

Policy to address bullying, harassment and victimisation

Introduction

About the policy

This policy sets out Fire and Emergency New Zealand's commitment to provide, and the obligation of all personnel to contribute to, a positive and safe workplace where all people are respected, valued and supported.

Who it applies to

- All employees (permanent, fixed term and casual)
- Volunteers
- Contractors, or people seconded to us from other organisations
- All other persons engaged to provide services to us or on our behalf, including deployments and exchange programmes.

Note:

- In this document, the term 'personnel' refers to everyone this policy applies to.
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Where and when it applies

- In all of our workplaces
 - At all our work events in New Zealand and abroad (such as off-site training or at an incident ground)
 - Outside our workplaces when the event, function or other reason for attendance is Fire and Emergency-related
 - In any situation where your conduct could:
 - impact us or bring us or our reputation into disrepute, or
 - impact or bring into disrepute our relationship with any member(s) of personnel or the public.
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About this policy

Purpose

The purpose of this policy is to:

- show that we are committed to keeping our workplaces free of unacceptable behaviours such as bullying, harassment and victimisation
- make clear that unacceptable or unwelcome behaviour will not be tolerated
- support our commitment to being an effective and sustainable organisation with a culture of mutual respect
- provide you with the information you need to understand:
 - bullying, harassment and victimisation
 - how to prevent it
 - where this is not successful, how to report and resolve concerns
- support our values/Ngā uara:
 - Kia Tika – We do the right thing
 - Manaakitanga – We serve and support
 - Whanaungatanga – We are better together
 - Auahatanga – We strive to improve

Definitions

All definitions listed here are relevant to Fire and Emergency generally, and this policy in particular. This means they are the same, across all parts, and all contexts in Fire and Emergency.

Bullying

Bullying is unreasonable and unwanted, repeated and ongoing behaviour towards a person or group that can lead to physical and/or psychological harm.

This covers actions which a reasonable person wouldn't do in similar circumstances. It includes victimising, humiliating, intimidating or threatening a person.

Repeated behaviour can include a range of actions, which can be clear, direct and obvious, or more indirect and subtle. It can affect a person's dignity, psychological or physical integrity.

A single incident isn't considered bullying but should be addressed by management, as inappropriate behaviours can escalate if ignored. Also, a single incident, if serious enough, can amount to harassment. See the definition of harassment in the next block of information.

Examples of bullying include, but are not limited to:

- threats
- intimidation
- physical violence
- shouting
- interfering with equipment or possessions
- excluding or isolating a person from colleagues or from work events
- 'ganging up'
- defamatory gossip

- unjustified criticism, such as a manager being unavailable to give feedback then finding fault with work not done as they wanted
- unjustified threats of dismissal
- unfair treatment
- public humiliation
- setting unrealistic deadlines, over-pressuring, over-working
- underworking, creating a feeling of uselessness
- removing responsibility without justification
- adding responsibility without justification
- changing targets or deadlines without justification
- any other means of undermining a person's right to dignity at work.

Workplace bullying is not:

- mutually acceptable, well-intentioned friendly banter, good-natured jokes and compliments
- friendships and relationships where the parties consent to the relationship
- issuing reasonable instructions and expecting them to be carried out
- warning or disciplining someone, including suspension or demotion, in line with our policy and procedures
- insisting on high standards of performance for core responsibilities, as well as in areas such as quality, safety, team cooperation, and attendance
- legitimate criticisms about work performance
- giving critical feedback, including in a performance discussion
- performance improvement or performance management processes
- investigations undertaken in accordance with our policy
- robust discussion about issues or concerns in the workplace
- differences of opinions and non-aggressive conflicts
- a single incident of minor unreasonable behaviour.

Harassment

Harassment is unwanted and unwarranted behaviour that a person finds offensive, intimidating or humiliating. The behaviour is repeated, or significant enough as a single incident, to have a detrimental effect on a person's dignity, safety and wellbeing.

Harassment can be physical, psychological, verbal or visual behaviour. As with bullying, harassment might be clear, direct and obvious, or more indirect and subtle.

This is most commonly sexual or racial harassment (both defined below) but can include other forms, such as:

- emotional harassment
- psychological harassment
- physical harassment
- derogatory comments directed at someone's status or role in the organisation.

