



## Prevention and Response to Bullying, Harassment & Sexual Harassment Policy

December 2023

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For the purposes of this policy, the following people hold the following roles:

Role	Name(s)	Role	Name(s)
<b>Management Team</b>	CEO – Jo Oliver <a href="mailto:jo@recordedmusic.co.nz">jo@recordedmusic.co.nz</a>	<b>Harassment Contact Persons</b>	<b>Internal harassment representative:</b> Anna Loveys <a href="mailto:anna@soundcheckaotearoa.co.nz">anna@soundcheckaotearoa.co.nz</a>
	Head of Finance and Operations – Loren Midlane <a href="mailto:Loren@recordedmusic.co.nz">Loren@recordedmusic.co.nz</a>		<b>Board harassment representative:</b> Nicky Harrop <a href="mailto:Nickyharrop@gmail.com">Nickyharrop@gmail.com</a>
<b>Health and Safety Representative</b>	Loren Midlane – as above	<b>External support services</b>	1737.org.nz, counselling via your GP, or refer to soundcheckaotearoa.co.nz  SoundCheck Aotearoa Shapra Service <a href="http://www.soundcheckaotearoa.co.nz/shapra">www.soundcheckaotearoa.co.nz/shapra</a> 021 222 9169

# Recorded Music NZ

## Prevention and Response to Bullying, Harassment & Sexual Harassment Policy

### 1 Policy statement

- 1.1 Recorded Music respects and supports each person's right to work in a safe and inclusive workplace, where people are valued and treated with respect. See also Recorded Music Policy on Representation and Inclusion.
- 1.2 We are committed to creating a positive workplace culture, free from bullying, harassment, and sexual harassment, by:
- Creating a safe and supportive work environment.
  - Regular communications and the implementation of training to ensure that all staff members are aware of and understand their rights and responsibilities.
  - Having clear expectations on leaders, management and staff to lead from the top by modelling appropriate behaviour.
  - Empowering staff members at all levels to deal with situations where they feel bullied, harassed, or sexually harassed, and to safely intervene in situations where others may be experiencing bullying or sexual harassment.
  - Encouraging the reporting of behaviour that may be in breach of this policy, including by having clear processes in place, ensuring these processes remain up-to-date and by following those processes.
  - Treating everyone fairly and with respect.
  - Ensuring the well-being of both the complainant and the respondent where there is a report of bullying, harassment, or sexual harassment, and ensuring that their legal rights and the principles of natural justice are complied with.
  - Addressing any issues or incidents of bullying, harassment, or sexual harassment, regardless of whether there has been a formal report, in an appropriate manner that is consistent with this policy.

### 2 Scope of policy

- 2.1 This policy applies to everyone who works at or for Recorded Music, including all:
- (a) employees and contractors;
  - (b) members of the Board of Recorded Music;
  - (c) members of Recorded Music Board Committees, such as the Artist Committee, Music Awards Committee, etc.

and references to 'we' are to all of us.

- 2.2 The policy applies to conduct and behaviour:

- (a) in our workplace and at work events (such as off-site training, industry and staff functions); and
- (b) outside of our workplace, when the behaviour or conduct is (a) related to our work (for example, at industry events including the Music Awards) or (b) otherwise has the potential to impact on the safety of the working environment.

2.3 We also expect visitors, volunteers, other individuals that we work with, and individuals and organisations that we publicly support and/or provide funding to, to conduct themselves in a manner that is consistent with this policy and the laws covering bullying, harassment, or sexual harassment, and Recorded Music will support our people in addressing any inconsistent behaviour.

### **3 Definitions**

#### **Sexual Harassment**

- 3.1 Sexual harassment is defined as any unwelcome or offensive behaviour of a sexual nature, that is either:
- (a) repeated; OR
  - (b) is so significant that it has a harmful effect on an individual's work, job performance or job satisfaction.
- 3.2 The definition of sexual harassment includes a direct or indirect request for sexual intercourse, sexual contact, or other form of sexual activity that contains an implied or overt promise of preferential treatment, or an implied or overt threat of detrimental treatment.
- 3.3 A person may not intend to sexually harass someone or may be unaware that their behaviour is offensive. What matters is whether any behaviour of a sexual nature is unwelcome or offensive to the individual.
- 3.4 'Unwelcome' means behaviours that are not solicited or invited and are regarded by a person as undesirable or offensive at the time. People do not invite unacceptable behaviour by virtue of things such as their clothing or not speaking up when the behaviour occurs.
- 3.5 There is no obligation to tell the person concerned that the behaviour is unwelcome or offensive. In other words, if the person experiencing harassment does not express the view that certain behaviour is unwelcome or offensive at the time, it does not mean the behaviour is acceptable and that no harassment has taken place.

