

## **MF&RS**

### **Bullying & Harassment Policy & Management of Complaints**

#### **Introduction**

The purpose of this Policy is to assist in developing and encouraging a working environment and culture in which harassment and bullying are unacceptable. The Policy explains what bullying and harassment are and what individuals and managers should do if they encounter such behaviour.

This Policy supports our Equality and Fairness at Work Policy and the Ground Rules that set out the core values of behaviour that employees are expected to display at work.

#### **The Ground Rules**

Employees of MF&RS are expected to:

Treat fellow employees and members of the public with dignity:

- By respecting individual rights and the right to be different;
- By respecting individual beliefs and feelings;
- By treating others as they wish to be treated;
- By not acting in any manner which might cause them upset;
- By making it acceptable for all individuals to voice an opinion or share a problem.

Respect the difference in other people:

- By not displaying offensive materials;
- By not using offensive language;
- By not making hurtful remarks;
- By not using nicknames which cause offence;
- By not causing upset by practical jokes;
- By listening to what individuals tell them if they are upset;
- By catering for all diversity including race, gender, disability, sexual orientation and transgender issues, religious belief, culture, age and political views.

Welcome new arrivals and visitors into the workplace:

- By properly introducing themselves;
- By helping new arrivals find their way around;
- By showing new arrivals how things are done;
- By not exploiting their newness and lack of knowledge;
- By listening to what they say if they need help;
- By being patient when they are learning.

These are the core values that we expect of our employees. By respecting these values we can create an environment that allows all our employees to enjoy their work and reach their maximum potential.

Part 1 sets out the Policy in detail, and Part 2 covers the procedures for making a complaint and how complaints will be managed.

The principles of resolving issues of bullying and harassment follow those set in MF&RS's Grievance Procedure.

This policy replaces all previous policy and protocols for the management of bullying and harassment in the workplace and is in line with the ACAS guidance on the management of such issues and appropriate to the modern fire and rescue service.

## **Part 1**

### **Rights and Responsibilities**

All MF&RS staff have the right to work in an environment which is free from bullying and harassment. MF&RS is committed to providing a workplace in which all employees are given the dignity and respect to which they are entitled. Everyone has a responsibility to respect the feelings and sensibilities of others in the workplace, and to behave in a way which does not cause offence. In some instances individuals may be genuinely unaware that their behaviour is causing offence, but it is the duty of each individual to be sensitive to the impact their conduct may have on colleagues.

MF&RS has a legal responsibility to ensure, so far as is reasonably practicable, the health and safety of staff and a working environment that is free from unlawful discrimination.

The purpose of this policy is not to remove the workplace humour that everybody enjoys as part of their working relationships, or to prevent people from enjoying mutual relationships with work colleagues, but to ensure that staff are aware how their actions and language may be perceived by others and encourage staff to be mindful that individuals can have very different benchmarks about what behaviour is appropriate and acceptable.

Employees must be aware that this policy extends to include events and social gathering where people from the workplace are gathered together.

### **Unacceptable behaviour**

Some behaviour can cause offence where there is no malicious intent. The impact of behaviour on a person affected by it is more relevant than the motive behind it. In most cases people know, or should know, that remarks or actions are causing offence, and that causing such offence is unacceptable.

Breaches of the policy may lead to the disciplinary procedures being used.

Bullying and harassment can:

- Be offensive and degrading
- Cause anxiety, loss of concentration, illness and absence from work
- Have a devastating effect on an individual
- Have a damaging effect on the working environment, resulting in poor morale, higher turnover of staff and reduced productivity
- Result in both a harasser and MF&RS being held liable for damages, where legal claims are progressed.

### **Dealing with complaints**

All complaints of bullying or harassment will be taken seriously by MF&RS and investigated appropriately. MF&RS will also take seriously any allegations proven to have been made maliciously, mischievously or vexaciously. Complainants making malicious allegations may be subject to disciplinary action.

The aim is to provide the support needed to help individuals decide the best course of action, and to resolve the issues raised whilst also maintaining MF&RS's duty as a responsible employer to address unacceptable behaviour.

