

## **BULLYING AND HARASSMENT PREVENTION POLICY**

### **1. POLICY RATIONALE**

- 1.1** Cycling New Zealand is committed to providing a work environment and culture free from discrimination, harassment, bullying and victimisation.
- 1.2** This policy aims to establish clear expectations of behaviour and responsibilities and procedures for dealing with complaints of discrimination, harassment and bullying.

### **2. SCOPE**

- 2.1** This policy applies to all employees, contractors, temporary and casual staff of Cycling NZ.
- 2.2** This Policy applies within the workplace as well as other work-related situations, for example, when employees are travelling on Cycling New Zealand business, attending work-related gatherings outside of the workplace, and dealing with customers, athletes and key stakeholders.
- 2.3** This Policy also applies to all telecommunications, internet and social media activity
  - On behalf of Cycling NZ;
  - During work hours;
  - Inside and outside of work hours, which references Cycling NZ, its services, employees, contractors, temporary staff, customers, athletes, key stakeholders or other organisations or individuals Cycling NZ has a relationship with;
  - Inside and outside of work hours that could bring Cycling NZ into disrepute;
  - Inside and outside of work hours that could bring into doubt a Cycling NZ employee/contractor's ability to carry out their role and/or adequately represent Cycling NZ;
  - That relates to Cycling NZ post-employment.

### **3. OBLIGATIONS AND RESPONSIBILITIES**

Cycling NZ has a statutory obligation to provide a safe workplace, free from the stress that discrimination, harassment and bullying can cause.

#### **3.1 Employee Responsibility**

Every Cycling NZ staff member and athlete has a responsibility to:

- Be aware of the terms of this Policy (as varied from time to time) and their rights and obligations under it;

- Comply with this Policy (as varied) at all times; and
- Maintain confidentiality concerning any complaint and/or investigation.

### **3.2 Individual legal liability**

Under New Zealand law, any individual who discriminates against, harasses or bullies another person in the workplace, or engages in behaviour otherwise prohibited by legislation and/or this Policy may be held personally liable for their unlawful actions.

Instances of discrimination, harassment and bullying could be considered (serious) misconduct and result in disciplinary action up to and including dismissal. Such behaviour could also amount to a breach of Cycling NZ's Health and Safety Policy and similarly result in disciplinary action.

Depending on the seriousness of the discrimination, harassment and/or bullying at issue, an individual employee may be personally liable for their conduct under both criminal and civil law. This liability is in addition to any liability which Cycling NZ may have in respect of the conduct.

In circumstances where your conduct may involve a breach of legislation, the Group may be legally obliged to notify the Police or other relevant government authority.

### **3.3 Management responsibility**

Managers are expected to actively promote, implement and support this Policy.

Failure by a manager to act reasonably to prevent or resolve incidents of discrimination, harassment, bullying and victimisation may lead to personal liability under health and safety legislation.

### **3.4 Vicarious liability**

Vicarious liability occurs when a person or entity is held directly liable for someone else's actions, as if the person or company had actually engaged in the conduct. The law imposes vicarious liability in situations where a person or entity is in a position to prevent conduct but does not do so.

## **4 DISCRIMINATION**

**4.1** Cycling NZ is committed to providing a workplace free of discrimination. Prejudices and stereotyped views must not influence the way we treat people, they only complicate our dealings in the workplace and prevent people from fully contributing. It is important to Cycling NZ that no employee, athlete or job applicant is discriminated against or denied equal treatment.

**4.2** Unlawful discrimination occurs when a person is treated less favourably because they have, or are imputed to have, a particular characteristic or attribute which is protected by law (**Protected Characteristic**).

#### 4.3 Under New Zealand law, Protected Characteristics include:

- Sex (which includes pregnancy and childbirth);
- Marital status;
- Religious or ethical belief;
- Race (including colour, ethnic or national origins);
- Disability;
- Age;
- Political opinion;
- Employment status;
- Family status (including carer's responsibilities); and
- Sexual orientation.

