

# BULLYING POLICY ERJ 6.15.2

## INTRODUCTION

The Edmund Rice Justice Aotearoa New Zealand Trust regards the dignity and autonomy of all people as a core value of the organisation. Bullying behaviour is based on the misuse of power in human relationships, and negates the dignity and autonomy of its victims.

The Edmund Rice Justice Aotearoa New Zealand Trust regards the health and safety of its staff, volunteers, and users as a primary responsibility. Bullying can affect health and wellbeing.

The Edmund Rice Justice Aotearoa New Zealand Trust is fully committed to eliminating, as far as possible, all forms of bullying in the workplace and in its relationships with its users through a culture of openness, support, and accountability.

## PURPOSE

The purpose of this document is to outline the Edmund Rice Justice Aotearoa New Zealand Trust’s position on bullying and to document the process which is to be followed should any instances of bullying be reported.

## DEFINITIONS

**“Unreasonable behaviour”** is behaviour that is offensive, humiliating, intimidating, degrading or threatening. It includes, but is not limited to,

- Verbal abuse
- Initiation pranks
- Excluding or isolating employees
- Giving a person the majority of an unpleasant or meaningless task
- Humiliation through sarcasm, or belittling someone’s opinions
- Constant criticism or insults
- Spreading misinformation or malicious rumours
- Deliberately setting work routines or procedures to inconvenience certain employees

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- Displaying written or pictorial material which may degrade or offend certain employees

**“Bullying”** is repeated, unreasonable behaviour directed towards a person or group of persons. It includes behaviour that could be expected to intimidate, offend, degrade, humiliate, undermine or threaten.

**“Repeated ... behaviour”** refers to the nature of the behaviour, not the specific form of that behaviour. “Repeated unreasonable behaviour” may thus be a pattern of diverse incidents.

Workplace bullying can occur between:

- Two or more employees/volunteers
- Manager(s) and employees(s)/volunteer(s)
- Employees/volunteers and other persons at the workplace (apprentices, students, clients).

Bullying can occur at any level of the organisation, can be experienced by both men and women and may involve a co-worker, a volunteer, supervisor, manager, service provider, user or customer.

Formerly agreed behaviour may be found to be bullying when it continues after a request from the recipient for the behaviour to stop, or at the point it becomes intimidating, offensive or humiliating.

There are bound to be occasional differences of opinion, conflicts and problems in every workplace. Only when the treatment of another person is unreasonable, offensive or harmful does workplace bullying exist.

Similarly, the exercise of a supervisor’s legitimate authority at work through the direction and control of work responsibilities, the monitoring of workflow, and giving feedback on performance, is not bullying insofar as the supervisor’s actions are intended to assist staff to improve their tasks, their work performance, or the standard of their behaviour. If an employee has performance problems, however, these should be identified and dealt with in a constructive way that is neither humiliating nor threatening.

Bullying that directly inflicts physical pain, harm, or humiliation amounts to assault and should be dealt with as a police matter (see below).

## **POLICY**

The Edmund Rice Justice Aotearoa New Zealand Trust has a duty of care to provide a safe workplace. The Edmund Rice Justice Aotearoa New Zealand Trust accepts and acts on its duty of care. Any allegations of workplace bullying that are reported must be investigated.

All incidences of bullying will be dealt with promptly, thoroughly, and fairly.

Complaints will be treated in confidence, and where confidentiality cannot be guaranteed this will be clearly indicated to the complainant.

All parties will be treated with respect.

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The person against whom the allegation is made has the right to natural justice (the right to know what is alleged against them, the right to put their case in reply, and the right for any decision to be made by an impartial decision-maker).

## **AUTHORISATION**

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Chair

19<sup>th</sup> May 2014

Edmund Rice Justice Aotearoa New Zealand Trust

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## RESPONSIBILITIES

It is the obligation and responsibility of every person to ensure that the workplace is free from bullying. The responsibility lies with every manager, supervisor, employee and volunteer to ensure that discrimination or victimisation does not occur.

It is the responsibility of the EO to ensure that:

- they understand, and are committed to, the right of all employees and volunteers to attend work and perform their duties without fear of being bullied in any form
- all reasonable steps to eliminate bullying are made
- all applicable occupational health and safety legislation is observed
- all employees and volunteers are regularly made aware of their obligations and responsibilities in relation to providing a workplace free from bullying
- they provide an environment which discourages bullying, and set an example by their own behaviour
- all complaints are treated seriously and confidentially
- they are as far as practicable aware of whether bullying is occurring, whether complaints are received or not, relying on such indices as
  - sudden increases in absenteeism
  - unexplained requests for transfers
  - behavioural changes such as depression
  - sudden deterioration in work performance
- they take immediate and appropriate corrective action if they become aware of any offensive action
- guidance and education is provided, where requested and/or appropriate, to cases and subsequent decisions relating to bullying
- ongoing support and guidance is provided to management, employees and volunteers in relation to the prevention of bullying
- this policy is displayed in the workplace.

It is the responsibility of all employees and volunteers to ensure that:

- they understand and are committed to the rights and entitlements of all employees and volunteers to attend work and perform their duties without fear of bullying in any form
- they provide an environment which discourages bullying
- they immediately report any offensive action directed at themselves or others

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## PROCEDURES

### Complaints Procedures

Employees or volunteers who believe they are the subject of bullying should take firm, positive and prompt action.

