



Fair Treatment at Work Policy

19 September 2016

Fair Treatment at Work Policy

Contents

1.1	POLICY STATEMENT	3
2.1	INTRODUCTION	3
2.2	SCOPE	3
2.3	DEFINITION.....	4
2.4	ROLES AND RESPONSIBILITIES	5
2.5	PROCEDURE	7
2.6	SUPPORT	11
3.1	IMPLEMENTATION	12
	APPENDIX 1 - SUPPORT CONTACTS	13
	APPENDIX 2 - PROCESS FLOWCHART	14

1.1 POLICY STATEMENT

CultureNL Ltd is committed to creating a safe working environment free from harassment and bullying, where everyone is treated with dignity and respect, and where complaints of harassment are dealt with quickly, positively and confidentially even where the harassment is not directed at the complainant.

All employees should be treated equally irrespective of their sex, marriage and civil partnership, age, race, ethnic origin, sexual orientation, disability, religion or belief, gender reassignment and pregnancy and maternity. CultureNL Ltd will not tolerate any form of bullying, harassment, or victimisation of a person who has raised an allegation, and where necessary it will be treated as a disciplinary matter.

CultureNL Ltd also recognises that its employees may be subject to harassment from third parties and will take all reasonable steps to protect employees.

2.1 INTRODUCTION

The aim of this policy is to highlight the options available to employees if they are subject to bullying, harassment and/ or victimisation and to ensure that those responsible for managing and supporting employees are aware of their responsibilities.

CultureNL Ltd recognises that any such unacceptable conduct can create an intimidating, hostile or humiliating work environment which can impact on the health, confidence, morale and job performance of employees.

Harassment reduces efficiency and may ultimately have an impact on the way in which services are delivered to customers. For these reasons it is important that CultureNL Ltd, as an employer, and individual employees strive to achieve a working environment which is harassment free. All allegations of a breach of the Fair Treatment at Work Policy will therefore be treated seriously. This policy is written to take account of all forms of harassment based on discrimination, as outlined in the CultureNL Ltd's Equality and Diversity in Employment policy and relevant legislation.

2.2 SCOPE

This policy applies to all employees of CultureNL Ltd.

2.3 DEFINITION

This policy deals with bullying, harassment and victimisation in the workplace which may be defined as follows:

Bullying (as defined by ACAS) is:

‘Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.’

Harassment (as defined by the Equality Act 2010) is:

“Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

For the purposes of this Policy, harassment will also include conduct of a similar nature which is not related to a protected characteristic.

Victimisation, for the purposes of this policy, is 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 as a witness in this regard.

Whether intentional or not, such conduct is unacceptable and all complaints will be treated seriously. Examples of unacceptable behaviour are:

- Spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment, marriage and civil partnership, pregnancy and maternity);
- Copying memos that are critical about someone to others who do not need to know;
- Ridiculing or demeaning someone i.e. picking on them or setting them up to fail;
- Exclusion or victimisation;
- Unfair treatment;
- Overbearing supervision or other misuse of power or position;
- Unwelcome sexual advances – touching, standing too close, display of offensive materials; including signs, pin ups and calendars;
- Making threats or comments about job security without foundation;
- Deliberately undermining a competent worker by overloading and constant criticism;
- Preventing individuals progressing by intentionally blocking promotion or training opportunities;
- Jokes, banter, emails or deliberate abuse directed at a person or group.

Whilst the list of above examples is not exhaustive it is representative of many types of behaviour that others may object to and find offensive which could create an intimidating working environment.

When determining whether a matter may constitute a breach of this policy, an important factor to be considered is the perception held by the individual who is claiming to have been harassed, bullied or victimised **and** whether it was reasonable for him/ her to hold that perception.

It is also important to note that effective management of employees is not bullying or harassment. Managers are expected to lead and manage employees, which involves setting and making sure employees understand performance standards. Legitimate, constructive and fair criticism of an employee's work performance or behaviour either informally or formally is not bullying.

