

Human Resources: Workplace Bullying  
Proactive Release: 03 October 2019

20 September 2019

9(2)(a)

E-mail: 9(2)(a)

Dear 9(2)(a)

#### Official Information Act (1982) Request

I write in response to your Official Information Act request, dated 23 August 2019. You requested the following information related to workplace bullying and our responses to that:

1. The total *number of complaints* relating to alleged staff bullying, harassment or inappropriate behaviour reported, with a breakdown from each department, each year for the last five years.
2. The total number of complaints relating to staff alleged staff bullying, harassment or inappropriate behaviour *formally investigated*, with a breakdown from each department, each year for the last five years.
3. The total number of *staff disciplined* following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.
4. The total number of *staff dismissed or whose employment ended* (such as a resignation or non-renewal of contract), following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.
5. The total *cost of legal fees* to investigate alleged staff bullying, harassment or inappropriate behaviour complaints each year for the last five years.
6. Copies of any *legal advice given* to the DHB relating to alleged staff bullying, harassment or inappropriate behaviour in the last five years.
  - a. Please note I am meaning broadly, rather than a specific case.
7. The total *number of staff employed* at the DHB, with a breakdown on the number of staff at each department, each year for the last five years.
8. Copies of any *policy, regulation, protocol* relating to alleged staff bullying, harassment or inappropriate behaviour and reporting of such incidents.

For context, we are conscious of the public interest in workplace bullying and harassment, in the health care context, but are also mindful of the need to balance that with the privacy and the natural justice environment which we work to create for all of our employees.

CM Health is a large health service employer, with more than 8,000 (headcount) employees. Our 2018/19 Establishment was 6,603 FTE (no including casual and long term leave). We are committed to providing a healthy and safe working environment, and an organisational culture based on our shared values.

CM Health has a set of organisation values, summarised as “Kindness, Excellence, Working Together, and Valuing Everyone” which define acceptable behaviour. These values are outlined in position descriptions, and every profession has a code of conduct and standards.

We are clear that any form of harassment and bullying is unacceptable in the workplace. We strive to ensure that the best practice policies, procedures and processes are in place for all our employees, and to maintain proper standards of integrity and conduct at all times. CM Health has robust Bullying and Harassment policy, guidelines, tools and support for employees and managers in the workplace.

We do not wish to deter staff, now or in future, from raising concerns on these potentially sensitive matters, without the assurance of ongoing confidentiality and natural justice. We encourage reporting of all such events, so that they can be fully investigated and support provided, both immediately, and if an employee feel there is ongoing impact on their health or work.

The total cases in this response reflect a very small proportion of our total workforce. These are the cases that have resulted in a formal complaint being submitted and managed via our Human Resources team. However, we accept that there is both local and international research across health institutions that indicate there continues to be workplace bullying reporting in health care services, and under-reporting of incidences. There are likely to be other cases of concerns for employee/ team relationships that are managed informally, at the team level by operational managers.

There is organisational guidance available for both employees and managers to support identification and early resolution of any concerns raised, before they escalate to a formal complaint process. We acknowledge the need for strong leadership to remove these experiences from our workplaces, including working closely with our union partners and the professional associations.

We suggest caution in using the raw data provided below to compare different organisations, as there will be difference in the size of the workforce, the reporting systems and the mechanisms for reporting. This data may vary from previously released details, given that investigations can take some time to substantiate complaints and achieve resolution.

Responses for Counties Manukau Health are below:

- 1. The total number of complaints relating to alleged staff bullying, harassment or inappropriate behaviour reported, with a breakdown from each department, each year for the last five years.**

**Table 1** provides the total number of formal complaints received that related to bullying and/or harassment, and that were investigated by the DHB between 2015, and year to date - 2019. We cannot provide data on 'inappropriate behaviour' reported and/or investigated, because that term is not specific enough to identify cases. This data includes a wide spectrum of complaint severity and allegations under the broad heading of bullying.

<b>Bullying &amp; Harassment</b>	
<b>year</b>	<b>Count of Employee</b>
2015	9
2016	11
2017	25
2018	22
2019	21

**Table 1**

**2. The total number of complaints relating to staff alleged staff bullying, harassment or inappropriate behaviour formally investigated, with a breakdown from each department, each year for the last five years.**

This information is outlined in question 1 response above. All formal complaints received are investigated. As per the guidance to employees and managers in responding to these matters, there will be an equally wide range of appropriate responses.

Providing a further breakdown of the data to departments each year is not appropriate, as given the relatively small numbers this may enable identification of affected individuals. These matters are personal, and we choose to maintain the confidentiality, safety and privacy of all involved. We are declining this element of the request under section 9(2)(a) of the Act – *to protect the privacy of natural persons.*

**3. The total number of staff disciplined following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.**

**Table 2** provides the summary of actions taken by the DHB in response to all of the formal complaints received between 2015 and year to date -2019. Please note this includes the case where investigation resulted in no further action, or an informal discussion, as well as cases of formal resolutions.

<b>Actions taken by DHB</b>	<b>Count of Employee</b>
<b>2015</b>	<b>9</b>
Manager discussion	4
No further action	2
Other	2
Resignation	1
<b>2016</b>	<b>11</b>
First written warning	1

<b>Actions taken by DHB</b>	<b>Count of Employee</b>
Dismissal	1
Manager discussion	4
No further action	3
Resignation	1
Verbal warning	1
<b>2017</b>	<b>25</b>
First written warning	2
Final written warning	1
Informal discussion	2
Manager discussion	7
Negotiated Exit	1
No further action	4
Other	4
Pending	1
Settlement	1
Verbal warning	2
<b>2018</b>	<b>22</b>
Final written warning	1
Informal discussion	6
Manager discussion	4
No further action	4
Other	1
Resignation	1
Unknown	5
<b>2019</b>	<b>21</b>
Expectation letter	4
First written warning	3
No further action	7
Settlement	1
unknown	6
<b>Grand Total</b>	<b>88</b>

Table 2

4. The total number of staff dismissed, or whose employment ended (such as a resignation, or non-renewal of contract) following a complaint relating to alleged staff bullying, harassment or inappropriate behaviour each year, for the last five years.

This is outlined in response to question 3 above.

5. The total cost of legal fees to investigate alleged staff bullying, harassment or inappropriate behaviour complaints each year for the last five years.

The management of any Human Resource formal complaints and the appropriate investigation is primarily managed by our Human Resources Managers, with expertise sought from the CM Health

Legal team if necessary, as a part of their usual duties. There are very occasional circumstances where external legal services are required, and this is sought to enable a robust process.

We are working with those legal service providers to review and collate relevant material as to fees, however, the information is only held in individual files by those providers. We expect to be able to provide this to you in the near future, once the collation is completed.

**6. Copies of any legal advice given to the DHB relating to alleged staff bullying, harassment or inappropriate behaviour in the last five years. Please note I am meaning broadly rather than a specific case.**

We are declining this element of your request, as the information is deemed to be confidential advice, under Section 9(h) of the Act - *to maintain legal professional privilege*.

The guidance available to all CM Health staff and managers is consistent with NZ Statutes (including the Human Rights Act, the Health and Safety at Work Act, and the Employment Relations Act). Interpretation of this, in terms of making a complaint, the employer response and investigation/ resolution are laid out in the guidance provided with this response.

**7. The total number of staff employed at the DHB, with a breakdown on the number of staff at each department, each year for the last five years.**

See the summary (**attached**) of employee headcount from Human Resources systems, as at September 2019. This is broken down to the "RC" department levels across our organisation. Please note this is a headcount report, which includes employments on fixed term, and casual/ bureau contracts, but does not include vacant positions, or those on long term unpaid leave. It does not reflect our current CM Health budgeted FTE Establishment.

Information on workforce profile is also publicly available in our Annual Reports (page 53 for 2017/18). We expect to publish the Annual Report for 2018/19 in the coming weeks.

- <https://countiesmanukau.health.nz/about-us/performance-and-planning/planning-documents/>

**8. Copies of any policy, regulation, protocol relating to alleged staff bullying, harassment or inappropriate behaviour and reporting of such incidents.**

See (**attached**) the copies of Human Resources guidance, flowcharts and manuals, which we publish on the intranet and use with our employees and to support managers. This information is frequently supplemented by information developed by the unions and Professional Associations and regulatory bodies (such as the Medical Council, NZ Nurses Organisation, and others)

I trust this information satisfactorily answers your query. If you are not satisfied with this response you are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act.

Please note that this response or an edited version of this may be published on the Counties Manukau DHB website.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'F. Apa', with a light blue circular stamp or watermark behind it.