Sexual harassment

Sexual harassment is any unwelcome or offensive sexual behaviour that is repeated, or is significant enough as a single incident to have a harmful effect on a person.

It can involve spoken or written material, images, digital material or a physical act.

Sexual harassment is unlawful under the [Human Rights Act \(1993\)](#) and the [Employment Relations Act \(2000\)](#). Sexual violation, any activity done without a person's consent, and indecent assault are unlawful under the [Crimes Act 1961](#).

Electronically (including online) sharing of sexual photographs, videos, rumours, comments or information about another person without their consent are unlawful under the [Harmful Digital Communications Act \(2015\)](#). This Act includes a new criminal offence to help tackle the most serious instances of bullying and harassment by people using digital technology. It is illegal to send messages and post material online that deliberately cause someone serious emotional distress.

The [Victims' Rights Act \(2002\)](#) ensures that if someone has suffered harm as a result of an offence of a sexual nature, they are to be treated with courtesy and compassion and have their dignity and privacy respected.

Examples of sexual harassment include, but are not limited to:

- offensive sexual remarks or jokes
- implied or actual threats of being overlooked for work opportunities or promotions if a person declines a manager's advances
- unwelcome touching, patting, or pinching by any personnel
- intentionally exposing or flashing private body parts
- being hassled for a date, regardless of acceptance, or being followed home or elsewhere by any personnel
- images or other material of a sexually explicit or offensive nature in the workplace, including in electronic form
- intrusive or unwelcome questions about a person's personal life.

Racial harassment

Racial harassment is behaviour that is racist (about someone's ethnicity, colour, or national origin) and unwelcome, hurtful, offensive, belittling or threatening and is either repeated or serious enough to have a harmful effect on a person, and expresses hostility, contempt or ridicule.

Examples of racial harassment include, but are not limited to:

- offensive remarks or jokes about a person's race, colour, ethnicity or nationality
- mimicking how a person speaks, e.g. if they have an accent
- calling someone a racist name or using 'slurs'
- racially offensive material in the workplace
- deliberately mispronouncing a person's name
- excluding or isolating a person because of their race, colour, ethnicity or nationality.

Discrimination

Discrimination is behaviour that results in a person being treated unfairly or less favourably than another person in the same or similar circumstances.

Under the Human Rights Act 1993 it is unlawful to discriminate based on:

- sex – includes pregnancy and childbirth, and discrimination against transgender and intersex people because of their sex or gender identity
- marital status – includes whether a person is or is not single, married, in a civil union, or in a de facto relationship, divorced, widowed, separated or with a domestic partner

- religious belief – not limited to traditional or mainstream religions
- ethical belief – not having a religious belief, whether in respect of a particular religion or religions or all religions
- colour, race, or ethnic or national origins – includes nationality or citizenship
- [disability](#) – including physical disability or impairment, physical illness, psychiatric illness, intellectual or psychological disability or impairment, any other loss or abnormality of psychological, physiological, or anatomical structure or function, reliance on a guide dog, wheelchair, or other remedial means, the presence in the body of organisms capable of causing illness
- age – people are protected from age discrimination if they are over 16 years old
- political opinion – the lack of a particular political opinion or any political opinion
- employment status – being unemployed, a volunteer, or being a recipient of a benefit under the [Social Security Act 2018](#) or an entitlement under the [Injury Prevention, Rehabilitation, and Compensation Act 2001](#)
- family status – includes having or not having children or other dependants, being married to, in a civil union, de facto relationship with, or a relative to a particular person
- sexual orientation – being heterosexual, homosexual, lesbian or bisexual.

Unlawful discrimination covers a wide range of attitudes and behaviours, and includes discrimination against someone because of their past, present or assumed circumstances. For example, it is unlawful to discriminate against someone because they have a mental illness, have had one in the past, or because someone assumes they have a mental illness.

Victimisation

Victimisation means punishing a person, or negative behaviour or action towards a person because they were involved in a dispute or complaint (either as the person making the complaint or allegations, witness, support person, person complained about, or otherwise).

