

## Harassment, Bullying and Discrimination Policy

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<b>Responsibility:</b>	Aspire2 Quality Director, CEO, Managers	<b>Review Date:</b>	Apr 2023
<b>Approval:</b>	Aspire2 Quality Director, CEO, Student Services and Quality Assurance Coordinator, Programme Coordinator	<b>Version:</b>	2
<b>PTE Applicable to:</b>	Cornerstone Education LTD (BMP) Naturopathic College of New Zealand.		

### Policy Statement

Aspire2 is committed to being safe, inclusive and equitable. It seeks to uphold the mana (standing) and tapu (sacred) of individuals, whānau (family) and communities connected to the Aspire2. We promote a positive culture which celebrates differences, challenges prejudice and ensures fairness. Our staff members and students are our greatest assets and all members of the Aspire2 should expect to be able to excel, to be respected and valued for their unique perspectives and contributions.

Diversity and collegiality are central to the Aspire2's values. In accordance with these values, the Aspire2 is committed to providing an environment in which all members of the Aspire2 community are valued and treated with respect, and where bullying, harassment and discrimination are known to be unacceptable. This policy sets out the expectations, placed on all members of the Aspire2.

The Aspire2 regards any incident of harassment, bullying or discrimination as a serious matter and will thoroughly address all formal and informal complaints to ensure the preservation of a safe work and study environment.

## Purpose

The purpose of the policy is to:

- foster a positive culture for working and studying which supports a diverse, collegial scholarly community within a framework of respect for the rights of others
- promote an enabling and inclusive environment where all individuals are treated with dignity and respect, free from **harassment, bullying and discrimination**
- ensure that occurrences of harassment, bullying and discrimination within the Aspire2 are taken seriously and dealt with promptly and with due sensitivity
- set out the framework for raising, addressing and resolving concerns about individual or collective behaviour.

## Policy

### Rights

1. Staff and students have a right to feel safe and to be treated fairly and respectfully. Bullying is a serious problem with serious mental and physical impacts. Bullying can violate many of your human rights including:

- your right to be free from mental, emotional and physical violence
- your right to education
- your right to a safe work environment.

### Responsibility

2. All members of the Aspire2 have a responsibility to ensure that they:

- do not bully, harass, discriminate against or victimise any person
- discourage any form of harassment, bullying or discrimination by making it clear that such behaviour is unacceptable
- support any member of the Aspire2 that feels they have been subject to harassment, bullying or discrimination, including supporting them to follow any pathways for resolution, including making a formal complaint if appropriate

3. In addition to the above obligations, all managers, supervisors, academic heads, and the Aspire2 Executive Committees are to take steps to:

- ensure that the environment is free from harassment, bullying and discrimination

- ensure that all staff members reporting to them are familiar with, and understand their obligations under this policy
- treat all complaints seriously and take prompt steps to resolve any complaints made under this policy
- protect and support the right of all members of the Aspire2 to use the resolution procedure in this policy and supporting guidelines

#### Confidentiality

4. All information relating to alleged or proven breaches of this policy must be treated strictly in accordance with the requirements of the Privacy Act.

5. Information must not be disclosed without the complainant's consent, unless the complaint is serious and an academic head, manager, or human resources representative believes that action needs to be taken.

6. In such a situation it may not be possible to maintain absolute confidentiality even if a complainant does not wish the matter to be taken further, however the complainant is to be advised of the disclosure.

7. The obligation of confidentiality does not prevent Aspire2 from using or disclosing any material necessary to instigate or defend any legal proceedings, or make submissions in relation to any enquiry or complaint or to refer a matter to the police.

8. Confidentiality does not mean secrecy. However, information is to be disclosed only to those people who the Aspire2 believes need to know about the complaint.

*Note: To the extent that disclosure of details around the complaint could adversely affect the investigation of a complaint, the complainant and the alleged perpetrator are asked to maintain confidentiality in the interests of a fair and reasonable investigative process. This is not intended to limit freedom of speech.*

#### Records

9. All individuals involved in any aspect of the support, complaints or discipline processes must familiarise themselves with and observe the principles of data protection as established by the Privacy Act.

10. The Manager or CEO (and the Registrar, if the complaint involves a student) are to be consulted about the correct filing and retention of all notes and documents related to complaints under this policy.

**Note** - Notes taken at meetings will ideally be agreed by all present.

#### Victimisation and vexatious complaints

11. All parties must take all reasonable steps to ensure that complainants are not victimised in the process of making a complaint.

12. Aspire2 also acknowledges that allegations of bullying and/or harassment are serious matters and can potentially damage an individual's reputation. Intentionally false accusations that are found to be of a frivolous or vexatious nature will be viewed seriously and may result in the Aspire2 taking disciplinary action against the complainant.

## Related procedures

### Self resolution and informal resolution

13. An individual may consider approaching the person or people involved to resolve the concern, by means of direct discussion or by a written communication.

14. If a complaint cannot be resolved by direct discussion, or an individual does not feel comfortable addressing the issue face to face or in writing, they may discuss the matter with an appropriate person, as listed in the guidelines, and seek guidance about other options, including making a formal complaint.

### Formal complaint

15. A complaint can may be laid at any time. However, we encourage any individual that is going to make a formal complaint to do so as soon as they are able.