Fepulea'i Margie Apa  
Chief Executive Officer  
**Counties Manukau Health**

Department (RC Level)	2014	2015	2016	2017	2018
A T & R UNIT	8	8	5	4	3
ACC TEAM	5	6	6	6	7
ACUTE ALLIED HEALTH	106	114	128	146	175
ADMIN TIAHO MAI	9	8	9	11	10
ADMITTING	35	41	36	39	39
ADULT SHORT STAY	3	3	3	3	4
AMC MEDICAL - STROKE UNIT	18	18	22	27	32
ANAESTHESIA & PAIN MEDICINE	149	148	158	169	182
ANTENATAL	15	14	14	14	13
ARHOP - ALLIED HEALTH	11	9	7	9	8
ARHOP - ESME LEVEL 2	2	2	2	3	3
ASSESSMENT & DISCHARGE UNIT	2	3	3	7	4
ASSESSMENT LABOUR & BIRTHING	79	85	87	103	106
AT & R	8	6	5	5	4
AT & R UNIT	69	72	76	85	100
AT & R UNIT RECEPTION	41	39	39	43	41
AWHINATIA	15	14	9	5	-
BIOCHEMISTRY	25	25	29	30	30
BIOMEDICAL ENGINEER	14	14	14	20	19
BLOOD BANK	17	16	15	16	16
BOTANY DOWNS MATERNITY UNIT	30	29	29	32	38
BOTANY SUPERCLINIC	4	5	5	6	5
BREAST CLINIC	1	2	3	4	4
BREAST SCREEN	28	31	32	33	33
<i>BUREAU NURSING</i>	<i>170</i>	<i>199</i>	<i>248</i>	<i>372</i>	<i>468</i>
BUSINESS & CORPORATE SERVICES	2	1	-	-	-
CALL CENTRE MSC	23	22	22	21	24
CANCER & PALLIATIVE CARE	24	28	23	28	31
CARDIAC CATHETER LABORATORY	12	12	13	12	11
CARDIAC INVESTIGATION UNIT	24	24	24	24	29
CARDIOLOGY	27	30	27	27	30
CENTRAL SPECIMAN RECEPTION	9	8	8	8	8
CENTRE FOR YOUTH HEALTH	13	12	14	11	9
CHILD DEVELOPMENT SERVICE	29	22	24	20	22
CHILD HEALTH	4	6	9	8	13
CHILD YOUTH & MATERNITY	12	14	20	24	25
CHRONIC PAIN SERVICE	7	8	8	8	7
CLEANING SERVICES	233	238	238	249	271
CLENDON COMMUNITY OFFICE	29	32	29	27	26
CLINICAL BOARD	1	1	1	1	1
CLINICAL CODING	18	20	20	22	21
CLINICAL PHARMACY	7	6	8	9	15
CLINICAL RECORD SERVICE	39	40	39	39	41
CLINICAL SUPPORT SERVICES	7	7	8	9	10
CLINICAL TRAINING & EDUCATION	1	-	-	-	-
CLINICAL TRANSCRIPTION SERVICE	31	31	35	36	38
COMMUNICATIONS	1	5	2	-	-
CONTINUITY CARE	1	3	3	3	3
CORONARY CARE UNIT	38	38	41	41	42

COUNTIES MANUKAU DHB	48	55	62	56	52
CTEC DEPARTMENT	4	4	4	3	4
DAILY OPERATIONS UNIT	53	51	55	50	50
DECISION SUPPORT SERVICES	1	2	2	-	-
DEPT OF MEDICINE STAFF CENTRE	2	2	2	2	2
DIABETES CLINIC	11	10	11	12	11
DIABETES SERVICE	13	11	11	14	14
DIETARY	9	11	15	18	17
DIRECTOR OF NURSING PRACTICE	24	26	28	30	31
DISTRICT HEALTH BOARD	68	64	63	62	80
DISTRICT WIDE MH SERVICES	7	9	9	10	10
DIVISION OF MEDICINE	73	74	80	83	137
EARLY PSYCHOSIS INT. TEAM	16	11	15	11	12
EATING DISORDERS	1	1	1	1	1
EMERGENCY CARE DEPARTMENT	278	324	346	430	429
ENGINEERING & PROPERTY	34	33	36	36	33
ENGINEERING AND PROPERTY	5	3	3	3	2
ENGINEERS	5	6	8	7	9
EXECUTIVE LEADERSHIP	8	8	9	11	15
FALEOLA SERVICES	11	10	10	9	1
FALETOA	3	5	5	6	6
FINANCE	1		2	2	1
FRANKLIN HOSPITAL	25	28	27	31	29
GASTRO DEPARTMENT	79	86	96	105	110
GENERAL SURGERY - MMH	14	11	17	20	28
GROUNDS	1	1	1	1	1
GYNAECOLOGY CARE UNIT	26	22	23	23	27
HAEMATOLOGY CLINIC	10	11	11	13	11
HAEMATOLOGY DEPT/DAY WARD	33	34	33	33	30
HAND THERAPY	12	12	12	14	15
HEARING & VISION TEAM	6	7	6	6	6
HIGH DEPENDENCY UNIT	27	32	42	49	48
HISTOLOGY DEPARTMENT	34	39	39	37	41
HOME BASE TREATMENT - NORTH	32	30	29	30	28
HOME BASE TREATMENT - SOUTH	5	6	6	5	4
HOME HEALTH CARE	65	61	75	76	74
HOWICK HOME HEALTH CARE	35	36	32	40	42
HUMAN RESOURCES	22	26	28	28	27
INTENSIVE CARE TEAM - MH	29	32	34	37	39
ICT MENTAL HEALTH	18	12	9	7	4
INCENTRE HAEMODIALYSIS UNIT	8	8	7	4	4
INFANT MENTAL HEALTH	7	7	8	8	8
INTENSIVE CARE UNIT	136	128	128	127	123
INTERPRETERS	120	123	131	131	141
KIDZ FIRST ADMIN	18	15	13	14	16
KIDZ FIRST COMMUNITY HEALTH	32	36	39	45	51
KIDZ FIRST MEDICAL CARE	54	55	54	56	58
KIDZ FIRST PUBLIC HEALTH	35	38	31	31	27
KIDZ FIRST SURGICAL CARE	41	39	33	35	37
KO AWATEA	22	27	30	27	29



KO AWATEA - ESME LVL1	31	42	43	44	40
KO AWATEA - ESME LVL2	12	13	26	18	13
KO AWATEA - ESME LVL3	11	11	10	13	13
LABORATORY SERVICES	24	22	21	21	23
LAMBIE DRIVE - BLDG 3	70	70	71	85	124
LEARNING & DEVELOPMENT	3	2	1	1	1
LIBRARY	4	5	6	5	6
M H MAORI CLINICAL HEALTH TEAM	6	7	5	7	1
MAAORI & INTEGRATED CARE SOUTH	4	5	5	6	6
MAIL & REPROGRAPHIC SERVICES	5	5	4	4	4
MANAGEMENT	27	28	29	28	29
MANCHESTER PLASTIC SURGERY SUITE	6	6	6	6	9
MANUKAU	16	10	12	13	15
MANUKAU COMMUNITY MH SERVICES	11	11	9	11	8
MANUKAU SUPERCLINIC	172	165	170	172	173
MANUKAU SUPERCLINIC ADMIN	5	6	4	4	4
MANUKAU SUPERCLINIC MANAGEMENT	1	1	-	-	-
MANUKAU SURGERY CENTRE	112	122	134	139	145
MANUKAU SURGERY CENTRE ADMIN	7	5	2	6	8
MAORI HEALTH UNIT	9	9	9	9	9
MAORI HEALTH UNITS	21	25	15	13	13
MATARIKI COMMUNITY MHC	15	19	20	26	28
MATERNAL MENTAL HEALTH	11	10	10	11	14
MATERNITY ADMINISTRATION	5	6	9	9	14
MATERNITY WARD	84	85	88	97	108
MEDICAL ASSESSMENT UNIT	2	2	-	1	2
MEDICAL RECORDS	1	1	-	-	-
MEDICAL SPECIALITIES	1	-	-	-	-
MEDICATION SAFETY SERVICE	5	5	5	6	5
MENTAL HEALTH - MHSOP	36	44	46	48	44
MENTAL HEALTH INTAKE & ASSES	25	26	32	32	36
MENTAL HEALTH RESEARCH TEAM	2	2	2	2	2
MHSOP - ESME BLDG	1	1	1	2	-
MHSOP COMMUNITY	9	10	10	11	18
MICROBIOLOGY	38	39	39	45	44
MODULE 5 PLASTIC & HAND CLINIC	3	3	2	2	2
NASC	2	2	2	3	3
NASC - EDMUND HILARY	28	30	29	30	30
NASC - ESME	2	-	-	-	-
NATIONAL BURN CENTRE	26	26	26	30	28
NEONATAL CARE	89	89	95	112	122
NGA RAUKOHEKOHE	10	12	13	14	16
NON CLINICAL SUPPORT	23	20	26	25	24
NURSING PROFESSIONAL DEV UNIT	6	7	7	9	9
NUTRITION SERVICES	6	5	4	3	2
O & G MEDICAL STAFF	40	40	42	53	51
OCCUPATIONAL HEALTH & SAFETY	12	10	11	11	12
ONESTAFF	10	8	7	7	6
ORDERLY SERVICES	176	180	194	194	204
ORTHOPAEDIC SURGERY	37	38	38	44	59

