

## **DEVON AND CORNWALL POLICE AUTHORITY**

### **HARASSMENT AND BULLYING POLICY & PROCEDURE**

#### **Policy**

Fair treatment and personal dignity is an essential standard for all employees. This policy aims to prevent harassment or bullying in the workplace by underlining the serious view that the Authority takes of such actions, by increasing awareness of what may constitute harassment or bullying and by outlining the steps that will be taken in the event of a complaint being made.

The Authority is committed in its Diversity in Employment Policy to the principle of equal opportunities in employment and is opposed to harassment, bullying or victimisation of employees on the grounds of their race, colour, ethnic or national origin, nationality, religion, belief, disability, sex, sexual orientation, marital or parental status or age. This policy reinforces the Authority's commitment to secure equality of treatment and to ensure that all employees are treated with dignity and respect.

The Authority will not tolerate bullying and harassment of any kind. Nor will the Authority tolerate victimisation of a person for making allegations of bullying or harassment in good faith or supporting someone to make such a complaint.

All allegations of bullying and harassment will be investigated and, where appropriate, disciplinary action will be taken. The Authority's disciplinary procedure provides that employees found guilty of harassment or bullying may face disciplinary penalties, up to and including, where the conduct constitutes gross misconduct, dismissal without notice.

Some bullying or harassment will constitute unlawful discrimination, e.g. if it relates to a person's sex, race, religion or belief, sexual orientation or disability. From 2006, discrimination on grounds of age will also be unlawful. Serious bullying or harassment may amount to other civil or criminal offences, e.g. offences under the Protection from Harassment Act 1996 and criminal offences of assault. Employees should also be aware that they could be personally liable to pay compensation in legal claims.

#### **Responsibilities**

*Managers* have particular responsibility to implement this policy by creating a supportive working environment, providing relevant training, for ensuring that their employees have an awareness of the policy and taking corrective action to ensure compliance with it. Managers should be responsive and supportive to any employee who complains of harassment or bullying, be aware of the potential for bullying by third parties (including Members of the Authority, Constabulary personnel and the public), provide clear advice on the procedure to be followed, maintain appropriate confidentiality and ensure that there are no further problems of harassment or any victimisation after a complaint has been received and/or resolved.

*Employees* have a responsibility to comply with this policy and to treat all their colleagues with dignity and respect. Employees should, where possible, make it clear that they find harassment or bullying behaviour unacceptable and report it as appropriate.

*Members of the Authority* have a responsibility to set an example in upholding the principles of this policy and to ensure that, in their dealings with employees of the Authority, at whatever level, they accord them appropriate dignity and respect.

### **What is harassment, bullying and victimisation**

*Harassment* is unwanted conduct related to sex, race, colour, ethnic origin, nationality, disability, marital status, sexual orientation, religion or belief, age or any other personal characteristic which:

- 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 his or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.

The unwanted conduct may be persistent or an isolated incident. A single incident can be harassment if it is sufficiently serious.

It must be remembered that different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment, without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him or her. It may not always be clear in advance that some forms of behaviour would be unwelcome to, or could offend, a particular person (e.g. asking someone for a private drink after work). In such cases, first-time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him or her.

In accordance with good practice, as recommended in the ACAS Code on Bullying and Harassment at Work, the following are examples of what is unacceptable behaviour:

*Sexual harassment*, which can affect the dignity of men and women, can include:

- Physical conduct of a sexual nature such as unwanted physical contact, including unnecessary touching, patting, pinching or brushing against another employee's body;
- Verbal or written (including e-mail and text messages) communication of a sexual nature such as unwelcome sexual advances, propositions or pressures for sexual activity, continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome, offensive flirtations, suggestive remarks, innuendos or lewd comments;

- Non verbal contact of a sexual nature such as the display of pornographic or sexually suggestive pictures, objects or written materials, leering, whistling or making sexually suggestive gestures.

*Racial Harassment* is an act which intimidates, humiliates, ridicules or undermines the confidence of a person by reason of that person's race, colour, ethnic origin, nationality or religion. It can include:

- Ridiculing an individual because of cultural or physical differences
- Embarrassing or derogatory remarks, racist jokes and name calling
- Written abuse and the display of offensive material
- Deliberate physical and/or verbal abuse
- Differential treatment, for example, unfair allocation of work or training opportunities
- Discouraging ethnic minority employees from taking up opportunities for advancement.

*Disability harassment* is any unwanted act directed at a person who has a disability and which happens because of their disability, which is evident by physical or behavioural differences. It can include:

- Harassment or bullying in a broad sense
- Mimicking the particular disability
- Jokes about disability and disabled people
- Deliberate exclusion from conversation or social activities
- Unacceptable forms of patronising and belittling.

*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 person on the receiving end.

Bullying does not always derive from manager/employee or Member/Officer relationships; unacceptable peer pressure can also amount to bullying.

