

Employee Protection Policy



Policy Statement

Rotorua Childcare Centre aims to provide a safe and enjoyable work environment for all staff (which in this policy means managers, other employees, contractors and volunteers) and requires high standards of personal behaviour consistent with its Code of Conduct.

Principles

- Employees are expected to show respect and courtesy in their interaction with others in the course of their work.
- All employees should have ready access to the complaint and investigation process if they feel that they have been bullied or harassed.
- Complaints will be dealt with in a timely manner and with sensitivity and confidentiality, as far as possible whilst ensuring the principles of natural justice are met.
- Employees will be protected from intimidation, victimisation and discrimination when making a complaint or assisting with an investigation under the Bullying and Harassment Policy.

Application

This policy applies to all Rotorua Childcare Centre Incorporated Executive Committee members, employees, contractors and volunteers working in the organisation. In applying this policy 'employee' is to be read as including contractors and volunteers.

Definitions

Workplace bullying/harassment

Workplace bullying is defined by Worksafe New Zealand as the repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

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 is not considered workplace bullying, but it could escalate and should not be ignored.

The following are examples of some of the behaviours that may be associated with bullying:

- Constant blaming for errors;
- Unreasonable demands;
- Extreme criticism of target's ability;
- 'Rules' made up or misapplied;
- Insults and put-downs;
- Ignoring accomplishments;
- Social exclusion;
- Shouting and verbal aggression;
- Taking credit for other's achievement;
- Selective sharing of information;
- Isolating or ignoring an employee on a constant basis.

Bullying is not firm, but fair management, or justified performance management or disciplinary processes.

Sexual harassment

Sexual harassment means any form of sexual or gender oriented attention or behaviour that is unwanted and which is personally offensive to the recipient.

Sexual harassment occurs where:

- A request is made for contact or activity of a sexual nature which contains an implied or overt promise of preferential treatment or detrimental treatment in employment; or
- A staff member is subject to language, visual or physical behaviour of a sexual nature that is unwelcome or offensive to that person and has a detrimental effect on that person's employment, job performance or job satisfaction.

Racial harassment

Racial harassment occurs when an employee is subjected, for reasons of race, colour, nationality or ethnic origin to behaviour

that might reasonably be perceived by the receiver to be offensive or unwelcome.

Racial harassment can include any of the following:

- Telling offensive jokes involving race, colour, ethnic origin or nationality;
- Teasing or comments about cultural differences;
- Offensive labels;
- Make derogatory remarks about groups or the attributes of groups on the basis of race, colour, ethnic origin or nationality.

What is not bullying or harassment

Occasional differences of opinion, conflicts and problems in working relationships are part of working life and do not necessarily constitute bullying or harassment. Fair management coaching, managing under-performance, or other legitimate actions in accordance with Rotorua Childcare Centre Incorporated policies and procedures are not harassment or bullying.

The following are some examples of behaviours that are not considered to be harassment or bullying:

- One-off or occasional instances of forgetfulness, rudeness or tactlessness
- friendly banter, light-hearted exchanges, non-sexual mutually acceptable jokes and compliments;
- issuing reasonable instructions and expecting them to be carried out;
- warning or disciplining someone in line with organisation policy;
- insisting on high standards of performance in terms of quality, safety and team cooperation;
- legitimate criticisms about work performance (not expressed in a hostile, harassing manner);
- giving negative feedback, including in a performance appraisal, and requiring justified performance improvement;
- assertively expressing opinions that are different from others;
- free and frank discussion about issues or concerns in the workplace, without personal insults;
- targeted affirmative action policies, parental leave provisions, or reasonable accommodation and provision of work aids for staff with disabilities, etc.;
- A single incident of unreasonable behaviour (but it could escalate).

Who might be involved?

Bullying and harassment can occur:

- Between co-employees;
- Where a senior employee uses their position of authority to take advantage of another employee or to control or affect the career, salary or job of that employee;
- In dealing with contractors, clients or members of the public.

How to deal with bullying or harassment

An employee who feels that he/she has been or is being bullied or harassed, should:

- . In the first instance, discuss with the Centre Manager, or president of the committee (where applicable), or other support person about their options.
- . Following that discussion, consider whether to make a formal complaint or whether to deal with the matter informally in the first instance.

Informal resolution

Informal resolution may take place if the complainant feels able to deal with the problem themselves (with appropriate support) or chooses another method of resolution that stops short of making a formal complaint. Informal resolution may allow the complainant to control the process, it keeps the problem at a low level and it gives the respondent an opportunity to correct their behaviour.

Informal resolution methods include:

- telling the person that their behaviour is offensive and asking them to stop, perhaps with the employer of a support person;
- writing to the person about their behaviour, requesting a change and advising that a complaint may be made if the behaviour does not stop;
- arranging a meeting with a facilitator to discuss the issues and reach an agreement about future behaviour. Centre Manager advice should be sought when setting up such a meeting to ensure that it is appropriately facilitated and the participants are well-supported.

Informal resolution may not be appropriate if the complainant anticipates any form of reprisal, if the harassment or bullying is serious or continuous, or if it concerns someone in authority. Informal resolution is unlikely to be appropriate where the

behaviour is potentially criminal e.g. sexual assault, threats of violence, or actual violence.

It is important that any person involved in an informal resolution process takes care to ensure they feel safe and supported in the process. Accordingly, either party is to be free to withdraw from the process at any point.

Making a formal complaint

If informal resolution is not the complainant's preferred option; is inappropriate given the severity of the issues; or fails to resolve the problem; and an employee wishes to proceed with a formal complaint, the following process applies:

1. The staff member making the complaint needs to go to their Centre Manager or Executive Committee President state that they wish to make a formal complaint. If the complaint relates to any of those people, or the complainant is uncomfortable approaching them, they can contact the Vice President on the Executive Committee.
2. The complainant needs to make their complaint in writing, stating clearly what happened including any details of time, date and what was said and done. The complaint should also note the names of any potential witnesses. They can indicate how the complainant would like the situation to be resolved. The person who was advised of the complaint needs to ensure that the complainant has appropriate support in this process.

