



13 April 2017

**Corporate Policy and
Resources Committee**

Subject: New Bullying and Harassment Policy

Report by:

Director of Resources
Ian Knowles

Contact Officer:

Emma Redwood
People & OD Team Manager
Emma.redwood@west-lindsey.gov.uk

Purpose / Summary:

To propose a new Bullying & Harassment Policy
for staff, to replace the existing policy

RECOMMENDATION(S):

That Corporate Policy and Resources Committee approve the Bullying & Harassment Policy and the policy is adopted for all employees of the council.

Delegated authority be granted to the Director of Resources to make minor housekeeping amendments to the policy in future, in consultation with the chairman of the Corporate Policy & Resources committee and chairman of JSCC.

IMPLICATIONS

Legal: The council is required to have a bullying and harassment working policy to ensure that legislative requirements are met for employees

Financial : There are no changes to the policy which impact the finances of the council, however there are financial risks to the council if it does not have a robust policy on place FIN/135/17

Staffing : None

Equality and Diversity including Human Rights :

West Lindsey District Council has a commitment to equal opportunities. It seeks to ensure that no potential or current employee receives less favourable treatment than another on the grounds of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

Wherever possible please provide a hyperlink to the background paper/s
If a document is confidential and not for public viewing it should not be listed.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1. Introduction

The council has a Bullying and Harassment Policy in place, however due to updates in legislation, changes to the Acas definition and incorporating best practice a review was required to provide employees with the most up to date information.

2. Purpose

The council recognises the importance of providing staff and managers with accurate information and guidance when navigating through the bullying and harassment legislation and requirements and has therefore fully reviewed the policy and proposes implementing a new updated policy.

3. Scope

This policy applies to all staff including employees, contractors, casual and agency staff and volunteers of the organisation for matters relating to issues of bullying or harassment and directs staff to resolve matters through an informal as well as a formal process.

The policy covers all situations both within the workplace and in any work-related setting outside the workplace, including for example, business trips, conferences and work-related social events.

4. Main Changes

The old policy has been reviewed and rather than making amendments a new policy has been written to ensure a robust policy and procedure is in place for the council, its staff and managers.

5. Engagement

The policy has been developed by the People and OD Team Manager. Independent advice has been sought from an external specialist and Unison has been consulted regarding this policy.

The policy has also been considered at JSCC and was fully supported by Members, Unison and Staff Representatives. Some amendments were made following a request from Unison at JSCC and this has been incorporated into the proposed policy for CP&R.

6. Training and Awareness

This policy will be made available to view on the Minerva site and hard copies available at the depots once formally agreed.

A clear communication will be sent to Managers to make them aware that the policy has been reviewed and to update them on their responsibilities. Training has already been rolled out to managers to raise awareness of their responsibilities with regards to this matter.

An e-learning awareness module will be rolled out to all staff.

7. Recommendation

That Corporate Policy and Resources Committee approve the Bullying & Harassment Policy and the policy is adopted for all employees of the council.

Delegated authority be granted to the Director of Resources to make minor housekeeping amendments to the policy in future, in consultation with the chairman of the Corporate Policy & Resources committee and chairman of JSCC.

Bullying And Harassment Policy

JSCC Approved – 30 Jan 2017

CP&R Approved –



Policy Statement

The council is committed to creating a work environment free of bullying and harassment, where everyone is treated with dignity and respect.

This policy explains:

- The behaviours that you are expected to demonstrate
- What bullying, harassment and victimisation means
- What you need to do if you think you are being bullied, harassed or victimised.

The council is under a legal obligation of a duty of care to provide both a safe place and a safe system of work. If it is considered that bullying or harassment is taking place, the council cannot derogate this duty of care and will be obliged to investigate and take appropriate action (including disciplinary action) against the harasser, if circumstances justify this.

Aim of this Policy

Bullying or harassment at work can have serious consequences for all those involved. It can have serious consequences for individuals. It may make people unhappy, may cause them stress, and affect their health, family and social relationships. It may also affect their work performance and could cause them to take time off from work or leave their jobs.

For the council, it can adversely affect the working environment, reduce productivity, impair performance, increase absence rates and staff turnover, create legal claims and cause damage to the council's reputation.

