

DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT AT WORK

SUPPLEMENTARY MANAGER'S GUIDANCE

1. PURPOSE

- 1.1 The council has a responsibility to provide a safe and suitable working environment that is free from bullying, harassment and victimisation and has developed a Policy and Procedure for Dealing with Complaints of Bullying and Harassment at Work and a related Code of Practice.
- 1.2 The focus of the council's policy is informal resolution wherever possible, recognising that most employees simply want unacceptable behaviour to stop. However, consideration should be given to what action should be taken in situations where either the alleged perpetrator or complainant leaves the council's employment before the conclusion of either a formal or informal process. This guidance considers what actions should be taken by managers in the following scenarios:
- Scenario 1 - an employee who is the subject of a bullying and harassment complaint (formal or informal) resigns, or their contract ends, prior to the conclusion of the process.
 - Scenario 2 - an employee makes a complaint (formal or informal) of bullying and harassment, but resigns, or their contract ends, prior to the conclusion of the process.
 - Scenario 3 - an employee resigns, or their contract ends, and cites bullying and harassment as their reason for leaving.

2. DEALING WITH A COMPLAINT WHERE THE ALLEGED PERPETRATOR OR COMPLAINANT LEAVES THE COUNCIL

Scenario 1

- 2.1 Where an employee who is the subject of a bullying and harassment complaint (the alleged perpetrator) leaves the council's employment, it could be considered that the unacceptable behaviour has stopped and therefore the case is concluded. However, such an approach does not consider the feelings of the alleged victim or victims or the team dynamics that may have been formed as a result of an environment or culture that is contrary to the council's values.
- 2.2 Bullying and harassment are regarded as misconduct, and in line with the Disciplinary Manager's Guide, if the employee resigns during the investigation or at any other stage of the disciplinary process, the investigation should continue to a conclusion in the employee's absence. Not only does this provide relevant information for use in relation to reference requests or any subsequent court/employment tribunal proceedings, it will provide the manager with valuable information to determine what support may be necessary for the remaining employee(s) who may have been affected by the actions of the ex-employee.
- 2.3 The nominated officer should meet with relevant parties to discuss the outcome of the investigation and the reasons for any conclusions reached in order to decide what support is needed. Depending on the circumstances, it may be appropriate to meet with relevant parties individually or as a team. If the nominated officer is not the line manager, then discussions should involve the line manager to establish ground rules for improving working relationships.
- 2.4 Employees who are the 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, counselling provided by the Occupational Health Service should be offered.

Scenario 2

- 2.5 Where an employee makes a complaint of bullying and harassment but resigns, prior to the process ending, it is not unreasonable to think that the circumstances surrounding the case may be significant in the employee's decision to resign.
- 2.6 Dealing with a complaint of bullying and harassment, particularly where the formal procedure has been invoked, can be uncomfortable and stressful for all parties involved. Therefore, it is essential that complaints of bullying and harassment are addressed quickly and in a sympathetic and supportive manner. This should be the case even where the complainant is on a fixed term contract which is unlikely to be renewed. In line with the Policy and Procedure, the Investigating Officer should seek to conclude the investigation as quickly as possible and normally within six working weeks of the decision to proceed with a formal complaint.
- 2.7 Where the complainant leaves before the conclusion of an investigation, the investigation should continue to a conclusion in the employee's absence. Where appropriate, the complainant should be invited to engage in the investigation process after they stop working for the council as it is in the council's interests to conclude a fair and transparent investigation.

Scenario 3

- 2.9 Where an employee resigns and cites bullying and harassment as their reason for leaving, or indicates during their period of notice that bullying and harassment has been a factor in their decision, the line manager or other nominated officer, should seek to resolve the matter as far as is reasonably possible prior to the employee's termination date.
- 2.10 In the first instance attempts should be made to resolve the matter informally. However, where the allegations are of a particularly serious nature, the formal procedure should be followed. Where appropriate, the complainant should be invited to engage in the investigation after they stop working for the council.

3. ENSURING A FAIR PROCESS

- 3.1 It is in the interests of all involved to ensure a fair and transparent investigation into any allegations of bullying and harassment. A fair and transparent investigation would normally involve the full cooperation of the complainant and the alleged perpetrator. Where the complainant chooses not to engage in the investigation process, either during a notice period or after leaving the council, it may not be possible to fully establish the facts of the case. This should be taken into account by the nominated officer when determining any appropriate action following conclusion of the investigation.

4. CONCLUSION

- 4.1 Where possible, it is preferable to resolve a complaint of bullying and harassment informally before either party leaves. Doing so may in fact avoid the situation where either party feels forced to resign.
- 4.2 However, where appropriate, the nominated officer should ensure that a formal investigation is conducted thoroughly and concluded even where a relevant party is no longer an employee of the council. By concluding the investigation and taking any necessary action, the council will aim to resolve any remaining issues, avoid future complaints and support remaining employees to perform at their best in an environment free from bullying, harassment and victimisation.

**Human Resources
September 2021**