

HARASSMENT, BULLYING AND DISCRIMINATION POLICY



Purpose

Three Dimensional Training (3DT) aims to create a working environment that respects the dignity and rights of all employees, learners and apprentices and where individuals have the opportunity to realise their full potential. The aim of 3DT's policy is to support this ethos and to strive to prevent harassment and bullying from occurring. 3DT have a zero tolerance policy to any form of harassment, bullying or discrimination.

Our Commitment

3DT will not tolerate any form of harassment or bullying and is committed to ensuring that employees, learners and Apprentices are able to work and learn confidently and without fear of harassment, bullying or victimisation. Therefore, if a complaint is made to 3DT, it will be investigated promptly and appropriate action will be taken in line with 3DT's policy. Where an employee is found to have committed a serious act of bullying or harassment this will be dealt with under the disciplinary procedure and may be viewed as gross misconduct, which could result in summary dismissal. Where a student is found to have harassed or bullied an employee or another learner / Apprentice, 3DT will deal with this immediately and the disciplinary procedure could result in expulsion. Where an employee reports an incident of harassment or bullying by a third party, staff, Associates or learners, 3DT will take immediate and appropriate action.

In order to meet our commitments, 3DT undertakes to publicise its policy fully and to ensure that employees and learners understand their rights and responsibilities. All employees and learners will be made aware how to access the policy, either via 3DT website or in hard copy. In addition, 3DT will make contractors, consultants and secondees aware of its policy.

Legislation

Individuals are protected from harassment and bullying under the following legislation:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Disability Discrimination Act 2005
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2006
- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999
- Employment Rights Act 1996
- Criminal Justice Public Order Act 1994
- Protection From Harassment Act 1997
- Equality Act 2010

Under these pieces of legislation, an employee may be held individually liable for an act of harassment, as well as 3DT being held vicariously liable for that employee's act.

Background

Where harassment and bullying occur, they cause serious repercussions for the employer and employees. They can affect people's health, work performance and the success of the Corporation. Bullying, as a cause of stress at work, should be regarded as a workplace health and safety hazard.

Definition of Harassment and Bullying

Harassment

Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

- violating a person's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual, or
- continuation of small acts of detrimental treatment.

Moreover, harassment is unlawful when it is on the grounds of sex, gender reassignment, race, ethnic or national origin, sexual orientation, age, religion/belief, or for a reason relating to a person's disability. It is also unlawful to subject an individual to sexual harassment, or to harassment on the grounds of that individual's membership or non-membership of a trade union, or, in Northern Ireland, on the grounds of an individual's political belief.

3DT will not tolerate harassment or bullying in any form.

It is the individual's perception of whether the conduct in question was unacceptable that is important in determining whether harassment occurred. Where the conduct in question is found to have been unintentional, it will be viewed as having the effect of harassment if this could be regarded as a reasonable conclusion when taking into account all the circumstances, including the complainant's perception.

Bullying

Bullying, although not defined legally, is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Examples of forms of harassment and bullying

- Harassment and bullying can take many forms. Examples of unacceptable behaviour include:
- Offensive songs, remarks, slander, jokes, letters, emails or gestures

- Display of offensive posters, publications, flags, bunting, emblems and graffiti
- Unwanted physical contact or advances
- Offensive remarks about a person's dress or appearance,
- Offensive remarks about a person's race, gender, marital status, disability, religion or belief, sexual orientation, gender identity or age
- Shouting, abusive, offensive or intimidating language
- Spreading malicious rumours, allegations or gossip
- Excluding, marginalising or ignoring someone, and exclusion from social activities
- Intrusion by pestering, spying or stalking
- Personal insults
- Coercion for sexual favours
- Pressure to participate in political/religious groups
- Copying memos that are critical about someone to others who do not need to know
- Deliberately undermining a competent worker by overloading, taking credit for his/her work, setting impossible deadlines or constant criticism
- Removing areas of responsibility and imposing menial tasks
- Cyber-bullying: that is, the sending or posting of harmful, cruel or offensive text or images by email, internet, social networking websites or other digital communication devices.

