Addressing Bullying, Harassment and Discrimination			
First Produced:	28/06/22	Authorisation:	Te Kāhui Manukura (TKM)
Current Version:	06/11/25		
Past Revisions:	06/09/25		
Review Cycle:	3-year cycle	Officer	Director – People & Culture (P&C)
Applies From:	Immediately	Responsible:	

All policies on Waituhi are the current version. Please check date of this hard copy before proceeding.

1 Introduction

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

Hono |Connect, Hihiri | Inspire, and Aroha | Respect are Ara's core values. In accordance with these values, Ara is committed to providing an environment in which all members of the Ara community are valued and treated with respect, and where bullying, harassment, and discrimination are known to be unacceptable. Ara regards any incident of bullying, harassment, and discrimination as a serious matter, has a zero-tolerance mindset about such behavior, and will address all formal and informal complaints to ensure the preservation of a safe work and study environment.

This policy sets out the expectations placed on all members of Ara's community in relation to harassment, bullying, and discrimination.

The People and Culture Division have oversight of complaints involving staff under that policy, and the Policy & Complaint Lead has oversight if staff are not involved.

1.1 Purpose

a The purpose of this policy is to –

i Foster a positive culture for working and studying which supports a diverse, collegial scholarly community within a framework of respect for the rights of others.

ii Promote an enabling and inclusive environment where all individuals are treated with dignity and respect, free from harassment, bullying, and discrimination.

iii Ensure that occurrences of harassment, bullying, and discrimination within Ara are taken seriously and dealt with promptly and with due sensitivity.

iv Set out the framework for raising, addressing, and resolving concerns about individual or collective behaviour.

1.2 Scope and Application

This policy applies to the entire Ara community (refer definitions).

1.3 Formal Delegations

a If an allegation of bullying, harassment, or discrimination is made against a contractor, the Director – People & Culture will determine the appropriate process within the spirit of this policy.

b For all other specified responsibilities relating to this policy refer to CPP120b People and Culture Delegations schedule.

1.4 Definitions

a **Ara community:** includes all colleagues (whether permanent, fixed-term, full-time or part-time, proportional, or casual) honorary colleagues, students (whether full-time or part-time), contractors, subcontractors, consultants, official visitors, or guests of Ara.

b **Ara Leadership / Management / Manager:**

i **Te Kāhui Manukura (TKM):** Ara's executive leadership team including the Chief Executive and divisional Directors and Deans of Faculty.

ii **Director:** A member of Ara's executive leadership team, reporting to a Chief Executive and with direct reports, working collaboratively to operationalise Ara's strategic priorities.

iii **Deans of Faculty:** Members of Ara's senior leadership, reporting to the Chief Executive and with direct reports, holding responsibility for the leadership and facilitation of Ara's academic divisions.

iv **Portfolio Manager:** A department leadership role with direct reports.

v **Line Manager:** A sectional leadership role with direct reports.

c **Bullying:** repeated and unreasonable behaviour directed toward a person or a group of people that creates a risk to their mental or physical health, safety, and wellbeing. Examples (non-exhaustive list) of what bullying is and what it is not, are described in *CPP222b Examples of Bullying.*

d **Bystander or Witness:** a person who witnesses incidents of bullying, harassment, or discrimination even though they personally are not subjected to it. Any bystander who believes someone affiliated with Ara has been harassed, bullied, discriminated against, or victimised is encouraged to take immediate steps to raise it with the appropriate person (refer *CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination*).

e **Complainant:** the person alleging bullying, harassment, or discrimination.

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

g **Discrimination:** can occur when a person is treated less favourably than another person, in the same or similar circumstances, because of a prohibited ground such as their sex, colour, religious belief, race, marital status, ethnic or national origins, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability (refer *CPP222d Unlawful Discrimination*).

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

i Refuses or omits to employ an applicant for work that they are qualified for.

ii Refuses or omits to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available for other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances.

iii Dismisses that employee or subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed or subjected to such detriment,

iv Retires the employee or requires or causes the employee to retire or resign, directly or indirectly, and can be unlawful when relating to particular legislative requirements.

i **Colleague/employee/staff member:** All permanent (tenured) full-time and part-time (including proportional), fixed term (limited tenure) and casual colleagues employed by Ara.

j **Environment:** Means both physical environments at Ara and online platforms including the internet, Waituhi (intranet) and all forms of social media (e.g., Yammer, Facebook, etc).

