



Commitment to Diversity and Inclusion

Tompkins Wake is committed to building a culture that is inclusive and respects the diversity of all our people by recognising and harnessing the strengths, backgrounds, experience and perspectives that make us individually unique and collectively stronger.

An inclusive culture encourages diversity of thought, building engagement, nurturing collaboration, innovation and creates opportunities for us to continually improve our work and our service to our clients.

Diversity

Diversity refers to the ways in which we differ and what makes us unique. It includes visible differences such as gender, age, ethnicity, physical appearance/disability and non-visible difference like nationality, political beliefs, thinking styles, religion, sexual orientation and being part of the Rainbow community, cultural background and family status.

Inclusion

Inclusion refers to creating a work environment and culture where differences are valued, respected and leveraged. Everyone has the opportunity to learn, develop, contribute and achieve.

Zero Harm

Our Zero Harm Culture does not tolerate any form of intimidation, bullying or harassment.

Our Commitment

Our commitment to diversity and inclusion in the workplace aligns with our belief that we are stronger together and that when specialisation and expertise combine, exceptional outcomes are created for our clients.

We will ensure every employee, whether part time, full time or temporary, is treated fairly and equally in a working environment with tolerance and sensitivity which promotes dignity and respect to all.

Our recruitment and talent management processes will ensure and reflect open competition (equitably on merit) and equal employment opportunity.

Responsibility

All staff and partners are expected to support TW's commitment to diversity and inclusion and commit to report matters which they believe impacts the implementation of this Policy Commitment Statement.

We will always:

1. Ensure that our policies and practices in all aspects of employment are compliant and non-discriminatory.
2. Assess merit on the basis of ability, attitude, aptitude, skills, qualifications, knowledge, experience, characteristics, and personal qualities relevant to the job being considered.
3. Support and encourage all our people to develop to their full potential. Diversity will fuel our expertise.
4. Be relentless in our pursuit to attract, recruit, develop, promote and retain a diverse pool of talented people across Tompkins Wake.

Jon Calder
Chief Executive Officer
3 June 2019



Commitment to a Harassment Free Workplace

Tompkins Wake is committed to the provision of a healthy and safe working environment for all staff. All Tompkins Wake employees, partners, clients, volunteers and contractors are expected to treat each other fairly with dignity and respect. Harassment is completely unacceptable, illegal and incompatible with Tompkins Wake's core values.

Harassment

Harassment of any kind is defined broadly as any behaviour directed towards an individual or group that a reasonable person would think is insulting, intimidating, victimising or disadvantaging and is unwelcome, hurtful or offensive to the recipient and is repeated, or is of such significance as to adversely affect the recipient's employment or well-being.

Bullying

Bullying is defined as repeated, persistent and unreasonable behaviour directed towards an individual or group that creates a risk to health and safety. It includes victimising, humiliating, intimidating or threatening a person.

Discrimination

Discrimination is conduct which is likely to result in less favourable treatment, or create a less favourable environment, for any person/group than for another under similar circumstances.

Zero Harm

Our Zero Harm culture does not tolerate any form of intimidation, bullying or harassment.

Our Commitment

We will ensure every employee, whether part time, full time or temporary, is treated fairly and equally in a working environment with tolerance and sensitivity which promotes dignity and respect to all. We will hold each other to account, treating everyone with respect and dignity and we will call out and report behaviour which does not support our values.

Responsibility

All staff and partners are expected to support TW's commitment to a harassment free workplace and commit to report matters which they believe impacts the implementation of this Policy Commitment Statement.

We will always:

1. Treat each other with respect, showing integrity, tolerance and sensitivity.
2. Speak up when we see behaviour that does not support our Zero Harm culture.
3. Work together to ensure Tompkins Wake is a workplace that is safe and enjoyable for all employees.

Jon Calder
Chief Executive Officer
3 June 2019



Health & Safety

Commitment Statement

Tompkins Wake is committed to creating and sustaining a Zero Harm workplace supported by a culture that encourages leadership and participation at all levels in the firm. By working together, we will ensure we are all safe at work and go home safe every night.

To support the achievement of our Zero Harm culture, we will:

Participate and work together

Encourage participation across the firm, at all levels in all matters relating to health and safety management.

Lead the way

Ensure all people who hold leadership roles in our organisation are competent and accountable in matters of health and safety and demonstrate a highly visible level of commitment.

Rehabilitate

Actively manage the earliest rehabilitation and return to work of any employee who has suffered a work-related injury or illness.

Train to increase knowledge and awareness

Actively train and communicate with our people to support improving safe work practices at Tompkins Wake.

Comply

Comply with relevant health and safety legislation, regulations, codes of practice and Tompkins Wake operating procedures.

Eliminate injuries

Strive to eliminate work-related injuries and illnesses by identifying hazards and risks, implementing controls, and monitoring and reviewing their effectiveness. Ensuring the health and wellbeing of all our people through training and communication.

Set targets

Establish, implement and review measurable health and safety objectives and targets to ensure continual improvement of our practices, procedures and performance.

Protect

Not allow any person who is not "fit for purpose" including being fatigued, impaired by drugs or alcohol to remain at their place of work.

Take practicable steps

Ensure that we take all reasonably practicable steps and care in our workplace to prevent harm to ourselves, our clients and visitors with our goal always to be Zero Harm.

Investigate, learn and improve

Accurately report, record, investigate and learn from all workplace incidents and injuries to make Tompkins Wake a safer working environment, supporting our Zero Harm culture.

Jon Calder
Chief Executive Officer
3 June 2019



Sustainability Commitment Statement

Tompkins Wake shares global concern about the impact of climate change and is committed to minimising our impact on the environment. Through the adoption and implementation of sustainable practices across our business operations, and a continued focus on environmental awareness, the firm and our people will make continuous improvements and sustain positive change. Our Zero Harm workplace is supported by a culture that encourages leadership and participation at all levels in the firm. By working together, we will ensure we focus on reducing our environmental footprint and improving our sustainability.

To support the achievement of our Zero Harm culture with respect to the environment, we will:

Participate and work together

Encourage participation across the firm, at all levels to educate and drive improvement in environmental awareness and performance.

Lead the way

Ensure all people who hold leadership roles in our organisation are competent and accountable in matters of health and safety and demonstrate a highly visible level of commitment.

Reduce, Reuse and Recycle

Actively work to introduce sustainable practices to minimise the waste produced and maximise waste recycled by the firm's business operations.

Train to increase knowledge and awareness

Actively train and communicate with our people to support improving sustainability practices at Tompkins Wake.

Comply

Comply with all regulatory requirements and voluntary codes of practice for New Zealand business and Tompkins Wake operating procedures.

Set targets

Establish, implement and review measurable objectives and targets to ensure continual improvement of our practices, procedures and performance.

Take practicable steps

Ensure that we take all practicable steps to drive improvement in our workplace to prevent harm to ourselves, our clients and visitors with our goal always to be Zero Harm.

Review, learn and improve

Review and assess suppliers' environmental credentials in our procurement selections to drive improvement in reducing our environmental footprint and improving our sustainability, supporting our Zero Harm culture.

