



CITY OF YORK COUNCIL

Dignity at Work
Policy and Procedure

1. Introduction

City of York Council is committed to the promotion of dignity at work and aims to establish a working environment which is inclusive, free from discrimination and based upon the values of dignity, courtesy and respect. It recognises the right of every person to be treated in accordance with these values.

Harassment, bullying and victimisation are unacceptable forms of behaviour which will not be tolerated by the council. Any allegation of this nature will be treated seriously, and as a matter of priority, regardless of the seniority of those involved, and anyone found to have behaved unacceptably may be the subject of disciplinary action up to and including dismissal.

This policy supports the council's commitment to carrying out its Public Sector Equalities Duty.

2. Policy

The council's policy is to:

- promote a positive working environment in which people are treated with dignity, fairness and respect;
- to clearly publicise the council's zero tolerance to bullying, harassment or victimisation of its employees by anyone;
- encourage all staff members, and others who work for the council, to play a role in creating and maintaining an environment in which harassment, bullying and victimisation are understood to be unacceptable forms of behaviour;
- provide a framework of support for staff who feel that they have been the subject of harassment, bullying or victimisation;
- provide support and training for managers, in understanding and addressing issues, and handling cases raised;

- ensure that allegations of harassment, bullying or victimisation are addressed promptly and fairly, with respect for the rights and dignity of all those involved;
- identify the appropriate formal processes by which complaints can be addressed, with the use of mediation being an option at all stages;
- to record and monitor formal complaints;
- to periodically monitor progress on how well it is creating a workplace that respects the dignity of people at work.

3. Scope of the Policy

3.1 Who is covered

This policy applies to all council employees (except those employed by schools, where an equivalent policy will exist), and to elected members.

Non-CYC workers¹ are also expected to adhere to the aims of this policy while carrying out work for the council. Where possible, this will be implied in the terms of their contract for service with the council.

3.2 What is covered

Any conduct which affects the dignity of someone at work, and which could be seen as a form of bullying, harassment or victimisation will be treated seriously and possibly as gross misconduct, which can lead to dismissal under the council's Disciplinary Procedure. In particular, some behaviour is covered by the Equality Act.

The Equality Act 2010 (hereafter referred to as 'the Act') makes it unlawful to harass an individual or group for a reason related to a relevant 'protected characteristic'.

¹ "Non-CYC workers" are all others who are working within or on behalf of the council, such as agency staff, volunteers and work placements, or who are employed by other companies, such as consultants, contractors and suppliers.

The Act protects against harassment on the grounds of the following ‘protected characteristics’:

- Age
- Disability
- Gender reassignment
- Race (including colour, nationality, ethnic or national origin’)
- Religion or belief
- Gender
- Sexual orientation

There is further protection against victimisation on the following grounds:

- Pregnancy/maternity
- marriage/civil partnerships

While bullying, or the harassment of non protected groups are not covered by the Act, the behaviour in itself is unacceptable and will not be tolerated by the council.

Any such conduct of employees, towards other employees and also to non-CYC workers is covered by this policy. This will be regardless of seniority, reporting lines, working teams or structures.

3.3 What are bullying, harassment and victimisation?

Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.

Harassment is unwanted conduct related to any of the above protected characteristics, that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else, or supported someone to make a complaint, or given evidence in relation to a complaint.

Further, it is important to be aware that:

- i. Conduct may be harassment whether or not the person behaving in that way intends to offend.
- ii. A single incident can be harassment if it is sufficiently serious.
- iii. Harassment also includes circumstances where an individual is subjected to unwanted conduct from a third party, such as a client or customer.
- iv. Behaviour towards colleagues and peers may be harassment even if it takes place outside work premises on work-related social occasions.
- v. Bullying or harassment does not have to be face-to-face. It can also be through conversations on the telephone or can include the use of internal or external emails or letters, and can be through social media such as Facebook comments or text messages.
- vi. Reasonable management instructions, and the management of under-performance, will not in themselves amount to bullying, harassment or victimisation. This is provided that such instructions have been communicated in an acceptable and appropriate manner and/or procedures have been used appropriately.
- vii. Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics.
- viii. Serious bullying or harassment may amount to other civil or criminal offences, eg a civil offence under the Protection from Harassment Act 1997, or criminal offences of assault.

Additional descriptions of the terms bullying, harassment or victimisation in the context of this policy are provided in **Understanding bullying, harassment and victimisation**, together with some examples. These will help to clarify how certain types of behaviour will be viewed.

