

Bullying and Harassment Policy

UNIQUE REFERENCE NUMBER: RC/XX/028/V2
DOCUMENT STATUS: Approved by Remuneration Committee August 2016
DATE ISSUED: August 2016
DATE TO BE REVIEWED: August 2019

AMENDMENT HISTORY

VERSION	DATE	AMENDMENT HISTORY
V1	08/01/2014	Version of policy approved by Remuneration Committee
V2	03/08/2016	Amendments made following staff development session and remuneration committee sign off

REVIEWERS

This document has been reviewed by:

NAME	DATE	TITLE/RESPONSIBILITY	VERSION
Ms S Johnson	28/07/2016	Deputy CFO & Governance Lead	V2
Mrs S Cartwright	03/08/2016	Director of OD & HR	V2
Mrs A McGee	03/08/2016	Senior HR and OD Associate	V2

APPROVALS

This document has been approved by:

VERSION	WHERE	DATE
V1	Remuneration Committee	08/01/2014
V2	Remuneration & HR Committee	03/08/2016

NB: The version of this policy posted on the intranet must be a PDF copy of the approved version.

DOCUMENT STATUS

This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of the document are not controlled.

RELATED DOCUMENTS

These documents will provide additional information:

REFERENCE NUMBER	DOCUMENT TITLE	VERSION

Contents

1.0	POLICY OVERVIEW	4
1.1	Purpose.....	4
1.2	Who this policy applies to	4
1.3	Key principles	4
1.4	Legal considerations.....	5
2.0	THE POLICY	6
2.1	What is bullying and harassment?	6
2.2	Examples of harassment.....	6
2.3	Examples of bullying.....	7
2.4	General examples of bullying and harassing behaviours	7
2.5	Informal Procedure	8
2.6	Formal Procedure.....	8
2.7	Being Accompanied	8
2.8	The Process.....	9
2.9	Overlapping bullying and harassment and disciplinary cases	9
2.10	Equality Statement.....	10

1.0 POLICY OVERVIEW

1.1 Purpose

The organisation is committed to promoting a workplace culture in which all employees, and those with whom employees interact, are treated with dignity and respect. The organisation will actively seek to prevent all forms of bullying and harassment on any ground, by raising levels of personal and professional accountability, self-awareness and where necessary, swift and sensitive intervention.

1.2 Who this policy applies to

The policy applies to all staff that are employees of the organisation in either a permanent, fixed term or temporary post. This policy also applies to office holders. Whilst agency workers are not covered by employment policies there is an expectation that agency workers will comply with the CCG values when working within the organisation

1.3 Key principles

- Bullying and harassment in any form will not be tolerated and may constitute gross misconduct in accordance with the organisation's Disciplinary Policy.
- The definitions of "bullying" and "harassment" are included in this policy. Clear guidelines are given on how to raise a concern and/or effectively handle a complaint if a concern is raised with you in confidence.
- The policy provides guidance on 'protected characteristics' in line with Equality Act 2010, discrimination by association, by perception and victimisation.
- Wherever possible, bullying and harassment concerns should be raised initially with the person(s) involved to alert them to the impact of their behaviours. In the event that this does not resolve the issues, or the individual feels unable to address the person directly then matters should be raised with their line manager; it is envisaged that the majority of complaints will be resolved via informal discussion between the employee, their line manager, the person(s) involved and their line manager.
- If the informal process does not resolve the concern or the concern is of a very serious or persistent nature, there is a formal procedure to follow whereby employees are required to put their concern in writing. This is a confidential process designed to deal with the employee's concerns in a prompt, fair, consistent and transparent way
- Employers should carry out any necessary investigations, to establish the facts of the case
- Employees have the right to be accompanied at any formal/informal Bullying and Harassment meeting
- Once a formal complaint of bullying or harassment has been raised, normal working arrangements should be maintained until the issue is resolved, where

practicable. However under circumstances where the working situation is untenable for either the complainant or the person(s) whom the complaint is against, then either party may be moved or placed on suspension without prejudice. Managers considering this course of action must contact HR for advice and any suspension should be considered as the last resort.

- Feedback will be given on the management action being taken to all affected parties as appropriate, detailing the reasons why decisions were made
- Employers should allow an employee to appeal against any formal decision made, with due regard to the organisation's duty of confidence and without infringing the rights of other parties. The outcome of a formal bullying and harassment complaint will be confirmed in writing to all
- Under the Equality Act 2010 employees that make a complaint of harassment are prevented from being subject to any detriment ("Victimisation") by the organisation arising from the complaint
- Where employees wish to raise concerns about possible malpractice at work (e.g. fraud) they should refer to the CCG Whistleblowing Policy

1.4 Legal considerations

Bullying and harassment are often used interchangeably in the workplace, but they are two distinctly different terms. Bullying itself is not against the law, but harassment is unlawful under the Equality Act 2010.

Employers have a duty of care to protect their employees from bullying and harassment in the workplace.

2.0 THE POLICY

2.1 What is bullying and harassment?

For practical purposes those making a complaint usually define what they mean by bullying or harassment as something that has happened to them that is unwelcome, unwarranted and causes a detrimental effect.

Bullying may be characterised 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 unwanted conduct related to a relevant protected characteristic, 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.

Protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marital status
- Pregnancy or maternity status
- Race, religion or belief
- Sex
- Sexual orientation

2.2 Examples of harassment

Harassment may take many forms, and can include any of the following behaviours:

- Spreading rumours, ridiculing or insulting someone on grounds of any of the above characteristics
- Deliberate exclusion
- Unfair treatment
- Unwelcome sexual advances
- Constant criticism, setting someone up to fail or deliberately undermining them
- Blocking promotions or development opportunities
- Physical violence or threats
- Harassment via online media, email, offensive posters or slogans

The Equality Act 2010 allows for harassment claims from people who have the particular protected characteristic but also for reasons of Association, Perception and Victimisation.

