

## Policy

<b>Policy number</b>	<b>3.04</b>
<b>Subject</b>	<b>Bullying &amp; Harassment Policy</b>
<b>Directorate responsible</b>	<b>People &amp; Culture</b>
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## 1. Aim and Scope

**1.1** The Linkage Community Trust (the Trust) aims to create a working environment that respects the dignity and rights of all employees and where individuals have opportunity to realise their full potential. The Trust will not tolerate any form of harassment or bullying and is committed to ensuring that employees are able to work confidently and without fear of harassment, bullying or victimisation.

**1.2** Linkage Values and Behaviours, as developed and agreed by staff, form the basis of the Trust's expectations of positive staff behaviours.

**1.3** The Trust will adopt the following general principles in respect of harassment and bullying issues

- Complaints will be treated sensitively and sympathetically when raised.
- Investigations will be conducted promptly, and appropriate action taken in line with Trust policy and procedure.
- Serious acts of bullying and harassment will be dealt with under the Trust's disciplinary policy and procedure and may be viewed as gross misconduct, which could result in summary dismissal.
- Where an employee reports an incident of harassment and / or bullying by a third party, the Trust will take appropriate action.

**1.4** Legally, any individual who engages in bullying/harassment may be personally liable for their actions. It must also be noted that the Trust, as an employer is also potentially liable for harassment of staff by Trust employees who are employed by other organisations.

## 2. Harassment

**2.1** Harassment is unwanted conduct affecting the dignity of all employees in the workplace. Harassment is unlawful when it is on the grounds of age, sex, race, disability, religion or belief, sexual orientation, gender reassignment, nationality, marriage and civil partnership, pregnancy and maternity.

**2.2** Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

- "Violating people's dignity" or
- "Creating an intimidating, hostile, degrading, humiliating, or offensive environment".

**2.3** Harassment can be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable by the recipient. It is therefore the individual's perception of whether the behaviour/actions in question were unacceptable that is important in determining whether harassment occurred. Harassment may be by association or by perception i.e. against someone because others believe they possess a particular characteristic.

**2.2** The range of behaviour can stretch from subtle remarks (which can be difficult to confront) through to overt physical attacks which are considered serious criminal offences.

**2.3** Victims of harassment often feel isolated and stressed. The stress of harassment can affect an individual's ability to undertake the duties of their job as can the effect on their confidence.

**2.4** Differences of attitude or culture and the misinterpretation of social signals can mean that what is perceived as harassment by one person may not seem so to another. The key feature, however, is that the behaviour is unwanted by the recipient and unwarranted by the working relationship. It is important to note that it is the perception of the recipient which may define harassment.

## 3. Types of Harassment

The Equality Act 2010 protects individuals from discrimination and harassment based on nine

protected characteristics. The main types of harassment are detailed below. Please note that some of the examples detailed may apply to more than one type of harassment.

### **3.1 Sex & Sexual Harassment**

This includes harassment on the grounds of sex, marriage, civil partnership, pregnancy, maternity/adoption leave, or because someone intends to undergo gender reassignment. Sexual harassment involves women being harassed by men, men being harassed by women or harassment of the same gender. Examples include

- Any behaviour which patronises, intimidates or offends, e.g. remarks, looks, jokes or offensive language.
- The display or dissemination of suggestive or sexually explicit material, whether by electronic means or on paper.
- Unwanted physical contact, including touching, patting, pinching or brushing against another member of staff.
- Threats of professional failure or promises of success or promotion or other rewards in exchange for sexual favours.

### **3.2 Sexual orientation**

Harassment may also be about the sexual orientation, actual or perceived, of people with whom the recipient associates. Sexual orientation refers to orientation towards people of the same sex, towards people of the opposite sex and orientation towards persons of the same and the opposite sex. Examples include

- Homophobic language or jokes.
- Mockery or teasing.
- Name-calling.
- Malicious and/or unfounded gossip.
- Threats of unwanted disclosure of sexuality.

