

# Bullying and Harassment Policy



## EMPLOYMENT ZONE

### Our commitment

Glasgow City Council is committed to providing an inclusive, safe and supportive working environment free from harassment, bullying and victimisation where all employees are treated with dignity and respect. This is supported by our [Equal Opportunities Policy](#).

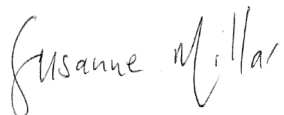
Harassment, bullying and victimisation of any kind are unacceptable and will not be tolerated.

The Council will take active steps to help prevent the harassment, bullying and victimisation of its' employees. Anyone who is a victim or witness of harassment, bullying or victimisation is encouraged to report it in accordance with this policy. This will enable us to take appropriate action and provide support.


The Council will take appropriate disciplinary action, including dismissal for serious offences, against any employee who violates this policy. This may also include anyone who makes what are found to be malicious claims.

It should also be remembered that bullying and harassment can in some circumstances be considered to be a criminal offence, and that any employee found guilty of such could be held personally accountable for their actions under criminal law.

Everyone must take the time to read and ensure they understand this policy and act in accordance with its aims and objectives. If you need support reading or understanding this policy, you should speak to your line manager.



Susanne Millar  
Chief Executive



Christine Brown  
Head of Human Resources

### Purpose and scope

This policy:

- gives a clear statement of the standards of conduct expected of all employees towards each other at work in line with the [Employee Code of Conduct](#);
- provides clarification on what is considered unacceptable conduct in relation to harassment, bullying and victimisation at work;
- outlines a fair process by which any employee can raise concerns or seek redress if they are affected by harassment, bullying or victimisation;
- provides information on the support available to anyone affected by harassment, bullying or victimisation;
- applies to all employees, contractors, agency staff and anyone else engaged to work at the Council including Elected Members;
- covers incidents that take place during working hours and also outside of working hours, where an individual's actions adversely affect the Council or have a bearing on any workplace relationship. For example on business trips, work social events, or through social media;
- addresses harassment and bullying by third parties such as customers, suppliers, visitors and other members of the public.

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### What is Harassment?

Harassment is unwanted conduct which has the purpose or effect of violating someone else's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment can occur both during and outside working hours, in-person and online, and through various types of behaviour including spoken or written words, images, physical gestures, facial expressions, banter, jokes or pranks.

The Council has a legal obligation under the Equality Act 2010 to ensure that the following three types of harassment do not happen at work:

- Harassment related to the protected characteristics of sex, gender reassignment, sexual orientation, religion or belief, disability, age, and race;
- Sexual harassment; *and*
- Less favourable treatment of an employee because they have submitted to or have rejected sexual harassment or harassment related to sex or gender reassignment.

#### The Act makes it clear that:

- Conduct which is intended to be friendly could be harassment - it is what the recipient deems to be offensive, not was intended;
- The recipient of the behaviour decides whether or not the conduct is unwanted;
- Unwanted conduct does not need to be directed at a person. It can be witnessed or overheard;
- It does not matter whether the conduct is acceptable to others or is common in the person's work environment;
- A single act of harassment which is sufficiently serious can lead to a complaint;
- Harassment should always be considered in terms of the impact it has on an individual.

### Duty of care & Safeguarding

The Council also has a duty of care under the Health and Safety at Work Act 1974 to ensure that, so far as reasonably practicable, the health, safety and welfare of all employees are protected.

If we become aware of a situation that gives us cause for concern for the health, safety and welfare of an employee or employees we will take action to protect them.

For cases of harassment & victimisation that are so serious, the recipient or witness of the unwanted conduct feels they have no route to report it, our whistleblowing arrangements can be accessed [here](#).

Some forms of harassment, including sexual assault and other physical threats and hate crimes, are a criminal matter and we will support employees to report incidents to the Police. Where a complaint is reported to the police, or criminal court proceedings are being pursued, a complaint must still be investigated by the Council as an employment matter and may be referred to be dealt with under our [Discipline and Appeals Procedure](#).

