

Corporate Policy and Strategy Committee

10.00am, Tuesday 23 February 2016

Avoidance of Bullying and Harassment at Work Policy – Review

Item number	7.4
Report number	
Executive/routine	
Wards	

Executive summary

The Corporate Policy and Strategy Committee approved the Avoidance of Bullying and Harassment at Work Policy on 4 August 2015. Committee asked that it be reviewed after 6 months and then annually thereafter.

The policy has now had its first review and this has resulted in some minor adjustments being made. A tracked copy of the policy is attached at Appendix 1, showing those changes.

Links

Coalition pledges	P27
Council outcomes	CO24 ; CO26 ; CO27
Single Outcome Agreement	

Avoidance of Bullying and Harassment at Work Policy – Review

Recommendations

- 1.1 To approve the revised Policy;
- 1.2 Note that the Policy will be reviewed annually unless otherwise requested; and
- 1.3 Note that the next review should be undertaken with a view to reporting to Committee in February 2017.

Background

- 2.1 The Policy was formally introduced on 4 August 2015. Committee asked that it be reviewed after 6 months and then annually thereafter.
- 2.2 The Policy is a mandatory component of Induction Training and the Annual Refresher Training.

Main report

- 3.1 The policy has been reviewed in line with Committee's request.
- 3.2 The review has consisted of:
 - i) considering if the policy requires any adjustment;
 - ii) consultation with the Joint Trades Unions; and
 - iii) consultation with HR & OD officers;
- 3.3 Information has been added at 11.2, noting support available to employees who feel bullied or harassed by Council service users.
- 3.4 The other changes are minor being mainly points of clarification.

Measures of success

- 4.1 Earlier resolution of complaints because of streamlined process and timescales.
- 4.2 Fewer appeals as a result of the introduction of a monitoring and review period after formal stage 2.
- 4.3 Improved staff morale because complaints are being dealt with promptly and within timescales.

- 4.4 Greater productivity and work output related to improved staff morale/motivation.

Financial impact

- 5.1 Early resolution reduces the time and costs associated with Stages 2 and 3 of the formal process and, in some cases, Employment Tribunal hearings.

Risk, policy, compliance and governance impact

- 6.1 The changes do not pose any risk with regards to compliance and legislative requirements, in that the changes assist compliance with the Public Sector Equality Duty.

Equalities impact

- 7.1 The policy applies to all employees and recognises that there are staff groups who have separate procedures for dealing with employment related matters.
- 7.2 There are no adverse equality issues arising from this report which will impact on employee groups with protected characteristics as defined by the Equality Act 2010.
- 7.3 The policy promotes obligations under the Equality Act 2010 with regard to protection from harassment.

Sustainability impact

- 8.1 None.

Consultation and engagement

- 9.1 The Trades Unions have been consulted as part of the review, as requested by Committee in August. They had no comments to make.

Background reading / external references

[ACAS Guide for Managers and Employers on Bullying and Harassment at work](#)

[Bullying and Harassment at Work Policy, report to Corporate, Policy and Strategy Committee](#), 4 August 2015

Hugh Dunn

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Corporate Policy and Strategy Committee – 23 February 2016

Links

Coalition pledges	P27 - Seek to work in full partnership with Council staff and their representatives
Council outcomes	CO24 - The Council communicates effectively and internally and externally and has an excellent reputation for customer care CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives. CO27 - The Council supports, invests in and develops our people
Single Outcome Agreement	SO1 – Edinburgh’s economy delivers increased investment, jobs and opportunities for all
Appendices	Appendix 1: Avoidance of Bullying and Harassment at Work Policy

Avoidance of Bullying and Harassment at Work Policy

Implementation date:

Control schedule

Approved by	Corporate Policy and Strategy Committee
Approval date	4 August 2015
Senior Responsible Officer	Martin Glover, Interim Katy Miller , Head of HR and OD
Author	Louise Milliken
Scheduled for review	Annually

