

Item: 11

Education, Leisure and Housing Committee: 8 June 2022.

Harassment Policy.

Report by Corporate Director for Education, Leisure and Housing.

1. Purpose of Report

To consider a Policy on Harassment for use by the Housing Service.

2. Recommendations

The Committee is invited to note:

2.1.

The requirement to develop a specific policy on harassment for use by Housing Services, given the significant requirements in relation to equalities within delivery of the Council's housing services.

2.2.

That the policy on harassment relates closely to that on equalities and also the policy on anti-social behaviour more generally.

2.3.

That the policy on harassment is accompanied by detailed staff procedures to ensure that staff have a means of addressing harassment whenever it occurs.

It is recommended:

2.4.

That the Harassment Policy, attached as Appendix 1 to this report, be approved.

3. Background

3.1.

Committee was previously advised about increasing requirements around the wider area of equalities within housing policy. This includes increased levels of monitoring and additional information to be provided to the Scottish Housing Regulator.

3.2.

Accordingly, the wider area of equalities has been a strong focus for the review of an already extensive policy area within Housing Services.

3.3.

In order to appropriately ensure the policy structure around equalities is in line with current requirements across Housing Services, there was a need to develop a policy on harassment.

3.4.

As well as being closely intertwined with the equalities policy, which was last updated by Committee on 9 June 2021, a policy on harassment also requires to link closely with Housing Service's wider policy on all forms of anti-social behaviour. Both the Equality and Diversity Policy and the Anti-social Behaviour Policy are available [here](#).

3.5.

The anti-social behaviour policy explains the Council's response to different forms of anti-social behaviour; while the harassment policy and procedure relates specifically to discrimination and harassment issues. In practice, the remedies used to address discrimination and harassment will be drawn mainly from the anti-social behaviour policy.

3.6.

Harassment is a form of discrimination so the term "harassment" is used to denote harassment and unlawful discrimination. The harassment procedures explain how the Housing Service will address different forms of discrimination.

4. Harassment Policy

4.1.

Accordingly a detailed policy on harassment has been developed which includes 8 objectives as follows:

- Ensuring relevant legal and regulatory standards relating to harassment and/or discrimination in housing services are met.
- Taking account of good practice guidance when developing the harassment policy and procedure.
- Applying remedies drawn from other organisational strategies, policies and procedures to address harassment effectively.
- Providing clear information to persons experiencing harassment regarding their options, including referring them to other agencies, as appropriate.
- Monitoring all incidents of harassment relating to housing services through a range of performance indicators.
- Providing staff training to promote effective implementation of the harassment policy and procedure.
- Offering tenants and other customers advice and information about the Council's internal appeal system or complaint system.

- Reviewing the harassment policy every five years or sooner, as required, for example, because of legal changes or new guidance.

4.2.

The harassment policy outlines the policy position surrounding harassment.

4.3.

Detailed staff procedures have been developed to ensure staff have guidance to enable them to appropriately deal with cases of harassment when they arise.

4.4.

These are developed from the perspective of having structures in place around:

- Prevention.
- Early intervention.
- Enforcement.
- Rehabilitation (of persons causing harassment).

4.5.

The procedures include details around procedural parameters to ensure:

- Accuracy of information.
- Confidentiality and data protection.
- Fairness and impartiality.
- Liaison with other people.
- Support provision.

4.6.

The procedures include examples of harassment and what this may present in a housing context.

4.7.

The procedures provide staff with a range of remedies which can be used so that harassment can be dealt with productively, as well as including information relating to when to refer to specialist agencies.

4.8.

Harassment affecting staff members is also a potential issue which requires to have appropriate processes in place. HR policies cover this locally and accordingly the housing policy does not focus on staff matters.

4.9.

The Harassment Policy, attached as Appendix 1 to this report, is recommended for approval.

5. Equalities Impact

An Equality Impact Assessment has been undertaken and is attached as Appendix 2 to this report.

6. Corporate Governance

This report relates to the Council complying with governance and procedural issues and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

7. Financial Implications

There are no financial implications associated directly with the recommendations to this report.

8. Legal Aspects

8.1.

Two main Acts used to address harassment are:

- The Equality Act 2010.
- The Protection from Harassment Act 1997.

8.2.

The Equality Act 2010 makes harassment relating to a relevant protected characteristic unlawful. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

8.3.

The Protection from Harassment Act 1997 protects individuals from harassment in general. Harassment includes conduct that causes someone alarm and distress. Conduct includes speech and such conduct must occur on at least two occasions.

9. Contact Officers

James Wylie, Corporate Director for Education, Leisure and Housing, extension 2477, Email james.wylie@orkney.gov.uk.

Frances Troup, Head of Community Learning, Leisure and Housing, extension 2177, Email frances.troup@orkney.gov.uk.

10. Appendices

Appendix 1: Harassment Policy.