### Harassment related to protected characteristics

Harassment that is related to the protected characteristics of sex, gender reassignment, sexual orientation, religion or belief, disability, age, or race is unlawful under the Equality Act 2010. This includes harassment of an individual who:

- is thought to have a protected characteristic when they do not;
- has a connection with someone with a protected characteristic;
- witnesses conduct that is not directed at them in particular but is related to a protected characteristic that they have.

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### Types of behaviours that constitute harassment in relation to the protected characteristics

#### Sex:

- Making derogatory remarks about a particular sex/gender;
- Sexist language, expressions, jokes or banter;
- Objectifying a person (treating them as an object or thing);
- Expecting someone to do certain tasks because of their sex, such as taking minutes or making tea/coffee;
- Making inappropriate comments about a person's appearance;
- Offensive comments towards a pregnant employee.

#### Gender reassignment:

- Transphobic comments, jokes, banter, or name calling;
- Inappropriate comments on dress or appearance;
- Refusing to address a person by their preferred name/pronouns;
- Denying access to the appropriate single sex facilities such as toilets/changing rooms;
- Outing a person as transgender/non-binary without their consent or spreading rumours (which may be a criminal offence);
- Physical threats or attack.

#### Sexual Orientation:

- Homophobic or biphobic insults or threats;
- Unnecessary references to someone's sexual orientation;
- Degrading jokes about a person's actual/ perceived sexual orientation;
- Outing a person as lesbian, gay or bisexual without their consent;
- Asking a lesbian, gay or bisexual person intrusive personal questions;
- Displaying homophobic or biphobic materials;
- Physical threats or attack, or incitement of others to commit such acts;

#### Age:

- Age related remarks or jokes;
- Suggesting that someone is too young or too old for promotion;
- Making derogatory remarks about someone's ability or competence based upon their age;
- Ignoring or excluding someone from activities because of their age;
- Pressurising someone to retire.

#### Religion or Belief:

- Mocking or deriding someone because of their religious belief, for example making sectarian, Islamophobic or antisemitic remarks;
- Derogatory remarks about a particular religious group, religion or belief;
- Making it unnecessarily difficult for people to conform to their religion or belief;
- Pressurising others to participate in political/religious groups;
- Incitement of others to commit any such acts.

#### Disability:

- Derogatory remarks, mocking, mimicking, staring;
- Asking invasive personal questions;
- Ostracising an individual because they have an impairment;
- Making assumptions about an individual's ability because of their impairment;
- Failing to direct comments to a disabled person;
- Unreasonably highlighting a person's disability;
- Consistent or repeated failure to provide clearly identified facilities or requirements in order to support a person in performing their duties.

#### Race:

- Racially explicit derogatory language, comments or statements;
- Verbal/physical threats and insults;
- Racist jokes, banter and name calling;
- Remarking on a person's skin colour or other cultural traits;
- Discussing harmful racial stereotypes;
- Racist graffiti or the display of racially offensive material;
- Refusing to work with/ or isolating someone because of their race, colour, nationality or ethnic origin;
- Incitement of others to commit any such acts.

See [Appendix 1](#) for examples that have been adapted from the Equality and Human Rights Commission (EHRC) guidance for employers, to further illustrate how these behaviours can happen during the course of a person's work.

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### Sexual harassment

Sexual harassment is defined as unwanted conduct of a sexual nature which has the purpose or effect of violating someone else's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment is prohibited under the Equality Act 2010 and constitutes a breach of a person's human rights under international law. The Council also has a legal duty to prevent sexual harassment of its' employees in the course of their employment.

Sexual harassment covers a very broad spectrum of behaviour, and may not always appear to be overtly sexual in nature, but can include:

- Sexual images displayed or shared;
- Unwelcome sexual advances;
- Suggestive looks, staring or leering;
- Sexual gestures, such as simulating sexual acts;
- Sexual noises such as catcalling or wolf-whistling;
- Unwanted touching, such as putting a hand on someone's knee or hugging them;
- Sending sexually explicit emails or text messages;
- Asking intrusive questions about a person's private or sex life, or a person discussing their own sex life;
- Coercing someone into sexual relations through pressure, manipulation or threats, or offering rewards in exchange for sex;
- Criminal acts of sexual violence, including rape; stalking, including online; indecent exposure; and offensive communications of a sexual nature.