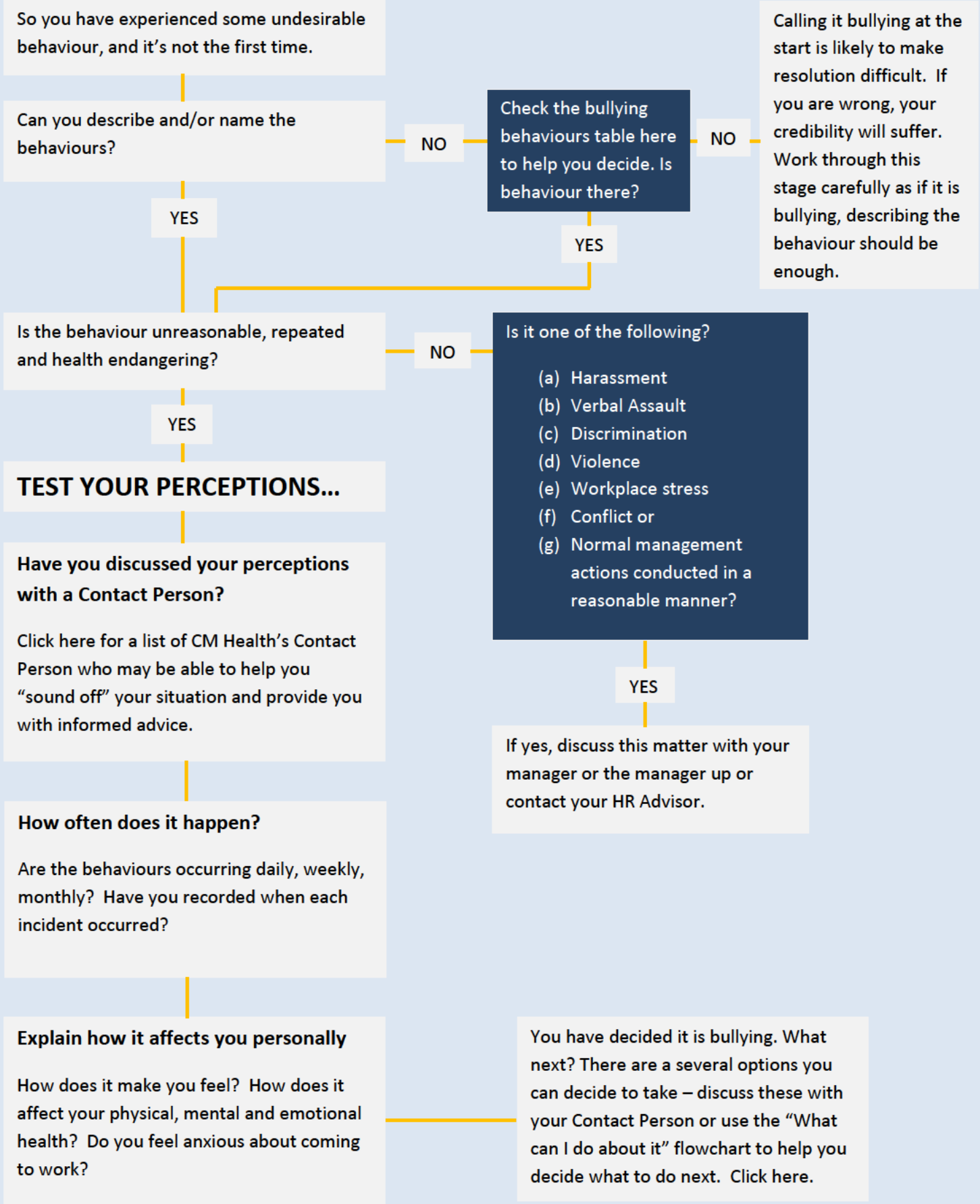
ORTHOPAEDICS	5	6	7	7	6
OTARA COMMUNITY OFFICE	-	-	-	-	-
PACIFIC & INTEGRATED CARE NORTH	5	6	6	6	10
PACIFIC HEALTH DEVELOPMENT	24	24	16	21	19
PACIFIC ISLAND HEALTH	4	3	2	2	1
PAEDIATRIC EMERGENCY CARE	4	8	8	10	25
PAEDIATRIC SECRETARY	17	18	17	17	18
PAPAKURA HOME HEALTH CARE	113	122	140	141	162
PAPAKURA MATERNITY	28	28	21	27	24
PATIENT INFORMATION SERVICE	1	1	1	1	1
PHARMACY	62	64	68	77	82
PHLEBOTOMY SERVICES	31	35	35	35	35
PLASTIC AND HAND CLINIC	4	5	5	5	5
PLASTIC SURGERY - MMH	48	52	56	67	71
PLAY & RECREATION SERVICE	10	11	12	14	15
PSYCHIATRIC LIAISON UNIT	7	6	4	4	4
PUKEKOHE	1	1	2	2	2
PUKEKOHE GERIATRIC SERVICES	57	59	55	60	59
PUKEKOHE HOME HEALTH CARE	26	27	30	29	31
PUKEKOHE MATERNITY SERVICES	27	27	27	29	29
RADIOLOGY SERVICES	11	14	11	13	13
RADIOLOGY SERVICES - MMH	224	218	226	234	258
RAPUA TE AO WAIORA	17	17	19	24	27
RAPUA WHAIORANGA	4	5	5	6	7
RDDS	5	5	5	5	5
RECRUITMENT CENTRE	3	3	6	7	10
REFERRAL & APPOINTMENT CENTRE	27	29	34	33	42
RENAL UNIT	94	100	97	101	103
RESOURCE TEAM	26	32	40	48	55
RESPIRATORY	37	37	37	40	40
RITO DIALYSIS UNIT	5	5	5	5	5
RITO UNIT	27	27	30	27	26
RMO UNIT	22	40	52	93	106
SAH MIDDLEMORE FOUNDATION	4	4	6	4	4
SAT TEAM (BUREAU)	14	12	8	6	3
SECURITY	34	36	38	38	39
SMOKEFREE DEPARTMENT	9	11	13	18	20
SPINAL UNIT	63	61	69	69	80
STAFF CENTRE	2	2	2	2	2
STERILE SERVICES UNIT	39	42	49	48	52
SUPPORT BUILDING	7	8	7	7	6
SURGERY CENTRE - MSC	42	38	41	42	41
SURGICAL SERVICES - MMH	89	104	123	143	175
TAMAKI-ORANGA	35	30	33	33	33
TAUNAKI CAMHS	10	13	17	21	27
TE PUAWAITANGA	10	11	14	19	28
TE RAWHITI CMHC	18	25	31	33	32
TELEPHONE EXCHANGE	12	12	10	10	10
THE COTTAGE	16	15	13	11	3
THEATRE	179	182	187	198	196

TIAHO MAI BUILDING	110	118	135	137	143
TIAHO MAI UNIT	12	9	11	19	26
TRANSIT CARE SERVICES	6	8	9	7	7
VHIU	1	2	1	1	-
VHIU - LINK SERVICE	3	5	1	-	-
WARD 1 - RENAL UNIT	20	20	24	30	32
WARD 10	25	24	26	30	38
WARD 11 ORTHOPAEDIC SURGERY	27	29	34	35	35
WARD 2 - ADULT MEDICAL CENTRE	30	28	32	35	41
WARD 2 AMC MEDICAL	4	5	5	4	4
WARD 23 - GERI REHAB	21	25	25	30	34
WARD 24 - GERIATRIC REHAB	20	22	24	22	26
WARD 31 - STROKE/ADULT REHAB	8	9	13	27	34
WARD 33 - EAST MEDICAL	31	34	33	41	46
WARD 33 - NORTH MEDICAL	16	17	21	26	34
WARD 34 - NORTH SURGICAL	31	32	33	35	39
WARD 34 - EAST SURGICAL	26	21	23	29	30
WARD 35 - EAST KOROPIKO	33	31	28	32	35
WARD 35 - NORTH PLASTIC SURG	6	5	5	5	5
WARD 35 NORTH PLASTIC SURGERY	29	33	35	35	39
WARD 4 - AT&R	24	22	21	24	32
WARD 5 - AT&R	2	2	2	3	1
WARD 5 - AT&R	30	32	36	36	34
WARD 7 - AMC MEDICAL	33	32	31	43	37
WARD 8 - GENERAL SURGERY	28	33	37	41	43
WARD 9 - GENERAL SURGERY	29	34	38	41	42
WHIRINAKI	57	46	33	23	6
WOMENS HEALTH MANAGEMENT	56	54	59	56	55
YOUTH FORENSICS	4	4	4	5	5
<b>TOTAL</b>	<b>6,620</b>	<b>6,868</b>	<b>7,230</b>	<b>7,884</b>	<b>8,473</b>

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# AM I BEING BULLIED?

You don't like what's happening at work, but is it bullying? This flowchart will help you decided whether or not the behaviour you're experiencing is bullying and what you can do about it.



# WHAT CAN I DO ABOUT BEING BULLIED?

If you've decided that it is bullying, this tool will provide you with various options you could try to respond to the situation.

## Think carefully about your situation

Consider the following:

- What do you want the outcome to be?
- The power balance between you and the person.
- The other person's intent.
- Whether you have contributed to the situation.
- The consequences of each approach.
- The likely reaction of your manager and the person you make your report to.

## Try a low key solution – a self-help approach

You may want to deal with the behaviours yourself by speaking to the person directly.

- Name the behaviour of concern and ask for it to stop or request preferred behaviour.
- Remember to be respectful and to name the behaviour and not criticise the person.
- Document incident and keep private.
- Do not retaliate.
- Get support and manage stress.

Did a low key solution work?

YES

Situation resolved.

NO

## Get expert advice and look at an informal resolution

Talk to a Contact Person and discuss how to raise concerns with the person using a no blame approach.

- This is not a formal complaint.
- Your manager will need to intervene and facilitate a discussion or shuttle mediation.
- The objective is to raise awareness of behaviours of concern and seek agreement for ongoing appropriate behaviour.
- Agreements may be kept on file and monitored.

Did seeking expert advice and having your manager intervene resolve the situation?

YES

Situation resolved.

NO

## Lay a formal complaint

Submit a written complaint to senior management or Human Resources. You will need to provide detailed and specific information regarding the behaviours and relevant incidents and if any witnesses were present.

- An impartial and independent investigator will complete the investigation and the alleged perpetrator will be notified and have access to all relevant information also.
- The investigation may result in disciplinary action being taken against the perpetrator under CM Health's Discipline and Dismissal Policy.
- Complainant may be subject to disciplinary action if complaint is false or malicious.
- If the allegation is found to have no substance then informal resolution may be recommended.

YES

Situation resolved.

## Making a Formal Complaint of Bullying or Harassment

This info sheet is a quick overview of important information you need to know or consider before lodging a formal complaint of bullying or harassment.

### Have you considered an informal approach? Have you been to seek advice from a designated contact person?

Options available:

- You can try a low-key approach and deal with the behaviours yourself by speaking to the person directly.
- You can meet with your manager and discuss an informal intervention where your manager can approach the respondent and raise the concerns and facilitated a discussion.
- You can discuss your situation with your HR representative and they may be able to facilitate a discussion or arrange for direct mediation if required due to the level of seriousness or complexity.

### What you need to know about the formal process

If you submit a formal complaint, CM Health is obliged to investigate the matter as we are legally obligated to provide a safe workplace.