### **3.3 Racial harassment**

Racial harassment is any behaviour, deliberate or otherwise, pertaining to race, colour, nationality, ethnic or national origin, which is directed at an individual or a group and which is found to be offensive or objectionable to the recipient. Examples include

- The use of derogatory names, insults, practical and/or racist jokes, or ridiculing cultural difference.
- The display or circulation of offensive material, including racist graffiti, email or information published through the internet.
- Physical harassment, such as assault or pestering.
- Isolation or non-cooperation at work.

### **3.4 Religion or belief**

Harassment on the grounds of religion or belief (excluding political belief) is any behaviour, deliberate or otherwise, which is directed at an individual or a group and which is found to be offensive or objectionable to the recipient or creates a hostile or intimidating environment. Examples include

- The use of derogatory names, insults, jokes, or ridicule of someone's faith or belief. This applies even when an individual may not necessarily be present themselves.
- The display or circulation of offensive material, including graffiti, email or information published through the internet, which attacks someone's faith or belief.
- Physical harassment, such as assault or pestering.
- Isolation or non-cooperation at work.

### 3.5 Disability

Legislation gives rights to disabled people who have, or have had, a disability which makes it difficult for them to carry out normal day to day activities. Legislation is also extended to an association with a person who has a disability.

The term “disability” covers both physical and mental impairments that have a substantial and a long-term (i.e. has lasted or is expected to last for at least 12 months) adverse effect on the person’s ability to carry out normal day to day activities. ‘Substantial’ means more than minor or trivial. Examples of harassment include

- Behaviour which makes direct or indirect inappropriate reference to disability or impairment, which causes discomfort, patronises, insults or offends people with a physical, sensory or mental impairment, learning difficulty
- Communicating via a third party rather than directly with the disabled member of staff, where it is inappropriate to do so.
- Patronising or unnecessary assistance with work.
- Interference with personal aids or equipment.

### 3.6 Age

Age harassment is applicable to both younger and older employees. Examples include

- Refusal to allow younger/older workers access to training i.e. technical training.
- Ostracism due to a refusal/inability to socialise out of the work environment with younger/older colleagues.
- Name calling or offensive age-related jokes (e.g. infirmity/senility).
- Younger/older workers – assumptions of skill levels based on age.

## 4. Bullying

**4.1** Although not defined legally, bullying is in general the misuse of power or position to intimidate, insult, criticise, upset, humiliate, undermine denigrate or injure the recipient. Bullying can be by an individual against another individual or a group or by a group against an individual and can be either a series of events or a specific act.

**4.2** The essential difference between bullying and harassment is that harassment is linked to a specific characteristic whilst bullying is of a more general nature. Examples of bullying (not exhaustive) include

- Verbal and/or physical intimidation: threats, shouting, derisory and/or sarcastic remarks, often in front of others.
- Offensive songs, remarks, jokes emails or gestures.
- Asserting a position of intellectual superiority in an aggressive, abusive or offensive manner.
- Cyber-bullying (sending/posting harmful, cruel or offensive text or images by e-mail, internet social networking websites or other digital communication devices).
- Ostracism from work meetings or normal conversations.
- Excessive supervision.
- Undermining of the recipient’s position by overloading, taking credit for their work, constant criticism or changing work objectives at short notice without explanation or discussion.
- Deriding the recipients work to colleagues/supervisors.
- Removing areas of responsibility and giving people menial or trivial tasks instead.
- Deliberately setting unreasonable deadlines for completion of work.
- Giving insufficient information to enable tasks to be properly completed within expected timescales.
- Withholding access to overtime.

- Withholding information, spreading malicious rumours, persistent unjustified criticism.
- Unreasonably withholding access to training, career development and/or promotion.

These examples of harassment and bullying may overlap as every issue must be dealt with on an individual basis.

## **5. Legitimate Management**

**5.1** Neither harassment nor bullying should be confused with the following legitimate rights of a manager

- to supervise and manage their staff in the course of their duties.
- to amend working practices.
- to improve quality standards.
- to improve work performance both collectively and individually which may include legitimate, constructive and fair criticism of an employee's performance or behaviour at work and use of the capability process (informal or formal).