Version control

Version	Date	Author	Comment
0.1	09/07/2015	Louise Milliken	CLG Version
0.2	04/08/2015	Kate Hunter	Change to policy title
0.3	17/12/2015	Stewart Cassie	Initial Review for CP&S

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
4 August 2015	Corporate Policy and Strategy Committee		
23 February 2016	Corporate Policy and Strategy Committee		

Avoidance of Bullying and Harassment at Work Policy

Policy statement

- 1.1 The Council is committed to protecting its staff from bullying, harassment and discriminatory behaviour whether it originates in the workplace or from the Council's clients, service partners or customers. Bullying or harassment of employees by other employees and by service users will not be tolerated or condoned and is regarded as a breach of the Council's commitment to encourage and develop an anti-discriminatory culture.
- 1.2 All employees rightly expect to be treated with dignity and respect at work by colleagues, managers and work contacts. Much of Council business is based on contact between people and therefore mutual respect is critical to effective working relations and service provision.
- 1.3 -Specifically, this policy aims to:-
 - (a) promote awareness of the types of behaviour which, whether intended or not, can cause offence or injury to employees;
 - (b) make sure that all employees understand that such behaviour is unacceptable and may lead to disciplinary action being taken;
 - (c) clearly identify the responsibilities of all employees in developing an anti-discrimination culture, where all employees are treated fairly and with dignity and respect;
 - (d) make sure that employees are aware of the Council's expectations and their responsibilities in relation to bullying and harassment; and
 - (e) provide a procedure for resolving concerns raised by employees, where concerns are taken seriously and dealt with promptly.
- 1.4 This policy also seeks to promote a culture where employees can raise concerns without fear of victimisation or recrimination, but in the knowledge that complaints shown to be malicious or vexatious will lead to disciplinary action. It provides a procedure for employees to raise a concern or complaint and have it addressed quickly.
- 1.5 Central to this policy is the prevention of discrimination, bullying, harassment, victimisation, intimidation and other unacceptable behaviour on any grounds.

but particularly in relation to the following protected characteristics that qualify for protection under the Equality Act 2010:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation

Scope

- 2.1 The policy applies to all employees in the course of their employment. It can also apply where action or behaviour outside normal working hours has an impact on another employee or colleague.
- 2.2 You cannot use this policy if you have left the Council's employment.

Definitions

3.1 What is not workplace bullying and harassment?

(i) Effective Management:

___ We expect our managers to lead and manage employees. This involves setting performance standards and making sure employees understand them. It also involves dealing with employees in a respectful and constructive way if they ~~with employees who~~ fall below the expected standards.

___ However, if performance standards can be objectively shown to be discriminatory, unfair or unachievable, this may constitute bullying or harassment.

(ii) Organisational eChange:

___ Organisational change is both essential and inevitable. ___ We recognise that change can at times result in employees feeling apprehensive, upset and resistant to change. Organisational change is never intended to undermine or humiliate employees but will always be aimed at improving Council services or meeting economic challenges. In itself, organisational change does not amount to bullying or harassment. However, employees ~~can~~ should expect to

be treated fairly and with dignity through any period of organisational change. ~~The Council's Stress Management Policy should be referred to help all parties to aid the Council, employees and trade unions to manage change effectively and fairly, reference must be made to the Stress Management Policy.~~

3.2 What is Bullying?

~~Whilst~~ there is no legal definition of workplace bullying. ~~However,~~ the Council recognises that it has a duty to all employees to protect their health, safety and wellbeing at work.

With this duty in mind, we recognise that bullying, or other unacceptable behaviours, if left unchecked, may have a significant and detrimental impact upon the health and wellbeing of an individual.

In general, bullying is characterised as negative behaviour being targeted at individuals, repeatedly or persistently, over time. Whilst this list is not exhaustive, such behaviours may include:

- ~~I~~gnoring or excluding you;
- ~~G~~iving you unachievable tasks or "setting you up to fail";
- ~~s~~Spreading malicious rumours or gossip;
- ~~g~~Giving you meaningless tasks or unpleasant jobs;
- ~~m~~Making belittling personal remarks;
- ~~u~~Undermining your integrity;
- ~~w~~Withholding information deliberately;
- ~~m~~Making you look stupid in public/in front of fellow employees;
- ~~u~~Undervaluing your contribution – not giving credit where it is due;
- ~~a~~An abuse or misuse of the power or authority through means intended to unfairly criticise or injure the recipient."