The above list is intended to give a clear impression of the types of behaviour that 3DT considers to be unacceptable; however, it only contains examples and is not exhaustive.

3DT will not tolerate acts of harassment or bullying during work, or in our classrooms, including at other people's / employers workplaces, but also at work-related functions, such as conferences, or at social gatherings, such as after-work drinks.

It is accepted that vigorous academic debate and occasional raised voice or argument, of itself may not necessarily constitute harassment or bullying.

Bullying must be distinguished from the right of, and obligation placed on, managers to exercise proper supervision of employees in the course of their duties, which may include legitimate, constructive and fair criticism of an employee's performance or behaviour at work. Managers will exercise this supervision in a fair, constructive, consistent and reasonable manner that does not compromise the employee's dignity. Similarly, reasonable (but perhaps unpopular) requests by a manager of his/her employees in the normal course of their duties will not be viewed as acts of harassment or bullying.

Responsibilities

Directors are responsible for ensuring that they are familiar with the harassment and bullying policy; Training on 3DT's policy features as part of 3DT's operational policies stemming from 3DT's strategy

They are aware of the legal responsibilities as an employer in relation to harassment and bullying;

They receive and respond to any monitoring information collated as part of the reviews of the policy; and 3DT meets its public sector equality duties.

Managers are responsible for taking the lead in creating a positive, open culture that challenges inappropriate behaviour on the part of managers, employees or learners; They are familiar with the harassment and bullying policy, and that it is followed correctly; They are aware of the Organisations's legal responsibilities as an employer in relation to harassment and bullying;

Monitoring in relation to the policy is carried out and the policy is reviewed accordingly; and

Appropriate training and development is provided to support managers', employees' and learners' understanding of the harassment and bullying policy.

Employees are responsible for ensuring that they familiarise themselves with the harassment and bullying policy; Their behaviour supports a positive work environment free from harassment and bullying; and they participate in an investigation when asked by an investigating officer, where the employee has observed or has evidence that another employee is being harassed or bullied.

Learners are responsible for ensuring their behaviour supports a positive learning environment, free from harassment and bullying; and they respect others and contribute to an environment that allows for sharing of views and experiences and a . To participate in an investigation when asked investigating officer, where the learner has observed or has evidence that another learner or a 3DT employee is being harassed or bullied / is harassing / bullying.

Training

In order to support 3DT's aim of preventing harassment and bullying, awareness training will be provided to all staff initially at Induction and as a part of on going awareness training.

All learners will be made aware of this policy at induction with the aim of preventing harassment, bullying and discrimination. It is planned in our curriculum to deepen learners awareness of bullying, harassment and discrimination and within the classroom mutual respect will be promoted.

Support Available

3DT recognises the sensitive nature of harassment and bullying. Employees who believe they are being harassed or bullied may wish to discuss their particular situation in confidence before deciding what action to take. Employees are encouraged to discuss workplace problems openly and informally with their line manager. However, 3DT recognises that this may not always be appropriate and provides the following support. Employees can discuss the situation with any of the 3DT Directors and or any other manager within the organisation

Learners are encouraged to discuss openly and formally with their tutor, however, 3DT recognises that this may not always be appropriate and provides the following support, learners can discuss the situation with any of the Safeguarding officers or the Team Manager Gemma Cloney.

Confidentiality will be maintained as far as possible. However, if an employee / learner decides not to take any action to deal with the problem and the circumstances described are very serious, 3DT reserves the right to investigate the situation in accordance with its duty of care to ensure the safety of all employees and learners who may be affected by the alleged behaviour. 3DT are committed to investigate and take action to ensure any situation if bullying, harassment or discrimination is not repeated.

GRIEVANCE PROCEDURE

If an employee / learner wishes to make a complaint of harassment or bullying the matter should be raised as a grievance in accordance with 3DT's grievance procedure below. The procedure should aim to investigate such grievances to establish whether or not harassment or bullying has occurred and make recommendations for action where necessary. Such action could include disciplinary action, in which case 3DT will refer to the relevant stage of 3DT's Employee disciplinary procedure.

