



Managing Bullying and Harassment

POLICY & PROCEDURE

Issue Number	Date Approved	Pages Amended	Originator Approved By
2	27/9/2012	New Policy and Procedure to replace existing one.	JC/KT Corporate Policy & Performance Committee

Contents

Section 1: Introduction

- **Policy Statement**
- **Scope**
- **Core Principles**
- **What is Bullying and Harassment?**

Section 2: The procedure

- **Informal Stage**
- **Formal Stage**
 - **Making the Complaint**
 - **Response and Investigation**
 - **The Decision**
 - **Informing the Parties**
- **Appeal**
 - **Appeal by the complainant**
 - **Appeal by the person accused of bullying and/or harassment**

Section 3: Review of the procedure

SECTION 1: INTRODUCTION

Policy Statement

In order to meet our legal responsibilities and our commitment to promoting a safe, healthy and fair working environment, we are committed to ensuring that people who work for the Council do so in an environment which provides dignity and respect to everyone and is free from bullying and harassment.

The aim of this policy and procedure is to ensure that all individuals working for the Council understand their right to freedom from bullying and harassment and what to do if unacceptable behaviour occurs. No-one will be subjected to unfavourable treatment or victimisation as a result of making a complaint.

The Council will not tolerate unfair treatment of individuals and anyone who is found to have bullied or harassed another person in the organisation may be subject to disciplinary action, which could include dismissal. Apart from being totally unacceptable, such behaviour may be unlawful.

Scope

This policy and procedure applies to **all** employees of the Council.

All individuals working on behalf of the Council under other arrangements, such as agency or casual workers, are not subject to the policy and procedure but are required to comply with the standards set out in the Policy Statement and Core Principles.

Core Principles

- Acceptable standards of behaviour are required of all individuals and groups in the workplace to promote positive working relationships and an organisational culture and environment which is free of bullying and harassment.
- All employees are expected to meet the relevant standards of behaviour defined within the Council's Performance Review and Development process or Professional Review and Development process in the case of teachers.
- Issues raised will be taken seriously, dealt with promptly and confidentially at the lowest level of management practicable.
- Managers have the right to manage employees and workers effectively, giving reasonable instructions when required and this does not constitute bullying and/or harassment. This includes dealing with shortcomings in performance, conduct, attendance and behaviour.

- Every individual is responsible for their own behaviour and has a duty to support a working environment free from bullying and harassment for themselves and colleagues.
- When dealing with a complaint of bullying and/or harassment, the principle of fairness applies equally to the complainant and the accused.
- Both the complainant and the accused will be offered the opportunity to be accompanied by a trade union representative or work colleague at all stages of the formal part of the procedure, including investigatory meetings. Employees will not be permitted to be accompanied by a legal practitioner or spouse.
- Throughout the procedure, special allowance should be made for those whose first language is not English or who have difficulty expressing themselves. The same applies to those with a disability.

What is Bullying and Harassment?

Bullying is defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Harassment is defined as unwanted conduct related to a relevant protected characteristic (under the Equality Act 2010), or on other grounds, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation. Pregnancy and maternity and marriage and civil partnership are not protected directly under the provisions of the Equality Act 2010 but would amount to harassment related to sex and sexual orientation respectively.

Such behaviour may be physical, verbal or non-verbal.

SECTION 2 – THE PROCEDURE

Before progressing to the formal stage of the procedure, an individual who believes that they are being subjected to unacceptable behaviour should consider attempting to resolve the matter informally where possible. Employees may raise the matter at the formal stage where the informal stage is inappropriate or where the informal stage has been unsuccessful.

Informal Stage

The individual can raise the problem by either:

- Personally approaching the person and pointing out the unacceptable behaviour, the detrimental effect this is having on them and asking for the behaviour to stop.
- Asking someone else to act on their behalf where they would find it difficult or intimidating to confront the person themselves. This could be a colleague, a manager or trade union representative.

At the informal stage there is no requirement for anything to be put in writing but the outcome will be confirmed in writing where a manager has had involvement in addressing the issue.

Formal Stage

Making the complaint

- The individual must inform their line manager (or next more senior manager if the complaint concerns their manager) of the problem in writing detailing:
 - The name of the person accused.
 - The behaviour that is causing distress.
 - Records of dates, times, witnesses and any other relevant information.
 - The accused's response at the informal stage, where applicable.

For reasons of confidentiality the letter must not be copied to anyone else except those directly involved in the process which may include a trade union representative.

Response and investigation

Management will acknowledge the complaint and arrange for it to be investigated with a view to reaching a conclusion within a reasonable timescale. The investigating officer will produce a report of their findings, conclusions and decision.

The decision

The investigating officer will decide whether there is sufficient evidence to conclude that there is a case to answer and how the matter should be dealt with. The possible outcomes are as follows:

Complaint upheld:

- Where there are sufficient grounds to conclude that there is a case to answer on conduct grounds the matter will go forward to a disciplinary hearing.
- Where there is a case to answer but the unacceptable behaviour was relatively minor or was due to a lack of understanding of the expected

standards or the possible impact of their behaviour on others, the matter may be referred to management for appropriate action.

Complaint not upheld:

- Where there is no case to answer because actions have been misconstrued as bullying and/or harassment or because the allegations are unfounded.
- Where, after consideration of the available evidence, it cannot reasonably be concluded that there is a case to answer.

Where the complainant appears to have made unfounded allegations for vexatious, malicious or capricious reasons they will be subject to investigation and possible disciplinary action.

Where the investigating officer decides there is sufficient evidence to conclude that there is a case to answer and this is due to a collective, organisational or cultural cause the matter will be referred to the Head of Service or Service Manager. They will be required to look into the matter reported to identify the root causes and develop an action plan to address these.

Informing the parties

- The investigating officer will meet separately with the complainant and accused to provide a summary of the findings, the decision and the reason(s) for it, and explain how the matter will be taken forward, taking care to ensure that confidentiality is maintained. This will be confirmed in writing.

Appeal

Appeal by the complainant

Where the complainant is dissatisfied with the outcome an appeal may be made to their Director. The notice of appeal must be made in writing within 10 working days of receiving the investigating officer's written confirmation of their findings and decision and must set out the grounds for appeal, demonstrating why they consider the decision to be unreasonable.

An appeal can only be made on one or more of the following grounds. The complainant considers:

1. That it was unreasonable for the investigating officer to have reached that conclusion on the basis of the evidence and information obtained,
2. That the investigation was fundamentally flawed,
3. That the procedure was not followed and this has adversely affected the outcome of the complaint.

The employee will be invited to an appeal hearing within a reasonable timescale. The appeal will normally be heard by the Director or a Head of Service. The investigating officer will also attend. The employee will be notified both verbally and in writing of the final decision and the reasons for it.

Appeal by the person accused of bullying and/or harassment

Where disciplinary action is taken against the person accused following a disciplinary hearing, the employee will have the right to appeal against the decision under the appeals process set out under the Managing Discipline procedure.

SECTION 3 – REVIEW OF THE PROCEDURE

Human Resources will review this procedure every three years. It will, nevertheless, be subject to continual review and amendment in the light of experience of its operation, employment best practice and statutory requirements. Changes will only be made following normal consultation arrangements.