

# Harassment and Bullying Policy and Procedure

## 1. Purpose

The purpose of this policy and procedure is to ensure that employees and volunteers are aware of and fulfil their responsibilities under the Equality Act to treat everyone with respect and dignity and to ensure that Active Luton provides a safe, enjoyable and supportive workplace for all employees. Active Luton will follow the procedures outlined to investigate allegations of bullying, harassment, sexual harassment, victimisation or unfair discrimination, and will take disciplinary action against employees who are found to have been in breach of this policy.

## 2. Scope

The policy forms part of the contractual terms and conditions of all employees of Active Luton.

## 3. Definitions

**Unfair discrimination** occurs when someone is treated less favourably than another because of a protected characteristic, or because of their association with someone who has a protected characteristic, which under the Equality Act 2010 is one of the following; Age, Disability, Gender reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex, Sexual Orientation.

**Harassment is unwanted, unwelcome behaviour that is offensive to the recipient.** It may occur when a person uses threatening, abusive or insulting words or behaviour that creates a hostile or uncomfortable working environment for others. It also may occur when someone believes that they must submit to the unsolicited and unwelcome conduct of another person, as an implicit or explicit condition of their appointment, pay award, promotion, progression or continuing employment. Where abusive words, jokes, name calling or behaviour refer explicitly to a protected characteristic, they may constitute sexual, racial, disability or lesbian, gay, bisexual or transgendered harassment. Harassment is defined by how it is experienced by the recipient, and not by the intentions of the person engaging in it. Harassment can be a single incident; it does not have to be repeated.

Types of harassment include

- Sexual harassment – is unwanted verbal or physical conduct of a sexual nature which violates someone’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. This could include any comments of a sexual nature which result in the individual feeling uncomfortable, repeated or unwanted invitations for dates or physical intimacy or unwelcome physical contact such as patting, inappropriate touching or sexual assault.

Anyone can be a victim of sexual harassment regardless of their gender or the gender of the harasser.

- Racial harassment - Racial harassment includes any unwanted verbal or physical abuse and/or behaviour (which is racially related) which is offensive to the employee involved, which causes the employee to feel threatened, humiliated, patronised or harassed or which interferes with the employee's job performance, undermines job security or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

It can be suffered and inflicted by members of any race or ethnic group. A racial group is defined 'by reference to colour, race, nationality' (including citizenship) or 'ethnic or national origins'. **A racist incident** is one which is to be perceived to be racist by the victim or any other person.

- Age harassment – Age harassment includes any unwanted verbal or physical abuse and/or behaviour (which is age related) which is offensive to an employee, which causes the employee to feel threatened, humiliated, patronised or harassed or which interferes with the employee's job performance, undermines job security or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- Disability harassment – Disability harassment includes any unwanted verbal or physical abuse and/or behaviour (which is disability related) which is offensive an employee, which causes the employee to feel threatened, humiliated, patronised or harassed or which undermines job security or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- Religion and belief harassment – Religion and belief harassment relates to an individual's religion or belief includes any unwanted verbal or physical abuse and/or behaviour which is offensive an employee, which causes the employee to feel threatened, humiliated, patronised or harassed or which undermines job security or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Examples of such conduct can be found in Appendix 1.

People who are particularly vulnerable are those with less influence within the organisation or in society as a whole.

Harassment at work can be one of the most upsetting, humiliating and **destructive experiences** that an employee may experience.

When harassment occurs, it can seriously affect the confidence and self-esteem of one or more employees, invariably affecting their ability to carry out their duties.

**Victimisation** occurs when someone is treated less favourably because they have considered making a complaint, sought advice on making a complaint, made a complaint, given evidence or supported a colleague in making a complaint of discrimination, harassment or bullying. To raise a complaint either informally or formally is a “protected act”, and individuals must be protected from less favourable treatment in these circumstances.

**Bullying** is offensive behaviour which undermines an individual or group of employees through vindictive, cruel, malicious or humiliating language or actions. It could also include unfair allocation of work, unreasonable refusal of leave or training, or exclusion from conversations or workplace events.