Jon Calder
Chief Executive Officer
3 June 2019

Harassment Policy

(Including Bullying and Discrimination)

| | |
|--------------|------------|
| Policy No: | P014 |
| Reviewed: | March 2019 |
| Next Review: | March 2020 |
| Responsible: | MPP |

1. INTRODUCTION

Tompkins Wake is committed to the provision of a healthy and safe working environment for all staff.

For the purpose of this policy, 'harassment' refers to bullying, discrimination, racial harassment and general workplace harassment.

All Tompkins Wake employees, partners, clients, volunteers and contractors are expected to treat each other fairly with dignity and respect. Harassment is completely unacceptable, illegal and incompatible with Tompkins Wake's core values.

Harassment in the workplace will not be tolerated and appropriate disciplinary action will be taken against those who offend. All forms of harassment, including bullying, sexual and racial harassment, will be treated very seriously and employees should be aware that it may result in dismissal.

Tompkins Wake is committed to training and awareness to ensure that all staff and partners know their rights and responsibilities.

Legal employers have a professional obligation to be a good employer and all employees have the legal right to be free from harassment at work (under the Employment Relations Act 2000 and the Human Rights Act 1993).

2. OBJECTIVES

- To maintain a work environment free of all forms of harassment;
- To have a procedure in place for dealing with any complaints of harassment that arise in the workplace;
- To ensure all employees are aware of the harassment policy;
- To ensure staff know how to access support and advice; and
- To deal swiftly with issues as they arise in accordance with the policy.

3. INVESTIGATION GROUP

Tompkins Wake will set up a group to be available for staff to discuss any harassment issues and investigate any complaints. The group will consist of:

- Chief Executive Officer (CEO);
- Manager People and Performance (MPP);
- Manager of Support Services (MSS);
- A Partner of the staff member's choice; and
- When required, an independent investigator.

Any three of the above group will investigate any harassment complaints and make recommendations or take disciplinary action as required.

4. POLICY

Tompkins Wake strictly prohibits harassment in the workplace and recognises that such behaviours can have a serious impact on the career, health, safety, and wellbeing of partners and employees.

This policy covers all harassment behaviours that happen:

- In the workplace;
- On social media or any work situations social or professional;
- During work events such as social events, conferences, training and work-based activities; and
- Outside of the workplace if it is in the context of the employment relationship or affects the workplace.

Harassment of a serious physical nature, including assault, sexual violation or rape, is a Police matter and complainants will be encouraged to take this to the Police. However, this does not limit the ability for the complaint to be dealt with in-house.

Tompkins Wake seeks to deal with all allegations of inappropriate behaviour promptly, in a sensitive and confidential manner and to take the necessary steps to ensure that there is no reoccurrence of the alleged behaviour. Management will treat seriously any allegation of harassment which is made maliciously or frivolously against an employee.

5. WHAT IS HARASSMENT, BULLYING AND DISCRIMINATION?

Harassment is a form of discrimination and is unlawful under both the Employment Relations Act 2000 and the Human Rights Act 1993.

Harassment of any kind is defined broadly as any behaviour directed towards an individual or group that a reasonable person would think is insulting, intimidating, victimising or disadvantaging and the behaviour displayed is:

- Unwelcome, hurtful or offensive to the recipient; and
- Is repeated or is of such significance as to adversely affect the recipient's employment or well-being.

Note: Harassment can occur vertically or horizontally. Vertical harassment can mean either downwards e.g. from a supervisor or person in a position of authority to a subordinate or upwards from a subordinate to their supervisor (or another individual in a position of authority) or horizontally on or by people who constitute peers or colleagues.

Harassment includes but is not confined to the following categories:

5.1 Workplace bullying

The WorkSafe guidelines have defined workplace bullying as 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 generally not considered workplace bullying, but it could escalate and should not be ignored.

WorkSafe have developed a table that puts common bullying behaviours in two main categories – attacks that are direct and personal, or indirect and task related. A copy of the table can be found below.

5.2 Bullying behaviours – personal and task related

| Personal attacks (direct) | Task-related attacks (indirect) |
|---|--|
| Belittling remarks – undermining integrity – lies being told – sense of judgement questioned – opinions marginalised | Giving unachievable tasks – impossible deadlines – unmanageable workloads – overloading – ‘setting up to fail’ |
| Ignoring – excluding – silent treatment – isolating | Meaningless tasks – unpleasant jobs – belittling a person’s ability – undermining |
| Attacking a person’s beliefs, attitude, lifestyle or appearance – gender references – accusations of being mentally disturbed | Withholding or concealing information – information goes missing – failing to return calls or pass on messages |
| Ridiculing – insulting – teasing – jokes – ‘funny surprises’ – sarcasm | Undervaluing contribution – no credit where it’s due – taking credit for work that’s not their own |
| Shouted or yelled at | Constant criticism of work |
| Threats of violence | Underwork – working below competence – removing responsibility – demotion |
| Insulting comments about private life | Unreasonable or inappropriate monitoring |
| Physical attacks | Offensive sanctions – e.g. denying leave |
| Public humiliation | Excluding – isolating – ignoring views |
| Persistent and/or public criticism | Changing goalposts or targets |
| Using obscene or offensive language, gestures, material | Not giving enough training or resources |
| Ganging up – colleagues/clients encouraged to criticise you or spy on you – witch hunt – dirty tricks campaign – singled out | Reducing opportunities for expression – interrupting when speaking |
| Intimidation – acting in a condescending manner | Sabotage |
| Intruding on privacy, e.g. spying, stalking, harassed by calls when on leave or at weekends | Supplying incorrect or unclear information |
| Unwanted sexual approaches, offers, or physical contact | Making hints or threats about job security |
| Verbal abuse | No support from supervisor |

| Personal attacks (direct) | Task-related attacks (indirect) |
|--|---|
| Inaccurate accusation | Scapegoating |
| Suggestive glances, gestures, or dirty looks | Denial of opportunity |
| Tampering with personal effects – theft – destruction of property | Judging wrongly |
| Encouraged to feel guilty | Forced or unjustified disciplinary hearings |
| Insulting comments about a person's sexual orientation i.e. male, female or part of the rainbow community. | Lack of role clarity |
| | Not trusting |

Source: WorkSafe New Zealand – Best Practice Guidelines ‘Preventing and responding to workplace bullying – February 2014’

5.3 What bullying is not

The following are examples of behaviours that are **not** considered to be bullying:

- Friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments;
- Assertive expressing of opinions that are different from yours;
- One-off or occasional instances of forgetfulness, rudeness or tactlessness;
- Setting high performance standards because of quality or safety;
- Giving you constructive feedback, including in a performance appraisal and requiring justified performance improvement;
- A supervisor/Partner requiring reasonable verbal or written work instructions to be carried out;
- Warning or disciplining employees in line with Tompkins Wake's Substandard Performance, Misconduct and Disciplinary Policy;
- A single incident of unreasonable behaviour (but it could escalate);
- Reasonable management actions directed at an employee can't be construed as bullying as long as they're delivered in a reasonable way; and
- Free and frank discussions with you about issues or concerns in the workplace, without personal insults.

