

THE KILMARNOCK LEISURE CENTRE TRUST

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Scottish Charity Number: SC 00 8314
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T/A THE GALLEON CENTRE DIGNITY AT WORK



The Purpose

To encourage an environment in which everyone is entitled to work free of harassment and has a right to be treated with dignity and respect at work.

The Scope

This policy applies to all established and temporary Employees, all job applicants, agency “temps”, contractors and consultants.

Policy Statement

The KLCT will not tolerate any form of bullying, harassing, victimisation or discriminatory behaviour. These types of behaviour are not acceptable on ethical, moral and in some cases legal grounds and can create a negative work environment.

Employees at all levels of the organisation have a responsibility to comply with this policy, and not participate in, nor condone bullying, harassing or discriminatory behaviour. Colleagues, and all other people who have dealings of any kind with the KLCT, including prospective Employees, are to be treated with dignity and respect at all times.

We consider that harassment is harmful to Employees, employers and customers alike. It can subject individuals to fear, stress and anxiety and great strains can be put on work, personal and family life. Harassment can lead to illness, accidents, absenteeism, poor performance, an apparent lack of commitment and people leaving employment. It can therefore impact badly on safety, organisational effectiveness and business success.

Those who are harassed, victimised or bullied may often feel vulnerable and are reluctant to complain. This policy aims to ensure the fair treatment and dignity of all women and men at work. In the main, this policy is intended to deal with situations in which an Employee raises an incident. However, the KLCT is committed to creating a work environment in which all Employees and other people connected with the KLCT are treated with dignity and respect. In view of this the KLCT reserves the right to investigate and deal with any issues of which it becomes aware.

The KLCT's aim following any incident will be to recreate a positive working environment, where all parties are treated with respect and dignity.

Appropriate disciplinary action will be taken against any Employee who breaches this Policy.
This policy;

- Clarifies the standards of behaviour expected of Employees
- Provides a process to effectively address any problems should they occur
- Is not an exercise in political correctness nor a ban on legitimate humour and fun in the workplace

Definitions of Unacceptable Behaviour

The following behaviours as defined below are unacceptable:

Harassment: - consists of any unwanted conduct 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. It includes unwelcome physical, verbal or non-verbal conduct and it could amount to unlawful discrimination. It can involve a single incident or may be persistent and may be directed towards one or more individuals. Harassment may be on the basis of an individual's race, creed, colour, nationality, ethnic origin, disability, age, language, religion, political or other opinion affiliation, gender, gender reassignment, sexual orientation, marital status, connections with a national minority, national or social origin, property, birth or other status, family connections, or membership or non membership of a trade union.

Unwanted Physical Contact:- such as unnecessary touching, patting, pinching, brushing against another individual's body, insulting or abusive behaviour or gestures, physical threats, assault, or coerced sexual intercourse.

Unwanted Verbal Conduct:- such as unwelcome advances, patronising titles or nicknames, propositions or remarks, innuendo, lewd comments, jokes, banter or abusive language, which refer to an individual or a group's gender, colour, race, nationality, ethnic or national origins, disability, sexual preference, etc., repeated suggestions for unwanted social activities inside or outside the workplace.

Unwanted Non-verbal Conduct:- such as racially or sexually based graffiti referring to an individual's characteristics or private life, abusive or offensive gestures, leering, whistling, display of pornographic or suggestive literature or other items, pictures or films/videos or inappropriate use of visual display units (VDUs) including screensavers or network systems for this purpose.

Bullying:- including persistent unsubstantiated criticism and personal abuse and/or ridicule, either in public or private, which humiliates or demeans the individuals involved, gradually eroding their self confidence.

Unlawful Victimisation:- consists of treating an individual less favourably than others are, or would be treated in the same or similar circumstances, because they have made (or you believe they have made or may make) a complaint or allegation of discrimination or have acted as a witness or informant in connection with proceedings under any discrimination legislation.

Other Conduct:- which denigrates, ridicules, intimidates or is physically abusive of an individual or group.

These examples are not exhaustive. It is the impact of the behaviour not the intent which makes it offensive. Much of this behaviour would be considered to be gross misconduct, punishable by summary dismissal. However, none of the above types of behaviour will be tolerated. All will result in a disciplinary investigation and may constitute gross misconduct, depending upon the circumstances of the case in question.

Addressing Dignity at Work Complaints

1. Any individual who believes that he/she has been subject to, or has witnessed harassment, victimisation or bullying has access to channels through which complaints can be raised.

The nature of harassment, victimisation or bullying is such that it is recognised that an individual may not wish to discuss it initially with their immediate line manager. A Dignity at Work Complaints Procedure has therefore been established.