16. Complaints are to be directed to one of the appropriate individuals as outlined in the Student Handbook, Student Resources and on our website.

17. The recipient of a complaint will consider the issue and refer to the relevant staff or student flowcharts depending on the nature of the complaint and the statute or policy under which the complaint is being made.

18. In line with the principles of natural justice, the complainant will provide all relevant information supporting the complaint.

19. The recipient of the complaint is to ensure the complainant is aware that this information will be presented to the alleged perpetrator in sufficient detail to allow that person to respond effectively, and this will usually include disclosing the complainant's name.

**Note** - *Any conflict of interest must be identified and managed in accordance with the Conflict of Interest .*

20. Where the alleged perpetrator is a member of staff, any investigation into the complaint is to follow the appropriate disciplinary procedures as outlined in the applicable schedule in the Collective or Individual Employment Agreement and/or relevant policy.

21. Where bullying, harassment or discrimination as defined in this policy is found to be carried out by a staff member it may be deemed to be serious misconduct.

22. Where bullying, harassment or discrimination as defined in this policy is found to be carried out by a student the penalties specified in the Student Discipline Statute may be applied.

**Note-** Staff members and students who consider that a crime may have been committed are advised to make a complaint to the police.

**Note** – Staff members and students who have concerns about harmful digital communications may also seek support and assistance from Netsafe ([www.netsafe.org.nz](http://www.netsafe.org.nz)).

## Definitions

The following definitions apply to this document:

**Bullying** is any repeated **unreasonable behaviour** that is directed towards a person, or group of people, that can lead to physical or psychological harm. This includes **cyberbullying**.

**Cyberbullying** is the use of electronic communication to bully, harass or frighten a person, typically by sending messages of an intimidating, embarrassing or threatening nature.

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

**Discrimination in employment** can occur in a person's employment where the Aspire2, or a representative of the Aspire2, by reason of any of the prohibited grounds of discrimination, or involvement in the activities of a union:

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

**Indirect discrimination** occurs when there is any conduct, practice, requirement, or condition that is not apparently discriminatory but has the effect of treating a person or group of persons differently on one of the prohibited grounds of discrimination in a situation where such treatment would be unlawful under the Human Rights Act. This type of conduct, practice, condition or requirement is likely to be indirect discrimination unless the Aspire2 can establish that there is good reason for it.

**Unlawful discrimination** can occur when one person is treated less favourably than someone else is treated, or would be treated, in the same or similar circumstances, because that person has a particular attribute, such as sex, colour, religious belief, race,

marital status, ethnic or national origin, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability that is specifically listed in Human Rights legislation.

**Exceptions** may apply, including as set out in the Human Rights Act 1993, New Zealand Bill of Rights Act 1990, Employment Relations Act 2000, or relevant case law. For example, measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of unlawful discrimination, do not constitute discrimination.

**Environment** means both physical environments at the Aspire2 and online platforms including internet, intranet and social media.

**Harassment** is unreasonable or unwelcome conduct that is offensive, humiliating or intimidating to any other person and is either repeated, or of such significant nature that it has a detrimental effect on the person, their performance or their work and study environment. It includes **gender-based, racial, and sexual** harassment.

**Gender based harassment** describes a wide range of behaviour based on gender stereotypes, sexual orientation or gender identity. Such behaviour includes verbal, physical, visual or digital actions which demean, belittle or threaten a person. It does not necessarily suggest sexual interest or intent; it is often about making a person feel unwelcome, uncomfortable, inferior or vulnerable.

**Racial harassment** is the use of language, or visual material or physical behaviour that expresses hostility against, or brings into contempt or ridicule, any other person on the ground of the colour, race, or ethnic or national origins of that person; is hurtful or offensive; and is either repeated or serious enough to have a detrimental effect on a person in one of the areas specified by the Human Rights Act 1993, e.g. the provision of education, accommodation and employment.

**Sexual harassment** is unwelcome conduct of a sexual nature that could be offensive, humiliating or intimidating to any other person and is either repeated, or of such a significant nature, that it has a detrimental effect on the person, their performance or their work and study environment. This includes a request for sexual activity of any sort that contains an implied or overt promise of preferential treatment or overt threat of detrimental treatment. It is unlawful to sexually harass another person even if there was no intention to harass the person.

**Staff members** refers to an individual employed by the Aspire2 on a full time or part time basis.

**Stalking** refers to pattern of repeated threatening or harassing behaviours that directly or indirectly communicate a threat, or place the victim in fear.

**Aspire2** means the Aspire2 Group and includes all subsidiaries.

**Aspire2** includes all staff members (whether permanent, temporary or part time), honorary staff, students (whether full time or part time), contractors, subcontractors, consultants, alumni, associates, business partners or official visitors or guests of members of the Aspire2

**Unreasonable behaviour** means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating or threatening a person

**Victimisation** occurs if someone suffers detrimental treatment because they have made, or propose to make, in good faith, an allegation of harassment, or appear as a support, or a witness, or provide information about such an allegation.

## Key relevant documents

Include the following:

- Employment Relations Act 2000
- Harmful Digital Communications Act 2015
- Harassment Act 1997
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- New Zealand Bill of Rights Act 1990
- Privacy Act 2020