5.4 Discrimination

Conduct which is likely to result in less favourable treatment, or create a less favourable environment, for any person/group than for another under similar circumstances, by reason of any of the prohibited grounds set out in the Human Rights Acts 1993 and the Employment Relations Act 2000. These are:

- Gender, including pregnancy and childbirth
- Marital status
- Religious belief
- Ethical belief
- Colour
- Race

- Ethnic or national origins
- Disability
- Age
- Political opinion
- Employment status
- Family status
- Sexual orientation including being part of the Rainbow community

Discrimination may arise from official statements, actions, omissions, decisions or policies as well as from informal or personal statements or conduct. It may also be indirect, that is it may have the effect of treating someone differently on a prohibited ground, even if the discrimination is not explicit.

6. WHAT SHOULD I DO IF I THINK I AM BEING HARASSED (BULLIED OR DISCRIMINATED) AGAINST?

Talking to a friend, relative, colleague, health and safety representative, contacting the NZLS 0800 phone line for support (0800 0800 28) or EAP can give you an objective viewpoint about whether you're actually being harassed or just experiencing annoying behaviour that occurs in any workplace.

You can also check out WorkSafe's 'Am I being bullied?' flowchart (Appendix 1) or complete their interactive questionnaire (<http://www.business.govt.nz/worksafe/tools-resources/bullying-prevention-tools/questionnaire/questionnaire>).

If you believe you are experiencing some form of harassment you are entitled to take action to stop it.

One of the three options you can take are:

- A low-key solution;
- Talk to your mentor, supervisor/Partner, MPP or MSS; or
- Lay a complaint.

You can choose to pursue any of these options. A flowchart of the options available is included in this document.

You can approach your supervisor/Partner or MPP to help you with the process. They can talk the problem over, outline the options available, source assistance if necessary and advise on the complaints procedure if the situation cannot be resolved between the parties. If the complainant does not wish to make a formal complaint, they will not be required to do so.

6.1 Try a low-key solution – talk to the person

If you believe you are experiencing some form of harassment, you are encouraged to respond assertively to the person who is harassing you, letting them know that their behaviour is unwelcome or inappropriate and asking them to stop it, or writing the person a 'private and confidential email' or note.

If you talk directly to the person targeting you, focus on the specific incidents, keep your language neutral, and try and see their viewpoint without excusing the behaviour. Be mindful of possible reprisals and keep a record of the date, time, location and details of the conversation. Always use appropriate language and be respectful.

6.2 Talk to your Supervisor, MPP or MSS

Where you feel unable to confront the harasser, or where the offensive behaviour is continuing, please talk to your supervisor/Partner. If the complaint involves your supervisor/partner, then take it to your team Leader or the CEO.

Your supervisor may refer you to the MPP or the investigation group for initial assistance in resolving the situation, convene a meeting between the parties or depending on your views and the seriousness of the matter, encourage you to take the complaint to the CEO.

Mediation with third party assistance may be an appropriate way to resolve an issue of harassment. It brings the matters out in the open in a safe environment and assists the parties to understand the nature and impact of harassing behaviours. It can also assist and facilitate the ongoing working relationship between parties. If you are satisfied with the outcome, the matter will be deemed to be resolved.

Mediation may not be an appropriate approach where the alleged behaviour, if proven, is of such a nature as to constitute misconduct requiring disciplinary action against the person responsible, where there is a risk to personal safety, or there are legal implications for Tompkins Wake if formal action does not follow.

6.3 Lay a complaint

If you elect not to try a low-key solution or talk to your supervisor/Partner, a formal harassment complaint may be made in writing. This involves you submitting a written complaint about the incident(s) that have taken place to the CEO or MPP. You may meet with the CEO or MPP where they can also take a written record of your complaint.

You can seek help from a designated support person to write your letter - your letter needs to include the following:

- a. The name of the respondent(s);
- b. What behaviours are alleged to have occurred;
- c. Where and when the alleged behaviours occurred; and
- d. Identification of any witnesses to the event(s).

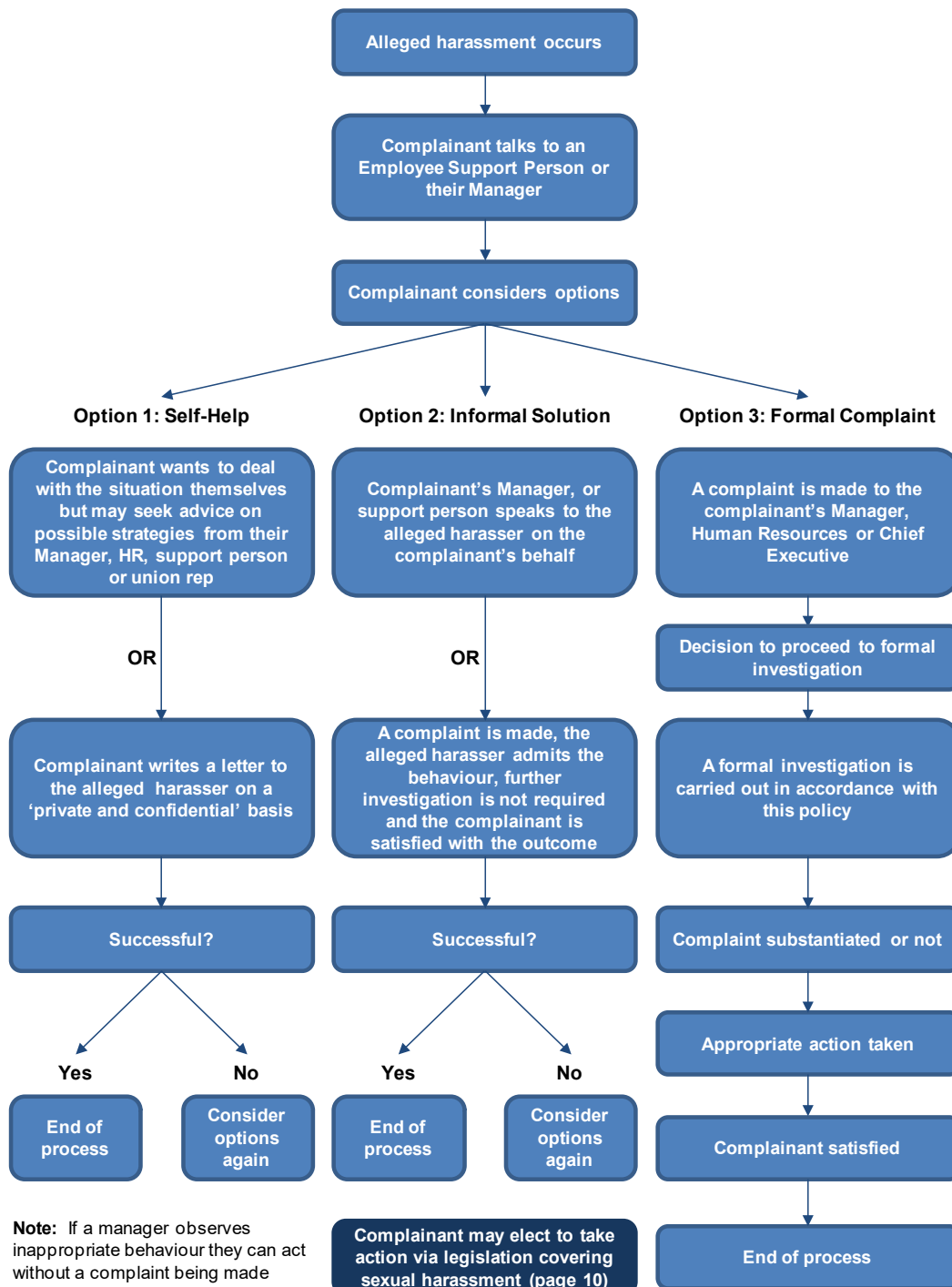
If the complaint has sufficient substance and it appears there has been an incidence of misconduct or serious misconduct, members of the Investigation Group or an external investigator (whichever the firm chooses to implement) will carry out an investigation in accordance with the Substandard Performance, Misconduct and Disciplinary Policy.