Confidentiality

Grievances about bullying and harassment should be dealt with in a confidential manner to respect the privacy of all parties and to ensure the matter is dealt with sensitively and effectively. Any breach of confidentiality may result in disciplinary action against those concerned.

Where a formal grievance is raised under the grievance procedure, it should be made clear to all involved that any documentary evidence or subsequent statement taken during the investigation may form part of evidence in any disciplinary proceedings. In the event that disciplinary procedures are invoked, the investigation report, together with any witness statements, should be made available to the alleged harasser prior to any disciplinary hearing.

Keeping records of incidents

It is helpful for anyone who believes they have been subjected to harassment or bullying to make a note of the details of the incidents as soon afterwards as possible, as memories can fade. For example: dates; times; places; the name of the person involved; what actually happened; how the person felt at the time; the names of any witnesses; action taken at the time and whether the incident was reported to management.

Stage 1 - Informal Resolution

In most cases it is preferable to deal with grievances informally. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. Solutions can be reached quickly with minimum risks of embarrassment, suffering, disruption to work / learning and working relationships.

In many cases it will be sufficient for the complainant (who may be the tutor observing in the classroom) to raise the problem with the alleged harasser as soon after the incident as possible, stating clearly that the behaviour is unacceptable. A note should be made of the action taken.

If the complainant does not feel able to do this alone, he/she could seek support from a colleague or manager. Where both parties are in agreement, 3DT may consider addressing the unacceptable behaviour through a recognised mediator.

If the matter is very serious, the employee / learner feels the matter has not been resolved at this stage, or in other circumstances where the employee / learner does not wish to raise the matter informally, the employee / learner may proceed to the formal stage of 3DT's grievance procedure (Stage 2).

Stage 2 – Formal Grievance

The employee / learner must outline his/her grievance in writing, giving full details of the incidents and any action taken to date.

The investigation of the formal grievance should be conducted in a sensitive manner and without undue delay. It is recommended that no more than 28 days should elapse from 3DT's receipt of a written grievance to the resolution of the formal procedure; unless a different timescale is agreed by both parties.

The following steps may be taken to investigate a formal grievance of alleged harassment or bullying:

The grievance should be submitted in writing to the employee's line manager or their tutor. If the grievance is about the employee's line manager, it should be given to a Director. If the learner's grievance is about their tutor it should be reported to Gemma Cloney, Team Manager.

3DT should appoint an appropriate Director or Manager to investigate the grievance (the Investigating Officer). The investigation should be carried out in an impartial and objective manner. The Investigating Officer should not be involved with the case in any way.

In cases which appear to involve serious misconduct, and there is reason to separate the parties, a short period of suspension of the alleged harasser may need to be considered while the investigation is carried out. Suspension should be with pay. Alternatively, 3DT may consider temporarily relocating either party during the investigation; 3DT should only relocate the complainant with his/her agreement.

The Investigating Officer must, as soon as possible, invite the complainant to a grievance hearing to investigate his/her complaint. The complainant has the right to be accompanied at this meeting by a work colleague / peer learner or for employees a trade union representative. At the meeting the complainant will have the opportunity to fully explain what has happened and the Investigating Officer will have the opportunity to ask any questions and discuss any points that require further discussion.

The Investigating Officer should also invite the alleged harasser to an investigation meeting where he/she will have the opportunity to respond to the grievance and the allegations against him/her. Prior to this meeting the alleged harasser should be provided with a copy of the written grievance. The alleged harasser should be given the opportunity to be accompanied at this meeting by a work colleague. Reasonable notice of this meeting should be given.

The Investigating Officer should meet with any witnesses cited by either the complainant or the alleged harasser. Notes of these meetings should be taken and the Investigating Officer may take statements from the individuals.

Where there is conflicting evidence the Investigating Officer may wish to meet with any of the parties again to clarify and complete the investigation.

