



SPEAK UP PROCESS



Concerned about CONDUCT?

Think it might be
BULLYING?

Could be
HARASSMENT?

Feels like
DISCRIMINATION?

Suspect it's a
BREACH
of the Code of
Conduct?

OTHER
concerns?

Could it be a **PERFORMANCE** issue?
Is it about a management or operational **DECISION**?
These may not be instances of misconduct but there
are still some things you can do to raise your concerns

Is it a concern about a **STUDENT**'s behaviour?
There are robust processes for raising concerns
about student conduct

SPEAK UP PROCESS





Think it might be
BULLYING?

Checklist

Bullying IS...

- ☐ **Unwanted** - the recipient doesn't like it or want it
- ☐ **Unwarranted** - unnecessary, unreasonable and possibly unlawful
- ☐ **Repeated** - repeated or patterned behaviour
- ☐ **Detrimental** - undermines dignity and respect, may cause psychological injury

If you answered **YES** to **ALL** of these, it looks like the behaviour could be bullying and you should [Speak Up](#).

If you're not sure, you can still [Speak Up](#) to get a second opinion from a manager or HR Business Partner. Writing down or verbalising examples of the behaviour can help you identify it.

It's important to note that the behaviour may not be bullying but could still be destructive behaviour. Check [other areas of concern](#) to see if it fits these.

Workplace bullying is **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. A single incident of unreasonable behaviour is not considered workplace bullying, but it could escalate if repeated and should not be ignored.
- » **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.



SPEAK UP PROCESS





Think it might be
BULLYING?

Checklist

Bullying is NOT...

- ☐ **Managers managing appropriately**
- it is not bullying for people in authority to use their authority appropriately
- ☐ **Employers making employment decisions** - even when they have negative impacts on staff
- ☐ **Expecting staff to be productive, punctual, ethical, honest, competent and capable**
- it is not bullying to give a negative performance appraisal, requiring justified performance improvement
- ☐ **Poor workplace culture**
- ☐ **Interpersonal difficulties at work and behavioural differentiation**
- it is not bullying for people to have poor emotional self control or empathy
- ☐ **Friendly banter that everyone enjoys including frank and honest discussions**
- ☐ **Expressing opinions assertively that are different than others, or being pushy**

SPEAK UP PROCESS





Think it might be BULLYING?

The following could be types of bullying behaviour (including but not limited to):

- » Verbal abuse; yelling, using profanities/foul language
- » Spreading malicious rumours, gossip or innuendo
- » Belittling a person's opinions
- » Excluding, isolating or ignoring someone
- » Intimidating a person – using psychological, physical or emotional forms
- » Undermining or deliberately impeding a person's work
- » Overloading, or unreasonably denying, or starving a person of responsibility
- » Establishing impossible deadlines that will set up the individual to fail
- » Physically threatening abuse/aggressive body language
- » Making jokes that are 'obviously offensive'
- » Unjustifiably blocking applications for training, leave or promotion

Some examples

Bullying isn't any of these:

- » One-off or occasional instances of forgetfulness, rudeness or tactlessness
- » Setting performance standards because of quality or safety
- » Constructive feedback and legitimate advice or peer review
- » A manager requiring reasonable verbal or written work instructions to be carried out
- » Warning or disciplining employees in line with the Code of Conduct
- » A single incident of unreasonable behaviour (but could escalate if repeated)
- » Action undertaken in an appropriate manner to transfer, discipline, advise, manage, counsel or dismiss an employee
- » Action undertaken in a reasonable manner, consistent with Unitec's policies and procedures, by a manager as part of appropriate performance management
- » A justifiable decision not to award or provide a promotion, transfer or benefit in connection with an employee's employment
- » An employee giving feedback to his or her manager in an appropriate and reasonable manner
- » Action undertaken in a reasonable manner under any other Act affecting an employee



SPEAK UP PROCESS





Could be
HARASSMENT?

Harassment IS...

...**verbal, written, visual or physical conduct** in relation to race, colour, ethnic or national origin, gender, age, disability, marital or family status, religion, ethical belief, political opinion, participation or the decision not to participate in the activities of an employees' association, sexual orientation or health status, and:

- ☐ **Directed** at an individual or group?
- ☐ **Offensive, intimidating or threatening** in nature
- ☐ **Unwelcome or offensive** to the recipient
- ☐ **Of a serious nature and/or persistent** to the extent that it has a detrimental effect on the individual personally, their employment, job performance or opportunities of job satisfaction

SPEAK UP PROCESS



Checklist

If you answered **YES** to **ALL** of these, it looks like the behaviour **could** be harassment and you should [Speak Up](#).