2.4 ROLES AND RESPONSIBILITIES

Failure to deal with allegations of harassment, bullying or victimisation at work or by a third party such as a client of CultureNL Ltd may expose both CultureNL Ltd and employees to a number of legal consequences. Complainants can cite both the employer and individual employees as respondents at Employment Tribunal and, if the case is upheld, both may be held liable.

Everyone must therefore take responsibility to ensure that his or her area of work is free from harassment.

2.4.1 Employees

Employees have a clear role in helping create a climate at work in which bullying and harassment are unacceptable. All employees therefore have specific responsibilities as follows:

- Treat all colleagues and service users with respect and dignity and contribute positively to effective working relationships;
- Not discriminate against other employees;
- Not intimidate, threaten or bully other employees or otherwise behave in a manner inconsistent with fair treatment of employees at work;
- Not victimise any individuals who have raised concerns or acted as a witness in relation to any breach of this policy;
- Bring to the attention of management any breach of this policy witnessed, providing evidence where possible; and
- Support any proceedings to consider allegations under this policy and not misuse the provisions of this policy by making malicious or groundless complaints.

2.4.2 Managers

Managers must take responsibility for addressing performance issues such as capability, time keeping and attendance.

CultureNL Ltd requires managers to behave in a professional manner at all times and to be aware of how their own behaviour can adversely impact on staff and potentially be perceived as harassment or bullying depending on the circumstance, including:

- Deliberately imposing grossly excessive or unachievable workloads or impossible deadlines in order to make life difficult for a particular employee;
- Repeated unfair criticism or destructive and negative criticism that focuses on blame rather than future improvement;
- Criticising individuals in front of colleagues;
- Excessive or overbearing monitoring of a particular employee's work without good reason.
- Ordering a particular employee to work below his or her level of ability or to perform mundane demeaning tasks, with no proper reason;
- Removing an employee's responsibility without consultation and for no proper reason.
- Threatening an employee with dismissal or other disciplinary action (outwith of any disciplinary process).

Managers are responsible for ensuring that where an employee reports any act of harassment by a third party such as a client of the CultureNL Ltd, that these complaints are dealt with timeously and that reasonably practicable steps are taken to prevent such third party harassment. Complaints in relation to unacceptable conduct by third parties should be dealt with under the CultureNL Ltd's Unacceptable Actions and Behaviours policy.

Managers have a particular duty to set a proper example by treating everyone fairly and with respect. They will be committed to the elimination of harassment, and be vigilant in preventing acts of bullying, harassment and victimisation where possible.

They will pass this responsibility down through all levels of management and to all employees.

Managers are responsible for ensuring that this policy is drawn to the attention of employees. They will ensure appropriate guidance and support is given in the implementation and application of the policy.

2.5 PROCEDURE

2.5.1 STAGE 1 - INFORMAL

The early resolution of concerns is a key aim of this policy, particularly to prevent possible issues escalating. It is also essential to stop any inappropriate behaviour occurring or being repeated to minimise anxiety for the employees concerned. As a result, all employees have a responsibility to work towards an early resolution of their concerns. Where possible, employees who are subjected to a breach of their dignity at work should make every reasonable effort to resolve this informally through one of the mechanisms listed below.

Informal mechanisms available are:

2.5.2. Speaking to the alleged harasser – Acts of bullying and harassing behaviour are not always intentional with individuals not being aware of the impact of their behaviour on others. By making the individual aware of the impact of their behaviour, this can often resolve the matter. The complainant should speak directly to the alleged harasser explaining that they feel uncomfortable in the way that they act towards them and asking them to stop behaving in that manner. If the employee feels unable to do this, they may ask their line manager, trade union representative or a colleague to do this on their behalf. If the harasser is their line manager, they can ask a more senior manager to talk to them.

