Bullying, Harassment and Sexual Harassment Procedure

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Statement of intent

1. The City Corporation has a zero-tolerance approach to bullying, harassment and sexual harassment. Bullying, harassment and sexual 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 a thorough investigation, appropriate action taken, and support given, as necessary.

2. Everyone has the right to be treated with fairness, dignity and respect whilst at work. 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 Equal Opportunity Policy.

3. 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 Corporation. The Director of Human Resources will be responsible for advising on the day-to-day operation and interpretation of this procedure.

Scope

4. The aims of this procedure are to ensure that all employees are aware:

    - of what constitutes bullying, harassment and sexual harassment
    - the protected characteristics set out in the Equality Act 2010
    - of their right to report incidences of bullying, harassment or sexual harassment (as defined in the Equality Act 2010) and how this will be addressed.

Bullying, harassment, sexual 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 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 workplace, online and outside working hours where this may impact upon work or working relationships (Social Media Policy).

Purpose

7. The purpose of this procedure is to ensure we have a working environment in which instances of bullying, harassment and sexual 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.

Responsibilities

8. Employees must:

    - Ensure that their conduct is in accordance with the principles set out in this procedure.
    - Not bully, harass or sexually harass other colleagues or managers.
    - Bring matters relating to bullying, harassment and sexual harassment to the attention of their manager at the earliest opportunity.
    - Participate in investigation proceedings as applicable.

9. Employees are expected to:

    - Report any instance of bullying, harassment or sexual harassment where the problem cannot be resolved informally to their line manager, Chief Officer or HR representative.
    - Report any instance of bullying, harassment or sexual harassment which they witness or comes to their attention to their line manager, Chief Officer or HR.

10. Managers are expected to:

    - Make themselves and their staff aware of their responsibilities to implement this procedure and making every effort to ensure that bullying, harassment and sexual harassment does not occur.
    - Uphold a working environment in which bullying, harassment and sexual harassment is not tolerated and cannot flourish.
    - Ensure that they do not bully or harass or sexually harass their staff or other colleagues and ensure that performance management issues, are not handled in a way that may constitute bullying, harassment or sexual harassment.
    - Take immediate action if bullying and/or harassment/ sexual harassment is suspected or identified, whether or not a complaint has been made.
    - Be responsive and understanding, take all allegations of bullying, harassment and sexual harassment received either informally or formally, through this procedure seriously and deal with them promptly and sensitively with advice and support from HR representatives.
    - Act as role models, proactively addressing instances of bullying, harassment and sexual harassment.

11. Occupational Health Service will:

    - Work alongside HR and Health and Safety to minimise the risks to ill health through bullying, harassment or sexual harassment.
    - Provide relevant counselling as requested by HR in instances where support is needed.

12. Human Resources will:

    - Act confidentially and impartially in accordance with the Bullying, Harassment and Sexual Harassment Procedure or Disciplinary Procedure with respect to the alleged perpetrator/s.
    - Assist in resolving difficulties regarding any cases that arise. Intervention such as professional mediation or counselling can be provided at any stage in the procedure if the situation warrants it.
    - Ensure that information provided is accurately documented.

Procedure for dealing with bullying, harassment and sexual harassment and Process Map

13. The line between bullying, harassment and sexual 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 perceived and the actual impact it has on the recipient is a key consideration.

14. 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 a Single Incident and/or initial concerns

15. Discussing an issue can make a significant difference in helping to identify the problem and thinking through how to resolve them. This may include, taking the person/s 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.

16. Silence permits bullying, harassment and sexual harassment to continue. If the complainant is unable to reach a resolution, they may wish to talk to a colleague, friend, relative or a Trade Union Representative 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.

17. The complainant is encouraged to 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

18. Any employee who wishes to make a complaint of bullying, harassment or sexual 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.

19. 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.

20. 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.

21. An initial outcome of informal resolution may be that the line manager determines that the matter should be dealt with formally.

22. 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 resolution – Complaint Resolution Meeting

23. An employee must put their formal complaint in writing to the relevant 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 as soon as they can, usually within one month of the date the employee tried to resolve the matter informally or from the issue occurring where it is agreed with the manager that the matter should be raised formally. The employee's formal complaint should be submitted within 3 months of the last incident occurring unless there are exceptional reasons why this could not happen. A complaint form is available to assist employees with setting out their complaint.

24. On receipt of the formal complaint the manager (referred to as the Complaint 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 Complaint Resolution Manager will usually be accompanied by an HR representative.