Appendix 2: Equality Impact Assessment.



Harassment Policy

April 2022

Version Control

Document Reference.	Rev.	Issue Date.	Reason for Issue.	Reviewer.	Sign.
HD POL 136.	Draft.	08/04/22.	New Policy.	Head of Community Learning, Leisure and Housing.	

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This document can be made available in various formats such as larger print, audio format and Braille. It can also be made available in other languages, as appropriate.

Section 1: Harassment Policy in Context

1.1. Rationale for our Harassment Policy and Procedure

We have developed this harassment policy to meet relevant legal provisions, as well as promoting good practice standards.

This policy and procedure is a sub-policy within our equality policy, but is also closely linked to our anti-social behaviour policy.

The anti-social behaviour policy, for example, explains how we address different forms of anti-social behaviour; while our harassment policy and procedure relates specifically to discrimination and harassment issues. In practice, the remedies used to address discrimination and harassment will be drawn mainly from the anti-social behaviour policy.

Finally, harassment is a form of discrimination so the term “harassment” is used to denote harassment and unlawful discrimination. The harassment procedures explain how we address different forms of discrimination.

This document has been produced by Housing Services and is intended to ensure that we:

“act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being related to equal opportunities” (Housing (Scotland) Act 2010, Section 39).

We also use this document so that:

“Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services”

(Scottish Social Housing Charter, 2017).

1.2. Summary

Our harassment policy is the framework of principles that we use to address different forms of harassment. This document is closely linked to other key Council policies.

Section 2: Key Harassment Policy Objectives

2.1. Policy Objectives

Our eight harassment objectives include:

- Meeting relevant legal and regulatory standards relating to harassment and/or discrimination in housing services;
- Taking account of good practice guidance when developing our harassment policy and procedure;
- Applying remedies drawn from other organisational strategies, policies and procedures to address harassment effectively;
- Providing clear information to persons experiencing harassment regarding their options, including referring them to other agencies, as appropriate;
- Monitoring all incidents of harassment relating to housing services through a range of performance indicators;
- Providing staff training to promote effective implementation of the harassment policy and procedure;
- Offering tenants and other customers advice and information about our internal appeal system or complaint system; and
- Reviewing our harassment policy every five years or sooner, as required, for example, because of legal changes or new guidance.

Note: The term “harassment” includes reference to relevant forms of unlawful discrimination, as covered within internal procedures.

2.2. Summary

This section has described our harassment policy standards. These standards are the framework that we use when addressing incidents of harassment. They form the basis upon which we have developed our harassment procedures.

Section 3: Law, Regulation and Guidance Framework

3.1. Background

A comprehensive legal and regulatory framework exists to address incidents of harassment (see note). The law is supported, in practice, by a wide range of guidance.

Note: This section is a plain language summary of key legal provisions and is not intended as a definitive statement of law.

Two main Acts that we use to address harassment are:

- The Equality Act 2010.
- The Protection from Harassment Act 1997.

Each Act is now briefly described.

Note: Other laws apply to specific forms of harassment, for example, the Crime and Disorder Act 1998 amended the Criminal Law (Consolidation) (Scotland) Act 1995 in relation to the offence of racially aggravated harassment.

3.2. The Equality Act 2010

3.2.1. Harassment

The Equality Act 2010 makes harassment relating to a protected characteristic unlawful except in relation to pregnancy and maternity and marriage and civil partnership.

One form of harassment occurs if there has been some form of unwanted conduct that has the purpose or effect of:

- Violating someone's dignity; or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for someone.

The law does not provide a definitive list of actions that represent unwanted conduct or could violate someone's dignity and/or create an offensive environment.

The other two forms of harassment defined in the Equality Act 2010 include sexual harassment and less favourable treatment because of a person's reaction to harassment.

3.2.2. Unlawful Discrimination

The Equality Act 2010 explains various forms of unlawful discrimination in relation to the protected characteristics. These are covered in our internal procedures, including methods of addressing discrimination.

3.3. The Protection from Harassment Act 1997

The Protection from Harassment Act 1997 protects individuals from harassment in general. Harassment refers to conduct that causes someone alarm and distress. Conduct includes speech and such conduct must occur on at least two occasions.

For example, harassment could occur if a tenant continuously plays loud music with the express intention of causing distress to their neighbour.

3.4. Summary

Harassment is defined in law and the term covers a range of behaviours. Our policies and procedures take account of all relevant law, as well as related good practice guidance.

Section 4: Implementing our Harassment Policy

4.1. Addressing Harassment Comprehensively

As noted above, the harassment policy is linked to other organisational policies and practices.

For example, in the case of allocations, if a tenant were to harass other tenants, this could be addressed through taking different types of action such as:

- Breach of tenancy actions (judicial action); or
- Suspending offers of transfer applications (management action).