k **Gender based harassment** Describes a wide range of behaviour based on gender stereotypes, sexual orientation, or gender identity. Such behaviour includes verbal, physical, visual, or digital actions which demean, belittle, or threaten a person. It does not necessarily suggest sexual interest or intent; it is often about making a person feel unwelcome, uncomfortable, inferior, or vulnerable. **Examples of** (non-exhaustive list) what harassment is and what it is not, is described in *CPP222c Examples of Harassment*.

l **Harassment:** Unreasonable or unwelcome conduct that is offensive, humiliating, or intimidating to any other person and is either repeated, or of such significant nature that it has a detrimental effect on the person, their performance, or their work and study environment. It includes gender-based, racial, and sexual harassment. **Examples of** (non-exhaustive list) what harassment is and what it is not, is described in *CPP222c Examples of Harassment*.

m **Indirect discrimination:** Occurs when there is any conduct, practice, requirement, or condition that is not apparently discriminatory but has the effect of treating a person or group of persons differently on one of the prohibited grounds of discrimination in a situation where such treatment would be unlawful under the Human Rights Act 1993. This type of conduct, practice, condition, or requirement is likely to be indirect discrimination unless Ara can establish that there is good reason for it.

n **Members:** refers to all people in the Ara Community.

o **Natural justice:** in this policy the concept of natural justice ensures that any allegation of bullying, harassment, or discrimination is handled without bias and enables rights to fair hearings. Natural justice ensures –

i Those complained about have the right to be told about concern(s) regarding their job performance or behaviour that could lead to disciplinary action.

ii Those complained about have the right to be told that concerns have been raised, and in the case of a formal complaint, the right to know who has raised the issue(s) or concern(s) and to see the formal complaint(s).

iii Those complained about have a right to an opportunity to respond to allegations about their performance or behaviour before any decision regarding action on those allegations is made.

iv All parties involved in the processes covered by this policy have the right to be listened to, and to seek and be given advice, support, and representation of their choice throughout the process. They are entitled to be heard, taken seriously and have their matter dealt with - taking into account their wellbeing and ongoing interaction with Ara.

p **People and Capability Representative:** Includes the Director – P&C; Employment Relations Specialist; Director Safety, Health and Wellbeing; Director People and Performance; P&C Business Partners; Health, Safety and Wellbeing Advisor.

q **Racial harassment:** Is the use of language, or visual material or physical behaviour that expresses hostility against, or brings into contempt or ridicule, any other person on the ground of the colour, race, or ethnic or national origins of that person; is hurtful or offensive; and is either repeated or serious enough to have a detrimental effect on a person in one of the areas specified by the Human Rights Act 1993, e.g. the provision of education, accommodation and employment. Examples of what harassment is and what it is not, is described in *CPP222c Examples of Harassment*.

r **Respondent:** The person against whom a complaint of bullying, harassment or discrimination has been made.

s **Sexual harassment:** Unwelcome conduct of a sexual nature that could be offensive, humiliating, or intimidating to any other person and is either repeated, or of such a significant nature, that it has a detrimental effect on the person, their performance, or their work and study environment. This includes a request for sexual activity of any sort that contains an implied or overt promise of preferential treatment or overt threat of detrimental treatment. It is unlawful to sexually harass another person even if there was no intention to harass the person. Examples of what harassment is and what it is not, is described in *CPP222c Examples of Harassment*.

t **Unlawful discrimination:** Can occur when one person is treated less favourably than someone else is treated, or would be treated, in the same or similar circumstances, because that person has a particular attribute, such as sex, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, sexual orientation, political opinion, age, employment status or disability that is specifically listed in Human Rights legislation.

Exceptions may apply, including as set out in the Human Rights Act 1993, New Zealand Bill of Rights Act 1990, Employment Relations Act 2000, or relevant case law. For example, measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of unlawful discrimination, do not constitute discrimination (refer *CPP222d Unlawful Discrimination).*

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

v **Victimisation:** Occurs if someone suffers detrimental treatment because they have made, or propose to make, in good faith, an allegation of harassment, or appear as a support, or a witness, or provide information about such an allegation (refer *CPP222e Examples of Victimisation).*

w **Worker:** The term used in s19(1) in the Health and Safety at Work Act 2015 to describe an employee; or a contractor or subcontractor; or, an employee of a contractor or subcontractor; or an employee of a labour hire company who has been assigned to work in the business or undertaking; or an outworker (including a homeworker); or an apprentice or a trainee; or a person gaining work experience or undertaking a work trial; or a volunteer worker; or a person of a prescribed class.