3.3 What is Cyber Bullying?

Cyber bullying is bullying or harassment which is conducted via social networking channels, often using blogs or social networking sites to post photographs or offensive or threatening comments.

Please refer to the [ICT Acceptable Use Policy](#) regarding the appropriate use of social media.

3.4 What is Harassment?

Unlike bullying, harassment can relate to unlawful discrimination, which can be on the grounds of the protected characteristics of age, sex, gender reassignment,

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race, religion or belief, sexual orientation, disability, pregnancy and maternity, marriage and civil partnership. -It's unwanted conduct that:

- ~~V~~violates another person's dignity; or
- ~~C~~Creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

~~#~~Harassment takes many forms including physical, verbal ~~and~~ non-verbal conduct. It can include comments, actions, jokes or suggestions that may be viewed as demeaning and unacceptable to the recipient. It may be an isolated incident or repeated actions that may create a stressful working environment.

Policy content

Dealing with bullying and harassment

4. Informal resolution of complaints

- 4.1 It is preferable that complaints are dealt with within the service and informally where appropriate. The aim is to ~~resolve issues produce solutions~~ quickly to ~~resolve issues~~ and reduce the impact on all involved.
- 4.2 It is important that employees make a distinction between behaviour that is perceived as causing offence or distress and behaviour which is merely causing annoyance. Sometimes the person might not understand the impact of their behaviour on someone else and making them aware of it can stop the behaviour and resolve the matter quickly.
- 4.3 The employee should talk to the person directly about their behaviour, explain how it has affected them and ask them to stop behaving in that way. It is advisable for the employee expressing the concern to retain a personal note of any such approach.
- 4.4 If the ~~employeee~~ finds it too difficult to do this on their own, they can ask a colleague, trade union representative or their line manager to do this for them. If the person is their line manager, they can ask a more senior manager to talk to them.
- 4.5 If a complaint of bullying or harassment is made directly to a manager, the manager should make every effort to resolve the complaint quickly and, where possible, informally.
- 4.6 If the complaint of bullying or harassment is of a more serious nature, the manager may advise the employee to raise their complaint through the formal process.
- 4.7 The Council's Disciplinary Code stipulates that, in serious cases, bullying and harassment may constitute gross misconduct and, where this is established, ~~such~~

gross misconduct will normally result in summary dismissal. In some cases, bullying and harassment can be unlawful and result in discrimination claims, criminal claims for assault or civil claims for harassment or negligence.

5. Support and advice

5.1 Employees who are victims of bullying and harassment at work may suffer emotional or psychological reactions to their experiences. It is essential that the management response to these situations is quick, sympathetic and supportive. In all cases, the employee should be offered counselling from the counselling provided by the Council's Employee Assistance Programme. Employees should also be directed to the 24-hour helpline.

5.2 It is important to recognise that inappropriate behaviour can be unintentional and that, in such cases, the employee being complained about can suffer similar distress to the employee who raised the concerns. In such circumstances, the Manager should make sure that both parties are provided with advice and support.

5.3 Advice, assistance and support for the line manager in dealing with a matter informally is also available from an HR Adviser by contacting the HR and Payroll Service Centre.

5.4 There are many other points of contact who can offer assistance and further details are in the toolkit which is available on the Orb.

5.5 Mediation may also be used at this stage or later in the process and is a voluntary process in which a trained mediator assists 2 or more people in a disagreement to find a solution they can all agree to. The mediator does not take sides or tell the parties what to do. Mediation is most likely to be successful if the people involved:

- Understand the purpose of mediation;
- Enter into the process voluntarily/willingly; and
- Want to find a solution.