2.5.3 Counselling – Additionally or alternatively, employees may wish to seek support from a trained Counsellor from the Time for Talking Counselling Service. CultureNL Ltd provides an independent counselling service for all employees. The service is confidential and may help both the complainant and the alleged harasser to:

- Identify problems directly resulting from harassment;
- Think about what has happened; and
- Reach a decision on positive steps that they can take.

Counselling sessions allow employees to air their views and feelings with a qualified counsellor, who will help them to get to the root of the problem (for contact details, refer to Appendix 1).

Employees who have been accused of unacceptable conduct under this Policy may also contact the Counselling Support or other forms of support listed in Appendix 1 who will be able to explain the above.

The matter should only be progressed to the formal stage of this Policy if:

- the informal approach does not bring about the desired result i.e. the unacceptable conduct is continuing; or

- the employee feels that an informal approach is not appropriate due to, for example, the seniority of the other individual concerned; or
- the employee feels that the matter is so serious that an informal approach is not possible (in determining this, it is important that employees retain a sense of proportion in identifying behaviour which is perceived as causing offence).

2.5.4 STAGE 2 - FORMAL

Making a formal complaint

Circumstances may arise where informal approaches do not resolve the employee's concerns i.e. the breach of Fair Treatment at Work does not stop or the matter is so serious that the employee does not consider that informal resolution is practicable. If the complainant feels it is necessary to progress the matter more formally, the complaint must be made in **writing** either to their line manager or the Human Resources team, confirming whether informal approaches have been unsuccessful or giving an explanation of why it was not practicable.

CultureNL Ltd has a duty of care towards all of its employees; therefore depending on the nature of the allegations, and to ensure that the integrity of the process is not compromised, it may be difficult for both parties to continue to work in the same environment. In specific circumstances, it may be appropriate to consider temporary redeployment or non-punitive suspension of the alleged harasser. Such suspension is not an indicator of guilt, but is a measure applied to protect both parties and to allow the fair treatment at work process to proceed; however this must be done in consultation with Human Resources.

2.5.5 Preliminary Meeting

On receipt of the complaint, if the recipient considers that an informal approach may assist in resolving the situation, this will be discussed with the complainant. Otherwise, the individual line manager (where they have not been involved in the complaint to date) or a more senior nominated manager will arrange to meet with the complainant with a representative from Human Resources present. The complainant has the right to be accompanied at this meeting by a work colleague or trade union representative.

At this meeting, the complainant will be invited to explain the basis of their complaint which will be sensitively explored to determine:

- Whether the complaint is appropriately dealt with under CultureNL Ltd's Fair Treatment at Work Policy – when determining whether a matter may be considered a breach of Fair Treatment at Work, an important factor to be considered is the perception held by the

individual who is claiming to have been harassed, bullied or victimised **and** whether it was reasonable for him/ her to hold that perception;

- Whether all appropriate informal mechanisms to resolve the problem have been explored and the issue remains unresolved i.e. the inappropriate behaviour is continuing;
- Whether a management intervention may resolve the matter e.g. the manager may attempt to find a joint resolution between the parties through facilitated discussion led by themselves or may take the view that the matter may be resolved through training, clarity of roles etc;
- Whether the matter requires to be fully investigated as a potential disciplinary matter see Section 2.7.3 below.

This list is not exhaustive.

The manager should write out within 5 working days of this meeting to confirm their decision in relation to the course of action to be adopted. If the complainant is not satisfied with this decision or feels dissatisfied with the conduct of any subsequent investigation or its outcome, they have the right of appeal against this decision within 10 working days of receipt of the outcome letter. Any appeal will be considered in line with the appeals stage of CultureNL Ltd's Grievance Policy.

2.5.6 Investigation Process

Where the decision is taken that an investigation is appropriate due to a potential breach of the Fair Treatment at Work Policy, an Investigating Officer will be assigned to explore the allegations and he/she will be supported by Human Resources. The investigation will be conducted in line with CultureNL Ltd's Discipline Policy.

The person the complaint has been made against will be advised of the allegation in writing and informed how the investigation will be taken forward.

