

Bullying and Harassment Procedure

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Statement of intent

1. The City of London Corporation is committed to promoting good employee relations within a working environment that fosters team working. Employees and others working at all levels of the organisation have a responsibility to maintain professional relationships. They are expected to avoid actions or using words that would harm the mental or physical wellbeing of others. They will, as stated, in the Code of Conduct policy, demonstrate appropriate behaviours defined internally and that adhere to the Principles of Public Life. The Managing People Policy and Equal Opportunity Policy each set out in more detail the standard of conduct expected of all those who work for or on behalf of the City of London Corporation. The Director of Human Resources will be responsible for advising on the day to day operation and interpretation of this procedure.
2. Everyone has the right to be treated with fairness, dignity and respect whilst at work. In addition, the Equality Act 2010 places an obligation on organisations and their employees to avoid unlawful discrimination in relation to specified protected characteristics. These are age, disability, race, religion or belief, sex, sexual orientation, marriage and civil partnership, gender reassignment and pregnancy and maternity. This ensures that we establish an environment in which everyone can feel safe and work effectively and confidently as set out in the Equality of Opportunity Policy.
3. The City Corporation has a zero-tolerance approach to bullying and harassment. Bullying and harassment constitute misconduct and in the most serious cases, may result in dismissal from employment without notice. All allegations of inappropriate behaviour or language in the workplace will be taken seriously, with thorough investigation and appropriate action taken, as necessary.

Scope

4. The aims of this procedure are to ensure that all employees are aware:
 - of what constitutes bullying and harassment
 - the protected characteristics set out in the Equality Act
 - of their right to report incidences of bullying or harassment (as defined in the Equality Act 2010¹) and how this will be addressed.

¹ <https://www.legislation.gov.uk/ukpga/2010/15/section/26>

Bullying, harassment and associated discrimination can occur or be experienced in relation to more than one protected characteristic. It is acknowledged that the experience of victims who have multiple protected characteristics is often heightened.

5. The formal process for complaints set out in this procedure applies to all employees except Chief Officers, teachers and police officers for whom separate procedures apply. Whilst the procedure is available to individuals directly employed by the City of London Corporation, incidents raised by other workers should be taken seriously and dealt with appropriately by managers and Chief Officers.
6. This procedure covers behaviour that occurs in the office, online and outside working hours where this may impact upon work or working relationships (ref: Social Media policy).

Purpose

7. The purpose of this procedure is to ensure we have a working environment in which instances of bullying and harassment are always treated as unacceptable and employees have the confidence to complain about such behaviour, should it arise, in the knowledge that concerns will be dealt with appropriately, fairly and without bias. Complaints will be investigated promptly, ensuring employees' rights are protected.

Legal position

8. There is no legal definition of bullying. The employment and conciliation service ACAS states that workplace bullying is behaviour from a person or group that is unwanted or makes you feel uncomfortable. Some definitions also refer to it being a repeated pattern of behaviour. Bullying can take the form of physical or verbal aggression, excluding or ignoring people, spreading malicious rumours or constantly criticising and undermining a competent worker.
9. The Equality Act 2010 defines harassment as: unwanted behaviour that is related to one of the protected characteristics (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. In the case of sexual harassment, unwanted behaviour is defined as behaviour of a sexual nature. Harassment can be a one-off or repeated pattern of behaviour under this definition.
10. No employee will be victimised or suffer detriment for making a complaint of bullying or harassment. No manager shall threaten an individual, either explicitly or implicitly, that their complaint will be used as the basis for decisions affecting that individual. Such conduct will be treated as a serious disciplinary matter.

11. The City of London Corporation has a common-law duty of care to their employees. In addition, under the Health and Safety at Work Act 1974, employers have a duty to ensure that, so far as is reasonably practicable, the health, safety and welfare of employees are protected. This means that they are responsible for ensuring that employees are cared for at work and do not have to work in unsafe or unhealthy conditions.