4. Implementation of the policy

The policy will be applied to all formal complaints of bullying, harassment or victimisation received by the council on or after 23rd October 2012, (including for alleged incidents occurring prior to this date.)

Complaints received prior to this date will be dealt with using the previous procedure.

5. Other related policies and documents:

- Code of Conduct
- Corporate Equality Commitment Statement
- Whistleblowing policy

Further information is available on Colin, for staff and managers.

1. Procedures to be followed

In order to allow for the situation to be resolved as quickly as possible, the process is intended to be simple and transparent. Confidentiality must be maintained wherever possible.

If an issue is raised by or involves Members of the council, the Assistant Director for Governance should be consulted on the way forward.

2. Identifying the issues

Support: If an employee feels that they are being bullied, harassed or victimised, they can first seek support from the First Contact network (FCN), who are fellow employees trained to offer confidential support and information. They can also talk to their line manager, a trade union representative or a member of the Employee Relations team in HR.

They should make records of any incidents of the type of behaviour that is causing offence, together with specific examples if possible. These should include details of where they were, dates and times when they occurred, and the names of any employees who witnessed them.

3. Informal Stage and Mediation

Unless the examples of behaviour involve blatant or obvious actions of bullying, or direct harm, then the aim is to first try to resolve the matter informally, using mediation if helpful.

If employees feel they can, they should approach the harasser or bully, telling him or her that their behaviour is unacceptable and that it must stop, and that otherwise a formal complaint will be made using the procedure outlined below.

This first approach can be done in writing or in person. Support can be sought from the FCN who can if asked accompany the employee when speaking to the harasser or bully.

It must be remembered that the person may not always have acted with the intention of causing distress. They should always be given the chance to be

made aware of the way their behaviour is perceived by the employee, and allowed to change. Only if they continue with the behaviour should further action then be taken.

4. Formal Stage

Where informal solutions fail, or serious harassment or bullying occurs, employees can bring a formal complaint. Each step and action under this procedure will be taken without unreasonable delay.

Complaints will be investigated swiftly and confidentially while ensuring that the rights of both the alleged victim and the alleged harasser or bully are protected. Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting a colleague in making, a complaint, even if it is not upheld, as long as it is made in good faith. Everyone involved in the investigation, including witnesses, will be required to maintain confidentiality – a failure to do so will be a disciplinary matter.

Step 1: Lodging a complaint

- i. A formal complaint must be raised with a manager² and followed up in writing. A simple **Submission form** is provided to help capture the basic details. These will outline the alleged incidents, when they occurred, the harm caused, the names of any witnesses and the name of the alleged harasser or bully. Support from the FCN can be sought, to help with completing this form.
- ii. The written complaint should initially be lodged with the employee's manager. There will be times when it will not be appropriate for this to be the actual line manager, in which case the employee should approach an independent manager.
- iii. If that manager cannot deal with the matter, they will pass it on to another manager at the same or higher level.

² Where the term 'manager' has been used, this will normally be the employee's line manager. However in some cases there may be another manager outside the direct reporting line appointed by a Chief Officer to deal with the case.

Step 2: Advise the named person

The manager must inform the person against whom the allegation has been made, and if verbal this should be confirmed in writing. This must indicate who has raised the complaint and when, with brief details of the nature of the complaint.

Step 3: Conducting an investigation

If necessary, to safeguard all those involved, some interim precautionary measures should be considered.

- i. The council recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another during the investigation. If this is the case the council will consider a voluntary request from either party to temporarily work in another role, from a different location or at different times. However this cannot always be guaranteed.
- ii. Suspension may also need to be considered depending on the circumstances, (but can be invoked at any time during the investigation) if it is seen to be in the interests of the individual(s) or of the council to do so. The suspension may last until the outcome meeting but could be lifted sooner if new evidence comes to light during the investigation. Suspension in these circumstances is not a punitive measure, does not constitute disciplinary action and will be on full pay.

The manager will conduct investigatory interviews with the complainant, the individual against whom the complaint has been lodged and any relevant witnesses. The right to accompaniment will be provided to the complainant and the person against whom the complaint has been made.

The manager will prepare a full report and make any recommendations for further action as necessary. This report will form the basis of the feedback to the complainant at the outcome meeting.

