



COVERSHEET

Minister	Hon Andrew Little	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	Issues Paper on Bullying and Harassment at Work	Date to be published	14 September 2020

List of documents that have been proactively released

Date	Title	Author
14 September 2020	Issues Paper on Bullying and Harassment at Work	<i>Office of the Minister for Workplace Relations and Safety</i>
14 September 2020	DEV-20-MIN-0152	<i>Cabinet Office</i>

Information redacted

YES / NO [select one]

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld to protect the confidentiality of advice to the government and the free and frank expression of opinions between Ministers and public service agencies.

In Confidence

Office of the Minister for Workplace Relations and Safety

Chair, Cabinet Economic Development Committee

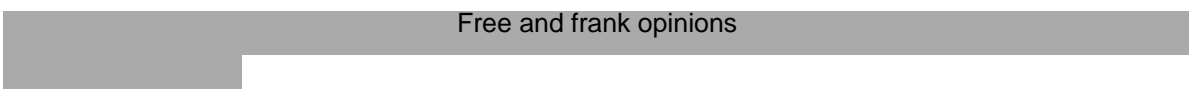
ISSUES PAPER ON BULLYING AND HARASSMENT AT WORK

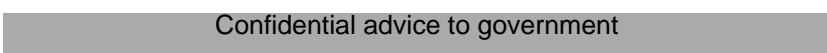
Proposal





- 1 I seek Cabinet approval to release the Issues Paper on Bullying and Harassment at Work for public consultation.

Background

- 2 Concerns are frequently raised with me regarding bullying and harassment in New Zealand workplaces. Several industries are attempting to improve their record regarding sexual harassment. In 2018 the Organisation for Economic Cooperation and Development (OECD) observed that New Zealand has a high prevalence of bullying at work.
- 3 As a step towards addressing these issues, I have commissioned an Issues Paper to gather information about bullying and harassment (including a particular focus on sexual harassment) at work.
- 4 This work will contribute to the Government's work to address both bullying and sexual harassment, to provide effective systems for worker wellbeing and to improve the wellbeing of New Zealanders overall.

5  Free and frank opinions

6  Confidential advice to government

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Issues Paper on Bullying and Harassment at Work

- 7 The primary focus of the Issues Paper is on how the work-related regulatory regimes prevent and respond to bullying and harassment issues at work. This includes the detail and operation of relevant provisions of the HSWA, Employment Relations Act 2000 (ER Act), and to a lesser extent, the Human Rights Act 1993 (HRA).
- 8 The Issues Paper is, therefore, largely focused on identifying improvements that could be driven by the work-related regulatory systems, and not the broader societal context in which bullying and harassment can occur. Although mentioned in the paper, cyber-bullying and activities covered by the Crimes Act 1961 and Harassment Act 1997 are out of scope.
- 9 Annex One “Diagram: How the Issues Paper on Bullying and Harassment at Work fits with other Government initiatives” outlines how this Issues Paper will fit in with other Government initiatives regarding bullying and harassment and mental health.
- 10 In developing this Issues Paper, MBIE officials engaged with industry and local bodies, the New Zealand Council of Trade Unions, academics, the Employment Relations Authority and the Employment Court, the Human Rights Commission, BusinessNZ, and the Canterbury Employers Chamber of Commerce, Citizens Advice Bureau, Sexual Assault Prevention Network, Gender Minorities Aotearoa, CultureSafe NZ and professional firms. MBIE officials also met with officials in the Ministry of Justice, the State Services Commission, the Joint Venture for Eliminating Family Violence and Sexual Violence, the Ministry for Women, Health Promotion Agency, Business Assist and business.govt teams (MBIE), the Office of the Ombudsman, and WorkSafe New Zealand.
- 11 The *‘Bullying and Harassment at Work Issues Paper: An in-depth look’* is structured into seven main parts:
 - the scope, analytical framework and definitions
 - context to bullying and harassment at work, including available prevalence data and impacts
 - what good practice looks like, in relation to prevention and response and relevant approaches that are being adopted in other countries
 - context to sexual harassment at work and what discussion of what is good practice to prevent and respond to this issue
 - the rights and responsibilities relevant to bullying and harassment at work under New Zealand law
 - a discussion on how the rights and responsibilities are working in practice to prevent and respond to bullying and harassment
 - identification of potential issues and opportunities for improvement.

