



# Managers' Guidance: Identifying and dealing with bullying &/or harassment or other Grievances

This guide looks how to identify and deal effectively with a claim of bullying or harassment or other grievances and should be read in conjunction with the Dignity at Work Policy and Grievance Policy.

## Dos and don'ts

- **Do** take prompt action whenever there is evidence of bullying behaviour, whether or not anyone has complained.
- **Do** take prompt action when someone raises an informal complaint
- **Do** take any complaint seriously.
- **Do** investigate all allegations carefully and thoroughly.
- **Do** approach investigatory interviews with an open mind.
- **Do** listen carefully and without bias to what employees have to say.
- **Don't** jump to premature conclusions about the validity of a particular complaint.
- **Don't** show emotion, for example anger, during any of the interviews.
- **Don't** try to rush the interview as the employee may need time to respond fully.
- **Don't** forget to follow up afterwards to ensure that the matter has been properly resolved, and to make sure that working relationships have settled down and there are no recriminations.



## Reasons for raising a grievance

Grievances can arise for a variety of reasons such as:

- Terms and conditions of employment
- Health and safety
- New working practices
- Working environment
- Organisational change
- Bullying and Harassment

## Resolving issues informally

Most issues and concerns can be resolved informally if managed respectfully and in a timely manner. This could be by:

- discussing an individual's concerns and determining whether they are within your power to resolve
- supporting an employee to access Coaching to help them determine what a successful outcome would be for them and how best to reach that outcome
- suggest mediation if the issue is with regard to a working relationship.

## Incidence of bullying and harassment

Many employees may be reluctant to report instances of bullying or harassment out of fear of damaging working relationships with their colleagues, fear of reprisals, embarrassment or worry that they may be perceived as troublemakers. It is important for managers to bear in mind that just because no one has complained this does not mean that no bullying or harassment is taking place.

## Examples of bullying or harassment

Bullying and harassment may be misconduct that is physical, verbal or non-verbal, e.g. by letter or email. Examples of unacceptable behaviour include (but are not limited to):

- physical conduct ranging from unwelcome touching to serious assault;
- unwelcome sexual advances;
- the offer of rewards for going along with sexual advances, e.g. promotion, access to training;
- suggestions that refusing sexual advances will adversely affect the employee's employment, pay, advancement, work, or any other condition of employment or career development;
- demeaning comments about a person's appearance;
- unwelcome jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion;
- questions about a person's sex life;
- unwanted nicknames related to a person's age, race or disability;
- the use of obscene gestures;
- excluding an individual because they are associated or connected with someone with a protected characteristic, e.g. their child is gay, spouse is black or parent is disabled;
- ignoring an individual because they are perceived to have a protected characteristic when they do not, in fact, have the protected characteristic, e.g. an employee is thought to be Jewish, or is perceived to be a transsexual;
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups;

- spreading malicious rumours or insulting someone;
- ridiculing, picking on someone or setting them up to fail;
- making threats or comments about someone's job security without good reason;
- isolation or non-cooperation at work; and
- excluding someone from social activities.

### **Preventing bullying and harassment**

Wokingham Borough Council has a Dignity at Work policy and it is important that all employees know that bullying and harassment at work will not be tolerated and that all instances of such behaviour will be viewed as misconduct leading to disciplinary action up to and including summary dismissal.

The grievance policy and procedure provides a clear route for employees who believe that they are experiencing bullying or harassment at work to raise the matter without fear of recrimination and have it dealt with.

You could consider conducting an informal review of the "culture" in your department or team to establish if, for example, sexist, racist or homophobic banter is commonplace. It will be much better to take preventative measures in an informal way, perhaps through team briefings, than to allow the behaviour to continue, thus creating a serious risk that it will cause offence to someone and lead to formal complaints and tribunal claims.

All managers and employees should undertake the e-learning regarding bullying and harassment available on My Learning.

### **Employers' liability for harassment**

Employers are liable in law for any acts of harassment perpetrated by their employees in the course of employment. This has been interpreted widely by tribunals. For example, harassment that takes place at a work-related social event organised by the employer may create liability for the employer.

Further, employers are liable whether or not the act of harassment was done with the employer's knowledge or approval. The fact that management did not know that harassment was occurring will therefore be no defence, and a lack of intention to offend will similarly not provide a route for the employer to escape liability.

### **Dealing effectively with bullying or harassment**

If, despite preventative measures taken, harassment or bullying occurs, you should aim to take steps to put a stop to it as soon as possible.

Don't sit back and wait until a complaint is lodged before taking action. Nipping a potential problem in the bud is much better than doing nothing and thus creating the risk that the situation may escalate into a formal complaint.

### **The importance of acting promptly**

If an employee does come forward to report an incident of bullying or harassment, it is vital to take the complaint seriously and tackle the matter promptly.

Dealing with such matters is never easy, but any delay in resolving the complaint will make matters worse, taking into account the stress that the harassment is likely to cause the individual, the likely

disruption to working relationships and the negative effect that bullying or harassment will inevitably have on performance and productivity.

### Investigating a complaint

Remain open minded when looking into the substance of the employee's complaint. An employee who is being harassed or bullied at work will be upset and the natural emotional reactions caused by bullying or harassment may in some cases lead to exaggeration or distortion of the facts reported. There will be a need to conduct an impartial and thorough investigation into the facts. *See Managers Guidance for conducting investigations*

### Dealing fairly with the person accused of bullying or harassment

Following the investigatory meetings, and assuming there is a case to be answered, a formal disciplinary hearing should be set up with the person accused of bullying or harassment. This should be done in line with the Disciplinary Policy. You should ensure that the alleged harasser is unable to influence the process and are only involved in the investigation as a witness.

The purpose of the hearing will be to establish whether or not there are proper grounds for taking disciplinary action against the employee and, if there are, what level of disciplinary action would be appropriate. This will depend on whether or not, following the hearing, there are reasonable grounds for forming a genuine belief that incidents of harassment or bullying did in fact occur.

There is no need to have absolute proof of the employee's "guilt" in order to proceed with disciplinary action or dismissal so long as, following a thorough investigation there is a genuine and reasonable belief that incidents of bullying or harassment took place.

Depending on the seriousness of the behaviour, disciplinary action may range from a verbal warning to summary dismissal. In cases of mild harassment, for example a single incident that was based on a misunderstanding or a series of minor incidents where the employee genuinely did not realise that he or she was causing offence, a sincere apology together with an undertaking not to repeat the offending behaviour may be appropriate. If a warning is given, the warning should make it very clear that any further incidents of bullying or harassment of any kind will be viewed very seriously and will lead to further formal disciplinary action.

Both the employee who raised the complaint originally and the employee accused of bullying or harassment should be given written feedback on the outcome and any actions agreed once the proceedings have been concluded.

Records of the complaint, all interviews conducted and the outcome of the proceedings should be sent to Human Resources to be stored confidentially.

#### Keeping records

You should keep full records of all meetings with employees during the investigation and at the conclusion of the grievance, these with all correspondence should be sent to [hrenquiries@wokingham.gov.uk](mailto:hrenquiries@wokingham.gov.uk) who will put them in the employees HR file and record the grievance on Business World on.

### Further information

All templates letter and forms and checklists, and associated guidance & polices are available on the Intranet. Any further information can be obtained from [hrenquiries@wokingham.gov.uk](mailto:hrenquiries@wokingham.gov.uk) or on 0118 974 6116.

Version	Date	Description
1	01/03/16	Replaces management toolkit
2	21/03/17	Sharepoint adaptation
3	17/04/19	Record keeping