#### **Examples of sexual harassment**

- 3.6 Below are some examples of behaviours that can constitute sexual harassment if they meet the legal definition above:
- Sexually explicit pictures, posters, gifts, emails or text messages
  - Sexually suggestive comments or jokes, or other forms of inappropriate language
  - Insults or taunts of a sexual nature
  - Non-verbal behaviour such as whistling or grunting

- Intrusive questions or comments about a person's private life, clothing or physical appearance
- Staring or leering
- Unwanted invitations to go out on dates
- Repeated or inappropriate advances on email or social networking websites
- Touching, hugging, patting, pinching, kissing or encroaching on someone's personal space
- Requests for sexual favours, or pressure for sex or other sexual acts
- Sexual gestures, indecent exposure, or inappropriate display of the body
- Stalking or sexual assault.

Further examples are included in the Continuum of Workplace Behaviours in the Appendix.

### **Power imbalances**

- 3.7 Inappropriate behaviours can be subtle, context dependent and may include different cultural understandings of what is considered appropriate behaviour. Power imbalances in the workplace can also contribute to sexual harassment occurring and people being reluctant to report inappropriate behaviour.
- 3.8 A power imbalance can result from things like gender, sexuality, ethnicity, minority status, age, dis/ability, seniority, or influence in the workplace.
- 3.9 A person cannot consent to sexual activity if they are forced, threatened or coerced, when they are too intoxicated, or do not understand what or who they are consenting to, or if they are underage.
- 3.10 Consensual sexual activity or intimate relationships may be inappropriate where there is an imbalance of power between the people involved and/or where it gives rise to a conflict of interest. We all need to be cautious and mindful of our position when considering whether it is appropriate to act on mutual attraction. This is relevant to all situations where there is any difference in seniority.

### **Effects on those who experience sexual harassment**

- 3.11 Sexual harassment can have long-lasting effects on people who experience or witness sexual harassment, both in their personal and professional capacity. People who may not have experienced sexual harassment but have witnessed someone else being harassed can also be negatively affected.

### **Bullying definition**

- 3.12 Bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that can lead to physical or psychological harm.
- a Repeated behaviour is persistent, and can involve a range of actions over time.
  - b Unreasonable behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, intimidating or threatening a person, as well as harassment, discrimination or violence.

3.13 Bullying can be carried out in a variety of ways, including through email, text messaging and other social media channels.

3.14 Examples of bullying behaviour which if repeated and unreasonable may include:

- Belittling or demeaning remarks (including comments made to others);
- Displays of hostility, anger or yelling at another;
- Public reprimands and put downs;
- Unreasonable demands;
- Tampering with personal effects;
- Undervaluing a person's contribution;
- Harsh and unjustified feedback or criticism;
- Unfair distribution of work; or
- Delegating work below a person's level of experience.

3.15 Bullying is not:

- One-off instances of forgetfulness, rudeness or tactlessness;
- Constructive feedback and genuine peer review;
- Reasonable requests for work instructions to be carried out;
- Reasonable management directions delivered in a reasonable way;

3.16 Some behaviours, while inappropriate or otherwise inconsistent with Recorded Music values, may fall short of the above definition of bullying. For example, a single incident is not considered bullying, but can escalate if left unaddressed. It is therefore important that all inappropriate behaviours are identified and addressed.

#### **Harassment definition**

3.17 Harassment occurs where a person, or a group of people uses language (whether written or spoken), visual material, or physical behaviour that directly or indirectly:

- a expresses hostility against, or brings into contempt or ridicule, a person because of a particular characteristic they have, including their race, colour, ethnic or national origins, sex, age, disability, marital status, gender identity, or sexual orientation;
- b is hurtful or offensive to the person; and
- c has, either by its nature or through repetition, a detrimental effect on the person or persons.

3.18 The person doing the harassment does not have to be intending to harass for the behaviour to amount to harassment – it depends on how the person the behaviour impacts on is affected by the behaviour.

#### **Bullying and harassment in the workplace**

- 3.19 Bullying, harassment and inappropriate behaviours can be subtle, context dependent and may include different perspectives or cultural understandings of what is considered appropriate behaviour.
- 3.20 Bullying and harassment is not limited to managers or senior staff members targeting more junior members of staff. Managers or senior staff members may be bullied by those more junior to them, bullying can also occur between co-workers, and other people in the workplace such as clients and visitors. It is important that all managers and staff treat each other with respect, regardless of their role or seniority.

**Effects on those who experience bullying or harassment**

- 3.21 Bullying and harassment can have long-lasting effects on people who experience or witness bullying and harassment, both in their personal and professional capacity. People who may not have experienced bullying and harassment but have witnessed someone else being bullied or harassed can also be negatively affected.

