



## **BULLYING AND HARASSMENT POLICY**

### **1. Introduction**

- 1.1 The Gateshead Housing Company recognises the right of all employees to be treated with dignity and respect and will not tolerate bullying or harassment of its employees at work or arising from work.
- 1.2 Bullying and harassment not only affect the welfare of employees but also affect the organisational effectiveness of the company. It can lead to stress, increased absence, a decrease in confidence, motivation and work performance.
- 1.3 The company expects a high standard of behaviour and conduct from employees at all times. This policy identifies unacceptable forms of behaviour and describes the options available to employees, who experience bullying and harassment, to resolve the situation. All employees are required to comply with this policy.
- 1.4 The company recognises that employees experiencing bullying and harassment may have a right to take legal action against the harasser under civil or criminal law. However, this will not prevent the company from carrying out its own investigations and taking appropriate action.

### **2. Definitions**

- 2.1 Bullying - any behaviour by a person directed against an individual or individuals, which is intimidating, offensive or malicious and which undermines the confidence and self-esteem of the individual.
- 2.2 Harassment - unwanted behaviour by a person, that an individual or individuals, finds intimidating, upsetting, embarrassing, humiliating or offensive, which affects a person's dignity at work.
- 2.3 Recipient - an employee who perceives that (s)he is being harassed or bullied.
- 2.4 Harasser - an employee or director of the company whose behaviour is perceived to be unacceptable.
- 2.5 For the rest of this policy, the word harassment also includes bullying.

### **3. Reasons why harassment occurs**

- 3.1 The company accepts that it is an individual's perception of behaviour towards him/her that can lead to the feeling of harassment. What may be inoffensive to one person may cause upset and distress to another. The company views all forms of harassment as unacceptable behaviour and will not tolerate it.
- 3.2 By way of example, harassment can occur where there is fierce competition between employees, heavy workloads or an uncertain working environment. It may occur because a person deliberately sets out to intimidate, humiliate or distress another. However, it may also occur because a person fails to consider the effect of their behaviour upon others.
- 3.3 Harassment of an individual can occur on many grounds for example, because of gender, sexual orientation, race, ethnic origin, nationality, disability, age, physical characteristics or personal /religious/ political beliefs.

#### 4. **Forms of harassment**

Harassment is about an individual's perception as to whether certain behaviour is unacceptable and disadvantageous to him/her. It can take a range of forms including:

- unwanted physical contact, obscene gestures;
- verbal abuse, jokes, offensive language, slander;
- displays of written or photographic material;
- exclusion and non-co-operation at work;
- persistent criticism, unfounded criticism;
- being denied/excluded from training and development opportunities;
- unreasonable refusal to grant annual holiday or other leave of absence;
- setting impossible targets or deadlines/setting someone up to fail.

#### 5. **How to deal with harassment**

- 5.1 If an employee feels (s)he is being harassed, this needs to be brought to the attention of the harasser so that the harassment can stop. Harassment needs to be treated sensitively by all those involved. This includes how the harasser is treated as (s)he may not be aware that his/her actions have caused offence or upset.
- 5.2 There are two ways a complaint of harassment can be handled - informally (Appendix 1) and formally (Appendix 2). Except in serious cases of harassment, the recipient should attempt to stop the behaviour using the informal procedure. Whichever process is used, the recipient will be able to contact a Workplace Contact of his/her choice who will be trained in this procedure and has relevant training in counselling skills. The Workplace Contact can advise on the options available to resolve the situation and support the individual throughout the process.
- 5.3 Alternatively, the recipient can approach their trade union representative or line manager for advice and help. If the harasser is the recipient's line manager the recipient can contact the appropriate strategic employee.
- 5.4 Any employee who has had a complaint of harassment made against him/her can also contact a Workplace Contact for support during or after any informal or formal procedure. However, a Workplace Contact cannot provide support to a recipient and harasser involved in the same case, therefore one of the parties will be advised to contact another Workplace Contact.
- 5.5 If an employee witnesses harassment (s)he should initially approach the recipient and support him/her in taking action to stop the behaviour, however where the harassment is persistent (s)he should consider reporting it under the company's Confidential Reporting Code.
- 5.6 In the case of directors, an employee should report the behaviour to their appropriate strategic employee, who will approach the director on behalf of the employee to discuss the behaviour. If the behaviour is found to be harassment and is persistent or of a serious nature, the Chief Executive must be informed of the behaviour.