Definitions

12. In this procedure “Complainant” refers to the employee experiencing the bullying or harassing behaviour; “Alleged Perpetrator” refers to the person against whom the complaint is brought. The term “parties” refers to the complainant and the person against whom the complaint is brought.
13. **Bullying** is behaviour from a person or group that is unwanted and makes the individual feel uncomfortable, intimidated, degraded, humiliated, insulted or offended.
14. **Harassment** is ‘unwanted conduct related to a relevant protected characteristic that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant or violating the complainant’s dignity’. Note that the harassment provisions in the Equality Act 2010, do not apply to all nine protected characteristics (pregnancy, maternity, marriage and civil partnership are excepted).
15. **Victimisation** occurs when an employee is subjected to detriment because they have made (or supported a complaint) or raised a grievance under the Equality Act 2010; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.
16. **Direct Discrimination** occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have.
17. **Discrimination by Association** is direct discrimination against someone because they associate with another person who possesses a protected characteristic.
18. **Indirect discrimination** can occur when a condition, rule, policy or even a practice applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if it can be shown that an employer acted reasonably in managing its business i.e. that it is ‘a proportionate means of achieving a legitimate aim’. A legitimate aim might be any lawful decision made in running a business or organisation, but if there is a discriminatory effect, with the sole aim of reducing costs is likely to be unlawful. A ‘proportionate means’ requires fairness, must be reasonable and should include consideration of ‘less discriminatory’ alternatives (where available) to any decision made.

19. **Perception Discrimination** is direct discrimination against an individual because others think they possess a particular protected characteristic.
20. **Third Party Harassment** makes employers potentially liable for harassment of its employees by people (third parties) who are not employees, such as customers, contractors or their representatives. Employers are potentially liable when harassment has occurred on at least two previous occasions, the employer is aware that it has taken place and has not taken reasonable steps to prevent it from happening again.

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Procedure for dealing with Bullying and Harassment and Process Map

21. The line between bullying and harassment and other behaviour such as workplace banter or performance management may not always seem clear. It is important to remember that how behaviour is received and the actual impact it has on the recipient is a key consideration.
22. It should be noted that whether allegations are made informally or formally, prompt action will be taken. This procedure and process map provides steps to reassure staff and offer multiple avenues for raising concerns and types of resolutions.

Dealing with Single Incident and/or initial concerns

23. Discussing an issue can make a significant difference in helping to identify the problem and thinking through how to solve them. This may include, taking the person aside for a discussion or writing an email to explain how their actions made you feel. Opening up an informal discussion can often help to rebuild relationships allowing the opportunity to reflect and adjust behaviours that may produce an amicable resolution.
24. Silence permits bullying and harassment to continue. If the complainant is unable to reach a resolution, they may wish to talk to a colleague, friend or relative in order to obtain another perspective on the situation, particularly if the unwanted behaviour continues. This also ensures that a third party knows about the unacceptable behaviour.
25. The complainant should write down each incident including the date, time, emotions, who was around and what was said and done. This is important because if the matter is escalated specific examples may be required. They can speak to bystanders if appropriate, try to avoid being alone with the alleged perpetrator and utilise the services of the Employee Assistance Programme who can offer advice and support if necessary.

Stage 1 Informal resolution

26. Any employee who wishes to make a complaint of bullying or harassment will first be encouraged to discuss the matter informally with their line manager if they feel able to do so. If they do not feel able to approach their line manager, then they can instead discuss the matter with another manager or senior officer.
27. Informal resolution should always be viewed as a constructive and a credible response. It provides an opportunity for managers, employees and colleagues to discuss situations in a supportive, empathetic and solutions-focused way.

Constructive dialogue promotes positive behaviours and effective relationships in the workplace, fostering an environment of mutual understanding and respect.

28. Solutions may include: an early resolution meeting, coaching or mediation. These would generally be undertaken by the manager, but in some situations a third party may be selected. These measures should help to identify a mutually acceptable outcome to remedy the situation being complained about. Informal resolution aims to support colleagues by securing lasting and constructive solutions in a non-adversarial way. Any agreement reached is both voluntary and confidential.
29. An initial outcome of informal resolution may be that line manager determines that the matter should be dealt with formally.
30. If an employee believes that their concerns have not been resolved to their satisfaction through the informal approach, then they can progress to the formal procedure.