HEALTH AND WELLBEING OF INDIVIDUALS	IMPACT ON THE WIDER WORK ENVIRONMENT
Anxiety, stress, fatigue and burnout	A hostile work environment
Reduced coping strategies	Decreased worker health and well-being, motivation, performance and commitment
Low self esteem	Workers attending work while sick, or taking more leave
PTSD	Increased worker turnover
Deterioration in health	
Decreased emotional well-being	
Serious physical or mental health issues, including depression and suicide ideation	
Feelings of reduced personal control and helplessness	
Increased likelihood of substance abuse	

- 3.22 The effects of bullying and harassment can extend to affect the wider workplace and can cause others to feel unsafe at work. This creates stress in the workplace, impacts negatively on productivity and may lead to people leaving their jobs.
- 3.23 Bullying and harassment also has the potential to cause damage to Recorded Music’s reputation both internally and externally. We are committed to preventing and addressing bullying and harassment to the greatest extent possible, both to maintain Recorded Music’s reputation externally, and to ensure that the workplace is a safe environment where our people are proud to work.

**4 Relevant legislation**

- 4.1 There is a range of legislation dealing with aspects of bullying, harassment and sexual harassment including:
- The Employment Relations Act 2000;

- The Health and Safety at Work Act 2015;
- The Harmful Digital Communications Act 2015;
- Films, Videos, and Publications Classification Act 1993
- The Human Rights Act 1993; and
- The Harassment Act 1997.

4.2 A specific group of behaviours may also amount to crimes or offences under criminal legislation.

4.3 In addition, under the Health and Safety at Work Act 2015, those responsible for workplaces are required to recognise and manage the risks arising from sexual harassment. See <https://www.worksafe.govt.nz/about-us/news-and-media/sexual-harassment-quick/>

## 5 Preventing bullying, harassment, and sexual harassment

### Roles and responsibilities

5.1 All of us have a shared responsibility to support the safety of colleagues and others in the workplace and to promote positive workplace behaviours. All staff will:

- Build a common understanding about what bullying, harassment, and sexual harassment is
- Behave in a manner that does not bully, harass, or sexually harass others, and treat all Recorded Music staff and managers with respect
- Keep an eye out for other people and intervene (whether directly or indirectly) to help and support someone who might be experiencing bullying, harassment, or sexual harassment.

5.2 Those in leadership roles have an additional responsibility to foster a positive, respectful culture in which bullying, harassment, and sexual harassment is less likely to occur. The Recorded Music Management Team is responsible for all employees and contractors of Recorded Music. Their role is to:

- Create and maintain an environment where staff members can conduct their daily work in a safe and respectful work environment.
- Communicate this policy to employees and contractors and ensure it is enforced.
- Take measures consistent with this policy should they witness any acts of workplace harassment. In such cases, the Management Team must demonstrate fairness, impartiality, and be free from intimidation or favouritism.
- Ensure that all discussion, communications and actions are handled with extreme sensitivity and utmost confidentiality.
- Be available to help senior executives, employees and contractors know about and meet their obligations under the relevant legislation and this policy.
- Give advice, support and information if a senior executive, employee, or contractor believes bullying, harassment, or sexual harassment has occurred at any level of the organisation, including the options available and how they may want to proceed.

- Refer anyone approaching them about bullying, harassment, or sexual harassment to appropriate help and support, and if necessary, secure independent representation for the person.
- Ensure that complaints are dealt with appropriately and according to this policy and that no complainant is retaliated against.

### **Communications, information and training**

- 5.3 Bullying, harassment and sexual harassment prevention is more effective when people have access to the information they need. Recorded Music will:
- Promote this policy widely on a regular basis.
  - Conduct regular information sessions for staff about recognising bullying, harassment and sexual harassment, what is bullying, harassment and sexual harassment, how to report concerns and how to use the complaint process.
- 5.4 This policy will be provided to employees at induction and will be stored in a shared drive so that everyone knows where they can go to get help.
- 5.5 To ensure a high level of awareness and effective implementation of this policy, the Management Team will ensure that everyone who works at Recorded Music is aware of the policy and their rights and responsibilities.
- 5.6 The Management Team will ensure that staff at Recorded Music receive appropriate training on bullying, harassment and sexual harassment on a regular basis.

## **6 Options for dealing with bullying, harassment or sexual harassment**

### **Confidentiality**

- 6.1 Recorded Music recognises that maintaining confidentiality to the greatest extent possible and respecting the wishes of a complainant is important in order to create and maintain an environment where employees feel safe to report incidents of bullying, harassment or sexual harassment.
- 6.2 If a staff member discusses a bullying, harassment or sexual harassment matter with one of the people within the Management Team on a confidential basis, confidentiality will be maintained but within the boundaries of our legal obligations as an employer (expanded on in paragraph 6.3 below).
- 6.3 Recorded Music has a duty to ensure that the workplace is safe. This means that where matters are disclosed to someone in the Management Team, that person cannot guarantee to keep that matter confidential or promise that they will not take any action in response to the information. If a person in the Management Team becomes aware of a situation that they consider is sufficiently serious, or where they are concerned that the health, safety or wellbeing of an individual and/or others may be exposed to an imminent risk, they may be obligated to take steps to deal with the situation to ensure that the workplace is safe. In these circumstances, Recorded Music will inform the individual(s) concerned of the proposed process and involve the individual(s) in that process as far as possible.