If deemed appropriate, the employee or volunteer should make the perceived bully (or bullies) aware that they find their behaviour offensive, unwelcome and unacceptable, and that it needs to stop immediately.

If the behaviour continues, or if the employee or volunteer feels unable to speak to the person(s) directly, they should contact their supervisor or manager, a human resources officer, or any other manager with whom they feel comfortable. The manager or officer will provide support and ascertain the nature of the complaint and the wishes of the complainant. The complainant does not have to request a full formal investigation if they will be satisfied by less formal treatment of the issue.

### Informal Intervention

The manager will explain the employee's or volunteer's rights and responsibilities under the Edmund Rice Justice Aotearoa New Zealand Trust policy and procedures.

Informal intervention may be done through a process of either mediation or conciliation. During informal intervention the respondent will be made aware of the allegations being made against them and given the right to respond. Interventions at this stage should adopt a confidential, non-confrontational approach with a view to resolving the issue.

This procedure will be complete when the alleged harasser respects the individual's request to cease unwanted and unwelcome behaviour, or when the complainant accepts that the behaviour is not properly described as bullying. If neither of these outcomes occurs, the organisation's formal procedure should be followed.

### Formal Complaints Procedure

Proceeding with a formal complaint requires the consent of the person complaining, particularly as witnesses or senior management may become involved. The formal procedure will be coordinated by the responsible manager under the guidance of the human resources section, where applicable. The human resources section does not need to know the specific details of the bullying case to provide this guidance.

The manager concerned should clarify the complaint and obtain a step-by-step account of the incident. In serious cases, more than one interview may be necessary.

The manager will document all such interviews accurately and avoid irrelevant information. This record will include parties involved, timing, location, and nature of conduct complained against.

Records are to be kept and filed in a confidential and secure place. These records should be kept for a period of seven years. Under no circumstances will records be placed on the complainant's personnel file.

The manager will organise an investigation, which in most cases will involve (but is not be limited to):

- a private interview to ascertain the facts and to find what the complainant expects to happen as a result of making the complaint;
- an interview with the alleged harasser(s) to ascertain their defence;
- interviews with other employees, volunteers or individuals who may be able to assist; and
- examination of any relevant documents.

All relevant evidence should be considered by the person conducting the investigation. Such evidence may include:

- supporting (or contradictory) evidence provided by medical practitioners, counsellors, family members, friends, or co-workers;
- Supervisors' reports and personnel records;
- records kept by the person claiming to have been bullied;
- information on whether the evidence was presented by the parties in a credible and consistent manner; and
- information on the absence of evidence where it should logically exist.

It may be necessary to provide affected employees/volunteers with alternative working arrangements to avoid further conflict while the bullying complaint is being investigated. The complainant may also require counselling to develop coping strategies for dealing with the situation while the problem is being resolved.

The person conducting the investigation should keep all affected parties informed and document all investigation actions and outcomes.

On completion of the investigation, the complainant and the manager will determine a course of action to be taken. This may involve guidance from the human resources section, where applicable.

Possible courses of action may include, but will not be limited to, any combination of the following:

- counselling;
- disciplinary action against the bully or bullies (e.g. demotion, transfer, suspension, probation or dismissal);
- official warnings that are noted in the bully or bullies' personnel file;
- if there is strong evidence that the complaint was vexatious or malicious, disciplinary action against the person who complained;
- formal apologies and undertakings that the behaviour will cease;
- conciliation/mediation conducted by an impartial third party, where the parties to the complaint agree to a mutually acceptable resolution;
- compensation from the organisation.

Determination of whether bullying has occurred will rest solely on the weight of the evidence. If it is determined that bullying has taken place then outcomes will depend upon factors such as:

- the severity and frequency of the bullying;
- the wishes of the person who was subjected to the offensive behaviours;

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- whether the bully could have been expected to know that such behaviour was a breach of policy;
- the level of contrition shown by the bully;
- whether there have been any prior incidents or warnings.

The relevant manager will advise all relevant parties of the outcome.

If the investigation determines that bullying has occurred, or that vexatious or malicious accusations have been made, the manager must place on file a summary of the complaint and the action taken. A copy may be placed in the respondent's personnel file in accordance with performance counselling procedures.

If there is insufficient proof to decide whether or not bullying has occurred, the manager concerned will:

- remind those involved of expected standards of conduct;
- conduct further training awareness raising sessions for staff and volunteers;
- monitor the situation carefully.

The manager will monitor the outcome to ensure that the offensive behaviour has ceased, and that neither party has been victimised. This may involve follow-up interviews. If there has been any substantiated victimisation, appropriate disciplinary procedures will be followed.

### Procedures for Dealing with Criminal Conduct

Some forms of severe bullying (physical attack, for example, or obscene phone calls) may constitute criminal conduct. While the Edmund Rice Justice Aotearoa New Zealand Trust is committed to treat most complaints about bullying at an organisational level as far as possible, this type of conduct is not suited to internal resolution. Such complaints should be treated by the criminal justice system. Employees or volunteers should be advised of the option of police support or intervention. It is not the obligation or duty of the organisation to report such matters to the police on behalf of the complainant.

## RELATED DOCUMENTS

- Affirmative Action Policy
- Equal Employment Opportunity Policy
- Discrimination and Harassment Policy
- Sexual Harassment Policy

## AUTHORISATION

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Chair

19<sup>th</sup> May 2014

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