Policy and Procedure for Managing Bullying and Harassment at Work

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1. Every employee has the right to be treated with dignity and respect and any behaviour which contravenes this in the form of bullying or harassment will not be tolerated. The Council recognises that bullying and harassment are destructive and unacceptable on moral grounds, and in addition if not properly addressed can create serious problems for the Council’s organisation including poor morale and poor employee relations; loss of respect for managers and supervisors; poor performance; work-related stress; absence; resignations; damage to the Council’s reputation and legal claims against the Council.

2. The Council has a responsibility to protect the victims of harassment and bullying by providing a confidential route to raise these issues, confidential counselling to both the complainant and the harasser and, where appropriate, to take disciplinary action. This policy has been designed to protect employees within the Council and aims to prevent harassment and bullying by ensuring adequate procedures are available to deal with harassment and bullying and prevent victimisation of the complainant.

3. It is the Council’s policy to eliminate unlawful discrimination and to promote equality of opportunity and managers and staff are required to respect the diversity of background of colleagues and customers.
4. The Council provides a confidential Employee Assistance Programme which can be contacted without going through any other officer or manager. However, further information is available from the Personnel Department. No information will be provided to the Council other than numbers of staff being treated and their general (not specific) level, e.g. manager, admin/clerical, professional, etc.

5. **What is Bullying and Harassment?**

5.1 There are many definitions of bullying and harassment. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which attempts to undermine, humiliate, denigrate or injure the recipient. It can be against an individual or against a group of people and may cause them to suffer stress.

5.2 Harassment, in general terms, is unwanted or inappropriate conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

5.3 It is up to the individual to determine what behaviour is acceptable to them and what they regard as bullying or harassment. What one person perceives as bullying, another may not. However the question of perception is all important. In general actions become harassment if they persist once the recipient has made the harasser aware that their actions are considered offensive. However, one incident may constitute harassment if it is sufficiently serious. A person's position and level of seniority does not justify any form of harassment.

5.4 Examples of bullying and harassment include:

- Aggressive, insulting, intimidating, threatening or humiliating behaviour, either written or spoken, which demeans an individual and leaves them vulnerable;
- Comments, jokes and insults relating to age, race, sex, disability, beliefs, sexual orientation or any other personal characteristics, which are offensive to an individual or group of individuals;
- Non-co-operation at work, exclusion from normal activities or conversation in the workplace;
- Unnecessary and unwelcome touching, horseplay, suggestive behaviour, unwelcome sexual advances or assault;
- Displaying obscene or offensive materials;
- Copying memos or emails that are critical about someone to others who do not need to know;
- Overbearing supervision or other misuse of power or position including monitoring work unnecessarily and intrusively, removing areas of
responsibility without justification and making threats concerning present or future employment prospects;

- Deliberately undermining a competent employee by setting unattainable targets or constantly changing work targets in order to cause someone to fail and failure to give credit or claiming credit for someone else’s work;
- Preventing individuals progressing by intentionally blocking promotion or training opportunities;
- Making false allegations and spreading malicious rumours about an individual;
- Unjustified, constant nit-picking, fault finding and persistent criticism of a trivial nature and imposing unfair sanctions;
- Placing someone in a situation or environment that the person may find offensive.

5.5 This list is not exhaustive and other types of bullying and harassment might occur. It is not acceptable to condone bullying under the guise of “strong management”. Conversely, legitimate, constructive and fair criticism of a member of staff’s performance or behaviour at work is not bullying. Nor is an occasional raised voice or argument. Strong management is acceptable provided that members of staff are treated with respect and dignity, consulted with and problems are discussed with them.

6 Harassment and the Law

6.1 An employee who has been harassed may be able to bring a legal claim under laws covering discrimination and harassment, both against the individual harasser and against the Council as the employer of the harasser. The Law covers all kinds of harassment e.g. on the grounds of race, gender, sexual orientation, disability, age, religion or belief and gender reassignment.

6.2 Under the Protection from Harassment Act 1997 a person commits a criminal offence, punishable with up to six months imprisonment, if he or she pursues a course of conduct which amounts to harassment of another person and which he or she knows or ought to know amounts to harassment. Under the same legislation a person who has been harassed may bring a claim for damages, both against the harasser and in some circumstances the employer of the harasser, and may be awarded damages for any anxiety caused by the harassment and for any financial loss resulting from the harassment.
7 Procedure for bringing a complaint

7.1 At all stages of the formal procedure both the complainant and the alleged harasser may be accompanied by a workplace colleague or trade union representative, where they are a member.

7.2 Informal

7.2.1 An employee who believes they have been the subject of harassment or bullying should, where possible, informally make the person responsible aware of the effect of their behaviour and ask them to stop, if they feel sufficiently confident to do so.

