



Investigations Policy

1. Purpose of this Policy

This policy ensures that the Halberg Foundation (Halberg) has requirements and processes in place to uphold all persons' (including children and young people) rights to provisions, participation and protection. Making certain these rights and our commitment to child safety are upheld, should a concern be identified or a disclosure made that indicates a person's rights may have been breached or failed to have been met, a thorough investigation will be undertaken as per the expectations within this policy and any other noted policies and procedures.

This policy enables and supports Halberg in ensuring these policy investigation expectations are implemented in a consistent, professional, safe and ethical manner.

2. Scope

This policy applies to the Halberg Board and staff (as per Halberg's definition).

The policy also acknowledges supporting all children, young people and families, and Halberg's Community. However, ultimately, this policy seeks to support any person who may have been the subject of or impacted by a potential breach in Halberg's provisions, participation and protection expectations.

3. Key Definitions

Child-Focused or Child-Centred	Being child-focused and centred is a term used to reference our thinking and ways of working, which regard the child's needs as paramount. Our policies and processes uphold child rights, and our processes are applied in a manner appropriate to the child or young person. This includes keeping actions and responses timely from the perspective of a child or young person, which may differ from that of an adult.
Children and Young People	This guidance supports all children and young people under 18 years, in accordance with the Children's Act 2014 and the United Nations Convention on the Rights of the Child 1989 (ratified by New Zealand in 1993). Although not covered by New Zealand's statutory child protection system, we can extend our support for state-care-experienced young people between the ages of 18 and 25 who are also recognised under the Children's Act 2014.
Staff	Staff is any person serving or representing the Halberg Foundation, regardless of whether they are in a paid, voluntary, or contracted position or in child or non-child facing roles.

4. Legislation

Under the [United Nations Convention on the Rights of the Child 1989 \(UNCRC\)](#) and the [Human Rights Act 1993](#), all people have rights relating to provisions, participation and protection. Halberg takes the implementation and advocacy of these rights seriously. As well as international legislation, various New Zealand statutes also underpin this policy and our investigation processes, including but not exclusive to:

- Child safety legislation (e.g., the Children's Act 2014, the Harmful Digital Communications Act 2015 and the Oranga Tamariki Act 1989).
- Organisational legislation (e.g., the Privacy Act 2020, Private Security Personnel and Private Investigators Act 2010, Employment Relations Act 2000 and the Health and Safety at Work Act 2015).



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In addition to the above, we also embrace and promote the rights and responsibilities accorded by [Te Tiriti o Waitangi/Treaty of Waitangi](#).

In being a child safe organisation and compliant with Legislation, Halberg complies with all internal reporting requirements, reportable conduct regulatory requirements and external child protection reporting requirements or expectations.

5. Investigating Concerns

Where necessary, Halberg may seek legal advice as soon as a complaint/allegation has been received. For information about Halberg's complaints process, please refer to the Complaints Management Policy.

5.1 Child Safety Concerns

As confirmed in our [Safeguarding Culture Commitment Statement](#) and our [Child Safeguarding and Protection Handbook](#), Halberg operates an internal staff child safety mandatory reporting process. Whilst not exclusive, this Investigations Policy applies when Halberg receives a complaint or report of concern relating to any of the following:

- A child safety concern that does not relate to known or suspected abuse (any known or suspected abuse concerns are referred to New Zealand Child Protection Services (e.g. Oranga Tamariki or New Zealand Police)).
- A child safety complaint or allegation relating to Halberg staff (as per Halberg's definition).
- Any child safety complaints, reports or allegations of historical abuse.

Halberg will seek to notify external stakeholders of child safety complaints, concerns and allegations when:

- The person impacted by the subject of the complaint/allegation is a child, and they or any other child(ren) is at immediate risk of harm, abuse or neglect. As per Halberg's child safety requirements, concerns will be referred to New Zealand Police and/or Oranga Tamariki for statutory support.
- There is a mandate or requirement under law or in circumstances where Halberg views that as appropriate to prevent risks of further harm (e.g. where the alleged respondent is still within Halberg or the sport and recreation sector), e.g. Halberg would notify New Zealand Police and Sport New Zealand.
- Should the complainant decide not to implement their right to refer a concern to New Zealand Police, Halberg will always reserve its right to refer a complaint to the Police or other relevant authorities. Halberg will seek to do this in a manner favourable to the complainant and in consultation with the complainant as appropriate. However, this referral is not subject to the complainant's consent when the complaint presents a current child safety risk, e.g. the alleged perpetrator is still working with children or young people (whether as a current staff member or not) either in or outside of Halberg.