Stage 2 Formal bullying and harassment complaint resolution – Initial meeting

31. An employee must put their formal complaint in writing to the manager setting out the nature of the complaint, what steps they have taken to resolve it and what resolution they seek. They should do so within one month of the date the employee tried to resolve the matter informally or from the issue occurring where it is agreed by the manager that the matter should be raised formally. At the very latest the employee's formal complaint should be submitted within three months of the last incident occurring. A complaint form is available to assist employees with setting out their complaint.
32. On receipt of the formal complaint the manager (referred to as the Resolution Manager for the purposes of this procedure) will arrange to meet with the employee at a formal Complaint Resolution Meeting, usually within 5 working days of receipt of the complaint. The Resolution Manager will usually be accompanied by an HR representative.
33. The employee is entitled to be accompanied at the meeting by a fellow worker or trade union representative. The employee and their companion must make every effort to attend any meetings arranged to consider their complaint. If the employee's companion cannot attend on the date arranged the employee may offer a reasonable alternative date and time so long as it is no more than five working days after the original date.
34. The purpose of the formal Complaint Resolution Meeting is to:
 - establish and clarify the facts about the employee's complaint
 - consider the resolution they seek

- consider steps they have taken to resolve the matter informally
 - explore what action can reasonably be taken to resolve the matter
 - confirm that save for exceptional circumstances any employee complained about will be provided with an agreed summary of the complaint made against them and will be given the opportunity to respond. The Resolution Manager will determine how this will take place (e.g. by interview with the Resolution Manager, making a written statement in response or in some circumstances attendance at the resolution meeting)
 - discuss the level of confidentiality that can be maintained and who else will need to be involved if at all, in order to resolve the complaint.
 - seek solutions rather than apportion blame in a constructive, honest and collaborative fashion.
 - draw up relevant parts of the decision and/or action plan to be shared with other parties to the complaint.
 - discuss where the behaviour complained of concerns to serious disciplinary allegations, as prompt action may be needed under the Disciplinary procedure.
35. Separate meetings may be convened with both parties. In the case of a bullying or harassment allegation it may be inappropriate that both parties meet to try to resolve the situation until investigations have been conducted and conclusions drawn. Either party is entitled to bring a representative to these meetings.
36. If the complainant is being bullied or harassed because of their sex, disability, gender identity, race, religion or sexual orientation, others may be asked if they are also being bullied as it may be a collective issue. It may also be appropriate to ask colleagues who have witnessed this behaviour, whether they will give their support.

Stage 2 Format of the Complaint Resolution Meeting

37. The employee will outline their complaint and may bring to the meeting any documentation by way of example such as the notes they have kept of incidents and can suggest colleagues who may be able to substantiate their complaint or concern.
38. The Complaint Resolution Manager may ask the employee questions about the circumstances of the complaint in order to establish all the relevant facts, dates, background and surrounding circumstances etc.
39. The Complaint Resolution Manager has the right to ask the employee to respond to questions directly put to them, although the employee may on request confer with their representative at any time during the meeting.
40. Once the Complaint Resolution Manager has a clear understanding about the complaint, there could be 4 possible outcomes at this stage:

- The Complaint Resolution Manager may be able to suggest a solution/action plan at the meeting.
- The Complaint Resolution Manager may decide to adjourn (usually reconvening within ten working days) in order to consider the matter further, check facts, dates, documentation, etc - and may wish to interview other employees in connection with the complaint/concern.
- The Complaint Resolution Manager may decide that due to the complexity of the matter a formal investigation is warranted which they will usually undertake in person or might allocate to another manager within the department.
 - In exceptional circumstances an independent manager outside the service may be more appropriate due to the nature of the complaint and in such cases the Director of HR representative will be consulted and will determine if this is an appropriate route.
 - However, investigations must be prioritised by all involved, be proportionate and balanced. The investigation should involve only those who are necessary in order to make an informed decision and should be concluded without delay, usually within 3 weeks of the complaint resolution meeting.
- The Complaint Resolution Manager decides that after careful consideration there is no case to answer.