Where a formal complaint is submitted for investigation, the complaint will be given to the partner or staff member/s who is/are the subject of the complaint; they will then

have an opportunity to respond to the complaint. Such formal complaints cannot be anonymous.

Your complaint will be kept confidential - this means that information about a complaint is only provided to those people who need to know about it.

Flowchart for internal resolution of harassment



6.4 Obligation to report re Lawyers and Conveyancers Act Rules 2008

It maybe that you are concerned about something related to the conduct of another lawyer or staff member. If you are, and you believe this may constitute misconduct, or unsatisfactory conduct, then please be aware of the obligations to report under section 2.8 and 2.9 of the Lawyers and Conveyancers Act (Lawyers; Conduct and Client Care Rules) Rules 2008.

6.5 Raise a formal complaint with the Human Rights Commission or Employment Relations Authority

You may raise a personal grievance if you are harassed or discriminated against and Tompkins Wake does not do anything about it. There is a 90-day time frame for you to raise a personal grievance under the Employment Relations Act 2000 (ERA). You can also decide to refer a complaint of discrimination or harassment to the Human Rights Commission (HRC), under the Human Rights Act 1993.

7. PROTECTION AGAINST VICTIMISATION

An employee will not be victimised or suffer any disadvantage as a result of discussing any issue relating to discrimination or harassment with a contact person.

Anyone who attempts to victimise or disadvantage another person for making a complaint may be subject to disciplinary action.

8. UNSUBSTANTIATED ALLEGATIONS

The potential consequences for someone accused of harassment are severe. Therefore, an allegation of harassment against another staff member which is found to be malicious and/or unfounded could itself be considered an act of harassment.

An unsubstantiated allegation which is found to be malicious and/or unfounded may result in disciplinary action against the complainant.

This should in no way discourage you from making a legitimate complaint.

9. TOMPKINS WAKE'S RESPONSE

Irrespective of whether the complainant makes a formal or informal complaint Tompkins Wake will take the following steps in every harassment, bullying or discrimination complaint that is made known to Tompkins Wake:

- Respect the individual's right to confidentiality;
- Provide advice when asked on what the appropriate course of action would be;
- Provide training to the team or individuals concerned if relevant;
- Offer independent mediation; and
- It should be noted that harassment, bullying and discrimination are behaviours which may result in a written warning being issued or summary dismissal.

10. INVESTIGATION

10.1 Investigator's Role

- An investigator will be appointed by the Chair of the Board or the CEO or MPP. The investigator can be internal or external to Tompkins Wake.
- The investigator is responsible for determining what happened and whether or not sexual harassment has occurred.

10.2 Investigation Process

- The respondent is formally advised in writing that a complaint has been made and informed of the specific allegations and of the potential outcome of the investigation. They are given the opportunity to formally respond within a specified timeframe.
- Tompkins Wake's role is to decide what outcomes are appropriate as a result of the findings in the investigator's report.
- The complainant is interviewed and the allegations are formally documented. The complainant may be accompanied by a support person. An accurate account of the incident(s) will be obtained from the complainant and the complainant will sign a record of their account.
- A formal meeting is arranged with the respondent to allow a response to the allegations. The respondent may be accompanied by a support person. The respondent's formal response will be documented by the investigator and the respondent will sign a record of their account.
- Consideration will be given to whether it is necessary, and appropriate, to obtain statements from any witnesses and other relevant information. That information will be provided to the complainant and respondent who will be given the opportunity to comment on that information.
- Consideration may be given as to whether the respondent needs to be removed from the environment (or restrictions considered), should the on-going safety and security of the complainant, the respondent and/or other staff be at risk.

10.3 Outcomes of the Investigation

- The investigator will collate the information and prepare a draft report which will be provided to the complainant and the respondent for comment.
- A copy of the final report will be provided to the complainant and respondent before a final decision is made.
- Each party will be advised of the outcome of the investigation once the final report has been provided.
- Whether or not the respondent is subject to disciplinary action as a result of a harassment complaint is a confidential matter between Tompkins Wake and the respondent.
- The complainant will be informed that the matter has been appropriately dealt with by Tompkins Wake (subject to any privacy considerations arising from the employment relationship). The complainant will be given sufficient information to feel safe and empowered to take further steps if the behaviour recurs.

- Serious sexual harassment, or physical assault, may come under the provisions of the Crimes Act 1961. In such a case, the complainant, or Tompkins Wake on the complainant's behalf, can lodge a complaint with the Police. The complainant should be supported to do so, if they wish.
- If the conduct potentially breaches the *Rules of conduct and client care for lawyers*, the behaviour must be promptly reported to the New Zealand Law Society (rule 2.8).
- Consideration must be given to whether the respondent needs to be removed from the environment (or restrictions considered), should the on-going safety and security of the complainant, the respondent and/or other staff be at risk.
- A review of the investigation process can be instigated by either party.

10.4 Outcomes of Process

Depending on the circumstances, outcomes from the above process may include:

- The complainant feeling satisfied that the problem has been resolved;
- Where allegations are admitted or substantiated, the outcomes for the respondent of breaching this policy may range from an apology, counselling and training to warnings and dismissal. Disciplinary action will match the seriousness of the breach and be dealt with in line with the Substandard Performance, Misconduct and Disciplinary Policy. 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. If the conduct potentially breaches the *Rules of conduct and client care for lawyers*, the behaviour must be promptly reported to the New Zealand Law Society (rule 2.8);
- The outcomes for the complainant may include remedies under the Human Rights Act 1993, for example crediting of any leave taken. Outcomes may also include interventions such as supportive counselling, a change in the work environment, or participation in mediation.
- Where allegations are not substantiated it may still be appropriate to undertake some action, for example, refresher training or communications training. This ought not to single out or punish the respondent if there has been no finding.
- Some form of behaviour modification, e.g. counselling for the respondent; and/or
- Changes to work practices and/or environment.

10.5 You can seek external advice

You can seek external assistance at any stage from the Employee Assistance Programme Service (EAP), the Human Rights Commission, the Employment Relations Service, an independent lawyer, the New Zealand Law Society or someone you trust. Tompkins Wake have engaged EAP to provide professional and confidential support to you in instances of harassment. EAP will provide immediate advice, discuss various options available to you and assist you in attempts of remedying the situation.

11. EFFECTS AND RISKS

Harassment, bullying and discrimination may lead to poor performance, absenteeism, low morale and high staff turnover. Harassment can be a form of discrimination, and some forms of harassment (e.g. racial and sexual harassment) are unlawful under the Human Rights Act 1993. If Tompkins Wake fails to follow up a complaint of harassment, there is potential that a personal grievance may be raised.

