



CASTLEREAGH BOROUGH COUNCIL

POLICY AND PROCEDURES FOR DEALING WITH HARASSMENT

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Prepared by The Local Government Staff Commission for Northern Ireland

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Harassment Policy

As part of its overall commitment to equality of opportunity Castlereagh Borough Council is fully committed to promoting a good and harmonious working environment where every employee is treated with respect and dignity and in which no worker feels threatened or intimidated because of his or her sex, marital status, family status, religious beliefs, political opinion, disability, age, race* sexual orientation, trade union membership/non membership or criminal record. The aim of this policy and the accompanying procedure is to prevent harassment in the workplace, provide guidance to resolve any problems should it occur and prevent recurrence.

The policy also covers harassment which falls outside one of the above categories and which can be classed as bullying.

Harassment at work in any form is unacceptable behaviour and will not be permitted or condoned. Sexual, sectarian and racial harassment, harassing a disabled person on account of disability, or harassing someone on grounds of sexual orientation, constitutes discrimination. Harassment is unlawful under the sex discrimination, fair employment, race relations, disability and sexual orientation legislation. It may also be a civil offence, a criminal offence and it may contravene health and safety legislation.

Harassment detracts from a productive working environment and can affect the health, confidence, morale and performance of those affected by it, including anyone who witnesses or knows about the unwanted behaviour. This can have a direct impact on the efficiency and effectiveness of the Council service.

Harassment is inappropriate behaviour at work and will be treated by the Council as misconduct, which may include gross misconduct warranting dismissal. All employees must comply with this policy.

This policy has been agreed with the Equality Commission for NI and recognised trade unions.

Definition of Harassment

Harassment is unwanted conduct related to age, disability, marital or family status, sex, sexual orientation, race or ethnic origin, religious belief or political opinion affecting the dignity of women and men at work or creating an intimidating, hostile, humiliating, disturbing or offensive environment. This can include unwelcome physical, verbal or non-verbal conduct. Such behaviour is unacceptable where:

- it is unwanted, unreasonable and offensive to the recipient
- it is used as the basis for an employment decision
- it creates a hostile working environment

*** Irish Travellers are recognised by the Race Relations (Northern Ireland) Order 1997 as being members of a racial group.**

Many forms of behaviour can constitute harassment. The following are some examples:

- physical conduct ranging from touching to serious assault
- verbal and written harassment through jokes, racist remarks, homophobic comments,

- visual displays of posters, graffiti, obscene gestures, flags, bunting or emblems or any other offensive material
- isolation or non-co-operation at work, exclusion from social activities
- coercion, including pressure for sexual favours, pressure to participate in political/religious groups
- intrusion by pestering, spying, following etc.

It should be noted that it is the impact of the behaviour which is relevant and not the motive or intent behind it.

Definition of Bullying

Bullying has been defined as 'persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress.'* Like other forms of harassment, bullying is an abuse of power and is largely defined not by intention but by the impact of the behaviour on the recipient. It often involves a person in authority abusing their position and bullying their subordinates. However an individual may also bully a peer, and groups of people may pick on and bully an individual.

Employees' Rights

All employees have the right to work in an environment which is free from any form of harassment. The Council fully recognises the right of employees to complain about harassment should it occur. All complaints will be dealt with seriously, promptly and confidentially. A copy of the complaints procedure, which has been agreed with the recognised trade unions, is attached.

* **Manufacturing, Science and Finance Union, 'Bullying at Work: How To Tackle It', 1995**

This procedure does not replace or detract from the rights of employees to pursue a complaint of harassment under the sex discrimination/race relations/disability/sexual orientation legislation to an industrial tribunal and, under the fair employment legislation to the Fair Employment Tribunal in the case of sectarian harassment. A complaint must be lodged within three months from the date of the alleged act of sex, disability or racial or sexual orientation harassment/discrimination. For religious or political discrimination, a complaint must be lodged within three months from the date when the person first knew, or might reasonably be expected to have first known, of the act of discrimination or within six months from the date the act occurred, whichever is the earlier.

Every effort will be made to ensure that employees making complaints and others, who give evidence or information in connection with the complaint will not be victimised. Victimisation is discrimination contrary to the Disability Discrimination Act 1995, the Fair Employment and Treatment (NI) Order 1998, the Race Relations (NI) Order 1997 and the Sex Discrimination (NI) Order 1976 and the Employment Equality (Sexual Orientation) Regulations (NI) 2003. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. Victimisation will result in disciplinary action and may warrant dismissal.

