Guide for employees and managers: Addressing bullying and harassment

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Introduction

Essex County Council believes that every employee has the right to be treated with dignity and respect. We are committed to delivering excellence to customers and to making ECC a great working environment where everyone’s skills and diversity are valued.

We operate a zero tolerance approach to bullying, harassment and victimisation. We take this extremely seriously and will investigate and deal with bullying, harassment and victimisation, whether it is reported to a manager, or to the Human Resources Advice and Support Service.

As individual employees, we will take responsibility for reporting bullying and harassment, in order to prevent a situation escalating. As managers, we will not put off the conversation with an alleged bully; we will take responsibility for quickly tackling the issue with the person (or people) concerned in a sensitive and honest manner, taking advice from HR Advice and Support if necessary. As an organisation, we are committed to making sure that support, training and appropriate channels for reporting are easily accessible, so effective action can be taken.

We will respect all those we work with, ensuring that our employees, those we work with, and those applying for jobs with us, are treated fairly and with respect. We will communicate this commitment and take action together with contractors, partners and Members, working with customers to create a shared understanding and a fair and safe environment for all who come into contact with ECC.

Our responsibilities

As representatives of ECC, we have a duty of care towards employees and must take responsibility for:

- considering the impact of our actions on those around us – thinking before we act
• taking action to report and prevent bullying and harassment.

If you feel distressed by bullying or harassment, regardless of who it is aimed at, you need to take action. You may be the person it is aimed at (referred to in these Guides as the ‘recipient’), or you may have witnessed someone (the ‘perpetrator’) carrying out the bullying or harassment, in which case you are encouraged to report it (the ‘reporter’).

Understanding what constitutes acceptable behaviour and what constitutes bullying and harassment is the first step in taking effective action.

Definitions and examples

Bullying

Workplace bullying is persistent and unreasonable, offensive or intimidating behaviour, including abuse of power, which attempts to undermine an individual or group of employees. This results in the recipient feeling upset, threatened, humiliated or vulnerable, undermining confidence and / or causing him or her stress.

For example:

• Negative remarks or emails about an individual’s ability or personal characteristics – this is different from constructive, motivational feedback to improve performance, which identifies a specific action or behaviour, explains its impact on others, involves you in discussion on how to improve it and agrees how to review progress (see the Learning and Development toolkit)
• Unreasonable actions, demands or criticism, such as setting a person up to fail with unachievable deadlines or targets, deliberately allocating pointless tasks, or deliberately withholding information
• Unreasonably refusing requests for time off
• Passing off someone else’s work as your own, or falsely implying the author is incompetent without your input
• Suggesting or implying that reporting bullying or harassment will be career-limiting and could mean you are seen as a disruptive influence on your colleagues.

Harassment

Harassment is unwanted conduct related to a diversity characteristic (gender, age, race, disability, gender reassignment, sexual orientation, religion or belief) which violates dignity or creates an intimidating, degrading, humiliating or offensive environment for that person. This includes physical, sexual, verbal and non-verbal harassment. Harassment could be a one-off incident or persistent behaviour. For example:

• Harry’s manager often loses her temper, sends curt and dictatorial emails, and sometimes tears up his reports when he asks for her feedback; she shouts at him in front of colleagues, saying he should have been made to retire in the last restructure
• Paige’s manager implies he only gave her the secretary’s job because she is an attractive woman; he tells Paige that she may fail her probation if she doesn’t work late after other colleagues have left, and he insists on leaning over her desk or reading documents over her shoulder, which makes her feel very uncomfortable
• Elliah is ostracised by her colleagues; they tell her that she’s wasting time and money by needing to update her laptop and screen-reader software and to take extra time to deal with customers while she learns the new package. This is despite the fact the team’s manager has already agreed this is a reasonable adjustment because Elliah is partially sighted.

• Chris is mocked by his colleagues after asking his manager to tell the team he has decided after a great deal of thought that it is right for him to change his gender.

