



INDEPENDENT INVESTIGATION AND REVIEW

New Zealand Broadcasting School - Te Whaitua
Whakapaoho o Aotearoa

Richard Raymond QC
13 April 2022

Acknowledgements

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Overview – Terms of Reference

- 1.1. On 4 November 2021, the Chief Executive (Acting) of Ara Institute of Canterbury Ltd (“Ara”) initiated an independent investigation and review of the New Zealand Broadcasting School (“NZBS”).
- 1.2. The Terms of Reference are at **Appendix 1 (“the Terms”)**. Events which preceded the investigation and review are discussed in some detail below. For present purposes, and briefly, the New Zealand Herald published an article about the NZBS on 18 September 2021. The article made reference to an alleged incident that had caused concern and anxiety for students¹ at the NZBS. This was followed by an enquiry from the New Zealand Herald to Ara, which raised concerns from former students. Reference was made to multiple alleged issues that the students had experienced including allegations of bullying, harassment and the making of sexist and racist comments.
- 1.3. In commencing the investigation and review, the Board of Ara recorded the fact, through the Terms, that allegations of this nature are serious. The Terms record that Ara does not accept bullying or any kind of harassment and is committed to the well-being of its students and staff.
- 1.4. The investigation and review team (“**the investigation team**”) have interviewed 51 individuals, mainly comprising former and current students and staff. We have sought and received a large amount of information and documentation from the NZBS and Ara, which has enabled the team to gain a good understanding of the NZBS and the issues which have arisen. The documentation has filled some of the gaps in information which became evident and also corroborated some of the matters raised in interviews.

Findings in relation to the concerns and allegations relating to bullying, harassment (including sexual and racial harassment), discrimination and the making of sexist, racist or any inappropriate comments; Summary.

- 2.1. The Terms require me to make factual findings (if appropriate) in relation to the concerns and allegations relating to bullying, harassment (including sexual and racial harassment), discrimination and the making of sexist, racist or any inappropriate comments.
- 2.2. Recipients of this report, and other interested parties, will be anxious to know the outcome of the investigation in relation to these particular matters. I accordingly summarise my findings on these issues at the outset. This summary must of course be read together with the detailed discussion that follows in relation to each topic.
- 2.3. I have also set out concerns in relation to mental health issues generally and Ōtautahi House. A specific investigation and review into mental health concerns within or arising from the NZBS and Ara’s support services was not called for. However, the issues raised with regard to students’ wellbeing and mental health are closely linked to the concerns and allegations from students in relation to the matters under investigation. The same applies with regard to Ōtautahi House concerns, which I have also briefly addressed. Steps have more recently been taken by Ara with regard to both these ancillary, but key matters.

¹ I refer to “students” in this report, but note some documentation and legislation refers to learners and in that context I also refer to “learners”.

Bullying

- 2.4. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period (the period from February 2019 – October 2021) relating to bullying by tutors of students. I refer to paragraph 6.9 below.²
- 2.5. There was widespread bullying over the relevant period by some students of other students. I have no reason to doubt any of the evidence provided to me by students concerning the accounts they provided to the investigation team, some of which are outlined below. The information was, without exception, thoughtfully and carefully conveyed. It took courage for many of the students I interviewed to get in touch with the investigation team and go through what was often a difficult process of re-living certain experiences. Where appropriate the information was tested by me during the interviews. Several accounts were able to be corroborated by other students or verified by other sources of information. That information included documentary evidence and photographs.
- 2.6. There is evidence, which I accept, of a small minority of tutors in some streams during the relevant period allowing a culture to prevail in class which enabled not only bullying, but also sexual harassment by some students and the making of sexist and inappropriate comments by some students and a minority of tutors. To a much lesser extent, that culture also enabled some racist comments.

Harassment (including sexual and racial harassment)

- 2.7. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to “harassment”, as that term is defined in **Appendix 2** under the Harassment Act 1997.
- 2.8. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to sexual harassment (as that term is defined in **Appendix 2**) by tutors towards students. I refer to paragraph 6.33 below.³
- 2.9. There were, however, accounts of sexual harassment by some students against other students in the relevant period, which I accept. I repeat paragraph 2.5 above with regard to that evidence.
- 2.10. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to racial harassment, as that term is defined in **Appendix 2**.

Discrimination

- 2.11. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to discrimination.

The making of sexist, racist or any inappropriate comments

- 2.12. There is a large volume of evidence detailing concerns and/or allegations from students enrolled in the relevant period under this heading. The environment which has prevailed at the NZBS has allowed a culture to exist which enabled the making of sexist, racist and

² I note that Ara received one formal complaint that an NZBS tutor had bullied a learner over the period February 2019 to October 2021. This was referenced in Ara’s Official Information Act response to the New Zealand Herald. I understand that the complaint has been formally closed. I did not meet with any student involved with this complaint.

³ Again, I note that Ara received one sexual harassment complaint by a student against an NZBS tutor over the period February 2019 to October 2021. I did not meet with any student involved with this complaint.

inappropriate comments throughout the relevant period, predominately by students but also by a minority of some tutors.⁴

Investigation and review approach

- 3.1. The Terms were signed on 4 November 2021.
- 3.2. On 4 November 2021, emails were sent to various interested parties providing them with a copy of the Terms and advising them about the investigation process. The recipients included current and former staff and students (who fell within the relevant investigation period), unions, student representatives and various other interested groups within Ara. The announcement of the investigation was also published on the Ara website and in mainstream media.
- 3.3. In response to the initial call for input, a number of enquiries were received by the investigation team in November 2021. On 21 January 2022, a second email was sent to current students advising the end date for interviews. Further students sought to speak with the investigation team following this second communication.
- 3.4. Between 4 November 2021 and 5 April 2022, the investigation team interviewed 51 individuals, mainly comprising former and current students and staff. In almost every case, an individual contacted the investigation team through its confidential email address to arrange an interview time. Interviews were conducted either by Teams or in person at Canterbury Chambers.
- 3.5. With the interviewees consent, each interview was recorded to ensure the investigation team had an accurate record of the information provided. These recordings have been securely stored by the investigation team and will be permanently deleted at the conclusion of the investigation and review.
- 3.6. At the beginning of each interview, the investigation team took each interviewee through a number of formalities to ensure materially identical information was given to each interviewee. This included:
 - 3.6.1. A request for consent to record the interview on the terms described above, to ensure an accurate record of the interview. In the event an interviewee declined (which did not occur), the investigation team would have simply taken notes of the interview.
 - 3.6.2. A brief overview of the key elements of the Terms, to ensure the interviewee understood the scope of the interview and what relevant information he or she might be able to provide the investigation team.
 - 3.6.3. A discussion on confidentiality, which went both ways. Interviewees were asked to keep anything said in the interview by the investigation team confidential. Interviewees were advised:
 - i. they were entitled to speak with the investigation team completely anonymously;
 - ii. their name and any concerns or allegations raised could not be used in any way without their permission;
 - iii. no individuals would be named or identified in the draft or final report without their consent; and

⁴ I refer to and repeat paragraph 2.6. I also repeat paragraph 2.5 with regard to my acceptance of the concerns and allegations raised.

- iv. if the interviewee made an allegation that the investigation team thought appropriate to put to someone else, for the purposes of ensuring fairness and a balance of views, that allegation could only be put to that other person with the consent of the interviewee and if the interviewee was willing to have their name revealed in that context.
- 3.6.4. Reiteration of the fact that this was not an employment investigation and no findings would be made by the investigation team in relation to an individual's employment. If something arose which suggested a separate employment investigation about a particular employee or contractor was necessary, then only with the interviewee's consent, and with their name being on the record, would the investigation team refer the matter back to Ara to address separately.
- 3.7. At the conclusion of each interview, the interviewee's decision on their own confidentiality was revisited in light of the information provided to the investigation team. This decision was able to be revisited by the interviewee at any stage.
- 3.8. After the interview was complete, the investigation team prepared a written record of the information provided and the interviewee's position on confidentiality. That record was then provided to the interviewee to confirm the contents of the record accurately reflected the interview. All records of interviews, bar two, were subsequently confirmed as correct by interviewees.⁵

Background to the New Zealand Herald reporting leading to this investigation

- 4.1. The catalyst to this investigation was the New Zealand Herald article published on 18 September 2021. That article referenced an external review being undertaken by Ara following an alleged "incident" that had caused anxiety for Ara's learners.
- 4.2. It is not my role to investigate or make any findings of fact in relation to the alleged incident referenced in the article, however it is important that the event is put in context as it played a crucial role in triggering this investigation. For privacy reasons there is very little I can say about the event other than it involved an alleged incident on Ara premises. Ara advises that no formal complaint was made by the individual(s) involved in the alleged incident and nor did any witnesses to the alleged incident provide any formal statements to Ara about it. Ara's ability to investigate the alleged incident was accordingly limited.
- 4.3. Details of the alleged incident quickly spread through the NZBS with many staff and students hearing various accounts of what was alleged to have happened. The investigation team talked to enough staff and students to get some sort of understanding as to the atmosphere that the alleged incident created within the school. Many of the students were concerned at the lack of information being shared about the alleged incident, by Ara. They felt they had "the right to know". Some said they were concerned for their safety and wellbeing. I am not in any position to comment on whether such concerns were justified or not. However, based on the number of accounts I have heard, I am satisfied that this view was indeed held by several people. There were also issues that arose for the alleged offender. The staff found this time particularly challenging. They felt hamstrung on what they could and could not discuss with students, and how to manage the alleged offender. Several staff also reported feeling a general lack of support from senior management at Ara.
- 4.4. In order to try and address the discontent within the NZBS at that time, Ara appointed an external consultant to review the NZBS' current culture, policies and procedures to ensure it

⁵ One student did not respond, but I am satisfied the record of interview is correct. The other exception concerned a group interview of four people, where group confirmation was not appropriate. I am satisfied that the record of the interview is correct.

was providing the best environment possible for students. This was referred to by Ara as a “discovery process”.

- 4.5. On 27 September 2021, Ara received an email from the New Zealand Herald. The New Zealand Herald advised Ara that following the initial article it had been approached by a number of former students who had raised “multiple alleged issues” that they say they experienced during their time at the NZBS. The allegations included bullying and harassment and the making of sexist and racist comments. Due to the serious nature of the allegations Ara put the “discovery process” on hold and decided to commence a full investigation, to be led by an independent external investigator. This was conveyed to the New Zealand Herald by email.
- 4.6. A further article was published by the New Zealand Herald on 29 September 2021. That article revealed that Ara would be commencing this investigation. The article also detailed several accounts of inappropriate conduct that former students had allegedly been subjected to. I note that the majority of these accounts had not been detailed by the New Zealand Herald in its email to Ara sent on 27 September. I record this because the article infers that Ara was privy to all of the alleged issues being raised prior to the article being published. It was not.
- 4.7. Prior to the 29 September article, the New Zealand Herald had made a request of Ara under the Official Information Act (“**OIA**”) for various details relating to the number of reports of sexual harassment, sexual assault and bullying that the NZBS students had made in the last five years and the actions that were taken in response to them. In response, Ara advised that three formal complaints had been received from students of the NZBS in the last five years under Ara’s Raising Problems or Complaints Policy and/or Harassment Prevention Policy. One of these was a sexual harassment complaint and the other two were complaints of bullying. Ara also advised that it had not received any reports of sexual harassment or assaults from NZBS students while on internships. Ara declined to provide details as to what actions were taken in response to these complaints for privacy reasons.
- 4.8. On receipt of the OIA information the New Zealand Herald published a further article about the NZBS on 14 October 2021. The headline stated that the “*NZ broadcasting school confirms multiple bullying and harassment allegations against staff*”. The article then commenced with the statement that “*a top broadcasting school has confirmed **multiple official complaints of bullying and one of sexual harassment have been raised by students against staff members in recent years***”.
- 4.9. This was not an accurate statement. Ara has subsequently confirmed to me and I am satisfied from the information available that there has, in fact, only been *one* formal complaint of bullying by a student against a staff member and *one* formal complaint of sexual harassment by a student against a staff member, in the past five years. The article has understandably caused considerable stress to staff members, who have felt unfairly targeted as a result of these accusations. It is important that the record is therefore set straight.
- 4.10. Shortly following the 14 October article, and as referred to above, I was appointed to conduct this independent investigation and review.

Structure of the New Zealand Broadcasting School

- 5.1. The NZBS is part of the Creative Industries Department at Ara. It holds itself out as the premier broadcasting school in New Zealand. Students at the NZBS study towards a Bachelor of Broadcasting Communications (“**BBC**”).
- 5.2. The NZBS offers three specialisations: journalism, radio, and screen and television production. These are often referred to as craft courses. Each year, approximately 75 people are accepted into the NZBS. Each specialisation is split into class streams of approximately 25 students.

- 5.3. The BBc degree is a full-time accelerated three-year degree that is delivered in 2.5 years (including a six month internship). It is a fully immersive course with classes running from 9:00 am – 4:00 pm each day during the first and second years of study (including various off-site projects undertaken throughout the year). The internship is undertaken off campus during the last six months of study.
- 5.4. For the most part each of the craft courses carry out their work in their individual streams. The streams come together for media ecology lectures which are delivered across the entire year group in a lecture style format at various times across the week. There is also some interaction between streams for special project work.
- 5.5. Each of the craft courses have two primary tutors, one each for first and second year. At various times of the year the primary tutors will be assisted by part-time tutors who will work together with the primary tutor on a particular component of the course. There are also media ecology and other tutors for specialist projects. Some streams are also supported by technicians who assist the learners and tutors with technical aspects of their craft courses. There are also regular industry guests who address students from the perspective of their industry and/or other relevant experience.
- 5.6. The NZBS is headed by a Manager/Programme Leader whom the NZBS staff report to. The Manager reports to the Head of Creative Industries, which is one of nine head of department roles.

Concerns or allegations relating to bullying, harassment (including sexual and racial harassment), discrimination and the making of sexist, racist or inappropriate comments

General Introduction

- 6.1. The relevant definitions in relation to each of these issues are detailed in **Appendix 2**. It is important to understand the definitions when considering the following sections.
- 6.2. Many of the students we interviewed described an unhealthy culture and learning environment within the NZBS between the students. This report is not a “culture review”, however it is relevant because the environment which has existed in some streams in some years has allowed a culture of poor behaviours to take hold, each year, without consequences. This arises for several reasons associated with (inter alia) the small size of the NZBS, the intensity of the immersive course, the many hours the students are together (virtually all day, every day, throughout the course of the year) the proximity and influence of Ōtautahi House, social media and the Professional Practice (“PP”) component of the course.
- 6.3. It is quite clear that many students find the intensity of the course and high workload very difficult, and ultimately the course is not the degree for them. A small number each year leave early,⁶ and others have gone into the industry with trepidation but have since left the industry. Some students have said they would never recommend the course to anyone, or if they did, felt guilty doing so knowing what the culture is like there. Others have loved the course, thrived at the NZBS and are thriving in the industry they are now working in. Such is the make-up of life and a cohort of naturally different people.
- 6.4. It is not my role to assess the course structure, or the *fully immersive* nature of it. Nor can I assess how tutors or the NZBS may have responded (or not) to the concerns raised by

⁶ 1.6 per cent, 1.5 per cent and 3.8 per cent of students failed to complete the BBc degree in 2019, 2020 and 2021 respectively.

students about the pressures of the course,⁷ results obtained on assessments and assignments, the internship programme or whatever the concern may have been.⁸

- 6.5. Nonetheless, the challenges of the course and the many demands on the students throughout the year (together with challenges in their everyday student and family life) are relevant to an extent. They are part of the context of the report's findings and why students may behave, or react and respond, as they do to the pressures of the course and their time at the NZBS.
- 6.6. I briefly note at this point that the investigation team has also reviewed survey results and evaluations (both course and tutors) completed by students for the relevant period which contain comments that reflect, in part, some of the concerns of the interviewees in the investigation.⁹ Those same surveys and evaluations also reflect, again, the divergent views of students. As I have already noted, a large number of students (as is evidenced by the confidential surveys and evaluations I have reviewed) are very happy with the NZBS, the courses offered, the tutors, the outcome of their degree and Ara. More students completed these evaluations over the relevant period than the number of students I interviewed. It is important to have that overall context.
- 6.7. That said, and as the evaluations indicate, some students felt they were able to be identified in the evaluations by their comments and were thus constrained. Whereas in the process the investigation team ran, we spoke in strict confidence with students at length on a wide variety of issues. The investigation team was wholly independent and non-judgmental. Many students, indeed virtually most, expressed how much they appreciated the opportunity to speak openly and frankly about issues at the NZBS which have been of concern to them, clearly negatively impacted on their lives and hung over them for some time.
- 6.8. As is made clear in the Terms, this report does not allow for the identification of any individuals by name, except where they have given their consent. The Terms also provide that the report should not contain information which would allow any individual to be identified, without their consent. For that reason, some of the accounts which follow are at a reasonably generalised level. Student and tutor names are anonymised. Several students have granted consent for their name to be used in the report and for most of their concerns or allegations (or all) to be attributed to them. However, to do so will lead inevitably to the identification of the year they enrolled, the stream they were in and therefore their peers and tutors. Accordingly, although consent was granted, their names are anonymised.

Bullying

General Comments

- 6.9. From the outset I make clear there is no evidence, and I have had no reports, of tutors bullying (as defined) students in the period under investigation. The perception that has been generated that there is a problem with this at the NZBS is highly regrettable and is false. It is most regrettable from the perspective of the current tutors who have been unfairly maligned. Frank (and repeated) feedback on course performance, disappointment in marks received, advice on the media industry, its expectations and students' preparation for it, is not bullying. As identified below, in the past five years, Ara received one formal complaint of bullying from a student by a staff member. I am not aware of the details due to privacy considerations. I do not know if it was upheld. The student who made this complaint did not make contact with me.
- 6.10. The situation between students, however, is starkly different. Many students have described the student culture at the NZBS as "*very clicky*". Others talked about a "*nasty environment in the course streams*". Many students used the word "*toxic*". One student described the student culture in the school as hierarchical "*like a food chain*" and opined that if you were in

⁷ Save for my concerns with regard to mental health issues and the implications of PP, which I address below.

⁸ I am also not reporting on the complaint processes and procedures with regard to course related issues.

⁹ This is more fully discussed below when dealing with informal complaint processes at Ara.

the right group and at the top of the food chain, then everything was fine. Clearly, if someone is “at the bottom” of the food chain, then it is an unhappy environment to be in. Another student described a “*pyramid chart*” that had been created by students, which literally ranked them in terms of popularity. It was said to have been visible to staff, as it was in a location on a wall near tutors’ offices. It is unclear how long that chart remained up, but at least for some days before it was removed. I have no evidence staff did in fact see it. This ranking of students also featured in group chats on social media. In one stream, students were ranked the “*most cool*” in the three streams.

- 6.11. As noted above, the classes within the three streams are relatively small, up to 25 people. Small groups sit at tables. Some students experienced exclusion from groups (that form quickly at the commencement of the course), leaving some feeling humiliated and isolated from day one. Many students I interviewed acknowledged this. Some students take the view it would have been impossible for tutors in some circumstances not to have seen this dynamic.
- 6.12. Many students talked to the investigation team about initiation and “de-initiation” events which take place at the beginning and end of each year. The initiation party is organised by second year students for the first year students. The de-initiation is an “event” where the first years at the end of their first year, “de-initiate” the second years. It is evident from the stories that we have been told that the event frequently ends with poor outcomes. Students are often left very upset by what is said by their peers in the year below.
- 6.13. Both of these events involve drinking a lot of alcohol (“hazing” and binge drinking) and humiliation, which takes various forms. No doubt some years are worse than others. Underage drinking is enabled, given some students are still 17 years old at the beginning of the year. The students reported feeling obliged to comply with these “traditions”. Many reported that not partaking risked being stigmatised, or labelled an “*outsider*” and becoming “*socially prejudiced*”. Students reported to me that is exactly what happened to them when they elected not to participate. Of course, this takes place outside of the NZBS (although it is aware the initiation event takes place) and the school and its staff cannot control this.¹⁰
- 6.14. The matters I have outlined above are relevant to the investigation because the small size of the school, and the small classes in particular, means that this sort of conduct directly impacts on the social dynamic amongst a small group of young people. They are thrust together to work closely with each other in a professional way each day, all year. That is the immersive nature of the course. It inevitably provides the opportunity for an environment to develop where bullying occurs.
- 6.15. In the context of discussing bullying with students, it became quite apparent from an early stage, and it was a feature throughout the course of the investigation, that the PP component of the course presented a major problem for many students. There were numerous examples of misuse of the process which caused distress and anxiety well beyond what can be regarded as “constructive feedback”. This is discussed in a separate section below.
- 6.16. The investigation team received information from students that up to about one quarter of the class in some streams (in some years) were subjected to bullying from fellow students. In several cases, students maintain that some tutors were at least aware of the bullying, because it would have been impossible not to see it and/or hear it.
- 6.17. The tutors I was able to speak to do not accept this, or I did not address it with them as it did not concern them. I have no reason to believe that the tutors I discussed this issue with

¹⁰ The minutes of a meeting with NZBS student representatives and the NZBS in May 2021 record, consistent with the interviews I had with students spanning three years, that many students were hesitant to attend the “initiation” due to the pressure to drink alcohol. The minutes clearly record that NZBS management does not condone the event and does not condone peer pressure drinking. The NZBS, at this meeting, advised the student representatives that any student “get togethers” should be a safe space for students, free of any pressure to drink. Reference was also made to the point I have identified above, about the legality of the events, with some first year students only being 17 years old.

deliberately turned a blind eye to bullying conduct by students or condoned it in any way. I am however satisfied from the many accounts I heard that there were occasions where bullying was, or should have been, evident and occurred in front of at least some tutors. Unfortunately, I was not able to meet with all tutors, so I lack their perspective and context. Their input to the process would have been invaluable, as it was for the tutors I did meet with who were engaging, professional and provided very useful information and background. Their context to various situations was crucial. I have no doubt the perspective of tutors I did not meet would have been similarly valuable. I respect their right to refuse to engage, but it is disappointing (for the investigation and review outcome) that they were unable to avail themselves of the opportunity to participate.

Some specific accounts of bullying

- 6.18. The investigation team has heard many accounts of situations from students. The interviews in total covered many hours, over 50 hours. I cannot repeat all the accounts or circumstances described by students in this report. However, I do endeavour below to capture the essence of them. To do so provides the context for the findings I make and the recommendations which follow. As I have already stated, some of the accounts which follow are at a reasonably generalised level. Student and tutor names are anonymised.
- 6.19. One student described their experience at the NZBS during the relevant period as traumatic. This student summed up the NZBS as a group of *“really young people” who are “essentially out of high school and who are expected to be professionals”*. However, because of a lack of pastoral care, the NZBS lends itself to sexual harassment and bullying to grow within the student community, because students are all *“stuck together in such an intense environment”*. This student likened the experience to the *“Lord of the Flies”*.
- 6.20. The student also said that they had become a *“totally different person”* throughout the course. There was considerable regret expressed for not *“standing up to the bullies”* and *“giving in to the drinking culture so much”*.
- 6.21. This student recounted the reality for some students of leaving what could be described as sheltered secondary school environments and being *“let loose”* at the NZBS. Young students are exposed to situations at the NZBS, particularly with the student culture prevalent in Ōtautahi House, that they find uncomfortable (particularly of a sexual nature).
- 6.22. In speaking with the investigation team, this student provided particulars of bullying incidents involving other students which, because of their specific nature and identification of students, I cannot particularise. Suffice to say, they are of concern. Of particular note is a theme that if you are not in the “party culture” or elect to wear “alternative clothing”, you became a target from the so-called “cool group”. Several examples were provided which I accept, as they were referred to by other students, and in detail. I received information from the same student in relation to some male students who sexually harassed women, with the repeated use of numerous derogatory terms. This primarily (but not exclusively) happened outside the school, at social events or in Ōtautahi House but which, inevitably, spilled over into the classroom. The poor conduct of one young man in particular influenced the other male students in the class. A minority of “boys” would *“leer at the girls”*, accompanied by derogatory comments.
- 6.23. Examples of sexual promiscuity/encounters in Ōtautahi House were provided to the investigation team. We heard evidence that numerous comments were made in class about such behaviour. Several students were of the view that tutors, at least some of them, were aware that there were certain domineering groups of young men and that some of them were often sexually harassing women, in particular through inappropriate sexual comments.
- 6.24. The student reiterated the view of many about the unsavoury culture that simmered beneath the surface of the NZBS. The student environment was regarded as *“often toxic”*, where students had to behave in a certain way in order to remain in favour. This was a factor which impacted on the PP component of the course, discussed below.

- 6.25. Another student described a culture of unnecessary and unhealthy competition. It created an atmosphere ripe for bullying behaviours and sexual harassment. This student, as with many others, also referred to the significant drinking/boy's club culture. Young men (primarily) in the class of one stream tend to "*run in a pack*" with the result that if another student, particularly if the student is female, "*offends one then you offend all*". There was a concern expressed by some students that tutors felt "*too intimidated*" or "*too timid*" in front of a group of up to 12 "boys" to "*call them out and shut the inappropriate comments down*". The comments were primarily racist or sexist remarks by students, directed to each other, often in the presence of a tutor. This student told the investigation team that one of the tutors encouraged students to call out their peers if they heard something racist or sexist, but they themselves would often not call it out.
- 6.26. Many students found this situation difficult, to say the least. If a student "calls out" his or her peers, there is, as one student said, an audience looking on judging how you handle confrontation. Students see a brief moment where someone is rightly being called to account, with the person doing so then (potentially) being regarded as "*rude, or boring, or unable to cope in a group or aggressive*". One student in the stream recounted feeling almost constantly "*on the edge*", describing it as "*how do I be friendly, but not put up with this bullshit*".
- 6.27. This student described the initiation process, and whilst recognising that in some circles this is a so-called "*rite of passage*" at a tertiary institution, there was definitely a feeling cultivated within both the first and second year groups that "*if you are not drinking, you are a loser*". From the outset, if you "*start on the wrong foot, or you don't show up to that party*" you are labelled.
- 6.28. Another student also described serious bullying from their peers, which I am unable to detail. There was an unreasonable intolerance to questions the student asked, with the result that they simply stopped engaging in class. As discussed below, because of the PP component of the course, the student felt unable to stand up to these behaviours.
- 6.29. Another student described the environment as "*brutal*" and said that there was "*definitely a culture of bullying and harassment*". Like many, the student described the clicky, hierarchical environment between various small groups, commenting it was "*an ego war*". A student who was quiet, anxious or not particularly outgoing would become even more closed off in the NZBS environment. This has a spiralling effect, both on how students perceive you for PP and also your mental health. Some students felt targeted and singled out, and that some students were trying to sabotage other students' chances at a career given the requirement to pass PP before progressing to an internship. Successful placement in an internship is required to achieve the BbC degree.
- 6.30. A different student recounted a recurring episode of another student being subjected to on-going serious bullying which was distressing to witness. The student concerned was repeatedly insulted by "the boys" with vulgar comments. It was undoubtedly bullying, and also involved sexist and derogatory comments. A tutor was often present, and is alleged to have "*chuckled along with the boys*". The same student recounted episodes of what was described as "*school yard bullying*". From the descriptions, that is an apt analogy.
- 6.31. Another student, recounted bullying of a student by a "group of boys". On account of the student's fear of something, the student was nicknamed from day one and it endured for two years. As the witness said, "*it never stopped... it was awful bullying*". This was confirmed by others. The student is adamant the tutors in the stream were aware of it.
- 6.32. Generally, from multiple sources, I heard accounts from students of bullying from other students. Some accounts are distressing and clearly serious. Others less so, but nonetheless, amount to bullying. As I have already said above, I have not recounted all the examples the investigation team heard.

Harassment (including sexual and racial harassment)

- 6.33. As I similarly made clear at the commencement of the section above on bullying, I received no evidence from students which amounted to harassment, as that term is defined, and in particular, no concerns or allegations of sexual harassment or racial harassment by tutors towards students. Nor have I seen any other evidence in the many documents I have sourced from Ara and reviewed, like the Ara satisfaction surveys and the course evaluation and teacher quality surveys,¹¹ which would indicate any form of harassment by tutors. Again, to the extent a perception to the contrary has been created in the public domain, it has no foundation.
- 6.34. There were, however, accounts of sexual harassment between students. I continue with some specific accounts as I have above under bullying.
- 6.35. Several students described the “boy’s club” culture. I have already referred to this above in the context of bullying. In addition, we heard numerous accounts of excessive drinking, drug use and sexual encounters between students. Women at the NZBS frequently felt sexually objectified by comments directly made or inferred by male students in this prevailing culture. It amounts to sexual harassment.
- 6.36. One student, for example, described the “*prevalent boy’s club*” culture within the student body, including heavy drinking and harassment of fellow female students. Reference was made to Ara’s formally stated position that harassment of women was not acceptable, but the student believed that it happened “*more times than Ara would like to admit*”. The student said students discussed amongst themselves the futility of raising issues of concern with tutors. That is because, in their view, “*not much is done*” by the tutors to deal with the issues. Concerns are not raised that should be. What can be described as anecdotal evidence has passed between students over time of concerning issues being raised, without consequences. The general consensus, at least in the view of several students I interviewed, is that there is little point in raising issues with tutors or Ara.
- 6.37. Several students referred to repetitive vulgar comments from students directed at women, in class, throughout the year. There is a cross-over here with the section below on sexist comments. It included vulgar references to sexual acts and women, was offensive and intentionally so. The behaviour described was sexual harassment.
- 6.38. Another student (from several accounts) was repeatedly and cruelly bullied, sexually harassed and subject to sexist and inappropriate remarks throughout their time at NZBS. It is of course confidential. I cannot outline the details. The student’s time at NZBS was traumatic. The student suffered from depression following their time at the NZBS. The student was unable to source help from the tutors in the class, one of whom was regarded as complicit (they “*would let it slide*” and enabled a “*constant misogynistic, severe gossip, culture*”). The student felt unsafe and unprotected in what was a toxic environment. The accounts of this student were verified by several others. On one occasion when help was sought from a tutor and counselling was clearly necessary, no referral to student services or assistance was offered.
- 6.39. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to racial harassment as that term is defined.

Discrimination

- 6.40. I did not receive any information from any source in respect of concerns or allegations from students that were enrolled at the NZBS in the relevant period relating to discrimination.

¹¹ Which are fully discussed below and which had high response rates.

The making of sexist, racist or any inappropriate comments

- 6.41. It is under this heading that the most issues have arisen. It is perhaps not surprising, given the broad nature of the Terms, at paragraph 6(d). I was to receive *any* information in respect of concerns or allegations from students enrolled in the relevant period relating to the making of sexist, racist or *any inappropriate* comments. Sexist comments and racist comments are specific. What may be regarded as *inappropriate* comments is wider and somewhat subjective. Generally, in the context in which some inappropriate comments have been described, it has not been difficult to conclude, on any analysis, that the comments alleged were inappropriate.
- 6.42. As I have done above under bullying and harassment, I continue with some specific examples. I have grouped them generally under: (1) racist comments; (2) sexist comments; and (3) inappropriate comments. In that order, because there are much fewer examples in the first category than the second and third categories. There is some overlap. Not all comments in the second and third categories are included, because there are too many. There were several similar themes and comments. Many stories were repeated by several students, corroborating the accounts of others.