If you're not sure, you can still [Speak Up](#) to get a second opinion from a manager or HR Business Partner. Writing down or verbalising examples of the behaviour can help you identify it.

It's important to note that the behaviour may not be harassment but could still be destructive behaviour. Check [other areas of concern](#) to see if it fits these.





Could be
HARASSMENT?

Checklist

Harassment does NOT include...

Any **review, counselling or disciplinary process or step undertaken** on behalf of Unitec by an authorised person **in accordance with Unitec's policies.**

SPEAK UP PROCESS





Could be
HARASSMENT?

Some examples

The following could be types of harassment behaviour (including but not limited to):

- » Displaying sexual or sexist material
- » Disruptive behaviour which interferes with the rights and learning opportunities of others
- » Language and imagery which is offensive and/or intimidating (may be verbal, written or electronic)
- » Hand gestures of an offensive nature
- » Any threatening or acts of aggression, bullying or intimidatory behaviour
- » Calling others offensive nicknames
- » Belittling others' religious or cultural beliefs
- » Looking at others in such a way that they feel uncomfortable
- » Invading others' personal space
- » Touching others in a way they find unwelcome
- » Making racist or sexist jokes or comments
- » Mimicking others' accents, stutters or mannerisms
- » Spreading rumours
- » Playing ill-natured practical jokes
- » Venting work pressure by swearing at others or using abusive language
- » Requesting dates or sexual contact with others who find the approach unwelcome and/or where a formal imbalance of power exists, such as an employee making such requests of a student or a supervisor making such requests of a staff member he or she supervises
- » Threatening or implying adverse treatment if requests for sexual contact is not agreed to



SPEAK UP PROCESS





Feels like
DISCRIMINATION?

Discrimination IS...

- ☐ **Inequitable treatment, such as...:**
 - » Not giving an individual the same terms of employment, work conditions, fringe benefits, opportunities for training, promotion and transfer as other employees with more or less the same qualifications, experience or skills, who are employed in the same or substantially similar circumstances, **OR**
 - » Dismissing an individual or doing something that has a negative effect on their employment, job performance or job satisfaction when other individuals doing the same type of work are not treated in the same way, **OR**
 - » Retiring an individual or making the individual retire or resign
- ☐ **... IF the reason for such treatment is directly or indirectly on the grounds of:**

- | | |
|---|-----------------------------------|
| » Age | » Religious or ethical belief |
| » Race or colour | » Marital or family status |
| » Ethnicity or national origins | » Employment status |
| » Sex (including pregnancy or childbirth) | » Political opinion |
| » Sexual orientation | » Involvement in union activities |
| » Disability | |

Checklist

If you answered **YES** to **ALL** of these, it looks like the behaviour **could** be discrimination and you should [Speak Up](#).

If you're not sure, you can still [Speak Up](#) to get a second opinion from a manager or HR Business Partner. Writing down or verbalising examples of the behaviour can help you identify it.

It's important to note that the behaviour may not be discrimination but could still be destructive behaviour. Check [other areas of concern](#) to see if it fits these.





Feels like
DISCRIMINATION?

Checklist

However, there are exceptions...

There are some specific employment situations which are exceptions and in these situations it is **NOT** unlawful to make employment-related decisions on the basis of a prohibited ground – for example, in some situations it is legal to employ only a woman for a particular position.

These exceptions need to be considered on a case-by-case basis with reference to the relevant legislation. Your **HR Business Partner** would be the primary contact for discussion in relation to these.

SPEAK UP PROCESS





Suspect it's a **BREACH**
of the Code of Conduct?

Breach IS...

Our [Code of Conduct / Ngā Tikanga Whakahaere](#) sets out the behaviours expected of all staff members, contractors and subcontractors at Unitec. If you feel that you have witnessed or been subject to behaviour that is inconsistent with this Code, **first check the behavioural descriptions in the Code**. It may also help to ask yourself the following questions:

- ☐ Is it **aligned** with the values of Te Noho Kotahitanga?
- ☐ Would it withstand **scrutiny** from colleagues, students and communities?
- ☐ Would you be comfortable if it was **reported** in the media?
- ☐ Would you and the people you respect be **proud** of it, now and in the future?
- ☐ Would you sign your **name** to it?
- ☐ Does it feel **right**?


