

Harassment at work: Policy and Procedure

**Employees should read this
procedure carefully and keep it
safely for future reference**

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Policy and Procedure on Harassment Introduction by Head of Corporate Services

1. Wandsworth Borough Council approved and adopted a Sexual Harassment Policy Statement and Procedure in April 1993 and a Racial Harassment Policy Statement and Procedure in September 1994. Since then employment law has been broadened in order to encompass other types of harassment involving disability, religion and belief, sexual orientation and age.
2. This Harassment Policy replaces all previous Harassment Policies and is a further extension of the Council's commitment to Equal Opportunities. The Policy outlines the responsibility of the Council, senior management and all employees to maintain a working environment where harassment and any other form of bullying are not tolerated and complaints are resolved. The Council regards preventing harassment and bullying at work as an integral part of good management practice and all managers are responsible for ensuring that staff are treated with dignity and respect.
3. Although complaints of harassment or bullying across the Council are rare, an effective procedure whereby such complaints can be investigated and resolved is essential. The Harassment Procedure provides for both informal and formal action. This is because informal action, when appropriate, often provides a good opportunity to resolve an individual case in a sensitive, speedy and effective way.
4. This policy and procedure will be circulated to all Council employees currently in post and to new employees as part of their induction. It is recommended for adoption by school governing bodies in relation to school-based staff.
5. Please read this document carefully and keep it for future reference.

P R Ward
Head of Corporate Services
October 2006.

Equal Opportunities Policy Statement

1.0 Wandsworth Council's Equal Opportunities Policy Statement is set out below:-

"It is the policy of the Council that there be equal opportunity for employment in its service and equitable terms and conditions for all staff, and that all employees be recruited, trained and promoted on the basis of their ability, their fitness for the work and the requirements of the job.

The Council instructs the Chief Executive and each Director, manager, supervisor or other officer with duties on behalf of the Council as employer and all employees -

- (a) to ensure that the terms of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Age) Regulations 2006 and this Policy are observed, and that no discrimination is permitted on grounds of religion or belief, colour, race, nationality or ethnic or national origins, marital status, sex, sexual orientation, disability or age, noting that the Council's normal retirement age is 65 and its normal age limit for applicants is also 65; and
- (b) to ensure a positive attitude towards equality of opportunity and the administration of staff policies to that end.

Directors are instructed to ensure that the terms of this policy are communicated to each employee, with guidance in the use of the Council's harassment procedure or grievance procedure as a means of making any complaint of discrimination or failure to accord equality of opportunity.

Harassment at Work: Policy Statement

2.0 Definition of harassment

2.1 Harassment is unwanted conduct which reasonably can be considered, taking into account the perception of the complainant, to have the purpose or effect of:

- (a) violating another person's dignity, or
- (b) creating an intimidating, hostile, degrading, humiliating or offensive environment.

2.2 Harassment in the workplace including on the grounds of religion or belief, colour, race, nationality or ethnic or national origins, marital status, sex, sexual orientation, disability or age is potentially unlawful. Such harassment, or bullying on any other basis, is unacceptable within a working environment.

3.0 Definition of bullying

3.1 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

4.0 Introduction

4.1 This Council is committed to maintaining an environment where all employees can seek, obtain and hold employment without discrimination, harassment or bullying. This policy statement sets out the responsibilities of the Council, its managers and all staff regarding all areas of harassment and bullying. It is an extension of the Council's Equal Opportunities in Employment Policy.

4.2 The Council recognises that harassment is intimidating and can be a harmful and distressing form of discrimination. As an essential part of eradicating discrimination, harassment will not be tolerated in any of the Council's workplaces. Both harassment and bullying can lower morale, cause distress, anxiety, fear, ill-health and interfere with the effectiveness of service delivery.

5.0 Harassment by colleagues

- 5.1 The Council considers that harassment or bullying from one employee to another is unacceptable in the workplace. Depending on the circumstances, formal action may be taken under the Council's Employees' Disciplinary Code. In severe cases this could be investigated as a matter of potential gross misconduct which if found may result in the dismissal of the employee concerned from the Council's service.