Through this policy we aim to:

- Ensure the dignity at work of all employees
- Respect and value differences
- Ensure that employees are aware of the types of behaviour which may constitute bullying or harassment
- Identify individual responsibility in preventing such behaviour
- Provide procedures which recognise and take account of the sensitivity of the issues raised
- Provide procedures which enable complaints to be investigated promptly and appropriately, within agreed time scales
- Provide a framework to ensure that bullying or harassment is dealt with effectively, and that action is taken to prevent any recurrence
- Provide a working environment in which employees feel confident to bring forward complaints of bullying or harassment without fear of victimisation
- Provide access to mediation in appropriate circumstances
- Provide access to confidential counselling in appropriate circumstances
- Provide appropriate training and guidance for all individuals involved in the handling of bullying or harassment complaints

Scope

This policy applies to all staff including employees, contractors, casual and agency staff and volunteers of the organisation for matters relating to issues of bullying or harassment and directs staff to resolve matters through an informal as well as a formal process.

The policy covers all situations both within the workplace and in any work-related setting outside the workplace, including for example, business trips, conferences and work-related social events.

Occasionally the council may organise social events to which staff are invited. Staff may also be invited to attend residential training courses or gatherings for staff leaving the council. Although these social events usually take place away from staff's normal workplace and outside normal working hours the council's Bullying & Harassment policy and Code of Conduct may still apply and employees should therefore be mindful of their conduct at such events and outside of work generally.

WLDC works in partnership with other authorities, organisations and also engages interim, consultant and agency staff. Should an issue of harassment/bullying arise, the complaint should be handled in conjunction with the other employer, in normal circumstances the employing organisation of the external person will be responsible for the investigation of the alleged incident(s) and the outcome will be shared with WLDC and the individual concerned.

Definitions used in this policy

The terms bullying and harassment are used interchangeably by most people, and many definitions include bullying as a form of harassment.

The term "complainant" refers to an employee who feels they are being harassed, bullied or victimised.

The term "harasser" refers to the employee who is the alleged perpetrator of the behaviour that could be construed as harassment, bullying or victimisation.

What is harassment?

Harassment at work is unlawful under the Equality Act 2010 and is defined as:

- Unwanted conduct related to a relevant protected characteristic (an area covered by discrimination legislation) which has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive working environment for them; or
- Is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment even if this effect was not intended by the person responsible for the conduct.

The protected characteristics under the Equality Act 2010 are:

Age	Disability
Gender reassignment	Marriage & civil partnership
Pregnancy & maternity	Race
Religion or belief	Sex
Sexual orientation	

The law also offers protection to anyone who suffers discrimination or harassment because they are perceived to possess one or more protected characteristics or because they associate with another person who possesses a protected characteristic (eg carers of a person with a disability).

Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it reoccurs, once it has been made clear by the victim that they consider it offensive. One incident may constitute harassment, however, if it is sufficiently serious. Harassment on any grounds will not be tolerated.

Harassment can lead to disciplinary action and, where proven, may attract sanctions up to and including dismissal. In the event of any civil claim being made against the council, the perpetrator of harassment will be joined into any proceedings and may also share liability where a successful claim for damages is made.

The organisation together with any managers or supervisors who fail to take steps to prevent harassment or investigate complaints may be held liable for their unlawful actions and be required to pay damages to the victim, as will the employee who has committed the act of harassment. There is no limit to the compensation that can be awarded in employment tribunals for acts of harassment.

Examples of Harassment

These are examples, not a definitive list of types of behaviour which could be found to constitute harassment. Employees must recognise that what is acceptable to one employee may not be acceptable to another.

- **Verbal** – crude language, open hostility, offensive jokes, suggestive remarks, innuendoes, rude or vulgar comments, malicious gossip and offensive songs.
- **Non verbal** – wolf whistles, obscene gestures, sexually suggestive posters/calendars, pornographic materials (both paper based and generated on a computer, including offensive screen savers), graffiti, offensive letters, offensive emails, text messages on mobile phones and offensive objects. Making gestures that mock a person's equality characteristic.
- **Physical** – unnecessary touching, patting, pinching or brushing against another employee's body, intimidating behaviour, assault and physical coercion.
- **Coercion** – pressure for sexual favours (eg to get a job or be promoted) and pressure to participate in political, religious or trade union groups etc.
- **Isolation** or non co-operation and exclusion from social activities for reasons based on a person's equality characteristic.
- **Intrusion** – following, pestering, spying etc

- **Continued** suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome.