5.1.1 Interviewing and Supporting Children

A child involved in an investigation is usually required to be interviewed, except in exceptional circumstances. A range of factors may guide our approach to interviewing a child:

- Age, culture, development stage, cognitive ability, maturity.
- Whether the child has any additional support needs, e.g. disability, additional support process considerations, etc.
- The impact of the reported allegation on the child.
- Whether the child has already been interviewed and if a record of this is available as evidence.



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It may be necessary for the child to be interviewed by a specialist to help minimise any negative impact on the child and to support minimising any errors in the investigation process.

[See Appendix 1 for further guidance on - Investigating Historical Allegations of Abuse](#)

5.2 Human Resource (HR) Concerns

Staff must comply with Halberg's policies and procedures, which is recognised as accountable practice. Conduct breaching these expectations and requirements may be subject to disciplinary action up to and including dismissal. Any breaches of the law will be reported to New Zealand Police.

In addition to matters listed in Section 5.1 and whilst not exclusive, this Investigations Policy applies when Halberg receives a complaint or report of concern relating to any complaint or allegation relating to staff conduct that is not recognised under Section 5.1, Child Safety Concerns.

5.3 Health and Safety Concerns

Halberg has a duty of care under the Health and Safety at Work Act 2015 (**HSWA**) to ensure, so far as reasonably practicable, the health and safety of workers who work for Halberg, while the workers are at work at Halberg, and workers whose activities in carrying out work are influenced or directed by Halberg, while the workers are carrying out the work. Halberg will also ensure, so far as is 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 Halberg. Halberg takes health and safety seriously, and has a Health and Safety Manual that includes health and safety-related policies, responsibilities and procedures. Any breaches of the requirements in the Health and Safety Manual or law will be taken seriously and may be considered a disciplinary matter. Breaches may also be reported to New Zealand Police or applicable sector bodies, e.g., Work Safe.

5.4 Key Considerations in Investigating Concerns

- The welfare of the complainant is paramount. Therefore, immediate access to welfare support, such as counselling or a listening service, will be offered as appropriate.
- The CE or delegated Lead (e.g. HR/Safeguarding Staff) will ensure processes support the necessary interviews with relevant/affected parties, and these are conducted:
 - i. In the presence of another Senior Manager.
 - ii. In line with natural justice practices, the interviewees will be informed of the meeting in advance (in writing) and encouraged to bring a support person.
 - iii. With parental awareness (contacted and informed before the interview) when the interview relates to a person under 18 and the presence of a parent/guardian or the Safeguarding Lead.
- Where the New Zealand Police are investigating any concern(s), Halberg requires prior approval from the Police before being able to conduct an internal investigation.
- Halberg will cooperate fully with authorities. Where internal investigations may operate alongside or after an external investigation, Halberg will seek to ensure any internal process will not impede or interfere with the investigations of external authorities.
- The following processes ensure Halberg can reflect an evidence-based approach to:
 - i. **Decisions to Investigate:** Upholding and reflecting our commitment to zero tolerance of abuse and



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harm and ensuring the well-being and safety of children, young people, families, staff, other stakeholders and Halberg as an institution.

- ii. **Planning:** Making sure we identify the best investigative response for the nature of the concern, that all responses align with Halberg's policies, procedures and culture (e.g., our safeguarding culture) and investigations are free from bias and conducted by a skilled and appropriate investigator.
- iii. **Evidence Gathering:** Gathering a range of reliable, credible and plausible evidence and ensuring procedural fairness is embedded in all elements, including the respondent receiving a genuine opportunity to voice their account.
- iv. **Evidence Findings:** Analysing and weighing up the available evidence to determine how it will impact the decision-making process.
- v. **Reporting:** The investigation report outlines the evidence and findings for each concern/allegation and determines whether any child safety or other expectation has been breached.
- vi. **Decisions and Outcomes:** Making a final decision aligned to the standard of proof being the balance of probabilities, and relevant parties are informed of the outcome and any ongoing actions.

5.5 Procedural Fairness

Procedural fairness is embedded in all elements of our investigation process, and this includes processes relating to allegations against staff. In addition to ensuring the respondent has a genuine opportunity to voice their account, procedural fairness will also be reflective of the following:

- Informing the respondent of the allegation in writing prior to the interview and providing them with all relevant information. This will outline as clearly as possible what policy or code of conduct they have allegedly breached.
- Providing them with the opportunity to bring a support person to the interview.
- Providing clarity on the consequences of the investigation if findings are substantiated.
- Providing them with the opportunity to respond in full to each allegation in full.
- Carrying out further investigations as appropriate.
- Ensuring an objective, fair and unbiased process, including an unbiased decision maker, is adopted and adhered to.
- An evidence-based approach being taken to determine the findings of the investigation.
- Consultation with the individuals concerned.
- Allowing flexibility to tailor the investigation process as appropriate depending on the circumstances.