#### 6. **Transfer of employees**

In some cases of harassment, where formal action has been taken, the relationship between the two parties may have been so severely damaged that the recipient feels it is no longer feasible for them to continue working together. Action will be taken to ensure the harasser does not remain in the same working environment as the recipient. The recipient should be given the option of moving to another appropriate post but if they do not wish to do so then, in all but exceptional circumstances, the harasser will be moved.

## **7. Victimisation**

- 7.1 Victimisation may occur after a complaint of harassment has been made. It may appear in the form of the recipient finding the situation has become worse since complaining, or any employee involved in the complaint becoming isolated by colleagues, or subject to other forms of retaliation by colleagues.
- 7.2 Victimisation arising from a case of harassment is misconduct and will be dealt with under the company's Disciplinary Procedure.

## **8. Statement of Confidentiality**

- 8.1 The company recognises that problems of harassment in the workplace involve sensitive issues and therefore must be treated with discretion. To eliminate harassment from the workplace the company has adopted a policy of non-tolerance of any form of harassment. However, to eliminate harassment it is necessary to know when it occurs. The company is responsible for the actions of its employees and therefore must be informed when it occurs.
- 8.2 If a Workplace Contact learns of harassment which could seriously affect an employee's well being, or have similar implications for other employees or the company, (s)he has a duty to ensure that the appropriate strategic employee is informed. This means that the Workplace Contact may on occasion have to disclose information even though it is against the wishes of the employee being harassed.
- 8.3 Information will only be divulged on a strict 'need to know' basis. The company will make every effort to ensure that all those involved in the investigation and resolution of cases, including recipients, harassers and witnesses respect the necessity for a professional and confidential approach at all times.

## **9. Managers' responsibilities**

- 9.1 All managers have the responsibility for making sure that their employees are treated professionally and with dignity and respect. This will help to establish a supportive and productive working environment and will help employees to perform effectively and to the best of their ability. At all stages the manager must have regard to the need to obtain any necessary legal and personnel advice in a professional and timely manner in the best interests of the company.
- 9.2 Legitimate management action, taken within company procedures, to deal with employees whose conduct or capability is in question is not harassment. However, any action or behaviour which falls outside what can be reasonably regarded as legitimate management action and is intimidating, offensive or distressing may constitute harassment.
- 9.3 Where a manager witnesses unacceptable or offensive behaviour (s)he should take action. This may be on an informal basis by approaching the employee whose behaviour is causing offence. The manager should explain why the behaviour is offensive and the consequences if the behaviour continues. In serious cases of harassment managers will be responsible for investigating complaints under the formal procedure.
- 9.4 Every manager is responsible for dealing effectively with any complaint of harassment which is brought to his/her attention. Failure to deal with a complaint can be regarded as a conduct or capability issue and result in disciplinary action.

## 10. **Employees' responsibilities**

- 10.1 Employees must treat all people with courtesy and respect and be aware of how their behaviour can be interpreted by others. Employees should make sure that they know and understand the types of behaviour and actions that can be regarded as harassment. If any employee is aware that his/her behaviour causes or could cause offence (s)he should stop it immediately.
- 10.2 Employees must be aware that behaviour or actions that are regarded as harassment can result in disciplinary action which may include dismissal.
- 10.3 If an employee makes a false or malicious claim of harassment against another person this will result in disciplinary action.
- 10.4 Employees are responsible for their own behaviour and should make sure that they protect the dignity of other colleagues and promote a workplace free from harassment.

## 11. **Workplace Contacts' responsibilities**

- 11.1 Workplace Contacts are employees who have received training in the Bullying and Harassment procedure. If a recipient chooses not to go to a manager, Workplace Contacts will be the first point of contact for those who feel they are victims of harassment or have witnessed harassment. They can also provide support to employees who have had a complaint of harassment made against them.
- 11.2 Workplace Contacts are not there to advise but will go through the procedure and explain the options available. Under the informal procedure the Workplace Contact can accompany the recipient in approaching the harasser or approach the harasser on his/her behalf.
- 11.3 Where the problem cannot be resolved informally the Workplace Contact will provide support during and after formal action.
- 11.4 The Workplace Contact will also monitor the situation, after a claim of harassment has been dealt with, by monthly contact with the recipient and harasser to make sure there is no further cause for complaint.