12. RELEVANT LEGISLATION

- Employment Relations Act 2000
- Human Rights Act 1993
- Local Government Act 2002
- Privacy Act 1993
- Health and Safety in Employment Act 1992 and amendments
- Parental Leave and Employment Act 1997
- Harassment Act 1997

13. RELATED POLICIES AND CONTACT DETAILS

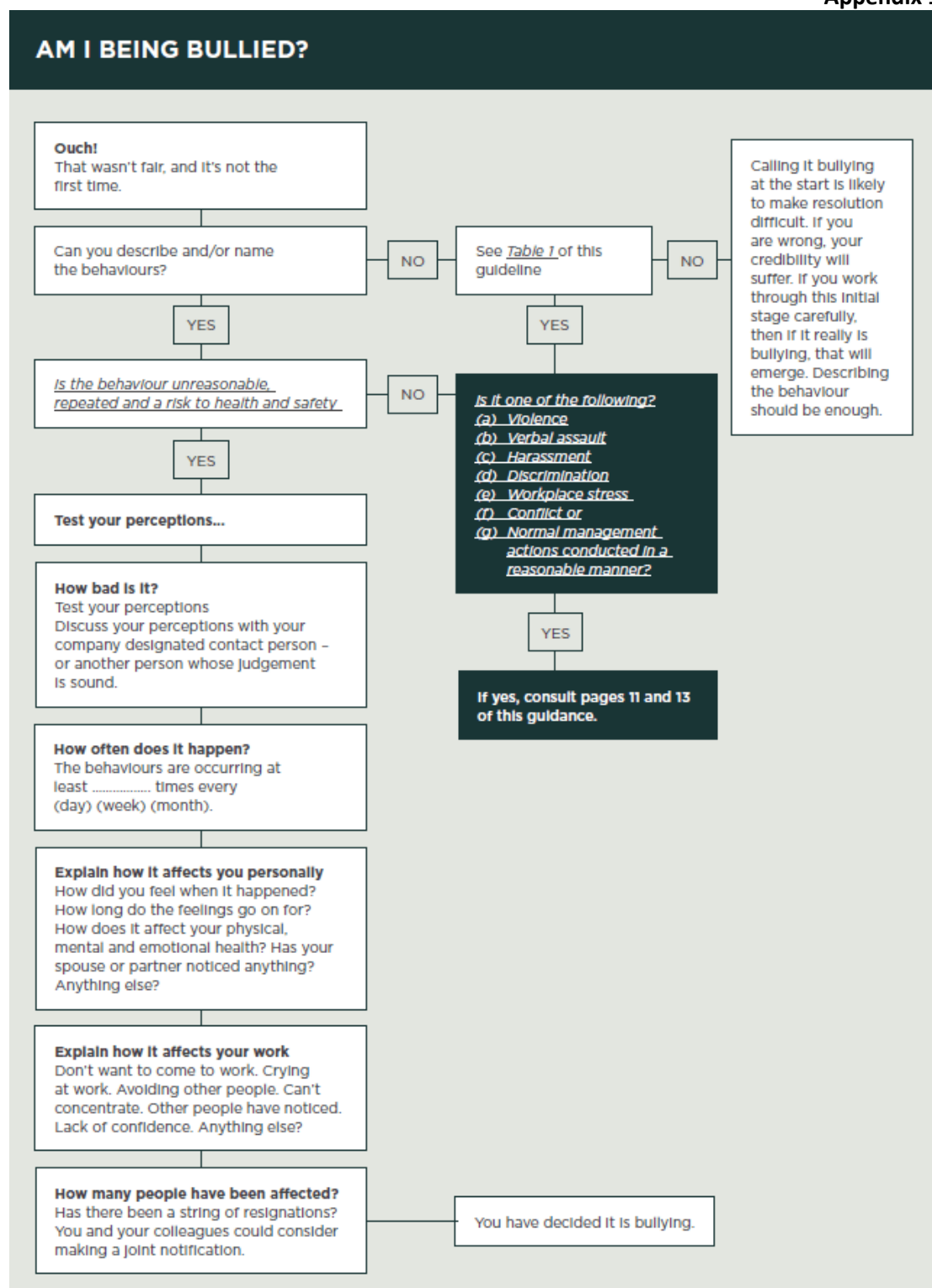
- Tompkins Wake's Substandard Performance, Misconduct and Disciplinary Policy
- WorkSafe guidelines for preventing and responding to workplace bullying (<http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/bullying-guidelines>)
- Human Rights Commission - 0800 496 877 or <http://www.hrc.co.nz/>
- Ministry of Business, Innovation and Employment - 0800 209 020 or <http://www.dol.govt.nz/>
- WorkSafe New Zealand - 0800 030 040 or www.business.govt.nz/worksafe
- New Zealand Police - 111 for emergencies only. Call your local Police station for all other calls.
- In Auckland, Auckland Women Lawyers Association www.awla.org.nz
- In Waikato BOP – committee of the local branch Emma Miles: waikatobop@lawsociety.or.nz
- For lawyers – national Friends Panel: www.lawsociety.org.nz/about-nzls/law-society-services/national-friends-panel

14. AUDIENCE

This policy applies to all employees and partners of Tompkins Wake, unless otherwise specified. This policy also applies to clients, volunteers and contractors.

15. MEASUREMENT AND REVIEW

The review period will be yearly unless there is a change to legislation. The MPP will be responsible for the review.



* Note table 1 is on page 3 of this policy

** Go to <http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/bullying-guidelines/01> to go to pages 11 and 13 of the WorkSafe guidance document (as referred to above)

Source: WorkSafe New Zealand – Best Practice Guidelines 'Preventing and responding to workplace bullying – February 2014'

Sexual Harassment Policy

| | |
|--------------|------------|
| Policy No: | P009 |
| Reviewed: | March 2019 |
| Next Review: | March 2020 |
| Responsible: | MPP |

16. INTRODUCTION

Tompkins Wake is committed to the provision of a healthy and safe working environment for all staff.

For the purpose of this policy, 'sexual harassment' is any unwelcome or offensive behaviour that is repeated or is of such a significant nature to have a harmful effect, or which contains an implied or covert of preferential treatment or an implied or overt threat of detrimental treatment.

All Tompkins Wake employees, partners, clients, volunteers and contractors are expected to treat each other fairly with dignity and respect. Sexual harassment is completely unacceptable, illegal and incompatible with Tompkins Wake's core values.

Sexual harassment in the workplace will not be tolerated and appropriate disciplinary action will be taken against those who offend. Sexual harassment will be treated very seriously and employees should be aware that it may result in dismissal.

Tompkins Wake is committed to training and awareness to ensure that all staff and partners know their rights and responsibilities.

Legal employers have a professional obligation to be a good employer and all employees have the legal right to be free from harassment at work (under the Employment Relations Act 2000 and the Human Rights Act 1993).

17. OBJECTIVES

- To maintain a work environment free of all forms of sexual harassment;
- To have a procedure in place for dealing with any complaints of any harassment that arises in the workplace;
- To ensure all employees are aware of the sexual harassment policy;
- To ensure staff know how to access support and advice; and
- To deal swiftly with issues as they arise in accordance with the policy.