Reference to and application of the Complaints Procedure removes neither the Employee's nor the employer's legal or contractual rights, responsibilities, obligations or remedies.

2. *Principles for Addressing Complaints*

The following principles will apply to all cases to ensure no further loss of dignity, for either party, during the complaints procedure:

- All cases will be addressed seriously and handled confidentially
- Information communicated to others will be on a 'need to know' basis only
- All actions will be carried out as speedily as possible consistent with doing a thorough job, with due regard to the sensitivity of the issue. (In all but exceptional circumstances, the required steps will be carried out in less than a month.)
- A test of reasonableness will be applied to each situation and action will be taken in compliance with the Complainant's wishes
- All parties to complaints will be protected from victimisation and retaliation, whether Complainant, Supporter, Witness or Person Complained About
- Both the Complainant and the Person Complained About can be accompanied, at any or all of the stages, by a Colleague, a Trade Union or Staff Association Representative or one of the Advisors
- At any stage the Person Complained About and/or Complainant may be suspended with pay
- At any stage the Person Complained About and/or Complainant may be transferred after consultation with the individual concerned, Employee representatives and Line Management
- Access to coaching, training or counselling will be given where appropriate

Informal Action

Any individual who feels that he/she or others have been harassed, victimised, bullied or treated in a way that breaches this policy should, if they feel able to do so, immediately tell the individual(s) doing it that the behaviour in question is offensive, unwanted, and that he/she wants it to stop. It is possible that the person causing the problem may not realise that his/her behaviour is unwelcome or causing distress. In many cases the situation can be resolved simply by communicating this.

Before taking any action the Complainant may wish to discuss the matter with a senior manager. It is often helpful to talk through the situation to clarify what the unwanted behaviour is, what the options are and how best to approach it, with someone who is removed from the situation.

Alternatively, he/she may prefer to put his/her complaint in writing to the individual(s) doing it, keeping a dated copy of the letter, or to ask a work colleague or trade union representative to speak to the individual(s) on his/her behalf, or to accompany him/her to a discussion with the Person Complained About.

A note should be kept of the date(s) and what was said by all involved. This may be needed as evidence should harassment, victimisation or bullying continue or subsequently recur.

This is often sufficient to correct the situation, particularly if the individual(s) involved was/were unaware that the behaviour was causing offence.

An individual who feels unable to do this or who continues to be subjected to behaviour which is in breach of this policy may choose to discuss the matter with the Depute General Manager or Operations Manager in confidence.

Formal Action

1. At any time, whether or not informal action has been taken, any individual who feels that he/she or others have been harassed, victimised, bullied or treated in a way that breaches this policy can raise the matter directly with his/her manager or the General Manager, in writing.
2. The letter or statement must;
 - Set out the basis of the complaint
 - Indicate who is being complained about
 - Give details of the unwanted behaviour
3. If the complaint is submitted to the Complainant's Line Manager it is to be forwarded to the Operations Manager or Deputy General Manager promptly.
4. The General Manager will respond to the Complainant within two days of receiving the complaint and arrange a Preliminary Interview and is responsible for ensuring that the Formal Complaint Procedure is followed.
5. A preliminary interview will be conducted by either the Operations or Deputy General Manager and the Complainant's line manager.

The purpose of this interview is to:

- Ensure that the nature of the complaint is appropriate to the Dignity at Work Policy (i.e. that it is not a general grievance)
 - Confirm that the informal procedure has either been tried or is not considered appropriate
 - Ensure that the Complainant is aware of the support available from Advisors, and Trade Union or Staff Association Representatives
 - Explain the procedures involved in the formal complaint process
 - Ensure that the written complaint is comprehensive, and signed
 - Identify the Complainant's witnesses, if any
 - Ensure confidentiality continues to be maintained
 - Confirm that the Complainant wishes to proceed with a formal complaint - but not in any way to attempt to dissuade them from their preferred action
6. A preliminary interview with the person complained about will also be conducted by the Senior Manager and the Person Complained About's Line Manager.

The purpose of this interview is to:

- Advise the Employee that a formal complaint has been made and by whom, and to explain the general nature of the complaint
- Ensure that the Person Complained About is aware of the support available from Advisors, and KLCT Trade Union or Staff Association Representatives
- Ensure confidentiality continues to be maintained
- Offer an initial opportunity to comment or reply to the complaint
- Explain how the investigation process will take place

7. In the event that, at any time during this procedure, the Complainant attends a meeting with his/her manager, he/she may be accompanied to such a meeting by a work colleague or trade union representative. If the Person Complained About is asked to attend this or any other meeting, then he/she will also have a similar right of accompaniment. A postponement of this meeting of up to 5 days will be allowed where the trade union representative or work colleague is unable to attend the meeting.

