

ANTI-BULLYING, HARASSMENT AND DISCRIMINATION POLICY

1. Statement

The Anglican Diocese of Auckland (the **Diocese**) is committed to maintaining a safe and positive culture and to protecting the rights and dignity of clergy, employees, volunteers, contractors and visitors.

Everyone within the Diocese shares the responsibility to ensure we create a welcoming, positive and productive environment, not just for clergy, lay employees and volunteers at each ministry unit¹, but also for our parishioners, visitors, contractors, suppliers and those who use our services.

Every person in the Diocese has a responsibility to ensure that they:

- Do not discriminate against, bully or harass any person.
- Promote a strong “no-tolerance” culture with regards to bullying, harassment or discrimination.
- Are familiar with, and understand, their rights and obligations under this Policy.

The Diocese will:

- Support any person who feels they have been subject to harassment, bullying, or discrimination in our places of work or worship.
- Treat all complaints of a breach of this Policy seriously.
- Take steps to resolve any complaints raised under this Policy.
- Protect and support the rights of all to use the resolution processes outlined in this Policy.

2. Purpose

The purpose of this Policy is to:

- Foster a positive and productive environment for working and worshipping.
- Promote an environment where all individuals are treated with dignity and respect, free from harassment, bullying and discrimination.
- Ensure that occurrences of harassment, bullying and discrimination within the Diocese are taken seriously and dealt with promptly and sensitively.
- Set out the framework for raising, addressing and resolving concerns about individual or collective behaviour.

3. Application

This Policy applies to all persons in the Diocese, and its ministry units.

When this Policy applies to ministers and office bearers, it must be read in conjunction with the processes set out at Title D of Canon I of the Church.

More information about complaints and investigations can be found in the appendix to this Policy: Guidelines – Working Through Bullying, Harassment or Discrimination Concerns or Complaints.

¹ "Ministry unit" means a parish, mission district, mission venture or local shared ministry unit. For further definitions, see the Ministry Unit Statute 2013.

4. Definitions

Racial Harassment

The Diocese has adopted the following definition of **racial harassment** from the Human Rights Act 1993.

Racial harassment means:

- Expressing hostility against, or bringing into contempt or ridicule, a person on the grounds of the colour, race or ethnic or national origins of the person; and
- Is hurtful or offensive to the person (whether or not that is conveyed); and
- Is either repeated, or of such a significant nature, that it has a detrimental effect on that other person in respect of (not an exhaustive list):
 - the making of an application for employment
 - employment, which term includes unpaid work
 - vocational training, or the making of an application for vocational training
 - access to places, vehicles, and facilities
 - access to services
 - participation in fora for the exchange of ideas and information.

Sexual Harassment

The Diocese has adopted the following definition of **sexual harassment** from the Human Rights Act 1993.

Sexual harassment means:

- Making a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.
- By the use of language (whether written or spoken) of a sexual nature, or of visual material of a sexual nature, or by physical behaviour of a sexual nature to subject a person to behaviour that is unwelcome or offensive and is either repeated or of such a significant nature, that it has a detrimental effect on that person. "Unwelcome" means behaviours that are not solicited or invited and are regarded by a person as undesirable or offensive at the time.

Sexual harassment is not:

- friendly banter, or mutually acceptable jokes.
- occasional appropriate compliments.
- behaviour based on mutual attraction, except where Title D applies.

Sexual harassment can be committed by a co-employee, a manager, a supervisor, a visitor, a parishioner and other persons present at the Diocesan offices or ministry unit premises, or any diocesan or ministry unit activities or operations. People can be subject to sexual harassment from a person of the same or another gender.

Harassment

Harassment under the Harassment Act 1997 is where one person directs behaviour at another person including watching, loitering, following, or accosting them, interfering with their property or acting in ways that causes them to fear for their safety.

To be considered harassment, the behaviour must either be repeated, or of such a significant nature that it is humiliating, offensive or intimidating to an employee and creates a risk to their health and safety and/or has a detrimental effect on their performance at work.

Bullying

The Diocese has adopted the following definition of **bullying** based on WorkSafe New Zealand's definition:

- Workplace bullying is repeated and unreasonable behaviour directed towards a person or a group of people that poses a risk to their health and wellbeing.
 - Repeated behaviour is persistent 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.
- A single incident of unreasonable behaviour, including one-off or occasional instances of forgetfulness, rudeness or tactlessness is not considered workplace bullying, but it could escalate and could become bullying if ignored.
- Occasional differences of opinion, conflicts and problems in working relations are part of working life and do not constitute bullying.
- Bullying may also include harassment, discrimination or violence.

