

**From:** [Foi Enquiries](#)  
**To:** [REDACTED]  
**Subject:** FOI-17-1623 - Sexual Harassment  
**Date:** 01 December 2017 14:40:37  
**Attachments:** [Further Information - Right to Review & Appeal.pdf](#)  
[FOI-17-1623 - ManagingBullyingHarassment\\_Redacted.pdf](#)

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Dear [REDACTED],

Thank you for your information request of 2 November 2017. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

- 1. How many official complaints have been made regarding sexual harassment in the workplace within your council in the last 12 months?**
- 2. Can you specify the exact workplace in which each complaint was made – meaning the specific council department or council-owned workplace i.e. a school/a harbour office etc.?**
- 3. Can you break this figure down into the exact forms of harassment that allegedly occurred – i.e. verbal, physical etc.?**
- 4. Can you tell me what action was taken regarding each of the complaints? I.e. was there a dismissal, a warning given, and investigation instigated etc.?**
- 5. How many complaints were made regarding sexual harassment in the workplace within your council in each of the three years prior to this? And for this, can I have a separate total for the three individual years – not simply a single lump sum.**

ACC is unable to provide you with information on **How many official complaints have been made regarding sexual harassment in the workplace within your council in the last 12 months, Can you specify the exact workplace in which each complaint was made – meaning the specific council department or council-owned workplace i.e. a school/a harbour office etc., Can you break this figure down into the exact forms of harassment that allegedly occurred – i.e. verbal, physical etc., Can you tell me what action was taken regarding each of the complaints? I.e. was there a dismissal, a warning given, and investigation instigated etc., How many complaints were made regarding sexual harassment in the workplace within your council in each of the three years prior to this? And for this, can I have a separate total for the three individual years – not simply a single lump sum** as the cost of providing it has been calculated as being in excess of the statutory maximum (£600). To explain this, it would involve an ACC Officer searching through 283 files as the data held does not break down into a category of sexual harassment. This has been calculated at 20 minutes per file, which equates to 94.33 hours, at the cost of £1,414.95 in total.

In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby give notice that we are refusing your request under the terms of Section 12 - Excessive Cost of Compliance - of the FOISA.

ACC would be happy to discuss ways in which you may refine your request, so we can provide some information of interest to you within the maximum cost limits. Please do contact the Information Compliance team, who will be happy to advise you, if this is something you would like to pursue.

- 6. Can you tell me your official complaints procedure for workers regarding sexual harassment?**

Please refer to the attached Managing Bullying and Harassment Policy and Procedure.

ACC is unable to provide you with the information on **official complaints procedure for workers regarding sexual harassment** as it is exempt from disclosure. In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby gives notice that we are refusing your request under the terms of Section 38(1)(b) in conjunction with 38(2)(a)(i) – Personal Information - of the FOISA.

In making this decision ACC considered the following points:

ACC is of the opinion that Section 38(1)(b) applies to the information specified above as any information held is personal information relating to living individuals, of which the applicant is not the data subject.

ACC is of the opinion that Section 38(2)(a)(i) applies, as we consider that disclosure of this information would be a breach of the first Data Protection Principle (that personal information must be processed fairly and lawfully). ACC officers have not consented to the disclosure of their information, and ACC does not consider that they would expect ACC to release this information about them into the public domain under the FOISA.

We hope this helps with your request.

Yours sincerely,

Salomeh Kheyri Rad  
Information Compliance Officer

#### **INFORMATION ABOUT THE HANDLING OF YOUR REQUEST**

ACC handled your request for information in accordance with the provisions of the Freedom of Information (Scotland) Act 2002. Please refer to the attached PDF for more information about your rights under FOISA.

Information Compliance Team  
Customer Service  
Corporate Governance  
Aberdeen City Council  
3rd Floor North  
Business Hub 17  
Marischal College  
Broad Street  
ABERDEEN AB10 1AQ

[foienquiries@aberdeencity.gov.uk](mailto:foienquiries@aberdeencity.gov.uk)

Tel 03000 200 292

\*03000 numbers are free to call if you have 'free minutes' included in your mobile call plan.

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# Managing Bullying and Harassment

## POLICY & PROCEDURE

Issue Number	Date Approved	Pages Amended	Originator Approved By
2	27/9/2012	New Policy and Procedure to replace existing one.	<div></div> Corporate Policy & Performance Committee

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## **SECTION 1: INTRODUCTION**

### **Policy Statement**

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In order to meet our legal responsibilities and our commitment to promoting a safe, healthy and fair working environment, we are committed to ensuring that people who work for the Council do so in an environment which provides dignity and respect to everyone and is free from bullying and harassment.

The aim of this policy and procedure is to ensure that all individuals working for the Council understand their right to freedom from bullying and harassment and what to do if unacceptable behaviour occurs. No-one will be subjected to unfavourable treatment or victimisation as a result of making a complaint.

The Council will not tolerate unfair treatment of individuals and anyone who is found to have bullied or harassed another person in the organisation may be subject to disciplinary action, which could include dismissal. Apart from being totally unacceptable, such behaviour may be unlawful.

### **Scope**

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This policy and procedure applies to **all** employees of the Council.

All individuals working on behalf of the Council under other arrangements, such as agency or casual workers, are not subject to the policy and procedure but are required to comply with the standards set out in the Policy Statement and Core Principles.