6.0 Harassment by third parties

- 6.1 The Council will not accept harassment or bullying of its staff by third parties e.g. by service-users, other members of the public or contractors' staff. Staff are not expected to tolerate such incidents and if an employee believes that he or she has experienced harassment or bullying from a third party with whom the Council has dealings this should be reported to a senior officer for investigation. Depending on the circumstances, a warning letter may be issued to the individual or their employer. Possible withdrawal of service or removal of a contractor's employee if engaged on work with the Council may then follow.
- 6.2 Likewise, complaints by service users of harassment from members of staff will be taken seriously and may be investigated under the Employees' Disciplinary Code as a matter of potential gross misconduct which if found may result in dismissal from the Council's service.

7.0 The Employer's responsibilities

- 7.1 Harassment and bullying are unacceptable in the workplace and may, if unchecked, create serious problems for an organisation such as poor morale, poor performance, lost productivity, damage to reputation and lead to legal proceedings.
- 7.2 The general principles of employer liability in discrimination cases are set out below:-
- (a) Anything done by a person in the course of his employment shall be treated as done by his employer as well as by that person, whether or not it was done with the employer's knowledge or approval. An employer cannot avoid liability for harassment

by showing that it did not know harassment was taking place.

- (b) However, the law on discrimination provides that in proceedings brought against any employer in respect of an act alleged to have been done by an employee it shall be a defence for the employer to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing acts of that description in the course of employment. Examples of such steps would be implementing and enforcing an equal opportunities policy and/or harassment policy which is supported by appropriate training programmes.

- 7.3 There is a legal duty on local authorities to ensure that their various functions are carried out with due regard to the need to:-

- (a) eliminate unlawful discrimination; and
- (b) promote equality of opportunity and good relations between persons of different groups.

- 7.4 Consequently, as part of this duty, for the reasons set out above and as a basic principle of good employment practice, managers must investigate allegations of harassment thoroughly.

8.0 Managers' responsibilities

- 8.1 The policy imposes a positive duty on all managers and supervisors to take practical steps to ensure that each workplace is free of harassment or bullying and to initiate appropriate disciplinary action if necessary. Further advice on this will be available by means of Management Guidelines and training. Failure to carry out these responsibilities may warrant an investigation under the Employees' Disciplinary Code.

9.0 Employees' responsibilities

- 9.1 All employees are instructed to observe this policy and to treat colleagues with dignity and respect at all times. Complaints of harassment or bullying towards colleagues will be taken seriously and may be investigated under the Employees' Disciplinary Code as matters of potential gross misconduct which, if found, may result in dismissal from the Council's service.
- 9.2 The Council will take all complaints of harassment or bullying seriously and take appropriate action. Consequently, allegations must never be made lightly or maliciously. They have potentially very serious consequences and should only be initiated by an employee because of a genuinely held belief that harassment or bullying has occurred.
- 9.3 However, if an employee is genuinely concerned about an incident but is in doubt as to whether the circumstances would amount to harassment or bullying then the employee should raise the matter with their departmental personnel officer or Central Personnel on ext. 6188. Alternatively, the Staff Side Secretary can be contacted on ext. 6068 or the employee may wish to raise the matter with another trade union representative.

10.0 Victimisation

- 10.1 Employees need not fear victimisation for making or being involved in a harassment or bullying complaint. Any allegation of victimisation or retaliation against an employee for bringing a complaint of harassment or bullying will be investigated as a disciplinary offence, including instances when an employee raises the matter on behalf of another employee and believes he or she has been victimised as a result.

11.0 Training

- 11.1 The Council's training programme includes diversity training, cultural awareness training, customer care programmes, as well as training which is necessary for managers to deal with and resolve complaints of harassment or bullying. This programme will also include refresher training.

12.0 Policy monitoring and review

- 12.1 This policy, its application, the procedure and individual cases brought through its use will be the subject of regular monitoring and review by the Central Personnel Service. The policy and procedure do not form part of the contract of employment. The Council reserves the right to amend them from time to time as appropriate.

