



Bullying & Harassment Policy & Procedure

Policy History

Version	Summary of Change	Contact Team	Implementation Date	Review Date
1	Updated policy	HR Policy Team	3 rd October 2005	January 2007

CONTENTS

SECTION A	3
1. Policy statement	3
2. Scope	3
SECTION B	4
Bullying & Harassment Procedure	4
1. Introduction	4
2. Support available for employees	4
3. Definitions of Unacceptable Behaviour	4
4. Legislation	5
5. General principles	6
6. Individual action (Informal)	7
7. Formal stage	7
8. Making a formal complaint	8
9. Initial meetings	8
9.1 Initial meeting with the employee.....	8
9.2 Informing the alleged harasser	8
9.3 Avoiding contact between the complainant and alleged harasser	9
10. Investigating complaints of harassment	9
10.1 General issues	9
10.2 Procedure for undertaking investigatory interviews	10
APPENDIX A RECORD OF BULLYING AND HARASSMENT	12
SECTION A	12
SECTION B.....	12
SECTION C.....	13
SECTION D.....	14
SECTION E	14

SECTION A

Bullying & Harassment Policy

1. Policy statement

- 1.1 Plymouth City Council is committed to providing a safe and healthy working environment for its employees, which includes an environment that is free from harassment, bullying and victimisation where every employee is treated with respect and dignity and in which no employee feels threatened or intimidated for any reason.
- 1.2 For the purpose of this policy and procedure 'harassment' will be used to encompass the terms 'harassment, bullying and victimisation' from this point forward.
- 1.3 Harassment at work is inappropriate behaviour, it will not be permitted or condoned and will be treated by Plymouth City Council as misconduct, which may include gross misconduct warranting dismissal.
- 1.4 Complaints of harassment will be dealt with sensitively, discretely and as quickly as possible.
- 1.5 Where an employee makes a malicious, false or vexatious claim about being harassed disciplinary action will be taken in line with the Council's Disciplinary Policy and Procedure.

2. Scope

- 2.1 This policy and associated procedure applies to all Council employees including Chief Officers, and employees working on temporary and fixed term contracts. It also applies to casual and agency workers, contractors and self-employed.
- 2.2 It will also apply to those employed under the terms and conditions of the School Teachers Review body where adopted by the individual Governing Body

SECTION B

Bullying & Harassment Procedure

1. Introduction

- 1.1 The aim of this procedure is to provide a framework for employees who believe they are being harassed, bullied or victimised to raise a complaint. It also provides managers with a fair and consistent procedure to follow when they receive a complaint from an employee.
- 1.2 Employees making a complaint or assisting in an investigation about alleged harassment can do so in line with this procedure without fear of reprisal.
- 1.3 Whilst allegations of harassment will be taken very seriously every effort will be made to resolve issues that arise informally. However, those incidents which are serious in nature i.e. threatening behaviour, swearing at colleagues etc will be dealt with immediately under the formal procedure.
- 1.4 Disciplinary action, which may include dismissal, will be taken if there is found to be substance to any allegation and in cases where allegations made by an employee are deliberately false, vexatious or malicious.
- 1.5 Complaints raised in line with this procedure will be treated as confidential and therefore not be discussed with anyone not involved in the procedures.

2. Support available for employees

- 2.1 Employees who are a member of a Trade Union organisation may wish to contact their Trade Union Representative for support if they feel they are being bullied and/or harassed.
- 2.2 Alternatively employees may approach their manager, or HR Adviser if appropriate, for a referral to the Occupational Health Unit who can provide a counselling service.

3. Definitions of Unacceptable Behaviour

- 3.1 Harassment consists of unwanted conduct affecting the dignity of women and men in the workplace. It includes unwelcome physical, verbal and non-verbal conduct and may amount to unlawful discrimination.

