

# ACTING IN THE SPIRIT OF SERVICE

## Positive and Safe Workplaces



Every public servant is entitled to work in a safe and inclusive workplace, where people treat one another with respect. That is the minimum standard we have set.

— Peter Hughes, State Services Commissioner

Everyone in the State services is entitled to work in a safe and inclusive workplace, where people treat one another with respect and work together to deliver for New Zealand and New Zealanders. Achieving this requires organisational commitment – and real effort from leaders, managers, and individual staff members. It goes to the heart of strong leadership, constructive working relationships, and good policies and procedures.

Unfortunately, State services agencies are not immune to the challenges that all workplaces face. Sometimes people's behaviours are not appropriate, and the way we deal with that is important. Building a workplace culture that promotes respect, inclusion, trust and productivity is a key part of preventing inappropriate behaviour from occurring.

These model standards set out the State Services Commissioner's minimum expectations for staff and organisations in the State services to ensure positive and safe workplaces.

### SCOPE OF THE STANDARDS

The Positive and Safe Workplaces model standards support agencies in the State services to have environments where people enjoy what they do and can contribute to the maximum of their potential, to crowd out inappropriate workplace behaviour in all its forms. The most effective way to minimise inappropriate behaviours at work is to create a culture that exposes and addresses these behaviours. This helps to prevent a range of unlawful or offensive activities such as bullying, harassment and discrimination, which can also cause harm and have a negative impact on the overall culture of a workplace.

As well as public servants, members of the public and other visitors may be responsible for, or subject to, inappropriate behaviour. That is why the *Positive and Safe Workplaces* model standards enable anyone to raise a concern about behaviour at work.

There are three key elements to the Positive and Safe Workplaces model standards:

1. **Providing strong leadership:** creating diverse, inclusive and open workplace cultures; role modelling positive behaviours; recruiting and promoting people who demonstrate those behaviours; and taking action to prevent and respond to inappropriate behaviour.
2. **Fostering good working relationships:** developing shared expectations and understanding around what is, and is not, appropriate behaviour at work; ensuring people are aware of their roles and responsibilities in identifying and responding to concerns; promoting good management and employment practices.
3. **Having trusted policies and procedures:** developing, implementing, using and maintaining appropriate policies and procedures. This requires monitoring their effectiveness and reviewing them to enable continuous learning.

## RELATIONSHIP TO OTHER LEGISLATION, STANDARDS AND RESOURCES

The Health and Safety at Work Act 2015 sets out the legal requirements for all organisations for the health and safety of workers and workplaces. Under the Act, agencies' obligations include ensuring, so far as is reasonably practicable, the health and safety of people undertaking its work and that the health and safety of other people is not put at risk from its work. Chief executives, and other officers, are required to exercise due diligence to ensure that their organisations meet their health and safety obligations. They must exercise the care, diligence and skill a reasonable person in their position would exercise in the same circumstances.

As our national workplace health and safety regulator, WorkSafe has a suite of tools and resources that support New Zealand organisations to ensure that everyone who goes to work comes home healthy and safe. The Positive and Safe Workplaces model standards sit alongside the Health and Safety at Work Act and WorkSafe's material. The model standards are not a substitute for the legislation, tools, or resources – their purpose is to set out the minimum expectations for State service agencies to follow, to create safe and productive workplaces.

The Positive and Safe Workplaces model standards also complement the Commissioner's model standards on Speaking Up. Speaking Up outlines the Commissioner's expectations for organisations to support people to speak up in relation to wrongdoing concerns. Compliance with Speaking Up is essential to creating positive and safe workplaces. People need to feel confident that wrongdoing concerns (which may include concerns about bullying, harassment and discrimination) will be taken seriously.

## PROVIDING STRONG LEADERSHIP

The Leadership Success Profile (the LSP) identifies the leadership capabilities and character expected for all Public Service leaders – including engaging others, being honest, courageous and having self-awareness. The LSP supports a consistent view of what strong positive leadership behaviours look like across the State services.

### Setting the tone

Leaders set the tone of an organisation and emphasise the importance of health, wellbeing, dignity and safety. They are aware of the factors that increase the risk of inappropriate behaviours occurring at work and take active steps to reduce the risk. This includes role modelling positive and productive behaviours at work, being visible and available to people, encouraging conversation, listening and providing clear messages. Those messages include a well-articulated organisational purpose and commitment to providing a safe and respectful place to work. Strategic leadership in this context means leaders engage others along the way to achieve best practice in the workforce. Safety and wellbeing matters should be discussed openly, even when there are problems or concerns, and it should be made clear to staff that their wellbeing is more important than organisational reputation. These messages foster a shared sense of belonging and support people to feel valued at work.

