

Harassment and Bullying Policy and Procedure

Purpose and Scope of the Policy

All employees have the right to work in an environment where they are shown respect and consideration at work, and in which the dignity of each and every individual is valued and maintained.

Bassetlaw District Council is committed to the development and promotion of a positive workplace culture that is free from harassment and bullying, and aims to ensure that any allegation of harassment or bullying at work is taken seriously, is properly investigated, and is dealt with effectively.

The Policy applies to harassment on the grounds of disability, gender, marital status, sexual orientation, age, religion, race and ethnic origin, and any other personal characteristic.

The Policy applies to all staff employed by Bassetlaw District Council.

Principles

- ✚ Bassetlaw District Council is committed to ensuring that any form of harassment is dealt with both sensitively and speedily. Employees are encouraged therefore to raise any issues immediately in accordance with this procedure in the knowledge that these will be treated seriously and in confidence.
- ✚ To assist and support employees involved in a harassment and bullying case, (both complainants and accused), Bassetlaw District Council will develop a network of support workers and mediators, who will be trained in harassment and bullying issues, to provide support, advice and mediation as appropriate.
- ✚ Managers may at times be required to make unpopular decisions and give instructions that may not be welcomed by all employees, but these should not necessarily be construed as harassment or bullying. Managers are however responsible for communicating such instructions in an appropriate manner.
- ✚ Bassetlaw District Council acknowledges the fact that people do sometimes make genuine mistakes. This procedure is designed to enable problems to be dealt with sensitively and in accordance with the wishes of the person subjected to inappropriate behaviour.
- ✚ Formal action may be taken under the disciplinary procedure against any employee who has been found to have bullied or harassed any of their colleagues.
- ✚ The making of a false or malicious complaint of harassment or bullying will be regarded as a serious breach of procedures and the disciplinary procedure may be invoked against the complainant.

Definition

The current definition of harassment – as applied to age, sex, sexual orientation, religion or belief and race and ethnic and national origin is:

'Unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment'

The essential characteristic of harassment is that the action(s) is unwanted by the recipient.

Forms of harassment include many kinds of unacceptable behaviour. For example:

- ✚ Uninvited, unreciprocated and unwelcome behaviour of a sexual nature, which is offensive to the person involved and causes that person to feel threatened, humiliated, or embarrassed.
- ✚ Action, behaviour, comment or physical contact which is found objectionable or which causes offence, including: offensive jokes, verbal abuse, language, graffiti or literature of a racist or sectarian nature, or offensive remarks about a person's skin colour, physical characteristics, age, sexual orientation, or any other personal characteristic.

Bullying is the intimidation or belittling of someone through the misuse of power or position, which leaves the recipient feeling hurt, upset, vulnerable or helpless. It is often inextricably linked to the areas of harassment described above.

Examples of bullying include:

- ✚ Unjustified criticism of an individual's personal or professional performance, shouting at an individual, criticising an individual in front of others.
- ✚ Spreading malicious rumours or making malicious allegations
- ✚ Ignoring or excluding an individual from the team / group.

The legal position

The UK Protection from Harassment Act 1997 makes provision for protecting people from harassment and 'similar conduct'. It states that a person must not carry out actions which amount to harassment, or which they know may be regarded by the other person as harassment.

The following anti-discrimination legislation is also in place:

Sex

The Sex Discrimination Act gives protection against discrimination and victimisation of the grounds of sex, marriage or because someone intends to undergo or has undergone gender reassignment.

Race

The Race Relations Act 1976 gives protection against discrimination and victimisation on the grounds of colour or nationality. The regulations that amended the Act (Race Regulations 2003) also give a stand alone right to protection from harassment on the grounds of race and ethnic or national origin.

Disability

The Disability Discrimination Act 1995 gives protection against discrimination and victimisation.

Sexual Orientation

The Employment Equality (Sexual Orientation) Regulations 2003 give protection against discrimination and harassment on the grounds of sexual orientation (orientation is defined as 'same sex' – lesbian/gay, 'opposite sex' – heterosexual, and 'both sexes' – bisexual).

Religion or belief

The Employment Equality (Religion or Belief) Regulations 2003 give protection against discrimination and harassment on the grounds of religion or belief.