- 3.2 Harassment can involve a single incident or be persistent, it may be directed at one or more individuals, and may be related to race, sex, disability, age, religion, belief or non-belief, sexual orientation, or marital status.
- 3.3 Bullying includes persistent criticism and personal abuse and/or ridicule, either in public or private, which is humiliating or demeaning. Bullying behaviour can also include berating or belittling employees, unreasonably changing an employee's workload, hours, or place of work without their knowledge/agreement, or misuse of capability or disciplinary procedures.
- 3.4 Unwanted physical contact includes unnecessary touching, patting, pinching, brushing against another individual's body, insulting or abusive behaviour or gestures, physical threats, assault or sexual assault.
- 3.5 Unwanted verbal conduct includes unwelcome advances, such as repeated requests for 'dates', patronising titles or nicknames, propositions or remarks, innuendo, lewd comments, jokes, banter or abusive language which refer to an individual's or group's race, sex, disability, religion, belief or non-belief, age, or sexual orientation etc.
- 3.6 Unwanted non-verbal conduct for example, graffiti referring to individual characteristics or private life, abusive or offensive gestures, leering, whistling at someone i.e. 'wolf whistles', displaying pornographic or suggestive literature, pictures, or films/videos or inappropriate use of computers including email for this purpose.
- 3.7 Victimisation consists of treating an individual or group of individuals less favourably than others in the same or similar circumstances because they have made a complaint or allegation of discrimination, have acted as a witness or informant in connection with any discrimination legislation e.g. sex, race, or disability discrimination Acts.
- 3.8 These lists are not exhaustive. What constitutes harassment is specific to individuals and relates to their feelings of dignity and respect.

4. Legislation

- 4.1 The current legal definition of harassment is 'unwanted conduct that violates people's dignity or creates an intimidating, degrading, humiliating or offensive environment'.
- 4.2 Some forms of harassment, as listed below, can amount to unlawful discrimination and could result in criminal and/or civil prosecution:

- i. **Sex – Sex Discrimination Act 1975** provides protection against discrimination and victimisation on the grounds of sex, marriage, because someone intends to, is undergoing or has undergone gender reassignment;
- ii. **Race – Race Relations Act 1976** provides protection against discrimination and victimisation on the grounds of an individual's colour or nationality. The regulations that amended the Act (Race Regulations 2003) also provide a stand alone right to protection from harassment on the grounds of race and ethnic or national origin;
- iii. **Disability – Disability Discrimination Act 1995** provides protection against discrimination and victimisation due to a person's disability;
- iv. **Religion and/or belief – the Employment Equality (Religion or Belief) Regulations 2003** provide protection from discrimination on the grounds of religion or belief;
- v. **Sexual orientation – the Employment Equality (Sexual orientation) Regulations 2003** provide protection against discrimination and harassment on the grounds of sexual orientation (orientation is defined as 'same sex' – lesbian/gay and 'opposite sex' – heterosexual, and 'both sexes' – bisexual).

5. General principles

- 5.1 It does not constitute harassment where a manager or other employee is carrying out their job properly and fairly within Council policies or procedures.
- 5.2 Appropriate use of the Council's Disciplinary Policy or Procedure does not constitute harassment.
- 5.3 Where an employee requests to speak to a manager 'in confidence', the employee must be informed - before any details are given - that the manager may have to act on the information that is given, i.e. carrying out an investigation which may breach the confidence. The employee can then choose whether to continue the conversation.
- 5.4 However managers who witness harassment themselves must take immediate action which may include – depending on the circumstances
 - i. An informal discussion with the employee committing the act;
 - ii. Refer the employee to the Bullying & Harassment procedure;
 - iii. Taking disciplinary action.

6. Individual action (Informal)

- 6.1 This stage is outside of the formal procedure and applies where the harassment is not serious enough to warrant immediate formal action or has not been repeated.
- 6.2 Employees who feel able to, can seek to resolve the situation informally by
- i. Approaching, or writing to the alleged harasser directly and making it clear that the behaviour in question is offensive, is unwelcome and must be stopped;
 - ii. Approaching the alleged harasser with the support of a colleague, HR Adviser or Trade Union Representative.
- 6.3 If it is too difficult for the employee to do this personally, a designated representative, for example HR Adviser or TU representative, may approach the alleged harasser on the employee's behalf.
- 6.4 The employee, or their designated representative, should make a note of the conversation, or keep a copy of the letter sent to the alleged harasser, and any response, which will be used in formal procedures if necessary.
- 6.5 A formal investigation and potential disciplinary action will only take place if the complaint is investigated under the formal procedure by a line manager.

7. Formal stage

- 7.1 Where the nature of the harassment is such that the Council has no alternative but to deal with the matter formally, where the employee would prefer to go through the formal stage, or if the harassment continues the formal procedures should be used.
- 7.2 Employees can raise their complaint with their manager, or where it would be more appropriate another member of the department's management team, for example where the employee's manager is the alleged harasser the complaint would be raised with the manager's manager.
- 7.3 Alternatively, the employee may approach their Departmental HR Adviser, who can provide advice about who is best placed to deal with the complaint.
- 7.4 The manager is responsible for proceedings at this stage, and will be advised and supported by their Departmental HR Adviser.
- 7.5 It is the manager's responsibility to ensure that accurate notes are made and retained of any meetings, and copies of letters and emails kept.