18. INVESTIGATION GROUP

Tompkins Wake will set up a group to be available for staff to discuss any sexual harassment issues and investigate any complaints. The group will consist of:

- Chief Executive Officer (CEO);
- Manager People and Performance (MPP);
- Manager of Support Services (MSS);
- A partner of the staff member's choice; and
- When required, an independent investigator.

Any three of the above group will investigate any sexual harassment complaint(s) and make recommendations or take disciplinary action as required.

19. POLICY

Tompkins Wake strictly prohibits sexual harassment in the workplace and recognises that such behaviours can have a serious impact on the career, health, safety, and wellbeing of partners and employees.

This policy covers all harassment behaviours that happen:

- In the workplace;
- On social media or any work situations social or professional;
- During work events such as social events, conferences, training and work-based activities; and
- Outside of the workplace if it is in the context of the employment relationship or affects the workplace.

Sexual harassment of a serious physical nature, including assault, sexual violation or rape, is a Police matter and complainants will be encouraged to take this to the Police. However, this does not limit the ability for the complaint to be dealt with in-house.

Tompkins Wake seeks to deal with all allegations of inappropriate behaviour promptly, in a sensitive and confidential manner and to take the necessary steps to ensure that there is no reoccurrence of the alleged behaviour. Management will treat seriously any allegation of harassment which is made maliciously or frivolously against an employee.

20. WHAT IS SEXUAL HARASSMENT, BULLYING AND DISCRIMINATION?

Harassment is a form of discrimination and is unlawful under both the Employment Relations Act 2000 and the Human Rights Act 1993.

Sexual harassment of any kind is defined broadly as any behaviour directed towards an individual or group that a reasonable person would think is insulting, intimidating, victimising or disadvantaging and the behaviour displayed is:

- Unwelcome, hurtful or offensive to the recipient; and
- Is repeated or is of such significance as to adversely affect the recipient's employment or well-being.

Note: Sexual harassment can occur vertically or horizontally. Vertical sexual harassment can mean either downwards e.g. from a supervisor or person in a position of authority to a subordinate or upwards from a subordinate to their supervisor (or another individual in a position of authority) or horizontally on or by people who constitute peers or colleagues.

20.1 Sexual harassment

Sexual harassment may occur irrespective of the recipient's gender or sexual orientation and is:

- Unwanted attention of a sexually orientated nature;

- A request for sexual activity together with an implied or overt promise of preferential treatment or a threat of detrimental treatment; and/or
- Physical behaviour, language or visual material of a sexual nature which is unwelcome or offensive and either repeated or significant enough to have a detrimental effect on the person subjected to it.
- Inappropriate behaviours can be subtle, context dependent and may include different cultural understandings of what is considered appropriate behaviour.

Examples of sexual harassment include but are not limited to:

- Offensive verbal comments of a sexual nature;
- Sexual assault;
- Requests for sexual favours, or pressure for sex or other sexual acts;
- Sexual or 'smutty' jokes;
- Repeated comments or teasing about someone's alleged sexual activities or private life, clothing or physical appearance;
- Persistent, unwelcome social invitations, messages on social networking websites, telephone calls or emails from workmates at work or at home;
- Following someone home from work or stalking;
- Offensive hand or body gestures or inappropriate display of the body;
- Leering or ogling;
- Unwelcome physical contact, e.g. patting, pinching, touching or putting an arm around another person; and/or
- Provocative visual material in either hardcopy or electronic media.

Sexual harassment is not friendships, sexual or otherwise, where both people consent to the relationship.

For behaviour to be defined as sexual harassment three major elements must be met. They are:

1. The behaviour must be unwelcome;
2. Conduct must be sexual or sex-based; and
3. It must materially adversely impact on work performance, employment opportunity or job satisfaction or on them personally.

The definition of sexual harassment applies to you, clients and members of the public, who come into contact in the workplace. It could include a single act of a significantly detrimental nature, or repeated offences. The definition is not limited to heterosexual behaviour and covers incidents that occur outside work hours and off work premises, but still have a work connection.

Examples of what may not be sexual harassment:

- Friendly banter, mutually acceptable jokes;
- Occasional appropriate compliments; and
- Behaviour based on mutual attraction.

21. WHAT SHOULD I DO IF I THINK I AM BEING SEXUALLY HARASSED?

Talking to a friend, relative, colleague, health and safety representative, contacting the NZLS 0800 phone line for support (0800 0800 28) or EAP can give you an objective viewpoint about whether you're actually being harassed or just experiencing annoying behaviour that occurs in any workplace.

You can also check out WorkSafe's website which contains information about sexual harassment in the workplace - <https://worksafe.govt.nz/topic-and-industry/sexual-harassment/>

If you believe you are experiencing some form of harassment you are entitled to take action to stop it.

One of the three options you can take are:

- A low-key solution;
- Talk to your mentor, supervisor/Partner, MPP or MSS; or
- Lay a complaint.

You can choose to pursue any of these options. A flowchart of the options available is included in this document.

You can approach your supervisor/Partner or MPP to help you with the process. They can talk the problem over, outline the options available, source assistance if necessary and advise on the complaints procedure if the situation cannot be resolved between the parties. If the complainant does not wish to make a formal complaint, they will not be required to do so.

21.1 Try a low-key solution – talk to the person

If you believe you are experiencing some form of sexual harassment, you are encouraged to respond assertively to the person who is harassing you, letting them know that their behaviour is unwelcome or inappropriate and asking them to stop it, or writing the person a 'private and confidential email' or note.

If you talk directly to the person targeting you, focus on the specific incidents, keep your language neutral, and try and see their viewpoint without excusing the behaviour. Be mindful of possible reprisals and keep a record of the date, time, location and details of the conversation. Always use appropriate language and be respectful.

21.2 Talk to your Supervisor, MPP or MSS

Where you feel unable to confront the harasser, or where the offensive behaviour is continuing, please talk to your supervisor/Partner. If the complaint involves your supervisor/Partner, then take it to your team Leader or the CEO.

Your supervisor may refer you to the MPP or the investigation group for initial assistance in resolving the situation, convene a meeting between the parties or depending on your views and the seriousness of the matter, encourage you to take the complaint to the CEO.

Mediation with third party assistance may be an appropriate way to resolve an issue of harassment. It brings the matters out in the open in a safe environment and assists the parties to understand the nature and impact of harassing behaviours. It can also assist and facilitate the ongoing working relationship between parties. If you are satisfied with the outcome, the matter will be deemed to be resolved.

Mediation may not be an appropriate approach where the alleged behaviour, if proven, is of such a nature as to constitute misconduct requiring disciplinary action against the person responsible, where there is a risk to personal safety, or there are legal implications for Tompkins Wake if formal action does not follow.

21.3 Lay a complaint

If you elect not to try a low-key solution or talk to your supervisor/Partner, a formal sexual harassment complaint may be made in writing. This involves you submitting a written complaint about the incident(s) that have taken place to the CEO or MPP. You may meet with the CEO or MPP where they can also take a written record of your complaint.