The Procedure (Part 2 of this Policy) provides a framework for dealing with complaints confidentially, fairly and in a consistent manner. It will also help to resolve problems quickly and informally wherever possible, without fear of victimisation or retaliation.

### **What is bullying and harassment?**

Bullying can be defined as any offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Harassment is a form of direct discrimination covered by the discrimination legislation, namely the Sex Discrimination Act 1975 (as amended), the Race Relations Act 1976 (as amended), the Disability Discrimination Act 1995 (as amended), the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Age) Regulations 2006.

Unlawful harassment may also occur under the discrimination legislation if the workplace environment is made intimidating, hostile, degrading, humiliating or offensive for someone on the grounds of their sex, race, disability, sexual orientation, religion/belief or age; or where their dignity is violated on any of those grounds. In these circumstances harassment is unlawful only if, in the particular circumstances, it would be reasonable to consider that it has had that effect on the individual.

Harassment may also be a criminal offence under the Protection from Harassment Act 1997. Harassment for these purposes must involve a course of conduct but does not need to be on any of the specific grounds covered by the discrimination legislation.

Harassment may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient. In principle one trivial incident will not constitute bullying or harassment, although it may do so if the incident is particularly offensive. However, a series of such incidents will do so, particularly where an employee has expressed a dislike of such behaviour and/or has asked for it to stop. Threatened or actual violence, threats of dismissal or promises of special treatment in return for sexual favours, are examples where one incident would be sufficient.

### **Examples of unacceptable behaviour**

The following list provides a range of examples but is not exhaustive:

- unnecessary and unwanted physical contact ranging from touching to serious assault
- personal insults and name-calling

- public humiliation, derogatory or belittling remarks concerning job performance or personal attributes
- unwelcome advances, attention, invitations or propositions
- unwelcome lewd references to a person's physical features, figure or dress
- unwelcome discussion of the effects of a disability on an individual's personal life
- verbal or written harassment (e.g. offensive letters, telephone or e-mail) jokes, racist or homophobic remarks, offensive language, gossip or slander, derogatory name calling or ridicule for physical or cultural difference, age, physical impairment, or religious belief
- visual displays of posters, graffiti, emblems or other offensive material (such as pin-ups or degrading/indecent/ pornographic material, racially offensive material)
- suggestive and unwelcome comments or attitudes, insulting behaviour or obscene or offensive gestures
- removing areas of responsibility without good reason, unfounded criticism of the performance of work tasks, setting an individual up for failure with impossible workloads and deadlines
- persistently ignoring or patronizing a person
- isolation or non-co-operation at work,
- staring and leering
- electronic transmission of pornographic, racist, homophobic or offensive material

MF&RS is aware that many of the examples listed may also be categorised in other ways such as general misconduct or inappropriate behaviour and may not always be viewed as bullying and harassment by the parties involved as this is very often about perceptions that differ from one person to another.

## **Responsibilities**

### **All staff**

Everyone has a responsibility to comply with this Policy and all staff should ensure that their behaviour towards colleagues does not cause offence and could not in any way be considered to be bullying or harassment. MF&RS's Ground Rules set out the principles that should be followed in this respect.

Differences in culture, attitudes and experience, or the misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. It is important to be sensitive to the feelings and reactions of others and adjust behaviour as necessary.

- Staff should seek to treat others as that person wishes to be treated and should be aware that this may not always be in the same way that they themselves find acceptable.
- Staff should discourage bullying and harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who experience such treatment.

- Anyone who sees bullying or harassment happening in their work environment has a responsibility to take action.

Complaints of bullying or harassment need to be progressed and should be raised with a line manager, or their manager's line manager, the Time and Resource Management Team manager or a Principal Officer, as appropriate.

