

# Harassment At Work

Version 2  
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## 1. Introduction

There is no simple definition of harassment in the workplace. It can take a variety of forms such as physical contact, verbal abuse, written abuse, obscene gestures, deliberately isolating individuals, non co-operation, sexual innuendo, sexual harassment and bullying. It does not depend simply on the intention of the offender, but also the impact of their behaviour on the victim.

Harassment at work can have a high cost. For the employee it can manifest itself in physical fear, stress and anxiety, absenteeism and low morale. For the employer it can lead to absenteeism, poor work, high turnover, depressed morale, and to legal action being taken. The cost of the latter could be substantial if harassment claims are pursued under the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003. There is also the cost to the employer if a case reaches an Employment Tribunal, through poor publicity and damage to the employer's image and standing.

### 1.1 Justification for the Policy

There are a number of sound reasons why the Council should adopt a policy on Harassment at Work

- it demonstrates the Council's commitment to Equal Opportunities (one of the Council's stated values)
- it provides guidance for Managers on the handling of claims of harassment
- it provides clear guidance for staff should they suffer harassment

- it aids the retention of staff and maintains productivity
- it can avoid substantial legal costs should claims of harassment be pursued through Employment Tribunals

The policy statement demonstrates the Council's and management intent to tackle harassment in the workplace. It represents, through the procedures, a determination to deal with complaints and allegations in a reasonable, consistent and sensitive way.

2.

## Implementation

The implementation of this policy will be taken as part of the process of implementing the Council's Equal Opportunities Policy. The particular training needs of implementing the Policy can be provided through expertise already available within the Council.

3.

## Trade Union Consultation

The trade unions were consulted and supported the introduction of this policy. Consultation will also continue particularly in relation to the implementation and monitoring of the policy.

4.

## Purpose Of The Policy

The purpose of this Policy is to address the issue of harassment in the workplace, and to outline procedures which will enable claims of harassment to be dealt with quickly and effectively. The policy and associated procedures are an integral part of the Highland Council's Equal Opportunity Policy.

It is recognised that there is no simple definition of harassment. It does not depend simply on the intention of the offender, but also the impact of their behaviour on the victim. What one individual may accept may prove unacceptable to another.

Harassment has been held to constitute discrimination under the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and the Employment Equality Regulations 2003. Employers can avoid liability only if they can prove that they have taken appropriate measures to ensure harassment has not taken place or that they have dealt effectively with any alleged harassment.

The Policy will apply to all employees of the Highland Council. Adoption of the Policy with clear implementation procedures will ensure that:

- all staff are aware that harassment (whether intentional or not) will not be tolerated or deemed acceptable by the Highland Council
- an employee can raise a complaint of harassment confidentially without fear of ridicule and reprisal
- all employees will be aware of whom to contact and what action is open to them, and of the complaints procedure
- line managers will be aware of what action to take if a claim of harassment is made
- any incident of harassment will be regarded as extremely serious, and could be grounds for disciplinary action which could include dismissal

5.

## Forms Of Harassment

Harassment can take a number of forms including:

- physical (from touching to serious assault)
- verbal and written (e.g. offensive language, jokes, slander, malicious gossip)
- visual (e.g. posters, graffiti, gestures)
- isolation/non-co-operation (e.g. exclusion from social activities, etc.)
- coercion (e.g. pressure for sexual favours, pressure to join a political group, etc.)
- intrusion (e.g. pestering, spying, following)
- victimisation (e.g. for making a claim for harassment)

Harassment impacts both on employees and the Council as an employer.

Employees can be subjected to fear, stress and anxiety, which may put strains on personal and family life. It can lead to illness, increased absenteeism, lack of commitment, poor performance, and even resignation. All these have a direct impact on organisational effectiveness.

Harassment can be caused by colleagues, supervisors, elected members, clients, members of the public, contractors, etc. Often the employee facing harassment is reluctant to complain because of embarrassment, fear of reprisal/ridicule, or reluctance to elicit unwanted public attention.

For the employer, harassment at work can lead to absenteeism, low staff morale, poor work performance, high turnover and legal action being taken by employees.

The sensitivity surrounding the subject has important implications on the design and implementation of procedures to ensure the prevention of harassment at work.

## 6. Procedures For Dealing With Complaints Of Harassment

When a complaint has been made it should be investigated thoroughly and as quickly as possible, ensuring that the rights of the alleged perpetrator are protected as well as those of the complainant. The procedures (either formal or informal) outlined below aim to resolve problems swiftly, confidentially and effectively. They provide both informal and formal mechanisms for addressing problems.

## 7. Counselling

Officers within the Highland Council will be nominated as counsellors as an initial contact for employees claiming harassment. Personnel will hold the list of advisers. There will be at least 2 designated officers per Service plus each Area Personnel Adviser, together with HQ professional personnel staff. The officers, who will be given appropriate training, will discuss with a complainant, in an informal way, incidents or problems. They will act as advisers on the next course of action. Any discussion will be confidential and further action will not normally be taken without the complainants express permission.

## 8. Informal Procedure

The informal procedure allows the employee to raise a matter confidentially with an adviser, with no obligation to pursue it as a formal complaint. This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality.