What is Bullying?

There is no legal definition of 'bullying'. It is defined by ACAS as 'Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'.

Bullying can be a gradual wearing down process comprising a sustained form of psychological abuse that makes victim's feel demeaned and inadequate.

Bullying can occur in many ways e.g. peer to peer, manager to employee, and employee to manager. Bullying can be carried out by individuals or by groups of people.

Examples of Bullying

Workplace bullying can range from extreme forms such as violence and intimidation to less obvious actions, like deliberately ignoring someone at work. These can be split into two categories:

The obvious:

- Shouting or swearing at people in public and private
- Persistent criticism
- Ignoring or deliberately excluding people
- Persecution through threats and instilling fear
- Spreading malicious rumours
- Constantly undervaluing effort
- Dispensing disciplinary action that is totally unjustified
- Spontaneous rages, often over trivial matters

The less obvious

- Withholding information or supplying incorrect information
- Deliberately sabotaging or impeding work performance
- Constantly changing targets
- Setting individuals up to fail by imposing impossible deadlines
- Levelling unfair criticism about performance the night before an employee goes on holiday
- Removing areas of responsibility and imposing menial tasks
- Blocking applications for holiday, promotion or training.

The actions listed must be viewed in terms of the distress they cause the individual. It is the perceptions of the recipient that determine whether any action or statement can be viewed as bullying.

Recognising bullying and harassment behaviour

Managers should be aware that the types of behaviour outlined in this policy are often hard to recognise and that employees may be too frightened to report an incident. Managers should be alert to some of the possible signs, these may include:

- Sudden and unusual levels of absenteeism
- High staff turnover – especially if it occurs in a particular section or where staff work for a particular manager
- Stress symptoms – such as fatigue, anxiety, depression and panic attacks
- A change in an individual’s behaviour or performance at work

Managers should also be aware that such behaviour may be not just carried out face-to-face, it may be done in more underhand ways, such as by letter, electronically by email, by phone or work related social functions and on social networking sites.

Bullying can be carried out by groups, and there can be a bullying culture that is gradual and harmful. This can be difficult for those inside it to recognise, or to break out of.

Managers should be supportive of those who raise an issue and ensure they are no less favourably treated as a consequence. On the other hand, managers should deal with allegations sensitively when discussing the matter with the alleged “harasser” as it may be the case that the allegation may have no foundation.

What is Victimisation?

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating or threatening someone because they made a complaint, or giving them a heavier or more difficult workload.

Provided that an employee has acted in good faith, i.e. they genuinely believe that what they are saying is true, they have a right not to be victimised for making a complaint of bullying or harassment and the council will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised a person.

The council has a confidential reporting line for whistleblowing. An employee is also protected from victimisation or detriment if they have raised a protected disclosure under the council’s Whistleblowing Policy – available on Minerva and the council’s website.

Electronic Bullying

This is a term used to refer to bullying and harassment through electronic media, usually through instant messaging, emails, social media, or text messages. In sending emails or electronic messages employees should consider the content, language and appropriateness of such communications.

- Avoid using language which would be deemed to be offensive to others in a face-to-face setting as the impact on individuals will be much the same
- Avoid the use of provocative or inappropriate images
- Avoid forming or joining an online group that isolates or victimises fellow colleagues
- Ensure that you never use such sites to access or share illegal content

If online bullying or harassment is reported it will be dealt with in the same way as if it had taken place in a face-to-face setting.

What is the impact of bullying or harassment?

The impact of bullying or harassment includes the following:

- bullying or harassment may make someone feel anxious and humiliated
- people may feel angry and frustrated because they cannot cope
- some people may try to retaliate in some way
- others may become frightened and demotivated
- stress, loss of self-confidence and self-esteem caused by bullying or harassment can lead to job insecurity, illness, absence from work, and even resignation.
- Almost always job performance is affected and relations in the workplace suffer

Role and Responsibilities:

Failure to deal with bullying and/or harassment allegations may expose both the council and employees to a number of legal consequences. Complainants can cite both the employer and individual employees as respondents at Employment Tribunal and, if the case is upheld, both may be held liable.