Put your complaints in writing and include:

- date the complaint has been made
- name of the complainant
- name of the alleged offender or offenders
- details of the specific allegations and incidents when the offending occurred
- names of any witnesses
- effects of the behavior upon the complainant
- an indication of the outcome the complainant is seeking

The complaint and respondent will be interviewed along with any named witnesses. Both parties will have the opportunity to consider all the evidence and submit a final submission before the investigator assesses the evidence and completes the investigation.

If the investigation finds substance to a complaint, the matter will then be dealt with under the disciplinary and dismissal policy and may result in disciplinary action, including the possibility of dismissal against the respondent.

If the investigation does not find substance to a complaint, the will matter will not result in a disciplinary action and may be forwarded to an informal process of resolution including mediation, behavioral agreements, personal coaching and ongoing monitoring of behavior.

All parties to a complaint, including witnesses shall be required to maintain appropriate confidentiality.

The complainant and the respondent are to not attempt to contact each other about the complaint during the process of investigation and must maintain professionalism. Interim measures may be taken to ensure the complainant and the respondent do not work closely together until the matter is resolved may be appropriate, dependent on the nature of the complaint and the relationship between the parties. A discussion regarding interim will occur before a decision is made.

## Managers – What to do if you have received a complaint or concern of bullying or harassment.

This info sheet is a quick overview on the important information you need to know as a manager. Please ensure that you also seek advice from your HR Representative as well.

### What are your responsibilities as a Manager?

Managers are responsible to ensure that staff are aware of CM Health's Bullying and Harassment Prevention policy and that any types of bullying or harassment behavior in the workplace is unacceptable and will not be tolerated. You are expected to provide leadership and role model appropriate and professional behaviours in the workplace that is in line with CM Health's shared values. [Click here for a copy of the Bullying and Harassment Prevention policy.](#)

If you receive a complaint about bullying or harassment you must take it seriously and be impartial. The complainant will need to know what the organisation's process and procedure is - have they been to see a Contact Person? If you are unsure of the process or procedure, contact your HR Representative for advice as soon as possible.

You must take appropriate corrective action to deal with unacceptable behavior and hear staff concerns and respond promptly, sensitively and confidentially to any concerns or allegations raised. Any one involved is entitled to have a support person present at interviews or meetings and the confidential Employee Assistance Programme (EAP) should be offered to all staff involved.

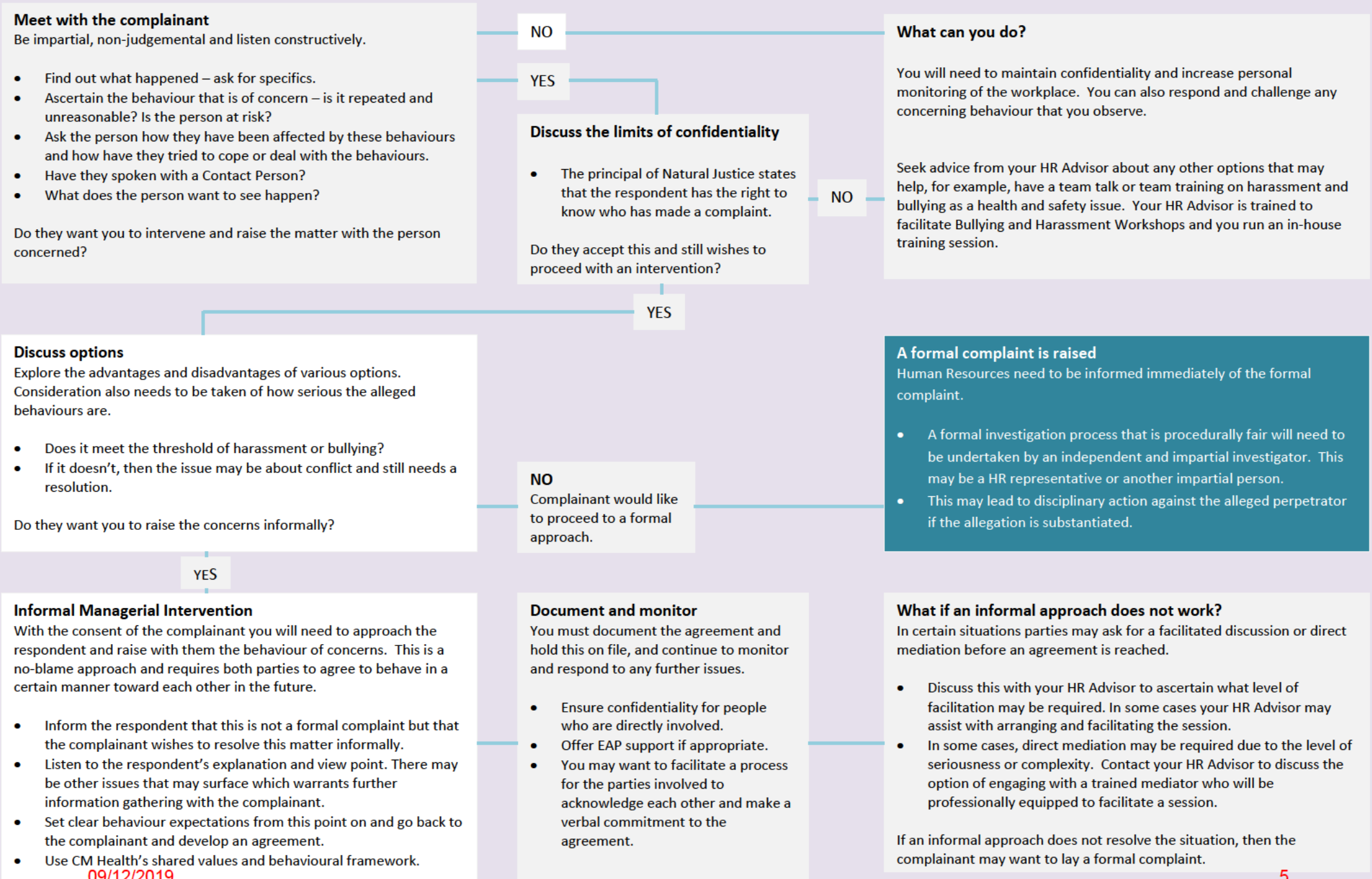
Evaluate how serious the situation is and take reasonable steps to ensure that the complainant is safe in the workplace. If the situation is very serious, you may need to have interim measures in place to ensure the complainant and the respondent do not work closely together until the matter is resolved.

If appropriate, try a low-key or informal approach to address the concerns. Will a facilitated discussion or direct mediation be appropriate?

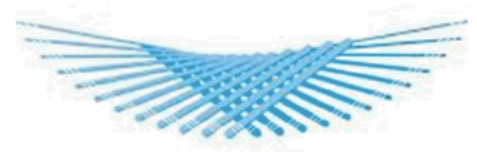
Work through the Managers Guide flowchart and seek advice from your HR Representative.

## MANAGER'S GUIDE – WHAT TO DO WHEN YOU RECEIVE A COMPLAINT

If you receive a complaint about bullying in your workplace, take it seriously and be impartial. This flowchart will help you decide the most appropriate step to take with your employee. This flowchart is to be used in conjunction with the comprehensive guideline on how to address concerns or complaints of bullying or harassment which is available on the intranet.







COUNTIES  
MANUKAU  
HEALTH

## Preventing and managing discrimination, harassment and bullying

A guide for managers and leaders

**Speak Up**

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## Introduction

We are lucky to work in a place that makes a difference to people and their lives. By preventing discrimination, harassment and bullying we help each other work in a safe, healthy and supportive environment, where we can be at our best.

As a manager or leader you are responsible for:

- Preventing harassment, discrimination and bullying
- Investigating harassment and bullying conduct and complaints (either formally or informally) or manage an independent investigator
- Resolving complaints and concerns and
- Speaking up / confronting behaviour which you see which is discrimination, harassment or bullying.

This guide provides you with information, tools and resources to help you prevent, and respond to discrimination, harassment and bullying concerns.

If you are being harassed, bullied or face discrimination or you see these behaviours then as a Manager your role is to raise the behaviour. Please take action by:

- talking to your Manager,
- talking to the General Manager in your area,
- talking to a professional leader
- call the Health Integrity Line 0800 424 888. This is a free, anonymous 24/7 phone line to report fraud or any other activities you're concerned about in the health sector.

There is no place in health for discrimination, harassment and bullying.

## Why prevent or respond to discrimination, harassment and bullying?

Bullying and harassment have a negative impact on people and workplaces:

- It decreases employee health and wellbeing, motivation and commitment
- It can cause sickness and harm
- It makes employees end their employment
- It leads to questions about patient safety
- It diminishes the capability of people who witness it and who are subject to it to solve problems
- It affects productivity
- It gives an organisation a bad name and affects recruitment and retention

Research shows that those who witness bullying are just as impacted as those who are the direct subject of the behaviour. Great people don't want to work with bullies or around bullies and great people have options, which mean we don't get to work with the best people possible and our ability to be at our best can be compromised.

All Managers have a legal obligation to take all practicable steps to prevent bullying and deal with it when it occurs.

Employers who do not deal with bullying and harassment risk action under:

- Employment Relations Act 2000
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Harassment Act 1997.

## Who is affected?

Everyone is affected - patients, managers, visitors and employees. Managers or leaders can be bullied by their direct reports, for example when a direct report refuses to complete reasonable instructions, employees group together to make demands, criticise the manager behind his back or her back, or discuss the manager's performance in a group.

Colleagues can bully colleagues, for example isolating a team member, not inviting them to social functions, excluding people from discussions, threatening consequences unless the person covers a shift are all examples of how employees bully each other, not allowing a person to talk, talking over the top of a person.

Patients and suppliers can also bully and harass employees and these situations should be reported.

