

Harassment and Anti-Bullying Policy

Introductory statement

Community Law Waikato (CLW) is committed to protecting the rights and dignity of its members. CLW does not tolerate any form of unacceptable conduct.

CLW expects all members to abide by the laws that protect against unacceptable conduct and to treat each other with respect, courtesy and consideration at all times.

Application

This policy applies to all CLW members.

Members includes any person engaged with CLW including volunteers, board members, contractors, and employees of CLW.

It is expected all members will comply with the Human Rights Act 1993 and the Health and Safety at Work Act 2015.

This policy applies:

- when on CLW premises and
- when outside of CLW premises if engaged by CLW (for example when attending professional development activities, legal social events, or education presentations) and
- between members (for example at social events outside of the workplace).

It is expected all members who hold a practicing certificate will comply with the Lawyers and Conveyancers Act 2006 including Conduct and Client Care Rules.

It is expected all members regardless of whether they hold a practicing certificate, will ensure compliance with the Lawyers and Conveyancers Act 2006 including Conduct and Client Care Rules so far as applicable i.e. when working on a Solicitor file, confidentiality must be observed.

Unacceptable Conduct

CLW does not tolerate any form of unacceptable conduct by its members. Engaging in these behaviours is contrary to r 10.3 of the Conduct and Client Care Rules and is incompatible with the values and standards of CLW.

The following is a non-exhaustive list of unacceptable conduct. A definition of each behaviour is included. NB: **Behaviour** includes the use of language (whether written or spoken), the use of digital or visual material, and physical behaviour

Bullying

Repeated and unreasonable behaviour directed towards a person or people that is likely to lead to physical or psychological harm

Discrimination

Discrimination that is unlawful under the [Human Rights Act 1993](#) or any other enactment including discrimination on grounds of:

- Sex, which includes pregnancy and childbirth;
- Marital status;
- Religious or ethical belief;
- Colour or race;
- Ethnic or national origins which includes nationality or citizenship;
- Disability which includes any physical disability or illness or any psychiatric, intellectual or psychological disability or impairment;
- Age;
- Political opinion;
- Employment status;
- Family status;
- Sexual orientation.

Harassment

Intimidating, threatening, or degrading behaviour directed towards a person or group that is likely to have a harmful effect on the recipient; and includes repeated behaviour but may be a serious single incident

Racial Harassment

Behaviour that expresses hostility against, or contempt or ridicule towards, another person on the ground of race, ethnicity, or national origin; and is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person)

Sexual Harassment

Subjecting another person to unreasonable behaviour of a sexual nature that is likely to be unwelcome or offensive to that person (whether or not it was conveyed directly to that person); or

a request made by a person of any other person for sexual intercourse, sexual contact, or any other form of sexual activity, that contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment

Violence

Violence includes the following:

- physical violence

- psychological violence:
- sexual abuse
- sexual assault

Person in charge at social events

There will be a person in charge at CLW organised social and off-site events who will remain until the end of event. This will be the General Manager (Juanita Bennett) or in her absence the Legal Services Manager (Angela Smith). If both are absent, an alternative staff member will be appointed.

Reporting Requirements

Rules 2.8, 2.9 and 11.4 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 require all practicing lawyers to report misconduct as follows:

2.8 Subject to the obligation on a lawyer to protect privileged communications, a lawyer who has reasonable grounds to suspect that another lawyer may have engaged in misconduct must make a confidential report to the Law Society at the earliest opportunity.

2.8.1 This rule applies despite the lawyer's duty to protect confidential non-privileged information.

2.8.2 If a report by a lawyer to the Law Society may breach the lawyer's duty to protect confidential non-privileged information, the lawyer should also advise the lawyer's client of the report.

2.8.3 A report submitted in accordance with rules 2.8 and 2.9 must—

(a) be in written form; and

(b) identify—

(i) the person making the report; and

(ii) the person or persons to whom the report relates; and

(c) specify details of the alleged conduct; and

(d) be supported by any appropriate documentation held by or available to the person making the report.