The Council recognises that sexual harassment in any public or private space, including at work, falls under the wider definition of violence against women. It is also understood that certain vulnerable or minority groups may be more at risk from sexual

harassment. We will take into account any aggravating factors, such as abuse of power over a more junior colleague, when deciding what disciplinary action to take. Where a person has more than one protected characteristic, this may increase the risk of them experiencing sexual harassment. This is because multiple categories of identity such as gender, race, sexuality, trans status, religion, and disability can interact in ways that create complete systems of oppression and power which can result in harassment based on a combination of various aspects of a person's identity. This is often referred to as intersectional harassment.

#### The Act makes it clear that:

- Anyone can be a victim of sexual harassment - regardless of their sex, sexual orientation or gender identity;
- Sexual harassment can occur between people of the same or a different sex;
- Sexual interaction that is invited, mutual or consensual is not harassment because the person has consented to it;
- Sexual conduct that has been welcomed in the past can become unwanted;
- Conduct need not be sexually motivated in order for it to constitute sexual harassment, only sexual in nature.

#### Less favourable treatment for rejecting or submitting to unwanted conduct

It is also unlawful under the Equality Act 2010 to treat someone less favourably because they have submitted to or have rejected sexual harassment or harassment related to sex or gender reassignment. Examples of less favourable treatment include:

- Intentionally blocking promotion or development opportunities because unwelcome sexual advances are turned down;
- Derogatory comments or unwarranted criticisms as a result of refusing to go out with another employee who is a friend of the perpetrator of these comments or criticisms.

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### What is Bullying?

Bullying is defined as offensive, intimidating, malicious or insulting behaviour. It is typically an abuse or misuse of power through means that undermine, humiliate or injure the recipient.

Again, it is the impact of any conduct rather than the intent which is the key. As a guide, such conduct includes:

- Spreading malicious rumours;
- Ridiculing or demeaning someone - picking on them or setting them up to fail;
- Overbearing supervision or other misuse of power or position;
- Deliberately undermining a competent worker by overloading and constant criticism;
- Belittling efforts and undervaluing contribution;
- Making threats or comments about job security without foundation;
- Withholding information or opportunities with the intent of deliberately affecting a colleague's performance or development;
- Open aggression, threats, shouting, abuse and obscenities, persistent negative attacks or persistent unwarranted criticism;
- Ostracising, isolating and marginalising an individual, excluding the person from any discussion or decision making;
- Unreasonably or unnecessarily removing areas of responsibility or imposing inappropriate tasks which are not keeping with the duties and level of the post;
- Cyberbullying – using information and communications technology (particularly mobile phones, the internet and social media) to upset and humiliate someone.

### What is Victimisation?

Victimisation is the less favourable treatment of an individual because they:

- Have made a complaint or intend to make a complaint about being bullied or harassed; or
- Act or intend to act as a witness or give evidence in support of another person's complaint about being bullied or harassed;
- Are gathering information that might lead to a complaint;
- Have made an allegation about being bullied or harassed but have not brought, or intimated proceedings.

Ways in which an individual could be victimised, as a result in their involvement in a complaint, include being:

- excluded from conversations or activities;
- denied a development opportunity or promotion.

The Council understands that victimisation is one of the biggest barriers for individuals to speak up about being harassed or bullied at work. We will protect all employees from any form of intimidation, victimisation or discrimination because they have made or supported a complaint.

**Harassment, bullying and victimisation are unacceptable and will not be tolerated.**

**Remember when evidence is considered in bullying, harassment and victimisation cases:**

- Absolute proof is not necessary in employment law.
- The outcome will be determined on the balance of probabilities that an incident is more likely to have occurred than not.
- This is unlike criminal proceedings, in which the standard of proof is beyond reasonable doubt.

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### Witnesses

The evidence an employer will often ultimately rely on is the verbal account given by other employees, summarised in the form of witness statements.

To ensure that any resulting disciplinary process is fair, it is crucial to disclose to the respondent as much material as possible in advance of the hearing. This should include copies of any documents, witness statements or any other evidence which has been gathered in the investigation.

If there is a request or need to protect the identity of a witness, consideration should be given to anonymise their statement. This may include redacting their name and any details that may identify them from the statement.