The Investigating Officer should assess the evidence and write a report summarising the findings of the investigation. The Investigating Officer's decision in relation to the grievance should be communicated in writing to the complainant and the alleged harasser without undue delay, giving an explanation of the outcome of the grievance and the reasons.

The report will state whether harassment or bullying occurred and will outline any recommendations for action. For example:

Harassment or bullying did not occur - no or limited action required. In such circumstances the Investigating Officer may, if necessary, recommend steps to improve the working relationship between the parties following the complaint.

Harassment or bullying did occur - recommendations for action short of disciplinary action. It may be concluded in light of the facts that disciplinary action is unnecessary. In such circumstances the Investigating Officer may recommend other appropriate action to address the behaviour, such as:

- training/coaching/mentoring;
- re-arrangement of working conditions;
- redeployment of one or both parties on a temporary or permanent basis on terms and conditions that are no less favourable than existing terms and conditions of employment; and/or
- monitoring of the situation.

Harassment or bullying did occur - disciplinary action required. In such circumstances the alleged harasser will be asked to attend a disciplinary hearing (refer to 3DT disciplinary procedure).

Stage 3 - Appeal

If dissatisfied with the decision in relation to his/her grievance at Stage 2, the complainant has the right to appeal against the decision by proceeding to the next stage of 3DT's grievance procedure (Stage 3).

3DT should appoint an appropriate manager / Director to hear the appeal (the Appeal Officer). This will usually be a Director to ensure that, where possible, the appeal is heard by a more senior manager than the one involved in hearing the Stage 2 grievance.

The decision following the appeal will be final.

Records of complaints

3DT will keep a confidential record of complaints and investigations, which will include the names of the people involved, dates, the nature of the incident(s), the action taken, and any follow-up and monitoring information. 3DT will keep such records for 6 years from the end of employment. Where a complaint was unsubstantiated, this will be clearly stated in 3DT's record. All sensitive information will be treated confidentially and in compliance with the requirements of the Data Protection Act 1998.

Allegations against learners

Where the allegation is that a learner has harassed or bullied an employee / learner, the same grievance procedure applies as set out in this policy. If the allegation is upheld, 3DT should take appropriate action.

Malicious allegations and false statements

In the unlikely event that allegations of harassment and/or bullying are apparently made for malicious reasons, such cases will be investigated and where necessary, dealt with using 3DT disciplinary procedure.

3DT recognises that on rare occasions unfounded allegations may be made for a genuine reason, for example, a misunderstanding of the definition of bullying and/or harassment. In such cases, after investigation and discussion with the individual, no disciplinary action will follow.

Where a learner makes a deliberately false allegation of harassment and/or bullying for malicious reasons, this will be dealt with under the student disciplinary procedure.

Where a witness is found to have deliberately misled an investigation, such cases will be investigated and where necessary, dealt with using 3DT disciplinary procedure.

Complaints against the Directors

Where the complaint is against a Director or another senior post-holder, the same steps as set out above should be taken to investigate the matter.

3DT will appoint an appropriate Investigating Officer to investigate the complaint. This may be the an alternative Director, a Governor or an external investigator, depending on the circumstances.

If the complaint is upheld and disciplinary action may be required, the matter must be referred to the Directors, Governors and Disciplinary action must be upheld.

Victimisation

Employees / Learners are protected from victimisation as a result of bringing a complaint under the harassment and bullying policy. If an employee / learner feels that he/she has been victimised following a complaint of harassment or bullying, he/she should raise a grievance under 3DT's grievance procedure. Where it is found that victimisation has occurred, this will be treated as a disciplinary offence and may be serious enough to constitute gross misconduct.

Review and Monitoring

It will be the responsibility of the Director team to review and monitor the progress of the harassment and bullying policy on a regular basis, using information such as the number of harassment complaints raised, employee feedback, training feedback, comments made in return-to-work and exit interviews. The Directors will then recommend changes where necessary.

General

The harassment and bullying policy should not be read in isolation, but cross-referenced with all relevant 3DT policies.

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