8. Making a formal complaint

- 8.1 Employees must raise their complaint of alleged harassment with their manager, or other appropriate person, as soon as possible following the alleged act, so that the matter can be dealt with quickly.
- 8.2 The employee may request a manager of the same sex to prevent embarrassment.
- 8.3 The complaint should be made in writing to the manager (or other appropriate manager). However a complaint that is made verbally does not mean managers should not take action.
- 8.4 The manager will acknowledge receipt of the complaint in writing on the day that it is received, and will arrange to meet with the employee making the complaint (complainant) as soon as possible typically within 5 working days.

9. Initial meetings

9.1 Initial meeting with the employee

- 9.1.1 At the meeting with the complainant the manager will
 - i. clarify and record the nature of the complaint and confirm that it is being dealt with under the formal Bullying & Harassment Procedures;
 - ii. advise the employee that they have the right to be represented at any investigatory meetings by a work colleague, or trade union representative, and that the meetings will be carried out sensitively and discretely;
 - iii. and, inform the employee of the stages in the procedure.
- 9.1.2 If it is appropriate the employee may be referred to the Occupational Health Unit who can organise counselling.
- 9.1.3 This meeting also provides the manager with the opportunity to obtain the names of any potential witnesses.

9.2 Informing the alleged harasser

- 9.2.1 The manager will then arrange to meet the alleged harasser to
 - i. outline the nature of the complaint;
 - ii. confirm that it is being handled under the formal procedure, and that all meetings will be in confidence, and discussed only between those involved in the procedure;
 - iii. ensure that the individual is aware of the stages in the procedure; and

- iv. inform the individual about their right to be represented at the next stage of the procedure.
- 9.2.2 At this meeting the alleged harasser has the right to be represented by a work colleague or trade union representative.
- 9.2.3 At this meeting the manager should also ask if there are any potential witnesses.
- 9.2.4 If suspension - pending further investigation - is appropriate, the employee must be informed at this meeting. Suspension does not imply that the individual is guilty of the alleged harassment and this must be made clear. Further guidance can be sought from the Departmental HR Adviser.
- 9.2.5 Following this meeting the manager must inform the alleged harasser, in writing, of the issues discussed and action taken.

9.3 Avoiding contact between the complainant and alleged harasser

- 9.3.1 If there is an issue about the complainant and the alleged harasser continuing to work together the line manager must give consideration to
 - i. suspending both parties on full pay;
 - ii. suspending the alleged harasser on full pay (suspension does not imply that the employee is guilty of the allegations made against them); or
 - iii. transferring the alleged harasser to a different department or team.
- 9.3.2 The complainant must not be moved, or be pressured to move, unless it is specifically requested.
- 9.3.3 All parties must be informed that during the formal procedures there should be no communication between them, either directly or indirectly, in relation to any allegations. Disciplinary action may be taken in the event that contact takes place.

10. Investigating complaints of harassment

10.1 General issues

- 10.1.1 The manager, with assistance from their Departmental HR Adviser, will undertake a full investigation into the allegations made within 10 working days of receiving the complaint. However where this is not practicable, for example because of sickness, or holidays, both the complainant and the alleged harasser will be informed.

- 10.1.2 The purpose of the investigatory interviews is to establish the facts, which will allow the manager to decide what action, if any, is appropriate.
- 10.1.3 The investigatory interviews will take place in private, will be carried out in confidence – discussed only between those involved in the procedure, and a record of each meeting kept.
- 10.1.4 Each individual is entitled to be accompanied during the informal stages, and represented at formal stage. In exceptional cases, for example where a trade union representative, or colleague is unable to attend the proposed date the meeting may be postponed for up to 5 working days.