Role and Responsibility of Employer

The council will:

- Accept its legal and moral responsibility to deal effectively with bullying and harassment in the workplace using this policy in conjunction with, and if appropriate, the disciplinary procedure.
- Ensure that all employees are aware of the Bullying and Harassment Policy through the induction process.
- Provide guidance and training to all employees responsible for dealing with complaints under the Bullying and Harassment Policy.
- Provide general awareness training for all employees.

Responsibility and Role of Manager

The manager is responsible for ensuring the awareness and compliance with this policy by the staff they manage.

Managers and supervisors have a specific duty to set and demonstrate standards of acceptable behaviour and to be vigilant in observing the behaviour of others. They are also responsible for taking steps to prevent inappropriate behaviour once it has been identified. Action must be taken once a manager becomes aware, even if no formal or informal complaint has been made. Inappropriate or unacceptable behaviour can be raised using performance management techniques (ie induction, probationary period, supervision, appraisal and training) as well as in 1 to 1 discussions immediately following any observed inappropriate behaviour. Where a complaint is made, managers should ensure that the procedural guidelines are followed.

Managers should –

- Be aware of the policy and what to do when a situation is brought to their attention
- Attend training organised by the council
- Treat complaints of bullying and/or harassment seriously, sensitively and confidentially.
- Ensure that the work environment is non-threatening and supportive and take steps to prevent bullying and/or harassment
- Explain and model the council's expected standards of behaviour
- Lead by example and be prepared to challenge all forms of unacceptable behaviour
- Escalate the issue if appropriate
- Consult with HR if they have any concerns, and avoid not dealing with or raising concerns

Responsibility and Role of Employee

All employees have a personal responsibility not to harass or bully other members of staff, or to condone harassment or bullying by others.

They are required to:

- Treat all colleagues with dignity and respect and be aware of how their behaviour can be perceived to affect other people.
- Be supportive of colleagues who are being bullied or harassed and bring it to the attention of their line manager, or other appropriate manager.
- Respond promptly to any feedback and advice on their behaviour, be it from a colleague or a manager.
- Seek to resolve matters informally wherever possible.
- Ensure that they understand the policy and the consequences of vexatious complaints and abuse of this policy.
- Support the council in its efforts to eradicate any such behaviour that may threaten the council's commitment to ensuring the dignity at work of all its employees.

Responsibility and Role of HR

- The HR team can offer guidance, advice and support to employees and all levels of management.
- HR will offer guidance with regard to the interpretation of this policy and best practice recommendations in dealing with incidents of bullying or harassment, including the appropriate information to record.

Responsibility and Role of Trade Union

The trade union recognised by this council will:

- Support the council in its efforts to provide a working environment free from bullying and harassment
- Help inform the workforce of this policy and encourage employees who may have a problem to use the procedures available to them
- Advise members of their rights and responsibilities under this policy and to represent members as and when appropriate

- Advise members accordingly in cases where they appear to be making malicious claims.

Responsibility and Role of Councillors

Councillors are bound by the Code of Conduct which clearly sets out standards of behaviour towards other Councillors and Officers.

If there are instances of bullying or harassment by Councillors towards Officers or other Councillors, those Councillors who are aware of the incident are encouraged to report it to the Monitoring Officer.

It is also advised that Officers, who are either the subject of bullying or harassment by Councillors, or who witness such an incident, should also report this to the HR team or the Monitoring Officer.

Formal complaints made against a Councillor will be managed in accordance with the "Arrangements for dealing with standards allegations, (against a District Councillor) under the Localism Act 2001" Procedure, available on the council's website.

Fair and Effective Management

Managers have the right to manage staff effectively, giving reasonable instructions when required and this does not constitute bullying or harassment. This includes dealing appropriately with shortcomings in performance, conduct, attendance and behaviour when fair to do so.

It is therefore important to differentiate between management and bullying and / or harassing behaviour. Within the council there is an expectation that managers fulfil their duties and responsibilities and therefore it is reasonable to expect a manager to carry out their function in a fair, firm and consistent manner.

Managers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of an employee's behaviour or job performance does not therefore constitute bullying or harassment.