**4.4** Discrimination can be both direct and indirect. Direct discrimination occurs when a person is treated differently because of a Protected Characteristic. Indirect discrimination can occur when a requirement, which is the same for everyone, has an unfair effect on some people because they possess a Protected Characteristic.

Unlawful discrimination is a breach of this Policy and is strictly prohibited by Cycling NZ.

## 5 HARASSMENT

**5.1** Cycling NZ does not tolerate behaviour which creates a hostile or distressing work environment, undermines morale, or reflects adversely on the integrity of Cycling NZ.

### 5.2 What is harassment?

**5.2.1** Harassment is any uninvited, unwelcome, behaviour that offends, humiliates or intimidates another person, whether or not that effect is intended. Harassment may include physical, psychological, visual, verbal or non-verbal conduct.

**5.2.2** Behaviour constituting harassment is often a matter of perception and interpretation, and tolerance for what is considered 'acceptable behaviour' may vary widely among individuals.

**5.2.3** Harassment may occur as a single act, or as a series of incidents, persistent innuendoes or threats.

**5.2.4** Harassment can take many forms, it may be silent or loud, subtle or openly hostile, it can be private or public. It may take the form of general bullying or be specifically aimed at people with particular or different characteristics.

**5.2.5** Even if behaviour does not offend the person to whom it is directed, others overhearing or present whilst such behaviour is occurring may take offence and feel that they are being harassed.

### **5.2.6 Some examples of behaviour which could constitute harassment include:**

- Offensive physical contact, derogatory language or intimidating actions;
- Insulting or threatening gestures or language (express or implied) or continued and unnecessary shouting in the workplace;
- Openly displayed pictures, posters, graffiti or written materials which might be offensive to some; and
- Unjustified and unnecessary comments about a person's work or capacity for work, religious beliefs, cultural background or sexual characteristics.
- Virtual harassment through a social media platform, for example "friending" or "following" someone and sending them offensive messages.

### **5.3 What is unlawful harassment?**

**5.3.1.** Under the Harassment Act 1997, harassment takes place when someone directs one or more specified acts at another person (including watching, loitering, following, accosting, interfering with another person's property or acting in ways that causes the person to fear for their safety) at least twice in a 12 month period.

**5.3.2** The Harassment Act considers certain serious types of harassment as criminal offences, and allows the person being harassed to obtain trespass orders or restraining orders against the offender.

## **6 SEXUAL HARASSMENT**

### **6.1 What is sexual harassment?**

#### **6.1.1 Sexual harassment takes place if:**

- a) a person makes an unwelcome sexual advance or an unwelcome request for sexual favours, to another person; or
- b) the person engages in other unwelcome conduct of a sexual nature in relation to the other person, in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the conduct would offend, humiliate or intimidate that other person.

#### **6.1.2. Some examples of behaviour which could constitute sexual harassment include:**

- Offensive or demeaning comments, jokes or innuendo;
- Offensive gestures, staring or displaying offensive material;
- Unwelcome or uncalled for remarks or insinuations about a person's sexual activities or private life;
- Demands for sexual favours;
- Unwanted sexual propositions or advances;
- Any unwanted physical contact;
- Sending sexually explicit or offensive photos or videos via electronic media.

**6.1.3** Sexual harassment does not have to be intentional or directed at a particular individual to be unlawful. Behaviour which creates a sexually hostile working environment for others can also be unlawful.

**6.1.4** Mutual attraction or friendship between two people who welcome the attention is not harassment. For the purposes of this policy Cycling NZ is concerned only with behaviour that adversely affects the workplace, current or future employees, not with the private lives of people. Please refer to the Close Personal Relationship Policy for guidance with regard to relationships in the workplace.

**6.2** There may be situations where the adverse impact cannot be adequately managed and ongoing employment (or association) with Cycling NZ is not possible. In such cases, this will be discussed with the relevant parties.

## **7 RACIAL HARASSMENT**

**7.1** What is racial harassment?

**7.1.1** Racial harassment includes language, visual material or physical behaviour that ridicules or expresses hostility against an employee on grounds of race, is hurtful to the employee or athlete and adversely affects his or her employment, job performance or job satisfaction.