41. The Complaint Resolution Manager will also consider any temporary changes to the workplace or to working arrangements that might be appropriate whilst the complaint is being dealt with. This will be done in conjunction with the line manager

Stage 2 Formal resolution – Outcome letter

42. The Complaint Resolution Manager will confirm their decision in writing which will usually include:

- a summary of the issues and the employee's proposed solution and any immediate action/s agreed at the meeting
- the decision and any action plan and review period/ date and the right to appeal against the decision
- Where appropriate, the employee complained about will be informed of the outcome where it relates to them.

Stage 3 Appeal

43. If the employee considers the complaint has not been satisfactorily resolved, they have the right to submit an appeal in writing to their Director within 10 working days of receipt of the outcome of the Complaint Resolution Meeting. The appeal will outline

which elements of the decision and/or action plan are not agreed and the resolution sought. Any further details in support of the appeal must be provided within 10 working days of receipt of the outcome of the Complaints Resolution Meeting. The written appeal will be shared with the Complaints Resolution Manager.

44. The appeal will normally be heard by a more senior manager than the person who considered the initial complaint. Appeals will normally be arranged within 10 working days from receipt of the appeal. The Appeal Officer will be impartial and not previously involved in the case detail, therefore this may be an Independent Level One officer and will be supported by an HR representative. The employee has the right to be accompanied by a fellow worker or a trade union representative. The format of the appeal will be to consider the grounds put forward by the employee and resolution sought rather than a complete review of all of the evidence gathered at the Stage 2 Complaints Resolution Meeting. The employee may request that their appeal is a review of the paperwork only, without the attendance of either party at a hearing.

45. At the Stage 3 Appeal Meeting:

- the employee will outline their appeal detailing why they remain dissatisfied
- the Appeal Officer may ask questions of them and discuss possible alternative solutions as appropriate
- the Complaints Resolution Manager will comment on the grounds of appeal and the resolution being sought
- the Appeal Officer may ask questions of the Complaints Resolution Manager about the steps taken to address the complaint
- the Appeal Officer may outline their decision at the meeting or may decide to give the matter further consideration in which case the employee will be notified in writing of the decision within 5 working days of the meeting.

Other matters

Record keeping

46. Written records will be treated as confidential and stored in accordance with the Data Protection Act. A copy of the outcome letter will be placed on the file of the person who raised the complaint whether it is substantiated or not. A copy will only be placed on the file of the person complained about if the concern is substantiated and will remain on file for 12 months.

Overlapping grievances with other formal procedures

47. In circumstances where a concern or complaint raised results in a disciplinary investigation being commissioned, this will be the resolution to the complaint and the

employee may not further the complaint under the grievance procedure, unless there remain issues which were not investigated under the disciplinary procedure.

48. Where a complaint is raised during the course of a disciplinary, sickness, capability or other formal procedure, in some circumstances it may be appropriate to suspend the formal action in order to deal with the complaint. In other circumstances where they are related it may be appropriate to deal with the matters concurrently as one investigation but with clear outcomes under each procedure. The Director of Human Resources will determine the appropriate way forward in these circumstances. Similarly, where counter-complaints are raised these will be dealt with together.