Examples of services through which we mainstream actions to address harassment include (in alphabetical order):

- Allocations.
- Antisocial behaviour.
- Equality and diversity.
- Estate management.

We consider issues comprehensively when assessing incidents of harassment. This includes involving people affected by harassment in our decision-making process, as appropriate.

We also make people aware of options to address harassment thus supporting them to make informed decisions.

Following our assessment, we consider appropriate remedies to address incidents of harassment. As in the examples, these might include management remedies and judicial remedies (that is, remedies involving court or legal action).

Management remedies include warnings, mediation and sanctions such as withholding offers of housing to applicants who harass other people.

Judicial remedies include a diverse range of actions such as applying for court orders to stop someone acting in a certain way, or taking steps to end tenancies, if appropriate.

4.2. Summary

Our harassment policy promotes our commitments to social justice and contributes to developing a sustainable community that is free from harassment.

Section 5: Staff Training

5.1. Types of Training

Our training programme includes the following issues:

- Law and good practice guidance on harassment.
- Harassment policy and procedure.
- Inter-agency working practices.
- Consciousness raising, for example, to make employees aware of the nature and various forms of harassment.
- Providing housing options to complainants.
- Monitoring harassment.

5.2. Summary

We have developed harassment training programmes that are linked to the roles of our staff. A key part of training is to enable staff to recognise harassment, as well as understanding ways in which harassment can be addressed.

Section 6: Partnership Working

6.1.

We work with a wide range of local agencies in Orkney to address harassment.

This is very important as other organisations have differing statutory duties and powers to address different types of harassment.

Working together is also important as this allows a holistic approach to be taken, as well as pooling of resources.

Examples of partner organisations with which we might work are:

- Advice and support agencies for example Orkney Citizen's Advice Bureau.
- Equality organisations.
- Other Council Services and statutory services, for example Orkney Health and Care.
- Police Scotland.

6.2. Summary

Our policy promotes partnership working to promote a holistic approach to addressing harassment incidents. This ensures that a more comprehensive range of management and/or judicial remedies can be considered so that harassment incidents can be dealt with appropriately.

Section 7: Performance Management

Performance management is an essential part of effective governance. We monitor the implementation of this policy through a range of performance indicators that include quantitative and qualitative measures.

7.1. Our Monitoring System

7.1.1. Quantitative Measures

We monitor incidents of harassment by:

- Nature of incident, that is the type of harassment, including if related to the protected characteristics.
- Location of the harassment; and
- Person affected (employee, tenant or other customer).

We also monitor types of actions taken to address incidents of harassment:

- Management actions; or
- judicial or legal actions.

Finally, we monitor outcomes of all actions we take to address harassment incidents.

7.1.2. Qualitative Measures

We monitor the quality of advice and information that we provide to tenants and other customers affected by harassment.

7.2. Summary

We monitor how effectively our harassment policy is implemented through a range of quantitative and qualitative measures. This information is used to improve our services.

Section 8: Appeals or Complaints

8.1. Appeals

We advise tenants and other customers of other advice agencies that can provide independent legal advice on individuals' rights in relation to harassment and discrimination law. For example, in cases of discrimination, an individual can raise an action through the sheriff court (services) and employment tribunals (employment matters). It is also noted that the Equality and Human Rights Commission has enforcement powers as set out in the Equality Act 2010.

8.2. Complaints

A complaint is quite distinct from an appeal against a decision.

We define a complaint as:

“An expression of dissatisfaction by one or more members of the public about the local authority's action or lack of action, or about the standard of service provided by or on behalf of the local authority”.

Section 9: Consultation and Review of Policy

9.1. Consultation on our Harassment Policy

Consultation is part of our tenant participation strategy and we use a wide range of consultation methods to reflect the needs of people in our community. These methods also take into account of accessibility requirements of disabled people.

9.2. Review of Harassment Policy

We review our harassment policy every five years or sooner, as appropriate. For instance, we may review our harassment policy because of changes to law, or monitoring / reporting reveals that a change is required sooner.

9.3. Summary

We consult with tenants and other people when developing our harassment policy in line with our tenant participation policy. We review policy, as required, and plan reviews in a structured and comprehensive manner to ensure full and proper consultation.



Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Harassment Policy
Service / service area responsible.	Housing Services
Name of person carrying out the assessment and contact details.	Frances Troup, Head of Community Learning, Leisure and Housing Ext 2177 E-mail frances.troup@orkney.gov.uk
Date of assessment.	29 April 2022
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	New
2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	To ensure clients experiencing harassment in housing can expect to have the issue addressed appropriately.
Is the function / policy / plan strategically important?	Yes. The Council has significant requirements in relation to equalities legislation and this includes dealing with harassment issues through its delivery of housing services.
State who is, or may be affected by this function / policy / plan, and how.	Our service users whether tenants, homeless applicants etc
How have stakeholders been involved in the development of this function / policy / plan?	Tenants have been involved in matters relating to equalities monitoring including the Residents' Panel being involved in the Annual Assurance

	<p>Statement and the requirements relating to equalities legislation relating to that.</p> <p>Tenants and other service users are involved in areas specifically relating to service delivery which include threads of equalities and accessibility throughout.</p> <p>Many of the principles within the Harassment Policy relate to legislative and good practice requirements and therefore stakeholder involvement is about provision of information.</p> <p>An article will be placed within Housing News to make tenants aware of the policy development.</p> <p>Harassment isn't a significant problem in Orkney and wouldn't therefore be highlighted as an operational matter specifically.</p>
<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise.</p> <p>E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p>There is significant research in the wider policy area of equalities. Research areas are suitably diverse. The list below represents some examples.</p> <p>The Equality and Human Rights Commission has produced guidance for social housing providers entitled "Human Rights at Home". This looks at ensuring the delivery of housing is compatible with human rights legislation.</p> <p>The Scottish Social Housing Charter has an outcome on equalities which states that "every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services". Further it has an outcome on neighbourhood and community which states "social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that: tenants and other customers live in well-maintained neighbourhoods where they feel safe".</p> <p>The National Standards for Community Engagement includes a section on inclusion which seeks to ensure that measures are taken to involve groups with protected characteristics and people who are excluded from participating due to</p>

	<p>disadvantage due to social or economic factors.</p> <p>There is much research around the area of potential discrimination in housing and within areas of housing.</p>
<p>Is there any existing evidence relating to socio-economic disadvantage and inequalities of outcome in this policy area? Please summarise.</p> <p>E.g. For people living in poverty or for people of low income. See The Fairer Scotland Duty Interim Guidance for Public Bodies for further information.</p>	<p>In addition to that outlined above, there is significant research indicating that homeless households suffer socio-economic disadvantage and this is intensified if they are rough sleepers. The provision of housing or lack of it is recognised as being intrinsically linked to a range of indicators related to health, wealth and educational achievement.</p> <p>The Joseph Rowntree Foundation has produced a range of research focussing on poverty and disadvantage and the links between this and housing and homelessness generally. Research such as this relates directly to the introduction of the Fairer Scotland Duty.</p> <p>The National Standards for Community Engagement includes a section on inclusion which seeks to ensure that measures are taken to involve people who are excluded from participating due to disadvantage due to social or economic factors.</p>
<p>Could the function / policy have a differential impact on any of the following equality strands?</p>	<p>(Please provide any evidence – positive impacts / benefits, negative impacts and reasons).</p> <p>Housing Services Harassment policy intends to ensure that there is a structure to protect people who experience any form of harassment and this can relate to any of the protected characteristics. It is specifically intended to focus on each of the protected characteristics and facilitate a structure to address any issues someone may encounter.</p>
<p>1. Race: this includes ethnic or national groups, colour and nationality.</p>	<p>Potential positive impact in reducing any ongoing harassment relating to race.</p>
<p>2. Sex: a man or a woman.</p>	<p>Potential positive impact in reducing any ongoing harassment relating to sex.</p>
<p>3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>	<p>Potential positive impact in reducing any ongoing harassment relating to sexual orientation.</p>

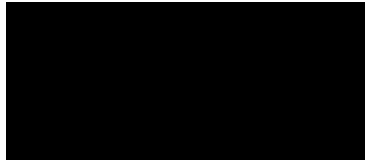
4. Gender Reassignment: the process of transitioning from one gender to another.	Potential positive impact in reducing any ongoing harassment relating to gender reassignment.
5. Pregnancy and maternity.	No specific impact identified.
6. Age: people of different ages.	Potential positive impact in reducing any ongoing harassment relating to age.
7. Religion or beliefs or none (atheists).	Potential positive impact in reducing any ongoing harassment relating to religion or belief.
8. Caring responsibilities.	No specific impact identified.
9. Care experienced.	No specific impact identified.
10. Marriage and Civil Partnerships.	No specific impacts identified.
11. Disability: people with disabilities (whether registered or not).	Potential positive impact in reducing any ongoing harassment relating to disability.
12. Socio-economic disadvantage.	No specific impact identified.

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	No
How could you minimise or remove any potential negative impacts?	N/A
Do you have enough information to make a judgement? If no, what information do you require?	Yes

4. Conclusions and Planned Action

Is further work required?	Ongoing monitoring of incidents of harassment relating to housing service. Provision of staff training to promote and implement harassment policy.
What action is to be taken?	N/A
Who will undertake it?	N/A
When will it be done?	N/A
How will it be monitored? (e.g. through service plans).	N/A



Date 29 April 2022

Signature:

Name: Frances Troup

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to HR and Performance at hrsupport@orkney.gov.uk