Such investigations must be independent and objective with respect for the rights of both the Complainant and the alleged perpetrator to be properly heard and represented.

8. ***Investigation***

The appropriate manager will set up an investigation in order to determine whether this policy has been breached.

The investigation officer will normally consist of a Line Manager independent of the Complainant and Person Complained About.

The following guidelines are to be followed as appropriate;

- Investigations will be stressful for all involved so appropriate support will be offered to all parties – (see Guidance: Training and Counselling)
- Interviews with the Person Complained About, the Complainant and any relevant witnesses will be conducted separately
- The signed statement of the Complainant will be made available to the Person Complained About
- Notes of interviews with any witnesses are to be agreed and signed by the witness
- General witness evidence will be incorporated into the final report of the investigation to which the Person Complained About will have access if the complaint proceeds to disciplinary action
- Records of complaints which are upheld will be held on personal files for a period deemed appropriate by Management in the light of the seriousness of the matter in line with the Disciplinary Policy
- Records of complaints not upheld, will be kept by HR for 6 months.

Interview with the Complainant

The Complainant will normally be interviewed first. As the Person Complained About cannot be expected to answer vague and non specific allegations, full details of the

behaviour complained about must be obtained. For example; dates, times, places, what was said/done, who else saw / heard.

Interview with Person Complained About

The Person Complained About will already have been advised in general terms of the complaint at the preliminary interview stage. Prior to the formal investigation interview the Manager will give the Person Complained About a copy of the written complaint and confirm the time for the interview. At the interview the Person Complained About will be informed in general terms of the allegations against them and will be given a full opportunity to respond to them.

The manager must inform the Complainant and the Person Complained About of the outcome as soon as possible following the conclusion of the investigation.

If, following the investigation, the manager decides that there is a case to answer; he/she must immediately invoke the Disciplinary Procedure.

The rights of the Person Complained About will be in accordance with the Disciplinary Procedure. Serious breaches of this policy will be treated as gross misconduct and will result in dismissal.

Other action taken as a result of the investigation may include training and counselling, or any other activity deemed capable of recreating a positive work environment.

Disciplinary action will be taken against a Complainant who is believed to have made a malicious accusation (but not one whose claim is felt to be unfounded or unsubstantiated).

9. ***Appeal***

If the Complainant considers that management's handling of the matter has been inappropriate, he/she may appeal, in writing, to the General Manager within 5 days of being informed by the manager of the outcome of the investigation. This appeal will be heard within 7 days of the appeal being registered. It will be heard by the General Manager. The Complainant and the Person Complained About, if attending, will be entitled to be accompanied to such an appeal by a trade union representative or work colleague. Unless he heard the original complaint. In this instance a Trustee or a sub-group of the KLCT will hear the appeal.

A postponement of up to 5 days of this meeting will be allowed where the trade union representative or work colleague is unable to attend the appeal meeting. The decision at this meeting will be final.

10. ***Confidentiality***

All complaints and associated correspondence and interviews must be treated in strict confidence. Breaches in confidentiality will result in disciplinary action being taken.

11. ***Responsibility***

All those individuals referred to within the Scope of this policy are required to adhere to its terms and conditions. They must understand that this policy is also incorporated into their contract of employment. All Employees have a responsibility to:

- Comply with the law, as well as this policy
- Treat colleagues, and all other persons who have dealings of any kind with the KLCT, with dignity and respect
- Ensure that they do not participate in any form of bullying, harassing or discriminatory behaviour
- Individual managers are responsible for ensuring that this policy is adhered to at all times. This means:
 - Setting a good example, by ensuring that they do not participate in, nor condone bullying, harassing or discriminatory behaviour
 - Directly addressing any incidents that they witness or are informed of. Inaction on the part of a Line Manager will lead to appropriate disciplinary action
 - Assisting in the resolution of incidents raised through either the formal or informal procedures
 - After a formal investigation has occurred, working together with HR to recreate a positive work environment and to ensure there is no victimisation.
 - Any queries on the application or interpretation of this policy should be discussed with the General Manager prior to any action being taken.

The General Managers' role is:

- To provide information on the policy and procedures to all Employees
- To give support to either a Complainant or a Person Complained About
- In addition the General Manager can also:
 - Facilitate training, coaching or counselling as appropriate
 - On the request of the Complainant, may speak directly to the Person Complained About on an informal basis

Senior Managers are responsible for:

- Ensuring all formal complaints are addressed and followed through to an appropriate conclusion
- Conducting investigations
- After a formal investigation has occurred, working together with the Line Manager to recreate a positive work environment and to ensure there is no victimisation