

HARASSMENT CODE OF PRACTICE FOR EMPLOYEES AND ELECTED MEMBERS

Introduction

Why have a Harassment Code of Practice?

The main objective of the Code of Practice is to seek to eliminate all forms of harassment. Managers, (i.e. any employee who has the responsibility of supervising other employees), will therefore have a key role in ensuring that all employees adopt a positive attitude to the Code of Practice and that any misunderstanding about the need for it is dealt with promptly and effectively.

The Procedure to be followed in terms of cases of harassment is attached as **Appendix 1**.

What is harassment?

Harassment of any type has three defined features:

- it is unwelcome
- it makes the environment unsafe
- it is unacceptable

It is the impact of the behaviour/action and not the intention which constitutes harassment. In addition, harassment and bullying are closely linked.

Harassment is behaviour which is unacceptable and creates an intimidating, hostile or offensive environment related to bullying, verbal or physical abuse. North Wiltshire District Council's Harassment Code of Practice aims to provide a working environment that is free from all forms of intimidation.

Examples of unacceptable and unwelcome behaviour:-

- Unwelcome jokes or remarks
- The display of offensive, derogatory written and visual material
- Intrusive or persistent questioning about private life and beliefs
- Shunning or excluding people from the workplace activity
- Shouting
- Intimidation
- Unwanted physical attentions

Anyone can be the subject of harassment as it comes in all guises:-

Sexual

Sexual harassment involves unwanted and unwelcome attention of a sexual nature. This may be physical or verbal or involve the denigration of an individual on sexual grounds or by sexual means. Any unwelcome behaviour of a sexual nature that creates an intimidating, hostile or offensive environment for the recipient may be regarded as sexual harassment. It affects both men and women.

Racial

Racial harassment is offensive action and behaviour, deliberate or otherwise, relating to race, colour, ethnic or national origin directed at an individual or group, which is objectionable to the recipient and which creates an intimidating, hostile or offensive environment.

Religion or Belief

Harassment because of a person's religion or belief. This includes a broad definition of belief and includes minority religions, humanists and atheists.

Homophobic or sexual orientation

This is harassment directed at persons or groups on the grounds of a perceived or actual sexual orientation (applying equally to homosexual, heterosexual or bisexual men or women) NB. In terms of sexual orientation, discrimination can occur because of an association with a gay or bisexual person (friend or relative).

Transgender/Transsexual

This is harassment against people who not only have undergone gender reassignment in the past but also those who intend to undergo gender reassignment and those who are undergoing it.

Disability

Harassment in respect of a person's disability or impairment.

Age

Harassment in respect of a person's age.

Other

Other forms of harassment can be as a result of an employee's:

- position with the organisation
- class
- status as an ex-offender
- political convictions
- Trade Union membership
- willingness to challenge harassment themselves

Who is an harasser?

Harassment is a complex and sensitive issue and can take many forms. It is difficult to define precisely an alleged perpetrator, however, there are some general categories that can frame harassing behaviour by someone who:

- **is in a position of power** - someone who uses their influence and position to harass and/or intimidate other employees.

- **is in a position of weakness** – a recipient of harassment once themselves, an individual may turn to intimidation tactics to make someone else feel powerless.
- **is lacking in understanding** - an individual not realising their particular behaviour, such as touching or use of certain words and phrases such as 'love' and 'darling' may cause offence to others.
- **is prejudiced** - is someone who holds strong beliefs about people e.g. gay, black and minority ethnic or disabled people, and makes or uses prejudicial references
- **is unwell** - when an individual displays outward symptoms of some form of psychological illness.
- **is frightened** - an individual may find it easy to accept the norms of other groups and participate in acts of harassment and intimidation for fear of isolation and reprisal.

Effects of Harassment/Bullying

It can be suggested at times that complaints of harassment are only made by people who are 'weak', 'touchy', or 'over-sensitive'.

Harassment, whether intentional or otherwise, has a direct effect on the individual concerned. It can have a marked effect on the morale and effectiveness of the individual who is subjected to such unwelcome behaviour.