Racist comments

- 6.43. Insofar as racist comments are concerned, a student referred to a reasonably isolated incident where a clearly racist remark was made in a classroom setting (a contemptuous term or ethnic slur typically used against black people, especially those of African American descent). The concern of the investigation team is that that incident allegedly played out in front of a tutor, who did nothing about it then or at any other time. I have been unable to verify this. This incident was confirmed by another non-pākehā student, who was offended not just by this incident, but on numerous occasions when the term was used. The student raised it with the tutor, but it was brushed aside with a facile response. The same student was subjected to gratuitous and offensive racist comments and innuendo throughout the student's tenure at NZBS.¹² These included offensive material left on whiteboards, being racist caricatures.
- 6.44. The investigation team heard evidence of a tutor referring to a non-pākehā student as someone who would do well on an "*urban station*", because the student had "*an urban look*". The word "*urban*" was intended to refer, in the eyes of the students, to American black culture or ghetto culture.
- 6.45. Another student confirmed the gratuitous and frequent use of the word "*urban*" in one stream, and its association with Māori and Pacifica students. The student (and others) felt the Māori and Pacifica students were stereotyped and steered towards particular media outlets that have a so-called "*urban focus*". There was no suggestion this was done maliciously, and occasionally tutors would call it out, "*but more often than not it would just happen*". As above, at least one tutor adopted/used the term. I record my view that although used, it was not done in a malicious way and there was no racist intent.
- 6.46. There was evidence from one student that a tutor objected to radio broadcasters speaking Te Reo during Māori Language Week. The tutor regarded it, according to the student, (and due to limitations on the investigation, this has not been able to be verified) that opening broadcasts in Te Reo was "*irrelevant*". This upset some of the students in the class. However, the tutor appeared "*disinterested*" in hearing their views. The student believed the tutor started unnecessary debates, causing arguments, particularly around certain aspects of gender and race. The tutor allegedly concurred with the view of another student that the English language was superior to Te Reo Māori, which was offensive.

¹² The student felt unable to properly address the concerns they had on the issues which arose because of a fear of the negative consequences through the PP component of the course and the impact of that on securing an internship.

Sexist comments

- 6.47. Insofar as sexist comments are concerned, one student recounted an experience which took place outside of NZBS, at an “industry event”. Again, because of the constraints of the Terms, I must exercise caution in recounting the details. Suffice to say the conduct of a man from the industry towards the student was clearly inappropriate, both in how he acted (physical contact) and what he said to the student. This example, as will be discussed below, serves to illustrate the care Ara needs to take when allowing students to participate in such events as part of the recruitment process for internships.
- 6.48. Inappropriate and sexist language was frequently used within the NZBS in the relevant period (on occasion, left written on classroom whiteboards for others to see). For example, in early 2019, a “quote” was left on a classroom whiteboard which stated, “*you can’t get anywhere without sucking a little dick*”.
- 6.49. I have referred multiple times already to the “boys/lads culture/club” above. Those references were in the context of bullying and harassment. It allowed a culture to exist which enabled bullying and harassment of others by students in this so-called group, although not exclusively by that group and certainly not just by “boys”. The same culture enabled the frequent use of sexist language as well, in class, at the NZBS. It was something of a free for all. There appeared to be, in one stream in particular, either limited or no restraint (some years were worse than others but it existed in all the years under review). This had a daily adverse effect on some students in the class, and not just the women. Several young men I spoke to confirmed this and agreed with the women I had interviewed that at times the behaviours and language of a group of students was appalling, disruptive and clearly sexist.
- 6.50. Several students also provided evidence of being verbally put down and shut down by others. The students who provided this evidence said it was never the tutors who behaved in this way, but other students. The concern was, and is, that there was, as one student put it, “*not a lot of effort to rectify that culture from the tutors*”. Some said tutors were often present when the “jokes” were made. Some thought what took place was horrible, but appeared to be normalised. Another said the “boys talk” about sexual conquests on the weekend were heard by the tutors in the class, who would join “in the laugh” and thereby enable this type of culture.

Inappropriate comments

- 6.51. There are numerous examples of inappropriate comments or behaviour by fellow students, and some examples of inappropriate comments by (very few) tutors. The comments which follow arise in the context of classroom situations and social situations associated with the NZBS.
- 6.52. With regard to the inappropriate comments attributed to some tutors noted below, I record my view that none of the comments were made maliciously. Indeed, all the students I interviewed accepted this. The comments were often made “in jest”, or to “lighten the mood” of a situation, but sometimes missed the mark. They were more often than not ill-judged, poorly timed and clumsy comments, not appropriate to the prevailing situation in class or elsewhere.
- 6.53. Students recounted examples of a tutor saying, “*questionable things*”. This had the potential to, and did, make students feel uncomfortable and, on occasions, hurt. Several examples were recounted to us of comments to students who may have been overweight or references to how they looked.
- 6.54. Another student regarded this behaviour as “*weird*” and that it was “*not normal or appropriate*” for a tutor to be thinking or talking about how someone looks, either physically or what they are wearing.
- 6.55. Another incident which played out in a class environment was reported by several students. A comment was made, by (the same) tutor, together with a gesture which amounted to

sexual innuendo. The details of this particular incident are deliberately kept vague to avoid identification of anyone involved. The incident has been characterised by several students as an “*inappropriate sexist comment*”. There was some evidence that the student involved was not infrequently subjected to sexist comments and may herself regard the behaviour as harassment, as it is repetitive and unwanted. Students have advised me how she “*hates it (the conduct) and how uncomfortable it makes her*”. I have not been able to verify this.

- 6.56. Another student said a poster on a wall of a classroom in 2019 stated “*substance abuse = content*” (meaning the more you drink or do drugs, the better the stories you have to share). There was also reference to a small minority of tutors discussing drug use. Both what drugs students tend to use currently and what the tutors used to do “back in the day” when they were younger. Some students were concerned that these tutors had crossed the line in terms of the student/tutor relationship and the discussions tended to glorify or normalise drug use. The students were not, however, suggesting the tutors were condoning or encouraging it.
- 6.57. One student recounted comments from a tutor in class in front of the class (throughout the year) which related to the personal life and/or sex life of the student with another student, which were inappropriate. It was a source of embarrassment and confusion for the student.
- 6.58. There were comments from several students about the benefits of the media ecology lectures,¹³ but this class was often disrupted by some groups of students from one stream, in particular young men who were disrespectful and offensive. The point was made, several times, that a large number of students just want to listen and learn, but do not feel able to stand up to what was clearly intimidating, rude and inappropriate behaviour from a relatively small (but clearly arrogant) group. Examples of the behaviour were provided. Quite apart from the conduct, some of the comments easily fall within the inappropriate category.¹⁴
- 6.59. In the context of the placement of interns in the third year of the course, evidence of inappropriate comments was provided to the investigation team. For example, following formal interviews during the day with potential employers, the industry representatives from that potential employer take the students out to a bar or a restaurant, (or did) with money on a tab for an opportunity to connect more informally. Prior to one such session, a discussion with a tutor was held about how the students should conduct themselves. Much of what was suggested in the session was helpful and constructive. On the other hand, there was advice along the lines that there was a “*sweet spot*” of how much the students should drink. In effect, the guidance was “*you don’t want to be too boring, so you need to drink, but you do not want to be black out drunk*”.
- 6.60. One student, who did not drink alcohol, and who raised this with the tutor in front of the other students, was told they may like to “*reconsider that*”. A number of students recounted this episode with one describing it as “*hugely concerning*”.
- 6.61. In a similar vein, one class in a stream was told by a tutor what the previous year group’s bar tab was, and they needed to “*beat it*”. One student (who thought it was “*cool at the time*” to be getting free drinks) later reflected that the behaviours described here endangered women in particular, if taken into the industry. She said she “*kind of felt [she] was being groomed [by the NZBS] to be groomed [by the industry]*”. That was an assessment made by several female students. One considered that female students were encouraged all the time by tutors to say “yes” to whatever was put up to them, in the sense of “*climbing the ladder*” and getting ahead in what was described as a male driven industry. But there was no teaching of when to stand back, say “no” and take a position when the situation is wrong.
- 6.62. Another student, shared a similar account. Although told they did not *have to* drink, it was made clear they should because, the tutor said, “*they want to see how you are on the piss*”

¹³ Reiterated in the student evaluations I reviewed.

¹⁴ Another student recounted how an extremely rude “*horrible*” group of young men from one of the streams would sit in the back of the media ecology lecture, engaging in immature behaviours including throwing paper balls, playing video games and similar. A number of students said this particular group (not confined to any one year), could also be extremely rude if they did not like one of the guest lecturers.

and in the industry concerned, “they... don’t want to employ people who cannot handle their alcohol in social situations”. The student was left with the impression it was a “test”, and they “had to prove” themselves.

- 6.63. Subsequent feedback from students who have discussed this aspect with the employer concerned above, have told me that the employer was “*horrified*” with what had been stated (by the tutor). There was a perception amongst students that a culture of drinking and drug taking is so engrained in certain sectors of the industry that if you do not “*get into it*” then you do not “*fit in*”. Students say that some tutors (to be clear, an absolute minority) say that that is “*how the industry is*” on this issue. However, students now in the industry have reported it is not (at least currently) like that, or at least not as bad as they were led to believe at the NZBS. They feel some tutors are out of touch with the current reality of the industry.
- 6.64. Students have expressed the view that they wished they had known, while they were at the NZBS, that most in the industry actually do not care if you do not drink, or that if you had a personal issue, you could talk to your employer and be appropriately supported. That was not the impression given to students, they say, at the NZBS.
- 6.65. Further concerning evidence (from multiple sources) of inappropriate discussions were also connected to the end of year internship drinks in one stream. The tutor had attended the drinks facilitated by the intern providers where a so-called “*truth session*” was later held where the tutor invited students to ask the tutor anything they liked and they would receive an honest answer. This, inevitably, led to a number of questions which the tutor then answered, in front of several students, including:
- Who was the least likely to be employed in the class?
 - Who was your least favourite interview?
 - Who is the best in the class?
 - Who do you least like?
 - What drugs have you done?
- 6.66. This type of conduct continued for some time, and in an environment where the students, the tutor and others had been drinking. Students regarded this as, amongst other things, “*childish*”. One student in hindsight referred to it as “*so messed up*”. Another said the tutor was drunk.
- 6.67. A number of students volunteered the information described above about the end of year events and I am satisfied that these incidents took place. I have been unable to secure any opposing or, other, context.
- 6.68. Students said that they had raised many of these issues with the NZBS, and had no satisfactory response.

Alternative NZBS experiences

- 6.69. There were several students who made contact with the investigation team as they wished to clearly convey how much they enjoyed the NZBS, witnessed no bullying or harassment and found the course to be excellent for assisting them into the industry.
- 6.70. Typically, in an investigation such as this, the people who make contact to participate are the people who have been distressed or concerned about the matters under investigation. They are often victims of the subject behaviours, or witnesses to it. That is entirely understandable. By recording the views or experiences of those who did not witness the conduct other students did, or were victims of, does not of course undermine the experiences and evidence of the students that did experience it. The accounts, however, do illustrate that for some students, it was not “all bad”. Indeed, for many, it was a very good experience. It is fair, in my view, to acknowledge this and record their perspectives. It provides some balance to the views expressed by the students who clearly had a very poor experience at the NZBS.

- 6.71. It is also important to make clear that most of the students in this category recognised that although the experience for them at the NZBS was good, they acknowledge that for many others it was not. Indeed, they can see why it was not and recognise the common theme of the issues raised as something they were aware of, either in other years or other streams.
- 6.72. As with several students, one of the students who made contact had a very good experience at the NZBS. This student found all of their tutors to be kind and welcoming. They described the tutors in their stream as “*amazing*”. Nonetheless (as noted above), they were able to identify that in classes in prior years, there was a well-known culture of bullying. They also recognised that, at times, some tutors could choose their phrases better, but saw no malice in the comments made.
- 6.73. Another student generally had nothing but positive things to say about a particular stream where other students had been very negative about their experience in that stream. They had positive things to say about their tutors. This student said that if things looked to be getting “*out of hand*” in class, in relation to the weekend’s events, or other personal issues, then the tutors would step in, or leave their doors open to discuss concerns any one might have had. Their experience was that the tutors would intervene if students had crossed the line and tell them to “*rein it in*”. One of the two tutors in the particular stream did this more than the other.
- 6.74. The student was of the view that the student culture was “*very immature*”, like “*a high school environment*”. Nonetheless, they were of the view that their cohort was good at “*calling out*” bad behaviour. The student felt they were provided with good professional mentoring support from a tutor. They recounted a situation where the “*boy’s club culture*” had spilled into the classroom and was impacting other students in the year below. The tutor became involved to mediate the escalating situation with the students. This student was of the view some of the young men in their class would call out others if “*the boy’s club was getting out of hand*”. They believed that processes were in place and well-established to handle issues between students. They were not aware of a tutor ever telling students they needed to “*drink to fit in*” (an incident described by others, which as above, I accept took place). However, they would not be surprised if a tutor encouraged students to be social. The student said that one of the tutors, from an educational perspective, had said that there is a “*drinking culture in the industry*” but was not promoting it as a good (or bad) thing – just advising what was regarded as a fact. They were of the view that a tutor, subject to criticism from other students, was adhering to the tutor’s own philosophy of being open, unapologetic, understanding and willing to “*sit by and observe how situations develop and grow*”. If (the tutor) feels (the tutor) needs to intervene or add their “*two cents*” or mediate, then they will do so.
- 6.75. It was also this student’s experience that if either of the tutors across the two years they were at the NZBS saw any racism in the class that they would “*call it out*”. The student essentially spoke to a culture, at least in their class for their stream for the two years they attended, where inappropriate conduct or comments were “*called out*”.
- 6.76. Another student said they witnessed nothing inappropriate personally, but acknowledged they were a confident young person and kept their distance from the “*clicky*” groups which formed. Another student acknowledged their time at the NZBS was difficult, but enjoyed the experience overall. This student was an independent person, who kept their distance from some of the unfortunate events which have unfolded in recent times. They did not feel the social pressure others did to do things they were uncomfortable with, like drinking/drugs. They had positive things to say about the tutors in their stream and disagreed with the negativity of the culture which had built up in the NZBS.
- 6.77. Other students shared both negative and positive experiences, with some students speaking highly of the course, the school and the tutors. I discuss this further below when referencing the evaluations. The same students also recognised the serious issues facing other students.

Mental Health Concerns

- 7.1. Many students described the high levels of stress on the course. There were times when the students were required to work seven days a week, and very long hours. On one of the courses, it was said, by several students, that there were limited opportunities to take breaks given the rostering imposed. If complaints were made, the response was generally along the lines that *"this is how it is in the industry"*, or reference was made to *"surviving"* in the *"real world"*. One student said the NZBS make out the industry as *"cut throat"*. Some students maintain the school puts a lot of pressure on the students. On reflection, one said, *"it was almost like a game"*. Students believe some tutors want the student body stressed and overwhelmed, because, the tutors say, that is what it will be like in the industry. The NZBS refrain, *"that is how it is the industry"*, or that the course *"is what it is"*, was referred to many times by most students. It was used, many students believe, as an explanation or response for anything negative raised by the students, whether it was the long hours, stress, health issues, or concerns with drinking and behaviours generally. Many students who are now working, however, have said to me, as I have already mentioned, that they have found the industry nothing like how the NZBS portrayed it to be.
- 7.2. One student said that if burnout was raised, or mental health issues generally, they were told (by one tutor) to *"go for a walk around the block"*. One student who confided in a tutor (several times) the mental health issue they were experiencing, and abuse of substances as a result, received no appropriate support or advice. It was beyond the tutor. One student was simply told to *"go and read a book"*. Another felt that raising a concern about stress or pressure was regarded as *"whining"*.
- 7.3. Another student said they witnessed students going to the bathrooms and having panic attacks. Some students, as noted already, reported resorting to addictive substances to deal with the stress, anxiety and mental health issues. Students reported other students were clearly unwell, having *"meltdowns"*, with some students not sleeping or eating as they should.
- 7.4. One student described a *"you are lucky to be here, so don't complain"* type culture generated by the NZBS. The students were made to feel that it was a privilege to be at the school, and that they should not complain about anything, or have grievances. They were made to feel, one student said, that there were a lot of people who would like to be in their positions. This added to the stress they had from the course generally. Another referred to the environment as *"a dog-eat-dog mentality"*.
- 7.5. Another said they *"hated the course and never wants to set foot in NZBS again"*, essentially because of the harsh environment and the *"tough love teaching style"*. The student felt worn down to the point they felt like a failure. As a result, the student had poor mental health and was unable to secure appropriate support initially from their tutor and then Ara.
- 7.6. Another student recounted the on-set of mental health issues while on internship and a complete lack of support from the NZBS, including a comment when it was raised (to the effect) *"to hang in there, you are almost there"*. The student (as with others) reported the fact there is no contact person while on internship and an attitude of *"good luck, see you in six months"*. Students often felt isolated and felt they had no one to turn to.
- 7.7. Several students reported they needed mental health support (or knew students who did), but did not approach the Ara Health Centre because of their understanding of what would be offered. Essentially three free counselling sessions, but with a very long waiting list (three to four months) to be seen. Many students had no choice but to seek support from outside sources. Some who did access it were not impressed. I was advised as at 2 February 2022 that the Ara Health Centre has two part time counsellors, one at 0.8 FTE and the other at 0.48 FTE. The doctor contracted is 0.52 FTE.
- 7.8. Another student, who referred to the NZBS as a *"pressure cooker of a little school"*, was unable to secure appropriate support when they felt unsafe. Despite an appropriate referral

by a tutor, the student was then let down within the wider Ara system. The issues raised remained unresolved.

- 7.9. Again, I have not recounted all of the incidents or stories we heard from students in relation to this issue, or what was reportedly said by others when concerns were raised. Clearly, it is a sensitive topic. I was very concerned for some students' well-being while at the NZBS and for some of those students who have left. It was apparent some students remain unwell and said as much. Some of the responses from the NZBS and Ara to certain situations which developed were very poor. Some of course were entirely appropriate. What is lacking is consistency and a clear approach on how to deal with these issues.
- 7.10. I understand that, at some point during the course of 2021, Ara's Student Wellbeing Advisor was made available to the NZBS students one afternoon a week. Several individuals (both students and tutors) mentioned the positive impact that the Student Wellbeing Advisor had on the students at the NZBS.
- 7.11. Tutors generally indicated a wish to have further training in this area, both in identification of potential mental health issues and how to appropriately respond. They also sought assistance from external resources, for example additional support from the Student Wellbeing Advisor referred to above.
- 7.12. I acknowledge that Ara is not alone in the challenges it faces in providing accessible mental health resources to support its students and staff. This is a national issue currently impacting on many organisations.¹⁵ Ara has advised the investigation team that the wellbeing and mental health of its students and staff remains a priority for the organisation. Various examples of steps taken by Ara to improve mental health and wellbeing services in the past 12-18 months were provided to the investigation team to demonstrate Ara's commitment to the issue. This included, *inter alia*, increasing the on-site clinical counselling available to students, and securing funding to enable a Social Worker to be employed on a fixed term contract.

Ōtautahi House

- 8.1. As discussed above, Ōtautahi House is not strictly within the Terms. However, over the course of the many interviews that the investigation team had with students, it became evident that the culture that has been allowed to exist at Ōtautahi House has contributed to the poor culture that I have identified as existing between students within the NZBS.
- 8.2. Many students discussed the big party culture which has existed at Ōtautahi House. This in and of itself is not a surprise. It is for many students (but certainly not all) part and parcel of being a student living away from home, often for the first time. However, many of the student accounts were concerning and often went far beyond what should be tolerated in any student accommodation facility.
- 8.3. I was frequently told that Ōtautahi House parties involved heavy drinking, drug use and other inappropriate behaviours and were often "*very out of control*". One student described being a witness to uncomfortable displays of public sexual promiscuity. Another said that although they were "*all for a good hall party, there were just way too many young kids letting off steam*". Another student, who had previously experienced hostel living in another tertiary institution, said that the parties that occurred at Ōtautahi House would never have been allowed to occur at their other hostel.
- 8.4. Several students described feeling unsafe at Ōtautahi House. Others talked about their mental health being affected by the culture at Ōtautahi House. Students described the lack of adult presence there, with one student (who did not live there but spent a lot of time there) commenting that they did "*not once see an adult at Ōtautahi House*".

¹⁵ See further the Mental Health and Wellbeing Commission's interim report entitled "Te Huringa: Change and Transformation. Mental Health Service and Addiction Service Monitoring Report 2022".

- 8.5. One student described Ōtautahi House as “*a free for all [with] no structure or rules*”. Another made the comment that Ōtautahi House comprised a “*bunch of people who have just moved out of home and given free reign*”. The much discussed “boys club culture” that became tolerated in the classroom also appears to be endemic at Ōtautahi House, or at least it was during the period under review.
- 8.6. The general view amongst students was that there were no real consequences for misbehaviour at Ōtautahi House. This appears to be driven by the fact there is (or was) a lack of onsite adult supervision to ensure that students comply with the law, and the more specific Ōtautahi House Rules. This undoubtedly contributed to the “free for all” culture that existed at Ōtautahi House.
- 8.7. I was advised by the students (particularly in 2019 and prior years) that there appeared to only be one adult in charge of Ōtautahi House. That person did not live on site and did not work during the evenings or over weekends. In fact, the only individuals with any authority who remained on site during the evening and weekends were three second year students (increased to five since 2020), who were appointed as “Resident Assistants” or “RAs”. These students, by all accounts, had no real authority, and were “*basically just there to call security if something went wrong*”.
- 8.8. It is not my role to undertake an investigation into the safety and wellbeing of students living at Ōtautahi House. My role is confined to the students of the NZBS. I state the above, however, for two reasons.
- 8.9. Firstly, it is clear from my interviews that the general state of play as described to me at Ōtautahi House is (or at least, was,) untenable. Ara is aware of at least some of the issues raised above and has taken several steps since early 2020 to address them. This has included employing additional staff (both on and off-site) and providing increased training for RA’s. These changes are consistent with feedback from some students. Ara has also recently provided information which outlines the work it has done (and continues to do) in relation to the implementation of, and compliance with, the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.
- 8.10. Secondly, it is evident that the “party culture” and general inappropriate behaviours that students are (or were) engaging in at Ōtautahi House are (or were) undoubtedly playing a role in establishing the culture within the NZBS itself. Many first year NZBS students live at Ōtautahi House and many more attend the parties that are occurring there. The immersive nature of the NZBS course means that students are often with each other all day, every day. As one student described it “*what happened at O House didn’t stay there. It was almost an extension of the class because at least half, if not more of the class were living at O house in their first year*”. Another described the culture from Ōtautahi House spilling over into the classroom observing that when you are in such a small class together, and then living together there are “*bound to be tensions*”. Or as another student put it “*Ōtautahi House added another layer of pressure to an already high-pressure scenario*”.
- 8.11. Many students observed that the students who lived, or partied, at Ōtautahi House would quickly form the biggest click within the classroom. This led to some students feeling immediately ostracised, particularly those who were uncomfortable participating and attending the types of parties I have described above.
- 8.12. Although several steps have been taken by Ara to address these matters, it is still relevant and necessary for me to describe what has taken place, at least to October 2021. That is because it provides context for the events I have described and the conclusions I have reached over the relevant period of the investigation and review. I had in mind making a recommendation in relation to Ōtautahi House, but on further review of information recently provided by Ara I am satisfied that constructive steps have been taken and that further improvements are underway.

Professional Practice Review

Overview

- 9.1. PP is a code of behaviour that applies to NZBS students across all streams. It sets out how students are expected to behave and conduct themselves in class and in the community while enrolled in the BBc degree programme. The aim of PP, as set out in the Ara Teaching Plan is:
- 9.1.1. in first year, “to give students the tools to enable them to meet the professional standards expected of a student operating successfully in a tertiary education programme;¹⁶ and
 - 9.1.2. in second year, “to give students the tools to enable them to meet entry-level industry standards of professional behaviour.¹⁷
- 9.2. The PP Code is attached to the NZBS Tutor Guide to the PP Assessment (“**PP Guide**”) and is also found in the BBc Programme Handbook which is available for download by students.

PP Assessment

- 9.3. Students are assessed on their adherence to the PP Code. Broadly they are assessed on:¹⁸
- 9.3.1. behaviour and attitude;
 - 9.3.2. soft skills like listening, planning, and goal-setting;
 - 9.3.3. motivation, teamwork, character, and leadership effectiveness; and
 - 9.3.4. how others perceive them.
- 9.4. The PP assessment carries a weighting of 20 percent of their craft course grade (journalism, radio or screen and television production) both in first year and second year.
- 9.5. A student’s PP grade is reached using a mix of tutor assessment, peer assessment and self-assessment. Tutors are responsible for 70 per cent of the PP grade. The remaining 30 per cent is made up of peer assessment (20 per cent) and self-assessment (10 per cent).¹⁹ These figures represent 14 per cent (tutor), 4 per cent (peers) and 2 per cent (self-assessment) of the student’s overall course grade.²⁰
- 9.6. The NZBS documentation that discusses PP all state that students must achieve a mark of at least 65 per cent to secure an internship.²¹ However this contradicts what NZBS staff have said in interviews. One tutor interviewed said that if a student gets under 65 per cent they can still apply for internships, however the tutor is required to talk to the internship provider about that student and the NZBS is required to sign it off. That tutor said the aim is not to stop them getting an internship, but rather to ensure that the internship will work and be successful. Another staff member made similar comments. That staff member said

¹⁶ Year 1 Teaching Plan at 1.

¹⁷ Year 2 Teaching Plan at 1.

¹⁸ Taken from PowerPoint slides provided to me by the NZBS which are used for both the first and second year presentations on PP.

¹⁹ See PP Guide at 2.

²⁰ Ara have recently advised that the PP assessment has been revised in 2022. The first course in semester one (BCFM500) includes all first year students and includes PP (renamed Professionalism) using just tutor and self-assessment (no peer assessment) weighted 70/30. Peer assessment is introduced as part of Professionalism in the craft courses in semester two and is weighted 70/20/10.

²¹ See for example the PP Guide at 3 and the PowerPoint slides for both the first and second year presentations on PP.

students who get below 65 per cent (overall) can still get an internship but there is a process that needs to be followed in order to do so.

- 9.7. Two of the tutors spoken to confirmed that it is not common for a student to score under 65 per cent. One tutor said they maybe have one student per year score less than 65 per cent and this tutor always takes time to sit down with the student and go through it. Students also have the ability to appeal their PP mark.
- 9.8. The PP Guide provides a good overall description of PP and how it should be assessed. The PP Guide emphasises that in order for the PP assessment to be productive, tutors and students need to be properly briefed about the nature and purpose of the assessment so they can assess students fairly. In particular, students need to be aware of the need to assess behaviour (not personality) and the need for assessors to be specific with their comments. The PP Guide goes on to state that “the important message for all assessors is to focus on the student’s behaviour, not on the person...and be prepared to back it up with specific examples”.²²
- 9.9. This message is noted in the PowerPoint slides for the presentation given to second year students on the PP assessment. It is not expressly noted in the PowerPoint slides for the first year students’ presentation, however the tutors we interviewed were all confident the purpose of PP is made clear to the students from the outset.
- 9.10. The Programme Leader gives the students an overview/introduction to PP in the first four weeks of the students’ first year. This is repeated at the beginning of second year, in the context of preparing students for their internships.²³ The PowerPoint slides (which form the basis of these presentations) give a good overview as to the purpose of PP and the importance of it to the industry.
- 9.11. PP is assessed under seven categories:²⁴
 - 9.11.1. reliability and accountability;
 - 9.11.2. communication;
 - 9.11.3. attitude;
 - 9.11.4. teamwork;
 - 9.11.5. motivation;
 - 9.11.6. open to learning; and
 - 9.11.7. overall work ethic.
- 9.12. A copy of the PP Assessment Sheet for tutors (which I understand is replicated for the peer and self-assessments) has been provided to me.
- 9.13. Under each category a statement describes the standard required and the assessor essentially grades each student in each category according to the standard they believe the student has reached (from “fails to achieve the required standard” up to “always exceeds the standard required”).
- 9.14. There is a comments section at the bottom of the PP Assessment Sheet where assessors are encouraged to include comments as justification for the feedback given.

²² PP Guide at 3.

²³ As stated in the Teaching Plan – PP (first year) at 1, 3 and 4.

²⁴ As contained on the PP Assessment Sheet completed by tutors and self-assessor (by hand) and peers (using Moodle – described in 9.16).

- 9.15. PP is assessed twice a year. The first assessment (the formative assessment) indicates a student's performance to date and does not count toward their final grade. The second assessment (summative assessment) is the final assessment that counts toward 20 per cent of their final grade for the course.²⁵
- 9.16. The peer assessment is completed on a computer programme called "Moodle". This allows tutors to process the information efficiently. All feedback provided in the peer-assessment is confidential and is summarised and included in the tutor's overall feedback (meaning the student being assessed does not know who provided individual feedback about them).
- 9.17. Once the assessments have been completed a grade is calculated. The tutors cannot alter the marks given by the students (whether self-assessment or peer-assessment). Many students interviewed made reference to this. Students receive one grade which is based on the combined peer, self and tutor components of the assessment.
- 9.18. The tutor is then required to produce written feedback for each of the students by summarising comments provided in the PP Assessment Sheets. The tutor must also have a one-on-one confidential feedback session with the student.
- 9.19. The PP Guide makes it clear that editing comments and feedback is very important. In particular it states that:²⁶
- Editing raw comments is very important. There is always the chance individuals will take advantage of the process to "get at" others, or collude to boost a grade, therefore only peer feedback which is specific and consistent should be considered valid. Anything else should NOT be included in Feedback Forms.
- 9.20. The interviews with both tutors and students revealed that each stream approaches the PP assessment slightly differently.
- 9.21. One former student I interviewed, explained that in one stream they completed the peer-assessment on their computers in class. They had a two-hour window to complete it. This process was similar to another stream. However, one of the streams was given about a week to complete the peer-assessment which was completed outside the classroom.
- 9.22. One of the tutors told me that they collate the feedback and if they find any feedback that does not align with their thinking about a student, that they would burrow down into that more. This is consistent with what a former student told us about that particular tutor. That student described an incident where the tutor had read the student the feedback they had been given from another student, and it contained what the student described as a personal attack on them. All of that student's other PP feedback was fine. The tutor discussed it with the student and gave them an opportunity to defend themselves. The student thought the tutor involved dealt with it well, but was disappointed that, because of the confidential nature of PP, the student never had the opportunity to address it with the individual concerned.
- 9.23. A tutor in a different stream, said that they will only go in and look at who said what comments about people, and the marks they gave, if they consider a grade unfair or comment unusual. When they are preparing the feedback summary, they will look for themes in the comments and incorporate what is relevant into the summary. That tutor made the comment there was not a lot of time to do this exercise, and that as much as they take care, they would like to have more time to do it.
- 9.24. The tutors we spoke to explained that they emailed the feedback summaries the day before meeting with a student to go through it in person.

²⁵ See Tutor Summative and Formative Feedback templates (**Appendix 3**).

²⁶ PP Guide at 4.

How PP developed

- 9.25. A former head of the NZBS has provided a written submission to the investigation, which sets out the fundamental pedagogy of the NZBS and the BBc degree program as developed in the 1990's. They talk about the degree challenging traditional vocational education with an aim of the NZBS being to produce graduates who, in addition to their specialist expertise in broadcasting, are capable of working in teams, able to give and receive critique and are industry ready (which they refer to as the Capability Teaching model). The PP program was developed to meet these purposes.

The value of PP as perceived by tutors and others

- 9.26. The PP assessment is generally highly valued by the NZBS and the tutors. Most of the tutors spoken to were emphatic that the industry saw PP as one of the most valued components of the degree. In fact, the consensus among the tutors we spoke to was that a graduate's soft skills were more important to the industry than the technical skills they may come to a job with. I have not regarded it necessary to test this with the industry as I have no reason to doubt the assurances of the tutors on this issue.

- 9.27. The peer and self-assessment component of PP is also highly valued by the NZBS. As stated in the PP Guide:²⁷

Clearly tutors are in the best position to assess objectively but the NZBS believes that self and peer assessment is valid because, when students assess themselves and their peers, they develop insights into their own learning and are better able to identify standards and/or criteria to apply to their behaviour. It is also true that peer and self-assessment gives tutors an insight into student learning they might not otherwise have.