At work, employers have a duty to take steps to protect their employees from harassment, regardless of who perpetrates it – such as when employees report they have been harassed by their customers. For example:

• Sarah is subjected to a string of verbal abuse, threatening gestures and racist insults by a customer who believes his behaviour is justified because she is black.

Employees are also protected from discrimination including harassment because they are thought to have a certain characteristic, whether or not that is the case - for example:

• Luke’s colleagues pretend they think he is gay and pass round jokes and texts about gay men, laughing behind his back and through posts on social media sites;

• Isabelle’s team leader insults her when she gives her a set of minutes she has drafted, saying she must have dyslexia and learning difficulties.

The same applies if an employee spends time with people who have a protected characteristic, even when they themselves do not, for example:

• Fatima is told she is unlikely to be promoted while she cares for two older relatives with dementia; her manager says it might affect her work in future;

• Lisa’s brother converts to Islam and attends the local mosque; her colleagues stop inviting her to go out with them in the evenings, and start making pointed comments implying she associates with extremists and is no longer to be trusted.

For more information about the different facets of diversity-related harassment, see Appendix on page 9.

Protection from harassment also applies in law where a course of conduct - this includes speech – is designed to alarm or distress someone, for example, stalking a person.

Victimisation

Victimisation under the Equality Act 2010 means a person suffers detriment because they have complained or intend to complain of discrimination, or because they have given evidence, or may give evidence, to support such a complaint. For example:

• Helen offers to act as a witness for Paige’s sexual harassment claim; Helen is given a ‘part met’ outcome in her annual appraisal because she has been ‘disloyal’ to the team.

Employees who are Union officials are also protected by law from victimisation due to carrying out their duties and their association with a trade union.
Some reasons why people bully or harass others

- To make others look incompetent so they appear more competent than they are, or the fear that someone else (the recipient of their behaviour) is doing a better job
- Lack of empathy and respect for others, and / or lack of awareness of the impact of their behaviour on others
- Personal prejudice and / or the wish to take advantage of those who are thought weaker or less valuable
- Habit, due to past experiences
- Peer pressure to behave in a similar fashion, involving several people in a team
- Not having the skills to manage differently, and / or feeling under pressure from more senior managers
- Team or organisational culture which believes a degree of bullying is acceptable.

Sometimes an individual may target one person after another as they move from job to job (serial bullying). All of the above occur more easily if the individual's behaviour goes unchallenged by individuals or the organisation.

Consequences for individual employees and for ECC

Someone who has been bullied may over-react to a small request, or may believe their treatment is normal or acceptable, or lose confidence and feel unable to report it in case they are thought to be weak or making a fuss.

Bullying and harassment create an unhappy and unproductive workplace, where sickness absence or turnover is high, and morale and engagement is low. There may also be:

- loss of respect for managers or senior managers
- poor performance
- loss of reputation as a good place to work
- tribunal and other court cases and payment of unlimited compensation.

Action and support

Every employee

Essex County Council is made up of individual employees and Members. We are all responsible for making sure we keep our commitment to eliminate bullying and harassment.

As stated, ECC does not tolerate any form of bullying, harassment or victimisation and will take prompt action to investigate allegations. We will deal with those who carry out such acts. This may include: mediation; restorative justice – for example in some Children’s Services; disciplinary action including dismissal; police reporting or involvement; and / or withdrawal of services or restriction of services to service users.

Any incident involving an employee which you consider bullying or harassment is an incident that needs to be addressed. This includes where it is related to diversity
(gender, transgender, race, disability, religion or belief, sexual orientation, and age) – in other words if an act is racist, sexist, disablist, homophobic or trans-phobic, anti-Semitic, islamophobic, ageist, etc.

If you feel offended, regardless of who it is aimed at, you need to take action. You may be the recipient, or you may have witnessed the incident as a third party.

**Step one – discuss / decide:**
- discuss it with someone whose judgment you can trust – this may be your own manager, or a senior manager in your service, someone in the Counselling service, someone in HR Advice and Support, or one of the ECC Anti-bullying Links – the Links are ECC employees who will listen to what you have experienced and can give you impartial and confidential options on next steps in addressing bullying and harassment (see contacts on page 8).
- decide whether or not the incident is such that it can be resolved with a quick word with those concerned.