- 12 The Issues Paper:
 - includes open-ended questions regarding the issues and opportunities for improvement identified
 - seeks feedback from stakeholders on the scale, nature and underlying drivers of issues with current systems.
- 13 A summary version of the issues paper (*'Bullying and Harassment at Work. Issues Paper: A Summary'*) has been developed for people who may not have the time to engage with the full Issues Paper, or familiarity with the detailed content. I expect the majority of stakeholders will choose to engage with this shorter version.
- 14 The in-depth Issues Paper provides the technical detail supporting this summary, to demonstrate we have thoroughly researched and considered the causes and issues of bullying and harassment as part of a rigorous problem definition phase. Stakeholders with a high degree of engagement and knowledge of bullying and harassment issues may prefer engaging with this more detailed content.
- 15 Obtaining feedback and input from stakeholders in response to this Issues Paper is an important further step to confirm our understanding of current issues and shape future operational and regulatory policy in this area.
- 16 The consultation will primarily seek feedback from representative organisations, with a focus on the following: businesses, workers, groups at particular risk of bullying and harassment (women, youth, Māori, ethnic minorities, rainbow communities, disabled people, and migrant workers), unions, people and organisations who work within or have experience in the relevant regulatory systems, and academics and researchers.
- 17 The consultation will also include an online survey specifically for workers who have experienced bullying and harassment at work. The survey will aim to receive feedback on the ways individuals respond to incidents of bullying and harassment at work, without requiring respondents to have a high level of understanding of the relevant regulatory systems.
- 18 Any policy reviews resulting from this Issues Paper will be long-term items of work.

Consultation

- 19 The Ministry of Health, Ministry of Justice, Ministry of Social Development (including Office of Disability Issues), Ministry of Youth Development, Ministry of Business, Innovation and Employment, Ministry for Women, Ministry for Pacific Peoples, Ministry for Primary Industries (Functional Health and Safety Lead), State Services Commission, The Treasury, Te Puni Kōkiri, Accident Compensation Corporation, WorkSafe New Zealand, the Employment Relations Authority and the Joint Venture for Eliminating Family Violence and Sexual Violence have been consulted on this paper, the draft Issues Paper and draft Summary Issues Paper.

- 20 Agency feedback on the draft Issues Papers was positive with no significant concerns being raised with the paper.

Financial Implications

- 21 The cost of consultation will be funded from MBIE's baseline.

Legislative Implications

- 22 There are no immediate legislative implications. Submissions made in response to the Issues Paper will be considered, where appropriate, in the upcoming reviews of selected aspects of the HSWA and the disputes resolution system under the ER Act.

Impact Analysis

- 23 A regulatory impact analysis is not required at this stage as this is an exploratory Issues Paper.

Human Rights

- 24 The Issues Paper outlines the scope and process for an individual to make a complaint under the Human Rights Act 1993 if someone experiences bullying or harassment with a discriminatory basis and seeks feedback on how well this is working.
- 25 If the consultation feedback identifies issues, or improvement opportunities, in relation to the human rights system, these will be provided to the Ministry of Justice or Human Rights Commission NZ for consideration.

Publicity

- 26 This issues paper may attract media and public attention as it discusses a topic of broad interest to many workers, advocacy groups and businesses. A press statement will be made when the Issues Paper is released. Both the in-depth and summary Issues Papers will be published on MBIE's website.
- 27 Officials will undertake a round of public consultation on these issues.

Proactive Release

- 28 This Cabinet paper will be released, subject to redactions consistent with grounds for withholding information under the Official Information Act 1982, when MBIE begins consultation on the draft Issues Paper.