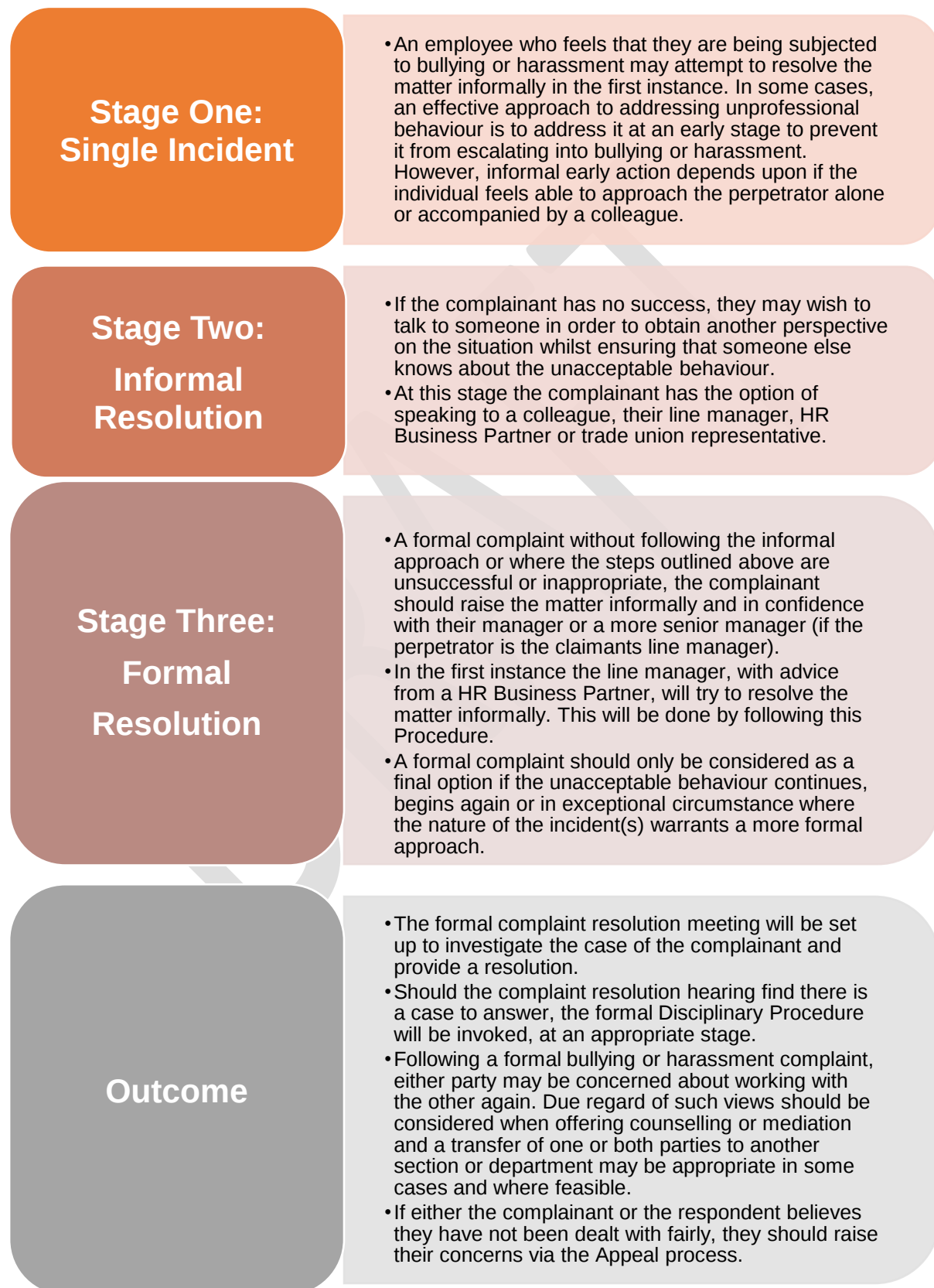
Matters out of scope

49. At any stage of a complaint of bullying or harassment, this may result in a disciplinary investigation being commissioned alongside other actions put in place to address the complaint. Whilst the complainant may progress their complaint in relation to any other proposed actions put in place, the decisions to undertake a disciplinary investigation is a management decision and cannot be appealed against under this procedure.
50. Where an employee who raises a complaint does not wish their identity to be revealed or does not want those complained about to be informed, there may be little that can be done to address the complaint and in such circumstances the employee will be advised accordingly.
51. Issues relating to service delivery or whistleblowing are not matters that will be addressed under this procedure.
52. Issues raised under the grievance procedure cannot be subsequently raised under the bullying and harassment procedure.

Working environment during the course of a complaint

53. Employees are expected to work together during the course of the investigation. In exceptional circumstances it may be considered appropriate to relocate or re-assign employees. The manager at the informal stages or the complaint resolution manager at the formal stages will keep the complainant updated of progress on a regular basis. The employee will be encouraged to seek additional support such as through a colleague, the Employee Assistance programme, staff networks or their trade union.