The [Human Rights Act 1993](#) also protects all people from being victimised because they:

- were involved in a dispute
- supported another person to make a complaint
- contacted the Human Rights Commission about harassment or discrimination.

The [Employment Relations Act 2000](#) also protects employees against victimisation of this kind.

Accountabilities

Fire and Emergency New Zealand

We will work to respond to and minimise workplace bullying, harassment and victimisation. We will do this by:

- establishing and promoting respect for the broad range of human values and character strengths required for Fire and Emergency
 - actively looking for ways to support positive workplaces that workers feel are pleasant, fair, rewarding and positively challenging
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- encouraging positive leadership styles, and investing in and supporting all our personnel to achieve this
- training key personnel on how to receive bullying and harassment reports and give support and advice
- where appropriate, directing attention towards behaviour rather than people
- aiming to promote harmonious relationships across Fire and Emergency
- giving workers who believe they've been bullied, harassed or victimised a range of options to resolve the issue and access support
- supporting people who are managing complaints on behalf of Fire and Emergency
- offering a range of solutions up to and including taking formal actions, where appropriate
- aiming to repair the working relationship and promote positive work values
- openly discussing bullying, harassment and victimisation in both formal and informal settings
- providing information and training about bullying, harassment and victimisation
- identifying factors that contribute to bullying, harassment and victimisation
- putting effective control measures in place to address those and prevent them from happening again
- ensuring our processes and systems for addressing bullying, harassment and victimisation are fit for purpose and reviewing them regularly.
- managing the recruitment and appointment of staff who are aware and skilled in dealing with bullying and harassment.

When dealing with an allegation of bullying, harassment and victimisation, we will:

- treat all matters seriously
- where appropriate, investigate promptly and impartially
- reasonably support all parties involved
- find appropriate remedies and consequences for confirmed bullying as well as false reports
- communicate the process and its outcome (though not necessarily any action taken against a person if that violates their privacy)
- ensure confidentiality
- apply the principles of natural justice
- keep good documentation
- follow tikanga Māori where required/requested.

Managers

Managers agree to:

- ensure personnel are clear on what their roles involve
 - intervene early to call out and deal with any unreasonable behaviour before it escalates
 - record and, where appropriate, investigate complaints fairly and in line with our policies and processes
 - not ignore issues raised
 - where there is a conflict of interest, defer responsibility to another manager, where appropriate
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- cooperate with investigations
 - look for informal solutions (self-help, giving feedback, mediation or facilitation) before escalating an issue to higher levels (such as investigation) where appropriate.
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All personnel

All personnel agree to:

- tell their manager or supervisor if they experience or see any bullying, harassing or victimising behaviours
 - if the manager is the person considered to be behaving in an inappropriate manner, tell another manager or HR
 - try low-level solutions (e.g. talking to the person initially, if safe to do so)
 - follow our informal or formal processes (as outlined below) when making a complaint
 - keep an eye out for other people and provide support when they see a person being isolated or experiencing reprisals.
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Raising concerns and pathways for resolution

Introduction

Raising concerns, as either the person making the complaint or allegations, or a bystander can be challenging. We are committed to ensuring that all personnel who raise concerns are treated fairly and with respect, and to maintaining confidentiality as appropriate.

Principles for managing complaints

We have procedures in place for making and managing complaints to ensure we treat any complaint or query as confidentially as possible, take it seriously, and act on it promptly.

We prefer to provide options, appropriate support and appropriately tailored solutions, rather than taking a 'one size fits all' approach. For example, options can include:

- exploring informal solutions before taking formal action, if this is appropriate
- exploring informal solutions without requiring formal action, if this is appropriate
- proceeding straight to a formal investigation if necessary.

We will:

- apply the principles of natural justice
 - treat all parties fairly
 - respect and support all parties through the process
 - take all practicable steps to prevent retaliation or victimisation against anyone who makes a complaint.
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Raising and managing complaints

There are several methods for responding to bullying, harassment or victimisation. There's no need to start with self-help if another option is more appropriate.

Before raising concerns, it can be helpful to seek advice and support. Identify someone appropriate to tell as soon as possible – their accounts may also be used as evidence, and their advice and support may also help in other ways.