### **Core Principles**

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- Acceptable standards of behaviour are required of all individuals and groups in the workplace to promote positive working relationships and an organisational culture and environment which is free of bullying and harassment.
- All employees are expected to meet the relevant standards of behaviour defined within the Council's Performance Review and Development process or Professional Review and Development process in the case of teachers.
- Issues raised will be taken seriously, dealt with promptly and confidentially at the lowest level of management practicable.
- Managers have the right to manage employees and workers effectively, giving reasonable instructions when required and this does not constitute bullying and/or harassment. This includes dealing with shortcomings in performance, conduct, attendance and behaviour.

- Every individual is responsible for their own behaviour and has a duty to support a working environment free from bullying and harassment for themselves and colleagues.
- When dealing with a complaint of bullying and/or harassment, the principle of fairness applies equally to the complainant and the accused.
- Both the complainant and the accused will be offered the opportunity to be accompanied by a trade union representative or work colleague at all stages of the formal part of the procedure, including investigatory meetings. Employees will not be permitted to be accompanied by a legal practitioner or spouse.
- Throughout the procedure, special allowance should be made for those whose first language is not English or who have difficulty expressing themselves. The same applies to those with a disability.

### **What is Bullying and Harassment?**

**Bullying** is defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

**Harassment** is defined as unwanted conduct related to a relevant protected characteristic (under the Equality Act 2010), or on other grounds, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation. Pregnancy and maternity and marriage and civil partnership are not protected directly under the provisions of the Equality Act 2010 but would amount to harassment related to sex and sexual orientation respectively.

Such behaviour may be physical, verbal or non-verbal.

## **SECTION 2 – THE PROCEDURE**

Before progressing to the formal stage of the procedure, an individual who believes that they are being subjected to unacceptable behaviour should consider attempting to resolve the matter informally where possible. Employees may raise the matter at the formal stage where the informal stage is inappropriate or where the informal stage has been unsuccessful.

### **Informal Stage**

The individual can raise the problem by either:

- Personally approaching the person and pointing out the unacceptable behaviour, the detrimental effect this is having on them and asking for the behaviour to stop.
- Asking someone else to act on their behalf where they would find it difficult or intimidating to confront the person themselves. This could be a colleague, a manager or trade union representative.

At the informal stage there is no requirement for anything to be put in writing but the outcome will be confirmed in writing where a manager has had involvement in addressing the issue.

## **Formal Stage**

### **Making the complaint**

- The individual must inform their line manager (or next more senior manager if the complaint concerns their manager) of the problem in writing detailing:
  - The name of the person accused.
  - The behaviour that is causing distress.
  - Records of dates, times, witnesses and any other relevant information.
  - The accused's response at the informal stage, where applicable.

For reasons of confidentiality the letter must not be copied to anyone else except those directly involved in the process which may include a trade union representative.

### **Response and investigation**

Management will acknowledge the complaint and arrange for it to be investigated with a view to reaching a conclusion within a reasonable timescale. The investigating officer will produce a report of their findings, conclusions and decision.

### **The decision**

The investigating officer will decide whether there is sufficient evidence to conclude that there is a case to answer and how the matter should be dealt with. The possible outcomes are as follows:

Complaint upheld:

- Where there are sufficient grounds to conclude that there is a case to answer on conduct grounds the matter will go forward to a disciplinary hearing.
- Where there is a case to answer but the unacceptable behaviour was relatively minor or was due to a lack of understanding of the expected



standards or the possible impact of their behaviour on others, the matter may be referred to management for appropriate action.

#### Complaint not upheld:

- Where there is no case to answer because actions have been misconstrued as bullying and/or harassment or because the allegations are unfounded.
- Where, after consideration of the available evidence, it cannot reasonably be concluded that there is a case to answer.

Where the complainant appears to have made unfounded allegations for vexatious, malicious or capricious reasons they will be subject to investigation and possible disciplinary action.

Where the investigating officer decides there is sufficient evidence to conclude that there is a case to answer and this is due to a collective, organisational or cultural cause the matter will be referred to the Head of Service or Service Manager. They will be required to look into the matter reported to identify the root causes and develop an action plan to address these.

#### Informing the parties

- The investigating officer will meet separately with the complainant and accused to provide a summary of the findings, the decision and the reason(s) for it, and explain how the matter will be taken forward, taking care to ensure that confidentiality is maintained. This will be confirmed in writing.

#### Appeal

##### Appeal by the complainant

Where the complainant is dissatisfied with the outcome an appeal may be made to their Director. The notice of appeal must be made in writing within 10 working days of receiving the investigating officer's written confirmation of their findings and decision and must set out the grounds for appeal, demonstrating why they consider the decision to be unreasonable.

An appeal can only be made on one or more of the following grounds. The complainant considers:

1. That it was unreasonable for the investigating officer to have reached that conclusion on the basis of the evidence and information obtained,
2. That the investigation was fundamentally flawed,
3. That the procedure was not followed and this has adversely affected the outcome of the complaint.

The employee will be invited to an appeal hearing within a reasonable timescale. The appeal will normally be heard by the Director or a Head of Service. The investigating officer will also attend. The employee will be notified both verbally and in writing of the final decision and the reasons for it.

#### **Appeal by the person accused of bullying and/or harassment**

Where disciplinary action is taken against the person accused following a disciplinary hearing, the employee will have the right to appeal against the decision under the appeals process set out under the Managing Discipline procedure.

### ***SECTION 3 – REVIEW OF THE PROCEDURE***

Human Resources will review this procedure every three years. It will, nevertheless, be subject to continual review and amendment in the light of experience of its operation, employment best practice and statutory requirements. Changes will only be made following normal consultation arrangements.