The complainant will be advised, at the outset, that the allegations have been taken seriously. However, they should also be advised that, if allegations are found to be malicious or vexatious, disciplinary action may be taken against them.

A vexatious or malicious allegation includes one that:

- Is not made in good faith, e.g. is based on deliberate misrepresentations or untruths; or
- can be considered unreasonable, e.g. where an individual continues to raise the same issues that have been formally addressed previously.

2.5.7 Outcome

The Investigating Officer should submit a written report recommending the outcome to the nominated hearing manager, who will ultimately determine the final outcome of the investigation, which is one of the following:

- On the balance of probabilities there is a case to answer and therefore disciplinary action is appropriate regarding the alleged harasser in accordance with the Discipline Policy;
- No case to answer therefore no further action;
- Both parties partially responsible therefore recommend support through training;
- Counselling;
- Complainant raised a vexatious claim and therefore should be subject to disciplinary proceedings;
- Redeployment on the grounds of breakdown in the working relationship.

The outcome of any disciplinary proceedings is confidential and, as such, will not be disclosed to the complainant. The behaviour which caused the original concerns will be expected to stop and the complainant will be advised, in writing, in general terms whether or not their concerns were substantiated.

2.5.8 Right of Appeal

If, following the investigation, the complainant is unhappy with the decision of the nominated officer not to uphold a formal complaint, or uphold it only in part, he/she will have the opportunity to exercise their one right of appeal against the decision.

In such circumstances the employee must write to Chief Executive of CultureNL Ltd within 14 days of receiving the decision of the nominated senior officer, detailing the reasons why they are dissatisfied.

Employees are advised to seek advice on their appeal document from a work colleague or Trade Union Representative.

In general an appeal may be submitted where:

- The complainant has not received enough information about the findings of the investigation;
- The complainant disagrees with the findings of the investigation;
- The complainant feels that procedural errors occurred in the investigation.

The appeal process will not re-investigate the original complaint. The appeal will consider whether the outcome of the original investigation was carried out in a comprehensive and thorough manner, and the conclusions reached were logical and based on all available evidence. The appeal will consider:

- Were the findings appropriate and based on evidence?
- Was any evidence missed?
- Was the information supplied to the employee sufficient to allow them to understand the outcome and the reasons why?

When an appeal letter has been received, the Chief Executive will inform all parties involved in the investigation that an appeal has been received and will nominate a senior officer to conduct an independent, paper based review of the findings, with a representative from Human Resources. The review will normally be undertaken within a further 21 days. .

The nominated senior officer will make recommendations following their review, and pass these back to the Chief Executive within a further 7 days. The Chief Executive will then confirm in writing to the complainant the outcome of the appeal within 7 days and will also confirm that there is no further right of appeal.

2.6 SUPPORT

CultureNL Ltd recognises the need to offer support to employees who feel they have suffered harassment, victimisation or bullying. Support Contacts are listed in Appendix 1.

3.1 IMPLEMENTATION

CultureNL Ltd expects that all employees will be aware of the fact that they are individually and collectively, responsible of their own behaviour.

Managers have a direct responsibility for ensuring the proper implementation of the Fair Treatment at Work policy. Managers are also responsible for raising the awareness of all employees of this policy.

Information and training will be provided to ensure that employees and particularly managers understand what harassment is, their responsibilities to take action to stop it and the procedures to be followed where such cases occur.

These measures will assist in ensuring that harassment does not occur in the first instance and all employees are afforded the right to Fair Treatment at Work.

APPENDIX 1 - SUPPORT CONTACTS

Trade Unions

Employees may choose to contact their Trade Union representative.

Time for Talking Counselling service

Address:

Time for Talking
Suite 3.7
Dalziel Building
7 Scott Street
Motherwell ML1 1PN

Tel: 0800 9703980 (Helpline)

Website: www.timefortalking.co.uk

APPENDIX 2 - PROCESS FLOWCHART