**Step two - respond:**
Either:
- where a quick word is likely to resolve the matter, deal with the incident by telling the person (1) what you heard or saw (2) saying how it made you feel (3) you are concerned this could be interpreted as bullying or harassment and (4) what you’d like to see done differently in future

Or:
- using the information given to you in Step one above by the Anti-bullying Link, the manager or by HR Advice and Support, decide how to report it (Step three below).

**Step three - report:**
Either:
- Tell either your line manager or a senior manager in your service what you experienced, and how it made you feel – ask for this to be looked into and addressed. The manager will follow the Manager’s Guide below.

Or:
- If you are unable to speak to your manager or a senior manager in your team / service, contact HR Advice and Support. They will discuss the matter with you, and find another senior manager who will investigate the incident sensitively.

See links below to the Manager’s Guide: Investigating bullying and harassment for details. The Guide for employees – ECC’s grievance procedure may also be helpful.

If the issue cannot be resolved informally and you raise a formal grievance, you can ask to be accompanied to the hearing or appeal meetings either by a recognised union representative or by one of your ECC colleagues – if you prefer, you may ask to be put in contact with a trained ECC employee who will act as your ‘workplace companion’ at the meeting. Contact HR Advice and Support or see: anti-bullying pages to find out more. To request an ECC ‘Workplace Companion’ to accompany you at a grievance hearing where you are raising bullying, harassment or victimisation, contact Expolink via the ECC anti-bullying helpline / email address below. (The Workplace Companion service is
additional support to help address bullying and harassment, and not in connection with other grievances or capability or disciplinary matters.)

Managers
If such a matter is reported to you as a manager, whether informally or under the Grievance process, take it seriously and listen to the person reporting it. Remember each individual person is different, and the person reporting the matter may come from a very different background from your own.

Take action to support the employee reporting the incident, as well as the recipient if different. The alleged perpetrator may also need support. (See Guide for managers: Investigating bullying and harassment for more information on options and support.)

Where a matter becomes the subject of a formal grievance, make sure the employees concerned have the support they need by keeping in touch, and also ensuring they understand what additional support is available – see page 8 of this Guide. Keep them informed weekly of whether the investigation is on track to meet the expected timescales, and refer them to the Guide for employees: ECC’s grievance procedure, so they understand the different stages of the grievance process.

Fully investigate and record the matter, and if the allegation is proven, deal with the perpetrator in line with ECC procedure. Follow the Guide for managers on investigating bullying, also applying any Service procedures where relevant. Contact HR Advice and Support for specific advice at any stage of the process.

- Guide for employees: ECC’s grievance procedure
- Grievance policy

Note: If bullying, harassment or victimisation is reported via the Grievance policy, it is our duty to investigate and not the employee’s duty to prove it as is normally the case when a grievance is raised.

Incidents involving a customer/service user
ECC has a duty of care towards employees as well as customers; this includes responsibilities for an employee’s safety and wellbeing in the workplace. Where there is an allegation or an incident of harassment by service users / customers, it is important the manager responds quickly and also takes advice from HR Advice and Support if guidance is needed. Appropriate steps and broad options in responding to an incident or allegation are covered in the Guide on investigating bullying and harassment:

- Guide for managers: Investigating bullying and harassment

Refer also to the specific guides below on customer stalking and harassment, and ensure the employee(s) involved have access to the support and information. Contact the HR Advice and Support team where more guidance is needed.

- Guide for managers: Stalking and harassment by customers
- Guide for employees: Stalking and harassment by customers
Incidents which do not involve ECC employees

Harassment of individuals who are not ECC employees by third parties is dealt with by the relevant Function under the appropriate contract. For example, if you witness harassment by a contractor of a customer, follow your Service’s procedures or contact the Contract manager.