The following are some examples of the effects:

On the individual and their health:-

- emotional distress
- erodes self confidence in their ability to perform their job
- anxiety
- sleeplessness
- stress/depression
- hostility and irritability

Impact on the workplace:-

- conflict at work
- increase in absenteeism
- may lead to the resignation and loss of talented employees
- may lead to claims of constructive and/or unfair dismissal
- costly in terms of compensation
- reduced efficiency
- low morale
- bad publicity and Employee Relations

Various Roles

Role of Human Resources

If you believe you are being harassed, you should in the first instance contact your line manager who will try to assist you. Your line manager may contact Human Resources for advice. (**See Appendix 1** for details of the procedure to be followed).

If you feel you are being harassed by your line manager, you should either contact your line manager's manager or the Head of Human Resources for assistance and advice.

The Head of Human Resources will ensure that you are nominated a key person to provide support and assistance during the process, prior to a formal complaint being made. Individuals in Human Resources who find themselves in a similar position should refer the matter to the Chief Executive.

All discussions at this stage are strictly confidential between the Head of Human Resources, the key Human Resources representative, the complainant and the line manager (if he/she has been spoken to by the complainant).

Reciprocal arrangements will also be provided for the alleged perpetrator if requested.

However, if your concerns are not resolved by your Personal Action, Stage 1 – Informal Procedure (**see Appendix 1**), then you should go on to Stage 2 - Formal Procedure (**Appendix 1**), by writing more formally, detailing the nature of the complaint, either to your line manager or your line manager's manager, depending on the circumstances.

Role of Representatives

NOTE: A representative is someone whom the recipient feels he or she can talk to, someone who will understand the problem, and whom, he or she feels can be trusted.

For this reason the representative has the following role to play:

- To act as a confidential listening service for people who think they have been harassed at work.
- To act on behalf of recipients in bringing the matter to the attention of management and/or the alleged perpetrator (if the recipient so wishes).
- To give support and assistance to the recipient to enable them to cope with the effects of the harassment.

As a **representative**, you should:

- Ensure that you act only on behalf of one of the parties involved. If one of the other parties asks for your assistance, you should pass on their request to another person.
- Deal with all information in the strictest confidence.

- Speak to the **representative from Human Resources immediately**. They will provide advice, guidance, information and training where appropriate on how to proceed with matters relating to the Council's Code of Practice on Harassment. They will also advise and provide you and the recipient with support to deal with the effects of the harassment.

Role of Managers

As a manager, you are responsible for explaining, promoting and implementing the Council's Code of Practice and for ensuring that the workplace is free from harassment. You will ensure that harassment is not tolerated. If you are aware, or made aware of harassment taking place, you should intervene at the earliest opportunity.

Points to note:-

- The employee (he or she) may feel it appropriate to deal with the difficulty themselves in the first instance.
- They should be encouraged to resolve the situation informally if possible, by following Personal Action - Stage 1, the Informal Procedure (**see Appendix 1**).
- The recipient may not feel they can tackle the difficulty themselves and may refer to you as the representative to assist them.
- If the matter is brought to you for you to resolve as their manager, please do not trivialise the issue, neither should you over-react and 'kick-start' the formal procedure (**see Appendix 1**) until the informal options have been exhausted.
- You must discuss the options with the recipient, you must involve the representative from Human Resources at the outset to assist and advise you.

As the manager, you must find out how the recipient feels about his or her present work situation. It may be necessary to take immediate action (e.g. arrange for the recipient to see a counsellor, suspend the alleged harasser etc.)

Please note that the recipient should not be expected to move unless it is considered necessary by all concerned.

Refer to **Appendix 1** for details of the Procedure to be followed.

Important note for Managers

The employee's concerns may have by-passed you and the first you may hear of them is at the Formal Stage. Please do not over-react, the recipient can report the matter to any person in the organisation whom they can trust.

Please also note that as a manager you must remain impartial and unbiased throughout the investigation and complaints procedure.

Whilst the investigation is under way your neutrality is vital. This will ensure that normal working relationships can resume after the investigation period.

