

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 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, via our [Speak up Whistleblowing service](mailto:essexcc@expolink.co.uk) (essexcc@expolink.co.uk) or to the ODP Service Centre/People Caseworkers. Bullying, harassment and victimisation harms employees and harms employers.

- 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 ODP Service Centre 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 alleged '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 My Learning intranet site for tools and information)
- 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

All three types of harassment are defined by being 'unwanted conduct' which:

- is intended to violate the worker/employee's dignity or does in fact violate their dignity; and/or:
- is either intended to create or does in fact create an intimidating, hostile, degrading, humiliating or offensive environment for the individual.

If the alleged perpetrator's purpose is to violate dignity or create such an atmosphere for the recipient, it is not necessary to judge the actual effect on the individual. Harassment may also occur if the perpetrator did not intend to create this effect, but the unwanted conduct does in fact violate dignity or create such an atmosphere for the recipient.

The three types of harassment are:

1. Harassment related to a protected diversity characteristic - unwanted conduct related to gender/sex, 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, verbal and non-verbal harassment. This category includes harassment related to pregnancy and/or maternity.
2. Sexual harassment – when a worker is subjected to unwanted conduct (defined above) and this unwanted conduct is of a sexual nature. The conduct does not have to be sexually motivated, only sexual in nature. Sexual harassment may be experienced by heterosexual or LGBT employees or workers.
3. Less favourable treatment for rejecting or submitting to sexual harassment or harassment related to sex – when a worker/employee is subjected to unwanted conduct (defined above) of a sexual nature, or related to sex/gender, or to gender reassignment.

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 – this is harassment related to a protected characteristic (age)
- Paige's manager implies to her and to other team members he only gave her the secretary's job because she is an attractive woman – this is harassment related to a protected characteristic (sex)
- The same manager insists on leaning over Paige to give her work or standing so he is touching her whilst proof-reading documents over her shoulder, which makes her feel very uncomfortable; he also makes jokes that are sexual in nature, which Paige finds offensive – this is sexual harassment
- The manager tells Paige that he has recommended she fail her probation because she is refusing to stay at work late with him after her colleagues have left – this is less favourable treatment for rejecting sexual harassment
- 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 – this is harassment related to a protected characteristic (disability)

- 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 – this is harassment related to gender reassignment.

At work and in all situations relating to work such as social events with colleagues, media posts between colleagues or contractors, or unconnected with work but where the incident is relevant to their suitability for the role, employers have a duty to take steps to prevent harassment. For more details see ECC policies including the Code of Conduct, the Corporate governance e-learning courses, and the Equality and Human Rights Council technical guidance on sexual harassment and harassment at work.

Employers do not currently have a direct responsibility to protect employees from harassment by customers. We do however have a duty of care to our employees and a requirement to prevent discrimination, regardless of who perpetrates it. 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 (harassment related to perception of sexual orientation);
- Isabelle's team leader insults her when she gives her back a set of minutes Isabelle has drafted, saying she must have dyslexia and learning difficulties (harassment related to perception of disability).

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 (harassment related to disability by Fatima's association with her disabled relatives);
- 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 (harassment related to religion or belief because of Lisa's association with her brother and his religious beliefs).

For more information about the different facets of diversity-related harassment, see Appendix on page 9. Please also refer to the [EHRC technical guidance](#) on sexual harassment and harassment published in 2020 for full definitions, examples and expectations of employers.

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. See also the ECC guides on tackling customer stalking and harassment.

Victimisation

Victimisation under the Equality Act 2010 means a person suffers detriment because they have complained or intend to complain of discrimination or harassment or another

breach of the Equality Act. They are also protected if 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 tribunal claim; Helen is told she is under-performing in her annual review 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 or harassment creates 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 sexual harassment, unfavourable treatment because of refusal of or submission to sexual harassment or to protected diversity characteristics (sex/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, a counsellor for example via ECC's Employee Assistance Programme, someone in ODP Service Centre, 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 ODP Service Centre, 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 ODP Service Centre. 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. See also the ECC grievance procedure on the intranet.

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 ODP Service Centre or see anti-bullying intranet 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. Aggravating factors such as abuse of power over a less senior colleague must be taken into account when deciding on the next steps which could include disciplinary action. Follow the Guide for managers on investigating bullying, also applying any Service procedures where relevant. Contact ODP Service Centre for specific advice at any stage of the process.

- [Guide for managers: Investigating bullying and harassment](#).
- [Grievance procedure](#) and 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, a general duty to eliminate discrimination, and also a duty to protect employees from direct and indirect discrimination; duty of care 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 ODP Service

Centre 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 ODP Service Centre 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 services**
Tel: 0800 328 1437 (Employee Assistance Programme - self-referral)
Email: counselling@essex.gov.uk (line manager referral – see intranet for details)
- **ODP Service Centre**
Tel: 03330 135888
Email: HRadviceandsupport@essex.gov.uk
- **Employee Networks and links to external support organisations**
BAME Employee Network / LGBTQ+ Employee Network / Disability Employees' Network (DEN) / Young Persons' Network
Web: ECC Intranet diversity and equality pages
- **Learning and Development Toolkit**
Web: Your Development Toolkit
 - bullying and harassment;
 - giving and receiving feedback
- **ACAS Helpline**
Tel: 0300 123 1100
Text relay service: 18001 0300 123 1100
Web: www.acas.org.uk/helpline

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 (ODP) 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

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/disability. 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. By 2018 this had fallen to 10% - still significantly higher than the figure for non-disabled ECC employees (4%).

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 workplace adjustments and Access to Work guides on

the intranet. ECC has a central budget for all Access to Work recommendations. If there are any concerns or problems which might delay reasonable adjustments, or if an employee or manager cannot access the Guides, ODP Service Centre 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.

The Annual Population Survey analysis (2004) quoted by the Employers' Network for 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 developing performance, regardless of age.

A development conversation will provide someone with the opportunity to discuss 'retirement' (leaving work with or without taking pension benefits as entitled) 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.

Specific protections relate to female employees who are pregnant or on maternity leave.

Employees of both genders are also protected, for example when:

- considering requests for flexible working from employees caring for children or adults
- 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 on paternity leave, adoption or shared parental leave
- addressing any bullying or harassment including jokes, innuendo, and unwanted or inappropriate physical contact (sexism or sexual harassment or both).