Bullying and Harassment Process Map



List of appendices

- Appendix 1 - Examples of Unacceptable Behaviour
- Appendix 2 - Glossary of terms including examples of discriminatory behaviours

Links / Other resources

- Code of Conduct
- Equal Opportunity Policy
- Managing People Policy
- [Acas](#)
- [Equality Act 2010](#)
- [Health and Safety Executive - Employers responsibilities](#)
- [Corporate Health, Safety and Wellbeing Policy](#)
- [Employee Assistance Programme](#)
- Human Resources [Business Partners](#)
- [Unions](#)

Appendix 1

Examples of Unacceptable Behaviour

The City of London recognises that bullying and can often be experienced by an individual on the grounds of multiple protected characteristics, not just one. For example, a black bisexual man or a woman with a disability, or a Muslim trans person - and that these experiences are a distinct and often heightened form of bullying and harassment.

However, it should also be noted that in many instances of bullying are not due to a protected characteristic, instead being motivated by a general dislike, resentment, jealousy etc.

The lists of examples are not exhaustive but, provide an overview to assist understanding of what may be found offensive whether intentional or not and includes cyber bullying. It should also be noted that intersectionality/multiple identities can affect the way that people experience discrimination and bullying or harassment.

List of generic behaviours

- **Physical bullying:** Violence or sexual assault
- **Verbal bullying:** Making offensive remarks including comments about someone's gender, race, disability, religion or sexual orientation - this form of bullying is also discriminatory behaviour that may be unlawful.
- **Social bullying/exclusion:** Being unfriendly, not talking to someone or excluding them from social groups and activities
- **Cyber bullying:** using the internet, interactive and digital technologies or mobile phones to torment, threaten, harass, humiliate, embarrass or otherwise target another person.

Harassment contrary to the Equality Act 2010

The following descriptions of conduct indicate whether bullying and harassment is likely to be related to a relevant characteristic and therefore potentially unlawful harassment contrary to the provisions of the Equality Act 2010.

Note that harassment contrary to the Equality Act 2010 can often be experienced by an individual with multiple protected characteristics, e.g., a black bisexual man, a woman with a disability, or a Muslim trans person. It may not always be obvious whether the harassment relates to one of these characteristics alone or a combination.

Harassment	Description	Types of behaviour
Age	Relates to behaviour including ridiculing or demanding behaviour focused on people because of their age, either actual or perceived or	• Regarding them as “too old” or “too young”; or making assumptions about lifestyle based on perceived age.

	through association with individuals of a particular age.	• Denying training, development or promotion opportunities due to age • Pressurising the person to retire • Questioning ability due to age • Making patronising comments
Disability	Relates to behaviour including derogatory remarks, mimicking, invasive personal questions, staring, ostracising or patronising which are directed at any disabled individual or group of disabled people whether they are perceived to be, are disabled or through association. The behaviour results in the individual(s) feeling threatened or compromised.	• Making inappropriate gestures or mimicking behaviour • Refusing to make reasonable adjustments • Holding events at inaccessible venues • Denying training, development or promotion opportunities because of the need to act as a carer for a disabled person i.e. having a family member, partner or child with a disability • Making assumptions about someone's abilities based purely on their disability or perceptions about their disability • Making fun of an impairment • Mimicking speech impairment • Using inappropriate terms e.g. cripple, spastic, handicapped • Inappropriate personal questioning relating to disability
Gender Reassignment	Relates to behaviour including transphobia, derogatory remarks, ridicule, jokes or stereotypes of any individual's perceived, actual gender, gender reassignment, gender identity and/or gender expression or through association.	• Refusing medical leave for a person undergoing gender affirming medical treatment. • Refusing to respect a person's gender identity and/or gender expression. • Refusing access to appropriate toilets and changing facilities which reflect their acquired gender • Disclosing the person's gender identity and/or trans status to others (N.B. this is unlawful)