Direct bullying behaviour includes, but is not limited to:

- Physical attacks and threats of violence.
- Verbal abuse including being shouted or yelled at.
- Belittling remarks, gestures and material which are ridiculing and insulting.
- Public intimidation and humiliation.
- Persistent criticism which is condescending and undermines integrity.
- Ignoring, isolating and excluding behaviour.

Indirect bullying behaviour includes, but is not limited to:

- Giving unachievable tasks, impossible deadlines and unmanageable workloads.
- Withholding or concealing information and resources.
- Controlling behaviour which unreasonably makes hints or threats about job security.
- Reducing opportunities for expression and interrupting when speaking.
- Unreasonably changing goalposts or targets without consultation.
- Undervaluing contribution, removing responsibility and demotion.
- Scapegoating and sabotage.

Bullying behaviour is not confined to one place, and it can occur by publishing information or statements about the person on the internet, by email or text message. Bullying may also occur on the internet, intranet or via social media. Under the Harmful Digital Communications Act 2015, it is an offence to send messages and post material online that deliberately causes serious emotional distress.

Being bullied versus being reasonably managed

Effective leadership requires that our leaders discuss with their team members their performance: *“the what”*, and/or their behaviour in line with the Diocese's values: *“the how”*.

The Diocese understands that receiving feedback or having performance or behaviour judged can sometimes be uncomfortable. However, it may be a necessary part of improving and growing in the role. Reasonable management is not bullying if it is fair, and is communicated in a respectful way.

Examples of reasonable management include:

- Setting performance standards (including high standards).
- Being asked to change the way one completes some work or being told when one has done something incorrectly.
- Constructive feedback and legitimate advice or peer review.
- A manager requiring reasonable verbal or written work instructions to be carried out.
- Performance being reviewed.
- Discussions about performance improvement (informal and formal), warnings or disciplinary situations in line with the Church's or Diocese's policies.

Discrimination

Discrimination may be unlawful in terms of the Human Rights Act 1993.

Discrimination can occur when a person is treated less favourably than another person, in the same or similar circumstances, because of a prohibited ground including sex, colour, religious belief, race, marital status, ethnic or national origins, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability.

Discrimination in employment can occur in a person's employment where the Diocese, or a representative of the Diocese:

- Refuses or omits to employ an applicant for work that they are qualified for;
- Refuses or omits to offer or afford to the employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available for other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances;
- Dismisses that employee or subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed or subjected to such detriment; or
- Retires the employee, or requires or causes the employee to retire or resign, directly or indirectly, and can be unlawful when relating to particular legislative requirements:

by reason of any of the prohibited grounds of discrimination, or involvement in the activities of a union.

Indirect discrimination occurs when there is any conduct, practice, requirement, or condition that is not apparently discriminatory but has the effect of treating a person or group of persons differently on one of the prohibited grounds of discrimination in a situation where such treatment would be unlawful under the Human Rights Act 1993. This type of conduct, practice, condition or requirement is likely to be indirect discrimination unless the Diocese can establish that there is good reason for it.

Discrimination can occur when one person is treated less favourably than someone else is treated, or would be treated, in the same or similar circumstances, because that person has a particular attribute, such as sex, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability that is specifically listed in the Human Rights Act 1993.

Note: Limited exceptions may apply, including as set out in the Human Rights Act 1993, New Zealand Bill of Rights Act 1990, Employment Relations Act 2000, or relevant case law.

5. Review

This Policy and the supporting guidelines will be reviewed every two years by the Diocesan Health and Safety Working Group.

This Policy was approved by Diocesan Council in September 2020.

6. Privacy

All information relating to alleged or proven breaches of this policy must be treated in accordance with the Privacy Act 1993 and Privacy Act 2020.

The disclosure of any personal information within the Diocese will be reasonably limited to those who would need to be informed to ensure this Policy can be implemented.

Personal information about the complainant will not usually be disclosed to any other party without the complainant's consent. However, in certain circumstances, where the complaint is of a particular nature and/or significance, the Privacy Act 1993 and Privacy Act 2020 allow for exceptions to the use or disclosure of personal information. These exceptions include where:

- the Diocese believes that the use of the information in the complaint is necessary to prevent or lessen a serious threat to the life or health of the individual concerned or another individual; or
- non-compliance is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences; or for the conduct of proceedings before any court or tribunal; or
- the information is used in a form in which the individual concerned is not identified.