## 12. **Training**

- 12.1 Specific training in how to deal with cases of harassment will be given to all Workplace Contacts.
- 12.2 This policy will be included in all equal opportunities training and induction programmes.

## 13. **Monitoring and evaluating the procedure**

- 13.1 The Workplace Contact should log all informal complaints brought to his/her attention. The log should contain details of the complaint and form of harassment, any witnesses and details of any action taken to stop the behaviour.
- 13.2 The procedure and policy will be reviewed annually in consultation with the trade unions.

## 14. **Legislation and Codes of Practice relevant to cases of harassment include:**

- 14.1  Sex Discrimination Act 1975 *Race Relations Act 1976*
-  Race Relations (Amendment) Act 2000
-  Disability Discrimination Act 1995

Where harassment is of a specific nature based on sex, race or disability it is regarded as unlawful discrimination and is covered by the above statutes.

- 14.2 **Protection from Harassment Act 1997**  
This Act makes harassment, including harassment of an employee in the workplace, a criminal offence which could result in a fine and/or imprisonment.
- 14.3 **Criminal Justice and Public Order Act 1995**  
Under this Act, the use of threatening, abusive or insulting words or disorderly behaviour intended to cause harassment, abuse or distress is a criminal offence.
- 14.4 **Employment Rights Act 1996**  
Since all contracts of employment include an implied duty on both employer and employee to maintain trust and confidence, a failure by the employer to protect the employee against bullying or harassment by colleagues is likely to amount to a breach of this term. This may entitle the employee to pursue a case of constructive dismissal, if (s)he terminated his/her employment as a result of the behaviour and the employer's failure to do anything about it.
- 14.5 **Health and Safety at Work Act 1974**  
Section 2(1) of this Act places a duty on the employer to 'ensure so far as is reasonably practicable, the health, safety and welfare at work of all employees'. It is therefore possible, provided any injury was reasonably foreseeable, for a breach of this duty to give rise to a personal injury claim for any mental or physical suffering caused by bullying or harassment.
- 14.6 **Human Rights Act 1998**  
This Act includes the right not to 'be subjected to degrading treatment or punishment'. The Court of Appeal, in the case of Donaghue -v- Poplar Housing and Regeneration Community Ltd (2001), found that a company operating in the social housing sector, was performing a 'public function' as a result of its relationship with the local housing authority and its activities being underpinned by statutory regulation. It is the opinion of the Company Secretary and Solicitor that the company is subject to relevant provisions of the Human Rights Act 1998.
- 14.7 **Trade Union and Labour Relations (Consolidation) Act 1992**  
This Act contains the right not to be dismissed on the basis of trade union membership or activities, or of non-trade union membership.
- 14.8 **The European Commission's Recommendation and Code of Practice on Protecting the Dignity of Men and Women at Work**  
Article 2 of this Code requires member states to create a climate at work in which men and women respect one another's dignity.

## **Informal Procedure**

1. Unless it is a serious case of harassment, the recipient should attempt to stop the behaviour using the informal procedure.
2. There are three courses of action that can be taken in this procedure.
  - ♥ The recipient experiencing harassment can approach the harasser directly. However, it is acknowledged that this may be too difficult or embarrassing for some employees.
  - ♥ The recipient can report his/her complaint of harassment to a Workplace Contact or to his/her trade union representative. The trade union representative will be able to offer advice and can then take the complaint to the Workplace Contact for the recipient. In either case, the Workplace Contact will either approach the alleged harasser on behalf of the recipient, or the recipient may wish to approach the alleged harasser with the Workplace Contact as support. The Workplace Contact will explain the procedure to both parties and the likely outcomes.
  - ♥ Alternatively, the recipient can report the behaviour to his/her line manager or a senior manager and ask them to speak to the harasser.
3. Whichever course of action is taken it should be explained to the alleged harasser:
  - ♥ exactly what behaviour is being complained of;
  - ♥ that their behaviour is causing the recipient discomfort and/or offence;
  - ♥ how that behaviour makes the recipient feel;
  - ♥ that the recipient wants the behaviour to stop.
4. It should then be agreed what behaviour is acceptable and how they should treat each other. Under any of the informal options the Workplace Contact should be notified and asked to complete a log sheet. This will not be kept on personal files but will be recorded on a separate file. It will act as a record should the situation arise again.
5. The Workplace Contact will monitor the situation by monthly contact with the recipient to make sure that the problem has not come back. If the unwanted behaviour carries on, the recipient may wish to use the formal procedure.
6. The informal procedure is designed to stop harassment when it takes place and to help all employees to work together in a professional and dignified manner. Employees may not be aware that their actions cause offence to others and once it is pointed out to them informally it may resolve the situation.