### **Managers and supervisors**

Managers and supervisors should:

- Set a good example by treating all staff with dignity and respect.
- Understand and implement the policy and make every effort to ensure that harassment and bullying do not occur, particularly in work areas for which they are responsible.
- Explain and promote awareness of MF&RS's Policy to their staff; ensure that staff know how to raise problems, are aware of the policy and procedures, know where to find a copy and are aware of the sources of help and advice available (e.g. ICAS – see below).
- Be alert to unacceptable behaviour and take appropriate action: managers do not have to wait until complaints are brought to their attention if they are aware of behaviour of other managers or staff which might cause offence. If the incident is not serious then calling the individual aside and carrying out some awareness-raising may be sufficient to stop the behaviour. In more serious cases disciplinary action may be appropriate.
- Respond sensitively and supportively to any member of staff who makes an allegation of harassment; provide clear advice on the procedure and timescales to be adopted; maintain confidentiality in accordance with this policy;
- Seek to resolve any incidents of bullying or harassment of which they are aware. If bullying or harassment does occur, they must deal effectively with the situation.
- Monitor the workplace to ensure that there is no problem of bullying or harassment or of victimization after a complaint has been made.

The legitimate management of staff and managing poor or unacceptable performance should be distinguished from bullying or harassing behaviour. Managers have a responsibility to issue reasonable instructions and expect them to be carried out.

However, managers must be aware that it is important that consideration is given to style of dealing with others and managers should not behave in a way that would generally be considered unreasonable. They must take care to ensure that staff are treated fairly and consistently and where there are issues over poor performance or conduct that steps are taken in accordance with guidance.

### **Diversity Team**

Anyone involved in a complaint of bullying or harassment may seek advice in confidence from the Diversity Manager or other member of the Diversity Team at any time.

### **ICAS Employee Assistance Programme**

Some situations involving conflict between persons are complex and may be difficult to resolve. In some circumstances members of staff may prefer to obtain help from a person trained in dealing with sensitive and difficult issues. MF&RS provides 24/7 access to a range of specialist support and information, including telephone and face to face counselling. The service is confidential and operated by ICAS. ICAS can be contacted on Freephone 0800 0727072 or on Minicom 0800 7310302. More information on ICAS's services can be obtained from their website [www.icasxtra.com](http://www.icasxtra.com) or from Occupational Health

### **Trade union representatives**

Trade union members who raise a complaint, or have a complaint made against them, can also talk confidentially to a representative of their trade union for advice and support. Trade union representatives can also accompany their members to meetings which may result from a complaint under the procedure

## **Part 2**

### **Procedure for dealing with bullying and harassment**

This procedure is the process by which complaints will be dealt with when one employee alleges that the conduct of another employee constitutes bullying/harassment and/or victimisation. This procedure applies to all employees of the Authority.

The primary aim when dealing with any complaint of harassment is to resolve the problems in such a way as to maintain, as far as possible, a reasonable working environment for all parties concerned and to do so swiftly, clearly and sensitively and with due respect for the rights of both the complainant and the alleged harasser.

The procedure does not preclude any individual from seeking advice and support at any time from any other source and does not remove or affect an individual's rights in law.

Management may also initiate a disciplinary investigation under the terms of this policy where they have reasonable grounds to suspect that that bullying and harassment has or is occurring under the Authority's Discipline policy. Where an issue was raised that could have disciplinary implications then the decision of whether to go to discipline will be decided by the Assistant Chief Fire Officer who is the Service's Disciplinary Officer.

### **Timescales**

It is vital to deal with informal and formal complaints promptly. The parties involved will be kept fully informed of the timescales as any matter progresses.

If an employee wishes to raise or report an incident, either informally or formally, it is advisable to do so as soon as possible after it has happened, because memories of an incident may fade. Should a complaint result in action at an Employment Tribunal there are time limits for the lodging of a complaint. This will allow MF&RS to resolve the complaint before any legal action is contemplated. In cases of serious harassment or bullying the Tribunal may waive the requirement to seek a resolution before action. A significant lapse of time may mean it is unreasonable for a complaint to be pursued.

A formal complaint of harassment or bullying must be made in writing to the person's line manager, or their manager's line manager, the Time and Resource Management Team manager or a Principal Officer, as appropriate (see section on Formal Resolution below) within 3 months of the incident. Thereafter, if the matter is not satisfactorily resolved, a complaint can be made to an Employment Tribunal within 6 calendar months less 1 day of the alleged incident.