It can be useful to talk with a trusted friend or advisor, or seek advice from a colleague, manager, HR, representative, or counsellor (including [Vitae](#) and [EAP](#)).

Another option is to contact a public sector agency or other organisation like your union or association, helpline, etc.

Take notes of incidents – names, dates, times, places, and witnesses – and your response. It is best to note these as close as possible to the time they occur, as they may be used as evidence in a formal complaint.

Sexual harassment complaints

It may be difficult to talk about sexual harassment:

- You may have experienced behaviour which you do not feel is appropriate but are uncertain if it is or could be seen as sexual harassment.
- You may be embarrassed about discussing this, or worry that you will not be believed, or that complaining might make the situation worse and that you might face repercussions for your working relationships.
- You may be worried that complaining could impact your role or impact others.

We take all complaints and disclosures seriously and are committed to empowering all personnel to feel safe to talk about and come forward when people behave inappropriately in the workplace.

Self-help

This option can be used to address issues at the lower end of the spectrum of concerning behaviours, or when a person making a complaint or allegations feels safe to have a face-to-face conversation.

- Act quickly – if possible, the person making the complaint or allegations should discuss concerns early with the person behaving inappropriately. Often, the earlier you call out behaviour, the easier it is to stop it.
 - Describe the behaviours. Be as objective and accurate as possible – describing specific incidents can help. Explain how the behaviour is affecting you, and ask the person to stop
 - Explain the next steps – the person making the complaint or allegations should explain what they will do if the behaviour continues (such as formally report the behaviour).
 - Give the other person time to respond to your complaint – both parties should give the other person time to consider what has been said before discussing the best way forward. Some people need to think about what they've been told before they can respond to it. It's also hard for most people to hear they're doing something that is causing someone else discomfort or distress, and that can make them come across as defensive.
 - Behave appropriately – these are often difficult conversations to have and it's important for all parties to safeguard themselves by behaving appropriately no matter how the other person responds.
 - Engage enough support. This may mean that the person making the complaint or allegations talks to someone both before and after they talk to the person complained about. There is a list of support options at the end of this policy.
 - Seek advice via the BCO complaints process.
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Informal intervention

The person making the complaint or allegations should use this option when they need additional support or are not comfortable having a face-to-face conversation without a third-party present, but do not wish to make a formal complaint.

- First, if it's safe, the person making the complaint or allegations should speak to their immediate supervisor or manager about the conduct and seek their guidance on dealing with the situation.
- If their concerns are about their line manager, they can go to their one-up or two-up manager for advice and support.
- They should consider speaking to a support person for advice or assistance. This could include a union or association representative, or a trusted colleague.
- Use informal approaches such as facilitated meetings (generally through HR) to address the conduct effectively. This includes agreeing on a 'road map' for future communications.
- Make sure these outcomes are clearly documented to avoid any confusion about what has been agreed moving forward.

Formal intervention

Use this option:

- if self-help and/or informal intervention hasn't worked:
- in the first instance if the person making the complaint or allegations believes the behaviour is repeated or serious enough to have a detrimental effect.

There are different ways to make a complaint:

- Usually the person making the complaint or allegations can complain directly to their line manager, but they can also go to another person in their line of management or to HR.
- If the person making the complaint or allegations doesn't want to make a complaint to their line manager, they can use the process for complaints via the BCO.
- Depending on the circumstances and how the person making the complaint or allegations wants the matter resolved, a formal investigation may be initiated in line with BCO processes once the complaint has been received.

For instructions on how to make a formal complaint, go to [How to make a complaint](#).

External intervention

If the person making the complaint or allegations is not satisfied with the outcome of self-help, informal or formal options, they can seek external intervention through the following organisations:

- the [Human Rights Commission](#) – for complaints about discrimination on one of the 13 grounds prohibited in the Human Rights Act (see [Definitions](#) > Discrimination, above) and for sexual or racial harassment
- [WorkSafe](#) – for complaints about a breach of the duty of care to take all practicable steps to provide a safe workplace, e.g. workplace bullying
- [New Zealand Police](#) – report all threats of violence, actual physical violence or other criminal acts to the Police as well as your manager
- the Ministry for Business, Innovation and Employment's [Mediation Services](#) – to help resolve employment relations problems:

- between the employee and the organisation, or
- between two employees – if both parties agree, the employees can attend mediation to work out a way forward in which they can work together while upholding both parties’ rights
- [Employment Relations Authority](#) – for employees to lodge a personal grievance (PG) for claims such as unjustified disadvantage or constructive dismissal.