### **Options**

- 6.4 If you experience or see bullying, harassment or sexual harassment, you could take one or more of the following options.



6.5 If an incident makes you feel uncomfortable, but you think it may not meet the legal definitions of bullying, harassment or sexual harassment, you are encouraged to raise the issue with someone you feel comfortable talking to.

6.6 **Option 1: Seek advice and support**

6.7 If you experience or see bullying, harassment or sexual harassment, you could seek advice and support from others, including the following:

- A trusted person who is willing to support you to raise a concern and/or test your perception of events. This could be a colleague or friend.
- An independent counselling service such as 1737.org.nz, one of the counselling and support services listed at <https://soundcheckaotearoa.co.nz/>. These services are confidential and free of charge, and can assist people who have experienced or seen bullying, harassment or sexual harassment to get the help they need, and to make decisions on what they would like to do next.
- A Harassment Contact Person (see below).
- An independent lawyer.

**Option 2: Discussion with Harassment Contact Person or SHAPRA**

6.8 The purpose of Harassment Contact Persons is to provide contacts for people within Recorded Music to talk to about their concerns without fear of the matter being disclosed to the Management Team or others within the organisation. Harassment Contact Persons' role is not to act as an advocate.

6.9 The Harassment Contact Persons at the date of this policy are listed on the front cover.

6.10 Harassment Contact Persons will:

Clearly explain the parameters of their role.

- Listen to your concerns and explore with you what's happened and what this has meant for you.
- Not form a view on the merits of any allegations.
- Treat all information provided by you in strict confidence.

If wanted, Harassment Contact Persons will:

- Provide you with information about the internal complaint process and outline other informal and formal options available.
- Provide you with information about available support services.
- Provide you with advice and support that assists you to be safe while you consider your options.

6.11 If the Harassment Contact Person is concerned that your health, safety or wellbeing is at imminent risk, the Harassment Contact Person may consider it necessary to take steps to ensure you are safe. Such steps may include contacting an external professional, such as a counsellor or Police, or

contacting a person trusted by you such as a family member or friend. The Harassment Contact Person will explain why they consider it necessary to involve someone else and will ensure that you are informed as to what steps the Harassment Contact Person will be taking.

- 6.12 To enable Recorded Music to assess the workplace culture and to identify and develop strategies for addressing bullying, harassment or sexual harassment, Harassment Contact Persons are required to provide statistical and non-identifying information to the Management Team on a regular basis.
- 6.13 Recorded Music recognises that the role of Harassment Contact Persons as a first port of call is important in creating a culture where employees feel safe and supported when dealing with bullying, harassment or sexual harassment. It is also important that Harassment Contact Persons are supported, and their wellbeing is preserved. For this reason, we encourage Harassment Contact Persons to contact one of the support services listed above, on a strictly confidential basis, after a disclosure has been made. In addition, Harassment Contact Persons will receive training at least once per year.
- 6.14 You can also contact SoundCheck Aotearoa's Sexual Harm Prevention and Response Advisor (SHAPRA) which is a free and confidential service for people affected by sexual harm in Aotearoa's music industry. The purpose of the SHAPRA is to provide a safe channel for accessing independent professional advice. More information and contact details are available on [www.soundcheckaotearoa.co.nz/shapra](http://www.soundcheckaotearoa.co.nz/shapra)

### **Option 3: Addressing the behaviour directly**

- 6.15 You might decide to let the person you believe has acted inappropriately towards you know that their behaviour is unwelcome, inappropriate or offensive and needs to stop. This may resolve the matter quickly and in a low-key manner.
- 6.16 This approach may be appropriate where you do not feel unsafe or threatened by approaching the person. The ways that the behaviour could be addressed directly include:
- Telling the person directly about the behaviour you do not like and asking them to stop it.
  - Writing a letter or email on a 'private and confidential' basis to the person.
  - Taking a support person with you to tell the person that the behaviour needs to stop.
  - A facilitated or restorative discussion to identify and address the behaviour.
- 6.17 Resolution may involve a verbal or written apology or agreement on how the parties will behave towards one another in future.
- 6.18 You should not approach someone directly about their behaviour if by doing so you would feel unsafe or threatened in any way. If you are uncomfortable with this approach or if you try this and the issue is not resolved, you can contact one of the Management Team to take the matter further.

### **Option 4: Formally report to the Management Team**

- 6.19 You can make a written or verbal report to anyone within the Management Team at any time if you have experienced or seen bullying, harassment or sexual harassment.