### Model standards:

- Leaders provide regular and clear statements about their commitment to creating and maintaining a safe and respectful work environment and their expectations of people's behaviour at work.
- Leaders role model positive and productive behaviours at work.
- There are open discussions about workplace behaviour, wellbeing, inclusion and workload pressures, where people are encouraged to raise any issues.
- Professional development processes support leaders to develop the skills and capabilities associated with positive workplace behaviours.
- Recruitment and promotion processes reward role modelling of positive and productive behaviours at work and recognise the benefits of a diverse workforce.

## Encouraging conversation

Leaders drive a diverse and inclusive State sector and support conversations about appropriate behaviour at work, wellbeing and workload pressures. Where expected standards of behaviour are openly discussed, workload pressures are realistic and monitored, and people are involved in decision-making, this reduces stress and empowers people to call out inappropriate behaviour when it occurs. Having a diverse and inclusive workplace also helps. Creating an inclusive environment – where people are aware of, respect and value cultural and other differences and different communication styles – can reduce misunderstandings and promote tolerance.

When conversations take place in a safe environment and are supported by information, training and strategies for conflict resolution this is also beneficial.

## Development, promotion and recruitment

Agencies have a role in supporting their leaders to develop the skills, capabilities and workplace cultures, associated with positive workplace behaviours, such as effective listening, encouraging courageous conversations and engaging others. Leaders can assess their own capability in relation to the LSP and find ways to meet their own development needs through websites such as <https://mylsp.ssc.govt.nz/>.

An important consideration in recruitment and promotion is whether the applicant has previously demonstrated the LSP leadership capabilities and has role modelled positive behaviours at work. This is crucial for senior positions in any organisation.

Agencies can draw on assessment tools such as Leadership Insights or 360 feedback, as one input to informing whether leaders have modelled expected behaviours in previous roles.

## FOSTERING GOOD WORKING RELATIONSHIPS

### Communication

#### Expectations

Ensuring that everyone has a shared understanding of what is, and is not, appropriate behaviour at work has many benefits – especially if it is documented and accessible. It empowers people to reinforce positive behaviours, to speak up if they feel they have been treated poorly, to act if they witness inappropriate behaviour and to respond if they receive a complaint. People can also ‘sense-check’ their experiences with each other and have more confidence in their day-to-day interactions. Definitive descriptions are not always possible, given the importance of context, so the use of examples is preferable. The examples of bullying and sexual harassment behaviours provided by WorkSafe are a helpful starting point.

#### Model standards:

- Organisational policies set out what is, and is not, appropriate work place behaviour, including definitions of: discrimination, racial harassment and sexual harassment from the Human Rights Act 1993 and the Employment Relations Act 2000; and bullying from WorkSafe’s Preventing and Responding to Workplace Bullying Guidelines.
- Everyone is aware of their roles and responsibilities, in relation to appropriate behaviour at work. This should be discussed with new people during their induction process and, as appropriate, made clear to members of the public interacting with staff at work.
- Performance expectations and policies are clearly documented and well understood by everyone at work.

## Roles and responsibilities

Everyone is collectively responsible for the culture of any workplace. Everyone has a role to play in looking after their own health, wellbeing and safety and that of others. When employees feel able to speak up, bystanders feel comfortable to act, and managers feel equipped to respond then inappropriate behaviour is less likely to occur and, if it does, it is more likely to be dealt with quickly and constructively. Leaders are responsible for ensuring that everyone understands their roles – and for fostering that environment.

Training, expectation setting and clear communications reinforce expected behaviours and support employees to have challenging conversations where these expectations are not met. SSC's Response Role cards may assist in promoting awareness – and unions, such as the PSA, are important partners for providing clarity.

The role of bystanders in voicing concerns is sometimes overlooked but it is very important. Those who are on the receiving end of inappropriate behaviours are in a vulnerable position. Even if the workplace environment is conducive to speaking up, they still may not feel comfortable doing so. The burden of calling out inappropriate behaviour has to be shared.

