

Bullying and Harassment Policy and Procedure

1. Summary of legislation relating to bullying and harassment

Harassment

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. Employees and volunteers who are involved in the furtherance of UKCoD's aims can complain of behaviour that they find offensive even if it is not directed at them. Harassment is *“unwanted conduct related to a relevant protected characteristic, 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 relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

In addition, the complainant need not possess the relevant characteristic themselves and it can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed

2. Harmful effects of bullying on the charity

Bullying is conduct that cannot be objectively justified by a reasonable code of conduct, and whose likely or actual cumulative effect is to threaten, undermine, constrain, humiliate, or harm another person or their property, reputation, self-esteem, self-confidence or ability to perform.

Bullying and harassment are not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems including:

- Poor morale and poor organisational relations;
- Loss of respect amongst staff and volunteers, including trustees and SIGs' members;
- Poor performance and lost productivity;
- Absence;
- Resignations;
- Damage to the charity's reputation;
- Tribunal and other court cases and payment of unlimited compensation.

It is in every trustee's and SIG members' interests to promote a safe, healthy and fair environment in which people can work.

3. UKCoD's statement of commitment and intent to address bullying and harassment

It acknowledges that bullying and harassment are problems for the organisation and is unlawful.

Bullying and harassment will not be tolerated. Decisions should not be taken on the basis of whether someone submitted to or rejected a particular instance of harassment.

Bullying and harassment may be treated as disciplinary offences.

UKCoD intends to take steps to prevent bullying and harassment by divesting responsibilities to trustees and SIG members and staff to comply with policy by:

- Ensuring confidentiality for any complainant;
- Make reference to grievance procedures (formal and informal), including timescales for action;
- Develop investigation procedures, including timescales for action, counselling and support availability;
- Provide training for staff and volunteers including trustees and SIG members;
- Protection from victimisation;
- Establish procedure on how the policy is to be implemented, reviewed, and monitored.

The statement makes it clear that the policy applies to staff and they should know to whom they can turn if they have a work-related problem. Trustees should be trained in all aspects of the organisation's policies in this sensitive area.

A culture where all involved in the management of UKCoD and its SIGs are consulted and problems discussed is less likely to encourage bullying and harassment than one where there is an authoritarian management style. UKCoD has zero tolerance with respect to bullying and harassment.

This policy is in conjunction with its Grievance and Disciplinary procedures which have provision for confidentiality, and for both the person making the complaint and the subject of the complaint to be accompanied by a fellow employee or trade union representative of their choice (the right to be accompanied at grievance hearings is set out in the Employment Relations Act 1999). If the complainant and the subject of the complaint are volunteers or SIG members, they will follow the procedures set out for them in UKCoD's Grievance and Disciplinary policy.

In addition this policy stands with UKCoD's Code of Conduct and Ethics Policy about the standards of behaviour expected and being fully aware of responsibilities to others.

Training can also increase everyone's awareness of the damage bullying and harassment does both to the organisation and to the individual. Complaints of bullying and/or harassment, or information from staff relating to such complaints, will be dealt with fairly, confidentially and sensitively.

4. How should UKCOD respond to a complaint of bullying and/or harassment?

UKCoD will take the complaint seriously. Employees and volunteers do not normally make serious accusations unless they feel seriously aggrieved. See Grievance and Disciplinary Policy for the procedures required to address the allegation.

Investigation: UKCoD will investigate the complaint promptly and objectively. If fellow trustees, SIG members or UKCoD members report bullying amongst themselves the incidence(s) must be handled by the Board members as is appropriate, depending on which Board members are alleged perpetrators.

The investigation must be seen to be objective and independent. The whole Board must be informed and decisions made collectively. Decisions can then be made as to what action needs to be taken. Investigations of harassment claims should consider all the circumstances before reaching a conclusion, and particularly the perception of the complainant as harassment is often felt differently by different people.

In some cases it may be possible to rectify matters informally. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. It may be that the individual will choose to do this themselves, or they may need support.

