

Dignity at Work Policy



The purpose of this policy is to ensure that harassment and bullying are dealt with effectively, should they occur in the workplace. Colleagues should be aware that all complaints of harassment, victimisation and/or bullying will be dealt with speedily, sympathetically and confidentially.

1. Introduction

The policy incorporated in this document shall apply to all colleagues of Transport for the North (TfN). The policy has regard to guidance from the Equality and Human Rights Commission, the Disability Rights Commission and ACAS.

Definitions

Harassment can be described as unwanted behaviour based on grounds of sex (either of a sexual nature or on the grounds of a person's sexual orientation), race, colour, ethnic origin, disability, religious belief, age, gender reassignment, sexual orientation which affects the dignity of women and men at work; or creating an intimidating, hostile, humiliating or offensive environment for that person. It includes unwelcome physical conduct, verbal or non-verbal conduct and could amount to unlawful discrimination. Unwanted conduct includes conduct which a person finds intimidating, upsetting, embarrassing, humiliating or offensive.

Sexual harassment occurs if "A engages in unwanted conduct of a sexual nature", which "has the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B".

Bullying includes persistent behaviour directed against an individual or group of individuals which creates a threatening or intimidating environment that undermines the confidence and self-esteem of the recipient(s).

TfN will not condone any behaviour which causes fear or intimidation and/or reduces the dignity of a colleague, a group of colleagues or a protected characteristic including:

- verbal abuse or offensive jokes or pranks related to a person's sex, race, gender reassignment, disability, sexual orientation, religious beliefs, age etc.; lewd or suggestive comments; requests for sexual favours or repeated requests for dates;
- unnecessary body contact; threatened or actual assault or violence;
- deliberate exclusion from conversations or work activities on the basis of race, gender, disability, sexual orientation, age etc;
- display of 'pin-ups', pornography, inflammatory or abusive literature or graffiti;

- using e-mail or the Internet for the purpose of bullying or making abusive or offensive remarks related to a person's characteristics such as their race, gender, disability, sexual orientation, religion, age, etc. or to send pornography or inflammatory literature;
- conduct that puts a colleague at a disadvantage or subjects them to less favourable treatment because of their menopause symptoms.

This is not an inclusive nor exhaustive list. Some forms of harassment plainly constitute gross misconduct for the purposes of TfN's disciplinary procedure and will normally merit summary dismissal where proven following appropriate investigation.

Examples of this category would be:

- threatened or actual sexual or racial assaults; and
- suggestions or threats by managers that either favours or disadvantages individuals of a certain sex or racial origins and/or could affect someone's job security or prospects.

Other forms of harassment may constitute gross misconduct depending on the circumstances of the case.

Bullying can take many forms. Examples prohibited by this policy include:

- verbal abuse, such as shouting or swearing at colleagues;
- threatening or insulting colleagues;
- abusing power or using unfair penal sanctions;
- jokes, practical jokes, initiation ceremonies or inappropriate birthday rituals;
- physical abuse such as hitting, pushing or jostling;
- rifling through, hiding or damaging personal property;
- ostracising or excluding colleagues from work events or organisational social activities.

This is not an inclusive nor exhaustive list.

This policy applies to conduct related activity, any issues relating to an colleague's performance against any objectives set for their individual role are not covered by this policy.

TfN will take all reasonable steps to prevent all forms of harassment (including sexual) in the workplace including that perpetrated by third parties (contractors, stakeholders and members of the public) and it will not be tolerated.

All colleagues are encouraged to report any concerns or allegations related to harassment in the workplace (in whatever form) including by any third parties in a timely manner and can be assured that any such complaints

will be handled (and where necessary formally investigated) in full accordance with this policy and any other relevant TfN policies and procedures.

Where complaints of harassment by third parties are upheld measures will be put in place to prevent it happening again, for example warning respective third parties about their behaviour and expected future standards, reporting criminal offences to the police, reporting concerns to their employer to enable them to invoke their respective internal procedures, terminating contracts with suppliers (or requesting perpetrators are removed from servicing TfN contracts).