Nor is bullying necessarily face to face. It may be by written communications, e-mail, text or telephone. It can often be hard to recognise — it may not be obvious to others, and may be insidious. The recipient may think 'perhaps this is normal behaviour in this organisation'. They may be anxious that others will consider them weak, or not up to the job, if they find the actions of others intimidating. They may be accused of 'overreacting' and worry that they won't be believed if they do report incidents. There is often fear of retribution if they do make a complaint. Colleagues may be reluctant to come forward as witnesses, as they too may fear the consequences for themselves. They may be so relieved not to be the subject of the bully themselves that they collude with the bully as a way of avoiding attention.

On the other hand, what is considered bullying by one person may be considered firm management by another. It is therefore a matter of judging what is reasonable. Different management approaches or a need to ensure that an employee focuses on what the Authority rather than an employee regards as priorities or stipulating the way that an issue is best handled need not amount to bullying. However, there are behaviours that are likely to constitute bullying including:

- Unreasonable use of disciplinary or incapability procedures
- Aggression, including threats, shouting abuse and obscenities
- Ridiculing or demeaning someone (including in the presence of others) — picking on them or setting them up to fail (e.g. by giving responsibilities outside their experience or constantly changing objectives)
- Deliberately ignoring or excluding someone
- Overbearing supervision or other misuse of power or position
- Making threats or comments about job security without foundation
- Deliberately undermining a competent worker by overloading and constant criticism
- Copying memos that are critical about someone to others who do not need to know
- Unreasonable refusal of requests e.g. for leave
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

*Victimisation* is treating someone less favourably than others because he or she has, in good faith:

- (a) complained (whether formally or otherwise) that someone has been bullying or harassing him or her or someone else; or
- (b) supported someone to make a complaint; or
- (c) given evidence in relation to a complaint.

Victimisation includes isolating someone because he or she has made a complaint or giving him or her worse work.

Provided that an employee acts in good faith (i.e. they genuinely believe that what they are saying is true) they have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the Authority will take appropriate action to deal with any alleged victimisation. This may include disciplinary action against anyone found to have victimised someone else. Any complaint of victimisation will be dealt with under the following procedure.

### **Complaining about and dealing with Harassment, Bullying and Victimisation**

A complaint can be pursued through formal or informal procedures, depending on the degree of perceived seriousness of the harassment, bullying or victimization and on the confidence of the employee in his or her ability to handle the situation. If an employee needs advice or guidance as to how to make a complaint they should speak to a line

manager or the Chief Executive or the Authority's Human Resource Adviser or an official from a recognised Trade Union.

It is important that, regardless of whether the complaint is initially being pursued informally or formally, the employee keeps as written record of all instances where he or she feels that harassment, bullying or victimization may have occurred.

### *Informal Procedure*

It may be possible for a matter to be sorted out informally. The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effects of his or her behaviour and agree to change it.

An employee may feel able to approach the person him or herself or with the help of a manager, a trade union representative or another employee. Alternatively, an initial approach could be made on behalf of the employee by one of these people.

Any approach should include telling the person what behaviour of his or her is offensive and unwelcome and saying that it should stop immediately. The employee may want to add that, if the behaviour continues, he or she will make a formal complaint under this procedure. A note of the date and what was said and done should be kept as useful evidence if the unacceptable behaviour continues and a formal complaint is subsequently made.

### *Formal Procedure*

If an informal approach does not resolve matters, or the situation is too serious to be dealt with informally, the employee should refer the matter in writing as a grievance to the Chief Executive (or if the complaint is against the Chief Executive to the Chairman of the Authority). In the case of grievances about bullying, harassment or victimisation, the principles of normal grievance procedure is modified by this procedure so that the Chief Executive either investigates the complaint himself or arranges for an investigation to be conducted either by a manager in the Authority who is not directly involved in the complaint or by an independent person such as the Authority's Human Resource Adviser.

The purpose of the investigation will be to determine whether the complainant has been treated in the manner claimed and whether that treatment appears to either constitute bullying, harassment or victimisation or suggest some other failing on the part of the alleged perpetrator, which may, in the case of fellow employees, require disciplinary proceedings to be initiated. This investigation also replicates the Investigatory Stage of this disciplinary procedure. Consequently, there is no requirement for a further investigation under that procedure as a precursor to disciplinary proceedings arising from the outcome of an investigation into alleged bullying, harassment or victimisation, which suggest that prima facie a disciplinary or capability case needs to be answered.

The Authority will treat complaints of bullying, harassment and victimisation sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require some disclosure of information e.g. the complainant's identity and the nature of the allegations must be revealed to the person who is complained about, so

he or she is able to respond to the allegations. Some details may also have to be given to potential witnesses but the importance of confidentiality will be emphasised to them. The complainant may also be required to give evidence at any disciplinary proceedings held to consider the matter. If the complaint is upheld, and a person who has been found to have harassed, bullied or victimized the complainant is kept in the Authority's employment, managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person.