APPENDIX: GUIDELINES – WORKING THROUGH BULLYING, HARASSMENT OR DISCRIMINATION CONCERNS OR COMPLAINTS

Note: these guidelines do not cover complaints being handled by the Provincial Ministry Standards Commission. For details on the Ministry Standards Commission complaints procedure, refer to anglican.org.nz/Complaints.

1. Process for reporting bullying/harassment/discrimination

A complaint can be made to the complainant's manager, a clergyperson, the Diocesan Office, the Bishop's Office or by contacting the Diocese's complaints management provider².

Anyone who has witnessed or learned of potential conduct or concerns that may be in breach of this Policy may make a complaint, even though the affected person has not.

While a complaint can be made verbally, there may be a request (and where necessary assistance provided to ensure) that any complaint is recorded in writing to ensure accuracy and a record of what has been alleged to have occurred.

So that the complainant can be assisted, for any complaint(s) of a breach of this Policy, the complainant should try and have available as many details as possible. The following details are useful:

- Who does the complaint relate to?
- What happened?
- What exactly was said or done?
- What was the date, time, location of the matter/incident?
- Were there any witnesses to the matter/incident?
- What was the impact of the incident?
- What steps, if any, have been taken to address the matter/incident?
- Whether the complainant consents to the complaint being released to the person(s) involved.
- What the complainant wants to occur.

The disclosure of any personal information will be reasonably limited to those who would need to be informed to ensure the policy and procedures can be implemented.

A complaint should be detailed enough to enable the person alleged to have behaved inappropriately to be informed of the conduct and to be able to respond to the complaint(s).

It is recommended that a complainant identify a support person who can accompany them throughout any processes outlined in these guidelines. The Diocese's complaints management provider can assist complainants throughout the complete process.

2. Self-help/informal intervention

In the event that you experience or witness bullying, harassment or discrimination, you may initially want to seek advice and support from the following sources:

² The complaints management provider is an external organisation approved by Diocesan Council from time to time, that provides complaint management services to the Diocese.

- A trusted colleague, friend, family member, your doctor or medical specialist or other support person;
- If you are a clergyperson, your supervisor or spiritual director;
- Your immediate manager or team leader or clergyperson (where appropriate);
- Diocesan Manager or Bishop's Office (where the complaint is about your immediate manager or team leader or clergyperson). The Bishop's Office includes any member of the Episcopal Team including the Archdeacons or Ministry Educator.
- The Diocese's complaints management provider. This is a confidential service that can be contacted at any time at no cost to you.

The Diocese's goal is to deal with and resolve any concerns or issues at the earliest possible time.

In the first instance, there may be an attempt to resolve complaints and issues through an informal process, where appropriate. Sometimes, the person involved is not aware that their behaviour is unwelcome or offensive, and an informal approach may offer a timely solution. Often, where the behaviour is pointed out at an early stage, the problem can often be resolved quickly and without unnecessary conflict, embarrassment or recourse to further action.

When a complaint is received, consideration will be given to whether the following 'self-help' or 'informal intervention' methods have been attempted and/or whether they are a suitable means of exploring resolution of the complaint:

- 'Self-help': The complainant may (or may not) feel comfortable arranging a meeting to talk to the person involved and ask the person to stop their behaviour by letting them know the behaviour is unwelcome and/or offensive and the impact it is having. In circumstances where this may seem difficult or embarrassing, the complainant may ask a support person to accompany them. This approach is not mandatory and may not be appropriate. If the complainant is unsure, they could seek advice from the Diocese's complaints management provider, a support person or an advisor.
- Ask the manager/clergyperson/other support person to talk to the person involved on the complainant's behalf, so they can help convey the concerns, without deciding whether the complaint is valid or not.
- Ask the manager/clergyperson/other support person to arrange a facilitated meeting between the complainant and the other person i.e. the manager/clergyperson/suitable other will act as a neutral party to facilitate discussion between those involved with the aim of reaching an agreed outcome.

The diocesan complaints management provider can provide guidance and assistance with this. Any recommended steps towards resolution will be agreed by the Diocese.

If the process does not proceed to a formal investigation, the recommended steps to be taken must be agreed by the Diocese and the complainant, and the complainant's legal rights explained. Guidance will be provided to the complainant throughout the process. All parties will be kept informed throughout about the process, decisions, and timeframes.

If a formal investigation is not undertaken, other appropriate steps will be considered and may be taken in relation to any health and safety risks, to ensure ministry units and the diocese are meeting their obligations to take appropriate steps to prevent bullying, harassment or discrimination.