## Preventing discrimination, harassment and bullying: steps for managers

There are many things you can do as a Manager to prevent inappropriate behaviour from happening:

- Set out expected standards for work and behaviour
- Discuss the values as a team and run a workshop to discuss what the values mean for the team
- Have regular catch ups with individuals and as a team
- Challenge inappropriate behaviour as soon as possible
- Always focus on the behaviour not the person
- Always include everyone in team meetings and seek everyone's opinions
- Let employees know about "Speak Up" and that it is safe to speak up
- Encourage people to "Speak Up" about any behaviours which are not aligned to the values, professional standards or patient safety.

Expectations and Performance	
Expectation	How
Counties Manukau Health values are displayed and the team have agreed behaviours to show the values are being followed	Refer to <a href="#">Counties Manukau Health values</a> on Paanui  Reinforce behaviour that is aligned with values
Position descriptions are accurate and up to date	A <a href="#">position description template</a> is available on Paanui
Expected standards of work and behaviours are set out	Have a conversation in your team meeting  Set the standards from the start during orientation of new employees.  Upskill yourself at the Performance Management workshop as part of <a href="#">Foundations of Management</a>
Regular catch ups occur to discuss work, recognise good performance and any barriers to success	Upskill yourself at the Conversations that Matter workshop as part of <a href="#">Foundations of Management</a>
Performance reviews occur annually	Ensure every team member has an annual performance review
Team meetings occur monthly	Make behaviour expectations a regular agenda item
Recognition for good work/feedback for behaviour	Reinforce behaviour that meets the values.  Upskill yourself at the Conversations that Matter workshop as part of <a href="#">Foundations of Management</a>
Employees are involved in decisions and know how to give the manager constructive feedback	Upskill yourself at the Conversations that Matter workshop as part of <a href="#">Foundations of Management</a>
Inappropriate behaviours are challenged as soon as possible/immediately	Reinforce behaviour that meets the values  Upskill yourself at the Performance Management workshop as part of <a href="#">Foundations of Management</a>
Team has the resources to do their work	Use your manager's help to ensure appropriate resourcing
Processes and policies are clear	See all <a href="#">Counties Manukau Health policies</a> on Objective
Employees have the training to do their job	Find resources on Paanui under <a href="#">People and Professional Development</a>  Ensure all your employees have their own development plan

Health and Safety	
Expectation	How
Team have the resources to do their job	Use your manager's help to ensure appropriate resourcing
Safety committee has strong representation from employees	Ensure your area has its own <a href="#">Health &amp; Safety representative</a>

Communication, Collaboration and Consultation	
Expectation	How
Change management processes are understood	Upskill yourself by enrolling in the <a href="#">Foundations of Management</a> programme.
Team understand communication styles	Upskill yourself by enrolling in the <a href="#">Foundations of Management</a> programme and learn about MBTI Personality Profiles.  You might also enrol on the <a href="#">Communicating Effectively</a> course where you can learn to understand your own communication / working style in order to work more effectively with others.
Team meetings include everyone and all opinions are sought	Under development

Leadership and Management	
Expectation	How
Managers know how to resolve conflict	Upskill yourself by enrolling in the <a href="#">Foundations of Management</a> programme.
Managers have strong communication skills	Upskill yourself by enrolling in the <a href="#">Foundations of Management</a> programme.
Managers are skilled at managing performance	Upskill yourself at the Performance Management workshop as part of <a href="#">Foundations of Management</a>
Managers are skilled in change management	Under development
Educate employees about bullying and harassment and the processes to speak up	Speak Up programme

## Organisational factors that can lead to bullying

Organisational Factor	Characteristics	Controls
<b>Negative Leadership</b>	Autocratic No guidance Inadequate supervision Micromanagement	Coaching workshop Leadership development Cognitive Institute programme Leadership programme
<b>Work organisation</b>	Poor/lack of resources Lack of training Unreasonable performance standards	Process Improvement
<b>Poor work relations</b>	Constant negativity/criticism Conflict Not listening to others Dominating conversations Not seeking other input	Team behaviour standards Chairperson for meetings Process for meetings – check in for everybody's views Values in Practice Workshop Coaching Programme
<b>Workforce Characteristics</b>	Vulnerable workers Injured workers returning to work Off-site/casual workers Workers in minority Different professional groups	Connections for workers such as professional leads, support groups, other employees All casual employees have a contact point in the team Working as "real teams"
<b>Lack of accountability</b>	No performance reviews No feedback provided Managers do not seek feedback No consequences for poor performance/inadequate behaviour	Employee engagement survey and actions Performance reviews Employees receive feedback and ongoing conversations to check how they are going Change Management practices Set expectations which are reasonable, measurable, specific and time bound Assist prioritise work Check in and discuss progress Help remove obstacles of achievement Encourage and support

## How to create an environment where bullying is less likely to occur

Here are some tips for creating a work environment that makes bullying less likely.

When it is less likely to occur...
When people are asked for feedback, everyone is involved, everyone is valued for what they bring, everyone in a meeting is asked for their view/input.  Relationships and trust are built through regular contact
Unacceptable behaviours are noticed and people give each other feedback
Everyone speaks up and we are all responsible for calling out behaviour  Values are demonstrated
Disciplinary consequences occur when bullying is confirmed
Employees are feeling supported by their colleagues, managers, human resources, professional bodies, and leadership to speak up. This only occurs when work-related relations are strong.
Honest regular feedback between people who work together  Reviews of situations occur and everyone is invited to speak  People speak up about the behaviour and do not personalise the matter or exaggerate and use fact based examples
There are consequences for people who make false claims
Unacceptable behaviours are noticed and people speak up  Witnesses speak up
Feedback is honest, people express opinions without personalising issue
Processes are clear, behaviours are clear, expectations are set and everyone takes accountability for their work and their behaviour (what you do and how you do it are equally important)



# What is bullying?

## Definition

The Counties Manukau Health Policy states:

*“Workplace bullying is repeated, unreasonable and unwelcome behaviours that may have a detrimental effect on the individual’s employment, job performance or job satisfaction and pose a risk to Health and Safety”.*

It is a behaviour directed towards a person or group of people within Counties Manukau DHB that is:

- Repeated – persistent and includes a range of actions and behaviours over time, and
- Unreasonable – actions that a reasonable person in the same circumstances would see as unreasonable, and
- Creates a risk to health and safety

These behaviours include, but are not limited to:

- Verbal abuse, belittling or demeaning language/gestures
- Unjustified criticism, fault finding or public humiliation
- Intimidation, threats or displays of hostility
- Sarcasm, teasing, unwanted jokes
- Undermining by spreading malicious rumours or bad-mouthing
- Withholding of information required to perform tasks
- Unwarranted exclusion or isolation

Workplace bullying involves persistent behaviour that may victimize, humiliate or intimidate a person and can involve a range of actions over time. A single incident of unreasonable behaviour is not necessarily considered workplace bullying however as it could escalate it should be managed.

Behaviours not considered to be workplace bullying are:

- One-off occasional instances of forgetfulness, rudeness or tactlessness
- Setting high performance standards because of quality or safety
- Constructive feedback or legitimate advice or peer review
- Issuing reasonable instructions
- Frank and honest discussions (with no personalise comments)
- Warning or disciplinary processes which are fair and based on good grounds.

## Examples of bullying

Personal attacks (direct)	Task related attacks (indirect)
<p>Belittling remarks</p> <p>“Of course you would think that”</p> <p>“You’re full of it”</p> <p>“No one is interested in what you have to say”</p>	<p>Setting unachievable tasks deadlines, workload, being set up to fail</p>
<p>Ignoring, excluding, silent treatment, isolating</p>	<p>Meaningless tasks, unpleasant jobs</p>
<p>Ridiculing, insulting, “teasing, funny surprises”, sarcasm</p>	<p>Undervaluing contribution to work, not giving credit for contribution, taking credit for contribution</p>
<p>Physical attacks, tampering with personal affects</p>	<p>Putting someone in harm’s way</p>
<p>Humiliating others</p>	<p>Not being supported to complete tasks</p>
<p>Persistent and/or public criticism</p>	<p>Criticising the way things are done</p>
<p>Obscene language</p>	<p>Declining leave when others get leave</p>
<p>Ganging up (group bullying) - we have all talked about it and don’t like you</p>	<p>Not being rostered fairly across team</p>
<p>Condescending comments</p>	<p>Hinting that job is not secure</p>
<p>Intruding on privacy – stalking, calling when off duty, emailing when not work related</p>	<p>Unjustified disciplinary processes</p>
<p>Inaccurate accusations</p>	<p>Giving incorrect information, not giving all the information to do work</p>
<p>Personalising matters rather than talking about an incident</p>	
<p>Encouraging someone to feel guilty</p>	<p>Excluding or isolating behaviours</p>
<p>Threatening to fail in course work (rather than constructive feedback with an explanation of possible consequences)</p>	<p>Withholding resources, training or development opportunities, removing responsibilities with no good reason</p>

# What is harassment?

## Definition

The Counties Manukau Health Bullying and Harassment Prevention Policy, in line with the Human Rights Act, defines:

*“Harassment as unwelcome or offensive verbal or physical conduct in relation to:*

- *Sex*
- *Marital status*
- *Religious belief*
- *Ethical belief*
- *Colour*
- *Race*
- *Ethnic or National origins*
- *Disability*
- *Age*
- *Political opinion*
- *Employment status*
- *Family status or*
- *Sexual orientation*

*Which is either persistent or of such a nature that is has a detrimental effect on an individual’s employment, job performance or job satisfaction”.*

This may include, but is not limited to the following:

- Mocking or disrespectful remarks involving any of the above
- Comments or requests or physical conduct of a sexual nature
- Unwelcome or suggestive scrutiny of physical characteristics
- Unwelcome physical contact
- Improper suggestions
- Verbal innuendo, jokes or comments
- Display and /or distribution of offensive printed or electronic material.