If you witness an incident involving members of the public, you may report it as a witness to the police.
Contacts

- **Anti-bullying helpline (Anti-bullying Links or Workplace Companion)**
  contact via Expolink 24 hour helpline
  Tel: 0800 0121 347
  Email: ecc.antibullying@expolink.co.uk

- **Counselling service**
  Tel: 01245 434225 (Ednet 40225)
  Email: counselling@essex.gov.uk

- **Chaplain (Rev Carol Smith)**
  Confidential listening and support for employees of all faiths and none
  Tel: 01245 434111 (Ednet 40111)
  Email: Carol.smith3@essex.gov.uk
  Web: My employment / Diversity

- **HR Advice and Support**
  Tel: 03330 134300
  Email: HRadviceandsupport@essex.gov.uk

- **Employee Networks and links to external support organisations**
  BME Employee Network / LGBT Employee Network / Disabled Employees’ Network (DEN)
  Web: Accessed via ECC Diversity and equality pages or Diversity A – Z index

- **Learning and Development Toolkit**
  Web: Your Development Toolkit
  - bullying and harassment;
  - giving and receiving feedback

- **ACAS Helpline**
  Tel: 08457 474747
  Minicom: 08456 061600
Appendix – harassment because of diversity

ECC does not tolerate any form of harassment of an employee because of their diversity characteristics, or victimisation where someone supports or may support an allegation of discrimination. It is our responsibility to take prompt action to report and to investigate reports of harassment or victimisation. See section above on ‘Action’.

For more information on the reporting and investigation process and sources of support, refer to the Guide for managers: investigating bullying and harassment.

For more information on data and statistics, including the Your Voice survey, see ECC’s annual workforce diversity report and action plan published on the ECC website.

Race and ethnicity (racism / racist incidents / cultural prejudice)

Discrimination including any form of bullying or harassment directed at one person or a group of people, because of prejudice about their colour, culture or ethnicity is racism. People of any background or heritage can be victims of racism.

Examples include:
- Telling or passing on racist jokes; racist graffiti; using racist badges or symbols
- Non-verbal communication which is racially insulting
- Racist comments, innuendo, abusive language or threats made in writing, face to face, or by electronic means such as email, phone, or text message
- Violence which is racially motivated.

Sexual orientation (including homophobia)

The Stonewall guide on preventing bullying and harassment at work lists the following examples of anti-gay bullying and harassment:
- making homophobic insults and threats
- making unnecessary and degrading references to an individual’s sexual orientation
- engaging in banter or making jokes which are degrading to a person’s sexual orientation or perceived sexual orientation
- outing an individual as Lesbian, gay or bisexual (LGB) without their permission
- ignoring or excluding a colleague from activities because they are LGB
- spreading rumours or gossip about an individual’s sexual orientation
- asking an LGB colleague intrusive questions about their private life
- making assumptions and judgements about a colleague based on their sexual orientation
- using religious belief to justify anti-gay bullying and harassment.

The Guide notes that many LGB people never report bullying and harassment for fear of limiting their careers, or because there is a culture that accepts anti-gay bullying, or because they don’t trust their manager, colleagues or HR to handle the issue well or treat disclosure of their status with respect and confidentiality.
Transgender (trans-phobia)

The Equality and Human Rights Commission ‘How fair is Britain?’ report (2010) states that the workplace is where transgender people face the highest levels of discrimination. 42% of transgender people not living permanently in their preferred gender gave the workplace as a reason for not transitioning from their birth gender. The report notes: ‘As a consequence of harassment and bullying, 1 in 4 transgender people will feel obliged to change their jobs,’ and: ‘In terms of trigger points for discrimination, transgender people highlight transitioning at work as the most difficult time.’

Harassment includes:
- jokes, degrading references and negative comments about someone’s transgender status or lifestyle, or transgender people in general
- spreading gossip or rumours about someone’s transgender status or perceived status
- ignoring or excluding someone because they are transgender
- disclosing where someone has received a Gender Recognition Certificate because they have undergone gender reassignment (such a disclosure is illegal).

Disability (disablism)

The ‘How fair is Britain?’ Equality and Human Rights Commission report states that in the East of England, 57% of disabled people are in employment compared to 81% of non-disabled adults. Rates also vary significantly depending on the type of impairment. Barriers to work include:
- negative attitudes by employers who think productivity will be low
- seeing employing a disabled person as a risk to the business
- not making adjustments so work is accessible
- a lack of confidence and lack of awareness among some disabled people themselves about rights and opportunities.