- 9.28. One tutor said that although the industry valued PP, it was a very difficult assessment. The tutor said that there was no doubt it was personal. They said the tutors are under a lot of pressure (particularly when doing the summative PP), and although they take care, this tutor would like more time (and support) to be able to assess peer comments against their own. They said that although the tutor has the final say, they cannot alter the student and peer marks.
- 9.29. This tutor feels that students do not want the feedback they get through PP. However, they also said that tutors do not see what happens all of the time in class (and elsewhere) and therefore student feedback can be useful. Other tutors made the same observation.
- 9.30. Another staff member told the investigation team that peer-assessment is included because students work in groups, rely on each other and part of learning to be a professional is learning how to self-reflect and offer constructive feedback. They said that a few students struggle to cope with peer-assessment in a professional manner and for that reason the peer-assessment carries little weight (being just four per cent of the final course mark). They said that it provides the NZBS with valuable insight about a student's behaviour (including the student doing the assessing).
- 9.31. In response to whether the tutors see PP being "weaponised", the feedback was mixed. The general view held by the teaching staff the investigation team spoke to was that you could see if students were using the process improperly and that most of the time the feedback aligns with their own views of a student. One tutor, who did consider that PP may have become weaponised, commented that this was "*unfortunate*" and "*not what PP was designed to be*". They wondered if the NZBS needed to review how PP worked.
- 9.32. One tutor thought PP could potentially be improved by taking the weighting off the peer-assessment while still obtaining the feedback. Another acknowledged there was always room for improvement and that they are always reviewing it.

²⁷ PP Guide at 2.

Student feedback on PP

- 9.33. In total 37 students have been interviewed. Only four of those interviews did not address PP.
- 9.34. Of the 33 students who discussed PP:
- 9.34.1. 20 students were critical of PP (60.6 per cent);
 - 9.34.2. 8 students thought there were both positive and negative aspects to PP (24.2 per cent); and
 - 9.34.3. 5 students thought PP was a good part of the course (15.2 per cent).
- 9.35. A general theme that emerged from interviews with students was that PP had the potential to be used in a negative and inappropriate way. Many students commented that it contributed to a toxic culture within the NZBS, particularly between students. Examples of negative comments about PP include:
- *“I saw so many people suffer at the hands of professional practice”;*
 - *[PP was] “one of the root causes of all of the issues at NZBS”;*
 - *“It follows you like a black shadow”;*
 - *“We had a big problem with gossip and other students talking about each other behind their backs. This played a big part in Professional Practice”;*
 - *“It was a popularity contest”;*
 - *“PP creates a culture of fear and passive aggressiveness”;*
 - *“It was never based on merit, it was based on social hierarchy”;*
 - *“If you were rowdy at a party you’d get a bad mark”;*
 - *“It’s very brutal. There are students in tears and people who go home when they receive their reports”;*
 - *“It was always on the back of your mind”;*
 - *“It felt personal”;*
 - *“It doesn’t work in its current form and needs to be changed”;*
 - *“It is like a popularity mark and students can easily manipulate it”;* and
 - *“It was not about professional ability but based on social hierarchy and who were the most popular”.*
- 9.36. The peer-assessment component of the course was the most criticised aspect of PP, which most agreed had the potential to be misused. Although most students were aware that the peer-assessment only made up 4 per cent of their final grade, many seemed to lose sight of this. One student said that despite your peer’s input into the PP grade being relatively low, it does not matter. It is all *“a mind game”*. This student said that PP *“kept you going because you knew you could get people back”*. The student admitted they too were guilty of this. The student also said that they became a *“shell of myself”* following the first round of PP feedback.

- 9.37. A common complaint students raised was that PP created an environment where they felt they could not complain or stick up for themselves. Three examples illustrate the point:
- 9.37.1. One student said that many students were really struggling with the intense workload of the course and their mental health was suffering. That student developed a drug problem which they raised with their tutor in the context of not coping with the workload. The student said that the tutor essentially brushed off the complaint and told them "*the industry was tough*". This student said a lot of people were struggling in the same way, but were too scared to complain for fear of affecting their PP.
 - 9.37.2. Another student said that they were taught not to burn bridges and, as a result, it was impossible to stick up for themselves. That student got so anxious about PP at one point that they had a panic attack. They said everyone feared getting marked down by their peers.
 - 9.37.3. Another student said that it would have been easier for them to speak up against racism, if it did not impact their grades. That student said that if they had said something it would have affected their grades and ability to get a job – it stifled them.
- 9.38. One student said that another student in one stream had carried a notebook around with them to record every infraction of students so that they could note it as negative feedback in PP. One of the staff interviewed had also heard this account.
- 9.39. Another common complaint was that PP put pressure on students to try and fit in, not just in class, but outside the classroom socially, and to be someone they were not comfortable being.
- 9.40. A further common complaint was that students lacked the ability to rebut untrue feedback or defend themselves where peer-assessments were quite obviously untrue. One student said that there was no opportunity to "*put the record straight*" and that if you tried to object to something, they were told that "*that is their perception of you and that perception is reality*".
- 9.41. In complete contrast to the above concern, another student said that they liked the idea of the peer component of PP because "*it teaches you crudely that people's perception of you is the reality of you*" and that it is "*how you are perceived that matters*". That student thought these were important lessons to learn but said there were probably better ways to do this.
- 9.42. Of those students that had both positive and negative feedback, the positive feedback was largely aimed at the concept of PP as a whole and the valuable lessons it taught. The peer component of the course was overwhelmingly the main concern of the students who expressed a negative view, as well as how the assessment was structured generally. In this regard, one former student had interesting insights into the assessment. Their view (inter alia) was that the use of loaded questions in the PP Assessment Sheet was unhelpful as it forced people to "*find things wrong that were not necessarily there*".

Overall Impression of PP

- 9.43. Over the course of the investigation, I heard a lot about PP. The overwhelming majority of students were negative about the peer-assessment component.
- 9.44. The peer-assessment component of PP is contributing to an inter-student bullying culture at the NZBS. Many described the NZBS as a poor environment, as I have already stated. PP has played a part in creating this environment. This is despite tutors explaining to students that PP should not be personal, but rather about assessing people's behaviours. At least one tutor we interviewed, however, agreed that the assessment is personal.

- 9.45. The clicky culture that exists at the NZBS feeds into the PP assessment being weaponised by students. People are not stepping up to protect each other when they should, for fear of being marked down.
- 9.46. Many of the students have lost sight of the fact that the peer-assessment is only worth 4 per cent of their overall grade. Yet, PP hangs over students, not just in class, but across their day-to-day living. It is influencing some students at a very personal level and in some cases, contributing to their poor mental health. The peer-assessment component of PP needs review, in my view. A simple solution would appear to be removing the course weighting of the peer assessment. In addition, the questions (leading in nature) should be reviewed to not invite negativity where none may exist. All peer comments should be sensitively advised to the recipient by the tutor in a filtered format (this is already provided for in the PP Guide and often done in practice). This will allow the student to consider the remarks “in draft” and meet with the tutors to discuss or rebut them (if appropriate) to finalise the assessment, and to enable constructive feedback.

Ara’s current workplace policies, practices, standards and systems related to harassment and/or bullying against best practice models in New Zealand and other obligations (including to provide a safe, inclusive and equitable learning environment for learners) under current legislation.

- 10.1. This section deals with clause 7 of the Terms:
- Assess Ara’s current workplace policies, practices, standards and systems related to harassment and/or bullying against best practice models in New Zealand and other obligations (including to provide a safe, inclusive and equitable learning environment for learners) under *current* relevant legislation.
- 10.2. I consider the “other obligations... under *current* legislation” first, and then consider Ara’s current workplace policies, practices, standards and systems relating “to harassment and/or bullying” against best practice models in New Zealand.²⁸
- 10.3. The above terms make reference to other obligations (including to provide a safe, inclusive and equitable learning environment). My view of the Terms is my assessment is confined to the policies, practices, standards and systems which relate only to harassment and/or bullying. That is to be assessed against best practice models and obligations under current legislation. I am not to assess the policies and practices, standards or systems in relation to the myriad of other issues which may arise generally with regard to providing a safe, inclusive and equitable learning environment. I am fortified in that view by the fact that clauses 1, 5, 6, 8 and 9 of the Terms focus on harassment and bullying only, and not other issues which arise in the context of providing a safe, inclusive and equitable learning environment (for example, policies, practices, standards and systems in relation to accessing mental health services, awareness of good physical health, drugs and alcohol, connection to language, identity and culture).
- Legislative obligations owed by Ara to staff and students***
- 10.4. The Terms above make specific reference in the part in brackets to “learners”. However, the Terms do not exclude reference to obligations owed to others, including staff.
- 10.5. Directors and managers have obligations under the Health and Safety at Work Act 2015 (“**HSWA**”) to manage the risk of bullying or harassment in the workplace.²⁹ That includes

²⁸ I emphasise “current” because the legislation has changed in recent years, as discussed below.

everyone in the workplace, which of course includes students.³⁰ Under the HSWA, risks must be eliminated so far as reasonably practicable, and if the risk cannot be eliminated, then it must be minimised as far as reasonably practicable.³¹

- 10.6. Directors are “officers” for the purposes of the HSWA and must exercise due diligence to ensure the company meets its health and safety duties and obligations.³² Exercising due diligence means actively managing and monitoring how health and safety is managed within an organisation, checking the organisation has processes and appropriate resources to eliminate or minimise risks to health and ensuring processes are in place to comply with any duties under the HSWA and they are properly utilised.³³
- 10.7. Managers are generally “workers” for the purposes of the HSWA and must take reasonable care to keep themselves and others healthy and safe when carrying out work, and must comply with any reasonable instruction and health and safety policies.³⁴ Senior managers may also be “officers” if they occupy a position that allows them to exercise significant influence over the management of the business.³⁵

Legislative obligations owed by Ara to learners

- 10.8. Ara is a polytechnic (which means it is a Tertiary Education Institute) under the Crown Entities Act 2004. The Tertiary Education Commission funds and monitors its performance. It is accountable to the Minister for Education, Skills and Employment.³⁶
- 10.9. Because Ara is a post-secondary school institution, the Education Act 1989 and the Education and Training Act 2020 (“**ETA**”) apply. However, there have been significant recent amendments.³⁷
- 10.10. The Education (Pastoral Care) Amendment Act 2019 (“**EPCAA**”) was enacted in 2019. It amended the Education Act and enabled the Minister of Education to issue a code of practice for the pastoral care of domestic tertiary students. Prior to this, there was no consistent approach to the pastoral care of students in tertiary institutions. The EPCAA was enacted to address the regulatory gap for the pastoral care of tertiary students.³⁸ It inserted a new part 18A into the Education Act (which now features in part 5, subpart 7 of the ETA).
- 10.11. When the EPCAA was enacted, it came with an interim code for 2020. An updated code has since been published by the Minister (The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (“**the 2022 Code**”). It came into effect from 1 January 2022 with all tertiary education providers and schools being required to comply with the code from that date.³⁹ The 2022 Code is critical because it sets out a general duty of pastoral care that tertiary education providers have for domestic students and specific requirements for those who offer student accommodation.
- 10.12. On 1 August 2020, the ETA repealed the Education Act. The ETA incorporates the substantive amendments effected by the EPCAA.

²⁹ Section 16 of the HSWA defines a “Hazard” as including a person’s behaviour where it has the potential to cause (inter alia) injury or illness to another person, and defines “Health” as including mental health.

³⁰ Section 36(2) of the HSWA provides that “a PCBU [person conducting a business or undertaking] must ensure, so far as reasonably practicable, that the health and safety of *other persons* is not put at risk from work carried out as part of the conduct of the business or undertaking” (emphasis added).

³¹ Section 30.

³² Sections 18 and 44. Ara is a registered company under the Companies Act 1993.

³³ WorkSafe “WorkSafe Position – Officers’ Due Diligence” (February 2019) at 1 – 2.

³⁴ HSWA, ss 19 and 45.

³⁵ Section 18(b).

³⁶ <https://www.universitiesnz.ac.nz/about-university-sector/how-sector-works>.

³⁷ The Education Act has recently been repealed by the Education and Training Act 2020.

³⁸ Oliver Fredrickson “Keeping students safe: The Education (Pastoral Care) Amendment Act 2019 (2020) 936 LawTalk 52 at 52.

³⁹ Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2022, cl 2. See also, <https://www.education.govt.nz/further-education/information-for-tertiary-students/code-of-practice-pastoral-care-domestic-tertiary/>

Education (Pastoral Care of Tertiary and International Learners) Code of Practice

- 10.13. For the purposes of this section, I have summarised the key aspects of the 2022 Code.⁴⁰
- 10.14. The starting point is cl 3, which explains the purpose of the code is to ensure the organised and formal provision of practices to support the wellbeing and safety of all tertiary learners (including those who live in student accommodation). The 2022 Code applies to all activities organised or provided by the institution, whether the students are in New Zealand or offshore.⁴¹
- 10.15. The 2022 Code includes definitions. There are none for “bullying”, “harassment” or “discrimination”. However, the 2022 Code relevantly defines “wellbeing and safety” as:⁴²

Wellbeing and safety means having a positive frame of mind, resilience, satisfaction with self, relationships, and experiences progressing towards learning outcomes sought. It also means being healthy and feeling secure.

- 10.16. It defines a “learner ‘at risk’” as:⁴³

Learner ‘at risk’ means that a tertiary provider or school has reasonable grounds to believe that there is a serious issue relating to the learner’s health, safety, or wellbeing, including for example, the learner is unable to –

- (a) adequately protect themselves against serious harm; or
- (b) adequately safeguard their personal welfare.

- 10.17. There are a wide range of relevant clauses in the 2022 Code. It is structured by what it calls “Outcomes” and “Processes”. Each outcome is followed by a series of processes to achieve that outcome. The key outcomes in relation to general support for tertiary students are:

10.17.1. **Outcome one (cl 6):** Learner wellbeing and safety system;

10.17.2. **Outcome two (cl 11):** Learner voice;

10.17.3. **Outcome three (cl 15):** Safe, inclusive, supportive and accessible physical and digital learning environments; and

10.17.4. **Outcome four (cl 19):** Learners are safe and well.

- 10.18. There are also a number of outcomes specific to student accommodation. These include:

10.18.1. **Outcome five (cl 23):** A positive, supportive and inclusive environment in student accommodation;

10.18.2. **Outcome six (cl 29):** Accommodation, administrative practices and contracts; and

10.18.3. **Outcome seven (cl 32):** Student accommodation facilities and services.

⁴⁰ As at the date of this report I note that Ara’s website at <https://www.ara.ac.nz/student-services/code-of-practice-for-the-pastoral-care-of-domestic-students/> refers to the Code of Practice for the Pastoral Care of Domestic Students although the reference is to the Interim Code, as opposed to the 2022 Code. This should be updated.

⁴¹ Clause 3(3)(a).

⁴² Clause 5(1).

⁴³ Clause 5(1).

Outcome One

- 10.19. Outcome one requires providers to take a “whole-of-provider approach to maintain a strategic and transparent learner wellbeing and safety system that responds to the diverse needs of their learners”.⁴⁴
- 10.20. In achieving that, providers are required to have strategic plans in place that support the wellbeing of their students. These plans must be regularly reviewed and amended where required. Providers must make their strategic goals and plans for learner wellbeing accessible in formats to learners, staff and the general public (including on their websites where available).⁴⁵
- 10.21. Of particular relevance is cl 10, which provides for a responsive wellbeing and safety system. It requires institutions to “gather and communicate relevant information across their organisations... to accurately identify emerging concerns about learners’ wellbeing and safety or behaviour and take all reasonable steps to connect learners quickly to culturally appropriate social, medical and mental health services”.
- 10.22. Further, cl 10(2) requires providers to provide staff with ongoing training and resources tailored to their roles in the organisation, including in relation to:
- 10.22.1. Te Tiriti o Waitangi; and
 - 10.22.2. the provider’s obligations under this code; and
 - 10.22.3. understanding the welfare issues of diverse learner groups and appropriate cultural competencies; and
 - 10.22.4. identifying and timely reporting of incidents of racism, discrimination, and bullying; and
 - 10.22.5. physical and sexual violence prevention and response, including how to support a culture of disclosure and reporting; and
 - 10.22.6. privacy and safe handling of personal information; and
 - 10.22.7. referral pathways (including to local service providers) and escalation procedures; and
 - 10.22.8. identifying and timely reporting of incidents and concerning behaviours; and
 - 10.22.9. wellbeing and safety awareness and promotion topics, including –
 - i. safe health and mental health literacy and support; and
 - ii. suicide and self-harm awareness; and
 - iii. promoting drug and alcohol awareness; and
 - iv. promoting healthy lifestyles for learners.

Outcome Two

- 10.23. Outcome two requires providers to “understand and respond to diverse learner voices and wellbeing and safety needs in a way that upholds their mana and autonomy”.⁴⁶ This

⁴⁴ Clause 6.

⁴⁵ Clause 9.

⁴⁶ Clause 11.

outcome is all about listening to, and having systems in place to actively encourage, learner feedback and input.

- 10.24. For example, providers are required to proactively build and maintain effective relationships with diverse learner groups and work with learners and their communities to develop, review, and improve learner wellbeing and safety strategic goals, plans and practices.⁴⁷
- 10.25. Further, providers must have effective systems in place for learner complaints, including informing learners about how a complaint will be handled, and how it is progressing and handling complaints in a timely and efficient way. This includes having practices that:⁴⁸
- 10.25.1. are appropriate to the level of complexity or sensitivity of the complaint; and
 - 10.25.2. consider the issues from a cultural perspective; and
 - 10.25.3. include the provision of culturally responsive approaches that consider traditional processes for raising and resolving issues (for example, restorative justice); and
 - 10.25.4. comply with the principles of natural justice.
- 10.26. The complaints process must be easily accessible and complaints must be recorded and annually reported to provider management, learners, stakeholders and the code administrator on:⁴⁹
- 10.26.1. the number and nature of complaints made and their outcomes (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups); and
 - 10.26.2. learner experience with the complaints process and the outcome of their complaint.
- 10.27. Further, providers must promote and publicise complaint and dispute resolution processes available to learners, including their internal processes but also the education quality assurance agency complaints process, the code administrator’s complaints process and the dispute resolution schemes.⁵⁰ Learners must also be advised what next steps are available to them if a provider does not accept their complaint (or the learner or provider perceives the provider does not have the cultural competency to deal with it), or the learner is not satisfied the provider has made adequate progress or that the internal complaints process is working. These include how to seek resolution of a contractual or financial dispute by way of referral to the appropriate body (including the Disputes Tribunal, Human Rights Commission or Ombudsman) and how to make a complaint if a learner believes the outcomes in the 2022 Code are not being met by the provider.⁵¹
- 10.28. Finally, providers must be familiar with the relevant dispute resolution scheme rules that apply for domestic and international learners and ensure compliance with those rules in a dispute to which it is a party. Failure to comply with the dispute resolution scheme rules is a breach of the 2022 Code and may trigger sanctions by the code administrator.⁵²

Outcome Three

- 10.29. Outcome three is concerned with ensuring learners have a safe, inclusive, supportive and accessible physical and digital learning environment. It requires providers to “foster learning environments that are safe and designed to support positive learning experiences of diverse

⁴⁷ Clause 12(a) – (b).

⁴⁸ Clause 13(a) – (c).

⁴⁹ Clause 13(d) – (f).

⁵⁰ Clause 13(g).

⁵¹ Clause 13(h).

⁵² Clause 14.

learner groups”.⁵³ It is an important outcome in the context of this investigation. It requires providers to have practices for:⁵⁴

- 10.29.1. reducing harm to learners resulting from discrimination, racism (including systemic racism), bullying, harassment and abuse; and
- 10.29.2. working with learners and staff to recognise and respond effectively to discrimination, racism (including systemic racism), bullying, harassment and abuse; and
- 10.29.3. promoting an inclusive culture across the learning environment; and
- 10.29.4. upholding the cultural needs and aspirations of all groups throughout the learning environment; and
- 10.29.5. providing all learners with information –
 - i. that supports understanding, acceptance, and connection with all learners, and collective responsibility for an inclusive learning environment; and
 - ii. about the cultural, spiritual, and community supports available to them; and
- 10.29.6. providing learners with accessible learning environments where they can connect with others, build relationships, support each other, and welcome their friends, families and whānau.

Outcome Four

- 10.30. Outcome four is concerned with ensuring learners are safe and well. It requires providers to support learners to “manage their physical and mental health through information and advice, and identify and respond to learners who need additional support”.⁵⁵
- 10.31. There are three processes by which this outcome must be achieved:
 - 10.31.1. First, providers must have practices in place to enable all learners and prospective learners to identify and manage their basic needs including accurate, timely and tailored information on how they can access services, suitable accommodation and maintain a healthy lifestyle.⁵⁶
 - 10.31.2. Secondly, providers must have practices for:⁵⁷
 - i. providing opportunities and experiences for learners to improve their mental and physical health, and wellbeing and safety;
 - ii. promoting awareness of practices that support good physical and mental health;
 - iii. supporting learners’ connection to their language, identity and culture; and
 - iv. providing accurate and timely information to learners about:

⁵³ Clause 15.

⁵⁴ Clause 16.

⁵⁵ Clause 19.

⁵⁶ Clause 20.

⁵⁷ Clause 21.

- a. how they can access medical and mental health services through the providers or through the community and public services, including culturally responsive services;
 - b. how they can report health and safety concerns they have for their peers;
 - c. how they can respond to an emergency and engage with relevant government agencies; and
 - d. how they can make positive choices about their wellbeing.
- 10.32. Finally, providers must have proactive monitoring and responsive wellbeing and safety practices. This includes up to date contact details for a nominated person for each learner setting out the circumstances in which that person will be contacted, and contacting that person in those circumstances.⁵⁸ It further requires providers to have practices for “responding to disruptive and threatening behaviour in a way that is sensitive to a learner’s situation”.⁵⁹

Obligations and duties owed to learners in student accommodation

- 10.33. As noted above, there are four further outcomes and processes required to achieve those outcomes in relation to learners in student accommodation. Ōtautahi House is not strictly within the Terms. However, as above, the role it plays (or did play) in the daily lives of the students at the NZBS is a relevant factor in the context of my consideration of bullying and harassment.
- 10.34. Briefly, and for completeness, these obligations require providers to ensure that student accommodation promotes and fosters a supportive and inclusive community which supports the wellbeing and safety of residents.⁶⁰ Providers must also provide residents with learning and peer support and information on self-care and positive wellbeing and safety, how to access wellbeing services on campus and in the community and how to provide peer support to other residents.⁶¹ Staff at the student accommodation must undergo ongoing training and be given resources relevant to their role, and there must be managerial oversight of accommodation at all times “(24 hours a day, 7 days a week) so that issues can be escalated when they occur”.⁶²
- 10.35. Providers are also required to have proactive monitoring and responsive wellbeing and safety practices in place, including developing plans for welfare checks and regular checks of learners in student accommodation.⁶³ Providers must also ensure student accommodation provides a safe and inclusive community, including promoting responsible social behaviour and academic success.⁶⁴

Crimes Act 1961 and Harassment Act 1997

- 10.36. Each statute is relevant as some forms of bullying and harassment may also constitute criminal offences under either the Crimes Act or the Harassment Act, or form the basis for a civil restraining order under the Harassment Act. Everyone at Ara (staff and students) are subject to the Crimes Act and the Harassment Act.

⁵⁸ Clause 22.
⁵⁹ Clause 22(1)(i).
⁶⁰ Clause 23.
⁶¹ Clause 24.
⁶² Clause 25.
⁶³ Clause 27.
⁶⁴ Clause 28.

Relevant Ara Policies

- 10.37. There are a number of Ara policies which relate to the prevention of harassment and bullying. The primary policy is the Harassment Prevention Policy (Document CPP209) (**Appendix 3**). The following further policies are also relevant:
- 10.37.1. Learner Responsibilities and Rights – General Academic Policies – Documents APP301, APP301a and APP301b (**Appendix 4**);
 - 10.37.2. Code of Professional Practice – Human Resources - Documents CPP211 and CPP 211a (**Appendix 5**);
 - 10.37.3. Raising Problems or Complaints – General Administration – Document CPP117 (and the Notification of Problem or Complaint Form - Document 117a) (**Appendix 6**);
 - 10.37.4. Probation Policy – General Academic Policies – Document APP506 (**Appendix 7**);
 - 10.37.5. Suspension and Refusal/Cancellation of Enrolment Policy – General Academic Policies – Document APP512 (**Appendix 8**); and
 - 10.37.6. Learner Support at Ara Institute of Canterbury Ltd (Procedure Document) - General Academic Policies – Document APP511a (**Appendix 9**).
- 10.38. I discuss these policies below followed by my comments on each. The investigation team has not undertaken a full review of the related Health & Safety Policy which deals with Ara's obligation to keep students, staff and others safe at all times. Rather my focus, as per the Terms and as discussed above, is Ara's specific obligations to prevent bullying and harassment.

The Harassment Prevention Policy

- 10.39. The Harassment Prevention Policy:
- 10.39.1. States that Ara does not condone any form of harassment, including bullying and is committed to creating an environment free from any form of harassment or unacceptable conduct.
 - 10.39.2. Applies to all Ara staff, students, visitors and contractors.
 - 10.39.3. Applies to all forms of harassment including bullying, racial harassment, and sexual harassment, and includes conduct which occurs off campus during the course of work or study.
 - 10.39.4. Includes definitions of "Bullying", "Harassment", "Racial harassment" and "Sexual harassment".
 - 10.39.5. Provides examples of bullying behaviours.
 - 10.39.6. Provides examples of what might be considered sexual harassment and racial harassment.
 - 10.39.7. Sets out the procedures and options available to individuals who believe they have been subjected to any form of unacceptable conduct outlined in the policy. This includes references to both informal and formal complaints and resolution procedures.

- 10.39.8. Refers to being on a three-year review cycle (that said, the document itself states it has not been reviewed since 17/04/2014, being the date of the current Harassment Prevention Policy).
- 10.39.9. Lists a number of related policies and legislation. It also makes reference to the now outdated 2014 Ministry of Business, Innovation and Employment's Best Practice Guidelines for Preventing and Responding to Workplace Bullying.
- 10.39.10. Is only located on Ara's main website. It is accessed in the Human Resources sub-tab of the Policy page which is located in the "about us" section of the website. There does not appear to be any other way to access this document (e.g. through the "MyAra" application).⁶⁵

The Learners Responsibilities and Rights Policy

- 10.40. The Learners Responsibilities and Rights Policy (together with the attachment to that policy) sets out the rights, responsibilities and behaviour expected of students studying at Ara. Of relevance to bullying and harassment, the Learners Responsibilities and Rights Policy (and its attachment):
 - 10.40.1. Requires students to be sensitive to personal, social, and cultural differences and to respect the needs, rights, and freedoms of others.
 - 10.40.2. Clearly states that students have the right to be free of any form of harassment or unjust discrimination and the right to be respected for personal, social, and cultural differences.
 - 10.40.3. Sets out the standards Ara expects students to meet including providing appropriate support services and facilities and resources that meet or exceed Health & Safety legislation.
 - 10.40.4. States that Ara Management are responsible for upholding students' rights and provides a list of people/departments to contact should a student consider that their rights have been infringed.
 - 10.40.5. Lists behaviour which is not acceptable at Ara including any form of harassment, bullying or discrimination and any unacceptable sexual behaviour.
 - 10.40.6. States (in the policy document at cl 2.3) *that staff are responsible for ensuring that learners are aware of the implications of their responsibilities and rights in the particular learning environment.* Further, the attachment, states (importantly in the context of this report) *that academic staff have the responsibility to maintain a safe and effective learning environment.*
 - 10.40.7. States (in the attachment, again, importantly in the context of this report) *that academic staff have the responsibility to maintain a safe and effective learning environment. They may ask a student to leave the class if their behaviour indicates limited ability to be safe, disturbance to others learning, or puts others at risk.*
- 10.41. The Learner Responsibilities and Rights Policy and attachment is found within the policy documentation available on Ara's website (under the General Academic Policies Tab) accessible through the student tab under student admin.⁶⁶ A version of the attachment is

⁶⁵ Although the BBC Programme Handbook advises that more information about Ara Policies and Procedures can be found at www.myara.ara.ac.nz (being the "MyAra" application) the investigation team's attempts to locate them from this link was reasonably convoluted. The BBC Programme Handbook also provides a link (at 45) to the Policy page on Ara's website.

⁶⁶ I have been provided with a copy of the BBC Programme Handbook, as provided to NZBS students, which has been updated this year. The 2022 version of the Handbook includes a full copy of attachment APP301a (entitled "Learner Responsibilities and Rights"). Ara has also advised that the Learner Responsibilities and Rights Policy

also published on the students MyAra Application (discussed further below). However, it is inexplicably different in material respects to the actual attachment to the policy.

The Code of Professional Practice Policy

- 10.42. The Code of Professional Practice (together with an attachment to that policy) sets out the required standards of behaviour for all staff at Ara. Cases where the required standards are not met are dealt with under either the Harassment Prevention Policy or the Resolving Staff Performance or Conduct Issues Policy. The policy sets out the responsibilities and behaviour required of all staff. There are many obligations listed, however of relevance to bullying and harassment, the Code of Professional Practice Policy provides that all staff are to:
- 10.42.1. treat students, members of the public and other staff with respect, impartiality, courtesy and sensitivity; and
 - 10.42.2. refrain from behaviour that is bullying or intimidating.
- 10.43. The policy also states the responsibilities of Ara, as the employer. It includes upholding student rights as defined in the Human Rights Act 1993, providing an environment conducive to the professional development and effectiveness of staff and supplying the resources necessary for staff to carry out their duties to the expected standard.
- 10.44. Like the Harassment Prevention Policy, the Code of Professional Practice (and attachment) is found in the Human Resources Tab of the Policy section on Ara's website.

The Raising Problems or Complaints Policy

- 10.45. On its face, the Raising Problems or Complaints Policy does not appear to relate to specific complaints made pursuant to the Harassment Prevention Policy. There is no reference in the Harassment Prevention Policy to the Raising Problems or Complaints Policy (nor is it referred to as a related policy), and the Raising Problems or Complaints Policy expressly states that a specific policy covers procedures related to harassment (although it does not reference what that policy is). How the two policies relate to each other is unclear from the documentation.
- 10.46. Ara has advised that the Raising Problems or Complaints Policy provides the mechanism under which complaints are recorded and that a separate policy/process is then applied depending on the nature of the complaint. For example, if the complaint made is one of harassment, then the procedure, as set out in the Harassment Prevention Policy, will be applied. This explains why Ara's reporting of bullying and harassment complaints references the Raising Problems or Complaints Policy, as opposed to the Harassment Prevention Policy.
- 10.47. At a high level the Raising Problems or Complaints Policy:
- 10.47.1. Includes (inter alia) definitions of "Natural Justice", "Formal Complaint" and "Informal Complaint".
 - 10.47.2. States that it values complaints and encourages learners and members of the public to raise problems or complaints via the written "Notification of Problem or Complaint Form" (being an attachment to the policy) or according to the procedures set out for specific types of issues (including harassment).
 - 10.47.3. Encourages complainants to raise concerns with those directly involved first, or alternatively encourages students to engage student advocacy services.

is also "part of the student enrolment/application process and a learner has to accept and agree to the terms of this policy at the point of enrolment".

- 10.47.4. Encourages complainants to raise problems and complaints as soon as practicable.
- 10.47.5. States that no student will be disadvantaged academically or otherwise as a consequence of raising complaints.
- 10.47.6. States that confidentiality will be applied to all matters.
- 10.47.7. Confirms that all formal complaints are documented and registered in the complaints data base.
- 10.47.8. States that any staff member approached by a student with a problem or complaint will take action by either resolving the problem or referring the student to the most suitable person to address the concern or complaint.
- 10.47.9. States that complainants using the Notification of Problem or Complaint Form will receive a response with 10 working days.
- 10.47.10. Provides a flowchart setting out, at a high level, how the complaints process works.
- 10.47.11. Together with the Notification of Problem or Complaint Form (being an attachment to the policy), is located on Ara's main website (under the general administration tab). A link to these documents is also now provided in the "Quick reference" guide contained in the updated BBc Programme Handbook.