MISCELLANEOUS INFORMATION

INFORMATION AND TRAINING

Information and training in how to deal with cases of harassment will be provided by Human Resources for the following people:

- Elected Members who sit on Disciplinary Appeals Panels
- Managers and Supervisors
- Senior officers who take part in disciplinary and grievance hearings.

Information on the Harassment Code of Practice and their rights and responsibilities will be made available to all employees.

PUBLICATION

This amended Code of Practice will be:

- Published on the Council's website, intranet, and on the employee handbook.
- Sent to all newly appointed elected members;
- Distributed to union representatives;
- A summary of the Code of Practice will be made available to all employees.

Amendments to this Code of Practice will be distributed in the manner described above.

NOTE: Elected Members

As any Code of Practice is only effective if it is followed and used when the need arises, there is an expectation that elected members will comply with the procedures.

CONTACT PERSONS:-

1. Chief Executive
2. Deputy Chief Executive Officer
3. Head of Human Resources
4. Trade Union

FURTHER INFORMATION

Equality & Human Rights Commission

www.equalityhumanrights.com

3 More London, Riverside Tooley Street SE1 2RG

Telephone 020 3117 0235

Fax 01925 884 275

The Equality and Human Rights Commission helpline gives information and guidance on discrimination and human rights issues.

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C. Revision History

Revision date	Summary of Changes	Revised by
Jan 2008	<ul style="list-style-type: none">- Policy includes elimination and protection from harassment for transsexual people.- New job titles following implementation of the hybrid Senior Management Structure and subsequent changes resulting from the Deputy Chief Executive Officers' situation.- Clarification of the various roles, process stages and the administrative support.	Debbie Lardner

HARASSMENT PROCEDURE

INFORMAL PROCEDURE – STAGE 1

PERSONAL ACTION

Steps to take if you are being harassed

Step 1 - Keep a Record

Make a note of when an incident takes place, what happened and where there are any witnesses or reprisals. A record will help you to provide the harasser with specific incidents which will allow for better understanding.

A written account makes it easier to investigate.

Step 2 - Speak to the Harasser

Ask the harasser to stop; tell the harasser that their attention is unwelcome and unacceptable, that it offends you and that you want them to stop. Remind them of the North Wiltshire District Council's Code of Practice.

NB: You may feel that an opportunity to talk through informally and off the record would help, in which case approach someone at work whom you feel you can trust, Unison, colleague, Human Resources, but make sure you fully brief them with all the facts.

Step 3 - Write a Letter to the harasser

If you feel you are unable to approach the individual personally (Step 2 as above) then write to him/her stating:

- the offensive behaviour
- when and where it happened
- why you object to it
- that you want it to stop immediately
- how you expect to be treated in the future
- and a reminder of North Wiltshire District Council's Policy

Remember to keep a copy

Having chosen this option and the situation appears to be resolved to your satisfaction, you may decide not to take any further action. But, if your concerns are not resolved by the above steps, and if you have not already done so then you should approach your line manager and/or Human Resources for help.

North Wiltshire District Council expects all employees who have line management responsibility for others to:

- set a good example to co-workers by avoiding participating in sexist, racist and homophobic behaviour.
- not to turn a blind eye to the behaviour of others in their charge and to seek to speedily resolve instances of unacceptable behaviour.
- be aware of any behavioral changes such as someone becoming withdrawn or refusing to work with another employee.
- ensure that your employees know that they can turn to you for help.
- be prepared to deal with complaints and seek advice from Human Resources as soon as you receive a complaint of alleged harassment.
- be fair and objective by not allowing your knowledge of the individuals concerned to prejudice the outcome of your enquiries.
- more importantly, not to take any action before consulting with Human Resources on the appropriate way to proceed.

FORMAL PROCEDURE

Where the informal stage fails and the harassment persists or the allegation is of such a serious nature, the individual should follow the formal procedure outlined below.

It is acknowledged that starting a formal procedure may be overwhelming and everything possible will be done to reduce the stress of the situation. However, in view of the nature of the offence a strict formal procedure will be followed. Care is taken during an investigation to protect the interests of both the recipient and the alleged perpetrator and to maintain strict confidentiality as far as possible.