The behaviour may either be repeated or be a one-off incident which is significant enough to have a detrimental effect on the person’s health and safety, employment, job performance or satisfaction. Repeated behaviours do not have to be directed at one individual to constitute harassment.

The intentions of the alleged harasser are not relevant to the definition of harassment. It is the effect of the behaviour on the individual and its reasonableness which are key to defining behaviour that constitutes harassment.

Harassment can take place in a range of relationships, including between;

- An employee and a manager or leader
- Co-workers
- An employee and a patient
- An employee and another person in the workplace
- A volunteer and an employee or manager
- A supplier and an employee.

Harassment may also occur through electronic means such as electronic messages, voicemail, phone and video calls and social media both inside and outside the workplace or work time.

## Sexual Harassment

Sexual Harassment is one form of unlawful harassment and it includes any unwanted or unwelcome conduct of a sexual nature that makes a person feel offended, humiliated or intimidated. As with harassment, conduct can amount to sexual harassment even if the person did not intend to offend, humiliate or intimidate the other person.

Sexual harassment may take many forms including:

- Requests or demands for sexual activity which carry overt or implied threats or promises regarding the employee's employment
- Offensive sex-oriented gestures or comments
- Sex based insults, taunts, teasing or name calling
- Unwanted and deliberate physical contact, including pinching, touching, grabbing, kissing or hugging
- Persistent and unwelcome social invitations, telephone calls or propositions or inappropriate attention
- Leering and suggestive staring at a person or parts of their body
- Obscene phone calls
- Sending rude or offensive emails, attachments, text messages or movie files
- Sending sexual material in any form or format
- Displays of circulation of sexual material such as posters, magazines, pictures, screen savers, internet material, etc.
- Accessing, downloading or transmitting sexually explicit or inappropriate material in the workplace.
- Sexual jokes, comments or innuendos, including sexually provocative remarks and suggestive or derogatory comments about a person's body or physical appearance
- Questions or probing about a person's sex life
- Sexually explicit conversations.

## Racial Harassment

Racial harassment occurs in the workplace when a person expresses their hostility against or brings into contempt or ridicules another person on the grounds of their colour, race, ethnic or national origins, is hurtful or offensive to that person and it has a detrimental effect on that person's employment, job performance or satisfaction.

Racial harassment may take many forms including:

- Making offensive remarks about a person's race
- Jokes or songs of a racial nature
- Mocking others' accents or mimicking the way they speak
- Deliberately mispronouncing names
- Racial or ethnic oriented jibes or abuse
- Calling people by racist names
- Displaying offensive material
- Distribution of racist material

Counties Manukau Health recognises that behaviour that may be regarded as harmless, trivial, a joke or acceptable by one person may be racial harassment to those who find offence. However, conduct can amount to racial harassment even if the person did not intend to hurt or offend the other person.

## Other Forms of Harassment

Harassment covers many activities, events and situations which may occur in the workplace. This policy cannot identify every behaviour or conduct that may constitute harassment. In general, Counties Manukau Health will consider any conduct that creates a hostile or offensive environment as breaching this policy.

What constitutes acceptable behaviour to one person may not be acceptable to another. This can be for various reasons such as different backgrounds, experiences or personal beliefs that people hold, or because an employee is new to a workplace and has not formed relationship with the other employees, and is unfamiliar with the behavioural norms (i.e. what is and is not acceptable) of that particular workplace.

No unreasonable behaviour which causes distress to another employee is acceptable. All employees should consider their own behaviour and that of their colleagues and reflect whether it might be unacceptable or offensive.

# What is discrimination?

## Definition

Discrimination occurs when a person is treated unfairly or less favourably than another person in the same or similar circumstances.

It is a breach of the Human Rights Act 1993. The Human Rights Act 1993 makes it unlawful to discriminate based on:

- Sex – includes pregnancy and childbirth, transgender and intersex people because of their sex or gender identity.
- Marital status – includes marriages and civil unions that have ended
- Religious belief – not limited to traditional or mainstream religions
- Ethical belief – not having a religious belief
- Colour, race or ethnic or national origins – includes nationality or citizenship
- Disability – including physical, psychiatric, intellectual or psychological disability or illness
- Age – people are protected from age discrimination if they are over 16 years old
- Political opinion – including not having a political opinion
- Employment status – being unemployed, on a benefit or on ACC. It does not include being employed or being on national superannuation
- Family status – includes not being responsible for children or other dependants
- Sexual orientation – being heterosexual, homosexual, lesbian or bisexual

These grounds apply to a person's past, present or assumed circumstances. For example, it is unlawful to discriminate against someone because they have a mental illness, had one in the past, or someone assumes they have a mental illness.

## Indirect discrimination

Indirect discrimination is when an action or policy that appears to treat anyone the same actually discriminates against someone. For example, if the only entrance to a shop is by climbing the stairs, that indirectly discriminates against someone who uses a wheelchair.

## What bullying and harassment isn't

Bullying and Harassment are not:

- One off occasional incident of rudeness, annoyance, tactlessness, poor taste joke
- High standards of performance
- Accountability for doing the work
- Constructive feedback about performance or conduct from managers or peers
- Manager requiring reporting on work achievements
- Manager requiring work to be completed (that is reasonable and legitimate)
- Disagreements about matters where varying opinions can exist
- A single act of unreasonable conduct (but it could escalate)
- Making a mistake even if it has a negative impact
- Not getting absolutely everyone's views on every matter
- Managers making decisions that they are entitled under their delegated authority to make
- Reasonable management actions directed at an employee in a reasonable way
- Poor management skill – manager might not give feedback in the best way but this does not make it bullying.

Conflict is not necessarily bullying but it can escalate into bullying. Conflict or differences in views can bring about new ideas and different approaches. However if the conflict involves personal attacks, shouting anger, etc. then it can cross a line into inappropriate behaviour, bullying or harassment.

## How to manage a complaint or situation

The Counties Manukau Health Policy for dealing with Harassment or Bullying states that:

*“Any employee who considers they have been subjected to harassment or bullying may take any one or more of the options listed below. Employees may approach their manager, union or other representative or EAP Services for support and/or advice. Counties Manukau Health also maintains a pool of trained contact people available to assist employees with information and support”.*

Questions to consider:

### **Does there need to be a complaint?**

The person who has been the subject of harassment or bullying does not need to lay a complaint for the matter to be dealt with either informally or formally. Bullying and harassment are acceptable, possibly in breach of the Health and Safety Act and create an environment that is not safe for patients. Managers must confront any examples of harassment or bullying that they witness or become aware of.

### **Does there need to be an investigation?**

This depends on the nature of the complaint. For low level conduct which is the first time, informal resolution is appropriate. For repeat or serious matters, then a formal investigation and outcome should occur.

### **What if it is a clinical matter?**

It is not acceptable for a patient or family member to harass, bully or be violent to an employee. Much of this guide has been focused on work and employment related incidents. For patient related matters, a Risk Pro should be completed and the clinical lead for the patient involved.



## Key points when dealing with a complaint

<b>Do not jump to conclusions</b>	The complainant may genuinely feel bullied but this does not mean that the behaviour meets the test of bullying. Alternatively, the behaviour might be inappropriate or poor management skill but not bullying
<b>Confidentiality</b>	Do not discuss with people who do not need to know
<b>Ensure that the complainant is safe</b>	It is important that people who speak up are safe. Confidentiality and respect are the key to this
<b>Support all parties</b>	Offer EAP, remind people that their union can assist them and most professional bodies offer wellness support
<b>Be neutral</b>	Until you gather the information you do not know what has happened. Do not judge anything.
<b>Communicate</b> <b>Communicate</b> <b>Communicate</b>	Keep people informed about where things are at even if it is just that you are still investigating
<b>Keep notes</b>	Keep a diary of what you have done – who you meet with, what you say, when and who else was present. One sheet of paper with the dates and meetings is acceptable

## Deciding how serious an issue is

You should review the issue, decide how serious the allegation is and what the appropriate process to deal with a complaint is:

Here is a guide to help you:

### Less serious

- Low level conduct
- One off low level conduct which is not bullying or harassment but inappropriate behaviour
- Lapse in judgement
- Single inappropriate comment
- Person immediately apologises, recognises behaviour and attempts to put right when low level behaviour occurs

### More serious

- Mid-level behaviour
- Impact is significant
- Conduct is serious or escalates or involves multiple behaviours i.e. shouting, swearing and threatening
- Patient safety actually or potentially compromised
- Patient witnesses behaviour

### Highly serious

- Senior employees or management
- Serious conduct
- Occurs over a long period of time
- Series of workers report problems or behaviours
- Vulnerable workers
- Patient safety compromised
- Impact on people or service is significant
- Repeated
- Discrimination – sexual, racial and religious
- Sexual in nature
- Violent nature to shouting or behaviour
- When other approaches fail.

## What do you do if you receive a complaint?

### **Managers and supervisors**

Managers are additionally responsible to uphold the Counties Manukau Health policy by:

- Ensuring employees know that harassment and bullying are unacceptable and will not be tolerated.
- Taking appropriate corrective action to deal with unacceptable behaviour.
- Providing leadership and modelling appropriate and professional behaviour in the workplace.
- Hearing employees concerns and responding promptly, sensitively and confidentially to all situations where unacceptable behaviour is exhibited or alleged to have occurred.
- Notifying Human Resources with any concerns about inappropriate behaviour that have been raised with them.

### **The complainant**

Counties Manukau Health has a legal obligation to ensure that any employee making an allegation of harassment or bullying is treated fairly. An employee will not be subjected to discriminatory treatment for making an honest allegation.