Counselling or training: can play a vital role in complaints about bullying and harassment, by providing a confidential avenue for an informal approach, and perhaps the opportunity to resolve the complaint without need for any further or formal action. Counselling can be particularly useful where investigation shows no cause for disciplinary action, or where doubt is cast on the validity of the complaint. Counselling may resolve the issue or help support the person accused as well as the complainant.

Mediation: an independent third person or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two (or more) people in dispute to find a solution to the issue that they can both agree to. The mediator does not take sides or tell those in dispute what to do. Mediation is most likely to be successful if parties:

- Understand what mediation involves;
- Enter into the process voluntarily;
- Are seeking to repair the working relationship.

Discrimination or bullying actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts. In some cases the individual and/or the organisation may view the allegations to be of such a nature that investigation and possible disciplinary action is the only alternative.

Disciplinary procedures

Where an informal resolution is not possible UKCoD may decide that the matter is a disciplinary issue which needs to be dealt with formally at the appropriate level of the organisation's disciplinary procedure. As with any disciplinary problem, it is important to follow a fair procedure. In the case of a complaint of bullying or harassment there must be fairness to both the complainant and the person accused.

These include:

- Informing the employee or volunteer of the problem;

- Holding a meeting to discuss the problem;
- Allowing the person accused to be accompanied;
- Deciding on appropriate action;
- Providing the alleged bully/harasser accused with an opportunity to appeal.

For employees, Employment Tribunals are legally required to take the Bullying policy into account when considering relevant cases.

Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25% for unreasonable failure to comply with any provision of the Code. In cases which appear to involve serious misconduct, and there is reason to separate the parties, a short period of suspension of the alleged bully/harasser may need to be considered while the case is being investigated.

This should be with pay unless the contract of employment provides for suspension without pay in such circumstances. A suspension without pay, or any long suspension with pay, should be exceptional as these in themselves may amount to disciplinary penalties. There may be cases where somebody makes an unfounded allegation of bullying and/or harassment for malicious reasons. These cases should also be investigated and dealt with fairly and objectively under the disciplinary procedure.

5. What should be considered before imposing a penalty?

The action to be taken must be reasonable in the light of the facts. In some cases it may be concluded that a penalty is unnecessary or that counselling or training is preferable – the individual may now be more able to accept the need to change their behaviour. Where a penalty is to be imposed, all the circumstances should be considered, including: the employee's/volunteer's disciplinary and general record; whether the procedure points to the likely penalty; action taken in previous cases; any explanations and circumstances to be considered and whether the penalty is reasonable. Written warnings, suspension or transfer of the bully/harasser are examples of disciplinary penalties that might be imposed in a proven case. Suspension or transfer (unless provided for in the employee's contract or agreed by the employee), could breach the employee's contract if they suffer a detriment by it, for instance a transfer to a different location which means additional expense or a less responsible job. Any such breach could lead to a claim of constructive dismissal by the affected employee. Whenever a case of bullying or harassment arises, trustees should take the opportunity to examine policies, procedures and working methods to see if they can be improved.

6. How to recognise bullying and harassment

Bullying and harassment is behaviour from a person or group that is unwanted and makes one feel uncomfortable, including feeling:

- Frightened ('intimidated');
- Less respected or put down ('degraded');
- That one is being made fun of and it makes one feel uncomfortable;
- Upset;
- Humiliated;
- Offended or insulted;
- Threatened.

For it to count as harassment, both of the following must be true:

- The person is justified in feeling harassed;
- The person being harassed feels they are working in a hostile environment.

For example, making offensive comments about staff's or a volunteer's age. Bullying and harassment can be:

- A serious one-off incident;
- Repeated behaviour;
- Spoken or written words, imagery, graffiti, gestures, mimicry, jokes, pranks, physical behaviour that affects the person. be a regular pattern of behaviour or a one-off incident;
- Happen face-to-face, on social media, in emails or phone calls;
- Happen in the workplace or at work social events;
- Not always be obvious or noticed by others.

It is still breach of the law even if the person being harassed does not ask for it to stop.

7. Harassment because of sex

Under the law there is also protection against:

- Harassment because of a person's sex, for example a male employer or trustee/SIG member regularly putting down a female employee or fellow trustee/SIG member because she is a woman;
- Sexual harassment, which is unwanted behaviour of a sexual nature. This can be written, verbal, imagery, physical or sexual assault. For example, someone making sexual comments or trying to touch someone against their will;
- Being treated unfairly because they have received or stood up against these types of harassment.

