

BULLYING & HARASSMENT POLICY AND PROCEEDURE

Policies Collection –

Revised & reissued October 2015

SHAPINSAY DEVELOPMENT TRUST



©Shapinsay Development Trust 2015

BULLYING AND HARASSMENT POLICY AND PROCEDURE

Introduction

This document does not form part of your contract of employment and may be changed from time to time in line with current best practice and statutory requirements, and to ensure that business needs are met. You will be consulted and advised of any changes as far in advance as possible of the change being made, unless the change is required by statute.

This Shapinsay Development Trust is committed to a policy of equality of opportunity and aims to ensure that all employees operate within a safe, supportive, friendly and caring environment, which will enable all employees to fulfil their personal and professional potential. All individuals should be treated with dignity and respect and any form of harassment, bullying or discrimination will not be tolerated by the organisation whether it is unlawful or not. This includes treatment based on gender, marital status, race, nationality, national origin, ethnic origin, colour, disability, age, criminal convictions not relevant to the situation in question, sexual orientation, religion, or belief. This list is not exhaustive.

Members of staff have an important role to play in creating a positive environment in which such behaviour is unacceptable. The organisation further recognises its responsibility to protect the victims of any bullying or harassment and to deal effectively with such behaviour.

It is essential to ensure that complaints are not discouraged from being reported. Any employee who therefore brings a complaint of bullying and harassment will not be victimised in any way for having done so. It is also essential to protect the rights of the person alleged to have harassed/bullied.

NB: This policy should not be used by employees to resolve arguments, disagreements or concerns over management or supervision practices that are not related to issues of bullying or harassment.

This policy applies to all employees, volunteers and members of the Board.

Aims

The main aims of this policy are to:

- Define bullying and harassment and ensure all employees and members of the Board are aware of their obligations and what constitutes unacceptable behaviour.
- Ensure that those who are on the receiving end of bullying or harassment have clear guidance and support and a recognised route to raise a complaint.
- Provide a fair and effective means of managing any complaints in relation to bullying or harassment.
- Encourage those who are suffering from any form of bullying or harassment to bring it to the attention of the organisation and be confident that the matter will be taken and dealt with seriously.
- Ensure that it is clear that any form of bullying and harassment will not be tolerated.

Responsibilities

Responsibility for developing and maintaining a work place which is free from bullying and harassment rests with everyone at some level.

Directorate responsibilities

- Ensure that this policy is communicated to all staff and members of the Board.
- Treat all complaints of bullying or harassment seriously and impartially.
- Ensure that all complaints of bullying and harassment are investigated swiftly and thoroughly, maintaining confidentiality in so far as this is consistent with progressing the complaint.
- Take steps to prevent any further instances of such behaviour occurring when a complaint is upheld.
- Protect an employee at work who makes a complaint of bullying or harassment.

The Line Manager has a duty to:

- Provide appropriate guidance and support to members of staff who are victims of bullying or harassment and their line managers.
- To maintain confidential records in relation to any allegations and the effectiveness of the response in relation to these allegations and in keeping with the terms of this policy.
- Understand, explain and promote the policy to their staff.
- Refrain from conduct that could be conceived as bullying and harassment.
- Remain vigilant to potential bullying and harassment within their team.
- Encourage staff to raise any concerns they have regarding bullying or harassment.
- Be responsive and supportive to any employee who complains of harassment or bullying and deal with it promptly, efficiently and fairly.
- Ensure that once a complaint under this policy has been dealt with, that there are no further instances of bullying or harassment of any of the parties involved in the original complaint.

NB: Any line manager, who becomes aware of behaviour which breaches this policy whether or not a complaint has been made, has a responsibility to take the matter forward and resolve it as quickly as possible.

Employees and Members of the Board have a duty to:

- Comply with this policy.
- Treat all colleagues and Members of the Board with dignity and respect.
- Ensure that their conduct is not misinterpreted or regarded as offensive.
- Support colleagues who have been subject to bullying or harassment and co-operating in any investigation; ensuring no victimisation of complainants occur.

- To report instances of bullying or harassment which they are witness to in confidence.

Definitions

It is not the intention of the perpetrator but the deed itself and the impact on the recipient(s), which determine what constitutes bullying or harassment. The following definitions are of a general nature and given for guidance purposes.

Harassment

Harassment is unwanted conduct of a physical, verbal or non-verbal nature that has the effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment to the recipient(s). It may or may not be related to age, sex, race, disability, religion or belief, sexual orientation or any personal characteristic of an individual. It can be persistent behaviour or conduct over a period of time, but a one-off act, providing it is serious, may also amount to harassment.