You can seek help from a designated support person to write your letter - your letter needs to include the following:

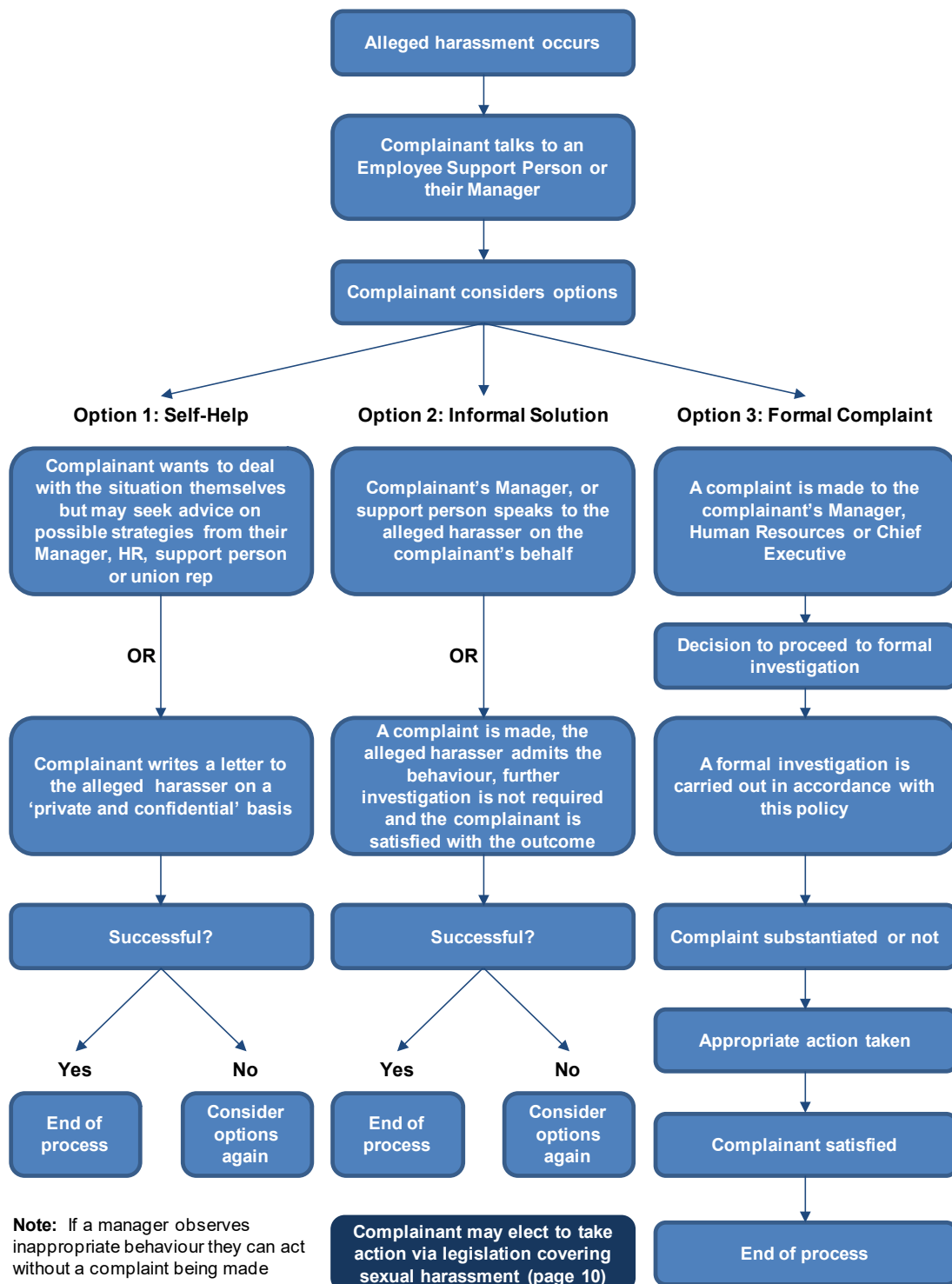
- e. The name of the respondent(s);
- f. What behaviours are alleged to have occurred;
- g. Where and when the alleged behaviours occurred; and
- h. Identification of any witnesses to the event(s).

If the complaint has sufficient substance and it appears there has been an incidence of misconduct or serious misconduct, members of the Investigation Group or an external investigator (whichever the firm chooses to implement) will carry out an investigation in accordance with the Substandard Performance, Misconduct and Disciplinary Policy.

Where a formal complaint is submitted for investigation, the complaint will be given to the partner or staff member/s who is/are the subject of the complaint; they will then have an opportunity to respond to the complaint. Such formal complaints cannot be anonymous.

Your complaint will be kept confidential - this means that information about a complaint is only provided to those people who need to know about it.

Flowchart for internal resolution of sexual harassment



21.4 Obligation to report re Lawyers and Conveyancers Act Rules 2008

It maybe that you are concerned about something related to the conduct of another lawyer or staff member. If you are, and you believe this may constitute misconduct, or unsatisfactory conduct, then please be aware of the obligations to report under section 2.8 and 2.9 of the Lawyers and Conveyancers Act (Lawyers; Conduct and Client Care Rules) Rules 2008.

21.5 Raise a formal complaint with the Human Rights Commission or Employment Relations Authority

You may raise a personal grievance if you are harassed or discriminated against and Tompkins Wake does not do anything about it. There is a 90-day time frame for you to raise a personal grievance under the Employment Relations Act 2000 (ERA). You can also decide to refer a complaint of discrimination or harassment to the Human Rights Commission (HRC), under the Human Rights Act 1993.

22. PROTECTION AGAINST VICTIMISATION

An employee will not be victimised or suffer any disadvantage as a result of discussing any issue relating to sexual harassment with a contact person.

Anyone who attempts to victimise or disadvantage another person for making a complaint may be subject to disciplinary action.

23. UNSUBSTANTIATED ALLEGATIONS

The potential consequences for someone accused of sexual harassment are severe. Therefore, an allegation of sexual harassment against another staff member which is found to be malicious and/or unfounded could itself be considered an act of harassment.

An unsubstantiated allegation which is found to be malicious and/or unfounded may result in disciplinary action against the complainant.

This should in no way discourage you from making a legitimate complaint.

24. TOMPKINS WAKE'S RESPONSE:

Irrespective of whether the complainant makes a formal or informal complaint Tompkins Wake will take the following steps in every sexual harassment complaint that is made known to Tompkins Wake:

- Respect the individual's right to confidentiality;
- Provide advice when asked on what the appropriate course of action would be;
- Offer independent mediation; and
- It should be noted that sexual harassment, is behaviour which may result in a written warning being issued or summary dismissal.

25. INVESTIGATION

25.1 Investigator's Role

- An investigator will be appointed by the Chair of the Board or the CEO or MPP. The investigator can be internal or external to the agency.
- The investigator is responsible for determining what happened and whether or not sexual harassment has occurred.

25.2 Investigation Process

- The respondent is formally advised in writing that a complaint has been made and informed of the specific allegations and of the potential outcome of the investigation. They are given the opportunity to formally respond within a specified timeframe.
- Tompkins Wake's role is to decide what outcomes are appropriate as a result of the findings in the investigator's report.
- The complainant is interviewed and the allegations are formally documented. The complainant may be accompanied by a support person. An accurate account of the incident(s) will be obtained from the complainant and the complainant will sign a record of their account.
- A formal meeting is arranged with the respondent to allow a response to the allegations. The respondent may be accompanied by a support person. The respondent's formal response will be documented by the investigator and the respondent will sign a record of their account.
- Consideration will be given to whether it is necessary, and appropriate, to obtain statements from any witnesses and other relevant information. That information will be provided to the complainant and respondent who will be given the opportunity to comment on that information.
- Consideration may be given as to whether the respondent needs to be removed from the environment (or restrictions considered), should the on-going safety and security of the complainant, the respondent and/or other staff be at risk.