- 6.20 If the report relates to an individual or individuals within the Management Team, and it may be inappropriate for any member of the Management Team to receive the report, you can make the report to the Board Harassment Contact named on the front of this policy.
- 6.21 The Management Team is responsible for the overall facilitation of harassment or bullying disclosures or complaints. If a report is made to one member of the Management Team, or the Board Harassment Contact, confidentiality will be handled as per clause 5.22 and 5.23 below.
- 6.22 A form for submitting a formal report or complaint is in Appendix 2 to this Policy.
- 6.23 When dealing with a report or complaint, the complaint handler will:
- Treat all matters seriously.
  - Make sure complaints are taken seriously, and fairly and impartially investigated, and the alleged harasser is given the opportunity to offer an explanation.
  - Advise both parties of their right to seek independent advice.
  - Make sure investigations are completed in a timely manner.
  - Make sure neither the person who complained nor the alleged harasser are victimised (e.g. being punished, bullied, intimidated).
  - Support all parties involved (including witnesses and support people).
  - Find appropriate remedies and consequences for confirmed bullying, harassment or sexual harassment.
  - Communicate the process and its outcome.
  - Ensure confidentiality.
  - Keep good documentation.
  - Get help from specialist external advisors as required.
- 6.24 People who make reports or complaints of bullying, harassment or sexual harassment in good faith, and people who support them or speak up for them, have legal protections against victimisation or unjustified disadvantage in employment (such as dismissal, or denial of benefits including pay rises, or promotion).<sup>1</sup>

#### **Confidentiality of a report**

- 6.25 The person(s) who received the complaint will ensure the details of the matter are only known to those directly concerned (including their representative or support person) and those involved in investigation and considering the reported behaviour.
- 6.26 The person who made the disclosure or complaint will be kept informed as to who is made aware of the complaint. This will vary from case to case, and may include:
- The person who is the subject of the complaint.

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<sup>1</sup> Section 66 Human Rights Act 1993; section 103 Employment Relations Act 2000

- Individuals who may have witnessed the behaviour complained of, or who may have information that is relevant to any investigation or attempts to resolve the matter.
- Another member of the Management Team
- The Board Harassment Representative, or another member of the Board.

## **7 Response to internal reports of bullying, harassment, or sexual harassment**

7.1 When a report of bullying, harassment or sexual harassment is received, the complaint handler will consider the information in the report and consider what action is reasonable taking into account the seriousness of the issue and the views of the person who experienced the reported behaviour.

7.2 The approaches that could be taken in response to a report of bullying, harassment or sexual harassment that relates to a staff member includes:

- A a one on one meeting between the complaint handler and/or another member(s) of the Management Team and the subject of the complaint;
- B a meeting between both the complainant and the subject of the complaint;
- C a meeting that is facilitated by a mediator or specialist facilitator; and
- D a formal independent investigation.

7.3 A flowchart outlining the process that may be followed is included in **Appendix 5** of this Policy.

### **Option 1: One-on-one meeting with the subject of the complaint**

7.4 The complaint handler and/or another member(s) of the Management Team could have a one-on-one meeting with the subject of the complaint and discuss the concerns raised in relation to their behaviour.

7.5 Clear expectations should be set as to behavioural expectations in the future. The complainant will be informed as to the agreed outcome. The complaint handler will monitor the situation to ensure that the behaviour has stopped.

7.6 This approach will be appropriate if the complainant does not want to attend a meeting with the respondent and is comfortable for the complaint handler to address the issue. In some cases, explaining the way that others perceive their behaviour can be enough to stop the behaviour reoccurring.

### **Option 2: Meeting with both the complainant and the subject of the complaint**

7.7 The complaint handler could arrange a meeting that is attended by both the complainant and the subject of the complaint. Both parties should be invited to bring a support person to the meeting.

7.8 The complainant should be given an opportunity to explain their concerns and the effect of the behaviour on them. The subject of the complaint should then be given a chance to respond. The parties should then seek to determine what needs to happen in order to resolve the matter, and how they will work together moving forward.

7.9 A record as to the agreed way forward should be made, and the complaint handler should monitor the situation to ensure that the behaviour has stopped.

- 7.10 This approach will be appropriate if the complainant is comfortable attending a meeting with the subject of their complaint, and if both parties are prepared to engage and discuss the matter in a constructive manner.

**Option 3: Mediation or facilitation**

- 7.11 A meeting between the parties, facilitated by a specialist facilitator or mediator who can guide the discussion in a safe environment, can be an effective forum which allows both parties to discuss their concerns and to explore ways in which they might be able to achieve a way forward.
- 7.12 The parties may mutually agree to a private mediator or facilitator, or could attend mediation through the Ministry of Business, Innovation and Employment's mediation service.
- 7.13 This approach will be appropriate if both parties are amenable to discussing and working through the issues and it is necessary to have an impartial and unbiased person guide the discussion.