Forms of Harassment

- Physical contact ranging from touching to assault
- Verbal and written harassment through jokes, offensive language, inappropriate remarks, gossip, slander, sectarian songs, letters, emails, telephone calls or text messages
- Visual display or posters, graffiti, calendars, obscene gestures, flags, bunting and emblems
- Coercion, ranging from pressure for sexual favours, to pressure to participate in political/religious groups
- Intrusion by pestering, spying, following or stalking
- Persistent undermining of someone's abilities
- Attempting to humiliate someone in public
- Constant changes in instructions or routine in order to unsettle someone in their work

This list is not exhaustive.

Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Forms of Bullying:

- Intimidation and aggression
- Violent gestures or actual physical violence
- Disparaging comments or remarks, made privately or in front of others
- Exclusion or victimisation
- Unfair treatment

- Non co-operation at work, including withholding necessary information
- Isolating certain individuals
- Overbearing supervision or other misuse of power
- Deliberately undermining a competent worker by overloading with work or unfairly criticising
- Setting impossible deadlines or tasks
- Taking credit for others achievements or initiatives
- Ridiculing or demeaning someone
- Picking on someone or setting them up to fail
- Blocking promotion or staff development opportunities
- Making threats or comments about job security without foundation

This list is not exhaustive.

Victimisation

Victimisation occurs when a person is treated less favourably because they have asserted their rights (or are believed to have done so) under this policy. This includes both those bringing claims under this policy and any others acting as witnesses in any investigation of a complaint. Employees will be protected from victimisation for either bringing a complaint or assisting in an investigation.

Mediation

As an alternative to raising a complaint through the formal procedure or at any stage of the procedure, an employee or the manager may request that the matter is dealt with through mediation. Mediation is voluntary and will only take place with the agreement of both parties. Where mediation is agreed once the formal procedure has been started, the formal procedure will be adjourned whilst the mediation takes place. In the event that no mutually acceptable solution is reached through mediation, the procedure will be reconvened at the point of adjournment.

Complaints Procedure

Employees are encouraged to try the informal route first, but have the absolute right to go straight to the formal procedure if they wish to do so.

Informal Procedure

Any employee who feels that they or others have been harassed, victimised, bullied or treated in such a way that breaches this policy should, if they feel able, tell the person(s) immediately that the behaviour is offensive, unwanted and that they want it to stop. If the employee feels unable to speak to the offender directly, this could be done in writing or by asking a colleague to speak to them on their behalf. It may be helpful to have a list of incidents, including times and dates in order to be able to give examples of the behaviour that has caused offence. The offender may be unaware that their actions are

inappropriate or objectionable or there may have been a misunderstanding or misinterpretation.

Where an employee feels unable to confront the person directly, or talking to them has no effect then employees may wish to speak to their line manager or another manager on how the matter can be dealt with informally. If however, the complaint relates to or involves their line manager they should approach the next tier of management, or Chair of the Board as appropriate.

Any discussion will be confidential and no further action will be taken without the consent of the complainant unless the manager considers the incident to be serious, in which case they will inform the employee of their need to take action against the alleged perpetrator.

One of the following courses of action may be followed:

- Take no further action at this stage, but keep the situation under review, enabling the employee to seek further advice in the future if necessary.
- Hold informal discussions with an appropriate member of staff e.g. a manager, the complainant and the alleged perpetrator. These discussions should determine exactly what issues exist and if possible resolve them informally without having to resort to making a formal complaint.
- Make a formal complaint.

Formal Procedure

The formal procedure should be followed when the informal route has proven to be ineffective or where there is a serious allegation.

An employee has the right to raise a formal complaint on any bullying and harassment issue. All such complaints will be regarded as grievances, however, the procedure to be followed will be as detailed in this policy which takes into account the sensitive nature of such complaints.

Employees must ensure that they put their complaint in writing to their line manager in the first instance. If the line manager is the alleged perpetrator, then the complaint should be directed to the next tier of management (or Chair of the Board if appropriate). The complainant should state:

- The name of the alleged perpetrator
- The nature of the alleged incident(s), giving examples where possible
- Frequency of the alleged incidents, giving times and dates if possible
- Location of the alleged incidents
- The names of any witnesses to the alleged incident
- Any action taken by the employee in relation to the alleged bullying or harassment

Following receipt of the complaint, the alleged perpetrator must immediately be notified in writing of the allegation(s) made, that an investigation will be carried out and details of who will be investigating.

The complainant and the accused must be informed of how the investigation will be conducted, how the information will be recorded and how the outcome will be relayed.