## **Confidentiality**

As a general principle confidentiality should be agreed and maintained. However, where a manager is in possession of information that he or she believes carries an unacceptable risk to the complainant, or to another person, or to MF&RS, action will need to be taken, and absolute confidentiality cannot be maintained. There is a need to balance individual confidentiality with the nature of the risk. However, information will only be given to those who strictly need to know.

If the complainant wishes to remain anonymous it may not be possible to take any action, although MF&RS will seek to support all individuals in the resolution of genuine complaints and concerns. In such circumstances it may be possible to address such complaints through indirect methods which do not necessarily focus on the individuals involved e.g. training initiatives, awareness-raising, publicising the Bullying and Harassment Policy.

## **Group complaints**

If several people are experiencing alleged bullying or harassment from the same source, and complain as a group, individual statements should be made. If a complaint is made against several people individual responses to complaints will be needed. Outcomes of complaints will be advised individually and not to the group.

## **What to do if you consider you are being bullied or harassed**

You should identify what you want to happen in order to resolve the matter. This will help the manager dealing with your complaint to decide how best to deal with it and will help you to be satisfied when it is concluded.

Possible resolutions of a complaint could include:

- Misunderstandings clarified and resolved.
- Commitment from the person complained against that the behaviour will stop, or that an action will not be repeated.
- Informal Resolution (e.g. through mediation).
- Disciplinary action which could result in an oral, written or final written warning; dismissal;
- Complaint dismissed.
- Rehabilitation of the person complained about in his or her own role (e.g. provision of awareness-raising, counselling, mentoring, staff development, monitoring for a fixed period etc.).
- Where it is considered inappropriate or impracticable for the parties to work in proximity to each other, the normal practice will be to try to relocate the person who was complained about. Only when the complainant genuinely wishes to move will this be considered. Even where there has been no case to answer it may be that one or both parties may need to be relocated if the working relationship is judged to be damaged beyond repair. Each case will be considered on its own circumstances

In addition to potential disciplinary action, complaints that have been investigated and found to have been of malicious intent may lead to the complainant being relocated to another place of work.

All parties will be advised of the outcome, which will be confidential to the parties involved as far as possible.

The Bullying and Harassment Policy provides for three forms of resolution:

1. Informal resolution by the complainant;
2. Resolution through the Individual Grievance Procedure (either informally or formally);
3. Resolution through the Discipline Procedure (either informally or formally).

The principles of natural justice will apply to any investigation. All those involved in the process will have the right to explain or defend their actions. There will be the right to be represented and both parties shall have a certain right of appeal.

### **1. Informal resolution by you**

If you feel that you are being subjected to bullying or harassment, depending on the level of seriousness, you may wish to deal with the issue on an informal basis. You may find it helpful to discuss the matter with a colleague, your trade union representative, or a member of the Diversity Team before deciding what action is appropriate.

Following consultation you may decide to take no further action. However, you should be aware that a colleague or manager in possession of information that they believe is of a serious nature may consider that they need to deal with the matter whether or not you wish to progress it further.

If you feel able, you should talk to the person who you believe is bullying or harassing you; tell them about the behaviour that is causing you distress, and ask for it to stop. This should be done as soon as possible. In some cases, the person may be unaware that his/ her behaviour is inappropriate or objectionable, or it may be that his/her words or actions have been misinterpreted. In such cases, the misunderstanding needs to be cleared up speedily. Even where the behaviour was intentional, a swift and clear indication that it is objectionable may prove sufficient to stop it.

You may want to ask a trade union representative or colleague to go with you to speak to the person.

You may find it helpful to make a note of any incidents, so that you are clear about what happened, when, where, and whether anyone else was there.

## **2. Resolution through the Grievance Procedure**

### **Informal**

Should you not wish or feel able to resolve a complaint informally in the manner set out above then you may approach your manager to resolve the issue informally under the informal stage of the Authority's Grievance Procedure.