A complainant is entitled to:

- information on all the options available to them
- appropriate personal support
- have a support person or representative present at any discussions or interviews
- have all possible steps taken to protect their privacy
- access to Counties Manukau DHB's confidential Employee Assistance Programme (EAP)

## The process to manage a complaint

Complaint received		
1	Review complaint	Is the nature of the complaint clear? Date, time, what happened, the names of witnesses, has the complainant said what action they want?
2	Complaint is not clear	Return to complainant and be clear about the information that is required for you to understand what has happened
3	Complaint is clear	Is the nature of the complaint serious? See point 4 below  Is the complaint at the low level end? See point 5 below
4	Complaint is serious	Potentially the alleged behaviour fits within the definition of bullying and/or harassment
4.1	Acknowledge	Acknowledge receipt of complaint and set out what will happen from here and the terms of reference of any investigation.
4.2	Meet complainant	Ensure you have all the information, the complainant understands what the process will be and that the complaint will be shown to the person accused, ensure that they understand the support that can be in place
4.3	Prepare letter to the accused	Prepare a letter to the accused of what the allegation is (attach all documentation), what the process will be and their rights (to have support present at all meetings) and terms of reference of the investigation.
4.4	Meet with the accused and give the letter	Explain what has happened  Give the letter  Ensure you have given the accused all the information you have and that the person understands what the process will be and understands support that can be in place including their right to be represented.
4.5	Investigation	Tape record meetings as this is easiest. Ask HR for a tape recorder, or use your phone. People should be given a copy of the recording and of the transcript. Note; it is not illegal to take meetings even without permission. (It is illegal to tape phone conversations)
4.6	Interview witnesses	Ask what happened, clarify any answer with closed questions – do not ask leading questions or make suggestions about what happened  Ensure that people actually answer the questions and say what happened

		If in doubt keep asking questions  Put any contradictory information and ask for explanations
<b>4.7</b>	Interview complainant if necessary	Get more information from the complainant or further explanations
<b>4.8</b>	Gather information	Get any other information required
<b>4.9</b>	Send all the information to the accused	The person is entitled to all the information you have so that they can answer
<b>4.10</b>	Interview accused	Ask what happened, clarify any answer with closed questions – do not ask leading questions or make suggestions about what happened  Ensure that people actually answer the questions and say what happened  If in doubt keep asking questions  Put any contradictory information and ask for explanations
<b>4.11</b>	Ensure you have all the information	
<b>4.12</b>	Make a preliminary decision	Decide what to do:  Is the allegation likely to have happened based on the information? Would a reasonable manager think that the behaviour occurred? (This is not a court of criminal law; you do not have to prove beyond reasonable doubt).
<b>4.13</b>	Written decision – record your decision in writing	This needs to be short simple and clear. State your finding based on the allegation made and the information you have used to make the decision. Send the decision to the accused.
<b>4.14</b>	Meet with the accused to get their views	Ask for any comments  You have to consider their response but you don't have to change their mind
<b>4.15</b>	Ensure you have all the information	
<b>4.16</b>	Make a final decision	Give the decision to the accused. State the actions and what will happen next.

4.17	Get the complainant matter completed	Ensure the complainant understands that the matter has been investigated and as far as possible what the outcome is
4.18	Disciplinary Action	<p>If your first letter said that a disciplinary action might occur, implement the action</p> <p>If your first letter said that a disciplinary process would begin, begin the disciplinary process</p>
4.19	Documentation to HR file	<p>Send all documents to HR for filing in Objective</p> <p>Send documents to the complainants file</p>
5	Complaint is low level	<ul style="list-style-type: none"> <li>• One off inappropriate behaviour</li> <li>• Not serious in nature</li> <li>• Person realises made a mistake and apologises</li> <li>• Other extenuating circumstances</li> <li>• Complainant only wants a low level response</li> </ul>
5.1	Acknowledge the complaint	<p>Meet the complainant confidentially. This is not about accepting the behaviour is bullying or harassment but rather that it has made the other person feel bullied or harassed.</p> <p>Offer the complainant support – even low level incidents take a toll on people</p> <p>Ask the person to be involved in the approach</p>
5.2	Approach individual directly or approach individual through their manager	<p>Explain the behaviour</p> <p>Explain the impact on the person</p> <p>Say what you want to happen</p> <p>Let the other person speak</p> <p>Agree to outcome of meeting</p>
5.3	If the other person accepts no responsibility and/or does not acknowledge the impact	Consider a formal meeting to discuss and record in writing for the person what has happened, the impact on the other person what has happened, the impact on the other person and a suggested better approach in the future. The aim is a polite respectful note with a clear statement about

on others	how others found their behaviour.  This is not saying that the person is guilty of anything rather this is explaining how someone else felt. (If a repeat of the behaviour occurs then there would be a formal process to decide if bullying or harassment.)
<b>6 Complaint is not about bullying or harassment</b>	
The behaviour is not bullying or harassment but is not appropriate, breaches an employment standards or needs investigation	Use informal process if low level or use disciplinary processes if serious

## Alleged harasser has rights

Counties Manukau Health has a legal obligation to ensure that any employee against whom an allegation of harassment is made is treated fairly. The alleged harasser is entitled to know the name/s of the complainant/s and the details of the allegation, including a copy of the written complaint, as soon as possible after the allegation has been made to ensure they have a fair opportunity to respond to allegations.

The individual is also entitled to have a support person or representative present during any discussions or interviews (informal or formal) and to have all possible steps taken to protect their privacy. They are also entitled to access Counties Manukau Health's confidential Employee Assistance Programme (EAP).

## Self-help

The self-help approach involves the offended person approaching the offender directly and requesting the behaviour of concern stops. This approach is direct and may be useful if the perpetrator is unaware that their behaviour is having a negative impact upon others, or their behaviour is possibly unintentional.

It is important when using a self-help approach, to communicate assertively and constructively, without aggression, and to clarify what specific behaviour is considered unreasonable and offensive. It may be useful for the offended person to keep a record of specific incidents of concern and store it privately.

## Informal intervention

Informal interventions involve a third party to help resolve a situation. This might normally involve a relevant manager or supervisor who has authority over the parties concerned. Informal interventions may also be conducted by a senior manager, mediator or facilitator or a HR representative.

Informal interventions are not complaints. They are focused at resolving concerns through dialogue so that the parties involved can engage in more productive behaviour in the future.

Informal interventions may include:

- **Facilitated discussion** where an issue may be discussed between two parties and a manager is present to facilitate the discussion fairly and constructively.
- **Shuttle mediation** where a manager or 'mediator/facilitator' meets with the parties individually and assists them in developing a behavioural agreement for the future. Parties are generally only brought together at the end of this process in order to clarify agreement and bring about closure.
- **Direct mediation** where a manager or 'mediator/facilitator' meets with the parties together and assists each party to be heard and to develop agreements on future behaviour.
- **Round-table mediation** where a manager or 'mediator/facilitator' facilitates a group of people who come together to discuss the concerns of the parties involved and develop a behavioural agreement for the future.

Informal interventions are a "No Blame" approach because they are neither disciplinary nor disadvantageous to the parties involved. The outcomes of successful informal interventions may include specific behavioural agreements that are aimed at stopping the behaviours of concern and resolving issues between people.

Behavioural agreements may be recorded and used to monitor the ongoing relationship between the parties. If agreements are broken, either party may request further intervention or may initiate an investigation by making a formal complaint.

In instances where a formal complaint is made after informal interventions have failed, information divulged in informal meetings or mediation is considered "non-prejudicial" and will not be used as evidence.

## Formal complaints

Any employee may make a formal complaint if they believe they have experienced harassment or bullying in the course of their employment. This organisation will treat all formal complaints seriously and conduct a full and fair investigation unless the complaint is deemed to be frivolous or trivial.

Formal complaints should be made in writing and include;

- date the complaint has been made
- name of the complainant
- name of the alleged offender or offenders
- details of the specific allegations and incidents when the offending behaviour occurred
- names of any witnesses
- effects of the behaviour upon the complainant
- an indication of the outcome the complainant is seeking



Formal complaints should be addressed to the Human Resources Manager or other senior manager and marked, "Private and Confidential". The complainant and respondent (person the complaint is against) will be interviewed along with any named witnesses. All parties have the right to bring a support person to any meeting or interview involved in the investigation

The complainant and respondent will be informed of the process of investigation and have the right to view all the documentary evidence and witness statements. Both parties also have the right to respond and submit a final submission before the investigator assesses the evidence and completes the investigation.

At the completion of the investigation a final report will be provided to the complainant and respondent explaining the findings and the basis for those findings. Behaviour that constitutes harassment or bullying may be considered as either misconduct or serious misconduct depending upon the seriousness of the behaviour, persistence of the behaviour, and the impact upon a complainant.

If an investigation finds substance to a complaint, the matter will then be dealt with under the disciplinary policy and may result in disciplinary action, including the possibility of dismissal against the respondent. If an investigation finds substance that the complainant and the respondent have both engaged in harassment or bullying, both parties may be subject to disciplinary action including the possibility of dismissal. If the investigation does not find substance to a complaint, the matter will not result in disciplinary action and may be forwarded to an informal process of resolution including mediation, behavioural agreements, personal coaching and ongoing monitoring of behaviour.

Malicious, vexatious or false complaints are considered forms of serious misconduct. This does not include complaints that are found to be lacking in sufficient substance.

## Confidentiality, Safety and Privacy

All parties to a complaint, including witnesses shall be required to maintain appropriate confidentiality.

The possibility of defamation arises when someone broadcasts the problem outside the proper channels to those with no genuine interest or need to know about it. The complainant, respondent and those properly involved in a complaint are protected against defamation where the complaint is made honestly and without malice, and is made only to those who have a duty to receive it or provide appropriate support.

The complainant and the respondent will be advised not to attempt to contact each other about the complaint during the process of investigation. The complainant and the respondent will also be advised that they can contact the Employee Assistance Programme (EAP) for confidential counselling.