## Constructive management

Constructive discussions about performance are critical to the productivity of a workplace. Legitimate constructive management is not harassment, nor is it disrespectful or discourteous, even if an action causes distress – provided that:

- it is for a proper purpose, such as performance or addressing inappropriate behaviour at work, and
- it is undertaken in a reasonable way and with respect and courtesy.

Having role clarity and clear expectations around management can help to avoid confusion. Practical steps can assist in achieving this, like providing regular feedback on performance (particularly reinforcement of constructive behaviours) and keeping job descriptions up to date. To minimise the risk of misunderstanding, it is also essential that managers explain at the outset what they are doing and the process that will be followed. This can be supported by managers being coached in how to have difficult conversations and how to adopt a coaching mindset.

## Responding to concerns

### Options for resolution

It can be difficult for people to raise a concern about inappropriate behaviour at work, particularly where the person who is the subject of the complaint is in a position of trust or authority, or where it involves sexual harassment. It is best to have multiple options for reporting concerns. Channels may include traditional organisational structures, such as managers and HR, and alternatives such as health and safety representatives or others with specialist training. It is also necessary to provide wraparound support and active risk assessment strategies for both those raising concerns and those who are the subjects of complaints. The requirements for multiple reporting channels and tailored ongoing support, recognise that people will respond to situations at work differently and there needs to be flexibility to take those

### Model standards:

- Organisations have a range of informal and formal ways in which they can receive and respond to concerns about inappropriate behaviour at work. People are aware of these options, and of how to access them.
- Natural justice is respected in all instances.
- Mediation and restorative processes are available for use in appropriate cases.
- Once a concern is raised, organisations give consideration as to whether they have the skills required to respond appropriately or whether it is necessary to seek external specialist support, for example from sexual abuse support organisations.
- There are proportionate disciplinary consequences when inappropriate behaviour at work is confirmed.

differences into account. This is outlined in more detail in the Speaking Up model standards.

In addition, policies and procedures provide a range of informal and formal ways in which organisations can respond to complaints, including the following:

Self-help	Supported informal solution	Internal complaint	External Complaint
The person or group raising a concern wishes to deal with the matter themselves but may seek internal and/or external advice on possible strategies.	The person or group raising a concern may ask someone to intervene on their behalf. In some instances, mediation or a restorative process may be appropriate.	The person or group may choose to make a complaint through a formal internal process. A decision will then be made as to whether to conduct an investigation.	The person or group raising a concern may choose to make an external complaint under relevant legislation, such as the Human Rights Act 1993, the Employment Relations Act 2000 or the Harmful Digital Communications Act 2015.

Taking a low-key, non-adversarial and informal approach to resolve the matter can sometimes be the most effective and satisfactory way of dealing with inappropriate behaviour. Intervene early, intervene light and make sure there is a shared understanding as to who is responsible for what.

However, a low-key approach is not always possible or appropriate depending on the seriousness of the allegations and the views of the person (or group) raising the concern.

Multiple factors affect the seriousness of a complaint, including the number of people involved, their vulnerability, the seniority of the person who is the subject of the complaint and the exact nature of the behaviour, including the length of time over which it occurs. In some instances, it may be necessary to elevate it despite the wishes of the person who initially raised the concern. For example, if violence or other unlawful acts are involved, the matter should be referred to the New Zealand Police. The agency needs to respect that the person may nonetheless choose not to speak to the Police about the matter. If the Police decides to investigate the matter the agency should seek legal advice as to whether to put any employment processes on hold until the Police investigation has concluded.

### Natural justice and good faith

Anyone who responds to a complaint should remain impartial and fair and act in good faith. Both sides have the right to be heard and supported. It can be frustrating for those raising and responding to concerns, that any disciplinary actions taken against a person found to have acted inappropriately may need to be kept confidential. However, this is an important principle of privacy and employment law.

Natural justice and good faith are not only legal requirements – they are essential to maintaining trust, respect and professionalism in a workplace.

However, there may be other aspects of an organisation’s response to a complaint that can be shared with the person who raised the concern. For instance, if the process of responding to the complaint results in the organisation identifying gaps and making improvements to their policies and procedures, then it will often be worth making the person aware of those changes. This can also promote trust and respect.

## Mediation and restorative processes

Mediation and restorative processes can offer a useful alternative to traditional investigation processes, in appropriate cases. Restorative processes focus on not assigning blame but on accepting accountability, rebuilding affected relationships and restoring productivity in the workplace. These processes can include not just the parties directly involved, but also colleagues in affected teams.