General Principles

All colleagues have a responsibility to conduct themselves in a manner that does not cause offence or harm to any of their colleagues and comply with this procedure. Furthermore, certain types of harassment will not be tolerated, as detailed in **Appendix 1**.

Line Managers have a specific duty to ensure that harassment does not occur in the areas for which they are responsible. They should harness and foster a supportive and inclusive working environment where colleagues feel comfortable in instigating conversations, or engaging in discussions about any protected characteristic and the menopause, and they should ensure that offensive or potentially offensive material is not displayed in the workplace.

Where possible, alleged instances of harassment or bullying should be resolved at an informal level between the individuals concerned. A colleague should, if they feel able to do so, make it clear to the person causing offence, that such behaviour is unacceptable to them and contrary to TfN policy and must stop. In many instances this may be sufficient. The offender may be unaware that their behaviour is causing offence and as such misinterpretations can be easily rectified.

Alternatively, you may wish to ask a fellow colleague to do this on your behalf or to be with you when confronting the perpetrator(s). If a complaint is resolved informally, the alleged perpetrator(s) will not be subject to disciplinary sanctions.

Where this is not appropriate or possible, then the formal procedure should be implemented as outlined in section 5 of this policy.

However, in exceptional circumstances and following consultation with the colleague, TfN may decide that, notwithstanding that the colleague raised the matter informally it is necessary to investigate further and take more formal action.

Both the complainant and the alleged perpetrator will have the right to be accompanied by a work colleague or a Trade Union Representative at any formal meeting or hearing connected with matters raised under this policy. The onus is on the colleague to arrange such representation.

All parties involved in all stages of this procedure will be advised that these matters shall be dealt within the strictest confidence. Any party found to be in breach of confidentiality will be dealt with through the Disciplinary Policy.

Where any allegations of harassment or bullying are substantiated this may also be dealt with through the disciplinary procedure, if appropriate. Similarly, it will be a disciplinary offence for anyone to victimise or retaliate against a colleague, or treat a colleague less favourably for bringing a claim of harassment or bullying, or for acting as a witness in relation to such a complaint. A false accusation of harassment or bullying can have a serious effect on innocent individuals, should investigations show that a false accusation has been made in bad faith, appropriate disciplinary action, which could include dismissal, will follow.

Where considered appropriate TfN reserves the right to negate Stage One of this procedure and immediately instigate Stage Two of this procedure in order to deal with any such complaints as expediently as possible. The colleague raising any such complaint also has the right to negate Stage One of procedure and progress directly to Stage Two.

4. Investigation

It may be necessary at any stage of the procedure to instigate a formal investigation. In that event, the HR & Skills Representative will arrange to appoint an appropriate representation (Investigating Manager).

The Investigating Manager will interview all parties involved and it may be appropriate to bring the parties together as part of the investigation process.

Notes of all meetings conducted will be produced, constituting a verbatim record of the meeting.

As a result of allegations raised in connection with this procedure, or in order to carry out an investigation in an effective way, TfN reserves the right to suspend either or both the parties involved on full pay while the allegations are investigated. Suspension will only occur if it is proper in the circumstances taking into account the nature and seriousness of the allegations. Any suspension will be kept to a minimum length of time and the person suspended will be kept informed of the progress of the investigation. Any suspension should be considered as a neutral act by TfN and is not indicative of guilt and is not a disciplinary measure. Line Managers should consult the HR & Skills Representative before suspending a colleague.

5. Formal Procedure

TfN will take reasonable steps to prevent all forms of harassment (including sexual), bullying and victimization in the workplace and will look to continuously improve safeguarding measures and protection for all colleagues.

If the harassment or bullying claim is against the colleague's Line Manager, then the colleague should bring this to the attention of the HR & Skills Representative so that an appropriate manager can be appointed to hear the claim.

The stages of the Dignity at Work Policy, along with the appropriate timescales are detailed below.

In the event that circumstances arise when the timescales cannot be met, then an extension should be mutually agreed, where possible, by the HR & Skills Representative, the colleague raising the claim and their representative (if applicable).

If the colleague who has raised the claim and/or their representative, fails to comply with the timescales set out and does not invoke the clause above, then the procedure may be deemed to be exhausted.