Recommendations

The Minister for Workplace Relations and Safety recommends that the Committee:

- 1 **note** the Issues Paper on Bullying and Harassment at Work will contribute to Government's work on sexual harassment and improving the wellbeing of New Zealanders
- 2 **agree** to the public release of the Issues Paper on Bullying and Harassment at Work, and associated Summary Issues Paper

3 [Redacted] Confidential advice to government [Redacted]

4 [Redacted] Confidential advice to government [Redacted]

Authorised for lodgement
Hon Andrew Little
Minister for Workplace Relations and Safety

Annex One: How the Issues Paper on Bullying and Harassment at Work fits with other government initiatives

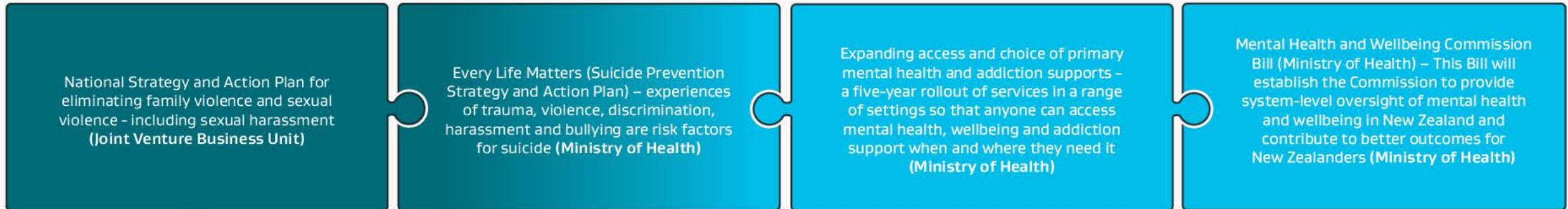
Bullying and Harassment and Mental Health Initiatives Framework

The government has a number of initiatives underway to address bullying and harassment

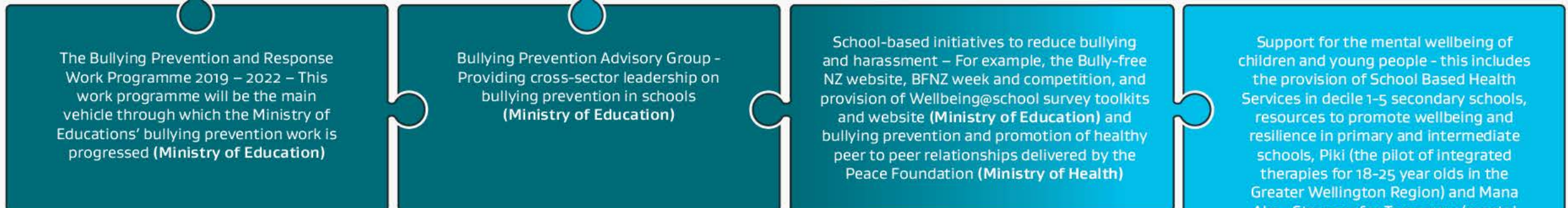
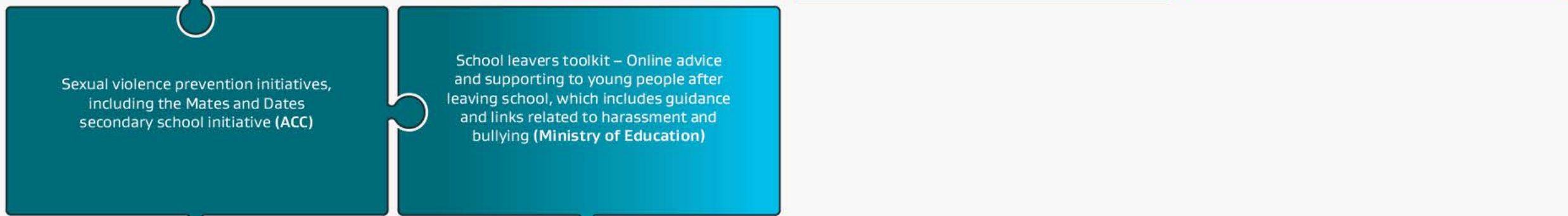
These fit with wider government initiatives to improve mental wellbeing, which include:



Across society



At school



At work