**5.2** Managers must exercise these rights in a fair, constructive and consistent manner that does not compromise an employee's dignity at work. Similarly, reasonable (but perhaps unpopular) requests by a manager in the normal course of their duties will not be viewed as acts of harassment or bullying.

**5.3** In carrying out their managerial duties, managers should be mindful of their responsibilities and ensure that discussion and consultation be applied, with training and support given as necessary together with a reasonable timeframe to elicit the changes/improvements required. Application of the capability procedure is not bullying.

## **6. Malicious Allegations and False Statements**

**6.1** Unfounded allegations of harassment/bullying for malicious reasons will not be tolerated by the Trust. Any such cases will be dealt with under the Trust Disciplinary Policy and Procedures and may constitute gross misconduct which may result in summary dismissal.

**6.2** Where a witness is found to have deliberately misled an investigation this will be treated as a serious disciplinary offence.

## **7. Support**

**7.1** Employees may wish to discuss their situation before commencing the procedure. In such cases they may wish to discuss this with their Manager, HR Advisor, Trade Union or use the external EAP confidential helpline which is manned by qualified and experienced counsellors and where they may discuss the issue in complete confidence.

**7.2** It should be noted that if an employee considers that they have been subsequently victimised following a complaint of harassment and bullying, they should raise a grievance under the Grievance procedure. Where it is found that victimisation has occurred this will be treated as a disciplinary offence which may be serious enough to constitute gross misconduct.

## **8. Keeping records of Incidents**

**8.1** Any employee who considers that they have been harassed or bullied, should, in the first instance, keep a record of any incidents including

- date and time of the incidents.
- place of incidents.
- names of alleged harassers or bullies.
- details of what actually happened.
- how they felt about the incidents at the time.
- the names of anyone else present at the time (potential witnesses).

- any action taken, including complaints to management and/or others and the immediate outcome.

**8.2** These records may be used in the event of any subsequent formal grievance or disciplinary investigations and as such may be submitted to the alleged harasser/bully together with any other evidence collected.

## **9. Action – Informal**

**9.1** In most cases, issues should be dealt with informally. Sometimes individuals are unaware that their behaviour is unwelcome, and an informal discussion can lead to an understanding of the behaviour and an agreement that it will cease with a consequent minimum risk of embarrassment, suffering, disruption to work and working relationships.

**9.2** In many cases it will be sufficient for the complainant to raise the problem with the individual as soon after the incident as possible, clearly stating that the behaviour is unacceptable. A note should be made of the action taken.

**9.3** If the complainant does not feel able to do this alone, they could seek support from a colleague, line manager or HR Advisor.

**9.4** If the matter is not resolved at this stage, or if it is considered by the complainant to be too serious to be dealt with informally, then a formal Grievance should be raised.

## **10. Action – Formal**

**10.1** The Grievance should include the following

- the names of the persons complained about.
- the nature of the alleged harassment or bullying.
- the dates, times and places on which the alleged incidents took place.
- names of any witnesses to the incidents.
- details of any action already taken to stop the harassment or bullying.

**10.2** On receipt of the Grievance, HR will determine if it is to be investigated in accordance with the Grievance or as appropriate, the Disciplinary policy. The relevant procedure should then be followed. An appropriate manager will be appointed, and the investigation process will take place.

**10.3** As a general rule, serious allegations of harassment and/or bullying (which require consideration of suspension) should be investigated in accordance with the Trust disciplinary policy and procedure.

**10.4** Any attempt to seek reprisals against employees who bring claims of harassment or bullying will be viewed extremely seriously by the Trust and investigated under the disciplinary procedure. If substantiated, disciplinary action will be taken against the employee seeking reprisals.

## **11. Communication**

**11.1** A copy of the policy is held electronically on the Intranet and from the People & Culture Department.

**11.2** Links to other policies – this policy should be read in conjunction with:  
The policy and procedure should be read in relation with other Linkage policies including (but not limited to) 3.53 Sexual Harassment

## **12. Monitoring**

**12.1** It will be the responsibility of the Assistant Director of People & Culture to monitor this policy. While this policy is to be followed by all employees of the Trust, it does not form part of an employee's contract of employment.