**7.1.2** Vilification or inciting racial disharmony occurs where a person publishes, distributes or broadcasts written material or words, or uses words in a public place, which are threatening, abusive or insulting, with the intent of inciting hostility or ill-will against, or bringing into contempt or ridicule, any group of people on the ground of their colour, race, or ethnic or national origins, and the written material or words are likely to do so.

**7.1.3** Some examples of behaviour which could constitute racial harassment include:

- *Abuse, insults or "jokes" about a person's racial, ethnic or national origin, physical features or accent;*
- *Derogatory or belittling name calling;*
- *"Jokes" about food preferences, or religious and/or social customs.*

**All** forms of harassment, vilification and inciting racial disharmony are in breach of this Policy and are strictly prohibited.

## 8 BULLYING

**8.1** Workplace bullying is a significant hazard. It affects people physically and mentally, resulting in increased stress levels, decreased emotional wellbeing, reduced coping strategies and lower work performance.

### 8.2 Definition

**Workplace bullying takes place if there is repeated, unreasonable behaviour directed towards a person or a group of people that creates a risk to health and safety.**

Repeated behaviour is persistent and can involve a range of actions over time.

Unreasonable behaviour refers to behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

#### 8.2.1 Examples of bullying behaviours include:

- Yelling, screaming, or abusive language;
- Subtle intimidation (such as inappropriate comments about personal appearance);
- Continual criticism;
- Manipulation;
- Isolating or ignoring a person;
- "Ganging-up";
- Practical jokes gone wrong;
- Setting impossible deadlines;
- Sabotaging someone's work or their ability to do their job by not providing them with vital information and/or resources.

#### 8.2.2 Examples of what are *not* bullying behaviours include:

- One-off or occasional instances of forgetfulness, rudeness or tactlessness;
- Setting high performance standards because of quality or safety;
- Constructive feedback and legitimate advice or peer review;
- A manager requiring reasonable verbal or written work instructions to be carried out;
- Warning or disciplining employees in line with the workplace's policies/code of conduct;
- A single incident of unreasonable behaviour (but it could escalate).

**8.3** Reasonable management action, carried out in a reasonable way, is not bullying. Managers have a right to direct the way work is carried out, monitor workers and provide reasonable feedback on their performance. For example, informing a worker about unsatisfactory work performance in a constructive way is not bullying.

## 9 VICTIMISATION

### 9.1 What is victimisation?

Victimisation occurs where a person subjects or threatens to subject another person to detriment as a result of:

- Making or proposing to make a complaint of discrimination, harassment, bullying, victimisation or other, inappropriate workplace behaviour (whether against that person or not); or
- Giving information, evidence or acting as a witness in relation to such a complaint.

Cycling NZ will not tolerate victimisation of any nature and will take all necessary action to protect staff from victimisation.

## 10 PROCEDURES FOR RESOLVING COMPLAINTS

If you feel you have been discriminated against, harassed or bullied, we encourage you to address your complaint as soon as possible so that a resolution can be promptly achieved.

There are three options available to you:

- 1) Self-help:**  
You could explain to the person responsible that their behaviour is of concern (specifying what that behaviour is), that you don't like it, and ask for it to stop.
- 2) Management intervention or mediation:**  
You could request either your manager, or HR representative, to intervene. Management intervention or mediation can be informal or formal and aims to seek a resolution that is acceptable to both parties.
- 3) Formal complaint**  
A formal complaint can be made to either Cycling NZ management, or to WorkSafe. This option is usually for more serious claims, when the alleged perpetrator could be disciplined or dismissed if the allegations are found to have substance.

All allegations and complaints will be treated seriously and dealt with expeditiously and confidentially, whether they are raised formally or informally.

If you become aware of any conduct that may breach this Policy, you should report the conduct to your Manager, Coach or the HR representative.

In line with the responsibilities of Cycling NZ under the relevant legislation, we will investigate and respond to any concerns of inappropriate workplace behaviour (including conduct which could constitute discrimination, harassment or bullying) which comes to our attention through your complaint or through the receipt of other separate claims or issues.

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