

DRAFT

Harassment, Sexual Harassment and Bullying Policy

Introduction

Although complaints of harassment, sexual harassment or bullying within the Council are rare, an effective procedure whereby such complaints can be reported, investigated and resolved is essential. This policy provides for both informal and formal action. This is because informal action, when appropriate, often provides a good opportunity to resolve an individual case in a sensitive, speedy and effective way.

This policy will be provided to all Council employees and members currently in post and to new employees and members as part of their induction.

All staff and members must read this document carefully and retain it for future reference.

Definition of Harassment

Harassment is unwanted conduct which reasonably can be considered, taking into account the perception of the complainant, to have the purpose or effect of:

- (a) violating another person's dignity, or
- (b) creating an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment in the workplace including on the grounds of religion or belief, colour, race, nationality or ethnic or national origins, marital status, sex, sexual orientation, disability or age is potentially unlawful. Such harassment, or bullying on any other basis, is unacceptable within a working environment.

Definition of Sexual Harassment

Sexual harassment is behaviour characterised by the making of unwelcome and inappropriate sexual remarks or physical advances in a workplace or other professional or social situation. It can be verbal, visual or physical.

Sexual harassment includes comments or jokes about sex or private body parts or the use of sex or gender-related name calling. It also includes the sharing of letters, notes, emails, texts, online postings that talk about sex or private body parts.

To establish sexual harassment, the unwanted behaviour must have either violated someone's dignity (whether it was intended or not), or created an intimidating, hostile, degrading, humiliating or offensive environment for them, whether it was intended or no

Definition of Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Gaslighting

Gaslighting is a colloquialism, loosely defined as manipulating someone into questioning their own perception of reality. It is a term used to describe a dynamic that can occur in

personal and workplace relationships. It is a form of subtle workplace bullying and should be treated no differently than other instances of bullying.

Gaslighting involves two parties: the "gaslighter", who persistently puts forth a false narrative in order to manipulate, and the "gaslighted", who struggles to maintain their individual autonomy. It is typically effective only when there is an unequal power dynamic or when the gaslighted has shown respect to the gaslighter.

Gaslighting is different from genuine relationship disagreement, which is both common and important in relationships. Gaslighting is distinct in that:

- one partner is consistently listening and considering the other partner's perspective;
- one partner is consistently negating the other's perception, insisting that they are wrong, or telling them that their emotional reaction is irrational or dysfunctional.

Gaslighting typically occurs over a long duration and not on a one-off basis. Over time, the listening partner may exhibit symptoms often associated with anxiety disorders, depression, or low self-esteem. Gaslighting is distinct from genuine relationship conflict in that one party manipulates the perceptions of the other.

The Council's Commitment

This Council is committed to maintaining an environment where all employees can seek, obtain and hold employment without discrimination, harassment or bullying. This policy statement sets out the responsibilities of the Council, its managers and all staff regarding all areas of harassment and bullying. It is an extension of the Council's equality and diversity policy.

The Council recognises that harassment is intimidating and can be a harmful and distressing form of discrimination. As an essential part of eradicating discrimination, harassment will not be tolerated in any of the Council's workplaces. Both harassment and bullying can lower morale, cause distress, anxiety, fear, ill-health and interfere with the effectiveness of service delivery.

Harassment by colleagues

The Council considers that harassment or bullying from one employee to another is unacceptable in the workplace. Depending on the circumstances, formal action may be taken under the Council's disciplinary procedure or the councillors' Code of Conduct. In severe cases this could be investigated as a matter of potential gross misconduct which if found may result in the dismissal of the employee concerned from the Council's service.

Harassment by third parties

The Council will not accept harassment or bullying of its staff or councillors by third parties including for example by service-users, members of the public or contractors' staff. Staff are not expected to tolerate such incidents and if an employee or councillor believes that they have experienced harassment or bullying from a third party with whom the Council has dealings this should be reported to a senior officer for investigation.

Depending on the circumstances, a warning letter may be issued to the individual or their employer. Possible withdrawal of service or removal of a contractor's employee if engaged on work with the Council may then follow.

Likewise, complaints by service users of harassment by employees or councillors will be taken seriously and may be investigated under the Council's disciplinary procedure as a matter of potential gross misconduct which if found may result in dismissal from the Council's service or in the case of a member the councillors' Code of Conduct.