**Option 4: Formal independent investigation**

- 7.14 In some cases, the complaint handler may consider it is necessary to carry out an independent investigation. The steps in the process of an investigation are set out in **Appendix 3** of this Policy.

**Response to reports of bullying, harassment, or sexual harassment where the subject of the complaint is an individual outside of Recorded Music**

- 7.15 Where a report of bullying, harassment or sexual harassment concerns an individual outside of Recorded Music (for example during an industry meeting or event) there are a number of approaches that could be taken in response, including:
- A Arrangements can be put in place that prevent the subject of the complaint from attending meetings or events at Recorded Music's offices.
  - B Arrangements can be put in place so that the complainant (and any others that may be affected) are not required to interact with the subject of the complaint.
  - C The complaint handler or the complainant could lodge a written complaint to the subject's employer or contracting organisation.
  - D The complaint handler or another member of the Management Team could have a one-on-one meeting with the subject of the complaint and discuss the concerns raised in relation to their behaviour.
  - E The complaint handler or another member of the Management Team could arrange a meeting with the individual's manager or another senior person at the organisation to discuss the concerns raised in relation to the individual's behaviour.

**Potential outcomes or resolutions of internal reports of bullying, harassment or sexual harassment**

- 7.16 There are a range of possible outcomes or ways that a report of bullying, harassment or sexual harassment may be resolved.

**Informal resolutions**

- 7.17 In some cases, it may be appropriate to resolve the matter informally.

- A written or verbal apology.
- A written agreement as to how the parties will behave towards each other in the future.
- A change in reporting lines or the way those affected work together.
- If the subject of the complaint is outside Recorded Music, action could be taken to prevent that individual from attending Recorded Music's events or meetings at our offices.
- The subject of the complaint agreeing to attend training or seeking assistance from an external provider.

### **Disciplinary action**

- 7.18 Where allegations are admitted or substantiated, disciplinary action that matches the seriousness of the breach may be taken.
- 7.19 Factors taken into account in determining the level of seriousness include the nature of the conduct and whether or not the person breaching the policy was in a position of trust or authority in relation to the complainant.
- 7.20 Whether or not disciplinary action is taken as a result of a bullying, harassment or sexual harassment complaint is a confidential matter between the employer and the subject of the complaint. However, the complainant will be given sufficient information about the action taken in response to their complaint to feel safe and empowered to take further steps if the behaviour recurs.

### **If a complaint is not upheld**

- 7.21 Where a complaint is not upheld, there will be no consequences for the complainant unless it is established that the complaint was made maliciously or in bad faith (for example, where the complainant makes factual allegations they know to be untrue).
- 7.22 Where allegations are not substantiated it may still be appropriate to undertake some action, for example, refresher bullying, harassment or sexual harassment training or communications training. This ought not to single out or punish the subject of the complaint if there has been no finding.

## **8 Reporting bullying, harassment or sexual harassment externally**

### **Making a complaint under relevant legislation**

- 8.1 If you are not satisfied with the outcome of making an internal complaint or do not wish to use the internal procedures, you can either:
- Lodge a complaint with the Human Rights Commission about the alleged behaviour under Parts 2 and 3 of the Human Rights Act 1993;<sup>2</sup> or
  - Raise a personal grievance under the Employment Relations Act 2000 and apply to the Employment Relations Authority for a determination. For issues related to sexual harassment the personal grievance must be raised within 12 months of the incident

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<sup>2</sup> Note the complaint should be made wherever possible within 12 months of the conduct occurring, as the Commission has a discretion not to take action on a complaint where the conduct occurred more than 12 months prior: s80(2) Human Rights Act 1993

occurring or coming to your attention. For all other issues, a personal grievance must be raised within 90 days of the alleged incident occurring or coming to your attention.

- 8.2 Employees cannot both lodge a complaint with the Human Rights Commission and apply to the Employment Relations Authority.
- 8.3 As the Employment Relations Act is only relevant for employer / employee relationship problems, independent contractors should direct their complaints to the Human Rights Commission.

### **Reporting to the Police**

- 8.4 Sexual harassment, physical assault, or serious bullying may come under the provisions of the Crimes Act 1961 or the Harassment Act 1997. In such a case, the complainant, or Recorded Music on the complainant's behalf, may lodge a complaint with the Police. In such cases, Recorded Music will support the complainant to do so, if they wish.

### **Other external reporting**

- 8.5 A worker can make a complaint about harmful digital communications to NetSafe who will investigate the matter. For further information, see NetSafe's website: <https://netsafe.org.nz/>
- 8.6 Complaints about objectionable content can be made to the Department of Internal Affairs under the Films, Videos and Publications Classification Act. See <https://www.dia.govt.nz/Censorship-Overview>

## **9 Record keeping**

- 9.1 Where a report of bullying, harassment or sexual harassment is received, the Management Team will keep all relevant documentation in a secure location.