		• Intrusive personal questions relating to a person's gender identity and gender reassignment • Unwanted comments on dress and appearance • Actual or threatened disclosure of a person's trans history • Refusal to correctly address an individual by consistently misgendering/using incorrect pronouns
Marriage and Civil Partnership	This relates to direct or indirect discrimination and victimisation on the grounds of marriage and civil partnership. It relates to behaviour which inadvertently or deliberately excludes an individual based on actual or perceived marital or civil partnership status.	• Inadvertently or deliberately excluding partners from social events, on the grounds of sexual orientation or gender identity • People in civil partnerships not being accorded the same rights as married people for work related benefits, such as flexible working, adoption leave, paternity pay and leave • Civil partners being denied benefits that are automatically given to married people in the same job, such as employment or training opportunities
Pregnancy and Maternity	This relates to direct discrimination and victimisation on the grounds of pregnancy and maternity.	• Being demoted or prevented from having training or promotion opportunities because of becoming pregnant or being on maternity leave. • Being dismissed or made redundant while on maternity leave without following correct and fair procedures. • Being disciplined for having performance issues due to illness connected with pregnancy. • Being refused sick leave due to illness connected with pregnancy. • Being dismissed or treated unfavourably while undergoing

		IVF treatment without following correct and fair procedures. • Being refused paid time off for ante-natal care. • Making inappropriate comments about amount of absence/toilet breaks. • Unwanted comments on dress and appearance.
Race	Relates to derogatory remarks, racist statements, graffiti, jokes, or any other action of a racist nature based on an individual's perceived or actual race, ethnicity, nationality and colour or through association with someone from a particular ethnicity, nationality and colour. This pertains to any action which results in the individual(s) feeling threatened or compromised.	• Exclusion from normal workplace conversation or activities • Inappropriate gestures • Sending emails or displaying material containing racist content • Making inappropriate assumptions based on ethnicity, nationality or colour • Making assumption about lifestyle/interests • Using inappropriate terms when referring to race (including ethnicity, nationality and colour) • Using derogatory nicknames • Making racist comments or jokes • Stereotyping • Mimicking someone's accent
Religion and Belief including No Belief	This is where a person is subjected to derogatory remarks, stereotypes, making assumptions or other inappropriate behaviour on the grounds of perceived, actual religion or belief including no belief or through association with someone of a particular religion or belief.	• Making statements or assumptions about religion or belief • Excluding people based on their religion or belief. • Arranging team lunches during periods of fasting or religious occasions which may make it difficult for colleagues to attend. • Inappropriately enforcing a dress code which may not accommodate religious dress. • Making assumptions based on religion or belief • Sending emails or displaying material containing offensive content

		• Making inappropriate comments or jokes about someone's religion or belief or no religion or belief • Stereotyping • Inappropriate comments about use of prayer rooms
Sex	This relates to any harassing conduct including sexual harassment based on the sex of the recipient. It relates to any individual's perceived or actual sex. It includes behaviour which results in the individual feeling threatened or compromised. Sexual harassment should be noted here and the fact that it can be experienced by all genders. Trans people may also experience sexual harassment based on perceptions or assumptions about them in relation to their appearance or sexuality.	• Unnecessarily requiring individuals to work full-time or insisting on staff working long hours. This may disadvantage more women than men as it is still mainly women who take primary responsibility for childcare so cannot work full-time or long hours. • Unnecessarily requiring variable hours such as shifts and unplanned overtime. This is likely to disadvantage women compared to men because of the difficulties of getting flexible childcare. • Exclusion from normal workplace conversation or activities • Refusing to offer a position based purely on a gender stereotype i.e. not offering a secretarial post to a man • Inappropriate gestures, suggestive looks or unwelcome sexual advances • Sending emails or displaying material containing sexist content • Making rude or abusive comments or requests for sexual favours • Making sexually explicit jokes. • Stereotyping. • Unwanted comments on dress and appearance. • Unwanted touching, groping or the invasion of personal space (getting too close).

Sexual Orientation	Relates to behaviour which is homophobic or biphobic and condemns or ridicules people because of their perceived, actual sexuality (Lesbian, Gay or Bi) or through association with someone of a particular sexual orientation. This could include derogatory remarks, jokes e.g. making informal/joke comments about being a bi person being “greedy” or promiscuous, graffiti which results in the individual feeling uncomfortable, excluded threatened or compromised.	• Inadvertently or deliberately excluding same-sex partners from social events. • Making assumptions based on sexuality • Exclusion from normal workplace conversation or activities • Using inappropriate terms • Using derogatory nicknames • Inappropriate personal questioning relating to sexual orientation or domestic circumstances • Actual or threatened unwanted disclosure of sexuality • Unwanted comments on dress and appearance
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Appendix 2

Glossary of terms including examples of discriminatory behaviours

In this policy and procedure “Complainant” refers to the employee experiencing the bullying or harassing behaviour; “Perpetrator” refers to the person against whom the complaint is brought. The term “parties” refers to the complainant and the person against whom the complaint is brought.