13.0 Use of procedure

- 13.1 To ensure that this policy works as intended, the Council has an approved procedure to deal with any allegation of harassment or bullying. This procedure provides for both informal and formal action. In some cases, informal action is likely to be the quickest and most effective way to handle such situations - by reporting the matter to the supervisor or by asking the perpetrator to stop and making it clear that the behaviour is unwelcome. If the behaviour which has caused offence is considered to be harassment or bullying, whether verbal, written or physical, and does not change, the matter should be discussed with the immediate line manager. Appropriate confidentiality will be maintained throughout all stages.
- 13.2 If the informal approach fails or if the incident is sufficiently offensive and serious, a written complaint should be made to the immediate line manager.
- 13.3 If the alleged offender is the immediate line manager, any complaint should be made to the next most senior line manager. In response to a formal complaint which alleges harassment, victimisation or retaliation, a disciplinary investigation will be undertaken. Subsequently, where an offence is found to have been committed, dependent on the severity or persistence of the offence, this could result in dismissal from the Council's service.

Procedure to be used in cases of alleged harassment

14.0 Informal Action

- 14.1 If you feel you are being harassed or bullied by a colleague, generally the quickest and most effective way to handle such situations is for you to approach this person making it clear that the behaviour is unwelcome and must stop. This is usually entirely appropriate, and guidance and support can be sought from your line manager or departmental personnel officer. In circumstances where it is too difficult for you to do this yourself, you may want to arrange to be accompanied by a personnel officer, colleague, Staff Side or other trade union representative. You should ensure that a record of such discussions is kept and of any subsequent harassment or bullying.
- 14.2 If the behaviour does not change following such an approach, you should raise this with your line manager. If the complaint is against your line manager, you may prefer initially to discuss the situation with your departmental personnel officer or another senior officer.
- 14.3 It should be noted that in some instances the severity of the behaviour may mean this informal approach is inappropriate. Although the decision as to whether to make a formal complaint under the relevant procedure rests with the complainant, in certain cases of serious or persistent inappropriate behaviour the Council reserves the right to undertake enquiries and to deal with the case as appropriate in all the circumstances. This may include use of the procedure set out below for dealing with formal complaints.

Observed harassment of a colleague

- 14.4 If you observe a situation where you believe that a colleague is being harassed or bullied, you should first check with that person as to whether they want support in making a complaint. If the person does not wish to make a complaint you should still encourage them to report the incident to their manager or senior officer, on a confidential basis, for discussion on the available options. Alternatively, a confidential report of the situation may be made to your departmental personnel officer or to Central Personnel on ext. 6188.

Harassment by a third party who is not a member of staff

- 14.5 You should normally report the matter straight away to your immediate line manager. The manager shall then investigate the allegation in accordance with Council policy.

Confidential advice and support

- 14.6 If you require assistance you can seek advice, information and support in confidence from your departmental personnel officer or by contacting Central Personnel. You may also wish to contact the Staff Side Secretary on ext. 6068 or your trade union representative. Employees can also obtain advice from the Borough Solicitor on options available to them, subject to any conflict of interest that may arise.

15.0 Formal Action

- 15.1 If an informal approach fails to stop the harassment or bullying, or if you consider that the behaviour is particularly offensive and serious, you should make an immediate complaint to your line manager and confirm it in writing afterwards. If the alleged perpetrator is your line manager, the complaint should be made to the next most senior line manager.

Action to be taken by a manager on receiving a formal complaint of harassment

- 15.2 On receiving a formal complaint of harassment or bullying, the manager shall notify the employing Director of the complaint immediately. The Director should be informed of the allegation which has been made together with a general indication of its nature. However, no detailed information shall be given in order to prevent prejudicing any possible future disciplinary action.
- 15.3 A copy of the complaint should be sent to your departmental personnel officer and will subsequently be sent to Central Personnel for monitoring. The complaint should give as much detail as possible of incidents and any informal attempts made to stop the behaviour. A harassment complaint form can be obtained from your departmental personnel officer.

15.4 The Director shall be responsible for appointing an investigating officer who shall examine all the circumstances of the complaint and determine whether formal disciplinary action is warranted.

15.5 The investigating officer will normally be the employee's section head or departmental personnel officer but, depending on the circumstances, an independent officer may be appointed to undertake this role, who may not necessarily be from the department involved but from elsewhere, e.g. the Central Personnel Service.