## **10 Review of the bullying, harassment and sexual harassment policy**

- 10.1 This policy will be reviewed at least every two years to ensure that it conforms to current law and remains best practice.

## **11 Workplace monitoring**

- 11.1 Recorded Music will use the following mechanisms to help determine whether bullying, harassment or sexual harassment exists in the workplace, and whether people are reporting incidences of bullying, harassment or sexual harassment, to help us improve our practices:

- Anonymous reports provided by Harassment Contact Persons
- Exit interviews
- Collecting statistics
- Regular discussion with staff on workplace culture.

## **Appendix 1: Information for Harassment Contact Persons**

### **Key skill requirements**

The following skills, knowledge and personal attributes are to be demonstrated by any person seeking to become a Harassment Contact Person.

#### Skills:

- Ability to use effective active and reflective listening skills
- Sound communication skills both written and verbal
- Ability to respond with empathy in sensitive and stressful situations
- Sound judgement and ability to maintain confidentiality (any evidence of a lack of discretion may be a disqualifying factor)

#### Knowledge:

- Harassment Contact Persons will acquire knowledge of relevant legislation and best practice on matters of:
  - Equality, discrimination and harassment
  - Internal and external resolution options available to staff, in particular Recorded Music's processes
  - Awareness or ability to acquire awareness of cross cultural issues and sensitivities

#### Personal attributes:

- Genuine interest in equity and diversity issues
- Credibility with other members of the workplace/work unit
- Demonstrated standards of workplace behaviour that reflects the standard of ethical behaviour expected at Recorded Music

### **Appointment of Harassment Contacts**

To ensure that Harassment Contacts can receive disclosures relating to sexual harassment in strict confidence, members of the Management Team will not be appointed as Harassment Contact Persons for Recorded Music (but could be Harassment Contact Persons for other music industry bodies).

Recorded Music retains discretion to remove individuals from the role of Harassment Contact for any reason.

### **Role and Responsibilities of Harassment Contact Persons**

Harassment Contact Persons will:

- Behave as a positive role model of workplace behaviour.
- Provide a safe environment for individuals to express concerns in a confidential manner.



- Clearly explain the parameters of their role at the start of any meeting with an employee, including the limitations on their ability to keep matters confidential.
- Listen to the individual's concerns.
- Not form a view on the merit of any allegations.
- Listen and discuss options for resolving a complaint.
- If requested, provide information about the internal and external complaint process and outline other informal and formal options available to the individual.
- Support the employee in accessing applicable policies and procedures.
- Provide information about available support services.
- Provide non-identifying statistical data to the Management Team.

## Appendix 2: Reporting Form

Use this form to report instances of bullying, harassment or sexual harassment. A report can be made by someone who is experiencing bullying, harassment or sexual harassment or has seen it occurring in the workplace.

You are entitled to independent advice on this and may seek support from someone you trust to complete this form.

Give the completed form to one or more of the people in the Management Team. As per clauses 5.1 to 5.3 of the policy, this report will be treated confidentially.

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Name:

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Position:

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Team:

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Preferred contact method:

*Phone / email address*

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When did the incident(s) happen:

*Date and time*

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Is it still ongoing?

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Provide details of the incident, for example:

- *Where did it occur?*
- *Who was present or witnessed this incident?*
- *What was said or done? Who by? What is their position?*
- *For bullying: Why did you think this behaviour was unreasonable in the circumstances?*
- *Has this occurred before? If so, when?*
- *How did this incident make you feel? Or how has it affected you?*
- *Have you taken any actions? If so, what?*
- *As a result of this report, what would you like to happen?*

- 
- I understand that I can seek help to complete this form
  - I understand that the information provided this report may be disclosed to the parties involved
  - I declare to the best of my knowledge the information provided in this form is true and correct

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Name:

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Date:

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### **Appendix 3: Steps in formal independent investigation process**

All parties will be treated with care and respect, and the principles of natural justice will prevail.