## 4. Principles

1. All employees and volunteers have a right to work in a place that is free of unfair discrimination, bullying, harassment, sexual harassment, and victimisation, and the right to ask for it to stop, and to formally complain and seek redress if it continues.
2. While all employees have a responsibility for the prevention of unfair treatment, management have a duty to ensure that harassment, bullying or victimisation does not occur in the workplace. This includes a legal duty to take reasonable steps to prevent sexual harassment of their workers. These responsibilities can be achieved by: ensuring all complaints are treated seriously and dealt with promptly, maintaining confidentiality and ensuring that no repetition or victimisation occurs after the complaint has been resolved, ensuring that a risk assessment to prevent sexual harassment in the workplace is undertaken, actioned and reviewed as needed, and role modelling respectful behaviour and visibly promoting a positive and inclusive workplace culture.
3. Active Luton will not tolerate any behaviour amounting to sexual harassment by third parties. This includes contractors and visitors. If any employee experiences harassment from a third party, Active Luton is committed to protect our employees in such cases. Once aware of any third-party harassment, employers must take reasonable steps to prevent it from happening again.
4. Employees have the responsibility to ensure that they do not engage in harassing or bullying behaviour, or encourage others to do so, or victimise people who complain of bullying or harassment, including sexual harassment.
5. Managers are responsible for enforcing this policy, and for following the correct procedures if an employee or volunteer makes an allegation of discrimination, bullying, harassment, sexual harassment or victimisation. This includes a legal duty to take reasonable steps to prevent sexual harassment of their workers.
6. Allegations of discrimination, bullying, harassment, sexual harassment and victimisation will be treated with the utmost confidentiality, due to the sensitive nature of the allegations, the potential impact on employee reputations, and the possibility of finding evidence of unlawful behaviour.
7. Where an employee is found to have breached this policy, Active Luton will follow the disciplinary procedure and following a disciplinary hearing may apply appropriate disciplinary sanctions, which could include dismissal. While evidence suggests that malicious complaints

are rare, such occurrence will be subject to disciplinary investigation and may constitute gross misconduct.

8. Where an allegation of discrimination, harassment, sexual harassment or bullying is made against an Active Luton employee by a customer or member of the public, the complaints procedure will be followed which may lead to disciplinary action being taken. One possible outcome, depending on the nature of the allegation and the practicalities of service delivery, could be that Active Luton redeploys the employee or ensures that a different employee provides the service to that customer.

## 5. Procedure

### Informal Stage

Any employee or volunteer who believes they have been bullied, harassed, sexually harassed or victimised by another person should, where possible, first let the person know that the behaviour is offensive and unacceptable and ask them to stop. If this informal approach is unsuccessful, the employee or volunteer may raise a formal complaint. If an employee or volunteer feels unable to directly address the issue, even informally, with the person who is bullying or harassing them, they may ask a work colleague, trade union representative, supervisor or manager to have a conversation on their behalf. Alternatively, the employee or volunteer could write to the person who is bullying or harassing them, asking them to stop, and keep a dated copy of the letter. Advice on the content of the letter should be sought from your Trade Union representative or HR.

To move to the formal stage of this procedure the employee should write to their line manager, unless the allegation is about their line manager's behaviour, when the employee should write to their manager's own line manager or to Human Resources.

### Formal Investigation

A line manager receiving a formal complaint of discrimination, harassment, sexual harassment, bullying or victimisation will seek advice from HR as to who is the most appropriate and trained person to investigate. The investigation will follow the same procedure as the Active Luton Disciplinary procedure.

The investigation will be carried out as swiftly as practicable and should take no longer than one month to complete. If this is not possible, the investigating manager should write to the complainant and alleged perpetrator giving an explanation and estimation of the completion date.

The alleged perpetrator; complainant and any witnesses have the right to be accompanied by an accredited Trade Union representative or Active Luton colleague at interviews throughout the following process

The investigating manager will only consider the relationship between the complainant and the alleged perpetrator, and will not consider other working or personal relationships unless they are directly relevant to the complaint.

All parties in the investigation phase, including witnesses, will be cautioned about the importance of maintaining confidentiality.

As bullying, harassment, sexual harassment and unfair discrimination are considered to be gross misconduct; the investigating manager may decide to suspend the alleged perpetrator during the investigation, in accordance with the disciplinary policy.

It should be recognised that allegations of unfair treatment are sometimes falsely made and in all cases, the rights of the alleged perpetrators need to be recognised. Complaints of harassment, including sexual harassment, or bullying which are found to be intentionally frivolous, vexatious or unreasonable will be dealt with under the disciplinary procedure. One aspect of the investigation will be to consider whether a complaint could be vexatious, malicious or frivolous, and if it is found to be so either at this stage or later in the process, the complainant may be subject to disciplinary action.

### **Outcome**

If there is no case to be answered, the investigating manager, with the assistance of HR, will write to the complainant and the alleged perpetrator confirming the outcome, and close the case. Advice should be sought from HR in relation to any mediation/conciliation required and the line manager should monitor the relationship.

If the investigation panel concludes that there is a case to answer the following options will be considered:

- a) An informal resolution of the problem to the satisfaction of all parties (i.e. the complainant, the alleged perpetrator and management)

Or

- b) Disciplinary action which will result in arranging a Disciplinary Hearing under Active Luton's Disciplinary Procedure subject to the complainant agreeing to be a witness wherever possible at the Disciplinary Hearing and if necessary, any subsequent Appeal Hearings.

In exceptional cases Management may decide to continue with a disciplinary hearing even if the original complainant decides that they do not wish to appear as a witness.

