

## MAKING A COMPLAINT: OF HARASSMENT, BULLYING OR DISCRIMINATION

**Complainant** (you) – Person making the complaint of alleged discrimination, bullying or harassment

**Respondent** – Person against whom a complaint of alleged discrimination, bullying or harassment is raised

### Determining if a complaint is warranted

As a starting point, you may like to talk confidentially to someone you trust (a friend, colleague, union or H&S representative, EAP Services or any other trusted person) to get an objective view point about whether you are actually being harassed, bullied or discriminated against.

In the case of bullying, you may like to reference IR's Identifying workplace bullying guidelines (topic 4), or the more detailed [WorkSafe NZ online resources](#). A good starting point is understanding whether the behaviour you are experiencing is bullying.

While many of the definitions note the repeated nature of certain behaviour, you can still raise your concerns if you consider any instance of behaviour unacceptable, and should report any serious issue immediately.

### Options for making a complaint

There are a range of options for dealing with harassment, bullying or discrimination in the workplace.

	OPTIONS	MAY BE APPROPRIATE WHEN:
Low-key solutions	1. Self-help or supported self-help	...the alleged behaviour is minor and you don't feel threatened by approaching the person
	2. Informal approach to management	...as above but you would be more comfortable with a leader providing direct support through the process
Formal solutions	3. Formal in-house investigation	...the alleged behaviour is more serious and could warrant a formal employment investigation, or low-key solutions have proven unsuccessful
	4. External resolution	...internal procedures (as above) have already been explored or there is a need for Police or other agency involvement

You may choose the option you wish to pursue. However, you should take reasonable steps to raise a concern with an appropriate leader before seeking external resolution. Generally you are encouraged to consider low-key solutions before more formal options. It's important that you are comfortable with the approach and you understand the outcome you are seeking.

IR has obligations to all staff to provide a safe workplace and to treat them fairly and reasonably. In some circumstances IR may have to take action which is different to your choice of action. For example, you may choose self-help or an informal approach to management; however, if IR considers a more formal process is required, it may pursue that. Or you may request a formal investigation but IR may consider, after preliminary inquiries, that this is not appropriate.

If IR intends to take a different option than the one you sought, this will be discussed with you in advance, including sharing the reasoning behind the decision.

## Your options in more detail

OPTION	WHAT THE OPTION INVOLVES
<b>Self-help and supported self-help</b>	<p>Self-help involves describing the unacceptable behaviour, telling the respondent their behaviour is unacceptable and being very clear that it needs to stop.</p> <p>You can do this verbally or in writing (on a private and confidential basis) and/or with the support of a union representative, colleague or friend etc.</p> <p>Sometimes awareness is all that is required to address the issue. The respondent may not realise their behaviour could be bullying or the impact it is having, and may quickly acknowledge it and change their behaviour when it is brought to their attention.</p> <p>If you are uncomfortable about approaching the respondent, or this approach does not resolve the issue, you may wish to consider the informal approach to management option below.</p>
<b>Informal approach to management</b>	<p>You, or someone you have asked to support you, may approach management informally for assistance. The approach can be made to your own leader. If your complaint is about them, go to your people leader's manager, or you can use the confidential Integrity and Assurance reporting wrongdoing process.</p> <p>The leader should listen to your concerns and ensure they understand the outcome you are seeking. They may seek advice on options from People &amp; Culture (HR Advice).</p> <p>In many cases, the leader may speak informally with the respondent (on the understanding that no decision has been made on whether the alleged conduct actually occurred). If there is agreement on what happened or is happening and what will resolve the situation, the issue can be resolved confidentially between the people concerned, potentially with the help of the leader in a mediatory or facilitation role.</p> <p>The leader should keep in mind that the respondent has the right to support and advice, and during the informal discussion may decide that the matter needs to be formalised to maintain the integrity of the process and outcome for both parties.</p>
<b>Formal in-house investigation</b>	<p>To raise a formal complaint internally you can complete the following form.</p> <div data-bbox="395 1061 443 1115" style="display: inline-block; vertical-align: middle;"></div> <div data-bbox="475 1061 1399 1115" style="border: 1px solid black; padding: 2px; display: inline-block; margin-left: 10px;"> <a href="#">REPORTING WRONGDOING ONLINE FORM <i>(internal link to form)</i></a> </div> <p>You may wish to advise your immediate leader in person (or if you feel uncomfortable doing so, you can ask another IR staff member to raise the complaint to your leader on your behalf, such as a senior colleague, another leader or a union delegate). Leaders receiving a complaint should complete the following form.</p> <div data-bbox="395 1256 443 1310" style="display: inline-block; vertical-align: middle;"></div> <div data-bbox="475 1256 1399 1310" style="border: 1px solid black; padding: 2px; display: inline-block; margin-left: 10px;"> <a href="#">INITIAL REPORT ONLINE FORM <i>(internal link to form)</i></a> </div> <p>and follow the initiating action steps as set out the Disciplinary Investigation Guidelines</p> <p>Both these initial reporting options will lead to contact from Integrity Assurance and the likely need for you to provide a written statement, setting out the full details of what has happened, when and where it happened, the names of any witnesses, as well as the outcome you are seeking. It should be detailed enough to enable the respondent to be informed of the complaint and be able to respond to it.</p> <p>If it is determined a formal investigation is warranted, there will be an investigation of the events. This may involve interviewing you, the respondent, witnesses or other staff as necessary. If there is any evidence such as telephone messages or emails, these will be kept as evidence.</p> <p>The Disciplinary Investigation Guidelines (Topic <a href="#">3</a>) outline the process steps of a formal investigation, and potential outcomes if misconduct or serious misconduct is established.</p> <p>IR also has a <a href="#">protected disclosure process <i>(internal link)</i></a> which could be used to raise the issue.</p>
<b>External resolution</b>	<p>You should check the employment relationship problem resolution clause in your employment agreement. It focuses on ensuring the resolution of employment relationship problems as closely as possible to their point of origin. Generally you should make IR aware of the issue, and follow applicable internal procedures (as above) before seeking external resolution.</p> <p>External options may include:</p> <ul style="list-style-type: none"> <li>• <b>Mediation:</b> The Mediation Service at MBIE provides an independent service.</li> <li>• <b>Personal grievance:</b> This can be raised under the Employment Relations Act 2000 or as a complaint under the Human Rights Act 1993 (but not both).</li> <li>• <b>Police:</b> It may also be appropriate to raise the matter with the Police. (Normally any referral to the Police or another agency will be managed by the Manager Integrity Assurance.)</li> </ul>

## **If a complaint is made against you**

The complaint may be made via low-key options or more formal options. It may be expected or come as a complete surprise to you. You may or may not feel your actions constitute bullying, harassment or discrimination.

IR does not automatically assume guilt when a complaint is received. The principles of natural justice mean that you have the right to know what you are being accused of and who is making the allegation.

Following a formal complaint, you must not contact the complainant, or if contact is inevitable, you should not discuss the complaint in any way. You should take care not to act in such a way that could be seen as harassment, discrimination or bullying, and you must not disclose the complaint or discuss it with anyone except your support person or representative.

## **Support available**

IR provides a free and confidential employee assistance programme (EAP) (*internal link*) which you can contact directly before, during and after a complaint is made on 0800 327 669 (24 hours). This is available to both the complainant and the respondent.

You may also wish to discuss the matter confidentially with your union representative or another trusted support person.