10.2 Procedure for undertaking investigatory interviews

- 10.2.1 The manager and Departmental HR Adviser will arrange to meet individually with the complainant, the alleged harasser and any witnesses to ask any questions or to clarify any queries they may have.
- 10.2.2 At the end of the investigation the manager, with advice from their Departmental HR Adviser, must decide what action, if any, to take considering all of the evidence heard.
- 10.2.3 The following are possible outcomes and actions that might be considered
- i. If a complaint is not upheld or the evidence is inconclusive** – mediation sessions could be offered with both parties or voluntary transfers could be considered;
 - ii. If there is sufficient evidence of serious unacceptable conduct** – formal disciplinary action must be taken which could include (depending on mitigating circumstances) a written warning, a transfer or dismissal;
 - iii. If a complaint is upheld and the behaviour was unintentional and the actions regretted** - counselling could be offered to both parties to repair any damage done to the working relationship, awareness training provided for the perpetrator, or consideration given to using the Council's Disciplinary Procedure.
- 10.2.4 At the end of the investigation and once a decision has been made the manager is responsible for preparing a report to include
- i. The nature of the complaint;
 - ii. The investigation process, and names of witnesses interviewed;
 - iii. His/her decision, reasons for the decision and action taken;
 - iv. Copies of any notes, letters, emails etc;

- v. Conclusions and recommendations (no recommendations should ever be made about which disciplinary sanction to take, which will be decided after evidence is heard at a disciplinary hearing or appeal).

10.2.5 This report will be referred to at any hearings where disciplinary action is taken.

10.2.6 Where the manager decides to take disciplinary action the alleged harasser must be informed in writing, within 5 working days of the end of the investigation, and the Council's Disciplinary Procedures must be followed.

10.2.7 The complainant should be informed that action has been taken at a level that the manager believes is appropriate, but must give consideration to the alleged harasser's entitlement to confidentiality.

This document should be used in conjunction with the Guide to the Bullying & Harassment Policy & Procedure.

Please seek further guidance or information from your Departmental HR Adviser if necessary

This document replaces all previous Plymouth City Council bullying and harassment policies and procedures that may be in existence.

Approved by Personnel Committee:// [date]

Approved by Full Committee:// [date]



APPENDIX A RECORD OF BULLYING AND HARASSMENT

This form should be completed by the HR Adviser advising on the case and forwarded to the Employee Relations Team, Windsor House. All information will be used for monitoring purposes and held in accordance with the Data Protection Act 1998 and employment legislation

Section A and E are compulsory. Please complete Sections B-D where applicable.

Action relating to: (Please tick where applicable)	
Section B Bullying and Harassment <input type="checkbox"/>	Section C Appeal <input type="checkbox"/> Section D Employment Tribunal <input type="checkbox"/>
SECTION A	
Full Name:	Employee Pay No:
Home Address:	
Department:	Section/School:
Job Title:	
Date when Continuous Local Government Service Commenced:	
SECTION B	
Date when Bullying/Harassment was Raised:	To Whom was Bullying/Harassment Raised:
Date when Investigation Commenced:	
Name of Investigating Officers:	

Nature of Allegations:	
Any part of the allegations relating to:	
Ethnicity:	YES/NO
Disability:	YES/NO
Sexual Orientation:	YES/NO
Religion or Belief:	YES/NO
Age:	YES/NO
Other Discrimination (please state)	
Date of Hearing:	
Name of those attending Hearing:	
Details of Hearing:	
Decision of Hearing:	
SECTION C	
Date of Appeal (if applicable):	
Outcome of Appeal (if applicable):	

Attended by:

SECTION D

Employment Tribunal Details (if applicable):

Any procedural issues that require noting for future reference when up-dating Plymouth City Council Policies and Procedures:

SECTION E

Equal Opportunities and Diversity Monitoring of Employee to be obtained from the HR Database:

Information obtained in this section will be used for equal opportunities monitoring in accordance with employment legislation.

Date of Birth:

Gender:

Ethnic Origin: (please tick applicable box)

White:

British Irish Other white background

Mixed:

White and Black Caribbean White and Black African
White and Asian Any other mixed background

Asian or Asian British:

Indian Pakistani Bangladeshi Other Asian Background

Black or Black British:

Caribbean African Any other black background

Chinese or other ethnic group:

Chinese Other ethnic group

Does the employee consider him/herself to be a disabled person: YES/NO

If yes, please tick box(es) applicable:

Mobility Impairment

Hearing Impairment

Sight Impairment

Learning Difficulties

Other (please state) :

Does this physical or mental impairment have a substantial and long term adverse effect on the employee's ability to carry out normal day to day activities: YES/NO

What is the employee's religion or belief: (please tick applicable box)

None Hindu Sikh Christian

Jewish Buddhist Muslim

Any other religion: (please state)