## Formal Procedure

1. If the informal approach has not resolved the problem behaviour, or an incident has occurred which is so offensive to the recipient that an informal approach is not considered appropriate, then the recipient can use the formal procedure.
2. **Completing an Harassment Complaint Form**  
The recipient should complete an harassment complaint form. This asks for details of the alleged harasser, a description of what happened, how the recipient felt and details of any witnesses. The recipient can get the form from the Workplace Contact, who can help to complete it, if necessary. Once the form has been completed it should be sent to the recipient's appropriate strategic employee who will acknowledge it in writing within two working days and inform the harasser that a formal complaint of harassment has been made against him/her, within the same timescale.
3. **Initial Investigation**
  - 3.1 The appropriate strategic director will consider the following possibilities:
    - ♥ The need to suspend the alleged harasser from work, or;
    - ♥ Whether the recipient and the alleged harasser can be separated at work, or;
    - ♥ Whether the recipient and the alleged harasser can continue to come into contact with each other at work while attempts are made to solve the problem.
  - 3.2 Any suspension will be carried out under the procedures stated in the company's Disciplinary Procedure.
4. **Formal Investigation**
  - 4.1 The appropriate strategic employee will designate the recipient's line manager or other senior manager to investigate the incident under the procedures for investigation outlined in the company's Disciplinary Procedure. This should be carried out within 10 working days of receiving the complaint. This includes taking statements from the recipient, any witnesses and the alleged harasser. If the formal investigation is unlikely to be completed within 10 working days an alternative timescale should be discussed with the recipient. All those asked to attend investigatory interviews will be able to have a trade union representative, colleague or friend with them.
  - 4.2 Possible outcomes of the formal investigation are that
    - ♥ the complaint is not upheld and therefore no further action is taken
    - ♥ the problem is resolved informally between the recipient and the alleged harasser
    - ♥ there is a need for ongoing monitoring of the situation
    - ♥ disciplinary action is taken against the harasser.
  - 4.3 The results of the investigation will be notified to both parties in writing within three working days of the findings being concluded.
  - 4.4 Throughout this procedure, the information provided by individuals will be treated on a confidential basis. Only those involved in dealing with the complaint (including, where the appropriate manager judges it necessary,

persons engaged to provide professional legal or personnel advice) will be made aware of all the facts.

## 5. **Disciplinary action**

- 5.1 If a disciplinary interview is necessary it will be organised in accordance with the company's Disciplinary Procedure. Careful consideration should be given to the need to have the recipient present at the interview as a witness and the way in which the interview is going to be conducted. For example, if it is necessary for the recipient to be present and the alleged harasser is represented, only the representative is able to ask the recipient questions. The recipient will also be able to be represented to provide support during the disciplinary interview.
- 5.2 The outcome of any disciplinary interview could be:
- ♥ No action;
  - ♥ An oral warning;
  - ♥ A written warning;
  - ♥ A final written warning;
  - ♥ Redeployment;
  - ♥ Dismissal.
- 5.3 If action is taken short of dismissal, the harasser will be told about the standards of behaviour expected in the future. It will also be explained that if the recipient is victimised in the future for bringing this complaint, or if the behaviour continues, there will be further disciplinary action.
- 5.4 If the outcome of the disciplinary interview is that no action is taken against the alleged harasser, this should be explained to the recipient. If no action is taken, the recipient cannot appeal against that decision. (S)he can use the company's Grievance Procedure if they do not feel the process has been carried out effectively.
- 5.5 The harasser has the right to appeal against any disciplinary action taken, as explained in the company's Disciplinary Procedure.
- 5.6 If disciplinary action has been taken against the harasser, his/her behaviour will be monitored by the Workplace Contact by monthly contact with the recipient and the harasser. This will continue for a period of time as decided at the disciplinary interview.
- 5.7 No disciplinary proceedings will be started against the recipient for bringing an unfounded claim of harassment, unless it is felt that the complaint has been made out of malice.

**Informal and Formal Procedures Flowchart**