3. Formal approach (investigation)

An informal approach may not be appropriate in some cases, especially when the subject matter of a complaint is of a particular gravity or the behaviour continues despite an informal approach being taken. The Diocese's complaints management provider will evaluate each complaint before determining whether a formal approach should be attempted. In doing so, it will take the views of the complainant into account where possible.

The decision whether to proceed to a formal investigation will be recommended to the Diocese by the Diocese's complaints management provider following consultation with the complainant.

Where it is determined and agreed that a formal approach is required, all parties involved will endeavour to:

- Deal with the complaint promptly, fairly, sensitively and in an objective, reasonable manner.
- Manage the complaint in a way that protects the health, safety and wellbeing of the person who has complained.
- Recognise the right to a fair process for the person accused and also to support their health, safety and wellbeing.

4. Overview of the investigation process

Investigator

- Where a formal investigation is required, the investigator can be internal or external to the Diocese but must be skilled and experienced in dealing with investigations concerning the subject matter.
- Whether an external investigator is required is a matter for the Diocese to determine, having regard to the nature of the complaint.
- The appointment of an external investigator shall only be made after seeking any comment from the parties as to the investigator's experience/qualifications and any issues relating to conflict of interest.
- The investigator is responsible for determining what happened and whether or not bullying, harassment or discrimination has occurred.
- The Diocese's role is to determine appropriate outcomes as a result of the investigator's report.

Confidentiality

- Confidentiality is critical. All persons involved in the investigation process will be required to keep the complaint confidential, except where they wish to get professional advice or appropriate support.
- Where a complaint is made, and the person who the complaint is against is advised that a formal approach/investigation is being undertaken, any form of contact to discuss the complaint with the complainant is not acceptable and may result in a separate disciplinary process.

Process

The general process for the investigation shall be as follows:

- The terms of reference for an investigation process will be established by the investigator, with input from the persons involved, appropriate to the situation.

- The person alleged to have acted in contravention of this Policy (the **respondent**) is formally advised that a complaint has been made and informed of the specific allegations and of the potential outcome of the investigation.
- The respondent is given the opportunity to formally respond within a specified timeframe.
- The complainant is interviewed and the allegations are formally documented. The complainant may be accompanied by a support person.
- An accurate account of the incident(s) will be obtained from the complainant and the complainant will sign a record of their account.
- A formal meeting is arranged with the respondent to allow a response to the allegations. The respondent may be accompanied by a support person. The respondent's formal response will be documented by the investigator and the respondent will sign a record of their account.
- Consideration will be given to whether it is necessary, and appropriate, to obtain statements from any witnesses and other relevant information. That information will be provided to the complainant and the respondent who will be given the opportunity to comment on that information.
- Consideration may be given as to whether the respondent needs to be removed from the environment or restrictions considered, should the on-going health and safety of the complainant, the respondent and/or other persons be at risk.

Outcomes of the investigation

- The investigator will collate the information and prepare a draft report which will be provided to the complainant and the respondent for comment.
- A copy of the final report will be provided to the complainant and respondent before a final decision is made.
- Each party will be advised of the outcome of the investigation once a final decision is made by the Diocese.
- Whether or not the respondent is subject to disciplinary action as a result of the complaint is usually a confidential matter between the Diocese's complaints management provider, the Diocese and the respondent.
- The complainant will be informed that the matter has been appropriately dealt with (subject to any privacy considerations). The complainant shall be given sufficient information to feel safe and empowered to take further steps if the behaviour recurs.
- Serious harassment, physical assault, cyberbullying or similar may come under the provisions of the Crimes Act 1961, Harassment Act 1997, Harmful Digital Communications Act 2015 or other legislation. In such a case, the complainant, or the Diocese on the complainant's behalf, can lodge a complaint with the Police. The complainant will be supported to do so if they wish.
- Consideration must be given to whether the respondent needs to be removed from the environment (or restrictions considered), should the on-going safety and security of the complainant, the respondent and/or other people be at risk.

Support options will be provided throughout the process.

5. Other options

- The complainant may be able to make a complaint under relevant legislation. The complainant is entitled to take independent advice about their options.
- If the complainant is not satisfied with the outcome of making a complaint or does not wish to use the Diocese's internal procedures, the complainant may be able to:

- lodge a complaint with the Human Rights Commission about the alleged behaviour under the Human Rights Act 1993. [**Note: The complaint should be made wherever possible within 12 months of the conduct occurring, as the Commission has a discretion not to take action on a complaint where the conduct occurred more than 12 months prior**]; or
- If the complainant has raised a personal grievance under the Employment Relations Act 2000 within 90 days of the alleged harassment, they may seek mediation or apply to the Employment Relations Authority.