2.8.4 This rule does not apply to—

(a) a lawyer who has received information in the course of providing confidential advice, guidance, or support to another lawyer, including a member of a panel under a "friend" system, unless disclosure of the information is necessary to—

(i) prevent the anticipated or proposed commission of a crime or fraud; or

(ii) prevent a serious risk to the health or safety of any person; or

(b) a lawyer who is a victim of the suspected misconduct; or

(c) circumstances where a lawyer reasonably believes the disclosure would pose a serious risk to the health (including mental health) or safety of a victim.

2.9 Subject to the obligation on a lawyer to protect privileged communications, a lawyer who has reasonable grounds to suspect that another lawyer may have engaged in unsatisfactory conduct may make a confidential report to the Law Society.

2.9.1 This rule applies despite the lawyer's duty to protect confidential non-privileged information.

Refer also to rule 11.4

<https://www.legislation.govt.nz/regulation/public/2008/0214/latest/LMS518160.html>

This requires a designated lawyer practicing on their own account to notify the law society if they issue a written warning or dismiss an employee due to one of the prohibited behaviours. It also requires a report if an employee leaves after a law practice has advised an employee they are going to investigate the behaviour.

Complaints Procedure

The complaints procedure is available for all people engaging with CLW. People can complain if they witness unacceptable conduct or if they are the subject of unacceptable conduct.

If the conduct is of a criminal nature, the police should be notified.

Self-resolution and informal resolution

If the conduct is minor, the member may consider approaching the person or people involved to resolve the concern, by means of direct discussion or by a written communication.

Formal Complaint

A formal complaint can be made verbally or in writing. However, if the complaint is verbal it will need to be followed by a written complaint. Assistance can be provided to make a written complaint. Complaints can be made to the General Manager (Juanita Bennett) or the Legal Services Manager (Angela Smith).

If it is not appropriate to report it to the Managers, a member can report the incident to the Chairperson of the Board (Susan Thompson).

The incident will then be investigated, and appropriate action taken, which may include disciplinary action against the member who carried out the unacceptable conduct if it is an employed staff member. A mandatory notification will need to be made if it falls under rule 11.4.

If the complaint is not against an employed staff member (such as a contractor or volunteer), an investigation and process will be followed observing the rules of natural justice.

If a member reports an incident, they will be kept updated on progress and a safety plan will be developed if required. Some aspects of a disciplinary process may need to be kept confidential, but information that can be shared with the member will be. The member will be advised once the investigation is concluded.

All members are entitled to have a support person or legal representation whether the subject or object of a complaint.

Good faith

All complaints made under this policy must be made in good faith and not be of a frivolous or vexatious nature.

Confidentiality

All information relating to alleged or proven breaches of this policy will be treated strictly in accordance with the requirements of the Privacy Act

Information will not be disclosed without the complainants' consent, unless the complaint is serious and the General Manager, Legal Services Manager or Board believes that action needs to be taken. In such a situation it may not be possible to maintain absolute confidentiality even if a complainant does not wish the matter to be taken further, however the complainant is to be advised of the disclosure

The obligation of confidentiality does not prevent CLW from using or disclosing any material necessary to instigate or defend any legal proceedings or make submissions in relation to any enquiry or complaint, to refer a matter to the police or to make a mandatory report to the Law Society under the client care rules.

Unacceptable Conduct by Clients

Rule 4.2(f)(i) allows a lawyer to end a retainer with a client if unacceptable conduct has occurred.

If unacceptable conduct by a client has occurred, the member must notify the Legal Services Manager or in their absence, the General Manager.

The member can choose to no longer act for the client or the Legal Services Manager/General Manager can decide the member can no longer act for the client.

Depending on the level of unacceptable conduct, the client file can be reassigned to the Legal Services Manager/General Manager or we can no longer act for the client. The Legal Services Manager/General Manager will make the decision and notify the client accordingly.

Review

As lawyers practicing on their own account, the responsibility to keep this policy updated and annually reviewed is Juanita Bennett & Angela Smith.

This policy will be provided to all members of Community Law Waikato.