The Probation Policy and the Suspension and Refusal/Cancellation of Enrolment Policy

- 10.48. If a complaint made under the Harassment Prevention Policy is upheld, then the Director Corporate Services can take a number of actions in relation to it. This includes placing a student on probation (in accordance with the Probation Policy) and/or suspending or cancelling a learner's enrolment (in accordance with both the Probation Policy and the Suspension and Refusal/Cancellation of Enrolment Policy).
- 10.49. The Probation Policy:
 - 10.49.1. Sets out the processes that must be followed in order to place a learner on behavioural probation.
 - 10.49.2. Provides that the Head of Department may put a learner on probation/suspension for up to five teaching days.
 - 10.49.3. Sets out a learner's rights, who is facing probation, including the right to know what is alleged of them, the consequences of any allegation being proved, the right to respond before a decision is made and the right to representation, advice, advocacy and support at all stages.
 - 10.49.4. Provides that a learner's rights may be curtailed in the case of exclusion for unacceptable behaviour (especially where danger to health and safety are an issue) meaning it may be necessary to act summarily.
 - 10.49.5. Sets out terms and conditions of probation including the consequences of failing to achieve change while on probation, which could include suspension and/or cancellation of enrolment.
 - 10.49.6. Provides for appeal rights for a learner placed on probation, or who is suspended under the policy.

- 10.49.7. Includes a flowchart for Learner Responsibilities and Rights and Associated Policies (app301b). This includes a pictorial summary as to the interrelationship between the Probation and Suspension and Refusal/Cancellation of Enrolment Policies and how those policies apply on a practical level.
- 10.50. The Suspension and Refusal/Cancellation of Enrolment Policy:
- 10.50.1. Sets out the processes that must be followed in order to suspend or cancel a learner's enrolment (or refuse a future learner's enrolment).
- 10.50.2. Provides that the Deputy Chief Executive, Head of Department, Manager of a Student Service or Complaints Coordinator may suspend a learner for up to five teaching days (which can be extended in certain circumstances).
- 10.50.3. Provides for the same learner's rights, and curtailing of those rights, as provided for in the Probation Policy.
- 10.50.4. Expressly states that a learner may be suspended from a programme or course where there is concern they may be a risk to the safety of themselves or others.
- 10.50.5. Provides for other actions that may follow suspension including placing the learner on a Probation Contract, the signing of a good behaviour agreement, and imposing other conditions, requirements, or expectations or the cancellation/refusal of enrolment.
- 10.50.6. States that Ara may cancel a learner's enrolment on any of the ETA grounds including (as relevant to this report) when the person is not of good character or when the person has been guilty of misconduct or a breach of discipline.
- 10.50.7. Provides for appeal rights.
- 10.50.8. Attaches the same flowchart (app301b) as included in the Probation Policy.
- 10.50.9. Is, along with the Probation Policy, located on Ara's main website under the general academic policies tab. The Probation Policy is also referred to in the BBc Programme Handbook provided to NZBS students, with a link provided to access it.

Learner Support at Ara Institute of Canterbury Ltd (Procedure Document)

- 10.51. I note for completeness that under the policy documents accessible on the Ara Website, there is a document entitled "*Learner Support at Ara Institute of Canterbury Ltd*". This document is an attachment to the Academic Support and Progression Policy and contains a diagram which sets out the various different levels of support available to learners.
- 10.52. This document does not appear to be referred to in any of the policies that I have discussed above. I mention it, however, as it does refer to the various support networks available to the students, not just from an academic perspective, but also at a pastoral care level. This is clearly relevant to this investigation.
- 10.53. The document states that the academic staff member/tutor holds the **primary duty of care** for the learner. However, it then goes on to seemingly limit this duty to an academic role. The document then sets out the role that the "Designated Student Advisors" play, which falls within the Designated Pastoral Support level on the diagram. Those roles "may" include, inter alia:
- 10.53.1. Networking and liaison with key contacts (e.g. Ara staff, secondary schools, whānau, employers, immigration, churches, community and government agencies).

- 10.53.2. Encouragement to raise standards.
 - 10.53.3. Working with academic staff in relation to behavioural management and expectations.
 - 10.53.4. Provide a confidential welfare, advisory and referral service to all enrolled learners on a range of issues relating to learner progress and personal wellbeing.
 - 10.53.5. Act as a first point of contact by a range of channels for any current learner wanting advice/information/assistance with any aspect of life.
 - 10.53.6. Follow up referrals regarding action and outcome and record all action and contracts (*sic*) within the appropriate service record system.
 - 10.53.7. Advise learners on complaint and grievance processes and other institutional processes and assist them in these services.
 - 10.53.8. Develop and maintain effective relationships and networks with service providers (internal and external and liaise effectively across the institution with all relevant staff).
- 10.54. The document then refers to the “Tertiary Support” level which is stated to be “all of the networks and supports that are made available to learners via Ara and which are independent of Ara such as the Student Advocate, Citizens Advice, Study Link and WINZ”.

NZBS specific practices, standards and systems related to bullying and harassment

- 10.55. In addition to the Ara wide policy documents referred to above, the NZBS has also adopted its own practices and standards in relation to the conduct and behaviour expected of students. In particular, the NZBS requires first year students to collaborate with their tutors at the start of the year and develop a set of core values for the class to adhere to. This feeds into and builds on the PP assessment, which, as discussed above, provides for an additional Professional Code of Conduct that NZBS students expect of each other.
- 10.56. The values students agree to are student driven and must be agreed on by the whole class. The students all sign a contract (at least that is the intention, whether they all do or not I have not verified) which sets out the behaviours required to adhere to the core values decided upon. Once the students have finalised the contract, the process continues with regular “values audits” where the students re-look at the contract (again, that is at least the intention) and measure their own behaviours against what was agreed.
- 10.57. There are opportunities to amend the contract if necessary. I have been provided with and reviewed various contracts across different streams and year groups. For reasons of privacy the investigation team has not gone into detail in regard to what the contracts expressly state, but do note that all contracts reviewed encompass behaviours which promote a safe and inclusive learning environment for students free from bullying and harassment (both in person and online).
- 10.58. The students and the NZBS enter into an Internship Agreement with internship providers. It makes no specific reference to harassment and bullying. It does, however, state that the provider “attests to the fact” that it complies with all of the requirements of the HSWA. The provider’s rules and policies are referred to in a general way, without recording what they are, and the provider “accepts responsibility for communicating all company rules and policies to the intern”.
- 10.59. There is no reference in the agreement to Ara’s on-going obligations to the student while the student is on the internship, and still completing the NZBS course. There is a document entitled “Internship Information for Providers” which confirms the fact the internship “is the

final course in our degree programme". Students continue to pay course fees while on their internships.

- 10.60. Internship providers are also provided with a form which covers monitoring and assessment matters. It makes no reference to the health, safety and wellbeing of Ara students whilst completing their internship. There is a statement in the context of monitoring which refers to "things going wrong" and "any problems" being dealt with as they arise. Problems which are "significant" are to be advised to the NZBS. This appears to refer to problems with the work of the student, not welfare related issues.⁶⁷
- 10.61. Students and providers are visited by the programme leader during the internship. A form entitled "Internship 'On-Site' Visit Report" has tick-boxes for both the discussion held with the provider and the student. Each notes "general health/welfare".
- 10.62. As mentioned above, the NZBS also provides its students with a BBc Programme Handbook which deals with a variety of topics relevant to the BBc degree. This includes reference to some of the policies and procedures referred to above, as well as information on the PP component of the course. The BBc Handbook clearly states that it is the student's responsibility to "learn about and understand the guidelines and regulations outlined in [the] handbook".
- 10.63. Importantly, the BBc Programme Handbook has been updated this year to include part of the Learner Responsibilities and Rights Policy (in particular Attachment APP301a) and also a section entitled "Quick reference - where to find help if students have feedback or want to raise an issue" (**Quick Reference Guide**).⁶⁸

Best Practice in New Zealand

- 10.64. As discussed in detail above, tertiary institutions have statutory obligations under various statutes and regulations to ensure, so far as reasonably practicable (under the HSWA), the health, safety and wellbeing of staff, students, and various other third parties involved with the institution. This includes taking all reasonable steps to eliminate or minimise the risk from bullying and harassment (including sexual harassment) and to provide an inclusive and equitable environment.
- 10.65. WorkSafe New Zealand Mahi Haumarū Aotearoa ("**WorkSafe**"), as the regulator of the HSWA, provides a range of guidance to support businesses with risk assessment and management practices to minimise the likelihood of bullying and harassment. The investigation team has reviewed these guidelines as part of our assessment as to what constitutes best practice in New Zealand. Although the WorkSafe guidelines are necessarily focussed on policies and processes in a working environment, they provide good guidance as to what tertiary institutions should be implementing to comply with its obligations as a good employer but also, by analogy, what they should be implementing to ensure the health and safety of its student body.
- 10.66. Of course, tertiary institutions are unique and have obligations imposed on them that go further than an employer. I have discussed in detail above the obligations on Ara which arise from the 2022 Code which Ara must comply with. In addition to these two key sources of reference, I have also had regard to a range of other New Zealand tertiary institutions bullying and harassment policies and procedures in order to assess how Ara's policies compare.

⁶⁷ I was advised on 8 April 2022 that a new Internship Placement Agreement for the NZBS has been put in place for 2022. I have not been provided with a copy of this new agreement. Ara has advised that the document is intended to address the matters I have raised in paragraphs 10.58 to 10.60.

⁶⁸ The Quick Reference Guide was drafted in response to the events that unfolded following the New Zealand Herald article relating to allegations of bullying and harassment. It was provided to students (as a separate standalone document) in an email sent on 28 September 2021, following Ara's decision to undertake this independent investigation.

- 10.67. In the section below I address the policies, raise concerns and make recommendations for improvement (which are also recorded below in the Recommendations section of the report).
- 10.68. At a high level, policies on bullying and harassment should:⁶⁹
- 10.68.1. clearly state that bullying, discrimination, or harassment is never acceptable;
 - 10.68.2. clearly state that all students and staff are expected to show respect to each other;
 - 10.68.3. be actively supported by the senior staff and managers in the institution;
 - 10.68.4. have a reporting process that is clear and makes it easy for individuals to get help – consulting with stakeholders (including staff and students) on the policy and process will help to make sure it is appropriate;
 - 10.68.5. provide support for individuals who make a complaint;
 - 10.68.6. make sure that each complaint is investigated sensitively, objectively, thoroughly and in a timely way; and
 - 10.68.7. make sure that confidentiality is maintained by all parties involved.

Assessment of Ara's policies and procedures against best practice

- 10.69. As they currently stand, Ara's policies and procedures in relation to preventing and responding to bullying and harassment do not meet best practice. In particular:
- 10.69.1. **The Harassment Prevention Policy** is difficult to locate on Ara's website. It appears to be the only place where the policy is located. Users are required to navigate through a number of tabs on the homepage (up to five clicks, to locate it under Human Resources) in order to find the policy. Best practice requires readily available and widely disseminated anti-bullying and anti-harassment policies.⁷⁰ The Harassment Prevention Policy needs to be made more accessible to staff and students. This should include making it available through the MyAra App and more readily accessible from Ara's website. It should also be referenced (with a link provided) in the BBc Programme Handbook.
 - 10.69.2. There should also be a dedicated page dealing with bullying and harassment on the website, the MyAra App and the BBc Programme Handbook which paraphrases the policy and provides all necessary links to further information.⁷¹ There is no reference to bullying and harassment at all on the website on a standalone basis.
 - 10.69.3. The Harassment Prevention Policy would benefit from clear and more direct language. Best practice requires easy to understand policies in plain English. As currently drafted the Harassment Prevention policy is disjointed and not easy to follow. For a good example of an easy-to-follow policy, see the University of Canterbury Te Whare Wānanga o Waitaha's "Prevention of Harassment and Bullying Policy" as published on its website. This is written in plain English and

⁶⁹ https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/general-process/#scrollto-creating-a-workplace-free-from-bullying_002c-harassment-and-discrimination

⁷⁰ 2022 Code, cl 9. See also WorkSafe New Zealand Mahi Haumarua Aotearoa "Good Practice Guidelines: Preventing and Responding to Workplace Bullying" (March 2017) at 28 – 31.

⁷¹ See for example the websites of the Unitec Institute of Technology Te Whare Wānanga o Wairaka, Victoria University of Wellington Te Herenga Waka, University of Auckland Waipapa Taumata Rau, Massey University Te Kunenga Ki Pūrehuroa which all have dedicated pages on bullying and harassment within the student tabs on their websites.

uses direct and easily understood language. It also contains hyperlinks to all related policies and complaint processes.⁷²

- 10.69.4. The Harassment Prevention Policy covers all types of harassment and bullying. Best practice requires a specific standalone anti-bullying policy and separate anti-harassment policy.
- 10.69.5. The definitions of “Bullying”, “Harassment”, “Racial harassment” and “Sexual Harassment” within the Harassment Prevention Policy could all be improved. For good examples of these definitions, see the University of Canterbury Te Whare Wānanga o Waitaha’s “Prevention of Harassment and Bullying Policy” as published on its website.
- 10.69.6. The Harassment Prevention Policy provides good examples of what behaviour constitutes bullying and sexual harassment, however these are incorporated in the definition section of the policy. The policy would benefit from extrapolating these examples out and including them in the body of the policy or in an appendix to the policy.
- 10.69.7. The policy would also benefit from providing examples of behaviours that are not usually considered to be harassment or bullying.⁷³
- 10.69.8. These examples (of both what is and is not bullying or harassment behaviours) should also be included on the dedicated webpage on bullying and harassment referred to above.
- 10.69.9. The Harassment Prevention Policy should clearly set out the level of behaviour that it expects from its staff and students. This should include reference (and hyperlinks) to both the Learners Responsibilities and Rights Policy and the Staff Code of Professional Conduct which provides for the expected standards of conduct of all students and staff.
- 10.69.10. Best Practice dictates that policies should provide several ways for issues involving bullying and harassment to be resolved, from low-key informal action to lodging formal complaints.⁷⁴ In line with this, Ara’s Harassment Prevention Policy outlines a number of different procedures and options available to individuals with concerns around inappropriate behaviour including both informal and formal processes. However, the procedures set out (particularly in relation to the informal processes) are very general and give little guidance to the individual as to what option would be most suitable in the circumstances.
- 10.69.11. The Harassment Prevention Policy does not encourage bystanders or witnesses to report bullying, harassment or any other type of inappropriate behaviour. Reference to bystanders in policies encourages people to call out the harassment of others. The Harassment Prevention Policy should also make express reference to bystander’s obligations, give guidance on how someone might raise an issue anonymously and how a bystander can participate in the process, whilst still complying with natural justice.⁷⁵

⁷² <https://www.canterbury.ac.nz/about/governance/ucpolicy/general/prevention-of-harassment-and-bullying-policy/>. See further <https://www.auckland.ac.nz/en/about-us/about-the-university/equity-at-the-university/harassment.html>

⁷³ See for example, Appendix A to the University of Canterbury Te Whare Wānanga o Waitaha’s “Prevention of Harassment and Bullying Policy”.

⁷⁴ WorkSafe New Zealand Mahi Haumarū Aotearoa “*Good Practice Guidelines: Preventing and Responding to Workplace Bullying*” (March 2017) at 29. See also the 2022 Code, cls 12 – 13.

⁷⁵ The University of Auckland Waipapa Taumata Rau, for example, provides a dedicated “Whistleblower hotline” where reports of bullying and harassment can be made anonymously. It is made clear that the anonymous complaints can only be formally investigated in certain situations (which are outlined) so natural justice is complied with: <https://www.auckland.ac.nz/en/about-us/about-the-university/equity-at-the-university/harassment.html>

- 10.69.12. The Harassment Prevention Policy should clearly articulate what processes are available and include specific information on how to access each of them and/or the appropriate person/department to contact.⁷⁶ This could be done within the policy itself or by reference to other policy/procedure documents (which should be hyperlinked). See for example Auckland University of Technology Te Wānanga Aronui o Tāmaki Makau Rau’s “Preventing Bullying and Harassment Procedures”.⁷⁷ This procedure document provides clear information on what each procedure entails, who to contact, and why someone would choose one procedure over the other. It provides for one centralised person to be appointed to support the complainant (Respect in Action Contact for staff complaints, and a Student Services Contact for student complaints). It also clearly sets out where a student can submit an initial informal complaint via a website if they are not comfortable discussing their concerns in person.⁷⁸
- 10.69.13. The Harassment Prevention Policy would also benefit from having specific templates dedicated to reporting harassment and bullying. These should be hyperlinked in the Harassment Prevention Policy and be accessible on the MyAra App.
- 10.69.14. The Harassment Prevention Policy does not appear to have been reviewed since 2014. Best Practice requires regular review of harassment prevention policies.⁷⁹
- 10.69.15. As above, the policy refers at the end of section one (in a box) to *Good Practice Guidelines*. However, the guideline referred to is a Ministry of Business, Innovation and Employment document from 2014 that has since been replaced by a WorkSafe Guideline entitled, “Preventing and responding to bullying at work”.⁸⁰
- 10.69.16. The same box also incorrectly refers to the now repealed Health and Safety in Employment Act 1992 and Education Act. It should refer to the 2022 Code, the ETA and the HSWA.
- 10.69.17. **The Learners Responsibilities and Rights Policy** should refer expressly to the Harassment Prevention Policy and provide a hyperlink to that document.
- 10.69.18. The policy is spread across three separate documents. The policy, an attachment to it and a flow chart. It should all be contained in one easy to follow document.
- 10.69.19. The attachment to the policy document (entitled “Learner Responsibilities and Rights”) is accessible on the MyAra App, but (while similar) the document version is different (and entitled “Students Rights and Responsibilities”). They should be the same.
- 10.69.20. The MyAra App document is better, in my view, and includes relevant contact details. It also includes a link (“have your say”), unlike the attachment to the Learners Responsibilities and Rights Policy document. The MyAra App document should have a hyperlink to The Harassment Prevention Policy whenever a reference in that document is made to harassment.

⁷⁶ 2022 Code, cls 12 – 13.

⁷⁷ https://student.aut.ac.nz/data/assets/pdf_file/0009/342981/Preventing-Harassment-Procedures_September-2020.pdf

⁷⁸ For a further example see the University of Auckland Waipapa Taumata Rau’s “Addressing Bullying, Harassment and Discrimination Guidelines”, which support the “Addressing Bullying, Harassment and Discrimination Policy”.

⁷⁹ 2022 Code, cl 7(2)(a).

⁸⁰ WorkSafe New Zealand Mahi Haumarū Aotearoa “*Good Practice Guidelines: Preventing and Responding to Workplace Bullying*” (March 2017).

- 10.69.21. The MyAra App document (Student Rights and Responsibilities) does not, but should, refer to bullying under the unacceptable behaviours section, and have a hyperlink to the Harassment Prevention Policy.
- 10.69.22. The Learners Responsibilities and Rights Policy (in one document) should be available on the MyAra App, as well as the website and in the BBC Programme Handbook.
- 10.69.23. The policy is difficult to find on the website and located under the General Academic Policies tab, which is not the right location for it. It should be easily accessible to students.
- 10.69.24. The box concerning related documents in section one should refer to the “Student Rights and Responsibilities” document (like the Code of Professional Practice does), and should be available on the MyAra App. It should also refer to the Probation and Suspension and Refusal/Cancellation of Enrolment Policies. The box also refers, incorrectly, to the now repealed Health and Safety in Employment Act 1992, even though it was reviewed in 2020.
- 10.69.25. **The Code of Professional Conduct** already expressly references the Harassment Prevention Policy, but it should also hyperlink the document for ease of access.
- 10.69.26. The policy document is in two parts, the Policy and the code “attached”. It is preferable to be in one easily accessible document.
- 10.69.27. The Policy document refers in the box of related Ara procedures only to the “Infoweb” (which I assume is the MyAra App) version of “Student Rights and Responsibilities”. It should also refer to the attachment to the Learner Responsibilities and Rights Policy attachment (which is AAP301a) as that document, unlike the former, also includes the important statement that staff have the responsibility to maintain a safe and effective learning environment. Further, they may ask a student to leave the class if the student’s behaviour indicates limited ability to be safe, disturbance to others learning, or put others at risk.
- 10.69.28. The **Raising Problems or Complaints Policy** is disjointed and difficult to follow. Clause 1.1(c) of the policy provides that another specific policy covers “procedures related to harassment”. The clause essentially excludes the application of this Policy, but it does not name what that “specific policy” is (presumably the Harassment Prevention Policy).
- 10.69.29. Clause 1.1(c) does not reference bullying, even though the Harassment Prevention Policy applies to both harassment and bullying. The clause goes on to reference a separate procedure for “behaviour”. Presumably (it is not stated) that is a reference to either the Students Rights and Responsibilities document or the Learners Responsibilities and Rights policy (as above, they differ). Neither of those documents provide a specific procedure relating to behaviour, as cl 1.1(c) states.
- 10.69.30. That this policy is not apparently intended to apply to harassment is reinforced by the opening paragraph under Policy Statement and repeated again at 3.1(a). It states that students are able to raise problems or make complaints about employees or other students via a particular form, “or according to the procedures set out for specific types of issues, e.g., ‘harassment’”. It is confusing to say the least, compounded by the apparent exclusion of the policy altogether at cl 1.1c.
- 10.69.31. Although Ara has explained how the Raising Problems or Complaints Policy works in practice, it is not clear from the policy itself. The purpose of the policy

needs to be clearly articulated, with reference to it being the primary policy under which all complaints are made and formally recorded.

- 10.69.32. The Raising Problems or Complaints Policy should name the specific policies that contain the procedure for how complaints related to harassment and bullying will be managed and provide hyperlinks directly to those policies. This should be clearly articulated within the body of the policy document itself and not just by reference to the Harassment Prevention Policy in the “Related Ara Ltd Policies” box. Ara needs to then ensure that these separate policies and procedures are followed when dealing with complaints related to harassment and bullying.
- 10.69.33. The **Probation Policy** should remove reference to the appeal process for those students who are suspended under the policy. Suspensions are dealt with under the separate Suspension and Refusal/Cancellation of Enrolment Policy.
- 10.69.34. The box concerning related documents in section one should refer to the Harassment Prevention Policy (or any stand alone anti-bullying and anti-harassment policies that may be developed as a result of this investigation and review).
- 10.69.35. **The Suspension and Refusal/Cancellation of Enrolment Policy** should also refer to the Harassment Prevention Policy in the box concerning related documents at section one.
- 10.69.36. **The Learner Support at Ara Institute of Canterbury Ltd Procedure Document** is difficult to find. It should be referred to as a related document in the Learners Rights and Responsibilities Policy (and hyperlinked).
- 10.69.37. As noted above it is not clear what the purpose of this procedure document is. The information contained within it is also somewhat contradictory. In particular at the beginning of the document it states that the academic staff member/tutor holds the primary duty of care for the learner. It then goes on to limit this duty to an academic role but does not address who holds the primary pastoral support role.
- 10.69.38. The Secondary Support for learners, includes “Designated Student Advisors” these being “staff who are employed to provide support to a target group or for an identified area such as accommodation”. However, it is not clear who these Designated Student Advisors actually are.
- 10.69.39. There is then a third level of support, referred to in the procedure as “Tertiary Support – Services Independent of Ara”. This includes reference to the Student Advocate. It should be made clear the Advocate is independent.

Beyond the policies

- 10.70. Having effective policies in place, as fully reviewed above, is not enough. In order for the policies to work in practice there must be clear information, training, and instruction on identifying bullying and harassment and best practices to prevent and respond to it.⁸¹
- 10.71. The 2022 Code requires providers to provide staff with ongoing training and resources tailored to their role. This includes in relation to “identifying and timely reporting of incidents of racism, discrimination, and bullying”,⁸² and “physical and sexual violence prevention and response”.⁸³

⁸¹ Ministry of Business, Innovation and Employment, Bullying and Harassment at Work, Issues Paper: A Summary, 2020.

⁸² The 2022 Code, cl 10(2)(d).

⁸³ Clause 10(2)(e).

- 10.72. The 2022 Code also requires providers to have practices for “working with learners and staff to recognise and respond effectively to discrimination, racism (including systematic racism), bullying, harassment, and abuse”.⁸⁴
- 10.73. As discussed above, I have concluded that there is an inherent culture within the NZBS of inter-student bullying. There is also evidence that some tutors (a minority) have enabled this culture by failing to take adequate steps to address it. Ara needs to better equip both students and staff to identify and respond to bullying and harassment amongst its students.
- 10.74. To achieve this Ara should provide specific training to all staff and students on identifying and responding to bullying and harassment. This should include how to respond to a complaint by students to staff, how to respond if it is witnessed by a tutor and what students should do if a victim of it, or a witness to it. In this regard it is noted that the University of Auckland Waipapa Taumata Rau has recently launched online training modules for students to help build general knowledge around what constitutes bullying, harassment, and discrimination, and gives options for support, advice, and action. Staff have similar training modules available.⁸⁵ Given the issues that I have identified at the NZBS, in relation to bullying in particular, in my view, such training should be compulsory for all new staff and new students at Ara.
- 10.75. In addition to training on bullying and harassment, students should also be undertaking a compulsory consent training module to assist in reducing the incidences of sexual harassment between students. The investigation team heard of a small (but concerning) number of alleged incidents involving sexual harassment and assault between students. It is unclear what training is being provided to students when they are enrolled at Ara in relation to education around sexual harassment and consent (I am not aware of any). If compulsory training is not being provided to new students (whether online or otherwise) this needs to be introduced.

Internships

- 10.76. The policies discussed above are not limited to preventing and responding to inappropriate behaviour occurring on campus. For example, the Harassment Prevention Policy provides that it applies to “all unwanted attention, including that which occurs off campus during the course of work or study”. This clearly includes NZBS students who are undertaking their internships, during their (normally) third year of study. The related policies discussed above also contain similar provisions regarding their application to interns.
- 10.77. Despite these policies covering students on internships, more needs to be done to bring them to students’ attention. In this regard, the investigation team was frequently told that students had almost no support from the NZBS during their internship and that they were, for the most part, simply left to their own devices. Over the six month internship most students we interviewed had only one very short visit from the NZBS Programme Leader, who, amongst many other things, checked in on their wellbeing in a general sense. Most of these discussions, we were told, took place in less than 20 minutes, and sometimes as short as five minutes. Ara’s obligation to ensure a student’s safety and wellbeing (including reducing and responding to issues of bullying and harassment) during their internship is an important one and is now codified under the 2022 Code. The obligations existed prior to that also. In my view, Ara/the NZBS is not meeting this obligation when it comes to students on internships.
- 10.78. As discussed above, the NZBS has some specific practices which are implemented in the case of internships, which at a very high level, touch on the health and safety of interns. However, these additional practices fall well short of addressing a student’s safety and wellbeing on internships. In particular, Ara needs to do more to ensure its students are going

⁸⁴ Clause 16(1)(b).

⁸⁵ <https://www.auckland.ac.nz/en/about-us/about-the-university/equity-at-the-university/harassment.html>

into a safe environment when undertaking their internships. It also needs to be doing more to ensure there are easily accessible and effective systems in place for students to raise issues relating to their safety and wellbeing with Ara/the NZBS during their internships. This should include:

- 10.78.1. Implementing a specific “internship safety and well-being module”, to be completed towards the end of the second year of study. The purpose of the module being to:
 - i. educate students about what they can expect on an internship (from a safety and well-being perspective), including identifying what behaviour is and is not appropriate;
 - ii. inform the students about who to contact at Ara/NZBS should an issue arise affecting their safety and wellbeing while on their internship; and
 - iii. inform students on how to make a complaint while on an internship and how it will be handled.
 - 10.78.2. Drafting a succinct document to be provided to all students before starting their internships that summarises what interns should do if they experience bullying or harassment in the workplace. That document should also be contained on the MyAra App, and easily accessible to interns via the Ara website. See, for example, Victoria University of Wellington Te Herenga Waka Faculty of Law’s document entitled “Clerkships, internships and employment while studying: What to do if you experience harassment”.⁸⁶
 - 10.78.3. Clearly articulating in the Internship Agreement what Ara’s ongoing obligations to the student are while the student is on the internship. Specific reference should be made to Ara’s ongoing obligation to reduce harm to students resulting from discrimination, racism, bullying, harassment and abuse.⁸⁷
 - 10.78.4. Implementing a process with internship providers so that the NZBS can satisfy itself that the providers’ rules and policies comply with all of the requirements of the HSWA and that those policies are adequately conveyed to the student by the internship provider.
 - 10.78.5. Implementing a process with the internship providers in which problems that arise in relation to an intern’s health, safety and wellbeing are reported to the NZBS. Any welfare related issues should immediately be notified to the NZBS so the appropriate steps can be taken by Ara/the NZBS to support the student.
 - 10.78.6. Appoint a dedicated contact within the NZBS whom students can contact for health and wellbeing support whilst on an internship. That person should be contacting students on at least a monthly basis to check on their wellbeing generally and to identify any problems that may have arisen in this regard.
- 10.79. It appears that the NZBS is already taking steps to implement some of the above recommendations. I have been provided with copies of the minutes of Student Representative meetings that occur on a regular basis between the NZBS Programme Leader and appointed student representatives. In particular, the minutes of a meeting held on 8 June 2021:
- 10.79.1. State that Ara is drawing up a code of conduct for the industry as to the expectations around how students are treated on internship placements.

⁸⁶ https://www.victoria.ac.nz/_data/assets/pdf_file/0010/1438984/what-to-do-if-you-experience-harassment.pdf

⁸⁷ The 2022 Code, cl 16.

- 10.79.2. Refer to students having requested a workshop around what to expect when going into a “placement”. In response the Programme Leader advised that he would be speaking about internships (now renamed Professional Placements) the following week. It was also recorded that students should let the Programme Leader know if any further questions arose from that discussion.
 - 10.79.3. States discussion was had about implementing weekly Zoom meetings for students on placement who might want to connect once a week to the NZBS and to each other.
 - 10.79.4. References a statement made by the Programme Leader about students on placements still being enrolled students and to have the confidence to contact “whoever you feel comfortable with” if students are having issues during placement.
- 10.80. The 8 June 2021 minutes clearly reflect that some students are feeling isolated on internships and that better systems need to be implemented to address this. I have no information to confirm that the above has in fact been implemented. If it has, it does not go as far as the recommendations above.
- 10.81. As noted above at footnote 68, I am advised that a new Internship Placement Agreement for the NZBS has been put in place for 2022.

Ara’s investigation and resolution mechanisms with regard to harassment and bullying; and

The support, information and mechanisms for complaints at Ara about bullying and harassment

- 11.1. This section deals with clauses 8 and 9 of the Terms as they are so closely related: consider Ara’s investigation and resolution mechanisms regarding harassment and bullying to assess whether they are appropriate within the School (cl 8) and identify whether the support, information and mechanisms for complaints about bullying and harassment matters are accessible, properly understood and effectively applied across the School (cl 9).
- 11.2. **The Harassment Prevention Policy** provides for both informal and formal complaint resolutions procedures. Each of these are discussed below.
- Informal resolution procedures***
- 11.3. For those who feel comfortable doing so “self-resolution” is the first option given to individuals who believe they have been subjected to any inappropriate conduct as outlined in the Policy. This encourages direct discussion or written communication with the persons involved. No guidance is given as to when this might be an appropriate option.
- 11.4. Individuals are also given the option to discuss the matter and seek guidance from an appropriate person:
- 11.4.1. For a staff member, this is noted in the policy as being their Head of Department, Manager, Human Resources staff member, Harassment Contact person or Union.
 - 11.4.2. For students, this is noted in the Policy as including the Head of Department, another appropriate Manager, Student Advocacy Service, Student Wellbeing Group member or Complaints Officer who can guide the student through early resolution options.

