



## **H & F Mencap**

# **Harassment Policy and Procedure**

### **Policy Statement and Scope**

HF Mencap is determined to create a positive environment that is free from intimidation, bullying or harassment. Harassment is harmful to people and is totally unacceptable. It is unlawful to harass someone on the grounds of their sex, race or ethnic origin, because they are a lesbian or gay man, disabled or because of their religion or belief. Harassment and bullying are serious offences. As a member of staff if you harass one of your colleagues, this could lead to the disciplinary procedure being used against you. Repeated or serious offences could result in you being asked to leave. You could be personally liable in an employment tribunal and might have to pay compensation.

This policy explains what you can do if you feel that you are being harassed by a colleague, a contractor whom is working for HF Mencap or by a client or their family/carer. HF Mencap believes that our employees should not have to deal with harassment regardless of the source. This policy is designed to provide guidance to help employees manage situations in which they may be subjected to unacceptable behaviour. For the purpose of the guidance, any individual to whom a service is being provided is considered a client. The policy is important because if bullying and harassment are not stopped, they can create an atmosphere where people feel frightened, angry and powerless.

If you feel that you have been harassed, we want you to speak up. If you make a complaint, it will be taken seriously and will be investigated fully. Your complaint

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will be treated confidentially, and the only people who need to know about it will be those who will help sort it out.

## **1. Aims**

- To enable Mencap to maintain high quality services.
- To create a positive safe environment for both our clients and employees.
- To maintain best practice by following up to date guidance and legislation.

## **2. Definition**

### **1. What is Harassment?**

Harassment is unwanted behaviour that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. Harassment may be intentional bullying which is obvious or violent, but it can also be unintentional or hidden. It may be a display or abuse of power by one person over another. People can be harassed because e.g. they are women, lesbian or gay, disabled, from a black or minority ethnic community, because of their religion or belief, because of their age, because they have changed their gender, or because of other matters. If employees complain that they are being bullied or harassed they have a grievance which must be dealt with regardless of whether or not their complaint falls into a standard definition of harassment or bullying.

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### **3. Examples of unacceptable behaviour or harassment**

- Aggressive or abusive behaviour (examples include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness, inflammatory statements and unsubstantiated allegations).
- Persistently making the same complaint, despite the matter having been fully addressed / investigated under the complaints procedure, or seeking an unrealistic outcome with intent to persist until the desired outcome is achieved.
- Repeating complaints about a previous or historical matter that cannot be undone or remedied
- Repeatedly changing the nature or focus of a complaint or the desired outcome
- Spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, disability, sexual orientation and religion or belief).
- Nicknames, teasing or name-calling.
- The revealing of a person's sexual orientation by another person, without their permission ('outing').
- Unwelcome comments about dress or appearance.
- Unwanted physical contact - touching, standing too close.
- Overbearing supervision or other misuse of power or position.
- Excluding a person from a work group, because of their race or religious beliefs, gender, disability, sexual orientation, or age.
- Derogatory comments or jokes about religious or political beliefs.
- Unfair allocation of work; rudeness; creating an atmosphere where individuals from particular backgrounds feel intimidated and unwanted.
- Sending round emails that are unjustly critical of someone, or sending abusive emails to an individual.
- Offensive posters, graffiti or website images.

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- A general culture which appears to tolerate the telling of jokes at the expense of people who are different in some way from the majority group.

#### **4. Responsibilities**

##### **4.1 Managers**

- Set proper standards of behaviour and to promote a work environment free of harassment and that welcomes diversity as a source of strength.
- Ensure that any allegations are dealt with promptly and that every effort is made to eliminate harassment.
- Ensure that appropriate confidentiality is maintained since all employees have a right to expect that their complaint is not made public.
- Ensure that somebody making a complaint is treated seriously and offered appropriate support.

##### **4.2 All Employees**

- Not to harass anyone.
- To challenge harassment when you see it; this might involve reporting incidents to a manager.

#### **5. Related legislation and helpful guidance**

- **Equality Act 2010**
- **The Public Order Act 1986**
- **Criminal Justice Act 1998**

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- **Health and Safety Executive** – Guidance to preventing workplace harassment Available at: <http://www.hse.gov.uk/violence/preventing-workplace-harassment.pdf>

### **Procedure for making a complaint about harassment**

You can try to deal with the harassment informally first, if you want to. This may avoid the need for a formal procedure. However, if you want to proceed directly to a formal procedure, you can do this.