15.6 In cases where the alleged perpetrator is employed in a different department from the complainant, the manager should notify the Director of that department, in addition to the Director of the complainant's department.

15.7 Employees making an allegation of harassment or bullying or those accused of such behaviour shall have an entitlement to be accompanied by a trade union representative or friend at any formal hearing under the Council's procedures. At an investigatory stage, similar arrangements for representation should not be unreasonably refused.

15.8 Managers will contact the departmental personnel officer to seek advice on procedures and to determine appropriate action in handling complaints.

15.9 If an employee brings a complaint under this procedure at a time when formal action under another of the Council's Codes and Procedures is being contemplated or taken then managers should seek the advice of their departmental personnel officer.

16.0 Investigating the Complaint

16.1 The object of an investigation is to establish the facts and to determine the action to be taken. The investigating officer will obtain written statements from those involved and any other relevant individuals. Documentary and other evidence may also be collected. All of the evidence will be assessed and the investigating officer will compile a confidential report of all the circumstances and his or her findings as to the facts and conclusions as to whether the complaint is

well founded. Investigations into formal complaints of harassment or bullying will be conducted in accordance with the principles laid down by the Employees' Disciplinary Code.

16.2 The investigating officer will keep the complainant informed of the progress of the investigation at regular intervals. However, no confidential information as to the matters under investigation will be provided during the investigation. If a complainant is dissatisfied with the progress of the investigation this should be raised with the investigating officer in the first instance. If the complainant remains dissatisfied he or she should raise the matter with a more senior manager under the Council's Procedure for Settling Employee Grievances.

16.3 In some cases the investigating officer, having investigated the complaint, will come to the view that no further formal action is required. The investigating officer will inform the complainant in writing of his or her findings and conclusions. This letter will state that should the complainant be dissatisfied with the outcome of the investigation, the matter may be raised further at Stage 2 of the Council's Procedure for Settling Employee Grievances and that the complainant will have 10 working days from the date of that letter to raise the matter further.

16.4 In some cases, however, the investigating officer will come to the view that there is a prima facie case for the alleged perpetrator to answer under the Council's Employees' Disciplinary Code. In these circumstances the investigating officer will present his or her report at a disciplinary hearing. The complainant will be expected, unless there are exceptional circumstances, to attend the hearing and give evidence regarding the alleged harassment or bullying. A decision will be made at the hearing as to whether or not the complaint is well founded. Complainants are not entitled to the details of any employment decision taken in relation to the alleged perpetrator. However, the complainant will receive written confirmation on a strictly confidential basis of the offence which was found and the level of offence (for example, minor, serious or major offence).

- 16.5 Should the complainant be dissatisfied at the outcome of any disciplinary hearing into the alleged harassment or bullying then this must be raised in writing under the Council's Procedure for Settling Employee Grievances, at Stage 2 of that procedure.
- 16.6 Complainants and alleged offenders, as well as people assisting an investigation will be protected from intimidation, victimisation or discrimination. Any form of reprisal against a member of staff, or other person involved will be treated as a potential offence under the Employees' Disciplinary Code.
- 16.7 If an investigation finds a claim to be fictitious and that the allegations have been brought in order to cause harm or detriment to the alleged offender, this may in itself constitute grounds for disciplinary proceedings and be dealt with in accordance with the Employees' Disciplinary Code.

17.0 Time Limits

- 17.1 Due to the wide-ranging nature of harassment and bullying issues, neither the informal nor the formal procedure have fixed timescales. Investigations will be conducted as quickly as reasonably practicable in the circumstances, commensurate with conducting a fair and thorough investigation and the complainant will be kept informed of progress. In addition, every effort will be made to ensure that an individual has an appropriate level of support during the course of an investigation.

18.0 Management Intervention

- 18.1 Early intervention by managers may reduce the necessity for individuals to refer to the Procedure. Early indications of harassment or bullying can be identified through a number of routes. These may include the use of Return to Work interviews following sickness absence (where the inappropriate behaviour of others may be a factor), monitoring performance and/or progress on a regular basis, rather than only at annual appraisals, and through awareness of the effects of inappropriate behaviour. Certain modifications can be assisted by feedback, re-training, mentoring, or other appropriate methods of intervention.