Note:

- This is for action against the employer, i.e. the organisation, not a person.
- The ERA will almost always require good faith attempts at mediation before it will hear and determine a grievance – employees should approach the mediation service first.

Internal processes for volunteers

Volunteers may also use the following internal processes:

- [Resolve volunteer issue](#)
- [Interim dispute resolution process](#) (if the above process doesn’t resolve the issue to your satisfaction).

Anonymous complaints

- You can make anonymous complaints
 - in writing
 - in person with a manager or HR representative.
- We will assess each case according to its own circumstances.
- We can only investigate an anonymous complaint if doing so without naming the person making the complaint or allegations would be fair to all parties involved.

Note: Some complaints may be protected disclosures, in which case the [Protected disclosure policy](#) applies.

Malicious complaints

If an investigation concludes that the person complained about did not behave as the person making the complaint or allegations alleged, we may investigate whether the complaint was frivolous, false or malicious. If we find that a complaint was frivolous, false or malicious, we may take disciplinary action against the person making the complaint or allegations.

Misconduct and serious misconduct

Conduct may amount to misconduct or serious misconduct if

- an allegation of harassment, bullying or victimisation is substantiated
- if any part of this policy or our Standards of Conduct is breached.

We are committed to addressing breaches of this policy promptly and effectively by taking appropriate disciplinary action.

Potential outcomes

The outcomes of a breach of this policy will depend on all of the circumstances of the situation. Conduct that amounts to misconduct or serious misconduct will be addressed via appropriate disciplinary action.

Confidentiality We will treat bullying, harassment and victimisation confidentially, as far as the circumstances allow. Parties to a complaint must maintain confidentiality, but may inform those with a genuine need to know e.g. a formal support person

We take breaches of confidentiality seriously. We may deem them misconduct or serious misconduct and take appropriate disciplinary action.

How to make a complaint

Complaints in writing To make a written complaint, use the [Bullying and harassment complaints form](#).

It is best to complain in writing because:

- it helps us clearly understand the details
- it prevents us from misinterpreting any specifics
- it speeds up the process.

A written complaint should have as much detail as possible including:

- dates, times and locations where possible
 - name(s) of the person complained about and any potential witnesses
 - the details of the events that took place.
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Verbal complaints

To make a verbal complaint:

1. There must be a record of the conversation – either:
 - someone must make a sound recording, or
 - the person receiving the complaint takes notes.
2. This record is transcribed or typed up.
3. The person making the complaint or allegations reviews the transcription to ensure the information is accurate and that it conveys all that they wish to convey to us.

This process can be time-consuming, and for this reason, we prefer written complaints.

Bystanders and upstanders

Bystanders and upstanders

Bystanders and upstanders play an important role when they witness bullying, harassment, or victimisation:

- A bystander is someone who observes unacceptable behaviour.
- An upstander takes steps to help or support the person being harmed.

We expect you to speak up when you see unacceptable behaviour, where it is safe to do so. The process is similar to the [Safe Person Concept](#), where you take responsibility for ensuring that the work environment is safe and team members are operating in a safe place.

Bystanders and upstanders have different options, depending on the circumstances. These include:

- speaking with the person who was subjected to the behaviour and making them aware of their options
- approaching the person who is displaying the behaviour and explaining what you have seen and why you do not feel it is appropriate
- raising the matter with a manager
- reporting the issue to Safety, Health and Wellbeing, HR, a peer supporter or Union or Association representative.

Bystanders and upstanders should feel able to speak up to help us rid our workplaces of inappropriate behaviours.

It is not acceptable to:

- support people initiating unwanted behaviour
- turn a blind eye to unwanted behaviour and walk past it.

If you have witnessed bullying, harassment or victimisation, advise an appropriate person immediately, and remember that support and advice are also available for you.

Links, resources and support

The BCO will update this section as new information becomes available.