6. Choosing an Investigator

The decision to engage an internal or external investigator is influenced by the difficulties or complexities of the incident, the internal capacity to conduct the investigation, and/or whether there is an inability or perceived inability for Halberg to maintain objectivity and/or there is an actual or perceived bias. Halberg may consult with the complainant about choosing an investigator.



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6.1 Internal Investigations

Depending on the nature of the concern, Halberg may be able to use their Designated Staff (e.g. Safeguarding, Human Resources or Health and Safety staff) or someone else identified by the CE or Board of Trustee. For an internal investigation to be considered appropriate, Halberg must be certain:

- It has personnel with the requisite skill set to conduct the investigation;
- Staff can conduct the investigation in a sufficiently independent manner – this would mean they have no line management or pre-existing relationship with the alleged perpetrator or the complainant; and
- Staff conducting the investigation has appropriate supervision to provide them with any support they require.

6.2 External Independent Investigators

- The appointment of an external investigator is always taken seriously, and we ensure the following when commissioning external investigation support:
 - The licenses of the Investigator Service and the personnel representing that service are compliant with the Private Security Personnel and Private Investigators Act 2010 (unless regulated by another Act (e.g. a lawyer is required to hold a practising certificate)).
 - The external independent investigator is aware of the regulatory requirements for investigators and any applicable Halberg policies and procedures, e.g. our child safety policies and procedures.
 - The independent investigator is suitably qualified and licensed individual/s.
- In all circumstances, when using an external investigator, we recognise that the Chair of Halberg and potentially other Leadership staff (e.g. the CE) remain responsible for the investigation findings and subsequent actions.
- In addition to points noted in Section 5.1, and although not exclusive, Halberg may utilise external investigation support services when:
 - The complaint or allegation is about the CE or Halberg Governance.
 - The concern relates to sensitive, difficult or complex issues, or the issue presented exceeds the knowledge, skill set and/or resources available within Halberg.
 - There is a risk of a toxic work environment, e.g. a complex bullying allegation.
 - Responding with an internal investigation may create or be perceived by those involved or others as the investigation having bias.
 - The internal capacity to conduct the investigation is limited or unavailable.
- External third-party investigations will not impede or interfere with any New Zealand Police or other statutory processes.
- Where investigations are undertaken by an external agency (other than the New Zealand Police), the CE or delegated Lead will be informed of progress during the process.
- If an allegation has been referred to an external body for investigation and the staff member is currently employed or engaged by Halberg, as per Halberg's child safety guidance, immediate safeguards will be implemented until the investigation has concluded. Immediate safeguards include, but are not exclusive to:
 - I. Additional supervision of the staff member concerned.



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- II. Redeploying the staff member concerned to an alternative non-child-facing position.
 - III. Standing the staff member down from duty.
 - IV. Any other safeguard recorded in Halberg's child safety and protection handbook.
- All current materials that are considered relevant will be collated by the CE or delegated Lead and provided to the external investigator or agency in line with privacy regulations.
 - When Halberg undertakes external independent investigator or agency support, Halberg insurers are to be informed. They may become involved if and when Halberg is on notice that a claim might be made or a formal legal claim is made.
 - Findings and proposals for further action will be explained and relayed personally to the complainant at the end of the investigative process by the CE or delegated Lead.

7. Confidentiality and Information Sharing

- Under the Privacy Act 2020, Halberg protects any personal or sensitive information held by Halberg. Confidentiality also extends to any documentation being shared and privacy rights will be upheld by redacting or removing material that would breach the privacy rights of other persons.
- In accordance with Principle 11 of the Privacy Act 2020, our Safeguarding Culture Commitment Statement, our Child Safeguarding and Protection Handbook and our safeguarding culture, we are expected to share relevant information related to known or suspected child abuse. Halberg will aim to share this information with consent when doing so does not permit or increase any safety risks to any person(s) or any potential investigation.
- Parental consent (and, ideally, the child or young person's consent (if age/developmental level appropriate)) will be sought for the sharing of information for any concerns not relating to known or suspected abuse. If consent is not obtained, Halberg may consider sharing that information if it considers an exception in Principle 11 of the Privacy Act 2020 applies.
- Witnesses may feel more confident sharing relevant evidence if they feel the investigation has integrity and confidentiality.
- Each person involved in the investigation should be instructed to maintain confidentiality throughout the investigation and to protect the rights of all parties involved, e.g. the person who made the report and, where applicable, children and young people.

8. Timeframes

The length of time an investigation requires is assessed and reviewed on a case-by-case basis. If an investigation indicates it may take longer to complete, those involved will be informed of the expected timeframe.