- 11.5. The aim of the discussions is to assist the individual raising the concerns to determine whether the behaviour experienced constitutes unacceptable conduct (bullying or harassment) and to assist in developing options for resolution of the concerns.
- 11.6. Although not specifically addressed in the context of bullying or harassment, students are given several ways to raise concerns in relation to their safety and wellbeing. Information about the options available can be found on both the MyAra App and the Ara website generally. These are (from what the investigation team has been able to ascertain):⁸⁸
- 11.6.1. Reaching out to tutors and the Head of Department if students feel comfortable to do so.
 - 11.6.2. Giving feedback via course evaluation forms and student experience surveys (discussed in more detail below) or giving feedback to and/or raising concerns with student representatives who attend student representative meetings with NZBS staff (including the Programme Leader).
 - 11.6.3. Reaching out to Ara's independent Student Advocate, who is also a registered counsellor. The Student Advocate's email, office location and cell phone number are listed on the website and MyAra App. The Student Advocacy page provides a link to a "Have Your Say" online feedback form. This form enables both anonymous feedback, and the ability to leave contact details if a follow-up is required. The form notes that students will receive a response within five working days.
 - 11.6.4. In the "Students Rights and Responsibilities" section of the MyAra App students are advised to raise complaints, where they consider their rights have been infringed, with their Head of Department, Programme Leader, Student Advocate, Registry Manager or one of the "harassment contact persons" (on which, see below). The Student Advocate's contact details are provided for, as well as a link to the "Have Your Say" online feedback form referred to above.
 - 11.6.5. Reporting incidences on SafePlace. SafePlace is an online tool found in the MyAra App. Ara encourages students (and staff) to use SafePlace to keep everyone safe and well on campus. Individuals are encouraged to report any event that has resulted in harm, whether physical or psychological, or when someone has witnessed any potential situation that could impact on the safety and wellbeing of anyone at Ara. SafePlace is located through the Health and Wellbeing tab on the MyAra App.
 - 11.6.6. Notification of a problem or complaint via the notification form (CPP117a) referred to in the Raising Problems or Complaints Policy. This form does not appear to be referenced or available on the MyAra App. The form can be found in both the Policy and Complaints section of Ara's website. Individuals are given the option on the form to specify that they are raising the complaint in an informal capacity and can also do so anonymously. The form is submitted to Ara's Complaints Coordinator whose contact details are on the bottom of the form.
- 11.7. As specified in the Raising Problems or Complaints Policy, the information provided via the Notification Form is used as the basis for Ara to determine the most appropriate procedure to follow in the specific case. Confirmation of receipt is provided within 10 working days, together with information about the contact person responsible for handling the complaint, and the designated procedure that will be followed.

⁸⁸ As discussed above, the BBc Programme Handbook has been updated this year to include the Quick Reference Guide. This, helpfully, lists the details of the various options available to students who want to give feedback and/or raise an issue, including in relation to safety and wellbeing, in one succinct document.

Concerns

- 11.8. As noted previously, there is no dedicated page on Ara's website or on the MyAra App detailing what individuals should do if they want to *raise an issue* related to bullying and/or harassment specifically.
- 11.9. Nor is there a *specific process* to follow, which deals exclusively with bullying and harassment (including sexual harassment) complaints. In this regard it is noted that the Harassment Prevention Policy refers to a Complaint Officer (for students) and a Harassment Contact person, for staff (at paragraph 3.2). We have not been provided details as to who the Harassment Contact person is for staff, nor have we been able to find this information on the MyAra App or Ara website.
- 11.10. The only reference we have found to the Complaint Officer (for students) was at the bottom of the Raising Problems or Complaints notification form which can be downloaded from Ara's website (in fact the reference is to a Complaint Co-Ordinator). The investigation team has not been able to find any reference to a Complaints Officer or Co-Ordinator on the MyAra App.⁸⁹
- 11.11. As noted above, in the "Student Rights and Responsibilities" section of the MyAra App students are advised to raise complaints, where they consider their rights have been infringed, with their Head of Department, Programme Leader, Student Advocate, Registry Manager or one of the "harassment contact persons"). As for the latter, we can find no reference to such a person. I do not believe such a position exists. No student I interviewed was aware of such a person. Indeed, those who did wish to complain found the process difficult to follow and cumbersome and, in most cases, just "gave up".
- 11.12. Many of the students interviewed described being aware of both the Student Advocacy services and the SafePlace App. However, the general view amongst the students interviewed was that there is no point complaining about inappropriate behaviour because nothing would come of it.
- 11.13. Only one student referred to having raised a complaint via the Raising Problems or Complaints notification form (which included not feeling safe around certain students). That student got a very quick response from the Complaints Co-ordinator and ultimately the matter was dealt with by that student's tutors (whom the student had also raised their concerns with). The student reported feeling unsatisfied with the tutors' responses. This student was told by one of the tutors there was "*not much they could do about it*" and that the tutor did not have the framework available to deal with some of the issues occurring between students. The other tutor more or less shrugged the complaint off. As above, that is not correct. Tutors do have the ability under the Learners Responsibilities and Rights (attachment APP301a) to take action: see under "Unacceptable Behaviour for Learners".
- 11.14. Many students reported having raised issues with tutors about how they were being treated by their peers, including giving examples of obvious bullying and other inappropriate behaviour that they were being subjected to by other students. Too many of these students were not given satisfactory support when these issues were raised with their tutors. Students were often not referred on to anyone for appropriate support (there are examples where students were referred on) and nor was any action taken with the students responsible for the behaviours. More often than not the poor behaviours just continued, without consequences.
- 11.15. There is no record kept of informal complaints raised (whether related to bullying and harassment or otherwise). Such a system needs to be implemented. The system should include the ability to categorise the various issues raised. This would give Ara the ability to identify whether certain patterns of behaviours exist (such as a culture of inter-student

⁸⁹ There is a reference to the Complaints Co-ordinator in the newly created Quick Reference Guide (at 32). However, no name or contact details are provided.

bullying) or whether a certain person is frequently the subject of complaints (prompting further investigation by Ara).

- 11.16. To assist with this, I suggest that specific complaint forms be made available that are dedicated entirely to raising issues relating to bullying and harassment (one for formal complaints and the other for informal reporting). Examples of both informal and formal reporting forms specific to bullying and harassment are available through WorkSafe.

Student Experience and Evaluation Surveys

- 11.17. As noted above, students are invited throughout the year to offer feedback via evaluation and survey forms. The main surveys of relevance are the Student Experience Survey, Course Evaluations and the Evaluation of Quality Teaching. I consider each below. The evaluation surveys have the potential to be an avenue for complaints to be informally raised, and possibly dealt with, although because they are anonymous that has obvious difficulties. However, each evaluation survey is for a specific and discrete purpose and should not be a means for complaints to be informally raised. As is evident from the discussion below, they have, in some instances, become a vehicle to informally raise complaints. If students had clearly defined best practice processes in place to raise concerns or complaints that can be collated and understood, the evaluative forms would not become a de-facto forum for the issues to be raised.

The Student Experience Survey

- 11.18. This is circulated to all enrolled students at Ara in October each year. We have been provided a copy of this survey to review. Although the survey is anonymous, students have the option of leaving their contact details if they would like any personal feedback on any of the points they have raised in the survey. With regard to bullying and harassment specifically, this Survey:
- 11.18.1. has a section dedicated to the Student Experience at Ara – this includes a question as to whether students “feel safe at Ara” and invites the student to comment on their answer to that question, and to give examples where they can.
 - 11.18.2. has a section dedicated to Student Wellbeing at Ara. This section was added to the survey in October 2020.
 - 11.18.3. includes numerous opportunities throughout the survey where students can note any concerns that they might have.
- 11.19. Ara has a dedicated staff member, the Academic Quality Manager who manages the Student Experience Survey. The Academic Quality Manager is supported by a Survey Analyst who monitors the survey and directs queries or simple issues to appropriate areas. It is also the Survey Analyst’s role (as delegated to by the Academic Quality Manager) to follow up with any individual student who has indicated that they would like to be contacted about their feedback. If the individual does want to be followed up with, then the Academic Quality Manager will speak with the student directly. Anyone who has a complaint is encouraged to go through the complaints process.
- 11.20. I have been advised that over the past two years the Academic Quality Manager has met with three students. None of these students were raising issues with bullying and/or harassment. The Academic Quality Manager has also not had to refer anyone to the complaints process based on the queries and concerns raised in the Student Experience Survey. I requested and was provided with evidence as to how follow ups to the Student Experience Survey were done, and whether a central record was kept (recording when issues requiring follow up had been made). The evidence received from Ara suggested that very few students actually wanted to be contacted once the Survey Analyst followed up with them (despite having said they did on the survey form itself). This is inconsistent with the feedback received from at least one student who described having written several paragraphs in the survey detailing the bullying they were experiencing from other students.

That student requested a follow up and provided contact details but never heard from anyone in response.

Course Evaluation

- 11.21. Students are asked to complete a course evaluation throughout the year. These relate more specifically to a course and the delivery of it by tutors. These are done for approximately 20 per cent of the courses each year and are again managed by the Academic Quality Manager. I have been advised that feedback is available within two weeks of the close of the survey and department management are notified when the data is available for them to analyse and respond to.
- 11.22. The course evaluation forms, on the whole, are not directly relevant to the investigation and review. That said, the forms have a reasonably high response rate and provide an opportunity for “comments”.⁹⁰ Many comments from students’ detail praise (often very high praise) and thanks to the tutors at the NZBS in terms of the course and its delivery. Many students comment on how much they enjoyed the course and widespread support from tutors, both on the course and in some instances more generally with other issues. Some negative or critical comments are also made, but primarily about aspects of the course or, occasionally, a tutor’s role on the course.
- 11.23. The evaluations are considered by the Head of Department and Head of the NZBS and assist in considering where improvements to course content or delivery can be made.⁹¹ This provides an opportunity for those managers to pick up on any comments which are of concern not only in relation to the course or a tutor’s performance, but also if a student uses the opportunity to raise an issue more generally, like in relation to harassment. This is an unintended but potential further avenue for matters of concern to be picked up on, and actioned if appropriate. I am not aware, however, of the course evaluation forms being used in this way by Ara for the years I reviewed.
- 11.24. One student, for example, in 2019 said that “*a healthy course life balance is something that could be better promoted*”. The student said, “*they seemed to always run ourselves into the ground*”, and that there was no way within the course structure to deal with the high workload placed on the students. This was a common theme of concern from the students I interviewed for the period 2017 – 2021. It is not apparent to me that the concern raised has been, or is being, addressed.
- 11.25. Some students made other comments relevant to the investigation and review. The comments are consistent with the information the investigation team has received in the interviews conducted. The comments are not just about the intensity of the immersive course. They relate to PP (“*...it doesn’t work when you hand this system to a bunch of immature fresh out of High Schoolers*”), burnout and anxiety associated with the high workload, the long days at NZBS, reaching “*rock-bottom*”, a lack of training on the current state of “*the industry*”, a need for teaching on bullying, harassment, discrimination and sexual harm, the lack of consequences with the “*class contracts*” which specify expected behaviours, the post-NZBS hours group chats (and the damaging effect of that), diversity within the student body and mental health support.
- 11.26. It is possible at least some of the students who have made the above comments in the course evaluation forms are the same students I have interviewed. There is no way of knowing. However, what is clear is that the assessments have a reasonable response rate and the responses on some of these issues closely mirror the concerns raised directly with me in interviews. That co-relation supports the view that I have not interviewed a group of

⁹⁰ I reviewed Course Evaluation forms, anonymised, for 2019 – 2021.

⁹¹ I am also advised that in addition to the annual formal programme evaluations, informally the NZBS has a continuous improvement approach which includes consideration of feedback received from staff meetings, staff engagement action plans and informal conversations between the Head of School and tutors throughout the year. I am not investigating this aspect, but note it as the informal processes provide further opportunities, as you would expect in a small school such as the NZBS, for matters of concern (relating to the matters under investigation) to be raised.

students with minority views and that the issues raised are of reasonably widespread concern and need to be addressed.

- 11.27. I note that departments also run student voice sessions within their own areas. This includes in the NZBS where the Head of School makes himself available to meet with a student group to receive any feedback. Students I interviewed referred to student representative meetings with the Head of NZBS.

Quality of Teaching Surveys

- 11.28. Each year the NZBS asks students to complete Quality of Teaching surveys. Although the surveys are completed each year by students, not every tutor is the subject of a survey each year. Whether a tutor will be measured in any one year is a decision made by the Programme Leader and will be based on the length of time the tutor was last measured, and whether there is any information from other sources that suggests a tutor should be surveyed. Generally, a tutor will not be measured two years in a row unless it was necessary to follow up on past performance issues.
- 11.29. Once completed, the Head of School takes the raw results of the individual surveys and compiles them into one report. It is then sent to the relevant tutor with the Programme Leader's comments. The results are not shared with anyone other than the individual tutor concerned. Where there are issues identified, the Programme Leader will discuss these with the tutor and actions will then be put in place (if required) in response. Ara has also advised me that specific professional development plans may be put in place where required to address matters raised in a Quality of Teaching Survey.
- 11.30. These surveys are primarily focussed on tutor performance, and, like the course evaluation forms, are not directly relevant to this investigation and review.
- 11.31. I have reviewed copies of all reports compiled from the Quality of Teaching Surveys for the years 2019 – 2021. These were all anonymised to ensure the privacy of all tutors and students was upheld. Unlike the course evaluation forms, students did tend to be more focussed on giving specific tutor feedback (as opposed to using it as a sounding board to raise issues more generally). There were however instances where issues have been raised relevant to the investigation and review. These include issues related to a lack of mental health support, a lack of awareness of those who were facing mental health issues, a lack of understanding and compassion for students facing personal issues and a lack of support more generally for those students who were struggling to cope with the course workload. There were also some (reasonably limited in the context of the responses as a whole) comments related to inappropriate behaviours being displayed by some (few) tutors, including casual sexism and some references to inappropriate/disrespectful comments made by tutors more generally. Again, these comments were consistent with the information the investigation team heard in student interviews.
- 11.32. In the interests of fairness, it is important that I also record how many positive comments students made about their tutors in the Quality of Teaching surveys. Many students expressed their gratitude and respect for the tutors with some going to great length to articulate this. Without limiting the extensive nature of the positive feedback received, the thrust of the comments from a very large number of students recorded: their admiration of the skill sets and the impressive industry knowledge of the tutors; the passion the tutors have for their craft; that the tutors clearly genuinely cared for their students and many were approachable with an open-door policy to the students; and that they were willing to listen, were helpful and communicated well. On a more personal level, the comments recorded that the tutors were considerate, encouraging, respectful, patient and kind to the students.

Concluding comments on the informal resolution processes available

- 11.33. It is widely recognised that bullying and harassment issues can be difficult to raise. Sexual harassment can be particularly difficult due to its traumatic nature. The Ministry of Business, Innovation and Employment's employment services and health and safety at work

guidelines suggest that there is still a lot of confusion about what is considered bullying and harassment, and what to do when it occurs.⁹² Although this is in the context of the employment relationship, it appears to be no less true in the context of the NZBS where the investigation team has heard of widespread bullying amongst students, but very little evidence of complaints having been made.

- 11.34. Best practise tells us that the earlier a concern or issue is responded to, the more likely it is to be resolved rather than escalated. For this reason, it is important that students have confidence in the resolution process and that, if an issue is raised, it will be adequately addressed. Based on what the investigation team has heard, Ara is failing its students in this regard. Informal complaints need to be adequately investigated, reported on, and followed up in order to create a culture where students are encouraged to speak up against bullying and harassment. Most importantly, Ara needs to be seen to taking these complaints seriously so students have faith that if they do speak up (which can often take a lot of courage) their efforts will not have been in vain.

Formal Complaint Procedures

- 11.35. The Harassment Prevention Policy provides for a formal complaint procedure (in addition to complainants having the option to complain to Police and/or the Human Rights Commission or, for employees, to raise a personal grievance). A formal complaint under the Policy is initiated in writing and a process is followed whereby the allegations are formally investigated. The process is controlled by the Director of Corporate Services at Ara, who has wide investigative powers and the authority to delegate his or her powers to nominated persons. A number of decisions are available to the Director, Corporate Services, if a complaint is upheld, ranging from taking no further action, through to staff dismissal and cancellation of a student's enrolment.
- 11.36. I requested a copy of any complaints register held by Ara/the NZBS, together with details of any complaints made to Ara from students of the NZBS in the period from February 2019 – October 2021 relating to:
- 11.36.1. bullying;
 - 11.36.2. harassment (including sexual and racial harassment);
 - 11.36.3. discrimination; and
 - 11.36.4. the making of sexist, racist or any inappropriate comments.
- 11.37. In response Ara advised that over this three-year period it has received one complaint of sexual harassment and two complaints of bullying under Ara's Raising Problems or Complaints Policy and/or the Harassment Prevention Policy.
- 11.38. Ara also advised that it has a Complaints Register which is published on its website every six months. This is available to view at <https://www.ara.ac.nz/about-us/complaints/>. This relates to any complaint raised formally with Ara under Ara's Raising Problems or Complaints Policy (which includes complaints made under the Harassment Prevention Policy).
- 11.39. As discussed above, there is some confusion as to how the investigation procedure provided for in the Harassment Prevention Policy, interacts with the Raising Problems or Complaints Policy. This confusion needs to be addressed by Ara. I have provided my recommendation in relation to how this could be addressed by Ara below.

⁹² Ministry of Business, Innovation and Employment, Summary Issues Paper: Bullying and Harassment at Work, 2020 at 7.

Recommendations

A significant number of recommendations follow. I have already identified shortcomings above when discussing clauses 7 – 9 of the Terms and what needs to be done to address them. I repeat the recommendations below for convenience and clarity.

Professional Development:

- 1.1. The NZBS should introduce a professional development component for tutors which enables them to spend time in their respective industries on an annual basis. This is to ensure tutors stay abreast of the current workplace environments within the industry. From my perspective, this is in relation to prevailing practices concerning the culture of the main media organisations (including health and safety, and staff wellbeing). I am not recommending this in relation to tutor skill sets for the respective crafts. It is intended to address the often-reported refrain of “*that is how it is in the industry*”. Staff need to therefore keep fully abreast of the changes in the industry and all recent developments.
- 1.2. Ara should ensure that the above recommendation is properly funded by Ara to allow this to occur and ensure that time is made available to each tutor to complete this on an annual basis. I am not making recommendations as to how this would be structured or how long it should take, as it is likely to be different for each tutor/area of specialisation.

Staff Training

- 2.1. Staff should undertake compulsory training in relation to diversity and inclusion, in particular in relation to the LGBTTQIA+ community.⁹³ I understand Ara offers diversity and inclusion training through external partners, but it appears to be optional whether or not staff complete it.
- 2.2. To the extent it is not already available, cultural mentoring should also be provided to staff to allow them to engage appropriately with Māori, and other cultures. I understand significant steps have already been made in this area with Ara having, in the last six months, set up a dedicated team led by Ara’s Executive Director Treaty Partnerships. I am advised that this team is focussed on building cultural capability across Ara and is available to support NZBS in developing the team’s capability.
- 2.3. Staff should be provided with training in relation to how to appropriately respond to a student who presents or approaches a staff member with mental health issues. This must include providing clear and direct information to the student on the Ara Support Services available to students as well as providing information on the support services available in the wider community.
- 2.4. Staff training should include education in relation to identifying what may amount to a triggering event for some students from the proposed course content or lecture, including guest lectures (there was evidence of this concern, which I have not addressed above in the body of the report due to privacy and confidentiality issues).

Mental health services

- 3.1. I recommend that Ara continues to review and take steps to improve the mental health and wellbeing services offered by Ara. It is apparent from the many reports of being unable to access support and the demand for mental health support, that this continues to be an issue. In this regard I acknowledge that Ara may be constrained in its efforts to some degree by the current issues facing New Zealand in relation to the lack of access to mental health and wellbeing services generally.

⁹³ The LGBTTQIA+ community refers to people who identify as lesbian, gay, bisexual, transgender, takatāpui, queer, intersex and asexual plus members of the community who identify as a sexual orientation or gender identity that is not included within the acronym.

Student and staff conduct

- 4.1. Guidelines for students should be developed with regard to expected student conduct and the consumption of alcohol at both formal and informal events associated with the NZBS, including, for example, at internship provider drinks and dinners (formal) or class drinks (informal). This should be made clear to students in the Learners Responsibilities and Rights Policy which currently provides that students are to “ensure you are not intoxicated or under the influence of drugs when at Ara or involved in Ara related activities, e.g., field trips”. This should be more clearly articulated and include a wider range of anticipated activities where this requirement is to be observed. The Students Rights and Responsibilities document on the MyAra App also requires this amendment. It should also be clearly articulated in the BBc Programme Handbook.
- 4.2. The Code of Professional Practice Policy for staff does not expressly address expectations of staff conduct and the consumption of alcohol at both formal and informal events associated with Ara, like internship provider drinks and dinners (formal) or class drinks (informal). This should be made clear in guidelines to staff and in the Code of Professional Practice. That code refers to refraining from “conduct (such as the use of intoxicants, drugs or other substances) that might impair work performance or place people or property at risk”. The focus is on “work performance” and “risk to people or property”, not expected behaviours and conduct in social situations where professionalism is expected.
- 4.3. “Initiations” and “de-initiations” should be strongly and expressly discouraged generally by Ara and not permitted on Ara premises, in particular Ōtautahi House. “Substance misuse” as an example of unacceptable behaviours is only generally noted in the Learners Responsibilities and Rights Policy. In the Student Rights and Responsibilities document on the MyAra App, there is only general reference to “misuse of alcohol, drugs or other substances” as an unacceptable behaviour.

Professional Practice

- 5.1. I recommend that the PP component of the course be reviewed by the NZBS.
- 5.2. This could include (if it is considered valuable to continue with peer assessment) removing the course weighting of the peer assessment.
- 5.3. In addition, the questions in the peer assessment could be reviewed so as to not invite negativity where none may exist (for example, “I wish the student would stop doing...”).
- 5.4. Peer comments are already sensitively communicated to the recipient by the tutor in a filtered format. This could be extended to providing the comments in draft which allows the student to consider the remarks and meet with the tutors to discuss or rebut them (if appropriate) to finalise the assessment, and to enable constructive feedback.

Policies and procedures

I recommend that Ara review its policies and procedures related to harassment and/or bullying in order to meet best practice. In particular:

- 6.1. I recommend that Ara implements a specific standalone anti-bullying policy in addition to an anti-harassment policy.
- 6.2. The anti-bullying and anti-harassment policies should be made more accessible to staff and students. This should include making them available through the MyAra App and more readily accessible from Ara’s website.
- 6.3. There should be dedicated easily accessible pages dealing with bullying and harassment on Ara’s website, on the MyAra App and in the BBc Programme Handbook (“**Dedicated Bullying and Harassment Information**”). These should paraphrase the anti-bullying and

harassment policies and provide links to all relevant further information (including to the policies themselves, to the student advocate webpage, and to the other web/MyAra pages detailing how to access safety and wellbeing services when required).

- 6.4. The anti-bullying and anti-harassment policies should use direct and easily understood language.
- 6.5. The anti-bullying and anti-harassment policies should include examples of what behaviour constitutes bullying and harassment (including sexual harassment and racial harassment). Although the current Harassment Prevention Policy does provide good examples of these behaviours, I recommend that they be incorporated into the body of the document or in a hyperlinked appendix (as opposed to within the definition section).
- 6.6. The definitions of “Bullying”, “Harassment”, “Racial Harassment” and “Sexual Harassment” currently within the Harassment Prevention Policy could all be improved. For good examples of these definitions, see the University of Canterbury Te Whare Wānanga o Waitaha’s “Prevention of Harassment and Bullying Policy” as published on the University’s website.
- 6.7. The anti-bullying and anti-harassment policies should include examples of behaviours that are not usually considered to be harassment or bullying.
- 6.8. The examples of what does, and does not, constitute bullying and harassment should be included on the webpages/resources containing the Dedicated Bullying and Harassment Information.
- 6.9. The anti-bullying and anti-harassment policies should clearly set out the level of behaviour that it expects from its staff and students. This should include reference (and hyperlinks) to both the Learners Responsibilities and Rights Policy and the Staff Code of Professional Conduct which provides for the expected standards of conduct of all students and staff.
- 6.10. The current Harassment Prevention Policy does not encourage bystanders/witnesses to report bullying, harassment or any other type of inappropriate behaviour. The anti-bullying and harassment policies should make express reference to bystander’s obligations and give guidance on how someone might raise an issue anonymously and how a bystander can participate in the process, whilst still complying with natural justice.
- 6.11. The current Harassment Prevention Policy does not clearly articulate what resolution processes are available, nor how to access them. The anti-bullying and harassment policies need to provide clear information as to what each resolution procedure entails (including both the informal and formal processes) who to contact, and why an individual would choose one procedure over another.
- 6.12. The anti-bullying and anti-harassment policies should contain specific templates dedicated to reporting harassment and bullying reports. These should be hyperlinked in the anti-bullying and anti-harassment policies and be accessible on the webpages/resources containing the Dedicated Bullying and Harassment Information.
- 6.13. The Learners Responsibilities and Rights Policy should be combined with the attachment entitled “Learner Responsibilities and Rights”, together with the flowchart, into one easy to follow document. A hyperlink to the anti-bullying and harassment policies should be included in the Learners Responsibilities and Rights Policy.
- 6.14. The Learners Responsibilities and Rights Policy should be redrafted to incorporate the similar (but in my view better) content as contained on the MyAra App page entitled “Students Rights and Responsibilities”.
- 6.15. The dedicated MyAra App page (whether entitled Learners Responsibilities and Rights or Students Rights and Responsibilities) should refer to bullying under the unacceptable behaviours section (in addition to those already there) and have hyperlinks to the anti-

bullying and anti-harassment policies and to the underlying Learners Responsibilities and Rights policy.

- 6.16. The Learners Responsibilities and Rights policy is currently located under the General Academic Policies tab on the website, which is not the right location for it. It should be made more accessible for students on the website.
- 6.17. The Code of Professional Conduct is in two parts. It should be combined into one, easily accessible document. It should also include hyperlinks to the anti-bullying and anti-harassment policies and the Learner Responsibilities and Rights Policy (which should include attachment AAP301a, which includes the important statement that staff have the responsibility to maintain a safe and effective learning environment and that they may ask a student to leave the class if a student is being unsafe, is a disturbance to others learning, or is putting others at risk).
- 6.18. The Raising Problems or Complaints Policy should name the separate specific policies that cover complaints related to harassment and bullying and provide hyperlinks directly to those policies. This should be clearly articulated within the body of the policy document itself and not just by reference to the Harassment Prevention Policy in the "Related Ara Ltd Policies" box. Ara must then ensure that these separate policies and procedures are followed when dealing with complaints related to harassment and bullying.
- 6.19. The purpose of the Raising Problems or Complaints Policy should be clearly articulated within the document itself, with reference to it being the primary policy under which all complaints are made and formally recorded.
- 6.20. The Probation Policy should remove reference to the appeal process for those students who are suspended under the policy. Suspensions are dealt with under the separate Suspension and Refusal/Cancellation of Enrolment Policy.
- 6.21. The Probation Policy and the Suspension and Refusal/Cancellation of Enrolment Policy should refer to and hyperlink the anti-bullying and harassment policies.
- 6.22. The Learner Support at Ara Institute of Canterbury Ltd Procedure Document should be redrafted to make it clear what its purpose is, and ensure the information contained within it is consistent. It should also be referred to in the related Learners Rights and Responsibilities Policy (and hyperlinked).
- 6.23. All of the above-mentioned policies should be reviewed at least every three years.
- 6.24. As part of this review, Ara should ensure that the policies refer to the most up to date related legislation, regulation, and good practice guidelines, and provide hyperlinks to each.
- 6.25. The Quick Reference Guide as contained in the 2022 BBc Programme Handbook should include the name and contact details of the Complaints Co-Ordinator.
- 6.26. The Quick Reference Guide should also be published on the MyAra App.
- 6.27. The MyAra App should contain a dedicated tab on the home page where all of the key policies in relation to harassment and bullying can be found.

Harassment Training

I recommend that Ara implement specific training for NZBS students and staff related to harassment and/or bullying. In particular:

- 7.1. Ara should implement compulsory training for all current staff and students on identifying bullying and harassment. The training should include;
 - 7.1.1. how staff should respond to a complaint by students;

- 7.1.2. how staff should respond to harassment or bullying if it is witnessed; and
- 7.1.3. what students should do if a victim of harassment or bullying, or witness to it.
- 7.2. The training should also be compulsory for all new staff and new students to Ara.
- 7.3. Ara should implement (if it has not already done so) a compulsory consent training module for all students to assist in reducing the incidences of sexual harassment between students.

Safety and wellbeing of NZBS interns

I recommend that Ara/the NZBS implement further processes to ensure Ara is complying with its obligations to provide a safe environment for students undertaking internships. In particular:

- 8.1. Ara/the NZBS should implement a specific “internship safety and well-being module”, to be completed towards the end of the second year of study. The purpose of the module being to:
 - 8.1.1. educate students about what they can expect on an internship (from a safety and well-being perspective) including identifying what behaviour is and is not appropriate;
 - 8.1.2. inform the students about who to contact at Ara/the NZBS should an issue arise affecting their safety and wellbeing while on their internship; and
 - 8.1.3. inform students on how to make a complaint while on an internship and detail how it will be handled.
- 8.2. The NZBS should create a succinct document to be provided to all interns before starting their internships which summarises what they should do if they experience bullying or harassment in the workplace.
- 8.3. That document should also be contained on the MyAra App, and easily accessible to interns via the Ara website. See, for example, Victoria University of Wellington Te Herenga Waka Faculty of Law’s document entitled “Clerkships, internships and employment while studying: What to do if you experience harassment”.
- 8.4. The NZBS should implement a process with internship providers so that the NZBS can satisfy itself that the providers rules, policies and procedures comply with all of the requirements of the HSWA and that they are adequately conveyed to the student by the internship provider.
- 8.5. The NZBS should implement a process with internship providers which ensures any problems that arise in relation to an intern’s health, safety and wellbeing are reported to NZBS. Any welfare related issues should immediately be notified to the NZBS so the appropriate steps can be taken by Ara/the NZBS to support the student.
- 8.6. Ara should appoint a dedicated contact within the NZBS whom students can contact for health and wellbeing support whilst on an internship. That person should be contacting students on at least a monthly basis to check on their wellbeing generally and to identify any problems that may have arisen in this regard.