Nationally, disabled employees are twice as likely to report discrimination, bullying or harassment, and disabled women are four times more likely to report being bullied than other employees (2005/6 ‘Fair Treatment at Work’ survey results cited in the ‘How fair is Britain?’ report.) The figure used in 2011 by ORC as the national benchmark for the percentage of disabled employees reporting bullying in the past year via employee surveys in the public sector was 21%, compared with 11% reporting by employees overall. At ECC this figure was higher than 21% in 2010 and in 2011 Your Voice Surveys.

Discriminatory practice and harassment at work includes:
- failure to make reasonable adjustments, or failure to make timely adjustments (this is a legal requirement, which is part of our duty to prevent discrimination)
- jokes, insults, other verbal harassment and physical harassment
- non-verbal harassment, such as ostracising someone, or excluding someone by not taking account of their access requirements.

Full guidance for employees and managers on making and funding reasonable adjustments is in the Guides on Reasonable Adjustments on the intranet. At ECC, if there are any questions, concerns or problems delaying reasonable adjustments, or an
employee or manager cannot access the Guides, HR Advice and Support will provide the
Guides and also advise on how to resolve matters quickly and effectively.

Religion or belief

People holding a religious or philosophical belief, or having a lack of belief, are protected
from discrimination and harassment because of their belief (or lack of belief). A
philosophical belief must meet criteria laid down in law, such as being more than an
opinion, compatible with human dignity, cogent, genuinely held, and covering weighty
matters of human life. Political philosophies may be covered but not political persuasion.

As with all other groups, harassment includes:
- negative remarks or jokes made because of someone’s beliefs
- innuendo
- aggression, and other non-verbal behaviour, including ostracism.

There is little national data on discrimination and bullying or harassment in the workplace
because of an employee’s religion or belief. However, the Equality and Human Rights
Commission also reports in 2012 that a study carried out in 2001 found a third of Muslim
people and a quarter of Jewish and Hindu people felt that they had experienced unjust
treatment in the workplace.

Equality and Inclusion highlights that Muslim men and women experience the highest
rates of unemployment of all faith groups, at twice as high as for any other religious
group. For all faith groups, employment rates decrease the younger the worker.

Age

People of all ages are protected from discrimination and harassment because of their
age. Younger people and older people more commonly report experiencing bullying,
harassment or discrimination at work than other age groups.

Examples of harassment or discriminatory practice include:
- negative remarks, jokes, and other verbal or non-verbal behaviour targeting
  someone’s age in the workplace
- placing adverts for ‘dynamic’ people, or ‘graduates only’ (except where a
  professional requirement) which implies applications from older people are
  unwelcome
- requiring a set number of years’ experience for job applicants in posts where
  there is no legal age limit, creating an artificial barrier to younger people
- implying older workers should retire (there is no age-related retirement process
  at ECC, since we currently have no jobs which could justify this on statistical
evidence.)

Each employee’s performance, career development and future plans should be
discussed with them as part of Supporting Success, regardless of age. A development
conversation will provide someone with the opportunity to discuss ‘retirement’ if they
wish.
Gender (sexism and sexual harassment)

Nationally, around 5% of employees say they have experienced unfair treatment at work because of their gender, and employees who were pregnant reported higher levels of unfair treatment.

Significantly more employees who are female also work part-time, and the public sector continues to employ significantly higher numbers of women, making women particularly vulnerable to employment conditions or change impacting part-time workers, including potential career limitation.

Employees of both genders are protected. This includes:

- considering requests for flexible working from employees caring for children
- ensuring we apply the principles of equal pay for equal work or work of equal value (we do this through job evaluation and equal pay audits)
- treating fairly employees who are pregnant, on maternity or paternity leave
- addressing any bullying or harassment (including jokes, innuendo, and unwanted or inappropriate physical contact) which is sexism or sexual harassment.