However, all witnesses should be made aware that if the matter is later subject to legal proceedings, and it is deemed necessary in the interests of fairness, then the Council would be legally obliged to disclose the information requested.

### Malicious Complaints

If an employee is found to have made a malicious complaint which doesn't have grounds, substance or evidence and was made to deliberately cause upset and distress we may take action in line with our [Discipline and Appeals Procedure](#).

### Organisational Behaviour

The Council is committed to supporting all employees to be the best they can be at work, and in ensuring that all staff and managers feel fully supported within a positive and safe working environment.

We aim to ensure that all employees are supported to manage our organisation challenges and that no employee is subjected to bullying or harassment as a result of service reform, organisation change, performance management, capability matter, or any other challenging circumstances in the workplace.

We will do this through the best practice contained within our [Competencies Framework](#) and our approach to developing employees within the organisation as set out in our Employee Development pages on Connect which can be found [here](#).

### Third parties

Harassment, bullying and victimisation are unacceptable and will not be tolerated, whether caused by those who work for the Council or third parties including customers, suppliers, visitors or other members of the public.

The Council will treat complaints of harassment, bullying or victimisation of employees by third parties just as seriously as those by fellow employees. Where the complaint is about a third party, the Council will consider what action is appropriate, considering the reasonable needs of the business.

Employees are encouraged to report incidents to their manager who will investigate the incident and, where possible, take action to prevent a recurrence.

### Responsibilities under the policy

#### Council

The Council will:

- promote and encourage an inclusive workplace culture where harassment, bullying and victimisation are not tolerated and where employees are treated, and treat each other, with dignity and respect;
- take appropriate steps to prevent harassment, bullying and victimisation using this policy and its [arrangements](#) in conjunction with best practice guidelines for investigators and, if appropriate, the disciplinary procedure;
- ensure that all employees are aware of our bullying and harassment policy and procedures; understand their rights and responsibilities under the policy; and know where to get information and support with any concerns;
- provide information, guidance, training and support to all employees responsible for dealing with complaints of harassment and bullying;
- monitor and review the effectiveness of this policy and procedures annually in line with best practice.

#### Managers

It is the responsibility of managers to:

- read and understand this policy and its [arrangements](#); and ensure these are communicated to all employees within their area of responsibility;
- set examples and standards of positive behaviour in line with this policy and in our [Employee Code of Conduct](#), [Competencies Framework](#) and individual role profiles;
- be aware of working relationships within their teams and respond promptly to any issues or concerns raised at an early stage to avoid unnecessary escalation of these into bigger problems;
- always challenge and take early action to deal with behaviour that may be construed as harassment or bullying under this policy - even if a complaint hasn't been made;
- be supportive of any employees who come to them with concerns about unacceptable behaviour.



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### **Employees:**

It is the responsibility of every employee to:

- read and understand this policy and its [arrangements](#) so that they know what is expected of them, and what to do if they are affected by harassment and bullying in the workplace;
- set examples and standards of positive behaviour in line with this policy and in our [Employee Code of Conduct](#), [Competencies Framework](#) and individual role profiles;
- support the council in its efforts to eradicate harassment, bullying and victimisation by challenging inappropriate behaviour they may experience or witness it, by seeking or encouraging colleagues to get support and assistance, reporting any incident where you feel there may be a continuing risk to the health, safety and welfare of an individual if you do not report it; and cooperating in any investigation into the incident.
- All employees will be provided with appropriate support and protection from victimisation.

### **Trade Unions:**

Trade Unions will:

- support the Council in its efforts to provide a working environment free from harassment, bullying and victimisation;
- read and understand this policy and its [arrangements](#) so that they know how to support members who may be affected by bullying and harassment in the workplace;
- participate in training and development activities as and when required to support the implementation of this policy;
- help inform the workforce of our bullying and harassment policy and encourage employees who may have a problem to seek to resolve this through the policy and procedure available to them;
- advise members of their rights and responsibilities under the policy and represent members as and when appropriate.

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### Procedure

#### Advice and support

Employees who feel that they are affected by harassment and bullying can seek advice and support from:

- Their manager;
- A trusted colleague;
- Any of our trained [Harassment Contacts](#);
- Our [Employee Assistance Provider](#) (EAP) Helpline: 0800 247 1100 free, anytime;
- [Equality Employee Support Network](#) contact;
- [Strategic Service HR Champions](#);
- Trade union representative.