Resolution and complaint mechanisms

I recommend that Ara review its complaint and other resolution mechanisms relevant to bullying and harassment to ensure they are appropriate, accessible, properly understood and effectively applied across the NZBS (and Ara generally). In particular:

- 9.1. Ara should appoint a dedicated Bullying and Harassment Officer, being the first port of call for any student or employee wanting to raise an issue related to bullying and harassment.
- 9.2. The contact details of the Bullying and Harassment Officer should be widely disseminated across Ara communication streams, including on the dedicated bullying and harassment web and MyAra pages (as referred to above) and in the Quick Reference Guide.
- 9.3. Ara's webpages/resources containing the Dedicated Bullying and Harassment Information should address what individuals should do if they want to raise an issue related to bullying and harassment (including racial and sexual harassment). Specifically, with regard to complaint and resolution mechanisms this page should:
 - 9.3.1. set out the different processes and options available where an individual wants to raise an issue or complaint in relation to bullying and harassment. Both informal and formal processes should be clearly outlined; and
 - 9.3.2. clearly explain what resolution process or complaint process might be most appropriate in the circumstances.
- 9.4. Encourage students and staff who both experience and/or witness bullying or harassment to contact the Bullying and Harassment Officer (whose contact details should be provided).
- 9.5. Also provide the contact details (together with hyperlinks where available) of any other individuals/organisations that students and staff can appropriately contact in the event they have an issue/complaint to raise in relation to bullying and harassment.
- 9.6. Provide links to specific templates dedicated to reporting (both informally and formally) incidences of harassment and bullying (as recommended above).
- 9.7. The Quick Reference Guide should refer specifically to the process for raising issues or complaints in relation to bullying and harassment specifically (and provide a link to the webpage/My Ara page that contains the Dedicated Bullying and Harassment Information).
- 9.8. Ara (to the extent it has not already) should implement a system which records informal complaints raised in relation to bullying and harassment. This would give Ara the ability to identify whether certain patterns of behaviours exist (such as a culture of inter-student bullying) or whether a certain person is frequently the subject of complaints (prompting further investigation by Ara).
- 9.9. Ara already has a system in place with regard to monitoring feedback from the Student Experience survey. Ara should continue to ensure all students who have raised concerns in the survey are followed up.
- 9.10. Ara needs to implement a system to ensure that all informal complaints are adequately investigated, reported on and followed up in order to create a culture where students (and staff) are encouraged to speak up against bullying and harassment.

Appendices

- A Terms of Reference dated 4 November 2021.
- B Definitions.
- C Harassment Prevention Policy – Document CPP209.
- D Learner Responsibilities and Rights – General Academic Policies – Documents APP301, APP301a and APP 301b.
- E Code of Professional Practice – Human Resources - Document CPP211 and CPP211a.
- F Raising Problems or Complaints – General Administration – Document CPP117 (and the Notification of Problem or Complaint Form - Document 117a).
- G Probation Policy – General Academic Policies – Document APP506.
- H Suspension and Refusal/Cancellation of Enrolment Policy – General Academic Policies – Document APP512.
- I Learner Support at Ara Institute of Canterbury Ltd (Procedure Document) - General Academic Policies – Document APP511a.

Dated this 13th day of April 2022



Richard Raymond QC

Appendix A

ARA INSTITUTE OF CANTERBURY LIMITED

TERMS OF REFERENCE FOR INDEPENDENT INVESTIGATION AND REVIEW INTO ALLEGATIONS OF BULLYING AND HARASSMENT AT THE NEW ZEALAND BROADCASTING SCHOOL

Purpose

1. The purpose is for the Ara Institute of Canterbury Limited (**Ara**) to engage an independent person Richard Raymond QC (**Investigator**) to conduct an independent investigation and review (**Investigation and Review**) in relation to allegations of bullying and harassment at the New Zealand Broadcasting School (**School**).

Context

2. On 18 September 2021 the New Zealand Herald published an article about the School and an alleged incident that had caused concern and anxiety for Ara's learners.
3. Ara received an email from the New Zealand Herald on 27 September 2021, which raised several concerns from former learners in relation to "*multiple alleged issues*" that the learners say they experienced during their time at the School.
4. The allegations included bullying and harassment and the making of sexist and racist comments.
5. Allegations of this nature are serious. Ara does not accept bullying or any kind of harassment and is committed to the wellbeing of its learners and staff members. Accordingly, the Chief Executive with the full support of the Ara Board, has appointed Richard Raymond QC to conduct the Investigation and Review.

Scope of Investigation and Review

The Investigator is to:

6. Receive any information available, including from former or current learners and former or current staff members of the School or staff members of Ara, in respect of concerns or allegations from learners that were enrolled at the School in the period from February 2019 to October 2021, relating to:
 - (a) bullying;
 - (b) harassment (including sexual and racial harassment);
 - (c) discrimination; and
 - (d) the making of sexist, racist or any inappropriate comments.

7. Assess Ara's current workplace policies, practices, standards and systems related to harassment and/or bullying against best practice models in New Zealand and other obligations (including to provide a safe, inclusive and equitable learning environment for learners) under current relevant legislation.
8. Consider Ara's investigation and resolution mechanisms regarding harassment and bullying to assess whether they are appropriate within the School.
9. Identify whether the support, information and mechanisms for complaints about bullying and harassment matters are accessible, properly understood and effectively applied across the School.
10. Make factual findings (if appropriate) and recommendations in relation to the allegations set out in paragraph six above, recommendations about the matters set out in paragraphs seven to nine above, reviewed against Ara's policies, which will be provided to the Investigator.
11. If, during the course of the Investigation and Review, other matters emerge which the Investigator believes require separate investigation or consideration, the Investigator will consult with the Chief Executive about the appropriate course of action. At that point, and if there is a need for it, the Terms of Reference may need to be revised to include a broader scope.
12. Following the interview of any participants, where the Investigator considers necessary, the Investigator may invite any person to respond to allegations or concerns raised, where this will assist the Investigator to understand the context of the allegations and obtain a balance of views. This will only be done if the complainant is prepared to put their name and details of the allegations on the record.
13. The Investigator will not make factual findings in relation to any particular employee's employment. If there are allegations made to the Investigator that indicate the need for a separate employment investigation related to any current employee or contractor, with the consent of the disclosing person only, the Investigator will refer the matter to the Executive Director, People and Culture.

Process for the Investigation and Review

14. Ara and the School will provide the Investigator with any information or evidence relevant to the Investigation and Review or that the Investigator may request.
15. The Investigator may interview current and former learners and staff of the School, Ara, and, if determined relevant by the Investigator, other parties who wish to provide evidence and information.

16. When interviewing participants the Investigator will request information and details from the participants to enable the Investigator to understand the context and background as to how any concerns or allegations have arisen.
17. The privacy of the participants is important and the following steps will be undertaken to maintain privacy:
- (a) an independent contact email and other mechanisms to contact the Investigator that preserve confidentiality will be established;
 - (b) the email inbox will be accessible only by those undertaking the Investigation;
 - (c) interviews may be audio recorded and transcribed and copies will be retained in a secure database under the sole control of the Investigator;
 - (d) notes taken during the interviews will be private and confidential, so far as the law allows and except as between the Investigator and the interviewee, who may receive a copy of the notes of the interview, if requested. The Investigator may use the information provided in the interview either anonymously, or, with consent, using the name of the interviewee; and
 - (e) the Investigation and Review will be conducted in a manner consistent with the principles of natural justice and information protection.
18. Richard Raymond QC will conduct the Investigation and Review (and provide a draft report to the Chief Executive and the Ara Board) over the next four months, or as soon as practicable thereafter, with factual findings, outcomes and recommendations. Ara intends to publish the outcomes of the investigation, so the final report should not identify any individuals by name, except where they have given their consent, and the report should not contain information which would allow any individual to be identified, without their consent.
19. The final report will be provided to the Chief Executive who will determine, in consultation with the Ara Board, the communication of the outcomes of the Investigation and Review to affected and interested parties.

These Terms of Reference are approved and signed by:



Darren Mitchell
Chief Executive (Acting)

Ara Institute of Canterbury Limited

Appendix B

Definitions

1. **Bullying:** There is no legislative definition of bullying in New Zealand. WorkSafe New Zealand - Mahi Haumarū Aotearoa uses the following definition of bullying in its Best Practice Guidelines for Preventing and Responding to Workplace Bullying (“**Worksafe Guidelines**”):¹

“Workplace bullying is: repeated and unreasonable behaviour directed towards a worker or a group of workers that can lead to physical or psychological harm.

– *Repeated* behaviour is persistent (occurs more than once) and can involve a range of actions over time.

– *Unreasonable* behaviour means actions that a reasonable person in the same circumstances would see as unreasonable. It includes victimising, humiliating, intimidating or threatening a person. Bullying may also include harassment, discrimination or violence.”

2. The Worksafe guidelines state that workplace bullying is not:²
 - one-off or occasional instances of forgetfulness, rudeness or tactlessness.
 - setting high performance standards.
 - constructive feedback and legitimate advice or peer review .
 - a manager requiring reasonable verbal or written work instructions to be carried out.
 - warning or disciplining workers in line with the business or undertaking’s code of conduct
 - a single incident of unreasonable behaviour.
 - reasonable management actions delivered in a reasonable way.
 - differences in opinion or personality clashes that do not escalate into bullying, harassment or violence.
3. The Ministry of Education’s Bullying Prevention and Response Guide for Schools is based on the widely accepted definitions of bullying behaviour that emphasise the following four characteristics:³
 - *Bullying is deliberate* – there is an intention to cause physical and / or psychological pain or discomfort to another person.
 - *Bullying involves a power imbalance* – there is an actual or perceived unequal relationship between the target and the initiator that may be based on physical size, age, gender, social status or digital capability and access.
 - *Bullying has an element of repetition* – bullying behaviour is usually not one-off. It is repeated over time, with the threat of further incidents leading to fear and anxiety. Repeated acts of bullying may involve single acts with different targets, as well as multiple acts with the same target.

¹ Worksafe New Zealand - Mahi Haumarū Aotearoa “Best Practice Guidelines for Preventing and Responding to Workplace Bullying” (March 2017) at 8. The definition used in the Worksafe Guidelines is adapted from Safe Work Australia’s definition.

² At 8.

³ Ministry of Education “Bullying Prevention and Response: A Guide for Schools” (2015).

- *Bullying is harmful* – there is short or long-term physical or psychological harm to the target (e.g., as a result of coercion or intimidation).

4. **Harassment:** For the purposes of the Harassment Act, a person harasses another person if he or she engages in a pattern of behaviour directed against that other person, being a pattern of behaviour that includes doing any specified act to the other person on at least 2 separate occasions within a period of 12 months. A person also harasses another person if he or she engages in a pattern of behaviour directed against that other person and that pattern of behaviour includes doing any specified act against the other person that is one continuing act carried out over any period.⁴ A specified act includes a range of behaviours, including:⁵

- (a) watching, loitering near, or preventing or hindering access to or from, that person's place of residence, business, employment, or any other place that the person frequents for any purpose:
- (b) following, stopping, or accosting that person:
- (c) entering, or interfering with, property in that person's possession:
- (d) making contact with that person (whether by telephone, correspondence, electronic communication, or in any other way):
- (e) giving offensive material to that person or leaving it where it will be found by, given to, or brought to the attention of that person:
- (ea) giving offensive material to a person by placing the material in any electronic media where it is likely that it will be seen by, or brought to the attention of, that person:
- (f) acting in any other way—
 - (i) that causes that person (*person A*) to fear for his or her safety; and
 - (ii) that would cause a reasonable person in person A's particular circumstances to fear for his or her safety.

5. In addition to this legislative definition of harassment, the Ministry of Business, Innovation and Employment (“**MBIE**”) defines harassment as including any unwanted and unjustified behaviour that another person finds offensive or humiliating. It often has a negative effect on the person's employment, job performance or job satisfaction.⁶ Harassment may be bullying if the behaviour is repeated. Examples of harassment include:⁷

- comments or behaviour that express hostility, contempt or ridicule, repeated put-downs for people of a particular age, body shape, gender identity etc.
- a general work atmosphere of repeated jokes, teasing, or “fun” at someone else's expense because of a particular characteristic they have.

6. **Sexual harassment:** Sexual harassment occurs when any person makes a request of any other person for sexual intercourse, sexual contact, or any other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.⁸

7. Sexual harassment also occurs if any person uses language (whether written or spoken), visual material or physical behaviour that is unwelcome or offensive to any other person (whether it is conveyed to them) if that language or behaviour is repeated or of such a significant nature that it has a detrimental

⁴ Harassment Act 1997, s 3.

⁵ Section 4(1).

⁶ <https://www.mbie.govt.nz/dmsdocument/11515-bullying-and-harassment-at-work-issues-paper-in-depth-look> at 15.

⁷ At 15.

⁸ Human Rights Act 1993, s 62(1); Employment Relations Act 2000, s 108(1)(a).

effect on that other person's ability to engage in work or studies.⁹ Sexual harassment can be direct or indirect and is not confined by definition to any gender or sexuality.

8. In addition to the legislative definitions recorded above, MBIE identifies the key characteristics of sexual harassment as:¹⁰

- unwelcome or offensive sexual behaviour.
- repeated or serious enough to have a harmful effect, or carries an express or implied threat or promise of differential treatment.
- The intentions of the perpetrator are irrelevant to whether harm actually occurred.

9. Examples of sexual harassment include:¹¹

- offensive sexual remarks or jokes
- unwelcome touching, patting, or pinching.
- being regularly hassled for a date or being followed home.
- sexually offensive images, including screen savers of a sexual nature.
- intrusive questions about a person's sex life.

10. **Racial harassment:** Racial harassment occurs when any person uses language (whether written or spoken), visual material, or physical behaviour that expresses hostility against, or brings into contempt or ridicule, any other person on the grounds of the colour, race, or ethnic or national origins. To constitute racial harassment, that behaviour must be harmful or offensive to that other person (whether or not it is conveyed to that person) and must be either repeated or of such a significant nature that it has a detrimental effect on that other person's ability to engage in work or studies.¹²

11. MBIE states that:¹³

"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 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."

12. Examples of racial harassment include:¹⁴

⁹ Human Rights Act, s 62(2); Employment Relations Act, s 108(1)(b).

¹⁰ <https://www.mbie.govt.nz/assets/bullying-and-harassment-at-work-issues-paper-summary.pdf>

¹¹ <https://www.mbie.govt.nz/dmsdocument/11515-bullying-and-harassment-at-work-issues-paper-in-depth-look> at 15.

¹² Human Rights Act 1993, s 63(1); Employment Relations Act 2000, s 109.

¹³ <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>

¹⁴ <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>

- 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.

Appendix C

Harassment Prevention			
First Produced:	1985	Authorisation:	Te Kāhui Manukura
Current Version:	17/06/14	Officer Responsible:	Director, Corporate Services
Past Revisions:	08/06/92, 13/11/95, 14/03/97, 02/10/98, 26/10/01, 5/05/06, 29/07/09, 25/08/10		
Review Cycle:	3 year cycle		
Applies From:	immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left hand margin.

1 Introduction

1.1 Purpose

Ara is committed to ensuring all people are treated with respect and dignity in all of their dealings.

Ara does not condone any form of harassment, including bullying.

To create an environment at Ara conducive to study and work free from any form of harassment or unacceptable conduct.

1.2 Scope and Application

- a This policy applies to all Ara staff, students, visitors and contractors. It applies to all:
 - i unwanted attention, including that which occurs off campus during the course of work or study.
 - ii unacceptable conduct which includes innuendo, victimisation, alienation or actions to isolate any particular person.
 - iii harassment that occurs because of a person's skin colour, gender, sexual orientation, membership of any racial, ethnic, religious or national group.
 - iv bullying, intimidation, humiliation, abusive or threatening language, blackmail, and verbal or physical threats.
 - v sexual harassment.
- b All staff are expected to maintain appropriate and professional relationships with other staff members, students, visitors and contractors.
- c A person holding a position of authority must behave with knowledge of the power of that position and not abuse it.
- d Exclusions:

This policy does not cover actions regarding staff performance issues dealt with under the Resolving Staff Performance or Conduct Issues Policy.

There may be some overlap in these policies if, as a result of a complaint, disciplinary processes are started.

1.3 Formal Delegations

- a If an allegation of harassment is made against a contractor, the Director, Corporate Services will determine the appropriate process within the spirit of this policy.
- b For other specified responsibilities relating to this policy refer to Section 3.

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1.4 Definitions

- a **Bullying:** Bullying is ongoing unreasonable behaviour which humiliates or undermines. Bullying can take many forms including:
- i unfair use of disciplinary and assessment procedures.
 - ii creating or continuing rumour or innuendo.
 - iii blocking access to promotion, or training.
 - iv withholding information essential to do a job properly.
 - v public humiliation.
 - vi persistent and undue criticism.
 - vii undermining responsibility.
 - viii negative references to age, sex, race, disability or other personal characteristics or circumstances.
- This list is for illustrative purposes and is not exhaustive.
- b **Complainant:** The person alleging harassment.
- c **Contact Person:** An Ara staff member who has been trained and is identified as an initial contact point for anyone who wishes to discuss any bullying or harassment-related issues and/or make a complaint.
- d **Fairness:** In this policy the concept of fairness ensures that any complaint is handled in a manner that is fair to everyone involved. Fairness means that:
- i a person has the right to be informed of any complaint that has been made against him or her.
 - ii a person has the right to an opportunity to respond to allegations about his or her alleged behaviour before any decision is made.
 - iii everyone involved in investigating and deciding a complaint has the right to be listened to, and to seek advice, support and/or representation.
 - iv fairness also applies to the person raising an issue or making a formal complaint. They are entitled to be heard, taken seriously and have their matter dealt with in the taking into account their wellbeing and ongoing interaction with Ara.
- e **Harassment:** Any form of behaviour that is unwanted by the recipient, that is repeated or of a significant nature.
- f **Racial Harassment:** Behaviour of a racial nature (such as words, gestures, actions or threats relating to skin colour, race, or ethnic or national origin) that is unwanted or offensive to the recipient, repeated, or is of a significant nature.
- g **Respondent:** The person against whom a complaint of harassment has been made.
- h **Sexual Harassment:** Any form of sexual attention that is unwelcome, persistent or offensive to the recipient. It can include any of the following, although the list is not exhaustive:
- i Displaying or distributing offensive pictures, posters, cartoons, graffiti, screen-savers, electronic images or literature.
 - ii Loud conversations of a sexual nature.
 - iii Sexual and smutty jokes in any format.
 - iv Leering (suggestive staring at a person).
 - v Teasing or comments about a person's alleged sexual activities or private life.
 - vi Offensive gestures.
 - vii Unwelcome social attention, including telephone calls or electronic exchanges.
 - viii Unwanted physical contact such as touching, patting, pinching, kissing, or putting an arm around another person's body.

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- ix Unwanted requests for sexual activity.
- x Offering or implying benefits in return for sex.
- xi Threatening a person's career, salary, grades, or wellbeing if sexual activity is refused.

<p>Related Ara Procedures</p>	<p>Related Ara Policies</p> <ul style="list-style-type: none"> • CPP109 Disclosing Personal Information about Students and Staff Policy • CPP116 Protected Disclosures Policy • CPP208 Resolving Staff Performance or Conduct Issues Policy • CPP211 Code of Professional Practice • CPP501 Health & Safety Policy • APP301 Student Rights and Responsibilities
<p>Related Legislation or Other Documentation</p> <ul style="list-style-type: none"> • Human Rights Act 1993 • Education Act 1989 • Employment Relations Act 2000 • Health and Safety in Employment Act 1992 • Harassment Act 1997 	<p>Good Practice Guidelines</p> <ul style="list-style-type: none"> • Preventing and Responding to Workplace Bullying (Best Practice Guidelines – MBIE February 2014)
<p>References</p> <ul style="list-style-type: none"> • NZQA Quality Assurance Framework, 2009 	
<p>Notes</p> <p>This policy is aligned with the Resolving Staff Performance or Conduct Issues policy and the two policies should therefore be reviewed at the same time.</p> <p>This (2014) version contains changes from previous versions of this policy.</p>	

2 Principles

- 2.1 Ara does not condone any form of harassment.
- 2.2 Students and staff have the right of study and work unhindered by any form of harassment.

3 Associated procedures for

Ara Corporate Policy on: Harassment Prevention

Contents:	3.1	Timing
	3.2	Available Procedures
	3.3	Ara Harassment Prevention Procedure

3.1 Timing

In all cases it is preferable that a complaint be made as soon as possible after the alleged incident(s). The reasons for this are:

- a Recollection is likely to be clearer.
- b Witnesses are more likely to be available.
- c If the behaviour is unacceptable appropriate action needs to be taken as soon as possible.

3.2 Available Procedures

There are a number of different procedures or options available to an individual who believes they have been subjected to any form of unacceptable conduct as outlined in this policy. The aim of

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early intervention is to prevent this behaviour from continuing and to gain resolution as close to the source as possible.

Informal: Self-resolution is where an individual believes they have concerns and are comfortable and/or supported to raise those concerns by means of direct discussion or by a written communication.

If self-resolution is not possible or practicable they may choose to discuss the matter and seek guidance from an appropriate person. For a staff member, this can be their Head of Department, Manager, Human Resources staff member, Harassment Contact person or Union.

For students this will include Head of Department, another appropriate Manager, Student Advocacy Service, Student Wellbeing Group member or Complaints Officer who can guide the student through early resolution options.

The aim of these discussions is to assist the person raising the concerns to determine whether the behaviour experiences constitutes unacceptable conduct – bullying or harassment, and assist in developing options for resolution of the concerns.

Formal:

Should the above process not be of assistance or not appropriate in the circumstances the concerns should be raised formally, in writing. A formal complaint can take a number of pathways and the following procedures are available to complainants:

- a by making a complaint under this Policy.
- b by complaining to the Human Rights Commission.
- c by raising a personal grievance.
- d by making a Police complaint.

Using one of these procedures does not preclude using any of the other procedures.

3.3 Ara Harassment Prevention Procedure

a Overview

The application of this policy, when involving one or more staff members, is under the control of the Director, Corporate Services, who is responsible for investigating all allegations of harassment whether they are made against a staff member, student, or any other person.

The Director, Corporate Services has the authority to delegate all of his or her powers under this policy to any nominated person.

b Investigative Powers

The Director, Corporate Services may obtain additional information for the purposes of investigating any complaint under this policy from any source he or she considers appropriate.

c Other powers during an investigation

The Director, Corporate Services may, during an investigation into a complaint against a staff member or made by a staff member, take some or all of the following steps:

- i to suspend the staff member a complaint is made about on pay;
- ii to suspend the staff member concerned without pay;
- iii to temporarily re-assign the staff member concerned to other duties or to limit his or her duties;
- iv to delay a course or programme or adjust work commitments during the investigation;
- v to limit the level of service offered.

d Variations

This policy must be flexible to allow Ara to adequately investigate each complaint. This policy may be departed from in any case provided that:

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- i the person complained about is advised of that departure; and
 - ii at all times the revised procedure is fair.
- e Initiating a Formal Complaint

A complaint must be made in writing with sufficient information to enable Ara and the person complained about to understand it.
- f Investigator or Investigators

At the sole discretion of the Director, Corporate Services the whole or part of an investigation into a complaint may be delegated to an investigator or investigators.

Where the Director, Corporate Services determines to appoint an investigator or investigators the provisions of clause 3.5 of the CPP208 Resolving Staff Performance or Conduct Issues apply with all necessary modifications.
- g Investigation and Decision by Director, Corporate Services
 - i This stage is the most formal part of dealing with a complaint. The purpose is to investigate allegations made in a complaint where there has been no prior resolution of it, and to determine what action, if any, should be taken.
 - ii If the person complained about is a staff member, the Director, Corporate Services will ensure that all details of the complaint and the investigation into that complaint are supplied to him or her prior to a decision being made. The decisions available to the Director, Corporate Services in relation to a complaint which is upheld include, but are not limited to:
 - taking no further action;
 - providing support to change behaviours or actions and other education based alterations to ensure appropriate workplace behaviour;
 - administering a formal admonition to the staff member but taking no further action;
 - issuing a warning (in which case the procedures applying in the Policy: CPP208 Resolving Staff Performance or Conduct Issues will apply);
 - taking other disciplinary action, including dismissal;
 - where the person complained about is a contractor, in addition to the powers available in this policy, that person may be directed to leave the Ara campus or formally be asked to not return, should this be appropriate;
 - if the person complained about is a student, the procedures regulating probation, suspension, and cancellation of enrolment as provided for in Ara policies and in the Education Act apply. (For the avoidance of doubt, the available powers include expulsion or exclusion from Ara and for the student to be declined further enrolment).
- h These powers may be exercised by the Director, Corporate Services or his or her delegate. The existence of these powers does not preclude alternative decisions being made if the circumstances warrant that outcome.
- i There are circumstances in which it may be necessary for Ara, in order to comply with its legal obligations, to report the outcome of an investigation into a complaint to the complainant and/or other parties. While Ara will take every reasonable step to protect the privacy of the complainant, witnesses, or the respondent, these obligations may require information be disclosed to fulfil Ara legal objections.
- j The Director, Corporate Services has exercised the delegations provided by this policy and procedure and has appointed the Head of Department in each department to initially investigate into, and report on, complaints.
- k False accusations, vexatious complaints

All matters, including complaints and investigations, need to be raised and dealt with in good faith. Should a situation arise that results in an investigation finding that a complaint is vexatious or deliberately false this would be viewed extremely seriously and actions taken to deal with this appropriately.

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Appendix D

Learner Responsibilities and Rights

First Produced:	2/90	Authorisation:	Ara Academic Committee
Current Version:	20/02/20	Officer Responsible:	DCE – Academic, Innovation and Research (AIR)
Past Revisions:	04/92, 14/7/92, 30/7/92, 3/11/93, 1/2/94, 13/11/97, 26/2/98, 15/6/01, 17/6/04, 09/04/08, 28/06/12, 26/2/15		
Review Cycle:	5 years		
Applies From:	Immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left-hand margin.

1 Introduction

1.1 Purpose

All learners enrolled at or attending/using services of Ara Institute of Canterbury Ltd¹ are expected to accept certain responsibilities, respect the rights of others, and behave in an acceptable manner. Ara undertakes to uphold these responsibilities and rights for all learners, including adherence to the principles of academic freedom (Education and Training Act 2020) and other relevant legislation. The specific responsibilities and rights have been defined in consultation with learner representatives and reflect the educational purpose, values, and goals as set out in the Ara Strategic Plan/Kaupapa.

1.2 Scope and Application

This policy applies to all learners enrolled at or attending classes/using services of Ara.

1.3 Formal Delegations

There are no formal delegations associated with this policy.

1.4 Definitions

Natural Justice: In English law, natural justice is technical terminology for the rule against bias and the right to a fair hearing. While the term natural justice is often retained as a general concept, it has largely been replaced and extended by the general "duty to act fairly".

¹ From herein referred to as Ara

<p>Related Ara Procedures and Forms</p> <ul style="list-style-type: none"> • APP301a Learner Responsibilities and Rights • APP301b Flowchart • CPP120d Academic Delegations Register 	<p>Related Ara Policies</p> <ul style="list-style-type: none"> • APP304 Academic Misconduct (including Plagiarism & Cheating) • APP504 Regulations Governing Admission and Enrolment • APP506 Probation • APP514 Withdrawals, Refunds and Compassionate Consideration • CPP105 Acceptable Use and Conduct for ICT Users • CPP109 Disclosing Personal Information about Students and Staff • CPP117 Raising Problems or Complaints • CPP208 Resolving Staff Performance or Conduct Issues • CPP209 Harassment Prevention • CPP211 Code of Professional Practice
<p>Related Legislation or Other Documentation</p> <ul style="list-style-type: none"> • Education and Training Act 2020 • Privacy Act 1993 • Health and Safety in Employment Act 1992 • Official Information Act 1982 • Immigration Act 2009 	<p>Good Practice Guidelines</p>
<p>References</p>	
<p>Notes:</p> <p><i>March 2012:</i></p> <ul style="list-style-type: none"> • <i>Ara Policy and Procedures were updated to reflect the changes in structure, committees, roles and delegations as a result of the Ara Management Restructure.</i> • <i>Student Rights and Responsibilities attachment to this Policy updated to reflect an emphasis on responsibilities of students and standards of acceptable behaviour.</i> <p><i>2014:</i></p> <ul style="list-style-type: none"> • <i>Policy reviewed in conjunction with APP304 Academic Misconduct and APP506 Probation Policies.</i> • <i>References to the Christchurch Polytechnic Students' Association (CPSA) have been removed. CPSA were involved in the consultation of earlier versions of the Policy and Procedure.</i> <p><i>2016:</i></p> <ul style="list-style-type: none"> • <i>New branding.</i> <p><i>2018:</i></p> <ul style="list-style-type: none"> • <i>Restructure of Te Kāhui Manukura.</i> <p><i>2020:</i></p> <ul style="list-style-type: none"> • <i>Moved Responsibilities ahead of Rights. Added a definition of 'natural justice'. Organisation name changed to Ara Institute of Canterbury Ltd.</i> • <i>NZIST changes – Academic Board becomes Ara Academic Committee; Ara Council becomes Ara Board. Changing 'student' to 'learner'.</i> • <i>Change of Education Act 1989 to Education and Training Act 2020.</i> 	

2 Principles

- 2.1 Ara learners are expected to accept certain responsibilities, respect the rights of others, and behave in an acceptable manner.
- 2.2 Ara is committed to 'delivering what is promised to a recognised standard' (our definition of quality).
- 2.3 Staff are responsible for ensuring that learners are aware of the implications of their responsibilities and rights in the particular learning environment.
- 2.4 Every person affected by this policy has the right to a copy of this policy and to further information as is needed to clarify any point or process.

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- 2.5 Every person has the right to representation, advice, advocacy, and support at all stages of any of the processes relevant to this or other relevant policies.

3 Associated procedures for Ara Academic Policy on: Learner Responsibilities and Rights

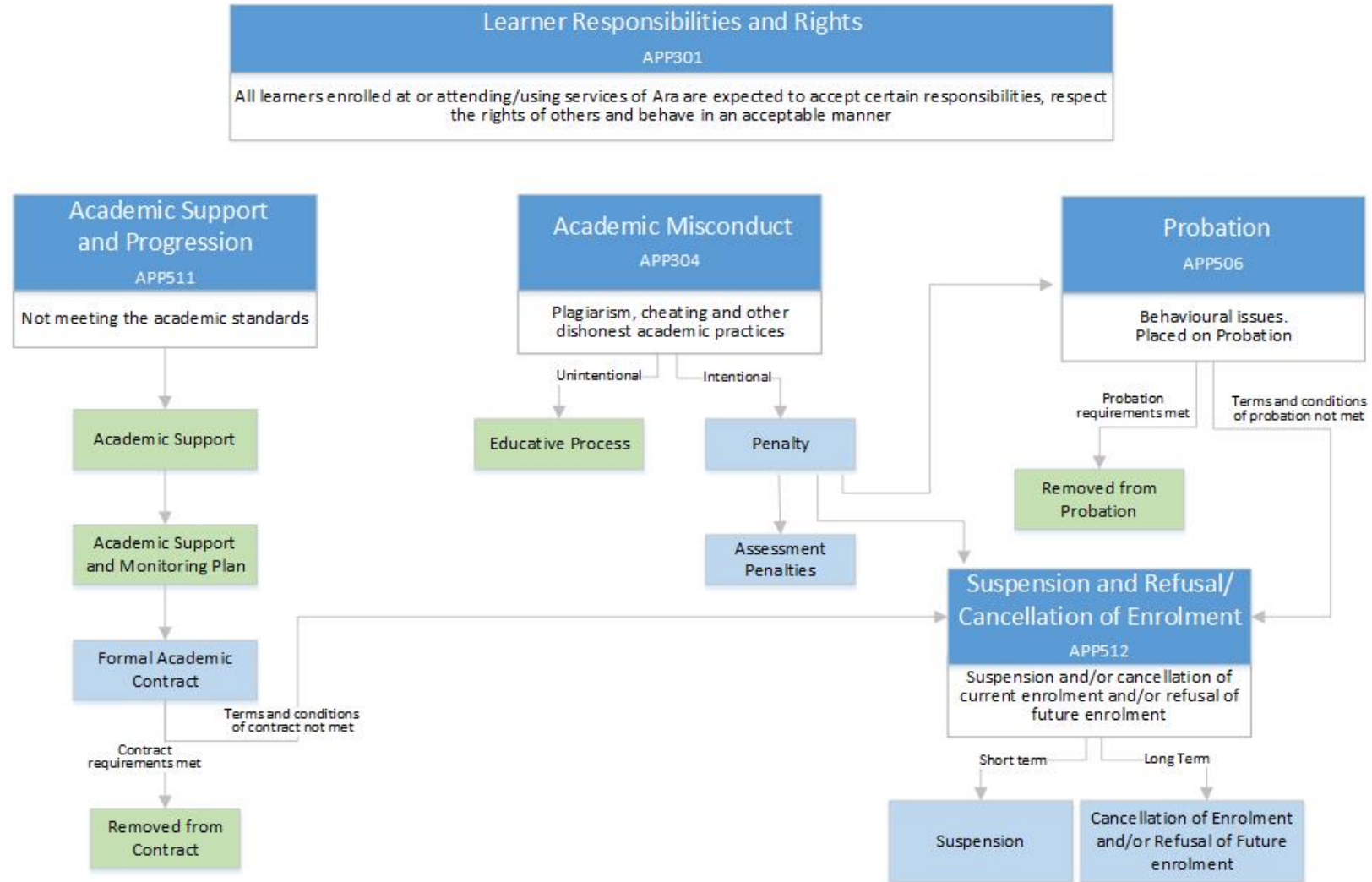
Contents: 3.1 Learner Responsibilities and Rights Sheet

3.1 Learner Responsibilities and Rights Sheet

- a The sheet *APP301a Learner Responsibilities and Rights* was produced jointly by the Ara Academic Committee, Te Kāhui Manukura and representatives of the student body. Its purpose is to acknowledge the specific responsibilities and rights of every learner, to help create and maintain the best possible teaching and learning environment for all learners.
- b The sheet will be distributed to all learners via handbooks and Ara websites. Departments are encouraged to discuss the contents during information or orientation programmes. The final version is authorised by the Ara Academic Committee.