Assessment of the complaint

The Centre Manager will assess the complaint with the support of the President or Vice President of the Executive Committee.

If the complaint made is about the Centre Manager, then the Executive Committee will assess the complaint independent of the Centre Manager.

If the complaint made is about a member of the Executive Committee then the complaint will be assessed by the Centre Manager with the support of the Executive Committee minus the person, the complaint refers to.

The purpose of this assessment is to determine the next steps. The following should be considered on a case by case basis:

- Does the complaint fall within the definitions of bullying/harassment as set out in this policy?
- Are there immediate actions that need to be taken to ensure the safety of either party while the matter is resolved? (e.g. shift in work area, agreed leave, working from home, suspension)

- What does the complainant want to do and what is a satisfactory process in the circumstances? (e.g. informal, formal, external)
- Are the actions complained of potentially criminal?
- Would the conduct, if proven, constitute misconduct or serious conduct?
- Is it being raised as a protected disclosure?

The next actions may include:

- Recommending that a facilitation process be undertaken to assist the parties to resolve the issues between them;
- Informal or formal complaint process;
- If appropriate, advising the complainant that it is Rotorua Childcare Centre Incorporated's view that the Police should be involved in addition to any process undertaken by the organisation and considering when this should occur i.e. immediately or at the conclusion of the process;
- Conducting an investigation.

Appointment of investigator

Rotorua Childcare Centre Incorporated will appoint an appropriate investigator to undertake the investigation of the complaint. The investigator may be an appropriate internal or external person.

The investigator will have access to all written material and may seek input from any party including the complainant, the respondent, witnesses, or any others who might hold relevant information.

An investigation must meet procedural fairness requirements. This means that the respondent must be informed of their right to representation and of the possible consequences of the investigation. The investigator must also ensure that all relevant matters are put to the respondent so that they have a full opportunity to respond to the allegations. The complainant and any other participants need to be informed of the process and the use to which information will be put.

Investigation report

The findings of the investigation will be reported to the Centre Manager and President of the Executive Committee and may include a recommendation on the appropriate course of action for the Centre Manager to take.

An investigation report does not recommend disciplinary action but makes factual findings including whether harassment/bullying occurred on the balance of probabilities, and may make findings as to whether conduct is a breach of the Code of Conduct etc. If the report concludes that bullying

or harassment has occurred, and the Centre Manager considers disciplinary action may be warranted then due process must be followed.

Complaint substantiated

In all cases where a complaint is substantiated, the Rotorua Childcare Centre Incorporated's management are to take reasonable steps to ensure that the bullying/harassment ceases immediately and that the complainant is informed of the steps, and is protected from any consequences of having made the complaint. At a later date, management are to check to ensure that the behaviour has in fact stopped.

In the event that steps are not taken to prevent repetition of bullying/harassment, then the employee may have grounds for a personal grievance or complaint to the Human Rights Commission.

Complaint not substantiated

In the event that the respondent is cleared of the allegations they will:

- be advised in writing;
- advised that the letter and other notes relating to the allegation will not be placed on their personal file.

The complainant must be informed of the outcome. There may still need to be action taken to improve workplace relationships e.g. facilitated meeting between the parties, counselling or coaching.

False complaint

In the event that the complaint is unsubstantiated and is proven to be maliciously false, the complainant may be subject to disciplinary action, after a proper disciplinary process has been run.

Other options

Staff may choose to have their complaint dealt with by an appropriate external agency – the Human Rights Commission, the Police or the Ministry of Business, Innovation and Employment's Mediation Services, depending on the nature of the situation.

Support for staff

An employee may find it difficult or embarrassing to instigate a complaint of bullying /harassment. Where an approach has been made to the Centre Manager by someone who believes they are being harassed/bullied, the Centre Manager should make sure that the person has appropriate support (e.g. through an Employee Assistance Programme or counsellor).

The rights of the person accused of bullying/ harassment must also be protected. The respondent should also be offered support and they must be given the opportunity to seek representation and time to prepare a response. There should be no presumption ahead of a proper investigative process that the respondent has engaged in bullying/harassment.

EAP Services

All employees at Rotorua Childcare Centre Incorporated have access to use EAP services which is a confidential service to offer free support and counselling with work of life issues.

Roles and Responsibilities

Everyone in the workplace has a part to play in eliminating bullying/harassment.

Employee's role

All employees have a responsibility to ensure that their behaviour is not offensive or harmful to others. Anyone who believes they or someone else at work is being bullied or harassed should take immediate, appropriate steps to raise it.

Centre Manager's role

The Centre Manager must provide a safe work environment and deal with any complaints in a sensitive, competent and fair manner. Complaints of bullying/harassment must be acted on immediately (ideally action at least initiated by the day after the complaint is made, if possible) and treated in a confidential, serious and sympathetic manner.

The role of person(s) receiving a complaint

- A person who is approached by an employee or contractor complaining of bullying/harassment should support the complainant in approaching the Centre Manager.

The Centre Manager or President or Vice President of the Executive Committee will:

- Ensure that the employee has a copy of this policy and understands their options for next steps;
- Ensure that appropriate support is in place for the parties concerned with the complaint.

Records

If a formal complaint is substantiated then the respondent's personal file will contain a summary of the nature of the complaint, and the outcome of any disciplinary action taken.

Review

Review annually or when there is a significant change in the area of the policy topic.

Authorised:	
Date:	
Review Date:	
Consultation Undertaken:	