If having raised a claim, it is agreed by the parties that this issue should be addressed through a more appropriate procedure, then no further recourse will be made to the Dignity at Work Policy.

6. The stages in the procedure

Stage One

In the event that informal resolution of the matter is unsuccessful or considered inappropriate, a colleague may make a formal written complaint about bullying or harassment. A colleague should put this complaint in writing in the first instance to their immediate Line Manager in order to try to resolve the matter. Where the complaint is against the immediate Line Manager or a member of TfN's Operating Board the complaint should be made to the Head of HR.

The colleague must provide the following details: the name of the alleged perpetrator(s), the nature of the harassment or bullying, the dates and times the harassment or bullying occurred, the names of any witnesses and any action taken by them to resolve the matter informally.

The Line Manager should bring this to the attention of the HR & Skills Representative.

HR & Skills Representative will arrange for a Stage One meeting without unreasonable delay, for all parties concerned to discuss the issue in question, with a view to achieving an agreed resolution. Both parties will have the right to be accompanied by a work colleague or a Trade Union Representative.

The Stage One meeting will involve a HR & Skills Representative attending in an advisory capacity to support the Line Manager.

The outcome of the meeting will be confirmed in writing by the HR & Skills Representative to all parties concerned, normally within five working days of the meeting being held, setting out any agreed action to be taken.

In the event that the colleague bringing the claim is dissatisfied with the outcome the colleague should inform the HR & Skills Representative in writing, of their intention to move to Stage Two of the procedure, normally within five working days of receiving the written notification of the decision (outcome of the Stage One process).

Stage Two

A Stage Two meeting to formally consider all allegations raised by complainant will be heard by an impartial manager, without unreasonable delay.

The Stage Two meeting will involve a HR & Skills Representative in an advisory capacity.

All parties concerned will have the right to be accompanied, the opportunity to state their case and call/identify any witnesses as appropriate.

Following the conclusion of the Stage Two meeting process, the HR & Skills Representative will inform all parties concerned in writing within five working days setting out the decision in full.

If the colleague is not satisfied with the outcome of the Stage Two meeting, the colleague should inform HR & Skills Representative in writing, of their intention to appeal. This must be done within five working days of receiving written notification of the decision.

Stage Three

The Stage Three (Appeal) meeting will be heard without unreasonable delay from the receipt of the written particulars.

The Stage Three meeting will be heard by an Operating Board Member who will not have been involved at any stage of the procedure. HR & Skills Representative/Head of HR will be present to advise and ensure a fair and consistent process.

The colleague or their representative shall state their case calling any witnesses if appropriate.

Management shall respond and call any witnesses if appropriate.

Both parties will then have the opportunity to question and clarify the information presented.

The Operating Board Member hearing the Stage Three meeting will then ask parties to summarise.

The Operating Board Member hearing the appeal, at their discretion, may adjourn the appeal hearing in order that further evidence may be produced by either party.

In the event of an adjournment, the time and date for the meeting to be reconvened will be set.

The Operating Board Member hearing the Stage Three meeting, will consider the decision in private with the HR & Skills Representative/ Head of HR and will then announce the decision to the parties concerned. The colleague will receive written notification of the outcome of the appeal within five working days, this decision will be final.

In all cases the procedure will have due regard to the ACAS Code of Practice.

Harassment and The Law

Harassment on the grounds of protected characteristics is made unlawful under the Equality Act 2010.

Protected Characteristics:

- Age;
- Disability;
- Gender reassignment;
- Marriage and civil partnership;
- Pregnancy and maternity leave;
- Race;
- Religion or belief;
- Sex;
- Sexual orientation.

Note: The menopause is not specifically a protected characteristic under the Equality Act 2010. However, for the purposes of all TfN policies and procedures will be afforded the same standard of protection/status.

General harassment is covered in the following statutes:

- The Criminal Justice and Public Order Act 1995 that outlaws the use of threatening, abusive or insulting words, disorderly behaviour that is intended to cause harassment, alarm or distress.
- The Protection from Harassment Act 1997 that has been specifically developed to deal with stalking, makes following a course of conduct amounting to harassment both a civil and criminal offence. This Act also introduces a further criminal offence of putting a person in fear of violence.



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