

## Cycling New Zealand Overview

**Purpose:** Unlocking People Potential

**Vision:** A thriving community across the sport of cycling

### Values:

#### Integrity

We are honest and transparent, uncompromising in our commitment to strong moral, respectful, and ethical principles

#### Innovation

We constantly look at working smarter and more efficiently – seeking improvement in all we do

#### Excellence

We aim high in everything we do, striving to be better in all we do

#### Collaboration

We connect to achieve our purpose, we build trust in our relationships

## DISCRIMINATION, BULLYING & HARASSMENT

### Purpose

The purpose of this Policy is to:

- a) Ensure the purpose, vision, and values of Cycling New Zealand (CNZ) are upheld.
- b) Outline what is and isn't discrimination, bullying and harassment.
- c) Aims to establish clear expectations of behaviour and responsibilities, and procedures for dealing with complaints of discrimination, bullying and harassment.

### Scope

This Policy applies to

- (i) CNZ employees, contractors, and volunteers of CNZ, member organisations, centres/regions, clubs, and school cycling teams and programmes, affiliated to CNZ; and
- (ii) High Performance Sport New Zealand and Sport New Zealand employees or contractors operating within the sport of cycling; and
- (iii) Any other support personnel appointed or elected to CNZ teams and squads; and
- (iv) All CNZ licenced riders, including national representative and development athletes; and
- (v) Technical Officials, including coaches, commissaires and other officials involved in the sport; and
- (vi) Athletes, coaches, officials, and other personnel participating in or assisting in events recognised or sanctioned by CNZ; and
- (vii) Athletes, coaches, officials, and other personnel participating in or assisting in other activities including camps and training sessions held or sanctioned by CNZ; and
- (viii) Spectators, parents/guardians, and sponsors, who or which agree in writing (whether on a ticket, entry form or otherwise) to be bound by this policy.

### Obligations and responsibilities

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

#### Employee Responsibility

Every CNZ employee and athlete has a responsibility to:

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- Be aware of the terms of this Policy (as varied from time to time) and their rights and obligations under it.
- Always comply with this Policy (as varied); and
- Maintain confidentiality concerning any complaint and/or investigation.

### 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 CNZ'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 CNZ may have in respect of the conduct.

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

### 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.

### 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 engaged in the conduct. The law imposes vicarious liability in situations where a person or entity is able to prevent conduct but does not do so.

## **Discrimination**

CNZ 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 CNZ that no employee, athlete, or job applicant is discriminated against or denied equal treatment.

It is discrimination in employment if an employer:

- won't or doesn't give an employee the same terms of employment, work conditions, fringe benefits, opportunities for training, promotion, and transfer as other employees:
  - with the same or substantially similar qualifications, experience, or skills, and
  - who are employed in the same or substantially similar circumstances, or
- dismisses an employee or does something that has a negative effect on their employment, job performance or job satisfaction when they are not treating other employees doing the same type of work in the same way, or
- retires an employee or makes the employee retire or resign (e.g. by creating unfavourable working conditions in order to make the person resign), and
- the reason is directly or indirectly a prohibited ground of discrimination.

There are some specific employment situations which are exceptions and, in these situations, it is not unlawful to make employment-related decisions on the basis of a prohibited ground. For example, in some situations it is legal to employ only a woman for a particular position.

### Prohibited grounds for discrimination

All people are protected from unlawful discrimination in their employment. This includes discrimination on the grounds of:

- Age
- Race or colour
- Ethnicity or national origins
- Sex (including pregnancy or childbirth)
- Sexual orientation
- Disability
- Religious or ethical belief
- Marital or family status
- Political opinion
- Being affected by family violence
- Involvement in union activities, including claiming or helping others to claim a benefit under an employment agreement, or taking or intending to take employment relations education leave.

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

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

### **Harassment**

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

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.

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

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

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.

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.

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.
- 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.

### What is unlawful harassment?

First, under the Harassment Act 1997, the behaviour must amount to "harassment" as that word is defined in the Harassment Act. This means there must be a pattern of behaviour involving the specific kinds of acts set out in the Act:

- The specific acts include a range of behaviour, like hanging around outside your house or work, or following you, or contacting you by phone, letter, email, text, online post, or any other way.
- A "pattern" of behaviour can consist of two or more acts of harassment within 12 months, or one continuing act over a period of time, like posting material online and leaving it there.

Second, the harassment must meet the specific test for "criminal" harassment, which depends on the harasser's intention and state of mind.

For the behaviour to be criminal, the harasser must either:

- intend to make you fear for your safety, or the safety of your partner or a family member, or
- know that the harassment is likely, given your particular situation, to make you fear for your safety or the safety of your partner or family member.