Harassment by Association is where a person is discriminated against or bullied for being connected to or having an association with someone who holds a protected characteristic, for example the parent or sibling of a disabled person or the friend or family member of a person undergoing gender reassignment treatment could make a claim of harassment under the Equality Act 2010.

Harassment by Perception is where a person is discriminated against or bullied for being perceived as holding a protected characteristic even where this is a misperception; for example a co-worker teased for being homosexual if they are actually heterosexual could make a claim of harassment on the basis of sexual orientation under the Equality Act 2010.

Harassment by Victimisation is the mistreatment of an individual for properly exercising their rights to raise a complaint about harassment or supporting an investigation. This may for example be a person who is excluded from team meetings, social events and other work place activities after raising a complaint about racial harassment.

2.3 Examples of bullying

The key consideration in such cases is how the individual has perceived the behaviour and how it has made them feel. In many cases defining the difference between a firm but fair approach and an individual who is bullying and harassing staff can be difficult. Management styles carry the same difficulties in how the approach can be perceived as bullying. The Department for Work and Pensions' equality team have developed a framework to help make clear distinctions as far as practicable.

Firm but Fair Manager	Bullying or harassment
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results, but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their own ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes that they are always right, has fixed opinions, believe they know best and is not prepared to value other people's opinions
Insists upon high standards of service in quality of and behaviour of team	Insists upon high standards of service and behaviour but blames others if things go wrong
Will discuss in private, any perceived deterioration before forming views or taking action and does not apportion blame on others when things go wrong	Loses temper regularly and degrades people in front of others, threatens official warnings without listening to any explanation
Asks for people's views, listens and assimilates feedback	Tells people what is happening, does not listen

2.4 General examples of bullying and harassing behaviours

Behaviour that is considered bullying by one person may be considered as not by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems. Examples of unacceptable behaviour in our organisation include:

- spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief)
- copying emails or other documentation that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation

- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment are not necessarily face to face, they may be by written communications, visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues), electronic email, phone, and automatic supervision methods such as computer recording of downtime from work, or recording of telephone conversations – if these are not universally applied to all workers.

2.5 Informal Procedure

Wherever possible, an initial discussion should be held between the employee and their manager. It is in everyone's best interest for an issue to be dealt with quickly and fairly at the earliest opportunity and the majority of concerns can be resolved at this stage. The employee and the manager should both keep a note of the discussion.

2.6 Formal Procedure

If it is not possible to resolve a complaint informally employees should raise the matter formally and without delay with a manager who is not the subject of the complaint. This should be done in writing and should set out the nature of the concerns including:

- Date of incident(s)
- Names and details of other parties involved, including witnesses
- A statement of the issues
- Desired outcome and/or possible solution
- Reasons why not satisfied with informal solution offered
- Reason why they feel unable to resolve informally

2.7 Being Accompanied

Under this policy employees have the right to be accompanied by a companion at a bullying and harassment meeting at any stage of this policy.

The chosen companion may be a fellow worker, a trade union representative or an official employed by a trade union not acting in a legal capacity.

The companion should be allowed to address the meeting to present and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the meeting. The companion does not however, have the right to answer questions on the worker's behalf, address the meeting if the worker does not wish it or prevent the employer from explaining their case.

2.8 The Process

2.8.1 Hold a meeting with the employee to discuss the complaint

A senior manager should arrange for a formal meeting to be held within 10 working days after a bullying and harassment complaint is received. The manager may be the senior manager within the same area of work as the complainant, or if this could prejudice the outcome, an independent manager who can consider the facts of the case without prejudice.

Employers, employees and their companions should make every effort to attend the meeting. Employees must be allowed to explain their concerns and how they think it should be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.

2.8.2 Decide on appropriate action

Following the meeting the employer/person chairing the meeting will decide on what action, if any, to take. Decisions and outcomes should be communicated to the employee, in writing, within 10 working days of the formal meeting and, where appropriate, should set out what action, if any, the employer intends to take to resolve the complaint. The employee must be informed that they can appeal if they are not content with the action taken.

One of the outcomes of the meeting may include referral to a disciplinary hearing or further investigation should the findings identify bullying and/or harassment. The organisation does not accept bullying or harassment and a disciplinary panel may consider dismissal on grounds of gross misconduct should a concerns of bullying and harassment are founded.

Where it is determined that allegations of bullying and harassment have been made maliciously consideration will be given as to whether the concerns should be referred to a disciplinary panel.

2.8.2 Appeal

Where an employee feels that their bullying and harassment complaint has not been satisfactorily resolved they should appeal. They should let their employer know the grounds for their appeal in writing within 10 working days of the formal meeting, or 5 working days from receipt of the outcome letter (whichever is greater). Appeals should be heard within 10 working days of receipt of the appeal and at a time and place which should be communicated to the employee in advance.

The appeal should be dealt with impartially by a senior manager who has not previously been involved in the case. The appeal panel will consist of at least a senior manager and a HR professional and in complex cases an further independent panel member may be asked to attend.

Following an appeal the original decision may be confirmed, revoked or replaced with a different decision. The final decision will be confirmed in writing, within 15 working days of the appeal meeting. There is no further right of appeal.

2.9 Overlapping bullying and harassment and disciplinary cases

Where an employee raises a bullying and harassment complaint during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the

complaint. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently. The course of action shall be decided on a case by case basis and on the merit of their own individual circumstance

2.10 Equality Statement

In applying this policy, the organisation will have a due regard for the need to eliminate unlawful discrimination, promote equality of opportunity and provide for good relations between people of diverse groups. In particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation, in addition to offending background, trade union membership or any other personal characteristic.