The adviser will meet with the employee within three working days of the complaint being made, and will provide support and information and will outline options to the employee where this is appropriate.

In situations where the adviser is required to speak with the alleged perpetrator, the adviser shall, with the full knowledge of the employee, advise the Service Director in confidence. The details of the matter will not be discussed.

If the situation is not resolved by informal methods, or where previous attempts at informal resolution have proved unsuccessful, the employee may raise a formal complaint.

The general principle is that the decision to progress a complaint rests with the individual. However, where the employee is reluctant to take formal action despite serious harassment, the adviser has an obligation and responsibility to ensure the general welfare of employees within the Council, and can stress the importance of raising the issue as a formal complaint.

In addition if there is clear evidence that serious harassment has taken place the adviser has an obligation and responsibility to raise the issue under the formal procedure with the Service Director. The adviser must however discuss this issue and evidence first with the appropriate Personnel Adviser and must advise the employee of his/her intention to raise the issue under the formal procedure.

9.

## Formal Procedure

Where the informal procedure has not resolved the alleged problem, or the matter is of a more serious nature, the employee may submit a complaint in writing to his or her Service Director.

The Adviser will not be involved in any subsequent investigation, which will be conducted by an officer nominated by the Service Director, and a representative of Personnel.

Investigations will be conducted within a clear procedural framework which will involve the processes as stated in the Council's Disciplinary Procedures:

- prompt, thorough, impartial investigation with due regard to the rights of both the complainant and the alleged perpetrator
- investigation of the circumstances by officers who have no connection with the allegation
- the right for both parties to be represented and accompanied
- clear details of the complaint and the right and time to respond
- commitment to timescales for resolution of problems
- investigations based on objectivity
- commitment to confidentiality for everyone involved including witnesses

10.

## Recording And Monitoring

A record of the complaint and investigation will be kept with Personnel, including the names of parties, dates, nature and frequency of incidents, action taken, follow-up and any monitoring to be implemented. This record will be instigated by the counsellor and passed on if necessary to the investigating officer for completion.

11.

## Resolution Of Harassment Claims

When an allegation has been fully investigated, whether formally or informally, and substantiated, the course of action taken to stop and prevent further harassment will depend on whether the perpetrator is an employee of the Highland Council, or a member of the general public.

Allegations upheld against Highland Council Employee(s)

Where there is found to have been harassment against another employee, the solution proposed will vary according to the particular circumstances of the case:

- If the perpetrator was unaware of the impact of his/her actions, it may be sufficient to bring this to his/her attention with the aim of changing the individual's behaviour
- It may be necessary to use the Council's disciplinary procedures. This will be necessary where malicious behaviour is identified, either on the part of the person claiming harassment, or on the part of the harasser, or where the harassment is of a serious nature

The findings of the harassment investigation will be used in the Disciplinary Hearing.

Due regard will be given to the potentially sensitive and complex nature of the harassment claim and the need for complete confidentiality.

- In either of the above cases, or even where no harassment has been proven, it may no longer be practicable for the employees to continue to work together. One employee may have to be moved to another work area

If practicable the individual who has been subject to harassment should have the choice in determining who is moved. However, this may not be possible for a number of reasons e.g. availability of suitable alternative employment for the perpetrator and it may be more practicable for the harassed employee to be moved. Reasons for moving either employee must be discussed and explained fully with the employees.

Care must be taken to ensure that the party who is moved does not suffer any detriment in terms and conditions of employment through transfer.

Care must also be taken to ensure that an employee does not suffer victimisation as a result of bringing the harassment claim

- It may be necessary to refer the matter to the Police, e.g. in cases of assault, and in such serious circumstances will also have to be dealt with under the Council's disciplinary procedures

#### Allegations Involving an Individual(s) who is/are not Highland Council Employee(s)

Where an employee alleges harassment by someone who is not an employee of the Highland Council, for example, an employee of another organisation, a member of the public or an elected member, the matter will be investigated in accordance with Section 9 above. The Chief Executive and the Director of Corporate Services must be notified and the Service Director will prepare a report for the Chief Executive who will take the appropriate action.

Where an allegation of harassment is made against a Council employee by an outside agency or person, the Chief Executive and the Service Director will be advised immediately, and the Service Director will, in conjunction with Personnel, attempt to resolve the complaint following investigation.

12.

## Communication, Training And Monitoring

### Communication

Responsibility for implementation of the policy lies with Service Directors.

Prominent and regular communication of the Policy is important to ensure that all employees:

- understand the Council's commitment to eliminate harassment at work, and the reasons for this
- are aware of the procedures and the role and availability of confidential counsellors
- know how to make complaints and have the confidence that they will be handled effectively

#### Training

Awareness raising and directed training will promote an environment where harassment is not accepted or condoned. Staff with designated responsibilities within the Harassment Policy will receive specific training in dealing with harassment issues and in the particular roles and responsibilities they have.

#### Monitoring and Review

Complaints will be monitored by the Director of Corporate Services, to identify general trends, areas of concern, and to ensure that the policy and procedures are appropriate and effective in conjunction with Service Directors and Area Managers as appropriate.

13.

## Harassment Advisers

Person	Service	Telephone
Donnie MacDonald	Corporate Services	01463 702119
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