Checklist

If the behaviour you are concerned about seems inconsistent with the Code, and/or the answer to any of these questions is **NO** or **NOT SURE**, it may be a breach and you should [Speak Up](#).

It's important to note that the Code of Conduct is a guide for behaviour – it does not and can not describe every possible scenario. If you're not sure, you can still [Speak Up](#) to get a second opinion from a manager or HR Business Partner. Writing down or verbalising examples of the behaviour can help you identify it.

Please note: If you think the behaviour might be **bullying, harassment or discrimination** (all of which are covered by the Code of Conduct) you can also refer to more detailed checklists for these.





Suspect it's a **BREACH** of the Code of Conduct?

Some examples

If a breach of the Code of Conduct is found to have occurred, the behaviour may be categorised as either misconduct or serious misconduct as per Unitec's [Disciplinary and Performance Management Policy](#) and [Procedures](#).

Misconduct is...

- ☐ Any action or behaviour that is inconsistent with or breaches the Code of Conduct; **and/or**
- ☐ Any action or behaviour that breaches or is inconsistent with:
 - » the staff member's employment agreement
 - » A Unitec policy or procedure

Everyone makes mistakes from time to time, but **misconduct** is usually a deliberate action or omission or the negligent performance of duties.

Some instances of misconduct may be considered serious misconduct.

Serious misconduct is...

- ☐ Conduct that undermines the trust and confidence we have in a staff member and puts the employment relationship at risk.

The [Disciplinary and Performance Management Policy](#) and [Procedures](#) provides further information and examples of what may constitute misconduct and serious misconduct. It is important to note that context is critical, and that every situation would need to be considered in context to determine the nature of the behaviour.



SPEAK UP PROCESS





OTHER
concerns?

Could it be a **PERFORMANCE** issue?

Poor performance is not necessarily a behavioural issue, but it can still have a negative effect on the work environment and it can lead to less than ideal behaviours.

If you have a concern about the performance of an individual or group this should be raised in the first instance with the appropriate manager or, if you don't feel comfortable doing so, with your HR Business Partner.

They will advise on the best course of action and if it is deemed to be a valid performance concern, there are fair, robust processes that can be put in place to address these.

SPEAK UP PROCESS





OTHER
concerns?

Is it about a management or operational DECISION?

Sometimes there may be occasions where as employees we disagree with management or operational decisions, especially where we may believe they could potentially have a negative impact on staff and/or students. However, it's important to note that decision-making we don't agree with does by itself not constitute poor behaviour or conduct. It's also worth noting that such decisions are often complex and we may not be aware of all the factors or criteria taken into account in making them.

The Speak Up resource is not intended to cover situations where we don't agree with management or operational decisions. If you do have a concern that decisions being made are unfair, unreasonable and/or likely to impact negatively on our core business, your options would be to raise it with your manager in the first instance; if this is not possible or you don't feel comfortable doing so you could raise it with the one-up manager (your manager's manager) or your HR Business Partner.

SPEAK UP PROCESS





OTHER
concerns?

Is it a concern about a STUDENT's behaviour?

There are robust processes for raising concerns about student conduct:

- » Refer to the [Student Disciplinary Statute](#) for more information and guidance
- » If there is any immediate threat to safety or security, always contact [Security](#)

SPEAK UP PROCESS



SPEAK UP

What can I do / Who can I talk to?

How do you
SPEAK UP?

If you are comfortable and it feels safe to do so, raise it directly with the
PERSON INVOLVED

OR

Talk to **YOUR MANAGER** or
ANOTHER MANAGER if you feel more comfortable

OR

Contact your **HUMAN RESOURCES
BUSINESS PARTNER**

Click **HERE** for some tips on how to do this

Click **HERE** for guidance on what information you'll need to provide, and **HERE** for information on what you can expect to happen

Speaking up and challenging inappropriate behaviour takes courage and is not always an easy thing to do.

Unitec is committed to creating a safe environment where people can confidently speak up about any concerns knowing they will be treated respectfully and fairly.

SPEAK UP PROCESS



How do I raise it directly?