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Flowchart for Learner Responsibilities and Rights and Associated Policies



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Learner Responsibilities and Rights

Ara Institute of Canterbury Ltd¹ is committed to the wellbeing and achievement of **ALL** learners. To create and maintain the best possible teaching and learning environment, all learners enrolled at or attending/using services at Ara agree to accept certain responsibilities, respect the rights of others and behave in an acceptable manner.

Your Responsibilities as a Learner

As a learner at Ara you are expected to:

Behave safely

- Take care when using equipment and facilities.
- Wear suitable clothing.
- Comply with health and safety guidelines and instructions.
- Take precautions so as not to endanger yourself or others.
- Comply with visa requirements.
- Follow relevant professional guidelines.
- Ensure you are not intoxicated or under the influence of drugs when at Ara or involved in Ara related activities e.g. field trips.

Respect others

- Be sensitive to personal, social and cultural differences.
- Respect the needs, rights, and freedoms of others.
- Help to uphold the integrity of Ara qualifications by discouraging/reporting dishonest practices.

Observe Ara rules

- Familiarise yourself with what Ara expects of you as a tertiary learner.
- Behave appropriately for a tertiary education environment.
- Endeavour to meet all course requirements including financial obligations.
- Be honest when completing assignments/other assessments.
- Comply with requirements of programme handbooks.
- Follow Ara policies and regulations (refer: <https://www.ara.ac.nz/about-us/policies>).

Your Rights as a Learner

As a learner at Ara you have the right to:

Fairness

- Open and accurate information.
- Fair evaluation and assessment, and timely feedback.
- Problems handled as quickly as practicable and consistent with 'natural justice'.
- Personal privacy.
- Support, representation, and advocacy from the Student Advocate if requested.

Respect

- Academic freedom, defined in the Education Act as 'freedom, within the law, to question and test received wisdom, put forward new ideas and state controversial or unpopular opinions.'
- Freedom from any form of harassment or unjust discrimination.
- Respect for personal, social, and cultural differences.

¹ From herein referred to as Ara

- Representation in the development, implementation, and review of policies through learner representation.

Standards

- Programmes that meet internal and external standards for approval and registration.
- Competent and effective teaching.
- Appropriate support services delivered in a professional manner.
- Facilities and resources that meet or exceed Health & Safety legislation.

Your rights will be upheld by Ara management. If you think they have been infringed, please contact your Head of Department/Programme Manager, Student Advocate, Customer Experience and Engagement Managers, Registry Manager or People and Culture.

Unacceptable Behaviour for Learners, Staff or Visitors at Ara

*Your responsibilities as a learner include behaving in an acceptable manner. The following are **not** acceptable behaviours for anyone (staff, learners, or visitors) at Ara or involved in Ara related activities:*

- Breaking any NZ law (e.g. assault, theft).
- Any form of cheating (including plagiarism and other dishonest practices).
- Misuse of technology, software, hardware, or communication systems provided by Ara (refer Code of Conduct for Computer Users in particular).
- Any form of harassment, bullying, or discrimination including social media.
- Unacceptable sexual behaviour (e.g. sexual harassment, accessing pornography/other restricted material).
- Substance misuse including drugs and alcohol affecting behaviour, health, or safety.
- Smoking in all Ara buildings, in Ara vehicles or on all Ara land and perimeters including all car parks, green spaces, and external eating areas.
- Violence or threats of violence.
- Vandalism or other abuse of facilities and buildings.
- Disruptive behaviour in class and or designated learning areas (e.g. arriving late, unauthorised use of technology, interfering with the learning of other individuals).

Academic staff have the responsibility to maintain a safe and effective learning environment. They may ask you to leave the class if your behaviour indicates limited ability to be safe, disturbance to others learning, or put others at risk.

Ara takes this statement of responsibilities and rights seriously. Your marks, reports, and references may include an assessment of your behaviour, as well as your educational achievement. Infringement may lead to probation or exclusion may lead to cancellation of a current enrolment and/or refusal of a future enrolment (see relevant policies).

Further Information

This sheet is supported by a formal policy available electronically, via the Ara website. You are also invited to contact Head of Department/Programme Manager, Student Advocate, Customer Experience and Engagement Managers, Registry Manager or People and Culture if you need further information or help in interpreting your rights or responsibilities.

First distributed in 1990 and updated several times since then. This version was last updated in June 2020 and is authorised by the Ara Academic Committee.

Appendix E

Code of Professional Practice			
First Produced:	11/09/95 (under different title, see Notes)	Authorisation:	Te Kāhui Manukura
Current Version:	03/10/17	Officer Responsible:	Director Corporate Services
Past Revisions:	31/10/97, 30/11/01, 30/06/06, 28/10/09,		
Review Cycle:	06/03/13		
Applies From:	3 years		

1 Introduction

1.1 Purpose

The Kaupapa – Ara Strategic Plan sets out the values and aims of Ara. The Code of Professional Practice that forms part of this policy sets out required standards of behaviour for staff within the framework of the Kaupapa.

1.2 Scope and Application

This policy applies to all Ara staff, including management and the Chief Executive.

1.3 Formal Delegations

There are no formal delegations for this policy.

1.4 Definitions

- a **Learning Organisation:** An organisation that facilitates the learning of all its members and consciously transforms itself and its context.
- b **Good Faith:** At the most basic level, involves acting with honesty and integrity. Good faith involves an absence of malice or any intention to deceive. It asserts the presence of good, honest intentions and presumes that all parties to an activity or discussion are honest and intend to act in a fair and appropriate manner.
- c **Integrity:** Integrity involves acting consistently and honestly in accordance with stated values, intentions and goals. It means that how things are said to be can be seen in how things are.

Related Ara Procedures (Infoweb) <ul style="list-style-type: none"> Student Rights and Responsibilities 	Related Ara Policies <ul style="list-style-type: none"> CPP208 Resolving Staff Performance or Conduct Issues CPP209 Harassment Prevention CPP214 People and Development Management
Related Legislation <ul style="list-style-type: none"> NZQA Quality Assurance Framework, 2009 	Good Practice Guidelines
Notes: Earlier versions of this policy (1995, 1997) were called the Staff Rights and Responsibilities Policy	

All policies on the Ara InfoWeb are the current version. Please check date of this hard copy before proceeding.

2 Principles

- 2.1 Ara Kaupapa – The Strategic Plan is the over-arching document that sets the values and standards for the way the Institute and staff carry out their activities.
- 2.2 Ara is a learning organisation. (Refer to Definitions).

3 Associated Procedures for Ara Corporate Policy on: Code of Professional Practice

The procedures for this policy consist of the attached Code of Professional Practice.

Cases where the required standards of behaviour are not met will be dealt with under the Harassment Prevention and/or Resolving Staff Performance or Conduct Issues policies, or any other relevant policy.

All policies on the Ara InfoWeb are the current version. Please check date of this hard copy before proceeding.

Code of Professional Practice

Ara Institute of Canterbury (Ara) is a learning institution. We exist to provide quality learning opportunities for our students. This is at the heart of all our activities and directs our planning, processes and policies.

The purpose of this Code of Practice is to:

- inform staff of the standards of behaviour required of them as Ara employees
- promote high ethical standards
- provide a foundation for staff appraisal, promotion and continuous improvement.

Our Strategic Plan sets out our overall vision, mission and values, which create the environment and culture in which staff and students work together to meet our goals.

Vision:

Successful Students

Value for Employers

Effective Staff

Values:

Respect / Aroha

Connect / Hono

Inspire / Hihiri

Goals:

Personalised, flexible student journey to achievement

Responsive and agile portfolio and delivery

High performing organisation.

Responsibilities and Required Behaviour of all Staff (including the Chief Executive and other Managers)

Staff will perform their duties honestly, conscientiously, reasonably and in good faith at all times. They will have regard and respect for the welfare of their colleagues and students, for the interests of Ara as their employing body and for their responsibilities as employees.

All staff are required to:

- obey the law
- obey all lawful and reasonable employer instructions and work as directed
- comply with the requirements and spirit of the goals, policies and procedures of Ara
- be competent and efficient in the performance of their work
- continuously develop their knowledge and skills relevant to their role and area of expertise
- maintain professional staff/student relationship
- treat students, members of the public and other staff with respect, impartiality, courtesy and sensitivity
- act with integrity at all times
- maintain a co-operative and collaborative approach to working relationships
- refrain from behaviour that is bullying or intimidating
- refrain from conduct (such as the use of intoxicants, drugs or other substances) that might impair work performance or place people or property at risk
- not discriminate against any person because of their gender (including pregnancy or childbirth), race or colour, sexual orientation, marital or family status, religious or ethical beliefs, ethnic or national origins, disability, age, political opinion, involvement in union activities, employment status, Ara employee profile
- take care to maintain the confidentiality, accuracy and privacy of official Ara documentation to which they have access
- not copy, disclose or use any information acquired in the course of work with Ara other than for the purposes of carrying out Ara work except with the written consent of the employee's manager
- respect the privacy of individuals when dealing with personal information
- not solicit or accept gifts or benefits that might, directly or indirectly, compromise or influence them in their position at Ara (e.g. gifts or hospitality offered as an inducement to purchase)
- ensure there is no actual or perceived conflict between their personal interests (including those of their immediate family) and their Ara duties and responsibilities in accordance with Ara policy
- not bring Ara into disrepute
- incur no liability on the part of Ara without proper authorisation
- ensure all Ara property, resources or funds are not used for anything other than authorised purposes
- use all Ara resources in a careful manner, reducing waste and making improvements where possible
- have due regard for the safety of others in the use of Ara property and resources.

Responsibilities & Required Behaviour of the Employer (Chief Executive and Other Managers as Delegated)

Ara management will act honestly, conscientiously, reasonably and in good faith at all times. Management will have regard for the welfare of staff and students and the interests of Ara and its communities. Management is required to comply with the responsibilities and required behaviour listed above for all staff. In addition, they will make best efforts within available resourcing to:

- comply with legislative, industrial and administrative requirements
- provide a safe working environment
- maintain professional management/staff relationships
- act with integrity at all times
- observe the principles of fairness and impartiality at all times
- manage diversity and uphold staff and students' rights as defined in the Human Rights Act
- provide an environment conducive to the professional development and effectiveness of staff
- encourage activities and opportunities that enhance job satisfaction
- recognise the need for staff to balance their personal and professional lives
- recognise the obligations set out in the agreement with Ngai Tahu and with Māori as embodied in the partnership
- support all staff to develop their own knowledge of Maori culture
- manage within the framework provided by formal policies and procedures of Ara
- apply and utilise resources in a sustainable manner
- supply the resources necessary for staff to carry out their duties to the expected standard and within their conditions of employment
- uphold the right of staff and students to academic freedom as defined in the Education Act 1989
- foster a culture of collaboration across the institute and within the Education Sector
- ensure that staff, when appointed to Ara, fully understand their obligations and requirements under this Code of Practice and as outlined in the Ara employee profile.

Breaches of this Code of Practice

Failing to meet the obligations under this Code of Professional Practice may involve misconduct. In this instance, a staff member's manager will intervene, following the relevant policy and procedures. For example, where a satisfactory standard of performance is not achieved, this could be dealt with through the probation or appraisal procedures. Where there is a complaint of harassment, this would be handled through the "Harassment Prevention Policy." Other serious and/or repeated contravention of the obligations set out in this Code would be managed via the "Resolving Staff Performance or Conduct Issues Policy."

Full details are available electronically on InfoWeb (under "Our Policies, Procedures and Forms). A contact person is named for each policy so that staff know where they can go if they have questions or need advice.

Appendix F

Raising Problems or Complaints

First Produced:	21/02/07	Authorisation:	Te Kāhui Manukura
Current Version:	3/9/21	Queries:	Complaints Coordinator, Executive
Past Revisions:	20/7/20, 27/10/18, 26/10/11, 21/02/07		
Review Cycle:	3 years		
Applies From:	Immediately		

1 Policy Statement

Ara Institute of Canterbury Limited (Ara Ltd) seeks to maintain and enhance our reputation of providing high quality services. We value complaints as they assist us to improve our products and services. Learners and members of the public are able to raise problems or make complaints about Ara Ltd courses/programmes, services, employees, other learners or administrative systems, via the written 'Notification of Problem or Complaint' form (CPP117a) or according to the procedures set out for specific types of issues (e.g. enrolment issues, harassment, assessment decisions, plus other academic matters also see APP505.).

Ara Ltd encourages complainants to raise such concerns with those directly involved first and will endeavour to resolve the problem/complaint at that level as soon as possible. The rights of all concerned will be respected throughout the process. No learner is disadvantaged academically or otherwise as a consequence of raising a problem or complaint. Confidentiality will be applied to all matters with regards to problems and complaints.

1.1 Application of Policy

- a This policy applies to any issue, problem or complaint raised by an Ara Ltd learner or member of the general public. The problem or complaint may apply to courses/programmes, employees, other learners, services or administrative systems or decisions.
- b It does not apply to problems or complaints raised by colleagues, as these are handled according to standard management procedures.
- c Specific policies cover procedures related to harassment, learner misconduct (eg plagiarism), employee performance or behaviour, assessment and enrolment decisions. The Ara Ltd Board manages any complaint against the Chief Executive.
- d Complaints about the performance or conduct of an identified employee of Ara Ltd are logged by the Complaints Coordinator but are investigated by the Ara Ltd People and Culture division. The outcome of these People and Culture investigations are between the employee involved and the People and Culture division, the outcome will not be communicated to the complainant.
- e This policy supports Ara Ltd in the processes of self-assessment and evaluation. The intent is to support the organisation to learn from problems and complaints raised, and for Ara Ltd to continuously improve.

1.2 Formal Delegations & Variation to Policy

Responsibilities are set out in associated policies (refer 'Related Policies' at end of this section). The Complaints Coordinator has delegated authority from the Chief Executive to vary provisions set out in this policy (eg number of days a complainant has to raise a problem/complaint), in consultation with either the Deputy Chief Executive, People and Culture; or the Deputy Chief Executive, Chief Operating Officer, depending on the nature of the problem/complaint.

1.3 Definitions

- a. **Complainant:** The person/s raising the problem or making the complaint.
- b. **Respondent:** The person/s about whom the complaint is made or who has responsibility for the course/programme, service or management practice identified in the problem or complaint.
- c. **Complaints Coordinator:** The person delegated by the Chief Executive to manage complaints (other than those involving staff performance), academic appeals, and appeals against cancellation and/or refusal of enrolment.
- d. **Support Person:** Person/s who provides support or advice to the complainant or respondent. A support persons role is to empower the complainant or respondent to speak for themselves with knowledgeable support. A support person cannot speak on behalf of the complainant or respondent, unless the complainant or respondent chooses the support person to move into the role of Advocate.
- e. **Advocate:** Person/s who is appointed to speak or act on behalf of the complainant or respondent (eg member of staff; an appointed associate or professional person; a colleague, family member of whanau).
- f. **Natural Justice:** Ara Ltd will uphold the principles of fair, ethical and honest natural justice, ensuring that any complaint or breach of student code of conduct is fully investigated. Giving all parties involved the right to be heard and the right to respond prior to a decision being reached.
- g. **Complaint:** is an expression of dissatisfaction with:
The quality of an action taken, decision made, or service provided by Ara Ltd.
A delay or failure in providing a service, taking an action, or making a decision by Ara Ltd.
- h. **Formal complaint:** a complaint made by an Ara Ltd learner, or member of the general public. Formal complaints are investigated and substantiated to understand the context of the complaint. These complaints are logged in the complaints register and are provided a reference number.
- i. **Informal complaint:** for quick problem solving rather than investigating and substantiating claims. They seek agreement and shared understanding of how to avoid problems in the future. Informal complaints are most appropriate in cases where the allegations are less serious, or the problem is based on miscommunication or a misunderstanding.
- j. **Problem:** A situation where a learner considers appropriate standards have not been met. The impact on the learner has not been large and it is likely that resolution can be obtained by direct, informal discussion with the employee/s concerned.

<p>Related Ara Ltd Procedures(indicate if attached to policy or where they can be found)</p> <ul style="list-style-type: none"> • Notification of Problem/Complaint Form (CPP117a) • Disputes Resolution Scheme information handout (CPP117b) 	<p>Related Ara Ltd Policies</p> <ul style="list-style-type: none"> • CPP208 Resolving Staff Performance or Conduct Issues • CPP209 Harassment Prevention • CPP211 Code of Professional Practice • APP301 Student Rights & Responsibilities • APP505 Assessment • CPP116 Protected Disclosures
<p>Related Legislation or Other Documentation</p> <p>Make a complaint about NZQA » NZQA Education and Training Act 2020 No 38 (as at 25 September 2020), Public Act Contents – New Zealand Legislation</p> <p>Implementation guidance for the Education (Pastoral Care of Domestic Tertiary Students) Interim Code of Practice 2019 » NZQA</p> <p>https://www.istudent.org.nz/</p> <p>https://www.ombudsman.parliament.nz/get-help-public</p> <p>https://www.privacy.org.nz/</p> <p>https://www.hdc.org.nz/making-a-complaint/</p> <p>https://www.education.govt.nz/further-education/information-for-tertiary-students/code-of-practice-pastoral-care-domestic-tertiary/</p>	<p>Good Practice Guidelines(indicate if attached to policy or where they can be found)</p>
<p>References</p>	
<p>Notes</p>	

2 Principles

The following principles govern how problems and complaints are handled regardless of the specific procedures used:

- 2.1 The rights of both the complainant and respondent are protected, and both parties are treated fairly.
- 2.2 The provisions of the New Zealand Privacy Act 2020 apply.
- 2.3 Personal information related to complaints is strictly confidential on a 'need to know' basis.
- 2.4 All problems and complaints are handled as quickly as possible and according to the most appropriate procedure.
- 2.5 Support is available to all parties involved.
- 2.6 Problems/complaints are resolved by negotiation between parties where possible.
- 2.7 A complaint may be withdrawn at any stage.
- 2.8 Ara Ltd reserves the right not to take action related to:
 - a anonymous or malicious complaints, complaints based on hearsay or if the complainant does not provide sufficient information or does not respond within 30 calendar days.
 - b issues raised more than 30 calendar days after an alleged incident/problem occurred (if being raised by a member of the general public) or more than 90 calendar days (if being raised by an Ara Ltd student).
- 2.9 Ara Ltd also reserves the right to investigate/resolve a problem or complaint even if the complainant subsequently decides not to proceed with the complaint.

- 2.10 As a signatory to the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021, Ara will ensure learners are advised and have prompt access to transparent and fair internal procedures for dealing with complaints.
- 2.11 Reporting standards
- All formal complaints are documented
 - All formal complaints are registered in the complaints database at the time of the complaint being received, and the outcomes of the complaints are recorded once a decision has been reached.
 - All formal complaints are reported (anonymously) to the Ara Ltd Executive team and Board and a high level report of complaints and enquiries is available on the Ara website.

3 Associated Procedures for

Ara Ltd Corporate Policy on: Raising a Problem or Complaint

Contents:	3.1	Raising a Problem or Complaint
	3.2	Appeals

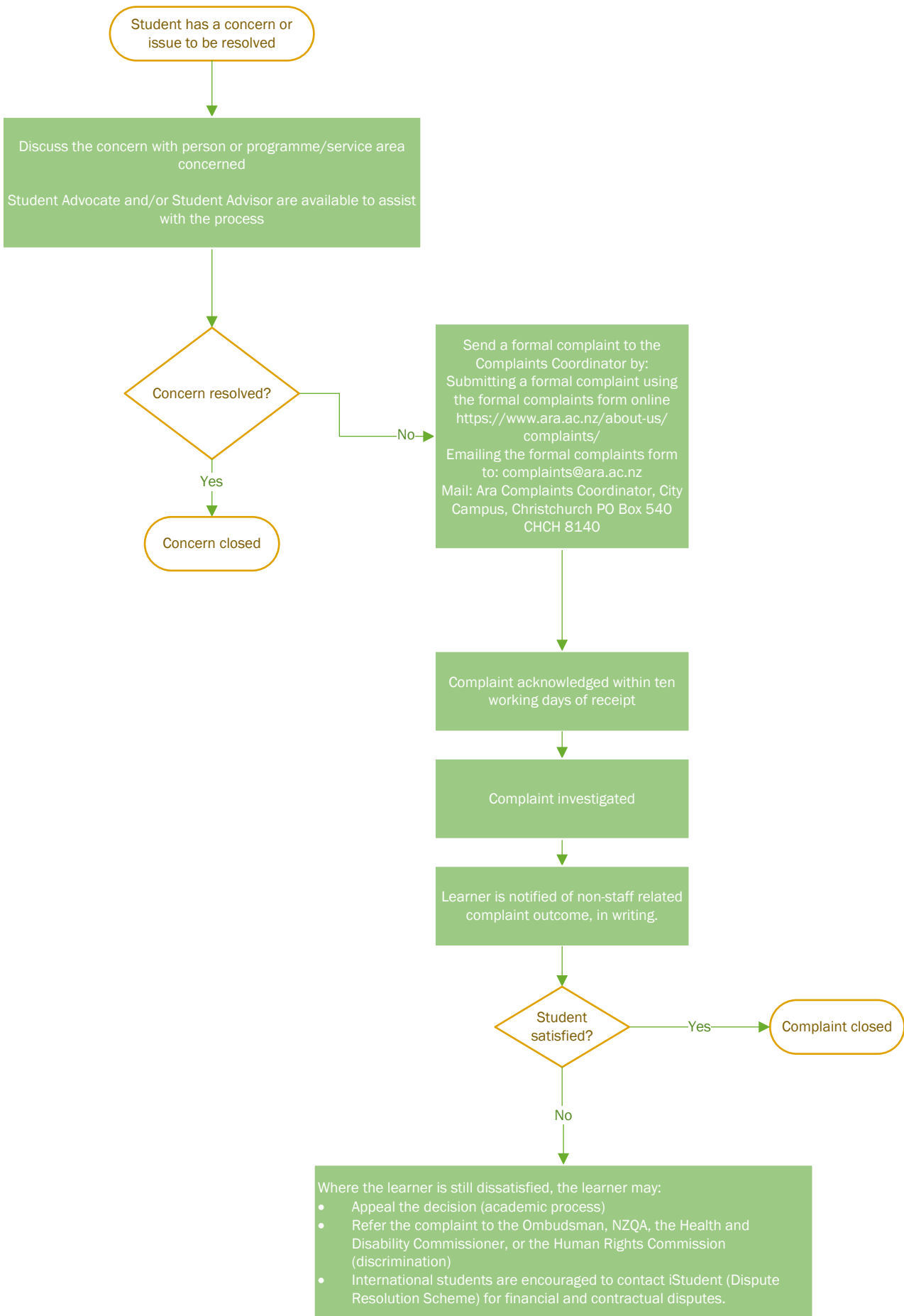
3.1 Raising a Problem or Complaint

- a) Learners and members of the public are able to raise problems or make complaints about Ara Ltd courses/programmes, employees, other learners or administrative systems or decisions, either informally, via written notification or according to procedures set out in specific associated policies.
- b) The most appropriate procedure for raising a problem or complaint should be used in the first instance. This includes feedback given in course evaluations and surveys, direct approach to the person most directly involved and/or the manager responsible for the area of concern, with reference to the relevant policy.
- c) Learner problems and complaints should be raised as soon as practicable. Any staff member approached by a learner with a problem or complaint will take action by either resolving the problem or referring the learner to the most suitable person to address the concern or complaint. Confidentiality will be applied to all matters with regards to concerns and complaints; a 'need to know' principle applies in all cases. If the complainant feels unable to go directly to those involved, they should engage the help of either the student advocacy services (<https://www.ara.ac.nz/student-services/health-and-wellbeing/student-advocacy-and-support/>), contact the Ara Ltd Complaints department and submit a "Notification of Problem or Complaint" form (refer attached 117a) online, or by printing and completing the form to be submitted (<https://www.ara.ac.nz/about-us/complaints/>, complaints@ara.ac.nz, C/O Ara Complaints Coordinator, City Campus, Christchurch PO Box 540 Christchurch 8140)
- d) The information provided via the Notification form (CPP117a) is used as the basis for Ara Ltd to determine the most appropriate procedure to follow in the specific case. The complainant is informed of the following within ten (10) working days of the nominated person receiving a Notification form:
- confirmation that the Notification has been received
 - the complaint reference number
 - name of Ara Ltd contact person responsible for handling the particular problem or complaint
 - the designated procedure and any further details/documentation

3.2 Appeals

- a) Some decisions made at Ara Ltd provide for a right of appeal or review, as outlined in the relevant policy, e.g. assessment and other 'academic' related decisions are handled by an Academic Appeals Committee, Chief Executive enrolment/exclusion decisions by a Board Enrolment Appeal Committee, aegrotat decisions by the Academic Board. In other cases, the decision reached is final. Details regarding appeal/review procedures, if relevant, are provided to complainants and respondents at the time a problem or complaint is being considered.
- b) Dependent upon what the complainant is appealing, assistance is available from the following organisations:
- Dispute Resolution Scheme – iStudent (financial or contractual disputes for international students)
 - NZQA
 - Ombudsman
 - Health and Disability Commissioner
 - Human Rights Commission (discrimination)
- c) Other organisations that can be contacted for complaints assistance
- Course related costs or travel allowances for a Tertiary Education Commission funded course (www.tec.govt.nz)
 - Someone's safety being at risk (Worksafe NZ and New Zealand Police)
 - How information about you has been stored or used (Privacy Commissioner)

Student Concerns and Complaints Process – August 2021



Notification of Problem or Complaint



Ara Institute of Canterbury Limited (Ara Ltd) Please refer to the policy 'Raising Problems or Complaints'. This form is available from any Department or Section or from the Complaints Coordinator or the Student Advocate or from the Corporate Policies and Procedures Manual on the Ara Ltd website www.ara.ac.nz. Problems or complaints should be raised first directly with those concerned.

Date Submitted

Your Name

--

Please indicate whether you are a student or member of the public by ticking the box below and supplying the information requested

Relationship to Ara Ltd

<input type="checkbox"/> Student -	Ara Ltd Student #:	
<input type="checkbox"/> General public -	Relationship to Ara Ltd:	

Please provide the contact details below, and tick your preferred option

Post

complete postal address:

Phone

daytime phone #:

evening phone #:

E-mail

e-mail address:

This is an informal matter* (if no, leave blank)

I would like this complaint to remain anonymous (if no, leave blank)

I give you permission to discuss my complaint with the relevant named or un-named individuals indicated/linked to this complaint (if no, leave blank)

I reside at Otautahi House (if no, leave blank)

Explanation of problem or complaint [attach further details on another page if needed]

--

Outcome sought

--

Names of anyone at Ara Ltd you have already contacted about this problem or complaint

*Ara will log the information about this informal problem or complaint, however it will not be taken through the standard formal process.

Signed: _____

Date: _____

Send form to:

Hayley Devoy (Complaints Coordinator)
Ara Ltd
City Campus: Madras Street
PO Box 540
Christchurch 8140
(Phone: 03 940 6084)
Hayley.devoy@ara.ac.nz

For Ara Ltd Use	
Date Received	
Contact Person	
Complaint Ref#	

Probation			
First Produced:	10/81	Authorisation:	Ara Academic Committee
Current Version:	20/02/20	Officer Responsible:	DCE – Academic, Innovation and Research (AIR)
Past Revisions:	16/06/92, 12/10/93, 18/04/01, 20/06/02, 02/12/04, 17/11/04, 10/12/09, 21/04/10, 28/06/12, 18/10/12, 29/01/13, 26/2/15		
Review Cycle:	5 years		
Applies From:	Immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left-hand margin.

1 Introduction

1.1 Purpose

The purpose of this policy is to ensure that the processes of putting learners on behavioural probation are carried out in accordance with the values and vision set out in the Ara Institute of Canterbury Ltd¹ Strategic Plan, the provisions of s255 of the *Education and Training Act 2020*, and the principles of natural justice and procedural fairness.

1.2 Scope and Application

- a This policy applies to all learners and potential learners.
- b This policy does not relate to non-engagement. For details and process for a non-engagement cancellation see *APP514 Withdrawals, Refunds and Compassionate Consideration*.
- c For cases related to non-completion of course and programme requirements refer to *APP511 Academic Support and Progression*.

1.3 Formal Delegations

- a The Head of Department may put a learner on probation/suspension for up to five teaching days.

Related Ara Procedures and Forms	Related Ara Policies
<ul style="list-style-type: none"> • APP301b Flowchart • APP517b Application for Academic Appeal Form • CPP120d Academic Delegations Register 	<ul style="list-style-type: none"> • APP203 Ara Academic Committee Membership and Terms of Reference • APP301 Learner Responsibilities and Rights • APP304 Academic Misconduct • APP504 Regulations Governing Admission and Enrolment • APP511 Academic Support and Progression • APP512 Suspension and Refusal of Enrolment • APP514 Withdrawals, Refunds and Compassionate Consideration

¹ From herein referred to as Ara

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	<ul style="list-style-type: none"> • APP517 Academic Appeals Committee Terms of Reference • CPP105a Code of Conduct for ICT Users • CPP110 Legislative Compliance
Related Legislation or Other Documentation <ul style="list-style-type: none"> • Education and Training Act 2020 • Trespass Act 1980 • Privacy Act 1993 	Good Practice Guidelines
References <ul style="list-style-type: none"> • Programme Handbook • Admission and Enrolment Guide 	
Notes <p>2014 – The policy <i>APP506 Regulations Governing Probation, Suspension, and Cancellation/refusal of Enrolments</i> was divided into three new policies to better reflect the three main components of the policy. The new policies are <i>APP511 Academic Support and Progression</i>, <i>APP506 Probation and APP512 Suspension and Refusal of Enrolment</i>.</p> <p>2016 – new branding</p> <p>2018 – Restructure of Te Kāhui Manukura</p> <p>2020 – Removal of delegation from HOD to delegate to place a learner on probation. Document evidence of attempts to contact learner. Organisation name changed to Ara Institute of Canterbury Ltd.</p> <p>2020 – NZIST changes – Academic Board becomes Ara Academic Committee; Ara Council becomes Ara Board; Standardised text relating to appeals, new Appeal Application Forms; APP301 – Rights and Responsibilities changed to Responsibilities and Rights; Changed ‘student’ to ‘learner’.</p> <p>11-2020 – Change Education Act 1989 to Education and Training Act 2020.</p>	

2 Principles

- 2.1 Every person has the right to know what is alleged of him or her and the consequences of any allegation being proved.
- 2.2 Every person has the right to respond to any allegation about him or her before any final decision is reached under any of the processes in this policy.
- 2.3 Any matter of concern that might lead to actions under this policy will be raised with the learner as early as possible, with the intention that the concerns will be resolved as directly and informally as possible.
- 2.4 Every person has the right to representation, advice, advocacy, and support at all stages of any of the processes under this policy. This includes information on the availability of the services of the Student Advocate. It also includes the right to be accompanied by one or more appropriate people of her/his choice at any meetings. If more than one person is to accompany the learner, 24 hours prior notice must be given to the convenor of the meeting and their attendance is subject to the agreement of Ara.
- 2.5 In the case of exclusion for unacceptable behaviour (especially where danger to health or safety are an issue), it may be necessary to act summarily and it may not, therefore, be possible to accord the learner all the rights listed in these principles.

