

# Terms of Reference

## Independent Review into the Organisational Culture of the Civil Aviation Authority

### Background and purpose

Allegations have been made by a number of people of bullying and sexual harassment at the Civil Aviation Authority (**CAA**).

The Minister of Transport, the Hon Phil Twyford (**the Minister**) is reviewing whether the CAA has appropriate policies, systems and practices in place to deal with allegations of sexual harassment and bullying and that the CAA has responded appropriately to the complaints and allegations made to it (**the Review**)

The Minister has directed the Ministry of Transport (**the Ministry**) to conduct the Review on the Minister's behalf with the assistance of independent external specialists.

The Review is to be carried out under section 132 of the Crown Entities Act 2004.

### Objectives

The objectives of this Review are to:

- (a) review how previous reports and complaints of incidents of bullying and harassment were handled and to consider how those complaints were responded to by the CAA
- (b) consider and report on how staff and complainants were treated by the CAA
- (c) assess the CAA's existing policies and procedures relating to bullying and harassment, comparing them to best practice and identifying any actual or perceived barriers to reporting or making complaints about bullying or harassment
- (d) establish whether the CAA has appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe New Zealand<sup>1</sup> and any other relevant examples of best practice guidance, policies or practice
- (e) establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved
- (f) consider and comment on the CAA as a place of work with regard to ensuring the treatment of CAA staff with dignity and respect and maintaining an open and supportive culture
- (g) make recommendations for improvements to:
  - how the CAA promotes and maintains an open and supportive culture

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<sup>1</sup> See *WorkSafe guidance for businesses and workers on preventing and responding to sexual harassment at work*, issued October 2018, and *WorkSafe New Zealand guidance: "Preventing and responding to bullying at work"* issued March 2017.

- how the CAA promotes and ensures the treatment of staff with respect and dignity
  - how CAA handles complaints including how staff and management are trained in addressing and managing complaints about bullying and harassment
  - CAA policies, systems, and procedures for dealing with complaints about bullying and harassment
- (h) Consider, and make recommendations, for any other matters the Ministry considers are directly related to the purpose of this Review.

## Scope

- (a) References to the CAA in this Terms of Reference includes staff in the Aviation Security Service.
- (b) The period to which this Review applies is from 1 January 2015.
- (c) All current CAA staff will be offered the opportunity to participate in this Review. Former staff may participate if they wish to do so.
- (d) The Minister reserves the right through the course of the Review to amend these Terms of Reference. In particular this could include clarification in response to any possible issues of overlap between the separate Independent Investigation into Allegations Regarding the Aviation Security Service commissioned by the CAA Chief Executive, being undertaken by David Laurensen QC under Terms of Reference dated 2 September 2019.

## Out of scope

- (a) No existing avenue of complaint open to current or ex-CAA staff will be affected by this Review. Those who take the opportunity to share their experiences will be given details of any existing avenues of available support or counselling services or other pathways for the resolution of such complaints.
- (b) The Review will not reopen past complaints of alleged or upheld bullying and harassment, or investigate new reports of bullying or harassment incidents or complaints against specific individuals. Those wishing to raise or discuss any new complaints will be advised of the pathways for the resolution of such complaints.
- (c) The Review will not make any findings nor make any comment on the conduct, performance or competence of any individual who is a complainant or the subject of a complaint.
- (d) The Review will not consider nor advise on the regulatory performance of the CAA, or how it has discharged its role as a regulator. This is being separately assessed by the Ministry as part of its monitoring role under section 27A of the Crown Entities Act 2004 and as part its regulatory stewardship responsibilities under section 32 of the State Sector Act 1988.

## **Approach and methodology**

- (a) The Review will examine all relevant policies and any other material relevant to the terms of the Review, including reviewing documentation relating to previous complaints which are within the scope of this Review.
- (b) Relevant current and former staff, management and Board members will be interviewed and provided with the opportunity to share their relevant perspectives by outlining in person, or in writing, their experiences of perceived bullying and harassment, including sexual harassment.
- (c) Channels of communication will be established to ensure former CAA staff know how to participate in this Review if they wish to do so.
- (d) The Review will engage with any relevant external agencies and experts as the Ministry considers necessary. Without limiting who the Ministry may wish to engage with, this may include the State Services Commission.
- (e) The Ministry will ensure that appropriate support options are available to those participating in the Review and that these are explained, as appropriate, to participants in the Review.
- (f) For the avoidance of doubt, no CAA staff (current or past) can, or will, be compelled to participate in this Review.

## **Confidentiality and Protection of Privacy**

- (a) All personal information collected through the Review from the CAA, from CAA staff and ex-staff is subject to an obligation of confidence (to the CAA, its current and former staff).
- (b) The obligation of confidentiality referred to in paragraph (a) above is owed by the recipients of the confidential information, including the Ministry-appointed reviewers, and any staff in the Ministry who may be involved in the Review.
- (c) All people interviewed or spoken to as part of this Review will be advised that notwithstanding the above commitment to confidentiality, the Ministry's report, its findings and recommendations are intended to be released by the Minister in due course. However, findings will not identify any individual or make reference to facts that could reasonably lead to the identification of any complainant or the person about whom a complaint has been made.

## **Deliverables/Reporting**

The Ministry will keep the Minister updated on the progress of the Review including providing one or more drafts of the report on the Review. The Ministry will consult with the CAA before the report is finalised.

## **Timing**

The indicative dates (subject to change) for the Review are:

- Commencement of Review – 20 September 2019
- Delivery of final report – 13 December 2019