

Harassment Policy and Procedure

Policy Statement

At Lancashire County Council, we believe everyone has the right to be treated with dignity and respect and we take a zero-tolerance approach to any form of harassment. Allegations of such behaviour will be taken very seriously and any employee who is found to have harassed a colleague will be subject to disciplinary action, up to and including dismissal.

The purpose of this policy is to empower employees to challenge and report instances of harassment in the knowledge that their concerns will be dealt with seriously. The policy applies to incidents that take place during and outside working hours, including during business trips, work-related social events and via social media, where an employee's actions adversely affect the council or have a bearing on any workplace relationship.

The procedure below explains how to raise a harassment complaint.

Scope

This procedure applies to all council employees and workers excluding teaching and non-teaching employees in schools and employees who transferred to the council in accordance with TUPE regulations and who remain on their previous terms and conditions of employment.

Definitions

"Harassment" is defined as unwanted conduct related to a protected characteristic under the [Equality Act 2010](#), that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Harassment may take the form of persistent behaviour or an isolated incident. There does not always have to be a deliberate intention to cause distress or hurt; it is the impact the behaviour has on the complainant that will be considered when investigating whether such behaviour has taken place.

The "complainant" is the term used to describe the person making the complaint.

The "respondent" refers to the alleged harasser.

Principles

We are committed to promoting a culture of open communication where concerns and complaints can be raised without fear of victimisation or reprisal.

When to Use the Harassment Procedure

This procedure deals with alleged incidents of harassment, as per the definition above.

You can complain about harassment even if the behaviour in question is not directed at you. This is because you do not actually need to possess the relevant protected characteristic yourself. You can therefore submit a complaint if you have:

- Experienced harassment because you are related to or associate with someone who possesses a relevant protected characteristic;

- Experienced harassment by a colleague who has the mistaken perception that you possess a relevant protected characteristic; or
- Witnessed harassment because of a protected characteristic and are upset by it.

When Not to Use the Harassment Procedure

At Lancashire County Council, we take all allegations of harassment seriously, however we will only investigate complaints which raise a legitimate or genuine concern. This procedure will not apply in the following circumstances:

- Where the complaint does not meet the definition of harassment as set out above.
- To raise allegations of bullying, unless the incident(s) complained of specifically relates to the protected characteristics stated within the definition of harassment as set out above. Allegations of bullying which do not relate to protected characteristics should be raised via the [grievance policy and procedure](#).

Malicious Complaints

The harassment procedure must not be used to raise complaints in a malicious manner, for example, complaints that are intended to cause distress to others or to delay another process.

Inappropriate use of the procedure may result in disciplinary action being taken against the person who raised the complaint. However, no action will be taken if a complaint which proves to be unfounded is judged to have been made in good faith.

Harassment as a Criminal Offence

In some circumstances, harassment can be considered a criminal offence and anyone found guilty of such behaviour can be held personally accountable for their actions under criminal law.

Where the allegations in a complaint involve a potential criminal matter, we may need to contact the police. If the police become involved in a complaint, a review will be undertaken to determine when any internal council processes can commence at the same time as the police involvement.

Timescales

Tackling issues at an early stage is key to preventing them from becoming more serious problems and so it is important that you raise the matter with the appropriate person / manager at the time the incident occurs to allow it be dealt with swiftly. Delaying reporting matters in order to collate a series or list of events in order to 'strengthen a claim' is not something we would advise or recommend, as it does not allow for the matter to be 'nipped in the bud'.

Complaints should be reported without unreasonable delay following the event or action that led to the complaint. We reserve the right not to pursue historic matters, i.e., where the complaint is submitted more than 3 months after the incident(s) took place.

Due to the nature of harassment allegations, it is difficult to set timescales for addressing complaints. However, wherever we are notified that harassment may have taken place, we will act as soon as reasonably practical and aim to resolve matters within a timely manner.

Harassment Procedure

Responsibilities

We all have a role to play in creating an environment where everyone is treated with dignity and respect, in line with the council's core values.

You should always be mindful of your own behaviour and how this may impact others, even if you are "only joking", and discourage harassment by making clear that you find such behaviour unacceptable. You should also intervene, where possible, if you witness harassment, then report any instances to management straight away and support the council in the investigation of complaints.

Informal Action

We appreciate the thought of addressing harassment may be daunting, but wherever possible, you are encouraged to try to resolve problems informally in the first instance, as informal resolution can often help resolve matters quicker, minimise stress for those involved and enable relationships to be rebuilt more easily. It also gives the respondent the opportunity to re-assess their behaviour, as they might not even have set out to offend you or realise the impact of their words and / or actions on you.

In the first instance, you should approach the respondent, either in person or in writing to make clear that their behaviour is unwelcome and should stop. You may wish to talk this through with a work colleague, manager or trade union representative in advance of your approach to the respondent, if that would help you to feel more comfortable. If you feel this would be too difficult, you may ask your manager, or another manager if this is more appropriate, to approach the respondent on your behalf.

Your manager can also help by facilitating a discussion between you and the respondent or arranging mediation with an independent party to assist in rebuilding working relationships.

Formal Action

It is hoped that most cases of alleged harassment will be resolved by the informal procedure outlined above. However, formal action may be considered where informal action proves ineffective, or where circumstances make this route inappropriate.

To raise a formal harassment complaint, you must complete a [harassment complaint form](#) and submit this to the Corporate HR Team without delay.

Please note that we reserve the right not to pursue complaints where;

- The matters complained of are already being considered under alternative procedures, for example the grievance or disciplinary procedures.
- We are prevented from assessing or investigating the matter because the employee has not provided any or enough information in order to do that.