Employees' Responsibilities

All employees have a responsibility to help ensure a working environment in which the dignity of employees is respected. Everyone must comply with this policy and employees should ensure that their behaviour to colleagues and the public does not cause offence and could not in any way be considered to be harassment.

Employees should discourage harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment and are considering making a complaint. They should alert a manager or supervisor to any incident of harassment to enable the Council to deal with the matter.

Managers' and Supervisors' Responsibilities

Managers and supervisors have a duty to implement this policy and to make every effort to ensure that harassment does not occur, particularly in work areas for which they are responsible. Managers and supervisors have responsibility for any incidents of harassment of which they are aware or ought to be aware. If harassment does occur, they must deal effectively with the situation.

Managers and supervisors should:

- (i) Explain the Council's policy to their staff and take steps to promote awareness of the procedure for dealing with complaints. Ensure that each member of staff has been given a copy.

- (ii) Be responsive and supportive to any employee who makes an allegation of harassment, provide clear advice on the procedure to be adopted, maintain confidentiality and seek to ensure that there is no further problem of harassment or victimisation after a complaint has been resolved.
- (iii) Set a good example by treating all staff and the public with dignity and respect.
- (iv) Be alert to unacceptable behaviour and take appropriate action.
- (v) Ensure that staff know how to raise harassment problems.

The Council's Responsibilities

The Council will ensure that adequate resources are made available to promote respect and dignity in the workplace and to deal effectively with complaints of harassment.

This policy and procedure will be communicated effectively to all employees and the Council will ensure that all employees and all managers and supervisors are aware of their responsibilities. Appropriate training will be provided including training on induction and management courses.

Individuals will be appointed to provide advice and assistance to employees who are subject to harassment. The name of these designated advisers will be made known to all employees. The Council will ensure, where possible, that employees can raise complaints, should they wish, with someone of their own gender, religion or race, or who is aware of and sensitive to disability or sexual orientation issues. All complaints of harassment will be dealt with promptly, seriously and confidentially.

Managers, supervisors and designated advisers will receive appropriate training so that they can perform their roles sensitively and effectively. In addition, those playing an official role in any formal complaints procedures will receive appropriate training.

Assistance for Staff who Feel That They Have Been Harassed

The Council recognises that in certain cases victims of harassment may feel isolated, vulnerable, or too embarrassed to raise their concerns directly with management. The Council has appointed Designated Advisers who are able to assist and advise employees who may wish to pursue a complaint.

The role of a Designated Adviser is to:

- act as a point of contact for employees who feel they have a complaint
- listen to the complaint and advise on the options available for resolving the matter
- assist individuals with the informal resolution of complaints
- support the employee in lodging and progressing the complaint, if they so wish.

If the alleged harasser asks for assistance it may be appropriate to assign an advisor to act as a source of information and advice. This role may include providing information about the disciplinary procedure and forwarding documentation as necessary but should not

extend to acting as an advocate, nor assisting the alleged harasser in the preparation of a defence.

The names of the Designated Advisers are listed at the end of this procedure and will be communicated regularly to all staff.

Review

The Council will monitor all incidents of harassment and will review the effectiveness of this policy and procedure annually.

Procedure for Dealing with Complaints of Harassment

Scope

Any employee who believes that he/she has suffered any form of harassment is entitled to raise the matter through the following procedure.

This procedure does not replace or detract from his/her statutory rights under sex discrimination, fair employment, disability discrimination, race relations or sexual orientation legislation.

Confidentiality

Complaints of harassment may include allegations of a highly sensitive nature and the release of such information could be damaging to the reputations of complainants or alleged harassers.

It is vital that employees who may wish to raise a complaint can be assured that the matter will be handled in the strictest confidence. Equally an employee who is accused of harassment is entitled to the same protection of their reputation, particularly should a complaint prove to be unfounded.

At all stages of the procedure, staff involved in any way with a complaint shall be personally responsible not to disclose any details of the complaint to any person who does not have a proper interest in this matter. Failure to ensure this high level of confidentiality may lead to appropriate disciplinary action.

The Informal Stage

This stage is appropriate where the employee simply wants the harassment to stop, where the harassment is not serious or where it has not been repeated.

Employees can seek to resolve matters informally by:

- approaching the alleged harasser directly making it clear to the person(s) harassing the employee that the behaviour in question is offensive, is not welcome and should be stopped.
- approaching the alleged harasser with the support of a colleague or a trade union representative.
- approaching the alleged harasser with the support of a supervisor/manager or designated adviser.

If it is too difficult or embarrassing to do this personally, employees may request a supervisor, manager or designated adviser to approach the alleged harasser on their behalf.