The Employer's responsibilities

The Worker Protection (Amendment of Equality Act) Act, which comes into force in October 2024, increases an employer's obligations to protect employees against sexual harassment. Currently, there is a potential legal defence to a harassment claim if an employer can demonstrate they have taken all reasonable steps to prevent it from happening. The new legislation takes this further by putting a legal obligation on employers to take proactive steps to prevent sexual harassment.

Employers breaching the new duty could be subject to enforcement action by the Equality and Human Rights Commission and/or an uplift of up to 25% in any compensation awarded if a tribunal finds that an employee has been subjected to sexual harassment and the employer failed to take reasonable steps to prevent it.

Harassment and bullying are unacceptable in the workplace and may, if unchecked, create serious problems for an organisation such as poor morale, poor performance, lost productivity, damage to reputation and lead to legal proceedings.

The general principles of employer liability in harassment cases are set out below:-

(a) Anything done by a person in the course of his employment shall be treated as done by his employer as well as by that person, whether or not it was done with the employer's knowledge or approval. An employer cannot avoid liability for harassment by showing that it did not know harassment was taking place.

(b) However, the law on discrimination provides that in proceedings brought against any employer in respect of an act alleged to have been done by an employee it shall be a defence for the employer to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing acts of that description in the course of employment. Examples of such steps would be implementing and enforcing an equal opportunities policy and/or harassment policy which is supported by appropriate training programmes.

There is a legal duty on local authorities to ensure that their various functions are carried out with due regard to the need to eliminate unlawful discrimination and promote equality of opportunity and good relations between persons of different groups.

Consequently, as part of this duty, for the reasons set out above and as a basic principle of good employment practice, managers must investigate allegations of harassment thoroughly.

Managers' responsibilities

The policy imposes a positive duty on all managers and supervisors to take practical steps to ensure that each workplace is free of harassment or bullying and to initiate appropriate

disciplinary action if necessary. Further advice on this will be available by means of Management Guidelines and training. Failure to carry out these responsibilities may warrant an investigation under the Employees 'Disciplinary Code.

Employees' responsibilities

All employees are instructed to observe this policy and to treat colleagues with dignity and respect at all times.

Complaints of harassment or bullying towards colleagues will be taken seriously and may be investigated under the Employees 'Disciplinary Code as matters of potential gross misconduct which, if found, may result in dismissal from the Council's service.

The Council will take all complaints of harassment or bullying seriously and take appropriate action. Consequently, allegations must never be made lightly or maliciously. They have potentially very serious consequences and should only be initiated by an employee because of a genuinely held belief that harassment or bullying has occurred.

However, if an employee is genuinely concerned about an incident but is in doubt as to whether the circumstances would amount to harassment or bullying then the employee should raise the matter with their manager. Alternatively, the employee may wish to raise the matter with The Chair of the Council. Chair of the Personnel and Finance Committee or another member of the Council.

Victimisation

Employees need not fear victimisation for making or being involved in a harassment or bullying complaint. Any allegation of victimisation or retaliation against an employee for bringing a complaint of harassment or bullying will be investigated as a disciplinary offence, including instances when an employee raises the matter on behalf of another employee and believes he or she has been victimised as a result.

Training

The Council's training programme includes training which is necessary for managers to deal with and resolve complaints of harassment or bullying. This programme will also include refresher training.

Policy monitoring and review

This policy, its application, the procedure and individual cases brought through its use will be the subject of regular monitoring and review by the Personnel and Finance Committee. The policy and procedure do not form part of the contract of employment. The Council reserves the right to amend them from time to time as appropriate.

Use of procedure

To ensure that this policy works as intended, the Council has an approved procedure to deal with any allegation of harassment or bullying. This procedure provides for both informal and formal action. In some cases, informal action is likely to be the quickest and most effective way to handle such situations - by reporting the matter to the supervisor or by asking the perpetrator to stop and making it clear that the behaviour is unwelcome. If the behaviour which has caused offence is considered to be harassment or bullying,

whether verbal, written or physical, and does not change, the matter should be discussed with the immediate line manager. Appropriate confidentiality will be maintained throughout all stages.

If the informal approach fails or if the incident is sufficiently offensive and serious, a written complaint should be made to the immediate line manager.

If the alleged offender is the immediate line manager, any complaint should be made to the next most senior line manager, The Chair of the Council, Chair of Personnel and Finance or another Member.

In response to a formal complaint which alleges harassment, victimisation or retaliation, the Council's Grievance and Disciplinary Procedure will be undertaken. Subsequently, where an offence is found to have been committed, dependent on the severity or persistence of the offence, this could result in dismissal from the Council's service.