It is recognised that some staff may feel stressed or anxious while performance management procedures are ongoing. It is in the interests of the council that managers should be able to carry out their duties without threat of ill intended, malicious or vexatious complaints. An investigation will determine whether a manager has bullied or harassed an employee or managed them fairly, but firmly.

Initiating Investigation Without a Complaint

Issues of bullying or harassment may be identified via various sources of information other than direct complaints e.g. exit interviews (particularly in areas of high staff turnover), employee surveys or feedback. In these cases a bullying and harassment investigation may be instigated to ensure that information on possible bullying and harassment is followed up. Issues highlighted by HR will be raised with the relevant manager.

Vexatious or Malicious Complaints

Where a complaint is found to be blatantly untrue and has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the council's disciplinary procedure, as will any witnesses who are found to have deliberately misled the investigating officer or manager.

Responding to Counter Allegations

When a complaint of bullying or harassment is made, sometimes a counter complaint is also made. In these circumstances, both complaints will be investigated simultaneously by the same investigating officer, if practicable. Advice should be sought from HR in respect of how best to deal with these situations.

What happens if I am accused of harassment or bullying?

If an employee approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were "only joking" or you think that he or she is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him or her, and to have his or her feelings respected by others.

You may have offended someone without intending to. If this is the case, the person concerned may be content with an explanation and an apology from you, and an assurance that you will be careful in the future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour which caused the offence, that may well be the end of the matter.

If you are approached about informal allegations in relation to your conduct or behaviour and mediation is proposed as an option you should carefully consider this as a helpful way forward to resolve the concerns raised. Mediation will only be viable where both parties agree to mediation.

If a formal complaint is made about your behaviour, this will be investigated and the council may bring disciplinary proceedings against you if appropriate. Complaints of bullying and / or harassment may well fall under gross misconduct, which if proved could lead to dismissal.

Procedure – where bullying or harassment behaviour is experienced

Whilst the council is firmly opposed to any behaviour that may constitute bullying or harassment, it also recognises that the employee subjected to the behaviour has a vital role to play in the prevention of this behaviour.

Bullying and harassment tends to happen over a course of time and many employees do not come forward until very late and any damage has been made worse because of the length of time. The council strongly recommends and would encourage employees not to tolerate the behaviour or be afraid to report the behaviour thus allowing it to build up.

Whenever an employee witnesses or is subject to behaviour they find unacceptable they should:

- In the first instance, if they feel able to do so, try to approach the employee concerned and explain that they find the behaviour unwelcome, explaining that it offends them or makes them feel uncomfortable, or that it interferes with their work and they wish it to stop. Often, the behaviour may have been commonly acceptable and all that is needed is the explanation that this is no longer the case.
- If this is not possible, in addition to reporting the behaviour to the manager, they could confide in another colleague so that someone else is aware of the problem and can offer support or advice in tackling the problem.
- Discreetly record all relevant incidents including dates, times and any witnesses present and the way in which the behaviour has affected the employee personally and whether it has had any impact on the work.
- Consider contacting the Employee Assistance Programme, details are available on Minerva or contact details are on posters around the council.

Confidentiality

All parties involved in an investigation are under an obligation to maintain confidentiality throughout the process. Any inappropriate sharing of information relating to the investigation could result in disciplinary action being taken.

Right to be accompanied

At all formal stages of this procedure (with the exception of agreed mediation) the employee will be given the opportunity to be accompanied by either a work colleague or their trade union representative/official employed by a trade union.

There is no right to be accompanied or represented by a solicitor or legal representative or other representative at any stage of the procedure.

It would not be reasonable for staff to insist on being accompanied by a companion whose presence would prejudice the proceedings and the council reserves the right to refuse for such a companion to accompany an employee.

Informal Stage

It is preferable for all parties concerned to try to resolve matters informally as this is likely to produce solutions which are speedy, effective and restore positive relations in the workforce.

The complainant should raise any concerns or issues informally with:

- Their manager
- The managers manager, if the immediate manager is the cause of the complaint, or:
- A member of the Human Resources team

At this stage the appropriate manager and / or member of HR will meet with the complainant to discuss the issue on a one to one basis. Appropriate action to start dealing with the complaint, such as arranging a meeting etc. should be taken within 7 working days unless the situation is so serious to warrant immediate formal action. The complainant should explain what their concerns are along with the reasons.