Please be aware that if your complaint relates to another employee or manager within the council, we will need to share the details of the complaint with them and give them the opportunity to respond.

Corporate HR will review the form to check whether the harassment procedure is the right route for your complaint (i.e. whether the matter complained of meets the definition of harassment as set out in this policy) or whether it would be more appropriate for your complaint to be considered under the [Grievance Policy and Procedure](#). If this is the case, we will notify you and refer the matter to an appropriate manager within your service to consider.

Where the harassment procedure is the right process for your complaint, the matter will be referred to an appropriate manager within the respondent's service to commission an investigation into the matter in line with the council's [Disciplinary Policy and Procedure](#). The respondent will be notified of the allegation(s) of harassment and will be invited to give a statement as part of the investigation, along with any relevant witnesses to the matter.

In considering the findings of the investigation, if the manager believes that there is evidence that harassment has taken place or, on the balance of probability, harassment has taken place, the matter will be referred to a formal hearing under the disciplinary procedure. You will be invited to give a statement during the investigation and may be invited to participate in the disciplinary process as a witness, however due to confidentiality, we will be unable to inform you of the exact outcome of that process, but you will be advised when it has concluded.

Other Procedural Matters

Meetings

Everyone involved in this procedure, whether you are the complainant or respondent, has the right to be accompanied at any meetings convened under this procedure by a work colleague, trade union representative or an official employed by a trade union. Your work colleague, trade union representative or official employed by a trade union can present your case and respond to any views expressed at the meeting on your behalf, but cannot answer questions on your behalf or prevent others from explaining their case.

We do not allow meetings to be recorded as this can cause attendees to feel uncomfortable and less willing to participate, but the manager hearing the complaint will either take summary notes at the meeting or arrange for a note taker to attend to summarise the key points of the discussion. Notes taken by the manager or note taker will not be detailed minutes of the meeting, therefore if you wish to make your own notes during the meeting, you are welcome to do so.

Complaints about Multiple Individuals or Joint Complaints about an Individual

If the complaint is against a number of employees, the individual respondents will only receive written notification of the complaints specific to themselves.

Where more than one complaint is submitted about the same individual under this procedure, the complaints will be jointly investigated.

Harassment by a Third Party

Our expectations of standards of behaviour extend to third parties, therefore if you experience harassment during the course of your employment, you must notify your manager, who will liaise with Corporate HR for advice.

Where concerns relate to an individual who is not an employee of the council, for example, a member of the public or service user, the procedure will depend on the nature of the allegation and the relationship. Many incidents of unacceptable behaviour can be dealt with effectively in an informal manner using the same process as for internal complaints. However, serious or repeated incidents of unacceptable behaviour from non-employees towards employees will be taken very seriously and may lead to legal action, exclusion from services or other appropriate sanctions.

Where allegations are made against employees of other organisations, for example partnership organisations, an appropriate senior manager of that organisation should be informed. Such complaints will be dealt with through this process and the outcome of any investigation into the complaint will be given to the partnership organisation to take any necessary action against their employee.

If an employee from a partnership organisation raises a complaint against a council employee, this must be dealt with through the partnership organisation's own complaints process. We will cooperate with this process and then will take any necessary action against the employee on

receipt of the partnership organisation's completed investigation. We reserve the right to request further investigation is undertaken by the partnership organisation if it is deemed necessary.

Confidentiality

It is important that all parties involved in these procedures maintain confidentiality when any issues, complaints or concerns are being considered in order to preserve the integrity of the process.

Statements, letters and other communications will be strictly confidential to those involved in the procedure and records will be kept in accordance with data protection legislation. Any breaches in confidentiality may be treated as a misconduct issue in itself.

Facilitated Discussions and Mediation

There are situations where a facilitated discussion or mediation may assist in rebuilding working relationships that have become strained. The aim of each intervention is for the parties to identify an agreement on how to resolve their dispute and to improve their working relationships for the future.

These interventions can be used at any stage of the procedure and will be facilitated or led by a neutral party not directly connected with the complaint. There is no right to be accompanied during these meetings.

Facilitated discussions and mediation are voluntary interventions that will only take place with the mutual agreement of the parties involved, however we hope all parties will recognise the benefits of seeking to resolve issues this way and we encourage the take up of these approaches wherever possible.

Additional Support

We recognise that this can be a very stressful process for all parties involved and we would encourage you to speak with your line manager in the first instance if you have any questions or concerns.

If at any point you feel worried or upset, please contact the Employee Support team on 01772 538333, who can provide an impartial listening ear and practical help to all employees who may have work related or personal problems or concerns. Alternatively, you can contact your trade union, if you are a member.

You may also wish to reach out to the various support networks within the council, which include the [Disabled Workers Forum](#), the [Forum of Asian and Black Employees \(FABE\)](#) and the [LGBT Employee Network](#).

Sickness Absence and the Harassment Process

Please be aware that if you are absent due to sickness during the harassment complaint process, you must follow the normal sickness absence reporting procedure. It is in everyone's interest that concerns and complaints are resolved as quickly as possible and so the process will continue while you are absent and we will update and engage with you as required. If you do not feel well enough to attend a meeting during this time, we will invite you to make a written submission for the manager hearing the complaint to consider.

Policy Version Control

Version	Date	Change
1	October 2020	Removal of bullying from this process. Removal of registration process New procedure for handling formal complaints; all complaints that meet the definition of harassment will be investigated in line with disciplinary procedure. Revised harassment complaint form for formal complaints. Rewording of information about raising complaints under different procedures.