practice
- any additional functions agreed to by the parties to this agreement.

Contractors(Excluding Planning and Funding Contracts)

Refer Contractor Management Policy

References

- AS/NZS 4801
- HSWA 2015
- HSW Regulations 2016
 - General Risk and Workplace Management
 - Engagement, Participation and Representation
- ACC Act 2001