All investigation staff are to ensure any applied investigation processes are appropriate to the child/young person. This includes keeping actions and responses timely from the perspective of a child or young person, which may differ from that of an adult.



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9. Investigation Reports and Recording Information

All investigation reports must reflect and detail:

- The processes followed, as well as compliance with privacy and consent requirements.
- Details of all persons involved in the investigation and investigation process, including support structures advocated and accessed.
- The evidence gathered.
- Analysis of data and findings relating to the evidence.
- Record the decision made and any recommended actions and outcomes relating to all involved persons and Halberg and the Halberg Community (as applicable).
- Subject to the Privacy Act 2020, findings and proposals for further action will be explained and relayed personally to the complainant by the CE or delegated Lead at the end of the investigative process.
- A summary of case learnings.
- The CE/HR/Safeguarding Lead or, as per the discretion of the CE, any other identified Halberg staff lead will discuss the outcome of the investigation and recommendations for further action with the Chair of Halberg's Governance, the Designated Safeguarding Trustee or the entire Board, as appropriate.

All relevant documents related to an investigation will be stored by Halberg's Human Resources or Safeguarding Lead in accordance with the Privacy Act 2020, any other relevant legislation and/or child safety best practice (safeguarding documents are kept for 7 years and 45 years for documentation about sexual abuse).

10. Follow Up

Each report will be treated on a case-by-case basis. When closing a case, the follow-up actions remain until no further action is required.

A case can be closed, but follow-up processes can still be required.

Once the investigator or decision maker is happy for the case to be closed, the case will be closed and filed.

Approved Date:	January 2024	Next Review Date:	January 2027
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Appendix 1 - Investigating Historical Allegations of Abuse

A complaint or allegation may relate to the conduct of a current or past staff member or former child/young person participating. Non-current harm and abuse are mostly referred to as historical or non-recent abuse. All historical allegations, whether made or received formally or informally, will be seriously considered and, as per this Policy, depending on the nature of the complaint/allegation and the best interests of those concerned, investigations may be conducted as independent external investigations or internally by Halberg.

A1 Receiving a Historical Allegation

If the concern is being presented via a representative, that representative will need to demonstrate that the person concerned has provided authorisation. Unless relating to a child or young person (under 18 years) and a parent or legal guardian is representing them.

A2 Informal Awareness

When Halberg is made aware informally of allegations, rumours or hearsay relating to historical abuse, it will record the specific details in writing in so far as they can be ascertained. In deciding whether to investigate such matters further, without limitation, Halberg will have regard to factors such as:

- The particular circumstances involved and whether further investigation is likely to lead to additional relevant information being obtained;
- Whether corroborative evidence exists (e.g. similar allegations have been made by others against an alleged respondent);
- Whether there is a reasonable belief that further harm could be done (e.g. the alleged respondent is still engaged with children and young people);
- The potential impact on the former Halberg participant or participants allegedly abused.

If it is decided, after consideration of these factors, that a complaint or informal allegation, rumour or hearsay is vexatious or unfounded, they will not be investigated further unless new information is presented that brings this decision into doubt.

A3 Formal Awareness

When Halberg formerly receives a historical allegation against staff, in addition to the above internal and external investigation points, this Investigations Policy applies as follows:

- Safeguarding Staff will inform the CE as soon as possible.
- Where the complaint or allegation is about the CE or Safeguarding Staff, Halberg's Designated Safeguarding Trustee will fill the role usually completed by the CE or Safeguarding Staff.
- Where the person being impacted by the subject of the complaint/allegation is an adult, and the complaint is criminal in nature, Halberg will advise them of their right, and they will be encouraged, to make a formal complaint to the New Zealand Police. If Halberg decides to investigate the matter further, all such complaints to the New Zealand Police will be supported by Halberg, and Halberg will cooperate with the New Zealand Police if further information is requested.
- Should the complainant decide not to implement their right to refer a concern to New Zealand Police, Halberg will always reserve its right to refer a complaint to the Police or other relevant authority.



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- If permission for the complainant's details to be used is not given, Halberg may still refer a complaint to the New Zealand Police or other relevant authority if there is a potential current risk to other persons posed by the person(s) about whom the complaint was made. However, Halberg will seek to do this in a manner favourable to the complainant (e.g., via a blind report*).
- The CE or delegated Lead will convene a meeting with relevant Halberg staff, including Trustees, where applicable, to plan the most appropriate form of investigation.
- In most instances, due to the complexity associated with allegations of historical abuse, the investigations are likely to be conducted by an external, independent party.

*A **'blind report'** refers to a formal report made by Halberg to the New Zealand Police or other relevant authority (for example – Oranga Tamariki), referring to allegations of a criminal nature made by a complainant, with or without the complainant's permission, which identifies the alleged respondent, but not the complainant.