The manager and / or member of HR should objectively consider the merits of the complaint taking into account:

- The allegation made
- Whether they should speak to the alleged harasser to obtain their version of events
- Whether the perception of the complainant is reasonable in the circumstances i.e. could what has taken place be reasonably considered to have caused offence
- Whether the reaction of the complainant to the issue is reasonable
- Whether there may be any motives behind the allegations
- Whether there is a communication issue which may be resolved informally or by mediation

If the manager and / or member of HR consider there to be no merit in the concern the complainant should be advised of the reason(s) why.

If the manager and / or member of HR feel that the concern may be legitimate, they should discuss together the options available to resolve it. Minor issues should be resolved through normal line management.

If possible an informal discussion should then take place with both the complainant and the alleged harasser. A direct approach to the alleged harasser will make them aware that their behaviour is inappropriate and provides them the opportunity to modify it. It is a fact that some people may be unaware that their behaviour is being perceived in the way it is and bringing it to their attention is all that is needed. For example, an employee may be naturally brusque or businesslike and not appreciate that this may be taken out of context by the recipient.

Likewise, there are always two sides to an allegation and it is important to understand the alleged harasser's intentions and reasons for their behaviour when trying to understand the impact of the behaviour on the complainant and in choosing the most effective resolution to the situation.

It may also be suitable to deal with the issues by raising them at mediation meetings where appropriate and where the employees agree that this would help resolve the issues.

Depending on the behaviour complained about, ordinarily it is only when the behaviour continues after the effect on the complainant has been made clear, that the complaint can be progressed. However, an isolated incident may be sufficiently serious to mean the matter will be progressed to the formal stage immediately.

Whilst this stage is informal, notes of the discussion and action taken should be taken. HR should be informed and they will send a letter to the employee(s) confirming the discussion and necessary actions.

Should this approach fail to remedy the situation or to stop the behaviour complained of, 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.

Mediation

Mediation is a voluntary, confidential process where an independent and trained mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator.

Mediation is independent from any actual disputes. Therefore, participating in the mediation process will not have any impact on any additional processes should they be required.

Employees may be offered mediation and employees would ordinarily be expected to participate at any stage if it is reasonable, necessary and an effective option in the circumstances.

Mediation will be suitable for many inter personal disputes where employees would benefit from understanding their respective viewpoints. It is not intended to make employees friends, but rather to make sure that the working environment is effective.

The mediator will produce a written agreement, which will be signed by both parties and a signed copy will be shared with the Manager and a copy will also be sent to HR for record.

Any discussions taking place during mediation and the subsequent written agreement will remain confidential and “without prejudice” and may not be used by either party in any subsequent internal or external process, unless it is with the explicit consent of both parties.

If the parties cannot reach agreement through mediation then the matter will be referred back to the formal process.

Where a complaint is made whilst the employee is subject to disciplinary proceedings

Any harassment or bullying complaint which is raised during a disciplinary process and which is related to the disciplinary proceedings or the circumstances relating to the alleged misconduct will be dealt with as part of the disciplinary investigation process.

Where the harassment or bullying complaint does not relate to the disciplinary proceedings, the Investigating Officer and a member of HR will consider whether the complaint may have implications on the investigation or its outcome. Consideration may be given to whether the disciplinary investigation should be placed on hold. It will not automatically follow that the investigation will be placed on hold merely because a complaint has been made.

In the event that it is deemed appropriate to place the disciplinary investigation on hold, the complaint will be investigated under the Bullying and Harassment policy and the disciplinary investigation will reconvene upon its conclusion.

Suspension

Suspension is not a disciplinary sanction and employees should not be suspended as a matter of course. There should always be due consideration of the necessity to suspend

and this should be reviewed during the process to ensure that there is a continued need for suspension. It should be considered as a last resort and handled with tact and sensitivity.