Mediation is often more appropriate in dealing with misunderstandings and disagreements at work which affect working relationships. It is unlikely to be appropriate in dealing with serious and/or deliberate or malicious acts of bullying, harassment or discrimination.

6. Making a formal complaint

6.1 If the unacceptable behaviour occurs again, after despite pursuing ing to resolve the situation an-informally, -approach and further unacceptable behaviour

~~occurs~~, or the behaviour is considered by the complainant to be so serious that an informal approach is inappropriate or impossible, the employee may submit a formal complaint to the appropriate line manager by completing the Formal Complaint Form on the Orb. Further details of the formal complaints process are available in the toolkit. If the employee's complaint relates to a line manager whose behaviour is considered inappropriate, then the approach should normally be made to the next level of management.

6.2 At this stage, an investigation will be undertaken to determine if the behaviours fall under the definitions of the bullying and harassment policy.

6.3 At the conclusion of the investigation, the line manager must decide on a course of action to address the complaint. The options include:

- Determining that the concerns are unfounded – the line manager must inform the employee who made the complaint and the employee against whom the complaint was made that no further action will be taken in cases where it is considered that the concerns are unfounded;
- Management intervention – a manager may attempt to find a joint resolution between the parties by facilitating discussion and trying to restore/develop amicable and co-operative working relationships;
- Instruct a disciplinary investigation – this would follow the normal investigation process under the Disciplinary Procedure and may lead to ~~a~~ counselling informal or formal disciplinary action.

False accusations

6.4 If ~~in good faith~~ an employee makes an accusation in good faith which, after following investigation, is found not ~~to be confirmed as~~ bullying or harassment, no action will be taken against the employee making the complaint. If an employee makes a malicious complaint which doesn't have grounds, substance or evidence and was made to deliberately cause upset and distress, we may take action against the employee making the complaint, in line with our Disciplinary Procedure.

6.5 Further information on the investigation process is available in the toolkit.—

Action(s) following the outcome of the investigation

6.6 Where a Manager investigates a complaint and finds that it is ~~decides after the investigation that a complaint is~~ substantiated, they should inform the complainant of the formal course of action they intend to take to ensure the matter is resolved. This may involve a formal meeting. Any action to resolve the issue(s) should be fully implemented as soon as is reasonably practicable.

Monitoring and Review

6.7 To ensure action is taken within a reasonable timescale and to reassure the complainant that their ~~issue(s)~~ complaint is being dealt with, the ~~m~~ Manager will complete a Monitoring and Review Form. This will be shared with the complainant and ~~outlines~~ ing ~~the~~ suggested course of action, timescales and the ~~manager's~~ intention to hold regular review meetings with the complainant to check progress.

7. Grounds for appeal

7.1 Employees can appeal where they are dissatisfied with the outcome at the formal stage. However, ~~An~~ appeals can only be made on one or more of the following grounds.

Where the complainant considers:

- that it was unreasonable for the manager/investigating officer to have reached their conclusion on the basis of the evidence and information obtained;
- ~~T~~ hat the assessment/investigation was fundamentally flawed;
- ~~t~~ hat the procedure was not followed and this ~~has~~ adversely affected the outcome of the complaint; or
- ~~T~~ hat the behaviour complained ~~of~~ about and found to be unacceptable has not stopped.

7.2 The appeal is about looking at what happened in the investigatory process and the action ~~(s)~~ taken to resolve the complaint including remedying any defects. The appeal will be heard by:

- the relevant Service Area Executive Director who in turn can nominate a Head of Service;
- a senior manager or chief officer with no prior involvement in the case.

7.3 The employee should complete the Notification of Appeals Form which they ~~should send to the~~ is then passed to the Service Area Executive Director. At the same time, the Head of HR and Organisational Development will also receive a copy of the appeal form and an assessment will be undertaken to determine the competency of the appeal using the criteria set out in section 7.1 above.

8. Use of the Grievance Procedure

8.1 The Council's Grievance Procedure mainly covers matters which are specific to an individual in relation to their service and/or conditions of service with the Council.