Bullying

Bullying is behaviour from a person or group that is unwanted and makes them feel uncomfortable, intimidated, degraded, humiliated insulted or offended.

Emma is a newly appointed administrator. Her colleague Anne who is also an administrator, repeatedly interrupts Emma and discounts suggestions that she makes at meetings. Emma feels humiliated and offended. This is an example of bullying behaviour.

Direct Discrimination

Direct Discrimination Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have or because they associate with someone who has a protected characteristic.

Deborah, head of a large team, turns down Raj’s application for a managerial position in her department. Raj learns that Deborah did this as she believes that he will not ‘fit in’ the team as they do not have any BAME staff and the team would be uncomfortable around him because of his race. This is direct discrimination on grounds of race.

Discrimination by Association

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. Discrimination by association already applies to race, religion or belief and sexual orientation. It has now been extended to cover age, disability, gender reassignment and sex.

Paul has been successful in gaining a place on the Apprenticeship Programme. However, after he tells his boss that he has a disabled child who has frequent medical appointments which he must attend, his place is withdrawn. This may be discrimination against Paul because an assumption was made that he will need considerable time off due to his association with a disabled person.

Harassment

Harassment is 'unwanted conduct related to a relevant protected characteristic that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant or violating the complainant's dignity'. However, harassment under the Equality Act 2010, does not apply to pregnancy and maternity and marriage and civil partnership.

Sebastian is a gay man who recently married his partner of 5 years in the local church. Sebastian is being harassed by his line manager Cathy who frequently taunts him about sexual orientation and faith. She belittles him in the office referring to him as a 'fairy who should not be allowed in a church let alone married in one'. This is harassment directly related to Sebastian's sexual orientation.

Indirect Discrimination

Indirect discrimination can occur when a condition, rule, policy or even a practice applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if it can be shown that an employer acted reasonably in managing its business i.e. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision made in running a business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including the consideration of 'less discriminatory' alternatives to any decision made.

Ade, a Unit Head, decides that all meetings in his Unit will be held at 8.30am. This is indirect discrimination because although the policy applies to everyone, it has a disproportionate impact on staff with childcare responsibilities the majority of whom tend to be women.

Perception Discrimination

This is direct discrimination against an individual because others think they possess a particular protected characteristic.

Emma, who is heterosexual, is being harassed by her colleagues and has been 'outed' by a group of colleagues at work who believe her to be a lesbian. Offensive notes have been left on her desk and she is consistently subjected to taunts and abuse. This unacceptable behaviour is based on her colleagues' perception of her sexual orientation and is a form of harassment.

Third Party Harassment

The Equality Act makes employers potentially liable for harassment of its employees by people (third parties) who are not employees, such as defendants, defence solicitors, judge and magistrates, court staff, victims and witnesses and contractors or their representatives (cleaners). Employers are liable when harassment has occurred on at least two previous occasions that the employer is aware that it has taken place and have not taken reasonable steps to prevent it from happening again.

Jane manages a Community Care team. Mohammed, one of the social workers within the team, has recently had to take several enquiries from a client. The nature of the phone calls have been increasingly offensive and abusive, with references being made about Mohammed being Asian and Muslim, he is extremely unhappy at being the target of this abuse whilst carrying out his daily duties, so he complains about this behaviour to Jane. This is an example of third-party harassment as it happened on more than two occasions and is related to his race and religion.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act 2010; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

Stacy has reported her line manager Ian for frequently calling her by her previous first name ('Steven') and using the incorrect pronouns. Ian has been moved to another department whilst allegations of bullying on grounds of gender reassignment are investigated. Another manager in the department along with members of their team who were previously supportive of Stacy's transition, ostracise Stacy, leading to her taking time off with stress. This is victimisation based on her complaint.