Whether it's you or someone else that the behaviour is directed towards, here are some tips on how to raise it directly with the person involved:

- » **Be prepared** - have examples ready to describe the behaviour that is making you uncomfortable (keeping a diary of relevant incidents to refer to is a good idea); relating it back to the checklist can help reinforce what you are saying
- » **Choose the place and time carefully** - choose a neutral space where you won't be overheard or interrupted, and a time with minimal distractions
- » **Know what you want to say and be specific about the behaviour** - it might help to talk it through with someone you know and trust first, such as a friend or trusted colleague or your HR Business Partner. There are also other resources available through Unitec that can provide support independently of the formal channels such as the Te Noho Kotahitanga Marae team; your TEU and TIASA representatives, and the [Employee Advisory Programme \(EAP\)](#).
- » **Be clear and direct** - tell them how the behaviour makes you feel and ask them to stop. Take a support person with you if this will help.



SPEAK UP

Talking to a manager/HRBP: What information do I need to provide?

You will need to provide as much detailed information as you have to enable the concern to be assessed, such as:

- ☐ The background, history and reason for the concern
- ☐ Names, dates, places and other relevant information
- ☐ Any documents that may support your concern

If you don't have all the facts:

You are encouraged to Speak Up as soon as possible, ideally before situations escalate. It is always better to discuss upfront than raise it afterwards. If you have a genuine concern about conduct, Speak Up with the facts you have. You are not expected to have all the answers and you are certainly not expected to prove that your concern is valid and well founded. Let the manager/HRBP look into the matter to determine if there is a reason for concern.

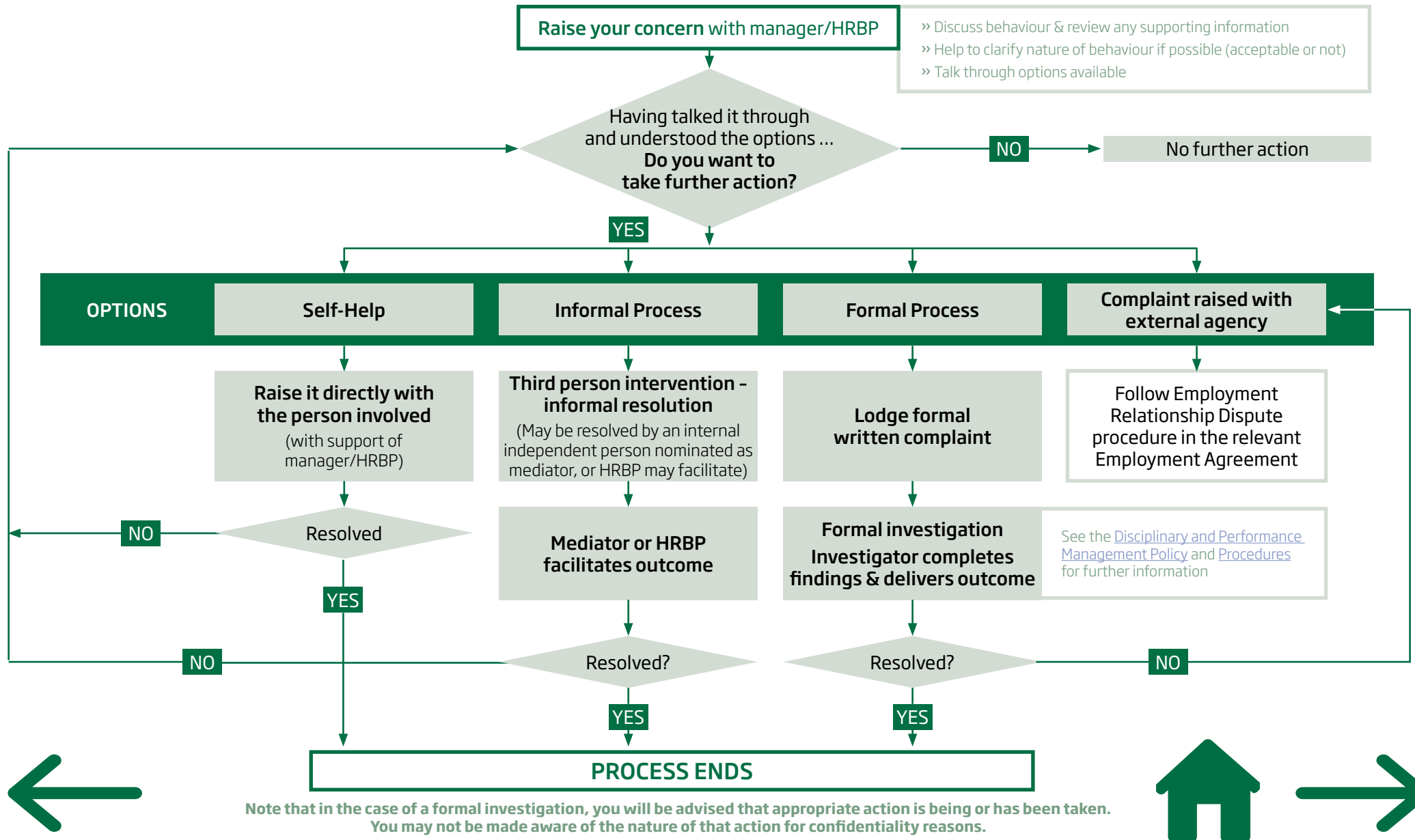
Never investigate the matter yourself or look for evidence to build a strong case. No disciplinary measures or other steps will be taken against you if you are speaking up in good faith with a genuine concern which later turns out to be mistaken or misguided.