#### Informal Action

Employees should consider whether they feel able to raise the matter informally with the person responsible - either by speaking to them directly or sending an email or letter explaining clearly to them:

- that their behaviour is not welcome;
- the effect this behaviour is having; and
- asking them to stop.

If it is too difficult, the employee should speak to their manager, a Harassment Contact, or a member of their service Strategic HR team, who can provide confidential advice and assistance in resolving the issue informally or formally.

#### Mediation

Mediation can be used, if appropriate, where informal discussions have failed to resolve the matter satisfactorily, or where the employee feels that matter needs to be addressed formally.

Both sides must voluntarily agree to participate in mediation with our ACAS trained mediators. Mediation is an opportunity to use an informal process to find a way forward when a relationship breaks down. You can view our information and guidance relating to mediation [here](#).

#### Formal Action

A formal approach may be appropriate due to the nature and seriousness of the complaint, or where an informal approach may not have been successful.

#### Making a complaint

The employee should complete the Bullying and Harassment Policy [Complaint Form](#). This asks for details of the complaint and what attempts they have taken to resolve the matter informally. They should then pass this preferably to their line manager, Strategic HR team or another manager.

However, if the complaint is about their line manager, they should pass this to a more senior manager or a service-based investigator.

Once received, if a complaint is considered to be of a criminal nature or may pose an immediate threat to the health and safety of an employee, then the complaint will be assessed in line with our duty of care.

Initially, a service-based trained investigator will independently and impartially review the information provided. They will determine if the behaviours fall under the definitions of bullying and harassment and decide if an investigation is required. If they decide that the complaint doesn't fall under the definitions, they will refer it back to Strategic HR or management.

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In exceptional circumstances, or if the complaint is against a senior employee in grades 12-14, the harassment complaint form should be forwarded to the Chief Executive. If it is against the Chief Executive, the complaint should be passed to the Director of Communications and Corporate Governance. An appropriate investigator will be appointed to review the information provided.

### Investigation Process

Complaints will be investigated impartially in a timely, respectful and confidential manner to find out if bullying and harassment has taken place. The investigator will keep an open mind, looking at all the information and evidence which supports the complaint and evidence against it. They will consider the welfare of everyone involved and will act with sensitivity and respect, with an aim to complete the process within 30 working days.

Normally employees involved can continue to work together, however, there may be extreme circumstances when this is not appropriate.

The investigator will consider all relevant factors and make a decision in the best interests of all employees. They may decide to suspend or redeploy an employee; normally this will happen to the employee the complaint is about however, sometimes that is not possible. Any employee suspended will continue to receive full pay. Suspensions will be reviewed regularly.

Where the complaint is about someone other than an employee, such as a customer, supplier or visitor, the investigator will consider what action may be appropriate to protect the employee making the complaint and anyone else involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and of those involved. Where appropriate, the investigator will attempt to discuss the matter with the third party.

It may also be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.

At the end of the investigation, the investigator will arrange a meeting with the employee who submitted the complaint in order to discuss the outcome and what action, if any, should be taken.

### Investigation Outcome

The investigator will advise management, the employee who submitted the complaint, and the employee or third party who the complaint is about, of the outcome of the investigation. This will confirm whether the complaint has been upheld or rejected.

The complaint will be upheld where the investigator believes that harassment or bullying took place and that there is a case to answer to; and rejected if they believe that the harassment or bullying did not take place.

If the investigator considers that there is a case to answer and the perpetrator of the harassment or bullying is an employee, the matter will be dealt with under our Discipline and Appeals Procedure.

### Appeals

If the employee is not satisfied with the outcome of their complaint, they may appeal in writing to the Head of Service, stating their grounds for appeal, within 7 working days of receipt of the date the decision was given or sent to them.

If case is rejected, the complainant has a right to appeal this decision on the grounds that the procedure was not followed, the assessment was flawed or that the behaviour has not stopped.

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The Head of Service will appoint a senior manager to review the case within 10 working days. The decision of the appeal review is final. The respondent has the right of appeal through the disciplinary policy if the complaint is upheld.