Related Ara Procedures (indicate if attached to policy or where they can be found) • CPP117b Dispute Resolution Scheme Handout • CPP117c Ara Institute of Canterbury Student Complaint Procedure • CPP117d Student Complaint Flow Chart • CPP208a Staff complaint about a staff member process flow chart • CPP208b Staff complaint about a student process flow chart • CPP222a Guidelines to assist with Addressing Bullying, Harassment and Discrimination • CPP222b Examples of Bullying • CPP222c Examples of Harassment • CPP222d Unlawful Discrimination • CPP222e Examples of Victimisation	**Related Ara Policies** • APP301 Learner Responsibilities and Rights • APP506 Probation • APP512 Suspension and Refusal/Cancellation of Enrolment • CPP102 Disclosure and Management of Conflicts of Interest • CPP105 Acceptable Use and Conduct for ICT Users • CPP106 Intellectual Property • CPP116 Protected Disclosures Policy • CPP117 Raising Problems or Complaints • CPP117a Raising Problems or Complaints form • CPP122 Social Media • CPP208 Resolving Employee Performance or Conduct Issues • CPP210 Colleagues Involved in Outside Activities • CPP211 Code of Professional Practice for Staff • CPP214 People and Culture Management • CPP221 Protection of Children, Young Persons and Vulnerable Adults • CPP501 Health and Safety
Related Legislation or Other Documentation • New Zealand Bill of Rights Act 1990 • Human Rights Act 1993 • Harassment Act 1997 • Employment Relations Act 2000 • Health and Safety at Work Act 2015 • Harmful Digital Communications Act 2015 • Privacy Act 2020 • Education and Training Act 2020 (including the Code of Practice 2021) • NZQA Quality Assurance Framework 2009 • Protected Disclosures Act 2022	**Good Practice Guidelines** (indicate if attached to policy or where they can be found) • Preventing and Responding to Bullying at Work – WorkSafe 2017
References or for further information • NZQA Quality Assurance Framework • Ministry of Business, Innovation and Employment – www.mbie.govt.nz • Worksafe New Zealand – www.worksafe.govt.nz • Kia Ōrite – Code of Practice: New Zealand Code of Practice for an Inclusive Tertiary Education Environment for Students with Impairments	
Notes	

2 Principles

2.1 All members of the Ara community have a responsibility to ensure that they –

a Do not bully, harass, discriminate against, or victimise any person.

b Discourage any form of harassment, bullying, or discrimination by making it clear that such behaviour is unacceptable.

c Support any member of Ara that feels they have been subject to harassment, bullying or discrimination, including supporting them to follow any pathways for resolution, which may include making a formal complaint if appropriate.

d The Education and Training Act 2020 outlines the responsibilities of Tertiary Institutions to Te Tiriti o Waitangi. Those provisions include (and are not limited to) a requirement to operate employment policy that contains provisions requiring recognition of the aims and aspirations of Māori, the employment requirements of Māori, and the need for greater involvement of Māori in the education service (s9(2)(h)). This policy seeks to recognise these obligations and consider Māori tikanga in our Addressing Bullying, Harassment, and Discrimination policy. We seek to consider issues raised from a cultural perspective.

e Uphold the mana (standing) and tapu (sacred) of individuals, whānau (family) and communities connected to Ara. We are all comprised of various parts, and we bring the totality of ourselves to work or study. Whakanoa i te tapui te tāngata is the diminishing of any element that constitute the person's tapu or the totality of the person's tapu.

These include – Taha wairua (spiritual dimension), Taha hinengaro (psychological dimension), Taha tinana (physical dimension), Taha whānau (family dimension).

2.2 In addition to the above obligations, all line Managers, Portfolio and Faculty Operations Managers, Directors, and TKM are to take steps to –

a Ensure that the environment is free from harassment, bullying and discrimination.

b Ensure that all colleagues reporting to them are familiar with and understand their obligations under this policy.

c Treat all complaints seriously and take prompt steps to resolve any complaints made under this policy.

d Protect and support the right of all members of the Ara community to use the supporting resolution procedure and guidelines to this policy.