Mediation can be appropriate where there is basic agreement on the facts, a willingness from both sides to engage with the process and the behaviour is at the lower end of the seriousness spectrum. It is less suitable when there is a significant power imbalance between the parties involved. It should not be considered if potential criminal offending is involved.

Both mediation and restorative practices require the involvement of a trained facilitator. The Ministry of Business, Innovation and Employment provides a free mediation service for employers and employees.

## Responding to findings

If, following due process, a person's behaviour is found to have fallen below the expected standards, leaders should talk to that person about consequences and their ongoing behaviour. The consequences of inappropriate behaviour need to be proportionate to the activity that occurred. Anyone who is found to have made a vexatious, frivolous or malicious complaint against another person should also be held to account. Honest and courageous leaders have difficult conversations and deliver hard messages when necessary.

# TRUSTED POLICIES AND PROCEDURES

## Compliance with the law

Agencies must ensure that their policies and procedures concerning behaviour at work comply with the law. This includes compliance with the:

- Health and Safety at Work Act 2015
- Employment Relations Act 2000
- Human Rights Act 1993
- New Zealand Bill of Rights Act 1990
- Privacy Act 1993

Consideration should also be given to other related legislation including the Crimes Act 1961 and the Harmful Digital Communications Act 2015.

### Model standards:

- Organisations have clear and easy to understand policies and procedures on appropriate behaviour at work. These contain descriptions of what behaviour is expected. They also explain how to raise concerns and the range of options for resolution that are available. Together the policies and procedures provide a logical and consistent framework.
- An appropriate mechanism is put in place to ensure that policies are developed and periodically reviewed in a collaborative way with staff.
- Organisations regularly evaluate their own performance in preventing inappropriate behaviour and responding to complaints. This may involve gathering data and consulting with people who are particularly affected.

## Developing a framework

Policies and procedures on the expected standards of behaviour at work need to be consistent and provide an overall framework that is workable. As part of this process, agencies should consider whether to have a broad policy covering all behaviours at work or separate policies dealing with particular behaviours, such as bullying and sexual and racial harassment.

Agencies should have planned, well known ways to engage staff in the development of policies and procedures for health and safety matters that will directly affect them. Under the Health and Safety at Work Act 2015, agencies must ensure that workers' views on health and safety matters are asked for and taken into account, and have clear, effective, and on-going ways for workers to suggest improvements or raise concerns on a day-to-day basis.

Together with staff, agencies can determine the best way to meet these duties. What is reasonable and practicable will depend on the views and needs of your staff, the size of your agency and the nature of its risks. The law enables flexibility and innovation: the focus is on effectiveness rather than whether any particular system is in place.

## Using the framework

To be trusted, policies and procedures need to be more than just words on a page. They need to be 'lived' - put into practice – both in individual cases, and through communication, education and training. Training is particularly important for managers. Policies and procedures also need to be periodically reviewed.

People need to understand what will happen once they have raised a concern regardless of who they contacted or how they want the matter addressed. This supports greater trust in the process, as does action, regular communication and expectation management.

## Monitoring, evaluation and review

It is vital that organisations have a learning culture, when it comes to responding to and preventing inappropriate behaviour at work.

There are several different ways to learn from previous experience. Centrally recording reports about inappropriate behaviour at work can be helpful because it enables feedback on the effectiveness of an organisation's prevention efforts and can be used to highlight patterns and gaps.

Monitoring other indicators of potential problems with workplace behaviours can also help, such as resignations, turn-over, use of sick leave, Employment Assistance Programme aggregated reports and personal grievances. Exit interviews, internal audits, focus groups, staff appraisals, surveys and engagement with unions can provide valuable insights as well. By gathering information, organisations can monitor their own progress and take steps towards improvement, including periodically updating policies and procedures.

To evaluate their own performance, organisations may also wish to obtain feedback from people who have been involved in a complaints process, either by raising or responding to a concern, being the subject of a complaint or being a witness.

## USEFUL LINKS

- The [Leadership Success Profile](#)
- [SSC's Response Role Cards](#)
- [New Zealand Defence Force Case Study](#) – Sexual Ethics and Respectful Relationships
- WorkSafe NZ's [Bullying prevention toolbox](#)
- WorkSafe NZ's [Sexual harassment prevention toolbox](#)
- MBIE's [mediation service](#)