Your Line Manager will consider the matter, and reach a decision on any appropriate action. He or she may be able to resolve the matter to your satisfaction. In any event they will notify you of their decision and reasons.

The Line Manager may facilitate a meeting or arrange mediation to resolve the issue if both parties are agreeable.

At any meetings or interview, the manager should advise the complainant that he/she may be duty bound to act formally or inform a more senior manager if the information which is provided is of such a nature or potentially so serious that they consider an informal route is not appropriate.

If a resolution can be found and where appropriate the manager will write to the parties setting out the agreement and ask them to sign this as confirmation. Alternatively, the manager may write a note for case and provide copies for all parties.

This will be forwarded to the Diversity Manager to be held on a confidential file. The information will be used for the purposes of statistical monitoring under our Equality Schemes and will be held under the requirements of MF&RS's Data Protection Policy.

If you are not satisfied with the way in which the grievance has been dealt with or the outcome under the informal stage of the Grievance Procedure, then you can proceed to the formal stage of the Grievance Procedure by setting out your grievance in writing to the Line Manager (see below).

MF&RS is keen to ensure that problems are resolved informally where it is appropriate to do so. However, when seeking an informal resolution by your manager or resolution under the grievance procedure, employees must be aware that the manager may be duty bound to ensure that the issue is resolved in a way that fulfils MF&RS's legal responsibilities for duty of care. Therefore, it may not always be possible for a manager to resolve issues informally in accordance with your wishes if he/she considers that the issues are potentially serious and require a formal investigation under the Disciplinary Procedure. Similarly, a manager cannot guarantee absolute confidentiality if the issue needs to be referred for formal investigation.

## **Formal Resolution**

If it has not been possible to resolve the matter informally, the complaint may be raised formally. A formal complaint must be made **in writing** to your line manager. If your line manager is the subject of your complaint, you should write to his or her line manager. If the subject of the complaint is a senior manager in MF&RS the grievance should be referred to the Time and Resource Management Team manager or a Principal Officer.

The complaint should be signed and dated and contain the following details:

- who the complaint is being made against;
- when the incident(s) happened (date and time);
- the nature of the incident and specific details;
- where the incident happened;
- the names of any witnesses to the incident;
- any action which has already been taken;
- what you seek by way of resolution.

A trade union representative can be contacted for advice if required.

If the manager receiving the complaint has been unable to resolve it informally a more senior manager should deal with the formal complaint (normally the manager's line manager).

The manager appointed to investigate the grievance must decide if there is the potential for a disciplinary offence to have taken place and whether the matter needs to be dealt with under the Authority's Disciplinary. The decision will also take into account:

- the views of the complainant;
- the evidence presented
- the nature and severity of the bullying and harassment allegation;

However, the complainant should be aware that the manager may decide that the matter is of such a nature or potentially so serious that the grievance procedure is not the correct process and movement into the disciplinary process may be more appropriate. Managers may take formal action or inform a more senior manager of the matter, or they may initiate a disciplinary investigation under the terms of this policy where they have reasonable grounds to suspect that that bullying and harassment has or is occurring under the Authority's Discipline policy.

If it is appropriate for an issue to be investigated under the grievance procedure (i.e. is not a potential discipline issue), this will be carried out in accordance with the terms of that procedure and a decision made on whether the grievance is upheld or not.

It is also important to be aware that although a formal grievance may be raised by a complainant, an informal resolution may still be an appropriate outcome when all the issues are investigated.

The employee has the right of appeal against this decision in accordance with the grievance procedure.

### **3. Resolution under the Disciplinary Procedure**

In some cases, due to the serious nature of the allegations or complaint, or on the basis of initial evidence presented or investigated during at the grievance process, MF&RS may investigate the issue under the agreed Disciplinary Procedure.

Where an investigation under the agreed Disciplinary Procedure is deemed the most appropriate course of action an Investigating Officer will be appointed in accordance with that policy.

In accordance with the Disciplinary Procedure, following investigation, an informal resolution may still be an appropriate resolution or there may be no case to answer.

The outcome of the Disciplinary Procedure will help determine whether the individual's grievance is upheld or not.