3 Associated procedures for Ara Corporate Policy on: Addressing Bullying, Harassment and Discrimination

Contents:

3.1 Pathways for Resolution/Disclosure Process
3.2 Self Resolution and information resolution
3.3 Formal Complaint
3.4 Victimisation and vexatious complaints
3.5 Confidentiality
3.6 Records

3.1 Pathways for Resolution/Disclosure Process

a There are several pathways available for resolution of complaints, ranging from anonymous reports through to formal complaints. Which pathway is appropriate will depend on the severity of the allegation(s), and the wishes of the complainant.

b This section provides a brief description of each available pathway. Specific guidance and steps for those receiving a complaint, and for making a formal complaint are set out in CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination, and the CPP117c Ara Institute of Canterbury Student Complaint procedures, CPP117d Student Complaint Process Flowchart or CPP208a Staff Complaint about Staff Process flowchart and CPP208b Staff Complaint about Student Process flowchart.

a **Anonymous Disclosures**

i An anonymous disclosure can be made by Students or Colleagues via the InformUs tool. InformUs can be accessed here: https://informus.ara.ac.nz/ InformUs is a tool where individuals can make an anonymous disclosure to Ara. The purpose of this form is to allow Ara to collect information on the nature of events that occur on campus, or which involve our colleagues and students. Ara will use the information for two purposes – to identify trends that inform decisions for improving the safety and wellbeing of colleagues and students and allowing individuals to be heard by Ara without submitting a formal complaint. The InformUs webpage contains information about the process and what happens when an anonymous disclosure is submitted. https://www.ara.ac.nz/about-us/need-help/inform-us/inform-us-faq/

ii When an anonymous disclosure is made, the information provided will be made available to a limited number of specialist colleagues. These colleagues will identify what actions may be taken based on the content of the report received. With regard to an anonymous report, Ara will –

- Will maintain confidentiality.
- May take a range of actions including –
    - If a colleague is named, talk to the staff member and alert them to the existence of the report. Usually, no formal investigation or disciplinary process will be undertaken based on an anonymous disclosure.
    - If a student is named: talk to the student on an informal basis. Usually, no formal investigation or disciplinary process will be undertaken based on an anonymous disclosure.
    - Use the reports received to implement general training and/or education sessions to prevent further incidents occurring.

iii Making an anonymous report or disclosure does not prevent the complainant from also taking one of the other available pathways, and/or reporting the incident to the New Zealand Police. It is at the complainant's discretion whether additional steps are taken.

b **Informal Complaint/Self Resolution**

i An individual may prefer an informal approach to resolving their concern. Informal approaches could include –

- The complainant addressing their concern with the person complained about directly (or with the assistance of a support person);
- A manager, Portfolio Manager, P&C Business Partner (or other appropriate person – refer *CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination*) speaking to the person complained about on behalf of the complainant on an informal basis regarding the alleged conduct and resetting expectations if necessary; and/or
- A mediated or facilitated discussion between the complainant and the person complained about. This discussion can be facilitated by an appropriate person.

ii Students should refer to CPP117c Ara Institute of Canterbury Student Complaint Procedure and CPP117d Student Complaint Flowchart.

iii Colleagues should approach an appropriate person such as manager or a P&C Business Partner.

iv Colleagues wishing to seek advice about options and/or deal with the matter informally should raise the issue with their Manager, Portfolio Manager, P&C Business Partner and/or Union Representative.

c **Formal complaint**

i If the issue has not been resolved by informal means, or if the complainant chooses, the complainant may make a formal complaint. A complaint can be laid at any time. However, Ara encourages any individual that is going to make a formal complaint to do so as soon as they are able.

ii It is important to note that formal complaints are not made anonymously. This is because the person being complained about has a right to know who has made the complaint to allow them to fully respond to the complaint against them. All information obtained and considered in a formal complaint will be treated as confidential and will only be disclosed in consultation with the complainant and on a 'need to know' basis. Any breach of confidentiality will be taken seriously.

iii A formal complaint will initiate an investigation process –

- In the case of students, this will be in accordance with the relevant CPP117 Raising Problems or Complaints, CPP117a Raising Problems and Complaints form, CPP117c Raising Problems and Complaints procedure and CPP117d Student Complaint Flowchart.
- In the case of colleagues, this will be according to the procedures set out in CPP208 Resolving Employee Performance or Conduct Issues policy for colleagues. Ara may appoint either an internal or external investigator to investigate the allegations.

iv If in the circumstances it is appropriate that interim measures be put in place while a formal complaint is being investigated, such measures may include, but are not limited to –

- Removing the person complained about from the Ara campus (including in the case of an employee, suspension following consultation); and/or

- Prohibiting the person complained about from accessing specified parts of Ara and/or its information technology (including online services);
- Supporting the complainant to seek assistance or be absent from work/studies for a period of time.