### **Sexual Harassment**

Sexual harassment may contain an implied or overt promise of preferential treatment, or an implied or overt threat of detrimental treatment.

The person doing the harassment could be a manager, co-worker, a volunteer or even a non-employee like a client, contractor or supplier. This happens when this person:

- either subtly or obviously asks the worker for sex, sexual contact or other sexual activity, with a:
  - promise, of better treatment in their employment, or
  - threat of either worse treatment or about current or future job security.
- subjects, either directly or indirectly, the worker to sexual innuendo behaviours that they don't want or find offensive.

These types of behaviour can be in the form of:

- written or spoken language
- visual material such as pictures, diagrams, photos, and videos, or
- physical contact.

### Examples of sexual harassment behaviour

Victims of the harassment may not be just the target of the behaviour, but anyone affected by it. For example, a co-worker standing nearby when inappropriate sexual comments are said may be affected, even if the comments aren't directed toward them.

Here are some examples of behaviours that may be considered sexual harassment in the workplace, due to the serious nature or repetition of the behaviour, that behaviour is unwelcome or offensive, and that has a harmful effect on you and your job:

- Sharing sexually inappropriate images or videos, such as pornography or lustful gifs, with co-workers.
- Sending suggestive letters, notes, or emails.

- Displaying inappropriate sexual images, posters, or calendars in the workplace.
- Telling vulgar jokes or sexual anecdotes.
- Making inappropriate hand or body sexual gestures.
- Staring in a sexually suggestive or offensive manner or whistling.
- Making sexual comments about appearance, clothing, or body parts.
- Inappropriate touching, including pinching, patting, rubbing, or purposefully brushing up against another person.
- Asking sexual questions, such as queries about someone's sexual history or their sexual orientation.
- Making offensive comments about someone's sexual orientation or gender identity.
- Unwanted comments or teasing about a person's sexual activities.
- Persistent and unwelcome social invitations, or telephone calls or emails, from workmates at work or at home.

These are just a few examples of sexual harassment.

### **Racial Harassment**

An employee is racially harassed if the employer or the employer's representative uses language (written or spoken) or visual material, or physical behaviour that directly or indirectly:

- expresses hostility against, or brings the employee into contempt or ridicule, because of their race, colour, or ethnic or national origins of the employee, and
- this is hurtful or offensive to the employee (even if they don't let the employer or the employer's representative know this), and
- it is so significant or repeated that it has a negative effect on their employment this has a detrimental effect on the employee's employment, job performance or job satisfaction.

The person doing the harassment doesn't have to be intending to racially harass for the behaviour to be racial harassment. It depends on how the person the behaviour impacts, is affected by the behaviour.

#### Examples of racial harassment behaviour

- making offensive remarks about a person's race
- copying or making fun of the way a person speaks
- making jokes about a person's race
- calling people by racist names
- deliberately mispronouncing or mocking people's names

### **Bullying**

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.

**Workplace bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that can cause physical or mental harm. Bullying can be physical, verbal, psychological or social. This may include victimising, humiliating, intimidating, or threatening a person.**

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

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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.

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.

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).

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.

### **Victimisation**

Victimisation occurs where a person subjects or threatens to subject another person to detriment because 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.

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

### **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. 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 People & Culture Manager.

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In line with the responsibilities of CNZ 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.

Complaints, grievances and disputes will be managed in line with the CNZ Grievance & Dispute Resolution Policy.

### **HPSNZ Support Staff**

As part of the High-Performance Sport New Zealand (HPSNZ) investment into the CNZ high performance system, there are numerous HPSNZ Athlete Performance Support (APS) staff members engaged in our environment and with our staff and athletes.

These APS staff range from full-time resources who sit in our offices to part-time resources and may only interact with our staff and athletes monthly or on a as required basis. APS includes:

- Nutrition
- Physiotherapy
- Strength & Conditioning
- Physiology
- Psychology
- Data Analysis
- Medical
- Performance Life

Where a complaint or grievance involves HPSNZ support staff either as the complainant or other, it may be appropriate to involve their line manager and /or HPSNZ HR. This will be done through the Performance Team Leader.

### **Breaches**

Any breach of this policy, or any part of it, may result in disciplinary action under the individual's employment agreement, contract or other applicable CNZ regulations and policies.

### **Amendments**

CNZ may, at its sole discretion, amend this policy to suit business needs at any time and will provide an update specifying any such amendments.

### **References**

- Cycling New Zealand Code of Conduct Policy
- Cycling New Zealand Disciplinary Policy
- Cycling New Zealand Employee Disciplinary Policy
- Cycling New Zealand Grievance & Dispute Resolution Policy
- Cycling New Zealand Transgender Policy
- Cycling New Zealand Whistleblower Policy

**POLICY**



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