Safety, health and wellbeing support

Information is available on the Portal > [Seek safety, health and wellbeing support](#)

You can access confidential advice and counselling for work-related and/or personal issues.

Short-term support is available to all personnel and immediate family members at no cost. You can self-refer (24 hours, seven days a week service).

Location	Contact
Te Hiku (Region 1) Ngā Tai Ki Te Puku (Region 2) Te Ūpoko (Region 3)	Vitae Services on 0508 664 981 or www.vitae.co.nz
Te Ihu (Region 4) Te Kei (Region 5)	EAP Services on 0800 327 669 or www.eapservices.co.nz
NHQ	EAP Services on 0800 327 669 or www.eapservices.co.nz

Sexual harassment

For those affected by sexual harassment, external support options include the [Safe to Talk](#) sexual harm helpline, which helps people to engage with local specialist sexual violence support agencies. A [directory](#) for specialist support providers is also available.

Mediation services

The Ministry of Business, Innovation and Employment provides free mediation services. When a party brings a personal grievance, it will be referred to mediation. It is not necessary to bring a personal grievance to gain access to the free mediation when there is a workplace relationship problem. The service mediates between employees, or between an employee and the organisation.

Contact Mediation Services on 0800 800 863 or visit their webpage <https://www.employment.govt.nz/resolving-problems/steps-to-resolve/mediation/>

WorkSafe NZ

As the health and safety regulator, WorkSafe provides resources about managing health and safety risks. They can also receive complaints about breaches of obligations under the [Health and Safety at Work Act 2015](#) to take all reasonably practicable steps to provide a safe workplace.

Contact WorkSafe on 0800 030 040 or visit <https://worksafe.govt.nz/>

Human Rights Commission

The Human Rights Commission offers a free service to deal with both informal enquiries and complaints related to discrimination and racial and sexual harassment issues.

Contact the Human Rights Commission on 0800 496 877 or visit <https://www.hrc.co.nz/>

Office for Disability Issues

The Office for Disability Issues is the focal point in government for disability issues, supporting implementation of the United Nations Convention on the Rights of Persons with Disabilities and the New Zealand Disability Strategy.

Contact The Office for Disability Issues on 04 916 3300 or visit <https://www.odi.govt.nz/>

New Zealand Police

Report threats of violence, actual physical violence or other criminal acts to the Police:

- phone 111 for emergencies
 - phone 105 for non-emergencies
 - go to <https://www.police.govt.nz/>
 - go to your local police station.
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More help

For information about the interim process for bullying and harassment complaints, contact conductcomplaints@fireandemergency.nz

For more help or information, contact:

- your line manager or supervisor
 - a Human Resources representative in your area
 - the Positive Workplace Culture Team, via positiveworkplace@fireandemergency.nz
 - the Behaviour and Conduct Office, via BCO@fireandemergency.nz
 - [WFENZ](#)
 - your union or independent association:
 - [PSA](#)
 - [NZPFU](#)
 - [UFBA](#)
 - [FECA](#)
 - [FRFANZ](#)
 - [RPA](#)
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Legislation

[Health and Safety at Work Act 2015](#)

We all have important responsibilities under the Health and Safety at Work Act 2015. We all have a duty to take reasonable care that our acts or omissions do not harm the health and safety of other people. Bullying, harassing or victimising another person is behaviour that can be harmful to a person's health and wellbeing. A person behaving in such a manner could be prosecuted and fined.

[Human Rights Act 1993](#)

[Employment Relations Act 2000](#)

[Fire and Emergency New Zealand Act 2017](#)

[New Zealand Bill of Rights Act 1990](#)

[Privacy Act 1993](#)

[Crimes Act 1961](#)

[Harmful Digital Communications Act \(2015\)](#)

[Victims' Rights Act \(2002\)](#)

[Social Security Act 2018](#)

[Injury Prevention, Rehabilitation, and Compensation Act 2001](#)

Document information

Owner	Office of the Chief Executive
Last reviewed	6 August 2020
Review period	Yearly
Notes	Apart from the yearly review, the policy is to be updated as required to align with other initiatives (e.g. BCO development) currently under way.

Record of amendments

Date	Brief description of amendment
6 August 2020	Initial version.