If a complainant is unable to attend a disciplinary/ appeal hearing for health reasons relating to the incident(s) complained of, this should be supported by medical certification and in such circumstances the Panel should recognise the difficulties presented by the complainant and should consider the evidence presented appropriately.

The complainant will have the right to be supported whilst giving his/her evidence by a trade union representative, or an Active Luton employee of their choice. The alleged harasser will have the right to be represented by a trade union representative or Active Luton employee of their choice.

Appeals panels will also seek to be representative.

Whatever the outcome of any investigation and/or disciplinary hearing related to harassment, sexual harassment and bullying; the line manager of the complainant will actively monitor the ongoing situation to ensure that working relationships are repaired and that there is no repetition of harassment, sexual harassment and bullying

Date of next review: December 2027

## Appendix 1

### Definitions

#### Examples of Sexual Harassment:

- Physical conduct – suggestive looks and gestures, staring and leering, threatening behaviour, brushing against another’s body, pinching, touching or rubbing in a sexual manner, promises of job benefit in exchange for sexual favours, threat of job detriment if sexual favours are not granted
- Verbal conduct – sexual remarks, jokes, catcalls, whistling and teasing, asking questions about personal or sexual life, turning discussions to sexual topics, telling sexual stories, making sexual innuendoes, sexual comments about a person’s clothing, anatomy or looks, patronising, derogatory remarks or references, repeated requests for dates or sexual favours
- Non-verbal conduct – pin-up calendars, sexually explicit materials, pornography, computer pornography, sexist graffiti.

#### Examples of Racial harassment are:

- Physical conduct – repeatedly touching another’s hair or clothes, physical abuse or intimidation, threatening behaviour to incite violence
- Verbal conduct – racist and offensive mockery and jokes, racist and patronising remarks, stereotypical comments, assumptions and generalisations, racial name-calling, intrusive, persistent, and derogatory questioning regarding a person’s racial or ethnic origin and culture
- Non-verbal conduct – racist graffiti, segregating people from different racial groups, display or circulation of racially offensive material, exclusion from workplace functions, social events and normal conversations

#### Examples of Age harassment:

- Physical conduct – physical abuse or intimidation
- Verbal conduct – asking invasive and personal questions, jokes and mockery, threats, name calling, use of offensive age related terms, belittling comments
- Non-verbal conduct – stereotypical assumptions, exclusions from workplace social events, exclusion from normal conversations, displaying or circulating offensive age related materials.

#### Examples of Disability harassment

- Physical conduct – unnecessary, unwelcome and derogatory touching and patting of body parts, stereotypical impressions of people with disabilities, physical abuse or intimidation
- Verbal conduct – asking intimate questions about a person’s disability, use of offensive language, name calling, taunts, jokes and mockery, assumptions that disabled people don’t have a social or private life

- Non-verbal conduct – assumptions that physical disability equals mental disability, exclusions from workplace social events, speaking to colleagues rather than to the person with a disability, unwelcome interference in an attempt to help with work.

**Examples of Gender reassignment harassment:**

- Physical conduct – physical abuse or intimidation
- Verbal conduct – asking invasive and personal questions, jokes and mockery, threats, name calling, use of offensive language
- Non-verbal conduct – stereotypical assumptions, exclusions from workplace social events, exclusion from normal conversations, displaying or circulating offensive materials, sneering or whispering.

**Examples of Religion and belief harassment:**

- Physical conduct – physical abuse or intimidation
- Verbal conduct – asking invasive questions about a person's religion or belief, jokes and mockery, threats, name calling, use of offensive language
- Non-verbal conduct – assumptions; exclusions from workplace social events; exclusion from normal conversations, displaying or circulating offensive materials, sneering or whispering.

**Examples of Sexual Orientation harassment:**

- Physical conduct – stereotypical impressions of gay men and lesbians, attempts to 'convert' gay men and lesbians, unnecessary, unwelcome, derogatory patting, simulating sexual acts performed by gay men and lesbians, physical abuse or intimidation
- Verbal conduct – homophobic jokes and mockery, stereotypical assumptions about gay men and lesbians, heterosexist name calling or taunts, intimate questions about a person's personal and sex life, gossip and innuendo, assumptions that all gay men and lesbians are HIV positive or have Aids.
- Non-verbal conduct – exclusion from workplace functions or social events, exclusion from normal conversation, displaying or circulating offensive materials, sneering or whispering.

**Examples of bullying:**

- Physical conduct – intimidatory, threatening behaviour, shouting and uncontrolled anger triggers, abuse and humiliation in public or in private, blocking promotion possibilities.
- Verbal conduct – excessive criticism/micro managing an individual's work, persistent criticism and/or sarcasm, refusal of reasonable work requests.
- Non-verbal conduct – exclusion from work information, setting of impossible targets and deadlines, taking credit for ideas and work, ignoring or isolation from work discussions and normal conversations.

The above examples are not exhaustive.