25.3 Outcomes of the Investigation

- The investigator will collate the information and prepare a draft report which will be provided to the complainant and the respondent for comment.
- A copy of the final report will be provided to the complainant and respondent before a final decision is made.
- Each party will be advised of the outcome of the investigation once the final report has been provided.
- Whether or not the respondent is subject to disciplinary action as a result of a sexual harassment complaint is a confidential matter between Tompkins Wake and the respondent.
- The complainant will be informed that the matter has been appropriately dealt with by Tompkins Wake (subject to any privacy considerations arising from the employment relationship). The complainant will be given sufficient information to feel safe and empowered to take further steps if the behaviour recurs.

- Serious sexual harassment, or physical assault, may come under the provisions of the Crimes Act 1961. In such a case, the complainant, or Tompkins Wake on the complainant's behalf, can lodge a complaint with the Police. The complainant should be supported to do so, if they wish.
- If the conduct potentially breaches the *Rules of conduct and client care for lawyers*, the behaviour shall be promptly reported to the New Zealand Law Society (rule 2.8).
- Consideration must be given to whether the respondent needs to be removed from the environment (or restrictions considered), should the on-going safety and security of the complainant, the respondent and/or other staff be at risk.
- A review of the investigation process can be instigated by either party.

25.4 Outcomes of Process

Depending on the circumstances, outcomes from the above process may include:

- The complainant feeling satisfied that the problem has been resolved;
- Where allegations are admitted or substantiated, the outcomes for the respondent of breaching this policy may range from an apology, counselling and training to warnings and dismissal. Disciplinary action will match the seriousness of the breach and be dealt with in line with the Substandard Performance, Misconduct and Disciplinary Policy. 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. If the conduct potentially breaches the *Rules of conduct and client care for lawyers*, the behaviour must be promptly reported to the New Zealand Law Society (rule 2.8);
- The outcomes for the complainant may include remedies under the Human Rights Act 1993, for example crediting of any leave taken. Outcomes may also include interventions such as supportive counselling, a change in the work environment, or participation in mediation.
- Where allegations are not substantiated it may still be appropriate to undertake some action, for example, refresher training or communications training. This ought not to single out or punish the respondent if there has been no finding.
- Some form of behaviour modification, e.g. counselling for the respondent; and/or
- Changes to work practices and/or environment.

25.5 You can seek external advice

You can seek external assistance at any stage from the Employee Assistance Programme Service (EAP), the Human Rights Commission, the Employment Relations Service, an independent lawyer, the New Zealand Law Society or someone you trust. Tompkins Wake have engaged EAP to provide professional and confidential support to you in instances of harassment. EAP will provide immediate advice, discuss various options available to you and assist you in attempts of remedying the situation.

26. EFFECTS AND RISKS

Sexual harassment may lead to poor performance, absenteeism, low morale and high staff turnover. Sexual harassment is unlawful under the Human Rights Act 1993. If

Tompkins Wake fails to follow up a complaint of sexual harassment, there is potential that a personal grievance may be raised.

27. RELEVANT LEGISLATION

- Employment Relations Act 2000
- Human Rights Act 1993
- Local Government Act 2002
- Privacy Act 1993
- Health and Safety at Work Act 2015 and amendments
- Parental Leave and Employment Act 1997
- Harassment Act 1997

28. RELATED POLICIES AND CONTACT DETAILS

- Tompkins Wake's Substandard Performance, Misconduct and Disciplinary Policy
- WorkSafe information on sexual harassment in the workplace - <https://worksafe.govt.nz/topic-and-industry/sexual-harassment/>
- Human Rights Commission - 0800 496 877 or <http://www.hrc.co.nz/>
- Ministry of Business, Innovation and Employment - 0800 209 020 or <http://www.dol.govt.nz/>
- WorkSafe New Zealand - 0800 030 040 or www.business.govt.nz/worksafe
- New Zealand Police - 111 for emergencies only. Call your local Police station for all other calls.
- In Auckland, Auckland Women Lawyers Association www.awla.org.nz
- In Waikato BOP – committee of the local branch Emma Miles: waikatobop@lawsociety.or.nz
- For lawyers – national Friends Panel: www.lawsociety.org.nz/about-nzls/law-society-services/national-friends-panel

29. AUDIENCE

This policy applies to all employees and partners of Tompkins Wake, unless otherwise specified. This policy also applies to clients, volunteers and contractors.

30. MEASUREMENT AND REVIEW

The review period will be yearly unless there is a change to legislation. The MPP will be responsible for the review.

Appendix One

Romantic and other intimate personal relationships and close friendships with work colleagues will *not* be considered 'sexual harassment' for the purpose of the Sexual Harassment Policy and will usually be unobjectionable, when conducted on a genuinely consensual basis.

Nonetheless, there are some situations in which Tompkins Wake needs to rely on the good judgment of its employees either to avoid fostering such a relationship or close friendship in the first place or to take responsibility for making sure that any matters that arise from or out of such a relationship or friendship will not have any adverse effects on or relating to:

- the firm's reputation;
- the security of the firm's confidential information;
- the wellbeing and job satisfaction of the other person in the relationship;
- perceptions that may understandably be formed by other employees.

Examples of situations where an intimate relationship or close friendship could put any of the foregoing matters at risk would be where a Partner, manager, senior member of the same team or mentor enters into a romantic relationship with a person who reports to him or her, or who is a junior – this could lead to perceptions of favouritism or conflict of interest by other employees, or eventually result in allegations of exploitation by the junior party in the relationship.

An example of a situation where the confidentiality of information could be compromised or understandably perceived to be compromised would be where one of the parties to the relationship has access to sensitive information (for instance about other employees) but the other party to the relationship does not.

In some contexts, a party to such a relationship must distance himself or herself from any decision-making or even recommendatory role in respect of the other party, for instance, performance appraisals, any request that could be perceived as one for preferential treatment and, even more so, disciplinary decisions or recommendations. In all such instances the decision or recommendation should be entrusted to an independent person or, if appropriate, to an external investigator.

Any intimate personal relationship between employees, Partners, or Partners and employees, whether hierarchical or at the same level, must be disclosed to the CEO or MPP.

If an employee, whether or not involved in the relationship, believes they have been, or are being, adversely affected by an inappropriate relationship, they are encouraged to contact the CEO or MPP.

If such a relationship is deemed by the CEO or MPP to be uncondusive to a productive, safe and satisfactory work environment, the CEO or MPP will meet with the affected parties to discuss appropriate action. Actions taken may include (but are not limited to) the transfer of one or both parties in the relationship to a different team or office, and/or may include a change in the responsibilities of the parties.

If an intimate personal relationship or close friendship develops into a situation that may be viewed as harassment or sexual harassment, this may be addressed in accordance with

Tompkins Wake's Harassment Policy or Sexual Harassment Policy. If questions or concerns arise regarding potential harassment or sexual harassment, the employee should refer to the appropriate policy.