The manager instigating the investigation will consult with the Chair and appoint an appropriate person who is not connected with the case as an 'Investigating Officer'. More than one investigating officer may be appointed. The investigation will include interviewing the complainant, the alleged bully/harasser and any other witnesses separately. Signed witness statements should be taken if possible.

The person who is subject to the allegations will be advised of the specific allegations and will have the opportunity to state their case. They should be interviewed last unless they indicate that there were others involved, details of whom were unknown to the investigating officer.

Investigation must take place promptly and will normally be completed within 5 working days from the receipt of the complaint, unless there are difficulties in obtaining relevant information within this timescale, e.g. a witness is on leave or there are many witnesses to interview.

In order to relieve the stress and pressure on one or both of the parties, to prevent the risk of further incidents and to prevent victimisation it may be necessary to suspend the alleged perpetrator.

Suspension under this procedure does not constitute disciplinary action and will be on full pay.

Temporary redeployment (if feasible) of one or both parties may also be considered. The complainant should be given the choice, though normally the alleged perpetrator would be redeployed first.

The complainant and alleged perpetrator may have a colleague or trade union representative present at all stages of the formal procedure.

The Investigating Officer must maintain an accurate record of all meetings and facts recorded by the investigation and the conclusion reached. The Investigating Officer should not make a decision as to whether an allegation is proven or not.

Management Action

The investigating officer will then pass their report to the manager who instigated the investigation. The manager, following consultation with the Chair will then decide on appropriate management action. This will be:

-To initiate the Disciplinary Procedure OR

-Take management action other than initiate the Disciplinary Procedure. This could include one or more of the following:

- Referral to Mediation (this requires the agreement of both parties.)
- A recommendation of redeployment (if feasible) of one or both parties, either on a temporary or permanent basis. Should this take place, this must not be on any less terms and conditions of employment, unless action is taken within the disciplinary procedure to demote an individual;
- Set up arrangements to monitor the situation;
- Require attendance on training courses;
- Make arrangements for both parties to work as separately as possible within the same workplace;

- Take no action on the basis that the allegation has not been substantiated.

Note that some of the above actions may be taken in addition to use of the disciplinary procedure.

The outcome of the investigation and any actions to be taken will be notified in writing to both parties normally within 5 working days of the conclusion of the investigation. If there is a case to be answered then the disciplinary procedure will be invoked. In accordance with the disciplinary procedure, the alleged harasser will be told the precise nature of the complaint and be given time to prepare their case.

The Disciplinary Process

If serious allegations of bullying or harassment are to be heard under the Disciplinary Procedure and the alleged perpetrator has already been suspended under the Bullying and Harassment procedure this will be converted to a disciplinary suspension.

The normal disciplinary Procedure must be applied. It should be taken into account that the complainant may be required to attend any disciplinary hearing as a witness. In the event that the complainant feels unable or unwilling to do so, then a representative can attend on their behalf. A signed witness statement from the complainant will be made available to the alleged perpetrator, along with any other materials being used by the employer, including other signed witness statements (if agreeable to witnesses).

Where an employee is found guilty of an act of harassment or bullying, they will be dealt with under the terms of the disciplinary procedure. In serious cases of such behaviour, the harasser may be summarily dismissed.

Any employee who victimises or retaliates against another employee for bringing a claim under this policy or for giving evidence in connection with a harassment investigation will also be subject to disciplinary action.

If an employee is dissatisfied with disciplinary action taken against them as a result of a Bullying and Harassment investigation they must appeal through the Disciplinary Appeals Procedure.

NB: Specified timescales may be extended with the mutual agreement of all parties concerned.

Employee Support

Cases of harassment/bullying must be dealt with sensitively in recognition of the issues involved. The impact of harassment/bullying may be such that during or after the complaint has been dealt with, counselling may be required. Any employee who believes that they have been subject to, or have witnessed harassment, victimisation or bullying can seek additional external confidential support. Details are available from their line manager.

Malicious complaints

While the organisation would wish to encourage and support staff to raise concerns about bullying and harassment, any allegations which are proven to be malicious and not raised in good faith will be regarded as disciplinary offences and will be dealt with in accordance with the disciplinary policy and procedure.

Monitoring and Review

We will maintain confidential records of all reported records of bullying and harassment dealt with through this procedure, and how they are resolved.

These records will include:

- The number and type of formal complaints made
- The outcomes of the complaints
- The time taken to complete the process.

This monitoring information will be used to evaluate the effectiveness of this policy in handling cases of bullying and harassment.

Related Policies and Procedures

- Equal Opportunities Policy
- Grievance Policy and Procedure
- Stress Policy
- Disciplinary Procedure
- Health and Safety Policy

Date of Reissue: 30 October 2015

Review Date: 30 October 2017