Designated advisers have been appointed to provide employees with advice and assistance. An adviser can be contacted at any stage of informal or formal procedures. The names of these advisers are listed at the end of this procedure together with telephone numbers where they can be contacted on a confidential basis. The adviser will provide support to assist with the informal resolution of the problem. The adviser can also provide support during formal procedures but will not conduct formal investigations.

Where an employee seeks the support of a supervisor he/she will be sensitively informed that their role at the informal stage can only be one of support or assistance.

The employee will be advised that:

- (i) a formal investigation and possible disciplinary action can only take place if the complaint is investigated under the formal procedure.
- (ii) a written record of the action taken will be made to assist with any formal proceedings which may arise if the behaviour does not stop. Failure to maintain such a record will not invalidate proceedings at the formal stage.

All reported incidents of harassment will be monitored and, in the event of any patterns emerging, management may wish to initiate its own formal investigation and take remedial action where this proves to be necessary. Additionally there may be situations where the seriousness of a complaint warrants formal proceedings.

The Formal Stage

The formal complaints procedure is appropriate if the harassment is serious, if the person making the complaint prefers this, or if the harassment continues after the informal procedures have been used.

It should be raised through the formal complaints procedure as follows:

A senior member of management (specify which manager in each case) is given responsibility for proceedings at the formal stage. Individuals may raise complaints with this Manager or, if appropriate, another member of management or individual designated for this purpose. Where possible, employees will be able to bring a complaint in the first instance to someone of their own religion, gender or race, or who is aware of/sensitive to disability or sexual orientation issues, if they so choose.

Managers carrying out investigations at the formal stage should not be connected in any way with the allegation which has been made.

The Human Resource Officer (or other representative of management) will assist throughout the procedure. He/she will attend all meetings and maintain a written record of all proceedings including the investigation and any outcome. The Manager conducting the investigation will check all records to ensure accuracy.

The Council has designated (*Senior Manager*) to act in an advisory role throughout the procedure to ensure that a consistent approach is taken, particularly with regard to proposed disciplinary action.

Investigation under the Formal Procedure

1. Time Limits

The following procedure details time limits for the completion of each stage of the procedure. If any of these time limits are not possible then both parties will be informed of the revised timetable.

The procedure will be completed within 20 working days of the complaint having been received. Where this is not possible, the procedure will be completed as soon as practicable.

2. Making a Complaint

Complaints should be raised as soon as possible following an act of alleged harassment so that the matter can be dealt with swiftly and decisively.

While it is preferable that a complaint should be made in writing to the Manager (or any other manager as appropriate), this will not preclude the investigation of a complaint made verbally.

The Manager will acknowledge receipt of the complaint and arrange to meet the Complainant within 3 working days.

3. Initial meeting with the Complainant

The Manager will meet the complainant to:

- clarify and formally record the nature of the complaint and that it is being handled under the formal procedure.
- ensure that the Complainant is aware of the next stage of the procedure.
- advise that the Complainant has the right to be accompanied and/or represented at the investigatory meeting by a trade union representative or work colleague.

The Complainant will have the right to be accompanied and/or represented at this meeting by a trade union representative, work colleague or designated adviser.

4. Avoiding contact between the Complainant and Alleged Harasser

The issue of avoiding contact between the Complainant and the alleged harasser must be considered before action is taken to inform the alleged harasser of the complaint. Following discussion with the Complainant, the Manager will take appropriate action concerning avoiding contact including the possibility of transfer if appropriate. Both parties should also be advised that there should be no communication between them, directly or indirectly, in relation to the complaint.

Where a case of serious harassment has been alleged, consideration will be given to the precautionary suspension of the alleged harasser to enable the investigation to proceed. An individual who is going to be suspended must be formally advised of this at a meeting with the Manager concerned. The individual will have the right to be accompanied and/or represented at this meeting by a trade union representative or work colleague as appropriate.

5. Informing the Alleged Harasser

The Manager will meet with the alleged harasser and:

- outline the nature of the complaint,
- confirm that it is being handled under the formal procedure,
- ensure that the individual is aware of the next stages of the procedure
- advise that the alleged harasser has the right to be accompanied and/or represented at the next stage of the procedure by a trade union representative or work colleague.

Following this meeting, the Manager will write to the alleged harasser outlining the nature of the complaint and setting a date for a formal meeting to be held within 5 working days of the complaint being received.

6. The Investigation

Whilst the Manager and the Human Resource Officer (or other representative) will seek to resolve the matter as quickly as possible, the meetings with all involved need not necessarily follow immediately after each other. Every effort will be made to have held all necessary meetings within 10 working days of the date the complaint was received. Where this is not practicable the Complainant and the alleged harasser will be so advised.