Circumstances in which suspension may be appropriate include:

- Where the employee or other individuals are perceived to be at risk
- Gross misconduct is suspected to have occurred
- Where suspension is necessary to allow the conduct of the investigation to proceed unimpeded
- Where there is a risk of the misconduct reoccurring if the employee remained in the workplace
- This list is not exhaustive

The decision to suspend will be taken by the manager or nominated officer in consultation with a member of the HR team. The decision to suspend will always be confirmed in writing by HR and will outline the protocols, expectations and requirements of the employee during the period of suspension.

There is no appeal against the decision to suspend.

An employee who is suspended should not discuss the case with witnesses or work colleagues without permission to do so. The employee will be afforded all reasonable access to materials pertinent to the investigation where appropriate.

Contravention of this instruction without reasonable excuse will, in itself, be a potential disciplinary matter. Any request for copies of information, documentation, files etc. should be submitted to a member of the HR team.

Formal Stage

If the complainant wishes to make a formal complaint, either straightaway or because the informal procedure has failed to resolve the problem, the formal procedure should be followed.

A formal complaint should be made in writing, making it clear that it is a formal complaint under this procedure and detailing the basis upon which the alleged bullying or harassment has taken place, this should be sent to the HR team.

When a complaint is received HR will undertake a case review of the complaint and may suggest an informal resolution.

The formal stage is not appropriate to deal with cases of day to day normal management issues.

An Investigating Officer will be appointed (not from within the service) and they will be able to request advice and assistance from a member of HR where necessary during the course of the investigation. The council may, at its discretion, use an external investigator where this is deemed appropriate.

Strict confidentiality should be maintained throughout any investigation into an allegation. The importance of confidentiality must be emphasised to all parties interviewed under the investigation.

During the course of the investigation the Investigating Officer will interview the complainant, the alleged harasser and any witnesses involved. When the need to interview any employee involved arises, that employee may be accompanied by their Trade Union representative or by another employee. However, unavailability of the Trade Union Representative will not stop the interview going ahead. All parties will be advised of the nature of the complaint and will be given the opportunity to state their case.

During these meetings employees must include all facts and evidence pertinent to the complaint that they would wish to be considered. Once the investigation is complete, no other supplementary information will be allowed to be submitted by either party unless the supplementary information could not have been reasonably identified or located during the investigation.

Witnesses should be advised that their statement may be used as evidence at a later stage should the case progress to discipline procedures and that they may also be required to attend a disciplinary hearing.

Completion of investigation

When the investigation is complete, a report will be prepared by the Investigating Officer containing all the investigation information including statements and all background documents. The Investigating Officer will then make a recommendation based on the evidence of the case.

Only if the investigation is followed by disciplinary proceedings would the full report containing the original complaint and witness statements be shared with the complainant and the employee against whom the complaint is made.

May be a case to answer

If the Investigating Officer recommends that there may be a case to answer the report will be passed to the HR team so that a formal disciplinary hearing can be arranged. The disciplinary policy, from the hearing stage, should then be followed from that stage forward.

The harasser will be written to with:

- Details that a hearing will take place
- The identity of the officer hearing the case
- Full details of the complaint/allegation with any evidence attached
- Details of the potential sanction that may be issued, and
- The right to be accompanied by their trade union representative or work colleague

The harasser will be able to appeal against the decision made at the hearing, this would be confirmed in writing.

No case to answer

If the Investigating Officer decides that there is no case to answer, the complainant will be invited to a meeting with the Investigating Officer to disclose the outcome. The complainant may be accompanied by their trade union representative or a work colleague. The complainant will be provided with reasons for the decision which will be followed up in writing.

The purpose of this meeting is for the Investigating Officer to provide the complainant with reasons why it has been decided that there is no case to answer.

If the complainant disagrees with the Investigating Officer's decision, the employee will be able to appeal, this would be confirmed in writing.

Complaint Monitoring

Following the completion of the case/investigation managers should continue to monitor the situation and talk to the individuals involved informally to find out whether the conflict has been resolved or if there are renewed tensions or unhappiness. This could be carried out through one to one meetings and performance appraisals.

Policy Statement

West Lindsey District Council has a commitment to equal opportunities.

It seeks to ensure that no potential or current employee receives less favourable treatment than another on the grounds of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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01427 676676

Guildhall, Marshall's Yard
Gainsborough, Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170
DX 27214 Gainsborough

www.west-lindsey.gov.uk



Bullying & Harassment Procedure Flowchart