#### **Informal approach**

If you think you are being harassed or discriminated against, it is a good idea (if you feel you can) to make it clear to the person who is harassing you that their behaviour is unwelcome and that you want it to stop.

If you do choose to address your concerns to the person, tell them the facts, preferably with examples of their behaviour that you felt were harassment. Do not be aggressive or angry with them - take care that you are not perceived to be bullying the individual in return.

Tell them that what you want is for their behaviour to change. Remember that what you say may be a complete surprise to them. Harassment can be unintentional. Often, once the individual knows that his or her behaviour is unacceptable to you, it will stop.

You may find it helpful to ask a colleague to be with you in a support role.

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If speaking to the person in question does not stop the problem, talk to your manager.

If it is your manager or supervisor who is harassing you, speak to your their manager, or another manager.

The matter will be dealt with informally, by a discussion with the person alleged to have been undertaking the harassment.

If the manager you tell is unable to help you, or refuses to help you, or if the informal action does not solve the problem, or if you want to proceed immediately on a more formal basis, you can follow the formal procedure below.

### **Formal procedure**

You should set down in writing the nature of your complaint and send the written complaint to your manager (or another manager, if you are complaining about your manager).

This manager will confirm in writing his or her understanding of the nature of your complaint, where possible within 10 working days of receiving your complaint.

He or she will aim to deal with your complaint within a further 10 working days, where possible.

An investigation will be undertaken to look into the matters you raise. The investigation will normally involve interviewing you, the person whose behaviour you are complaining about and anyone else who may have witnessed the alleged harassment.

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While the investigation proceeds, the person whose behaviour you are complaining about may be suspended on full pay (if they are an employee).

Alternatively, it may be possible for you to stop having contact with the person whose behaviour you are complaining about, for example by rearrangement of work routines.

The manager investigating the complaint will conduct all interviews and meetings fairly, allowing those concerned to state their case, and maintaining statements and full records which may be used in any subsequent disciplinary action.

The alleged harassment should be treated as a potential disciplinary offence (where it involves an employee).

Once the investigation has been completed, you will be invited to a meeting at a reasonable time and place so that the complaint can be discussed. You may be accompanied by a colleague if you wish. You should take all reasonable steps to attend the meeting.

After the meeting, the manager who chaired the meeting will inform you in writing about whether or not the complaint has been upheld and what to ensure that the harassment does not occur again and your right of appeal.

### **Incases of harassment by a client, member or their family/carer**

If you feel you are being harassed by a client, it may not be appropriate to raise the matter with the service user directly. You should first raise the matter with a

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manager, who will ensure that your complaint is dealt with. Harassment by service users will be taken seriously.

Your manager may involve you and other team members in dealing with the client's behaviour in a planned way. If you feel that the matter has not been resolved within a reasonable timescale, you can follow the formal procedure outlined above.

When harassment occurs from a client's family/carer, you should first raise the matter with your manager. He or she will discuss with you the best way to deal with the matter. This may include you or your manager raising the matter with the individual on an informal basis. Alternatively the matter may be dealt with using the Code of Conduct.

### **Harassment by a third party**

If you feel that you are being harassed by a third party undertaking work for HF Mencap, such as a contractor, you should raise this with your manager. He or she will raise the matter with the contractor to ensure the harassment stops. He or she may also take further action with regard to the contractor, if he or she feels that this is appropriate.

If you feel that your manager's actions have not resolved the matter within a reasonable timescale, you can follow the formal procedure outlined above.

### **Appeal process**

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If you feel the complaint has not been investigated fully or that the harassment still persists, you may make an appeal. However, you can't appeal simply because you don't agree with the action that has been taken, or that may be taken, against the person you complained about. This remains a management decision.

Your appeal should be to the manager at one level higher than the manager who first determined the outcome of your complaint. This manager will normally consider your appeal, unless it is impractical or undesirable for him or her to do so, in which case a different manager will be appointed to consider your appeal.

You must make your appeal in writing within ten working days of being informed of the outcome of the investigation. The manager who will consider your appeal will arrange a meeting to discuss the appeal. You may be accompanied by a colleague or trade union representative at the meeting, if you wish. You must take all reasonable steps to attend the meeting. After the meeting, the manager will then make a final decision on the complaint after reviewing all of the evidence. The final decision will be given to you in writing.

If this doesn't work and you are still being harassed, you can take legal action at an employment tribunal.

They could also call the Acas (Advisory, Conciliation and Arbitration Service) helpline for advice:

### **Acas helpline**

Telephone: 0300 123 1100

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Textphone: 18001 0300 123 1100

Monday to Friday, 8am to 6pm

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