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3 Associated procedures for Ara Academic Policy: Probation

Contents:	3.1	General Provisions
	3.2	Probation
	3.3	Appeal Rights and Other Rights

3.1 General Provisions

- a The formal processes set out in these procedures will normally only be initiated after attempts have been made to address the issues of concern through less formal approaches. These may include, but are not limited to, discussions with teaching staff, referral to support staff, and discussions with programme leaders.
- b Every process under this policy must be documented (including notes of any discussions recording the date on which they took place, who was present, what was discussed, and what decisions if any were reached).
- c Once a decision has been finalised, the fact that a learner has been placed on probation will be recorded on the Student Management System.

3.2 Probation

- a Any learner whose behaviour is unacceptable and is of concern to staff or other learners or with whom there are other issues or concerns must be invited to meet the Head of Department or delegate.
- b A referral will be made to Student Services to ensure additional support is provided to the learner.
- c At the meeting, the Head of Department or delegate will explain the issues or concerns and must give the learner the opportunity to present their view of events leading up to the interview. The learner will be encouraged to have a support person with them at this meeting.
- d Depending on the outcome of the meeting, the Head of Department may place the learner on probation.
- e If it is not practical to hold a meeting, or the learner does not wish to meet, or the learner fails to attend the meeting without reasonable cause, the Head of Department may proceed to place the learner on probation. Evidence of attempting to contact the learner must be documented and recorded.
- f The learner will be given a probation notice which records the unacceptable behaviour or the deficiencies or concerns, the standards of behaviour which must be met or changes which must be made, any assistance available, the time within which change must be demonstrated, and the method and criteria by which such change will be measured.
- g The change required should be reasonable and the criteria for assessing whether the change has been achieved should be easily understood and capable of being clearly demonstrated.
- h The probation notice must include the warning that failure to achieve change may lead to exclusion (that is, suspension and/or cancellation of current enrolment(s) and/or refusal of future enrolment(s).)

These requirements are known as the terms and conditions of probation.

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- i The learner will be asked to sign the written terms and conditions of probation but, if he or she declines to sign them, it will be made clear that the terms and conditions apply. Evidence of attempting to contact the learner must be documented and recorded.
- j Every learner who is placed on probation by the Head of Department may apply to the Chief Executive for a review of the fact or terms and conditions of probation as set out in Section 3.3 below.
- k If at any time during probation the Head of Department is of the opinion on good evidence that the terms and conditions of probation are not being met or have not been met, the Head of Department may suspend the learner for up to five teaching days.
- l If the matter is not resolved, the Head of Department may recommend to the Chief Executive that the learner be further suspended and/or that current enrolments be cancelled and/or that future enrolments be refused. (See *APP512 Suspension and Refusal of Enrolment*).

3.3 Appeal Rights and Other Rights

Probation

- a Any learner who is placed on **probation** under this policy may appeal that decision in writing to the Chief Executive within ten working days from the date on the advice of the decision (refer *APP517b Application for Academic Appeal Form*).
- b The Chief Executive may choose to respond to the appeal directly or authorise the convening of an Academic Appeals Committee (refer *APP517 Academic Appeals Committee Terms of Reference*) which must be done within ten working days of receiving the appeal. The next steps must be communicated to the student within 15 working days.
- c If an Academic Appeals Committee is convened, they will determine the matter and communicate its decision to all the parties.

Suspension

- a Any learner who is **suspended** under this policy may appeal that decision in writing to the Chief Executive within ten working days from the date on the advice of the decision (refer *APP517b Application for Academic Appeal Form*)
- b The Chief Executive will, within ten working days of receiving a notice of an appeal, determine the matter and communicate decisions to all the parties.
- c The learner may, within ten working days of the date of the Chief Executive decision, appeal to the Chair of the Board for a review of the decision.
- d The Chair of the Board will, within ten working days of receiving a notice of appeal, establish an Enrolment Appeal Committee.
- e The Enrolment Appeal Committee thus established will, in accordance with the Committee's Terms of Reference determine its own procedures for hearing the appeal (subject to the requirements of natural justice and procedural fairness) including the time, date, and venue for the hearing.
- f The Enrolment Appeals Committee will determine the matter and communicate its decision to all the parties.

Advice to the appellant must include information about any other relevant rights.

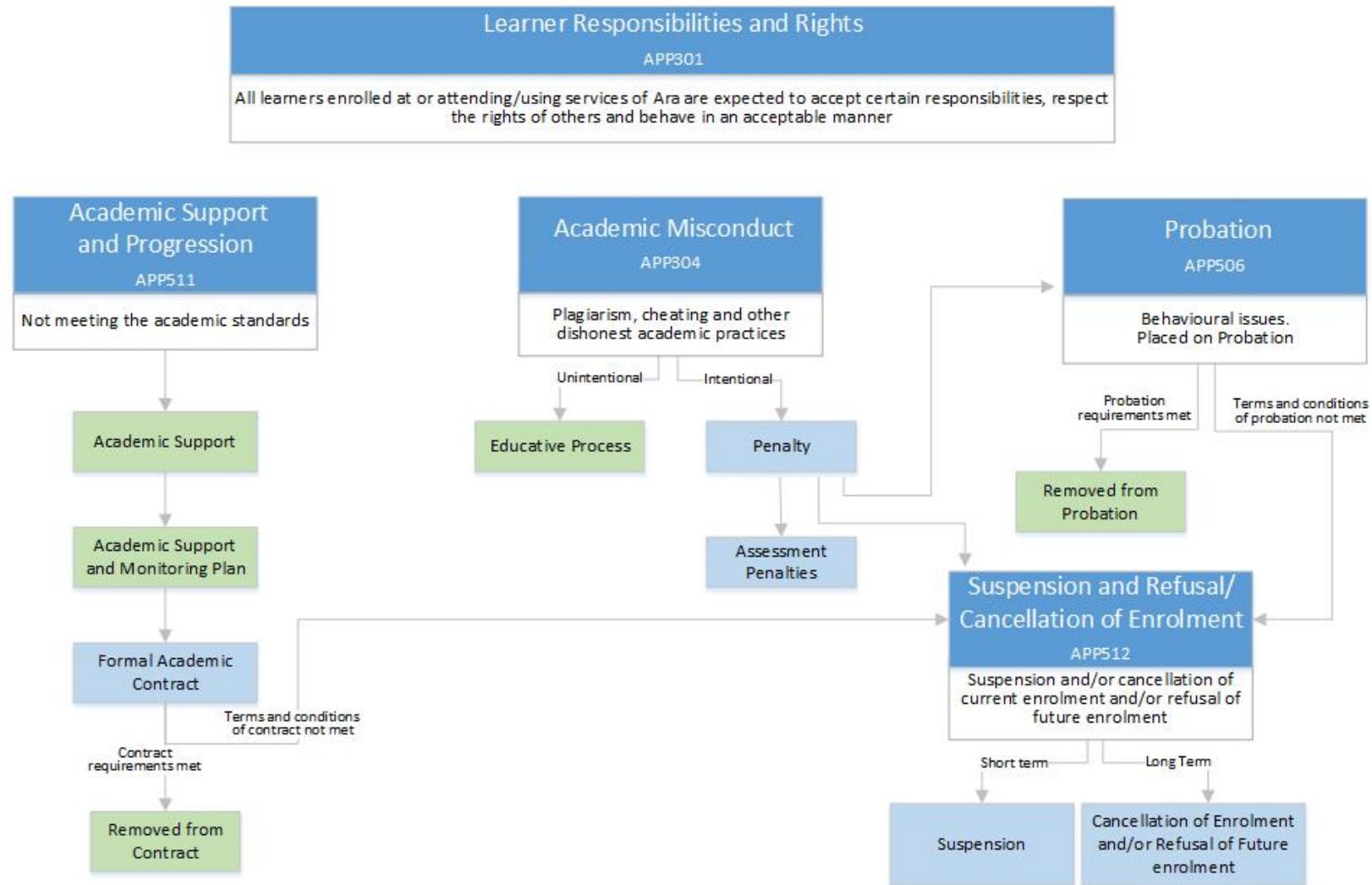
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g A report on the decision together with a brief statement of the circumstances must be presented to the Ara Board at its next ordinary meeting with the public excluded.

In all cases, appeal decisions are reported every six months. Please note no identifying information is published.

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Flowchart for Learner Responsibilities and Rights and Associated Policies



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Suspension and Refusal/Cancellation of Enrolment

First Produced:	26/2/15	Authorisation:	Ara Academic Committee
Current Version:	20/2/20	Officer Responsible:	DCE – Academic, Innovation and Research (AIR)
Past Revisions:	26/2/15		
Review Cycle:	5 years		
Applies From:	Immediately		

Major changes/additions since the last version was approved are indicated by a vertical line in the left-hand margin.

1 Introduction

1.1 Purpose

The purpose of this policy is to ensure that the processes of excluding learners (that is, suspension and/or cancellation of current enrolment(s) and/or refusal of future enrolment(s)) are carried out in accordance with the values and vision set out in the Ara Institute of Canterbury Ltd¹ Strategic Plan, the provisions of s255 of the *Education and Training Act 2020*, and the principles of natural justice and procedural fairness.

1.2 Scope and Application

- a This policy applies to all learners and potential learners.
- b This policy does not relate to non-engagement. For details and process for a non-engagement cancellation see *APP514 Withdrawals, Refunds and Compassionate Consideration*.

1.3 Formal Delegations

- a Ara Academic Committee to Heads of Department:
A learner who is believed on good evidence to be guilty of misconduct or a breach of discipline may be suspended for up to five teaching days by:
 - i a Deputy Chief Executive (DCE)
 - ii a Head of Department
 - iii a Manager of a Student Service or
 - iv Complaints Coordinator.

In all cases, the relevant Head of Department will be advised.

Related Ara Procedures and Forms

- APP301b Flowchart
- APP517b Appeal Application Form
- CPP120d Academic Delegations Register

Related Ara Policies

- APP203 Ara Academic Committee Membership and Terms of Reference
- APP301 Learner Responsibilities and Rights
- APP304 Academic Misconduct

¹ From herein referred to as Ara

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	<ul style="list-style-type: none"> • APP504 Regulations Governing Admission and Enrolment • APP517 Academic Appeals Committee Terms of Reference • APP506 Probation • APP511 Academic Support and Progression • APP514 Withdrawals, Refunds and Compassionate Consideration • CPP105a Code of Conduct for ICT Users • CPP110 Legislative Compliance
Related Legislation or Other Documentation <ul style="list-style-type: none"> • Education and Training Act 2020 • Trespass Act 1980 • Privacy Act 1993 	Good Practice Guidelines
References <ul style="list-style-type: none"> • Programme Handbook • Admission and Enrolment Guide 	
Notes <p>2014 – The policy <i>APP506 Regulations Governing Probation, Suspension, and Cancellation/refusal of Enrolments</i> was divided into three new policies to better reflect the three main components of the policy. The new policies are <i>APP511 Academic Progression, APP506 Probation and APP512 Exclusion</i>.</p> <p>2016 – new branding</p> <p>2017 – additional item 3.2f</p> <p>2017 – additional statement that Formal Appeals are reported publicly every six months</p> <p>2018 – Restructure of Te Kāhui Manukura.</p> <p>2020 – name of policy changed from “Exclusion” to “Suspension and Refusal/Cancellation of Enrolment”. Organisation name changed to Ara Institute of Canterbury Ltd.</p> <p>2020 – NZIST changes – Academic Board becomes Ara Academic Committee; Ara Council becomes Ara Board; Standardised text relating to appeals, new Appeal Application Form; APP301 – Rights and Responsibilities changed to Responsibilities and Rights; Changing ‘student’ to ‘learner’.</p> <p>11-2020 – Changed Education Act 1989 to Education and Training Act 2020</p>	

2 Principles

- 2.1 Every person has the right to know what is alleged of them and the consequences of any allegation being proved.
- 2.2 Every person has the right to respond to any allegation about them before any final decision is reached under any of the processes in this policy.
- 2.3 Any matter of concern that might lead to actions under this policy will be raised with the learner as early as possible, with the intention that the concerns will be resolved as directly and informally as possible.
- 2.4 Every person has the right to representation, advice, advocacy, and support at all stages of any of the processes under this policy. This includes information on the availability of the services of the Student Advocate. It also includes the right to be accompanied by one or more appropriate people of his/her choice at any meetings. If more than three people are to accompany the learner, prior notice must be given to the convenor of the meeting and their attendance is subject to the agreement of Ara.

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- 2.5 In the case of exclusion for unacceptable behaviour (especially where danger to health or safety are an issue), it may be necessary to act summarily and it may not, therefore, be possible to accord the learner all the rights listed in these principles.

3 Associated procedures for Ara Academic Policy: Suspension and Refusal/Cancellation of Enrolment

Contents:	3.1	General Provisions
	3.2	Suspension
	3.3	Cancellation of Enrolment
	3.4	Refusal of Enrolment
	3.5	Appeal Rights and Other Rights

3.1 General Provisions

- a The formal processes set out in these procedures will normally only be initiated after attempts have been made to address the issues of concern through less formal approaches. These may include, but are not limited to, discussions with teaching staff, referral to support staff, and discussions with programme leaders.
- b An exclusion may apply to one or more specified courses, a whole programme, or all enrolment at Ara. An exclusion may also apply to one or more specified services or facilities. The scope of the exclusion must be stated at the time.

An exclusion does not apply generally to other courses or programmes and does not prevent a person from seeking enrolment in another programme or course.
- c When an exclusion will prevent a person from progressing to a further stage of a programme or from completing a qualification, those consequences must be clearly acknowledged.
- d Every process under this policy must be documented (including notes of any discussions recording the date on which they took place, who was present, what was discussed, and what decisions if any were reached).
- e Every outcome of a process under this policy must be notified to the person concerned in writing. Notification must include information about appeal rights.
- f Once a decision has been finalised, the fact that a learner has been excluded will be recorded on the Student Management System.

3.2 Suspension

- a Suspension is a short-term exclusion and is the formal process by which a learner is temporarily prohibited from attending classes in one or more courses and/or is refused access to one or more services/facilities provided by Ara.
- b A learner who is believed on good evidence to have breached terms and conditions of a Formal Academic Contract and/or Probation may be suspended for up to five teaching days by the Head of Department.
- c A learner who is believed on good evidence to be guilty of misconduct or a breach of discipline may be suspended for up to five teaching days by a Deputy Chief Executive, a Head of Department, a Manager of a Student Service or Complaints Coordinator. In all cases, the relevant Head of Department will be advised.
- d Every person specified as having authority to suspend a learner may do so only within the parameters of their position; for example, the ICT Manager has jurisdiction only

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over use of/access to computing services and facilities and cannot, therefore, suspend a learner from attending classes.

- e Notice of suspension, together with a brief statement of the circumstances and any recommendation for extension, must be forwarded to the Complaints Coordinator within three working days of the learner being suspended.
- f A learner may be suspended from a programme or course where there is concern there may be risks to the safety of themselves or others. The suspension would be imposed by the Head of Department for a period of up to 5 working days or until safety concerns have been addressed.
- g The person authorising a suspension under Section 3.3b or 3.3c may recommend to the Chief Executive that the suspension be extended. The recommendation must include the reasons for extension and the period of time recommended.
- h The Chief Executive will consider the recommendation for extension, seek any further information she or he requires, invite a response from the learner and having considered the learner's response, if any, determine whether the suspension should be extended and for what specified time.
- i A learner may for just cause be suspended by the Chief Executive for a specified time not exceeding twenty teaching days in addition to any suspension imposed under Section 3.3b or 3.3c.
- j The effect of suspension on the learner's chances of satisfactorily completing the programme or course, progressing to a further stage, or completing the qualification must be considered.
- k In every case of suspension, the learner must be notified verbally at the time if possible and then in writing (which includes communication via electronic means) within three working days, setting out the facts of, the reasons for, and the length of the suspension, as well as any appeal rights.
- l Every learner who is suspended may apply to the Chief Executive for a review of the suspension as set out in Section 3.5 below.
- m Depending on the reasons for suspending a learner, suspension may be followed by other actions such as placing the learner on a Probation Contract, the signing of a good behaviour agreement, the imposing of other conditions, requirements, or expectations, or the cancellation/refusal of enrolment. (Refer *APP506 Probation / APP511 Academic Support and Progression*).

3.3 Cancellation of Enrolment

[See *APP504 Regulations Governing Admission and Enrolment*.]

- a Cancellation of enrolment (initiated by Ara and applying to a single learner) must not be confused with voluntary withdrawal (initiated by the learner) or with cancellation of a whole course or course occurrence (initiated by Ara).
- b Ara may cancel a learner's enrolment on any of the *Education and Training Act 2020* grounds.
The *Education and Training Act 2020* s255(5) grounds are that:
 - i The person is not of good character
 - ii The person has been guilty of misconduct or a breach of discipline
 - iii The person is enrolled for full-time instruction in another institution or in a school

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- iv The person has made insufficient progress in the person's study or training after a reasonable trial at the institution or at another institution.
- c The decision to cancel (other than a non-engagement cancellation) or refuse an enrolment may be made only by the Chief Executive or nominee under specific delegation.
- d Under Immigration New Zealand requirements, international learners must have an appropriate permit to study at a New Zealand tertiary institution. A condition of the permit is that the learner makes satisfactory progress and attendance in his/her course of study, as determined by the institution.
- e The *Education and Training Act 2020* and Ara Strategic Plan commit Ara to preserving and enhancing academic freedom and developing intellectual independence including questioning and testing received wisdom, putting forward new ideas, and stating controversial or unpopular opinions. Such activities must not be seen in themselves as constituting bad character, misconduct, or lack of progress.
- f Failure to meet the terms and conditions of Academic Contract and/or probation may lead to exclusion.
- g When a cancellation is being considered, the Head of Department must invite the learner to an interview. The learner has the right to representation, advice, advocacy, and support. This includes information on the availability of counselling, Student Advocate, and other services. It also includes the right to be accompanied by one or more appropriate people of his/her choice at any meetings.

If the learner does not accept the invitation to an interview, the Head of Department may proceed to the next step.
- h The Head of Department must forward a recommendation to the Chief Executive that the learner's enrolment(s) be cancelled. The recommendation must include:
 - Any request for suspension to be extended.
 - Details of any terms and conditions.
 - The *Education and Training Act 2020* grounds is the basis of the recommendation.
 - Evidence supporting the recommendation.
- i The Chief Executive will consider the recommendation, seek any further information he/she requires, and invite the learner to respond. The response from the learner may be in written form (including communication by electronic means) or made at a personal interview.

Note that any or all of the steps set out in Section 3.3f – 3.3i may be carried out at a facilitated meeting of the learner, the Head of Department, and the Chief Executive.
- j After hearing from the learner, the Chief Executive will determine whether the learner's enrolment(s) are to be cancelled. If the learner does not respond, the Chief Executive may proceed with the cancellation.
- k If the decision is to cancel the enrolment(s), the Chief Executive will write to the learner setting out the fact of cancellation, the reasons for it, and the learner's appeal rights. (Refer Section 3.5),

Once the appeal period has elapsed or any appeal has been heard and cancellation decided, notice of cancellation will be sent to the Department concerned, and the Customer Experience and Engagement Division.

The learner must be reminded of his/her obligation to return all Ara property including ID card, library books, textbooks, equipment, and keys.

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The learner must be advised that no refund of fees and charges is normally made when an enrolment is cancelled. The normal refund policy applies; that is, there is no automatic right to a refund when an enrolment is cancelled.

- l The fact that a learner has had an enrolment cancelled will be notified to the Complaints Coordinator and will be recorded in the SMS.
- m If the learner is an international learner, the Director International or delegate will advise Immigration New Zealand at this point that the learner is no longer enrolled at Ara.

3.4 Refusal of Enrolment

- a Any person may, for good reason and on good evidence, be refused enrolment at Ara generally or in a particular programme or course only by the Chief Executive or nominee under specific delegation.
- b Enrolment may be refused on any of the *Education and Training Act 2020* grounds.
- c In general, applicants may not be refused admission on any of the grounds listed in the *Human Rights Act 1903*, including disability, however refusal of enrolment may occur if (refer also to *APP504 Regulations Governing Admission and Enrolment*):
 - The person's disability requires special services or facilities which cannot reasonably be provided; *or*
 - The person's disability is such that there would be a risk of harm to the person or to others if the person were admitted.
- d Failure to meet the terms and conditions of probation may lead to Refusal of Enrolment.
- e The Head of Department must forward a recommendation to the Chief Executive that the person's application(s) to enrol be refused.

The recommendation must state which of the *Education and Training Act 2020* grounds is the basis of the recommendation and must include the supporting evidence.
- f The Chief Executive will consider the recommendation, seek any further information he/she requires, and invite the person to respond. The response from the person may be in written form (including communication by electronic means) or made at a personal interview.
- g After hearing from the person, the Chief Executive will determine whether the person's application(s) to enrol be refused. If the person does not respond, the Chief Executive may proceed with the refusal of enrolment.
- h If the decision is to refuse the enrolment(s), the Chief Executive will write to the person setting out the fact of refusal, what programmes, courses, or course occurrences it applies to, the reasons for it, the person's appeal rights and any other rights.
- i If the refusal applies to a person who is already enrolled as a learner, notice of refusal will be sent to the Department, and the Customer Experience and Engagement Division once the appeal period has elapsed or any appeal has been heard and decided.
- j The fact that a person has been refused enrolment will be notified to the Complaints Coordinator and will be recorded in the SMS.

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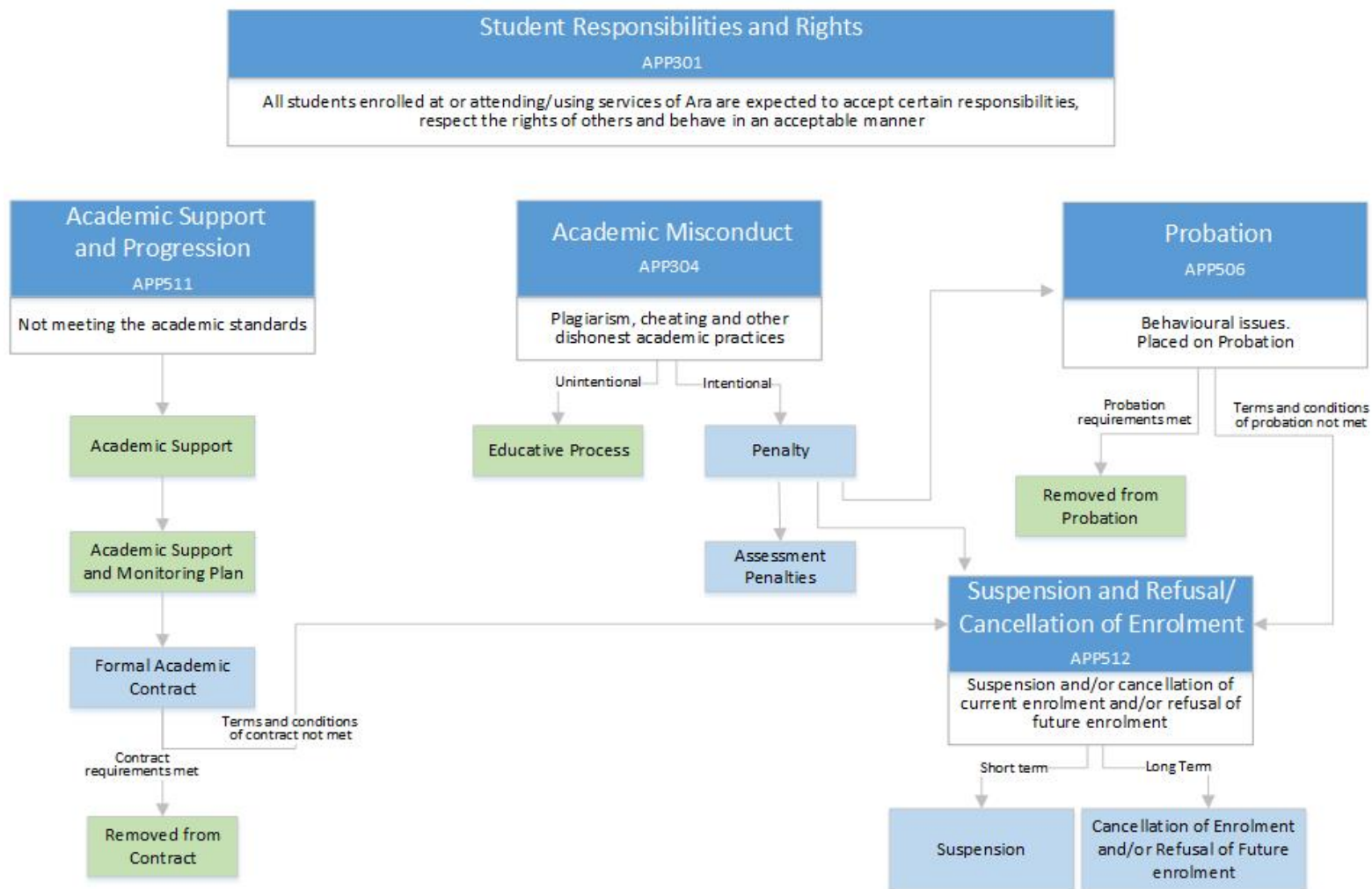
3.5 Appeal Rights and Other Rights

- a Any learner affected by a decision made under this policy (suspended, enrolment is refused or enrolment is cancelled) may appeal that decision in writing to the Chief Executive within ten working days from the date on the advice of the decision (refer *APP517b Application for Academic Appeal Form*).
- b The Chief Executive will, within ten working days of receiving a notice of the appeal, determine the matter and communication decisions to all the parties.
- c The learner may, within ten working days of the date of the Chief Executive decision, appeal to the Chair of the Board for a review of the decision.
- d The Chair of the Board will, within ten working days of receiving a notice of appeal, establish an Enrolment Appeal Committee.
- e The Enrolment Appeal Committee thus established will, in accordance with the Committee's terms of reference determine its own procedures for hearing the appeal (subject to the requirements of natural justice and procedural fairness) including the time, date, and venue for the hearing.
- f The Enrolment Appeal Committee will determine the matter and communicate its decision to all the parties.

Advice to the appellant must include information about any other relevant rights.
- g A report on the decision together with a brief statement of the circumstances must be presented to the Ara Board at its next ordinary meeting with the public excluded.
- h Appeal decisions are reported publicly every six months. Please note no identifying information is published.

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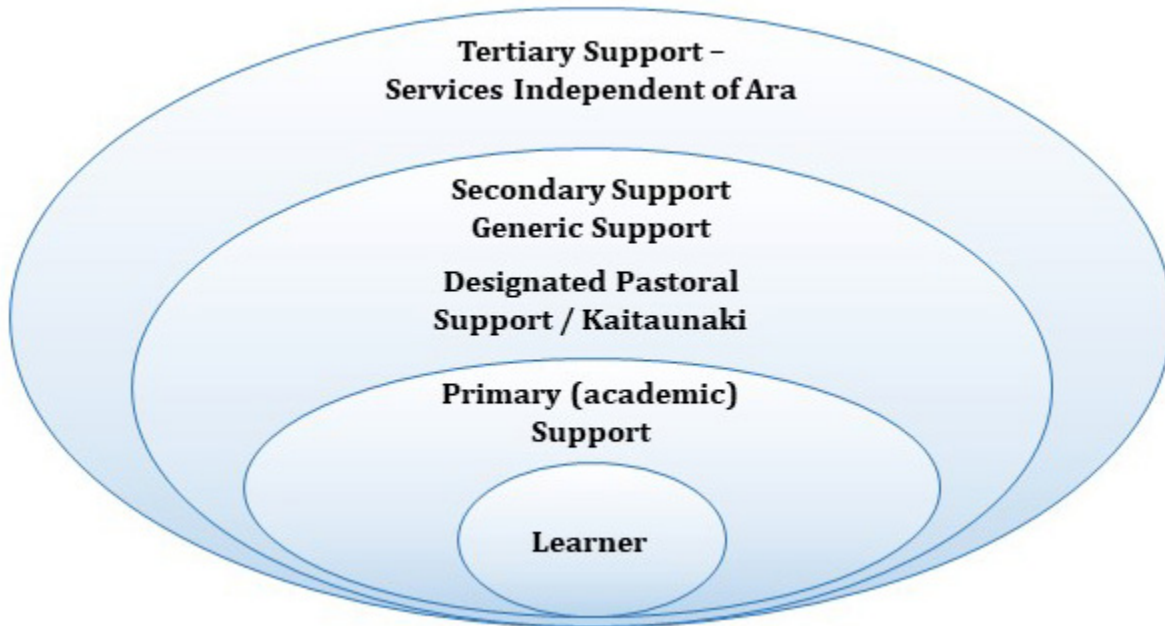
Flowchart for Student Responsibilities and Rights and Associated Policies



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Learner Support at Ara Institute of Canterbury Ltd

The model below affirms the role of the academic staff member/tutor as having the responsibility for designing the learning experience and holding the primary duty of care for the learner.



Primary support is the first point of contact a learner makes once enrolment is complete and will involve **listening to the learner, clarifying what support/information/action the learner wants and facilitating access to the next stage**. Primary support will usually be provided by clearly identified programme academic staff. Academic staff are responsible for designing and supporting the learning experience including learner classroom/learning space supervision, monitoring attendance where relevant, ensuring the understanding and submission of assessments, academic progress monitoring and reporting. Academic staff will be supported by secondary support staff where the learner requires additional support.

Secondary Support is all of the Ara Institute of Canterbury Ltd¹ services beyond the programme staff, who provide a wide range of transactional or transformational support to learners. This may include department staff support, library, learning services, Admissions and Enrolments, health centre, recreation centre, careers centre, international advisors and targeted group learner support.

Designated Student Advisors/Kaitaunaki are staff who are employed to provide support to a target group or for an identified area such as accommodation. The role may include:

- Support to academic staff and learners in matters arising from the usual educational processes provided through primary support
- Regular learner contact
- Culturally tailored and relevant liaison and support
- Networking and liaison with key contacts (e.g. Ara staff, secondary schools, whanau, employers, immigration, churches, community and government agencies)
- Progress monitoring

¹ From herein referred to as Ara

- Encouragement to raise standards
- Acknowledgement of achievement
- Target group event coordination
- Contract specified compliance matters including reporting requirements
- Participation in selection programme planning
- Working with academic staff in relation to behavioural management and expectations.
- Provide a confidential welfare, advisory and referral service to all enrolled learners on a range of issues relating to learner progress and personal wellbeing;
- Act as a first point of contact by a range of channels for any current learner wanting advice/information/assistance with any aspect of life;
- Participate in, co-ordinate or facilitate case management as necessary;
- Follow up referrals regarding action and outcome and record all action and contracts within the appropriate service record system.
- Advise learners on complaint and grievance processes and other institutional processes and assist them in these services.
- Develop and maintain effective relationships and networks with service providers (internal and external and liaise effectively across the institution with all relevant staff.

Tertiary Support is all of the networks and supports that are made available to learners via Ara and which are independent of Ara such as the Student Advocate, Citizens Advice, Study Link, WINZ.