Age

The Employment Equality (Age) Regulations 2006 give protection against discrimination and harassment on the grounds of age.

Responsibilities

Responsibilities of All Employees

All employees have a personal responsibility not to harass or bully other members of staff, or to condone harassment or bullying by others. Harassment and bullying is misconduct and action may be taken under the disciplinary procedure against any employee found to have harassed or bullied an individual at work. Employees should also be aware that they could also be personally liable by law if they harass anyone at work.

All employees have a duty to assist in the creation of a safe working environment, where unacceptable behaviour is not tolerated. This may include challenging unacceptable behaviour, ensuring their own behaviour does not contribute to or collude with unacceptable behaviour, and cooperating fully in any investigation undertaken by Bassetlaw District Council.

Any employee who becomes aware of harassment or bullying occurring should bring the matter to the attention of his/her manager.

Responsibilities of Managers

Managers have an obligation to prevent harassment or bullying and to take immediate action once it has been identified, whether or not a complaint has been made.

Managers must ensure that the workplace under their control is one where everyone has the right to be treated with dignity and respect. They should respond to complaints

swiftly and sensitively, and be aware of behaviour which would cause offence, if necessary reminding employees of expected standards.

It may not always be appropriate for a line manager to be involved with specific complaints. For example, if the complainant is male and wishes to speak to a male, but the manager is female, or if the complaint relates to the conduct of the line manager. The harassment procedure sets out the alternatives for such instances.

Redress

An employee who feels that he/she has been harassed or bullied has a right to seek redress via the procedure set out below.

Communication & Training

All staff will be informed of the Harassment and Bullying Policy and Procedure. A copy of the Policy and Procedure will be made available to staff on the intranet, and a copy will be provided to new employees on induction.

In addition, training will be provided to all employees who have a specific responsibility for implementing the procedure, e.g. mediation, investigation, support etc.

Monitoring and Review

In order to assess the effectiveness of the procedure, statistics will be maintained in respect of harassment and bullying complaints. Strict confidentiality will be maintained and the monitoring process will comply with the Data Protection Act.

Harassment and Bullying Procedure

Where possible and appropriate, harassment and bullying complaints should be dealt with by using an informal approach, at least in the first instance. Informal action provides the opportunity to resolve allegations of harassment through informal discussion and mediation. Some people may not be aware that their behaviour in some circumstances is being perceived as bullying or harassment. Using an informal approach gives the alleged harasser the opportunity to stop if directly approached by an employee, manager or through a mediation process.

However, should the informal approach fail to stop the harassment or bullying, or if an employee agrees with their manager that the situation is so serious as to warrant formal action, the formal approach should be taken. This involves the complainant making a written complaint.

Informal Approach

An employee who feels that they are being subjected to harassment or bullying should, if possible, keep a record of the incident(s), including the date, time, nature of incident, and the names of any witnesses. It is important that employees who feel subjected to harassment or bullying raise the issue with an appropriate person at the time the incident(s) occur, in order that matters can be dealt with swiftly and that further potential harassment is prevented.

If the employee feels able, they should raise the problem with the alleged harasser, either verbally or in writing, making it clear that the behaviour is offensive and unwelcome, and ask for it to stop. Support workers can assist with this by, for instance, providing samples of letters or accompaniment to meetings.

Alternatively, the issue may be raised with a line manager who can raise the allegations informally on behalf of the complainant.

Mediation is another informal option. A meeting may be held with both parties and a mediator, at which the mediator will give both parties an opportunity to express their viewpoints, to discuss these, and come to some understanding, leading to a mutually acceptable solution. However, this is only an option if both parties agree to undertake the process with the intention of finding a solution. Mediators will be appropriate individuals with the necessary skills and experience required of this role. HR will provide a list of approved mediators on request.

Where a resolution is reached through the informal stage of the process, with both parties' agreement, a copy of the outcome should be given to both parties and a further copy placed on their personal files. An appropriate manager or mediator should make arrangements for ongoing monitoring of the situation.

Where a resolution is not achieved through the informal stage of the process, an employee can pursue a complaint through the formal stage of the process referred to below. Any discussions which took place during mediation remain confidential and 'without prejudice' and, may not be used by either party in any subsequent internal or external process, unless this is with the explicit consent of all parties.