Step 1 – Registering a Complaint

1. You, as the recipient, should immediately alert your line manager and provide the following information in writing:
 - a. name(s) of the alleged perpetrator(s)
 - b. the nature of the complaint
 - c. date(s) and time(s) of the alleged incident(s)
 - d. any existing evidence
 - e. the names of any witnesses
2. The line manager, after speaking to the Representative from Human Resources, should acknowledge the complaint in writing within 2 working days of receiving the complaint.

If the complaint is against a Deputy Chief Executive Officer then the Chief Executive should be notified.

Step 2 – Clarifying the Complaint

Within 7 working days from receiving the complaint, your line manager, together with a representative from Human Resources should convene a meeting with the recipient. At this meeting they will do the following:

- Clarify the nature of the complaint with the recipient.
- Ascertain whether the complaint has been dealt with through the Informal Stage initially.
- If the above point has not occurred, consider the explanation and then decide whether the available information justifies an investigation.
- You, as the recipient, will be informed of your line manager's decision to pursue the complaint through the Informal Stage where appropriate.

Subject to your line manager and the representative from Human Resources having satisfied themselves that the Informal Stage has been exhausted, or that the matter is serious enough to warrant the formal process, they will:-

- i. Decide whether the available evidence justifies an investigation. If so, an Investigating Officer will be appointed with advice from HR. The manager may investigate the allegation(s) him/her self, subject to him /her not directly being involved in the case.
- ii. If an investigation is justified, agree the nature and scope.
- iii. Find a Panel Chair – Deputy Chief Executive, Head of Service or Team Manager.
- iv. Set a practical, shortest possible time-scale for the investigation in order to minimise stress to parties concerned.
- v. Consider what immediate temporary action should be taken to minimise contact between the recipient and the alleged perpetrator if requested. If the alleged perpetrator is in another Service Area then the Head of Service/Team Manager/Deputy Chief Executive Officer must be consulted.
- vi. Agree on how the appropriate Head of Service/Team Manager/Deputy Chief Executive Officer will inform the alleged perpetrator as to what is taking place, including their right to representation.
- vii. Ensure that the alleged perpetrator receives details of the nature of the complaint in writing.
- viii. Agree on how the line manager and the representative from Human Resources will inform you, the recipient, of the outcome of this initial meeting and if the complaint warrants an investigation of how this will take place.

Step 3

The investigation will be conducted by two representatives, one from the Service Area and one from Human Resources.

They will now be referred to as the investigating team. Arrangements will be made for the investigations team to be given sufficient time to carry out the investigation.

1. The investigating team will interview:-
 - a. the recipient
 - b. the alleged perpetrator
 - c. any witnesses present during the incident(s), and
 - d. if necessary you, the recipient, again.

During the investigations all interviewees are entitled to representation.

Both you, the recipient, and the alleged perpetrator can have access to any of your personal interview notes taken by the investigation team.

1. Having obtained all information available the investigating team will consider whether the allegation is substantiated.
2. The investigating team will submit a formal written report of their findings to the Panel, which will have on it either a Deputy Chief Executive Officer, Head of Service or Team Manager and a representative from Human Resources.

The report will be restricted to the complaint in question and findings based on evidence considered.

3. It is the Panel that decides on an appropriate course of action.
4. Within 5 days of the Investigating Team's report being received by the Panel, Human Resources and the line manager will inform you, the recipient, and the perpetrator, in person one of the following decisions made by the Panel:-
 - a. Not to uphold the complaint, with the reasons for that decision.
 - b. To take non-disciplinary action that may include possible permanent re-deployment. In the latter case, this will normally apply to the alleged perpetrator. If this option is chosen, training and counselling will be given to the perpetrator to help understanding of actions and their consequences.
 - c. If disciplinary action is advised by the Panel, it is the responsibility of your line manager to present the case to a Disciplinary Panel. The management case should be prepared and presented to the Disciplinary Panel in conjunction with the Human Resources representative from the investigating team. If this is the case, you may be asked to attend the hearing and arrangements can be made to allow evidence to be given without contact with the perpetrator.

The decision will be confirmed in writing to both parties. It is vital that a paragraph referring to the right of appeal is included in your letter. It should read...