The purpose of these meetings is to establish the facts. All those giving information to the Manager and Human Resource Officer (or other representative) do so privately and not in the presence of any other person involved in or present during the alleged incident. A record of all meetings will be kept. All evidence provided to assist with the investigation will be treated as confidential to the investigation subject to any statutory requirements.

The investigation should include at least the following:

Meeting with the Person Alleging Harassment

The Manager and Human Resource Officer (or other representative) will meet with the person alleging harassment and consider both what they have to say and any other related matter. The person alleging harassment will have the right to be accompanied and/or represented by his/her trade union representative or work colleague as appropriate.

Meeting with the Alleged Harasser

The Manager and Human Resource Officer (or other representative) will meet the alleged harasser and hear what he/she has to say about the alleged incident(s) and any other related matter. The alleged harasser will have the right to be accompanied and/or represented by his/her trade union representative or work colleague as appropriate. This will not be the same person who accompanies and/or represents the complainant.

Meeting with Anyone who can assist with the Investigation

The Manager or Human Resource Officer (or other representative) will meet anyone who can assist with the investigation. This may include supervisors and co-workers and may also include anyone who observed the Complainant's demeanour immediately before and after the alleged incident(s) or any colleague with whom the Complainant discussed the alleged incident(s). Each individual will be asked to outline what happened.

The Manager or Human Resource Officer (or other representative) will meet the managers/supervisors of both the Complainant and alleged harasser to establish if there has been any history of previous conflict between them and/or with other parties.

The Manager or Human Resource Officer (or other representative) may then wish to have further meetings to clarify or gain additional information.

Consideration of Information

Having obtained all the information possible, the Manager will consider whether the disciplinary procedure should be invoked or some other action taken.

Reporting the Facts

The Manager undertaking the investigation should prepare a written report outlining the facts, indicating his/her findings, and whether the disciplinary procedure should be invoked or other action taken. Where the Manager has not the authority to take the necessary action, this report will be forwarded to the appropriate level of management.

Decision on Disciplinary Action

The Manager (or other appropriate level of management as outlined above) will then decide either:

- (a) To initiate the Council's agreed disciplinary procedure against any party as appropriate;

and/or

- (b) To take no further action or to take any other appropriate management action eg, the provision of training or counselling.

Communicating the Decision

Having made a decision on the most appropriate course of action this will be communicated in writing to both the person who has complained and the person against whom the complaint was made.

7. After the Investigation is Completed

Appeals

If the person against whom the complaint was made wishes to appeal against any disciplinary action this will be dealt with under the appeals mechanism of the Council's Disciplinary Procedure.

The basis of the appeal must be made clear and it is this that should direct the subsequent appeal hearing. The appeal hearing should comprise one or at most two members of senior staff with no previous involvement with the case or the parties involved. The appeal panel should be asked to consider the grounds of the appeal with reference to the documentation and the procedures which had been followed. In the light of this review, the appeal panel may ask for further information and for a submission by the alleged harasser or his/her trade union representative or work colleague. Unless the original hearing was seriously flawed procedurally, the appeal should not take the form of a complete re-trial.

If the complainant is not satisfied with the outcome of the disciplinary procedure then that person may be entitled to claim that his/her initial grievance had not been dealt with. In effect his/her appeal would then be pursued through the grievance procedure and separate from the disciplinary procedure.

Consideration of Transfer

(a) Redeployment if disciplinary action is taken

Where a complaint has been upheld the Complainant may wish to avoid further contact with the harasser. Should the harasser remain in employment with the Council and where it is agreed that further contact between the individuals concerned would be unacceptable, every effort will be made to facilitate this wish. Consideration should always be given to relocating the harasser in the first instance and where transfer of the Complainant occurs, it should not lead to any disadvantage to him/her.

(b) Redeployment where disciplinary action has not been taken

Even where a complaint is not upheld, or, for example, where evidence is inconclusive, consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned.

Training and Counselling

Training and/or counselling will be offered to the person who has been harassed and to the harasser. Where a complaint has not been upheld, training and/or counselling may also be offered. This will be provided by a trained member of staff or by an external provider, as appropriate.

Further Meetings

The Manager will meet the individual who has alleged harassment on a regular basis to offer support and to ensure that no harassment or victimisation has occurred. This action will be undertaken even where a complaint has not been upheld.

The Manager of the harasser will be responsible for ensuring that the harasser is made fully aware of the Council's policies on equal opportunities and harassment and of the law relation to these matters.

Harassment Advisors:

Samantha Rea - 028 90 494526

Sarah-Jane Smith - 028 90 494527