All complaints will be investigated as quickly as is reasonably practicable. Complainants have the right to be accompanied by a work colleague or trade union representative of their choice at any meeting dealing with the complaint.

### *Outcome of the Investigation*

Complainants will be kept informed of the general progress of the process of investigation and the outcome of both the investigation and any disciplinary proceedings.

If the outcome of the investigation is that disciplinary proceedings against another employee are recommended, a hearing should be arranged under the Authority's Disciplinary and Incapability Procedure. Any action taken as a result of a hearing will take into account the severity of the behaviour and the effects on the complainant, together with the attitude of the alleged harasser, bully or victimiser. Action could include:

- Some form of disciplinary action (including dismissal for gross misconduct);
- A requirement and agreement from the individual that the unwelcome behaviour will stop;
- A requirement and agreement to apologise;
- A requirement and agreement to take part in awareness training.

Note : The above are not mutually exclusive

If the person found to have bullied, harassed or victimised the complainant remains in the Authority's employment, every effort will be made to ensure, if reasonably practicable, that, if the complainant does not wish to, he or she does not have to continue to work directly alongside the harasser. However, the nature and scale of the Authority's offices is such that this may not always be possible. It will be important to help both parties to continue or resume working and to help repair working relationships .

Similarly, if the complaint is not upheld, the Authority will support the complainant, the alleged harasser and their manager in making arrangements for both parties to continue or resume working and to help repair working relationships.

### **Malicious Complaints**

Making a complaint which an employee knows to be untrue, or giving evidence which an employee knows to be untrue, may lead to disciplinary action being taken against that employee.

### **Guidance to staff against whom allegations are made**

If an employee is approached by another informally about his or her behaviour, the matter should not be dismissed out of hand on the basis that it was only a joke or that the complainant is being too sensitive. Different people find different things acceptable and everyone has the right to a view about what behaviour is acceptable to him or her and to have his or her feelings respected by others. Offence may have been given without any intention. If that is the case, the person concerned may be content with an explanation and an apology and an assurance that care will be exercised in future not to behave in a way that is now known may cause offence. Provided that the behaviour which has caused offence is not repeated, that may well be the end of the matter.

If a formal complaint is made about an employee's behaviour it will be fully investigated as outlined above and, as result and if appropriate, the Authority may bring proceedings under its Disciplinary and Incapability Procedure. Employees will have the right to be informed of the allegations against them and to put their side of the story and to be accompanied at any disciplinary hearings by a trade union representative or work colleague of their choice. Any disciplinary action will reflect the seriousness of the allegation. Bullying, harassment and victimisation may amount to gross misconduct and therefore lead to dismissal without notice.

The Authority will treat complaints of bullying, harassment and victimisation sensitively and maintain confidentiality to the maximum extent possible. Wherever possible within the constraints of the scale of the Authority's offices, the Authority will try to ensure that and employee against whom allegations have been made and the complainant are not required to work together whilst the complaint is under investigation.

If the allegation is serious and/or it is important, but not practicable, to separate the parties, the employee against whom allegations have been made may be suspended on full pay during the investigation and, if a disciplinary proceedings are initiated, until those proceedings have been concluded.

Investigation of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a 'need to know' basis (e.g. to a relevant manager).

If the complaint of harassment, bullying or victimisation against another employee is not upheld, the Authority will take steps to support the employee against whom allegations have been made and the complainant in making arrangements for them both to continue or resume working and to help repair working relationships. Where reasonably practicable, the Authority will consider making arrangements to avoid the parties having to continue to work alongside each other, if either does not wish to do this.

### **Making this policy work**

The Authority will provide training to all existing and new employees and others engaged to work at the Authority to help them understand their rights and responsibilities under this policy and what they can do to help create a working environment free of bullying and harassment.

The Authority will review the outcomes of cases where complaints of bullying, harassment and victimisation have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

### **Complaint against a Member of the Authority**

Members of the Authority are not employees. Nevertheless the nature of their role is such that they come into frequent contact with employees. The role of employees is to serve the Authority as a whole and, while working within this role, to support individual Members. There may, however, be times when an employee either cannot acceded to a Member's request to undertake particular work or task or gives advice or makes decisions with which Members disagree. If Members find themselves in this situation they should not act in a manner which might lead to the possibility that their reaction could be regarded as bullying.

Similarly Members should not act in a manner that might be perceived by an employee as harassment.

In the event that an employee considers that he or she might have been harassed, bullied or victimised by a Member, the matter should be referred immediately in writing to the Chief Executive who will either investigate the matter himself or refer the matter to an independent investigator. The principles of this policy will be followed during the investigation and the outcome reported to the Chairman of the Authority to determine what action might be taken.

October 2004