19.0 Complaints involving Chief Officers

- 19.1 In the event of a complaint involving the personal action of the Chief Executive which is considered to make it difficult for the Chief Executive to deal with in the normal way, the matter should be raised by the Staff Side Secretary with the Employer's Side Secretary who will consult with the Chairman of the Committee responsible for staffing to settle the arrangements for dealing with the complaint following the principles of this Policy and Procedure.
- 19.2 If a member of staff has a complaint involving the personal action of a Director which is considered to make it difficult for the Director to deal with in the normal way, the case should be referred by the Staff Side Secretary to the Employer's Side Secretary for discussion and consultation with the Chief Executive to settle the arrangements for dealing with the complaint, following the principles of this Policy and Procedure.
- 19.3 If the complaint concerns the actions of another Chief Officer, the Chief Executive shall be informed and will settle the arrangements for dealing with the complaint, following the principles of this Policy and Procedure.

P R WARD
Head of Corporate Services

October 2006

Appendix

20.0 Harassment and bullying

20.1 Harassment occurs when any behaviour creates an intimidatory, hostile or offensive environment. Differences of attitude or culture and the misinterpretation of social signals may mean that what is construed as harassment by one person may not be intended or perceived as such by another. However, the defining features of harassment are that the behaviour is experienced as offensive or intimidating by the recipient and would be regarded as harassment by any reasonable person, whether or not this was the intended effect.

20.2 Harassment may take many different forms, some of which are the subject of legislation. Specific statutes cover discrimination against others on the grounds of their sex, race, sexual orientation, age, religion or belief or their disability. All forms of harassment and bullying are included in this policy as a reflection of the Council's commitment to good employment practice.

20.3 Harassment refers to behaviour that is personally offensive or demeaning to the recipient which can reasonably cause the recipient to feel intimidated, threatened, humiliated, degraded and have a negative effect on confidence or work. Power, coercion and intimidation are often factors in occurrences of harassment and bullying, but it can occur in working relationships among equals.

20.4 Bullying is similar behaviour to harassment but it relates to other personal characteristics or does not relate to any characteristics. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

20.5 Harassment or bullying may or may not be accompanied by explicit promises of reward or punishment involving abuse of authority, misuse of a position of respect or trust, and/or the threat of disclosing true or fictitious information potentially detrimental to an individual.

21.0 Examples of harassment or bullying

21.1 This is not an exhaustive list but is designed to illustrate the types of behaviour which may constitute harassment on the grounds of sex, race, disability, sexual orientation, religion or belief, or age; or bullying on any other basis.

- (a) unwanted sexual advances (whether verbal, written or by conduct), or sexually explicit derogatory statements or comments;
- (b) unnecessary and uninvited physical contact, touching, patting, etc;
- (c) requests for social or sexual encounters and favours, which the person making them might reasonably believe to be unwelcome;
- (d) conversations, jokes, gestures which are likely to cause offence;
- (e) the display of pornographic, racist or other offensive materials, pictures, computer imagery in the workplace;
- (f) questioning, bantering, lewd or derogatory comments or innuendo about aspects of a person's personal life, personal appearance, or that person's partner(s) or similar discussion about a third party;
- (g) graffiti, letters or other written material containing elements of the above;
- (h) derogatory name calling or insults;
- (i) refusal to co-operate with or ridicule of an individual for cultural differences e.g. food, dress, music;
- (j) exclusion from normal workplace conversation or social events;
- (k) abuse of power by, for example a line manager, such as setting unrealistic targets, refusing to consider reasonable requests or unfair allocation of work and responsibilities; inconsistent or

overbearing implementation of rules and/or procedures which may have a damaging or detrimental effect on an individual;

- (l) oral or written abuse, threats;
- (m) physical assault;
- (n) victimisation, for raising a legitimate complaint;
- (o) repeated criticism without justification;
- (p) action designed to annoy or upset;
- (q) nuisance – i.e. action designed to annoy or upset an individual;
- (r) constant put down by colleagues; and
- (s) deliberate lack of communication or mis-communication to colleagues, which may result in errors or less favourable treatment.