#### **Working arrangements of parties involved in bullying and harassment complaint**

- **Suspension**

In cases where the information provided by the complainant or information initially established by managers indicates that serious bullying, harassment or inappropriate behaviour may have occurred it may be necessary to suspend the alleged perpetrator(s).

The decision to suspend is not in any way an inference of guilt on behalf of the alleged perpetrator(s) but a means to facilitate a fair and swift investigation. This is in the interests of all concerned. The suspension must be justifiable based on the potential seriousness nature of the offence and/or the risk to the Authority in exercising its duty of care to all employees.

Employees will be suspended on full pay in accordance with the agreed Disciplinary Procedure.

- **Transfer to another workplace**

It may be necessary during a formal investigation for the alleged perpetrator or other parties involved in the allegation to be temporarily transferred to another workplace.

As with suspension this is not in any way an inference of guilt on behalf of the alleged perpetrator(s) but a means to facilitate a fair and swift investigation. This is in the interests of all concerned.

The decision to transfer an employee involved in a complaint will be made by the manager of Time and Resource Management Team, an Area Manager or equivalent or higher rank/role. A temporary transfer to another workplace might also be implemented to allow an employee to return to work from suspension whilst an investigation is ongoing.

Care should be taken not to victimise the complainant by moving them from their place of work as a consequence of them raising a complaint. Only when the complainant genuinely wishes to move should this be considered.

### **Where a complaint is made against you**

If you have a complaint made against you, you will be given a copy of the Bullying and Harassment Policy and advised of the complaint, who has made it and details of the complaint.

You will have the right to be accompanied by a friend, colleague or trade union representation, the right to appeal against any decision, and the right to an explanation for any decision.

If it is judged to be a potentially disciplinary issue, you will be given the full opportunity to state your case and to respond to the allegations. This will be through a formal interview with an investigating officer.

If a malicious complaint has been made, this will be addressed under the appropriate grievance or disciplinary procedures.

Should you require support and/or counselling you should contact MF&RS's Welfare Officer/Occupational Health Team and/or your TU representative.

### **Witnesses**

If you witness behaviour which you think is inappropriate, do not ignore it. The inaction of a witness could be construed as silent agreement or support for the perpetrator(s).

It is important to remember that it is the individual who has been subjected to inappropriate behaviour that is most able to decide if they have been the victim of harassment or bullying. Whilst a situation may appear to an onlooker to be in breach of policy the views of the individual should normally be sought prior to any action being taken by a third party.

You may witness inappropriate behaviour where the individual who has been subjected to the action feels unable to ask the perpetrator to stop. In these circumstances you should remember that everybody has a responsibility to try to prevent behaviour that is likely to result in upset or distress. You should inform those involved that the behaviour is inappropriate and why and ask that the behaviour stops. You may personally feel upset or offended at what you have witnessed, this also should be explained to those involved.

Witnesses often play a key role in being able to assist an informal or formal investigation to establish what has occurred in relation to the issues and allegations raised.

MF&RS acknowledges that often witnesses would not choose to get involved in such issues which can place them in a difficult position and acknowledges that witnesses may have strong working and social relationships with one or more of the parties involved in the bullying and harassment issues. However, all personnel have a responsibility to MF&RS as an employer to cooperate with a formal or formal investigation in order to ensure that any inappropriate or unacceptable behaviour is addressed.

### **Appeals**

The Grievance Procedure, and the Disciplinary Procedure both contain avenues of appeal, and you are referred to these procedures for further information

### **Victimisation**

Victimisation or retaliation as a result of action being taken under this procedure is unacceptable and may lead to disciplinary action. Victimisation may also be unlawful.

### **Records**

All records relating to a complaint of bullying and/or harassment (whether substantiated or not) will be kept for 6 years by the Diversity Unit. This reflects the time limit for bringing claims under the Protection from Harassment Act 1997.

Where formal disciplinary action is taken, records will be held by the relevant sections in accordance with the timescales in the disciplinary procedures

Records of complaints will be monitored and published (on an anonymous basis) under MF&RS's Equality Monitoring Policy.