v Students or Colleagues wishing to make a formal complaint should follow the process outline in *CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination*. This document provides an outline of the process that will follow a formal complaint.

vi Complaints are to be directed to one of the appropriate individuals as outlined in CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination.

vii The recipient of a formal complaint will consider the issue and refer to the relevant colleague or student flowcharts in CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination depending on the nature of the complaint and the statute or policy under which the complaint is being made.

viii Colleagues and students who consider that a crime may have been committed are advised to make a complaint to the Police.

ix Any conflict of interest must be identified and managed in accordance with CPP102 – Conflict of Interest.

x Where the person being complained about is a colleague, any investigation into the complaint is to follow the appropriate policy and procedures as outlined in CPP211 – Code of Professional Practice CPP208 – Resolving Employee Performance or Conduct Issues

xi The outcome of an investigation process could result in disciplinary action being taken against the person complained about.

xii Where the person being complained about is a student, the investigation must be conducted in accordance with the APP301 Learner Responsibilities and Rights policy.

xiii Where bullying, harassment or discrimination as defined in this policy is found to be carried out by a student the penalties specified in the APP506 Probation policy and/or APP512 Suspension and Refusal-Cancellation of Enrolment policy may be applied.

xiv Colleagues and students who have concerns about harmful digital communications may also seek support and assistance from Netsafe www.netsafe.org.nz.

d **Other forms of resolution**

i Complainants can seek resolution through external agencies, such as the New Zealand Police, or the Human Rights Commission.

ii **Reports to the Police**

- Ara supports the right of Students and Colleagues who have experienced behaviours in breach of this policy to decide whether they want to report the incident to the Police, or not.
- A Student or Colleague may decide to make a complaint to Ara but not report the incident to the Police. Alternatively, a student or Colleague may decide to report conduct to the Police, but not to make a complaint to Ara.

- A Student or Colleague's decision to make a report to the Police will not necessarily preclude Ara from investigating or acting in response to a complaint under this Policy. However, any internal Ara process may have to be suspended pending completion of the criminal process.

- When deciding whether to suspend an internal Ara process pending completion of a criminal process, Ara will consult the Police and the complainant and will consider –

    - The potential for the internal process to negatively impact the criminal process.
    - The potential for the criminal process to negatively impact the internal process.
    - Whether investigating or responding to the incident has the potential to impact adversely on the rights of either or both the complainant and the person complained about.

iii **Reports to the Human Rights Commission**

- If a complainant is dissatisfied with the outcome of a resolution process, or does not feel comfortable using them, they may raise a complaint with an external agency, such as the Human Rights Commission.

e **Victimisation and Vexatious Complaints**

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

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

f **Confidentiality**

i All information relating to alleged or proven breaches of this Policy must be treated strictly in accordance with the requirements of the Privacy Act 2020.

ii Ara will keep confidential all identifying information relating to a complaint and/or a complainant unless the complainant consents to full or partial disclosure of the information for a specified purpose.

iii Where disclosure is appropriate and/or required, information must only be disclosed to the extent necessary on a 'need to know' basis.

iv The obligations of confidentiality in this Policy apply to the complainant, the person complained about, and all those who become aware of the complaint as part of Ara's response. This is necessary to ensure disclosure of details does not adversely affect the investigation of any complaint or disclosure. Notwithstanding the confidentiality obligations, the complainant and the person complained about may disclose information regarding the complaint and/or the complaint process in order to obtain support and/or advice from support persons and/or representatives and/or relevant agencies.

v There may be some instances where disclosure of information relating to a complaint may be required for Ara to properly investigate the allegation(s). In these circumstances, if consent is withheld, Ara may not be able to fairly

investigate the complaint. This could result in no action being taken against the person who has been complained about.

vi Information must not be disclosed without the complainant's consent, unless the complaint is serious and the relevant Te Kāhui Manukura member and/or Portfolio Manager in consultation with a People and Capability representative, believes that action needs to be taken e.g., in circumstances in which Ara would not be meeting its obligations as a Person Conducting a Business or Undertaking (PCBU) or as a good employer.

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

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

g **Records**

i All individuals involved in any aspect of the support, complaints or discipline processes must familiarise themselves with and observe the principles of data protection as established by the Privacy Act 2020.

ii The People and Capability division, in the case of complaints involving staff, or the Complaints Coordinator, if the complaint involves a student, are to be consulted about the correct filing and retention of all notes and documents related to complaints under this policy.

Refer CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination for more information.

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