1. The subject of the complaint will be informed of the complaint and the potential outcomes if the allegations are substantiated.
2. The complaint handler will decide what interim measures to take to ensure the safety and welfare of the people involved during the investigation. Depending on the circumstances, options could include:
  - Reassignment to other duties or relocation until the investigation is complete.
  - The subject of the complaint taking a voluntary leave of absence or being suspended pending the outcome of the investigation.
  - The complainant taking leave.
3. An independent investigator will be selected after consulting with the parties. This will be someone who is trained to carry out investigations into bullying, harassment or sexual harassment complaints and is unbiased and was not involved in the incident.
4. The complaint handler will prepare terms of reference for the investigation and consult with the parties about the intended process.
5. The investigator will:
  - Confirm the process and timelines with everyone involved.
  - Interview all parties involved and any witnesses, and review any relevant documentation to determine the facts.
  - Give the subject of the complaint reasonable opportunity to respond to the allegations / concerns in writing and in person.
  - Give the complaint handler a written report on their findings to be given to the decision maker (likely the CEO).
6. The decision maker will then review the report and:
  - Provide a copy of the report to the complainant and the subject of the complaint.
  - Meet with the people involved separately to discuss the report and the investigator's findings.
  - Discuss the possible outcomes and resolutions with the complainant.
  - Meet with the people involved and advise them of the proposed actions that Recorded Music will take (to the extent possible, taking into account privacy considerations).
  - Remind the people involved of their ability to make an external report of bullying, harassment or sexual harassment if they are unhappy with the outcome.
7. A member of the Management Team or other delegated person will regularly check the wellbeing of the people involved both during and after the completion of the investigation.

# THE CONTINUUM OF WORKPLACE BEHAVIOURS



Green behaviour is appropriate behaviour at work that is respectful and inclusive to all. It includes compliments where they are based on performance and effort (rather than appearance), and reasonable feedback from managers.

Yellow behaviour does not amount to a breach of workplace legislation (orange) or a criminal offence (red) but is still inappropriate and/or may contribute to a disrespectful or unhealthy work environment, in which orange or red behaviours are more likely to occur. Examples include:

- One-off instances of inappropriate or sexualised behaviour that hasn't caused offence e.g. wolf whistle, sexist joke
- Undervaluing someone or comments based on gender stereotypes
- One off rudeness/tactlessness will not amount to bullying, but if repeated it could.

Orange behaviour is that which legislation prohibits in workplaces – including **bullying, sexual harassment, racial harassment** and **unlawful discrimination**.

**Bullying** at work is repeated and unreasonable behaviour directed towards a worker or a group of workers that can lead to physical or psychological harm.

**Examples of bullying behaviours:**

- Direct and personal attacks: threatening, shouting, intimidating, insulting, humiliating or belittling comments or behaviours
- Indirect and task related: giving unachievable tasks, constant criticism, ignoring/isolating, excluding from invitations to lunch/drinks, withholding information, undermining behaviour, threatening job security or future work/career, ongoing rudeness

**Sexual harassment** is any unwelcome or offensive sexual behaviour that is repeated, or is serious enough to have a harmful effect, or which contains an implied or overt promise of preferential treatment, or an implied or overt threat of detrimental treatment.

**Examples of sexual harassment:**

- hints or promises of career advancement in exchange for sexual activity
- threats of not being offered future work if sexual activity is not given
- sexually offensive comments or sexual jokes, including from audience members
- taking inappropriate photos without consent
- staring, leering, invasion of personal space
- sexually provocative posters or visual material of a sexual nature
- comments on bodies or physical appearance
- being asked to wear revealing clothing
- offensive hand or body gestures
- unwanted comments, intrusive questions or teasing about a person's sexual activities or private life
- unwanted sexual advances
- persistent and unwelcome social invitations (eg drinks/dates), phone calls, or messages at work or at home

**Racial harassment** is visual material or physical behaviour that is either repeated or of such a significant nature that expresses hostility against, or brings into contempt or ridicule, any other person on the ground of colour, race, or ethnic or national origins, and is hurtful or offensive.

**Examples of racial harassment:**

- making offensive remarks or jokes about someone's race, colour, or ethnic or national origins
- calling someone racist names
- making fun of the way some speaks or mocking their name on the basis of their colour race, ethnic or national origin.

Some bullying or harassment can be a breach of workplace legislation (orange) and a criminal offence (red). Examples of **criminal offences** include:

- non-consensual groping / indecent assault e.g. grabbing someone's bottom
- exposing genitals
- sending unsolicited 'dick pics'
- revenge porn
- physical attacks or violence
- unwanted kissing or touching
- any penetration without consent e.g. rape
- having /sharing objectionable material e.g. bestiality or child sex abuse images
- sexual contact with a person under 16
- sexual communication with people under 18, including sending or receiving sexual pictures.

Note that consensual sexual activity and mutual consensual flirting **will not** be sexual harassment, but care should be taken where there is a power imbalance. Power imbalances in the workplace can contribute to sexual harassment occurring and people being reluctant to report inappropriate behaviour. A power imbalance can result from gender, sexuality, ethnicity, minority status, age, disability, seniority or influence in the workplace.

*Soundcheck Aotearoa would like to thank the New Zealand Defence Force and Canadian Military for the Continuum of Workplace Behaviours.*

**Appendix 5: Process following report of bullying, harassment, or sexual harassment.**

**GUIDANCE: Process following report of bullying, harassment or sexual harassment**