In the event that mediation is not pursued at the informal stage, it will remain an option for the parties to pursue either during the formal stage, or upon conclusion of any investigation.

Formal Approach

If an employee wishes to make a formal complaint they should report it in writing to their line manager. In circumstances where the alleged harasser/bully is the individual's line manager the complaint should be reported to the next most senior manager.

The manager will acknowledge receipt of the formal complaint in writing within three working days of receipt. This letter should outline the next steps to be taken, information on sources of support, and the name of the investigative officer where possible.

The investigative officer will then undertake a formal investigation, which must be carried out with due regard to the need for a swift conclusion and should normally take no longer than four weeks from the date of initial acknowledgement of the complaint. The investigating officer will keep both parties informed of the progress of the investigation, including any necessary alteration to the above timescale.

Where a counter complaint is made by the alleged harasser/bully, this will be dealt with as part of the same investigation.

At any stage of the formal procedure the complainant may decide that they wish to attempt to resolve the situation through an informal approach instead. They will be supported in this decision wherever possible. However, the investigating officer has a duty of care. If it is their view that informal resolution is not appropriate due to the seriousness of the allegations, or that there is a potential for serious risk to an employee, they should continue with formal action.

The investigating officer will interview the complainant and the alleged harasser/bully, and take written signed statements from both. The alleged harasser/bully will be informed of the allegations made against him/her. Both parties have a right to be accompanied (by either a Trade Union representative or a work colleague) at the first and any subsequent interview. Interviews may also be held with any witnesses concerned with the incident(s) of alleged harassment/bullying.

In appropriate circumstances the manager will take precautionary action. This will involve either temporary redeployment or suspension of the alleged harasser/bully whilst the matter is being investigated. Taking into account the nature of the allegations involved, consideration should first be given to temporary redeployment. If this is not considered appropriate, then the employee will be suspended on full pay. The appropriate Head of Service and HR Advisor must be consulted prior to any precautionary action being taken. Precautionary action will be without any assumption of culpability, will always be for a short a period as possible, and the need for its continuation must be reviewed regularly.

On completion of the investigation the investigating officer will close the investigation by evaluating the evidence and preparing a written report to the complainant's Head of Service. The written report will summarise the findings on the allegations of the complainant and recommend what further action should be taken. The Head of Service

should then decide on the course of action to be taken, and provide formal notification to that effect to both parties.

Closing an investigation will lead to three possible outcomes:

1. Complaint not upheld

If it is decided that there is no case to answer, support will be provided for both parties, and consideration given to managing their ongoing working relationship. This might include, where practicable, the voluntary transfer of either of the employees concerned.

2. Evidence of unacceptable behaviour that may be dealt with informally

In some cases where harassment/bullying is substantiated, but does not warrant disciplinary action, it may still be possible to agree an acceptable resolution. For example, the manager may address the situation through supervisory processes including counselling, advice, instruction, training and/ or support. In such cases the manager must make it clear to the employee that their behaviour is unacceptable and that further similar instances may lead to disciplinary action.

3. Disciplinary Action

Where an investigation concludes that there is sufficient evidence of unacceptable conduct, and an acceptable resolution cannot be reached or supervisory processes are inappropriate, it will be necessary to commence disciplinary proceedings in accordance with Bassetlaw District Council's Disciplinary Policy and Procedure.

In each of the above, procedures for ongoing monitoring will be put in place by the responsible manager.

Following investigation, if it is found that the complaint of harassment/bullying was false or malicious then the complainant may be dealt with under Bassetlaw District Council's Disciplinary Policy and Procedure.

Appeal Process

If the complainant is not satisfied with the outcome of the harassment investigation, then they have a right of appeal against the decision made, which should be submitted in writing to the Head of Human Resources within 10 working days of receiving written notification of the decision. The letter should clearly set out the grounds for appeal.

Appeals will be heard as soon as is reasonably practicable, and no later than ten working days from the date of the review letter submitted (unless a delay is unavoidable). Appeals will be undertaken by a review panel comprising a Head of Service who has not previously been involved in considering the matter, along with a manager from a different service to the complainant. A member of Human Resources will provide impartial advice during the appeal hearing.

The alleged harasser / bully has a right of appeal against any disciplinary action, as set out in the Disciplinary Policy and Procedure.