- 8.2 Any complaints by employees of bullying or harassment should be pursued through this policy. There will be no recourse to the Grievance Procedure in these cases.

Implementation

- 9.1 The policy will be implemented by developing a communications strategy along with a training plan for managers which will involve:
- Communication with all staff through Newsbeat;
 - Placing the Policy and Toolkit on the Orb;
 - Developing an e-learning package for use by managers;
 - Briefing sessions for Managers.

Roles and responsibilities

- 10.1 All **Executive Directors, Heads of Service and Service Managers** have a particular responsibility for promoting and maintaining a working environment where employees feel comfortable and confident about raising complaints/issues regarding their employment. They should set out clear standards of expected performance and behaviour and:
- communicate the policy to all employees within their area of responsibility and by setting an example of appropriate conduct and behaviour;
 - understand the provisions of the policy and offer appropriate advice and support to employees;
 - monitor working relationships within their area and respond to concerns raised promptly and appropriately;
 - undertake performance management activities such as discussing work activities, monitoring employees' effectiveness and setting objectives in a fair and consistent manner; **and**
 - stop unacceptable behaviour and deal quickly with any complaints they receive.
- 10.2 **Managers** have a responsibility to uphold and promote this policy. They should treat employees fairly and with dignity and respect and make sure the working environment is free from bullying, harassment and victimisation. They should:
- encourage an atmosphere of tolerance and respect;
 - lead by example through a fair and open management style;
 - make sure that all employees they are responsible for are aware of and understand the policy;
 - be aware of their team member's behaviours and take steps to address any action which may cause offence or distress;

- be supportive of employees who come to them with concerns about unacceptable behaviour;
- stop unacceptable behaviour and deal quickly and effectively with any complaints they receive.

10.3 **Employees** have a duty to understand how their behaviour affects others. They have a role to play in creating a climate where bullying and harassment is unacceptable. They can achieve this by having awareness and sensitivity towards the issues of bullying and harassment and by making sure that their behaviour does not cause offence. Employees are responsible for:

- helping to create a climate at work in which bullying and harassment is unacceptable and adopting a zero tolerance attitude to it;
- treating fellow workers with dignity and respect;
- reporting suspected acts of unacceptable behaviour or practices that go against the policy;
- making sure that standards of conduct are observed and that their behaviour does not cause offence to colleagues;
- making sure they understand the policy;
- trying to deal with complaints informally in the first instance;
- supporting employees who suffer such treatment and are considering making a complaint.

Related documents

11.1 This Policy and the policy toolkit should be read in conjunction with the following supporting policies and procedures:

- Avoidance of Bullying and Harassment at Work Toolkit
- Equalities Policy
- Employee Code of Conduct/Disciplinary Procedure
- Managing Work Performance Policy
- Violence to Employees at Work Policy
- Whistleblowing Policy
- Managing Stress in the Workplace
- ICT Acceptable Use Policy
- [HSE website - bullying and harassment](#)

11.2 Employees may feel bullied or harassed by service users. The Council has produced a **best practice guide**, which has been developed to support staff to manage difficult situations. It provides strategies and guidance which may help to de-escalate problems. However, the Council also has Managing Customer Contact in a Fair and Positive Way Policy, which addresses the limited number of cases where actions involve the abuse of our staff by service users.

Equalities and impact assessment

12.1 For details of the completed [Record of Equality and Rights Impact Assessment \(ERIA\)](#) form, contact the named author of the policy.

Strategic environmental assessment

13.1 It has been assessed that this policy will have no environmental impact.

Risk assessment

14.1 The revised policy is fully compliant with legislative requirements and good employment practice. _____

Local Agreement

15.1 This policy is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to make sure that this policy is reviewed regularly and amended by agreement, if required to meet future needs. In the event of a failure to reach agreement both parties reserve the right to end this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will no longer apply to existing and future employees.

Review

16.1 This policy will be added to the Council's list of policies and will be reviewed annually to reflect organisational changes, best practice, operational experience and legislative updates. It has been agreed to review this policy after 6 months and thereafter annually.