### **Modified Procedure for former employees**

If possible employees should raise any complaints of bullying and harassment before they leave our employment. If they've left before the bullying and harassment procedure starts or finishes, the complaint should be made in writing to the Head of Service. The Head of Service or nominated officer will arrange to investigate and respond in writing.

### **Complaints against Elected Members**

Employee complaints must be reported to the Director of Legal and Administration, who will liaise directly with the relevant Business manager, out with our employment arrangements. You can view the elected member's code of conduct [here](#).

### **Confidentiality**

Confidentiality is of prime importance and there will be no disclosure of information to anyone who is not involved with the investigation. Exceptions to this are where it is considered that an individual or individuals are in immediate danger or if there are potential criminal activities or safety implications. Any breach of confidentiality may result in disciplinary action.

### **Monitoring and review**

This policy will be reviewed annually to ensure that it is effective in preventing harassment, bullying and victimisation and in dealing with incidents when they do occur. Services have a responsibility to ensure that they record all formal complaints made in accordance with this policy. We will collect data on complaints of bullying and harassment and related timescales on a quarterly basis.

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### Further Information and Support

#### Council

Further information relating to this policy can be found on Connect.

Help and advice is also available from Strategic Service HR, Corporate HR or from:

- An employee's manager;
- A trusted colleague;
- Any of our trained [Harassment Contacts](#);
- Our [Employee Assistance Provider](#) (EAP) Helpline: 0800 247 1100, free, anytime;
- [Equality Employee Support Network](#) contact;
- [Strategic Service HR Champions](#);
- Trade union representative.

#### Related Policies

- [Equal Opportunities Policy](#)
- [Health and Safety Policy](#)
- [Unacceptable Actions Policy](#)
- [Acceptable Use of Information Technology](#)
- [Code of Conduct for Employees](#)
- [Discipline and Appeals Procedure](#)
- [Whistleblowing Policy](#)

#### External Support

- Samaritans - freephone: 116 123 for emotional support, or find other ways of getting in touch: [Contact Samaritans](#)
- Victim Support Scotland - information & support for victims and witnesses of crime. Call 0845 603 9213 or visit: [www.victimsupportsco.org.uk](http://www.victimsupportsco.org.uk)
- Archway Glasgow - emotional and practical support after a rape/sexual assault. Call 0141 211 8175 or visit: <http://archway.sandyford.org/>
- Scottish Women's Rights Centre - Free legal advice for women who have experienced sexual harassment - <https://www.scottishwomensrightscentre.org.uk/sexual-harassment/>
- UK National Workplace Bullying Advice Line - [www.bullyonline.org](http://www.bullyonline.org)
- Hate Crime Scotland - information on hate crime and how to report it - <https://www.scotland.police.uk/contact-us/reporting-hate-crime/>

### Appendix 1 Examples of Harassment

The following examples have been adapted from guidance from the [European of Human Rights Commission \(EHRC\)](#), [Engender](#) and [ACAS](#).

#### 1. Harassment relating to a certain protected characteristic

- 1.1. Where conduct is related to the workers own protected characteristic.

Example: An employee with a hearing impairment is mocked and subjected to derogatory remarks because they wear a hearing aid. This could amount to harassment related to disability.

- 1.2. Where a person is offensive to other workers in general but, in relation to a particular worker, the conduct is unwanted because of that worker's protected characteristic.

Example: During a training session attended by both male and female employees, a male trainer directs several sexist remarks and jokes to the group as a whole. A female employee finds the comments offensive and humiliating to her as a woman. This could amount to harassment related to sex, even though the remarks were not specifically directed at her.

- 1.3. Where the unwanted conduct is connected to a relevant protected characteristic, even if the employee does not have that characteristic. This can occur in various situations:

Example: An employee has a son who is a trans man. Their work colleagues make jokes about their son's transition. This could amount to harassment related to gender reassignment.

Example: It is wrongly believed that an employee has a particular protected characteristic. A Sikh employee wears a turban to work. Their manager wrongly assumes they are Muslim and subjects them to Islamophobic abuse. This could amount to harassment related to religion or belief because of their manager's perception of their religion.