Bullying in the workplace or charities is readily capable of causing high levels of stress and anxiety, which can in turn make people ill with a variety of symptoms. Initially this might be poor concentration, impaired memory and fatigue. As the stress increases, other problems like reactive depression, irritability and loss of self-confidence can occur. Chronic excessive stress can lead to physical ailments too, including back pain, headaches, migraine, skin problems, infections and much more. For more symptoms:

<https://www.bullyonline.org/index.php/bullying/17-what-does-bullying-do-to-health>

Types of bullying (see ACEVO In Plain Sight report)

Manifestations of bullying:

- Physical assault;
- Intentional damage of property or work place;
- Social bullying, for example belittling in front of colleagues;
- Lying, spreading rumours, or making comments to damage someone's reputation;
- Preferential treatment of others;

- Excluding from activities/opportunities, or encouraging others to exclude;
- Cyber/remote bullying (for example using text message, email, or social media to deliver abusive, undermining or hurtful messages; online intimidation or harassment; intentional exclusion of others from online forums; public sharing of private information without consent);
- Gaslighting;
- Group bullying (mobbing) behaviour;
- The engagement of accomplices to support or sustain the problematic behaviour;
- Organisational bullying – taking place ‘in plain sight’ or victim being marginalised or the perpetrator being protected;
- The process of ‘bullying out’ – telling people to leave or suspending them;
- The process of ‘structuring out’ – changing job roles or restructuring;
- Individual pleasure at the expense of another or at the common ‘good’;
- Simultaneous acknowledgement and denial of emotional reality, for example the ‘turning of a blind eye’ by individuals or within systems to wrongdoing or hurtful behaviour;
- Instrumental relationships, where people are treated as objects and so made able to be abused;
- A repeating cycle of perverse organisational process.

8. When bullying is harassment

By law, it's harassment when bullying or unwanted behaviour is about any of the following protected characteristics:

- age;
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex;
- Sexual orientation.

Pregnancy and maternity are different from the other protected characteristics, in how the law on harassment is interpreted.

9. For those who are being bullied or harassed it is a good idea to keep a diary or record of the bullying, including:

- How the bullying made you feel;
- Dates and times it happened;
- Any witnesses;
- Any evidence, for example emails or screenshots of social media posts.

If you have to leave your job because of severe bullying that your employer did nothing about, you might be able to make a claim to an employment tribunal for constructive dismissal.

What you can do

It can be easier to start by talking with the employee, volunteer (SIG member or trustee) to try and resolve the problem.

If you do not feel comfortable doing this or the issue is very serious, you can raise a formal grievance.

Any employee can report a harassment issue they have seen or heard in their workplace, even if it is not directed at them.

10. Employees being victimised

By law, you must not be treated unfairly at work through:

- Discrimination;
- Harassment;
- Victimisation.

Examples of unfair treatment include:

- Because you reported harassment, your manager says you are a troublemaker so you lose out on promotions and training opportunities;
- Because you gave evidence as a witness of sexual harassment, your colleagues keep stopping you from joining social events;
- Because you raised a grievance about discrimination, your employer makes you redundant.

What you can do

You can raise a formal grievance or appeal a dismissal.

Hate Crime

Crimes committed against someone because of their disability, transgender-identity, race, religion or belief, or sexual orientation are hate crimes and should be reported to the police.

Hate crimes can include:

- Threatening behaviour;
- Assault;
- Robbery;
- Damage to property;
- Inciting others to commit hate crimes;
- Harassment;
- Online abuse.

Hate crime can be reported if it is not an emergency:

Call 101

Or online:

https://www.report-it.org.uk/your_police_force

Call 999 if you're reporting a crime that's in progress or if someone is in immediate danger.

Find out what [support you can get if you're the victim of crime](#).

Get [support if you're a victim of hate crime in Scotland](#).

Agreed by the UKCoD Board on the Board meeting held on 24.02.2021;

Approved and minuted.