Step 4: Outcome Meetings

- i. The manager will meet with the complainant to inform them of the outcome of the investigation (see Step 6). This will be confirmed in writing and will advise them of the right to appeal if they are not satisfied with the outcome.
- ii. The manager will also meet with the person against whom the complaint has been lodged, to inform them of whether or not the complaint has been upheld and the next steps, if any. This will be confirmed in writing.
- iii. Both employees will be provided with the right to accompaniment at these meetings.
- iv. The timing and location of the meeting must be reasonable.
- v. The meetings will not take place until the manager has had a reasonable opportunity to consider all the information gathered and to conclude the investigation.
- vi. The employees must take all reasonable steps to attend the meetings.

Step 5: Hearing the appeal

- i. If the complainant wishes to appeal, he or she must do this within 7 working days from receipt of the outcome letter. They must inform the manager who is to hear the appeal, and who must be senior to the manager who heard the complaint. In most cases this will be a Chief Officer.
- ii. The complainant will be invited to attend a further meeting.
- iii. The complainant will be provided with the right to accompaniment.
- iv. The timing and location of the meeting will be reasonable.
- v. The complainant must take all reasonable steps to attend the meeting.
- vi. After the appeal meeting the Appeal manager will make a decision and will write to inform the complainant of this within 5 working days.

Step 6: Outcomes

- a) If the complaint has been upheld:
- i. The matter will be passed to the next appropriate line manager. They will conduct a disciplinary hearing under the Disciplinary Procedure with the person who perpetrated the alleged harassment or bullying. The written report will constitute the Investigation Report for the Hearing Manager to use.
 - ii. If necessary, paid suspension from work will again be considered if it has not already.
- b) If the complaint has not been upheld:
- i. If the case was raised in good faith, the manager must now arrange for support for all parties to return to work. This can include arranging for mediation, counselling or training.
 - ii. Where a normal return to work is impossible, the possibility of changes to work times or locations should be considered. The possibility of either party transferring to another post could also be considered, but only with their consent. These actions must not be done to victimise or undermine any parties in the case.
 - iii. If it is found that the employee who raised the complaint, or any witnesses who gave evidence, did so falsely or with malicious intent, then they will be subject to the disciplinary procedure.

Full records of the proceedings and copies of meeting notes will be kept. A written record of the complaint and the outcome should be given to both parties.

5. Bullying, harassment or victimisation carried out by a third party

Where the bullying, harassment or victimisation has been carried out by someone other than a council employee, the employee affected must inform their manager, who can then take actions to safeguard them, as follows:

a) A Non-CYC worker³

If the behaviour is carried out by a Non-CYC worker, then their employer/agency should be approached by the manager. That employer should carry out their own investigation and follow their internal procedures accordingly. If the allegations are serious enough, that employer should transfer or remove that worker from carrying out that work.

b) A client / member(s) of the public

If a client or known member of the public is allegedly carrying out this behaviour, then the line manager should first carry out an internal enquiry to try to establish the facts. They must then consider using some or all of these steps:

- i. Approach that person in an informal way to allow them to acknowledge and amend their behaviour.
- ii. If serious enough, or if it continues, approach them in a more formal manner, pointing out that the council can bring prosecutions if it is necessary to protect its employees. This should be followed up in writing.
- iii. Where violence from a client is threatened or has taken place, the process under the **H & S Compliance Notes - Violence & Aggression** document should be followed. This can include adding the person onto the Staff Warning Register.
- iv. If a prosecutable offence has taken place, the council should consider starting proceedings against that person.

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- v. Where it is possible, and with the employee's agreement, the employee could be moved/transferred to another location / onto another case/route. This must not be done to victimise the employee, but as a safeguarding exercise, and should be a temporary measure.

c) Unidentified member(s) of the public

Where the employee has complained of behaviour from various members of the public, not necessarily identified, the council must act to ensure that this is not able to happen again. Some steps to be taken include:

- i. There should be signs clearly stating the council's zero-tolerance to bullying or harassment, and that prosecutions can be sought where necessary.
- ii. Other managers and employees may need to be made aware, to be able to assist if such cases arise again.
- iii. Put in place or reinforce any safety procedures where necessary.
- iv. The employee could be moved/transferred to another location / onto another case/route as above.

6. Monitoring

Where harassment or bullying has been found to have occurred and the perpetrator remains in employment, regular checks will be made by the manager to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim or any witnesses.

The council will also ensure that the employee who committed the act of harassment or bullying is not victimised in any way.

Anyone who does carry out victimisation will be subject to the disciplinary procedure.

7. Flow Chart of Process for Internal cases