Example: An employee is subjected to homophobic banter and name calling. They are not gay. Because the abuse is related to sexual orientation, this could amount to harassment related to sexual orientation.

Example: A manager racially abuses a Black employee in front of a white colleague. The Black employee has a clear claim for harassment related to race. In addition, the white colleague is offended and could also submit a complaint of harassment related to race.

- 1.4. Where conduct is because of something related to a protected characteristic but does not take place because of the protected characteristic itself.

Example: A female worker has a relationship with her male manager. On seeing her with another male colleague, the manager suspects she is having an affair. As a result of his suspicion, the manager makes her working life difficult by continually criticising her work. The behaviour is not because of the sex of the female worker, but because of the suspected affair which is related to her sex. This could amount to harassment related to sex.

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### 2. Sexual harassment

- 2.1. Some forms of sexual harassment are clear violations of a person's dignity.

Example: A male line manager is to interview a female colleague for a promotion, The manager says the interviewee is the favourite for the job because she is the best-looking candidate. The female colleague finds the line manager's comment offensive, objectifying and belittling as it suggests that the decision will be based on her physical appearance rather than merit.

- 2.2. The conduct need not be sexually motivated, only sexual in nature.

Example: A male employee alters a pornographic image by pasting an image of his female colleague's face on to it. He then sends it to their other colleagues, causing them to ridicule her. There was no sexual motivation behind this act, but the use of the image is sexual in nature.

- 2.3. Conduct which is intended to be friendly could amount to harassment even if no offence were intended.

Example: A male employee makes complimentary comments about a female colleague's clothing and appearance, saying that she looks 'hot' in high heels.

- 2.4. It is not necessary for the recipient to say that they object to the behaviour for it to be unwanted.

Example: A female employee's body is repeatedly referred to by two male colleagues. These comments are made in front of her over several months. She does not voice any objection

to the comments, sometimes laughing at them and, on one occasion, she responds by making equally offensive comments. The behaviour of the two male colleagues could still amount to sexual harassment.

- 2.5. There may be circumstances where behaviour feels appropriate to those involved but causes concerns for others who may see or overhear it, even if nothing is targeted at them.

Example: A group of employees are chatting in the office about a TV show they have been watching which is renowned for being sexist and sexually explicit at times. Those comfortable talking about the show and the sexual content, describe scenes depicting lesbian activity. This makes others who sit in the open plan office feel uncomfortable. They are worried that the group may try to involve them in the conversation as they do not want to talk about a show that they find misogynist, homophobic and degrading to women. They do not think anyone needs to be discussing it at work. They are also worried that if they voice that view, they will be judged by the group who like the show.

- 2.6. Conduct may not be unwanted initially but can become unwanted.

Example: A female employee has a brief sexual relationship with her supervisor. She tells her supervisor that she thinks it was a mistake and does not want the relationship to continue. The next day, the supervisor grabs the female employee's bottom, saying 'Come on, stop playing hard to get'. Although the original sexual relationship was consensual, the supervisor's conduct after the relationship ended is unwanted conduct of a sexual nature.

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### 3. Less favourable treatment for rejecting or submitting to unwanted conduct

- 3.1. In the example 2.6 above, the female employee responds to the supervisor's behaviour by saying 'Get off me, I'm not playing hard to get!'. After that, the supervisor starts to make things more difficult for the employee, giving her more work to do than others and being more critical of her work. The supervisor is treating the employee less favourably because she rejected his unwanted conduct.
- 3.2. Under this type of harassment, it may be the same person who is responsible for the initial unwanted conduct and the subsequent less favourable treatment, or it may be two (or more) different people.

Example: Continuing with the previous example, the supervisor informs his line manager, who he is friendly with, about his rejection by the female employee. The line manager feels sorry for the supervisor, thinking that the employee 'led him on'. When the female employee applies for a promotion, the line manager rejects her application, saying that 'she can't be trusted'. This opinion is based on her rejection of the supervisor. The line manager's actions also amount to less favourable treatment because of the worker's rejection of the supervisor's unwanted conduct.

For all three types of harassment, if the harasser's purpose is to violate the employee's dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for them, this will be sufficient to establish harassment.

Unwanted conduct will also amount to harassment if it has the effect of violating the employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them, even if that was not the intended purpose.