**Interim measures** may be taken to ensure the complainant and the respondent do not work closely together until the matter is resolved may be appropriate, dependent upon the nature of the complaint and the relationship between the complainant and respondent. If any interim measures are to be taken, this will be discussed with the appropriate person before any decision is made. While the outcome of an investigation will be provided to the complainant and the respondent, disciplinary outcomes are private and will only be provided to the person concerned.

## How to speak up

	In the moment	After the event and to the person	After the event/through someone else	Complain
What	Take the direct approach Be polite and clear Name the behaviour State exactly what you want or how you are feeling Use just a few words Do not be judgemental You are not entering a discussion You are calling it out and ending the event (for now)	Approach the person and tell them the impact of what they did You are not entering a discussion You are stating your view They don't have to agree or accept anything	Approach your manager, tell them of the event, the impact on you and the job, ask for help approaching the person directly for a low level conversation	Intranet / Speak Up
	Walk away – get up and walk away You do not have to stay and listen or watch the behaviour If you think the behaviour is inappropriate walk away	Approach the person Remind them of the event Say the behaviour you considered inappropriate State the impact on you or others State you want it to stop	Approach the person Remind them of the event Say the behaviour you considered inappropriate State the impact State you want it to stop	
How	If you are going to say something keep an even tone of voice, loud enough to be clear Suggested words: Ouch Please stop shouting Stop pointing Stop speaking like that ...	Do not be rude Do not personalise Be kind and polite  Suggested words: When you said/did... I felt/I saw others ...	Do not be rude Do not personalise Be kind and polite	
	If it doesn't stop walk away Name the behaviour and say what you want "You are criticising us and we can't think straight when that happened. Let's take a moment and be quiet ". "Take a step back, you are too close. " "That is really rude, stop bullying."			
	Escalate			

## How to speak up about any matter

We all have a role to play in making our workplace a happy and health one. This means calling out behaviour that is not acceptable and raising concerns or incidents even if we are not directly involved. If you have any concerns then please tell someone and seek support.

- Talk to your manager
  - You should have a regular meeting with your manager to discuss your work
  - You should have at least one formal performance review each year in writing
  - You should be able to talk to your manager about any concerns you have
- Talk to your manager's manager
  - If you are not happy with the answer from your manager or the matter involves your manager
- Email the Director for your area
- Email the Director who has responsibility for the area your concern relates to e.g. - Facilities, HR, Security
- Email the Chief Executive [REDACTED]
- Email Human Resources [humanresources@middlemore.co.nz](mailto:humanresources@middlemore.co.nz) or contact the Director of Human Resources [REDACTED]
- Talk to your professional supervisor
- Contact your professional body
- Call your union representative
- Talk to your Health and Safety Representative [REDACTED]
- Report a health and safety incident or hazard on RiskPro [REDACTED]
- Email Health and Safety [REDACTED]
- Make a formal complaint [REDACTED]
- Call the Health Integrity Line – 0800 424 888 (see next page for more details)

## The Health Integrity Line - 0800 424 888

This is a free, anonymous 24/7 phone line for you to report any activities you're concerned about in the health system. This includes but is not limited to:

- dishonesty or inappropriate use of public money
- inappropriate use of technology
- workplace bullying
- theft
- drug use
- harassment.

The 0800 number is operated by independent charity Crimestoppers, who run integrity lines for a range of agencies, and staffed by specially trained operators who won't ask for a name or record or trace the call. All Health Integrity Line calls about Counties Manukau Health are passed on to Chief Executive Officer of Counties Manukau Health.

The [Health Integrity Line](#) is primarily for the use of health sector employees. If you're an employee and are calling about serious wrongdoing in or by your workplace you'll be advised of your rights under the Protected Disclosures Act 2000 (known as the 'Whistle-blower Act').

## Other Key Contacts for Support

<b>EAP</b>	For 24 hour confidential counselling and support Ph: 0800 SELF HELP (0800 735 343) <a href="http://www.eapworks.co.nz">www.eapworks.co.nz</a>
<b>MBIE Ministry of Business, Innovation, and Employment</b>	For workplace health & safety advice Worksafe New Zealand Ph: 0800 030 040 <a href="http://www.business.govt.nz/worksafe">http://www.business.govt.nz/worksafe</a>
<b>Human Rights Commission</b>	For assistance with human rights enquiries or complaints of unlawful discrimination Ph: 0800 496 877 <a href="http://www.hrc.co.nz">www.hrc.co.nz</a> Email: <a href="mailto:infoline@hrc.co.nz">infoline@hrc.co.nz</a> Text: 02102364253
<b>Department of Psychological Medicine</b>	For psychological or psychiatric assistance Building 31, Middlemore Hospital, Hospital Road, Otahuhu Text or phone Duty Clinician on 021 826616 For urgent after hours support phone 021 727169
<b>Your Health</b>	For free Occupational Health service for work related matters Ph: 09 2760142 or extension 58142 Email: [REDACTED]

## Support for managers and leaders

### Support

To support you with making decisions and manage the process, please contact:

- Your manager
- HR
- Your professional lead
- The General Manager of the service
- The Director for your area
- EAP
- Ko Awatea for development programmes.

### Manager as witness

What do you do if you see a situation of discrimination, harassment or bullying?

Write it down so you have a record of what happened, then decide how better to deal with it; low- key approach, informal or formal. Another manager or leader, your manager or HR can assist or carry our an investigation for your to ensure that there is independence, if that is required.

## Violence

This guide focuses on discrimination, harassment and bullying. Violence, for example, verbal abuse, shouting, throwing objects, hitting a person, and damage to property can be a form of bullying and harassment. They are also totally unacceptable behaviours and warrant disciplinary investigations and, if substantiated, disciplinary action.

### About this guide

This is a guide to help you understand the discrimination, harassment and bullying and the actions you should take to prevent discrimination, harassment and bullying and manage a complaint.

Your manager or HR partner can assist on each occasion with specific advice.

This guide is based on a document produced by WorkSafe NZ. Many thanks to the staff at WorkSafe.

<https://worksafe.govt.nz/the-toolshed/tools/bullying-prevention-toolbox/>



# Speak Up

## I'm a Manager

Someone has approached you to Speak Up about a behaviour or an incident, their wellness or a safety related matter.

As a manager you have an obligation to investigate matters which are brought to your attention. If you know about it you have to act.

### Key Points:

Do not jump to conclusions	The person may genuinely be concerned however this might be simply resolved. However, it might be serious, so you need to take their approaching you seriously.
Confidentiality	Do not discuss with people who do not need to know.
Ensure that the person is safe, listened to and has support	It is important that people who speak up are safe. Confidentiality and respect are the key to this.
Support all parties	Offer EAP, remind people that their union can assist them, and most professional bodies offer wellness support.
Be neutral	Until you gather the information you do not know what has happened. Do not judge anything.
Communicate Communicate Communicate	Keep people informed about where things are at even if it is just that you are still investigating.
Keep notes	Keep a diary of what you have done – who you meet with, what you say, when and who else was present. One sheet of paper with the dates and meetings is acceptable.

### Support for you:

- Talk to your manager or professional lead
- Call your HR Business Partner or the Employment Relations Manager
- Employee Assistance Programme (EAP).
  - Tel: 0800 735 343 - Someone is available 24/7



## Deciding what to do: Behaviour or an Incident

The matter is:

Low level	More serious	Highly serious
<ul style="list-style-type: none"> <li>➤ Low level conduct</li> <li>➤ One off low level conduct which is not bullying or harassment but inappropriate behaviour</li> <li>➤ Lapse in judgement</li> <li>➤ Single inappropriate comment</li> <li>➤ Person immediately apologises, recognises behaviour and attempts to put right when low level behaviour occurs</li> </ul> <p>Examples of behaviour: Rudeness Not letting others speak</p>	<ul style="list-style-type: none"> <li>➤ Mid level behaviour</li> <li>➤ Impact is significant</li> <li>➤ Conduct is serious or escalates or involves multiple behaviours i.e. shouting, swearing and threatening</li> <li>➤ Patient safety actually or potentially compromised</li> <li>➤ Patient witnesses behaviour</li> </ul> <p>Examples of behaviour: One off outburst or anger or shouting</p>	<ul style="list-style-type: none"> <li>➤ Senior staff or management</li> <li>➤ Serious misconduct</li> <li>➤ Occurs over a long period of time</li> <li>➤ Series of workers report problems or behaviours</li> <li>➤ Patient safety compromised</li> <li>➤ Impact on people or service is significant</li> <li>➤ Repeated</li> </ul> <p>Examples of behaviour:</p> <ul style="list-style-type: none"> <li>➤ Discrimination – sexual, racial or religious</li> <li>➤ Sexual in nature</li> <li>➤ Violent nature to behaviour</li> </ul>
The action to take is:		
<p>Talk to the person involved Be polite and direct Ask the person to apologise or to explain Resolve in a low level rapid manner with a record kept and given to all involved</p>	<p>Refer to <i>A guide for manager's and leaders – Dealing with inappropriate behaviour or conduct</i></p> <p>Paanui - Speak Up for more information Talk to your manager</p>	<p>Refer to <i>A guide for manager's and leaders - Preventing and managing discrimination, harassment and bullying</i></p> <p>Paanui - Speak Up for more information Talk to your manager Call Human Resources</p>

The person has told me they feel unsafe or are unwell:

- Encourage them to talk to a trusted advisor, their family and friends
- Encourage them to see their GP
- Refer them to the CM Health Occupational Health Service
- Call the Employee Assistance Programme (EAP)
  - Tel: 0800 735 343 - Someone is available 24/7
- If you are genuinely concerned about their safety seek guidance from your manager, consider calling their next of kin and call HR or EAP for advice