SPEAK UP PROCESS



SPEAK UP

Talking to a manager/HRBP: What can I expect to happen?



SPEAK UP

Talking to a manager/HRBP: Will my concern be dealt with confidentially?

Will your concern remain confidential?

All concerns are dealt with confidentially. This means:

- » Information about your concern will only be shared with a limited number of people on a strict need-to-know basis. Information will only be disclosed outside this small group if we are required to do so by law or if an important public interest is at stake.
- » Often, in order to assess the concern, and certainly if your concern becomes a formal complaint, it is necessary to inform the implicated person that a concern has been raised or a complaint made against them. This means that your identity would need to be disclosed to ensure they get an opportunity to respond. It may not be possible to take your concern further if you do not wish your identity to be known.

You can help us protect confidentiality by being discreet and not sharing your concerns too widely beyond those supporting you who you know and trust to keep it confidential.

Is it possible to raise a concern anonymously?

No, as it is extremely difficult – and in many circumstances impossible – to investigate concerns that are raised anonymously.

How will you be protected if you Speak Up?

Speaking Up is encouraged and Unitec is committed to creating a safe environment where people can confidently Speak Up about any concerns knowing they will be treated respectfully and fairly. Any form of threat or retaliation against you for Speaking Up will not be tolerated. Allegations of retaliation will be treated formally through disciplinary procedures.

You will not be protected if you maliciously raise a concern that you know is false.

SPEAK UP PROCESS



SPEAK UP

Talking to a manager/HRBP: How will I be kept informed?

How will I know how my concern is being dealt with?

That depends on the option you choose to take.

- » If your concern is raised via an informal process, you will be involved in conversations working towards a mutually satisfactory outcome. This may be facilitated by an HR Business Partner or another independent internal person who can mediate. The mediator will inform you about the process, and will document outcomes for each party
- » If you decide to go down the formal route and lodge a formal written complaint, a formal investigation will be undertaken in accordance with our policies. Where this is the case, the investigator or the HR Business Partner will keep you informed about the process and you will be advised that appropriate action is being or has been taken. However, you may not be made aware of the nature of that action for confidentiality reasons.
- » If you have tried to sort the concern out in-house without success, you can then refer to the guidelines in your employment agreement relating to the Employment Relationship Dispute Procedure to progress to an external mediation service.

SPEAK UP PROCESS



SPEAK UP

Further resources

Unitec Resources:

- » [Ngā Tikanga Whakahaere – Our Code of Conduct](#)
- » [Inclusive Excellence Policy](#)
- » [Disciplinary and Performance Management Policy](#)
- » [Disciplinary and Performance Management Procedures](#)
- » [Diversity & Inclusion page](#) on the Nest

External Resources:

- » Worksafe NZ: [Workplace Bullying and Harassment](#)
- » Worksafe NZ: [Bullying Prevention Toolbox](#)
- » Employment New Zealand: [Bullying, Harassment and Discrimination](#)
- » [Employment Relations Act 2000](#)
- » [Human Rights Act 1993](#)

External Support:

- » [Employee Assistance Programme \(EAP\)](#)

For further advice contact:

- » Your manager or another appropriate manager
- » Your Human Resources Business Partner

SPEAK UP PROCESS