25. The employee is entitled to be accompanied at the meeting by a colleague 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.

26. During this meeting, 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.

27. The purpose of the formal Complaint Resolution Meeting is to:

    - enable the employee to outline their complaint in more detail (they 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.
    - enable the Complaint Resolution Manager to ask relevant questions to establish and clarify the circumstances of the complaint in order to establish all the relevant facts, dates, background and surrounding circumstances.
    - 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/s complained about will be provided with an agreed summary of the complaint made against them and will be given the opportunity to respond. The Complaint Resolution Manager will determine how this will take place (e.g. by interview with the Complaint Resolution Manager, making a written statement in response or in some circumstances attendance at a reconvened complaint 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 constitutes to serious disciplinary allegations, as prompt action may be needed under the Disciplinary Procedure.

28. Once the Complaint Resolution Manager has a clear understanding about the complaint, there could be 4 possible outcomes at this stage:

    I. The Complaint Resolution Manager may be able to suggest a solution/action plan at the meeting.

    II. 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. Any employee interviewed may be accompanied by a trade union representative or colleague but must answer questions asked of them. 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.

III. 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 or their 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.

IV. The Complaint Resolution Manager decides that after careful consideration there is no case to answer.

29. 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 and the complainant.

Formal resolution – Outcome letter

30. 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

31. If the employee considers the complaint has not been satisfactorily resolved, they have the right to submit an appeal in writing to their Chief Officer 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.

32. 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 who will be supported by an HR representative. The employee has the right to be accompanied by a colleague 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.

33. 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

34. Written records will be treated as confidential and stored in accordance with the Data Protection Act 2018. 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 employee/s complained about if the concern is substantiated and will remain on file for 12 months.

Overlapping bullying, harassment and sexual harassment with other formal procedures

35. 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 Bullying, Harassment and Sexual Harassment Procedure, unless there remain issues which were not investigated under the Grievance or Disciplinary Procedure.

36. 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

37. At any stage of a complaint of bullying, harassment or sexual 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.

38. 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.

39. Issues relating to service delivery or whistleblowing are not matters that will be addressed under this procedure.

40. Issues raised under the Grievance Procedure cannot be subsequently raised under the Bullying, Harassment and Sexual Harassment Procedure.

Working environment during the course of a complaint

41. Employees are expected to work together, professionally during the course of the investigation. In exceptional circumstances it may be considered appropriate to temporarily 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, Harassment and Sexual Harassment Process Map

Stage One: Informal resolution

- If an employee feels that they are being subjected to bullying, harassment or sexual harassment, they will be encouraged to attempt to resolve the matter informally in the first instance if they feel able to do so confidently.

Stage Two: Formal Resolution Meeting and Outcome

- If the complainant is unable to reach a resolution at the informal stage, they may put their complaint in writing within one month of trying to resolve the complaint informally.
- This should be submitted to their manager or where appropriate their manager's manager.
- The Complaint Resolution Manager will arrange a meeting withing 5 working days of receipt of the complaint.
- Separate meetings may be convened with both/all parties as necessary, until the investigation has been conducted and conclusions drawn.
- A decision may be made and there are 4 possible outcomes at this stage:

1. Resolution
2. Further investigation
3. Formal investigation
4. No case to answer

- The Complaint Resolution Manager will confirm their decision in writing.
- If any party believes they have not been treated fairly or their complaint resolved satisfactorily, they can raise their concerns via the Appeal process.

Stage Three: Appeal

- A level one manager will arrange an appeal within 10 working days of the appeal notice being received.
- On conclusion of the appeal meeting, the employee will be informed of the decision in writing within 5 working days.

List of appendices

- Appendix 1 – Legal Position, Definitions and Examples of Unacceptable Behaviour
- Appendix 2 - Glossary of terms including examples of discriminatory behaviours
- Appendix 3 – Complaints form

Links / Other resources

- Code of Conduct
- Equal Opportunity Policy
- Managing People Policy
- Social Media Policy
- ACAS – Discrimination, bullying and harassment
- ACAS- Sexual Harassment
- Equality Act 2010
- Grievance Procedure
- Disciplinary Procedure
- Whistleblowing Policy
- Health and Safety Executive – Employers responsibility
- Corporate Health and Safety and Wellbeing Policy
- Employee Assistance Programme
- Human Resources – Business Partners
- City of London recognised Unions