7.2.2 Alternatively, an appropriate manager or representative from Personnel and Development can be asked to speak to the alleged harasser and to make a file note of the discussion.

7.2.3 If neither of these courses is possible, the employee should contact Personnel and Development who will arrange for the matter to be investigated promptly.

7.2.4 If the investigating manager finds there is substance to the allegations then the appropriate remedies will be applied.

7.3 Formal

7.3.1 Where this informal method fails, or if the bullying or harassment continues or is considered to be sufficiently serious, the employee should make a formal complaint to their manager, in writing, giving as much detail as possible. If their manager is the alleged harasser then the complaint should be sent to their service manager. In all circumstances, Personnel and Development must be advised immediately of such action by the manager receiving the complaint. If the circumstances prevent the employee raising the matter with their manager a formal complaint should be made directly to Personnel and Development.

7.3.2 The manager is responsible for ensuring that the complaint of harassment is investigated promptly, fully and fairly in line with the disciplinary procedure. All such investigations will be documented and available to all parties.

7.3.3 Following the investigation, the manager meets with the employee who made the complaint to discuss the outcome. The individual may be accompanied by a workplace colleague or trade union representative, where they are a member, during this meeting and the manager will be supported by a Personnel Adviser.

7.3.4 The manager will take any steps deemed necessary to ensure the complainant is not subject to potential further harassment or victimisation pending, during or after the investigations. It may be appropriate to separate the two parties during
and after the investigation. Steps might also include the temporary suspension or transfer of either or both parties. Suspension or transfer is not intended to be punitive; it may facilitate a full fair and speedy investigation of the complaint, and reduce disturbance in the workplace.

7.3.5 All parties have a role to play in preserving confidentiality. Justifiable complaints of harassment will not prejudice the complainant’s current or future career prospects in any way.

8 Remedies

8.1 Remedies may include the following:

- Confidential counselling may be provided to one or both parties as appropriate.
- It may be appropriate to use the services of a professional conciliator/mediator.
- In certain cases training may be a more appropriate course of action.
- Where a complaint of bullying or harassment is proven, disciplinary action against the harasser may result in line with the Council’s Disciplinary Procedure. Such action will reflect the severity of the offence however it may include the transfer of the harasser or dismissal.
- Other remedies may be appropriate and each incident must be handled case by case.
- Where the harasser is not employed by the Council, e.g. through an agency or contractor; the manager must report the matter to the employer who will be required to take appropriate action under their own procedures and confirm in writing what action has been taken.
- The employee must be informed whether action has been taken against the harasser. However as disciplinary sanctions are confidential between the employee and the Council no reference to the level of any disciplinary action should be made.

9 Complaints against members of the public

9.1 Staff who suffer abuse from members of the public should refer to the Abusive Behaviour Policy which is available on the intranet, through your manager or from Personnel and Development.
10 **Appeal**

10.1 Where an employee does not feel that their complaint has been handled to their satisfaction they may lodge a grievance in accordance with the grievance procedure which will be heard at Stage 2 of the grievance procedure.

11 **Malicious allegations**

11.1 If an investigation establishes that a complaint has been made falsely and maliciously, then disciplinary action may be appropriate. It is a very serious matter to make a false allegation, which puts at risk a fellow employee’s career. It is however important to establish that the complaint was false and malicious rather than made in good faith before taking action, to avoid the possibility of unlawful victimisation against the complainant.

12 **Victimisation**

12.1 Victimisation means treating a person less favourably because he or she has previously made a complaint or brought legal proceedings or assisted another person in doing so. The manager must ensure that there is no victimisation of the employee due to any complaint of harassment.

12.2 Employees who believe they are being victimised should raise the matter with the Head of Personnel and Development who will be responsible for ensuring that the complaint is investigated promptly.

13 **Responsibilities of managers**

13.1 Managers are responsible for eliminating any harassment or intimidation of which they are aware. Failure to do so will be considered a failure to fulfil all the responsibilities of their position and will be dealt with accordingly.

13.2 Managers have a clear responsibility to deal swiftly, sympathetically and appropriately with any complaints of harassment that they may receive. This will include establishing whether the incidents would be reasonably deemed to be harassment. Advice must be sought from the Personnel and Development Department.

13.3 Managers will receive training on how to implement the policy and procedure in line with best practice.
14 Responsibilities of the Personnel Department

14.1 Staff working in the Personnel Department are responsible for advising and supporting managers on all aspects of the application of this policy, and for helping to maintain consistency in the way in which complaints are dealt with. It is important therefore that Personnel and Development is consulted at all stages of an investigation, and it is essential that they are present at any formal meetings.

14.2 The Head of Personnel and Development is responsible for the review and updating this policy.

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