'...you have the right of appeal against the Panel decision. This should be put in writing to the Head of Human Resources within seven days of receiving this letter.'

This decision will not affect the rights of any individuals involved under criminal law or other statutory legislation.

Stage 3 – Appeals

There are four circumstances in which you as the individual concerned may wish to appeal against the outcome of this procedure.

- a. You as the recipient may refuse to accept that the findings of the investigation are reasonable.
- b. You as the recipient may agree with a positive finding but believe the proposed action taken to have been inadequate or excessive.
- c. You as the alleged perpetrator may refuse to accept that the findings of the investigation are reasonable.
- d. You as the alleged perpetrator may agree with a positive finding but believe the action proposed to be excessive.

If the recipient or the perpetrator exercises their right of appeal against the Panel's decision, either the Chief Executive, Deputy Chief Executive, Head of Service or Team Manager (who has not previously been involved in the case) will consider the appeal and make a final decision. There will be no further right of appeal.

SERVICE DELIVERY

1. When an employee has to deal with harassment by a member of the public he or she should immediately inform the manager and keep a written record of the incident.
2. If an employee is harassed by a member of the public and is unable to deal with the situation, he or she should withdraw him/herself from contact with the member of public and advise their manager.
3. The Manager will inform the member of the public that such behaviour is unacceptable and request him or her to desist. The manager will inform the Chief Executive and the Head of Human Resources within 2 working days of the complaint.
4. The Manager or person in charge of the employee will endeavour to ensure that the employee is not placed at further risk of harassment from that member of the public. If an employee feels that the manager is not taking appropriate steps or taking the complaint seriously then he/she has recourse to the grievance procedure.
5. If a member of the public complains about the behaviour of an employee, the manager will inform their Deputy Chief Executive Officer, the Chief Executive and the Head of Human Resources in writing within 2 working days of the complaint. The manager, with assistance from Human Resources, will investigate the complaint and if upheld will deal with it informally by non-disciplinary action or, if the Chief Executive and the Head of Human Resources consider it serious enough, the Council's disciplinary procedure may be invoked.

FORMAL PROCEDURE – ADMINISTRATION

The process involves a number of individuals:-

- Recipient and Representative
- Alleged Perpetrator and Representative
- Panel – consisting of either a Deputy Chief Executive, Head of Service or Team Manager and a representative from Human Resources

- Appeals Panel consisting of either Chief Executive, Deputy Chief Executive, Head of Service or Team Manager (who has not previously been involved in the case)
- Investigating Team

For the process to run smoothly everyone involved needs to receive prompt and accurate information.

To assist in this, the following things need to occur:-

1. Recipient: Should keep notes/diary dates of incidents and activities. The complaint must be put in writing to the line manager, keeping a copy for reference. Without exception the first person contacted concerning any incident of harassment should ask the representative from Human Resources for advice on procedural matters.
2. The line manager will acknowledge receipt of the letter and forward a copy to the Head of Human Resources within two working days.
3. The representative from Human Resources will arrange to meet to clarify the complaint within seven working days from receiving the complaint.
4. The representative from Human Resources will co-ordinate the process.
5. The Recipient's Deputy Chief Executive Officer/Head of Service/Team Manager should arrange for a scribe/note taker to be allocated to the Investigations Team.
6. The representative from Human Resources will confirm with all concerned, their roles and inform individuals on the progress of the case. Interview notes and any further information required will be filtered through the representative from Human Resources.
7. The representative from Human Resources will also arrange for the findings of the Investigation Team with all appropriate papers to be sent to the Panel.
8. The Panel should meet to discuss the findings and decide on an outcome, wherever practicable, within 5 working days of receiving the Investigating Team's report.
9. The line manager and Representative from Human Resources will inform the recipient and the person alleged as harasser of the outcome within 5 working days of receiving the decision of the Panel's decision. The letter will contain information regarding the right to appeal against the Panel's decision.
10. The Representative from Human Resources wherever appropriate, will arrange for support, advice, training, counselling, as necessary for those involved i.e. recipient and/or alleged perpetrator, contacts, managers, witnesses.

Confidentiality will be maintained at all times.