

# KENT SHARED LIVES

## Policies & Procedures

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### (20) Harassment

Kent Shared Lives will not tolerate or condone any form of harassment and seeks to ensure that the working environment and the Shared Lives placement is sympathetic to all Shared Lives employees, Shared Lives hosts and individuals. Shared Lives employees and Shared Lives hosts have a right to work in an atmosphere free from racial, sexual or other forms of intimidation. Individuals similarly have a right to be free from any form of harassment while in the Shared Lives placement. Shared Lives are committed to ensuring that staff, hosts and individuals understand the types of behaviour that are unacceptable. It will deal with any complaints of harassment promptly and sensitively and has established a procedure, which provides people who may be a victim of harassment with a means of redress.

#### **Principles**

Harassment can be defined as inappropriate behaviour, actions, comments or physical contact that is unwanted, objectionable and causes offence to the recipient. It is not limited to sexual or racial harassment.

Behaviour that one individual finds acceptable may be offensive to another individual. Whether a particular behaviour is deemed to be harassment depends upon its impact upon the individual recipient. If the behaviour is unwanted and seen as offensive then it is regarded as harassment.

Harassment is unlawful and, if it amounts to a course of conduct against another person, it is likely to be a serious criminal offence. Such behaviour will not be tolerated by Shared Lives and is likely to lead to dismissal or loss of approval.

Intentional racial or sexual harassment is also a criminal offence punishable by imprisonment or a fine.

#### **Legal Context**

**The Equalities Act 2010 replaced previous anti-discriminatory legislation prohibiting discrimination in respect of, amongst others, sex, race and disability. The following is not an exhaustive list of specific areas which the Act covers; however it does draw attention to some of the key areas referenced in previous versions of this policy.**

The Equalities Act 2010 provides that discrimination occurs when a woman is treated less favourably than a man would be in the same or similar circumstances. It is unlawful for an employer to discriminate against a female employee. Sexual harassment is discrimination on the ground of sex because the harassment would not have occurred but for the fact that the victim was female. The harassment can be seen as subjecting the employee to detriment and is unlawful.

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The Equalities Act 2010 similarly provides that discrimination occurs if someone is treated less favourably on the grounds of race, colour, nationality or ethnic origin. Racial harassment can be seen as discriminatory and subjecting the recipient to detriment and is unlawful.

**The Equalities Act 2010 also replaces the Employment Equality (Sexual Orientation) Regulations (2003), which** made discrimination on the grounds of sexual orientation in employment illegal in the UK. It ensures that lesbians, gay men and bisexuals can take action if they are the victim of harassment or discrimination at work.

The **Protection from Harassment Act 1997** is not specifically aimed at behaviour in the workplace but applies there as well as anywhere else. It has introduced a prohibition that makes it a criminal offence for someone to pursue a course of action which:

- a) Amounts to harassment of another;
- b) The person knows or ought to know amounts to harassment of the other

### **Procedure**

#### **Informal Solutions**

Shared Lives hosts and Shared Lives employees who are victims of minor harassment are encouraged to raise the matter informally with the harasser, making it clear that the behaviour is unacceptable and must stop.

If the individual finds that it is too embarrassing or too difficult to do this personally then he/she may decide to ask a colleague to speak to the harasser on his / her behalf. Alternatively a written request (explaining the distress which the behaviour is causing) handed to the harasser may be effective.

Individuals who are victims of minor harassment may well need support to raise the matter with their harasser. Shared Lives will ensure that such support is made available through the individuals existing support networks or through involvement of a local advocacy service.

#### **Formal Procedure**

1. If an informal approach to the harasser does not resolve the matter or if the matter complained of is of a more serious nature then the employee, Shared Lives host or individual should speak directly to the Shared Lives worker or his/her immediate supervisor. If the individual finds that the matter complained of is too embarrassing or relates to the supervisor /Shared Lives worker he/she may approach another member of management.
2. The complaint should be made in writing and, where possible state:
  - The name of the harasser
  - The nature of the harassment
  - Dates and times when the harassment occurred
  - Names of witnesses to any incidents of harassment

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- Any action already taken by the complainant to stop the harassment

The Shared Lives worker should ensure that the individual has the support they need to put their complaint in writing.

3. The manager handling the complaint will carry out a thorough investigation as quickly as possible, maintaining confidentiality at all times. Everybody involved in the investigation is expected to respect the need for confidentiality. Failure to do so will be considered a disciplinary offence.
4. If the evidence from the investigation supports the claim of harassment then the manager will, in the case of an employee, hold a disciplinary hearing.
  - Copies of statements made by witnesses will be made available to the harasser and the complainant. Witnesses will be encouraged to appear at the hearing if requested by either party. Where witnesses are reluctant to appear at the hearing, the manager will, if necessary adjourn the hearing to ask supplementary questions of witnesses in private.
  - All workers have the right to be accompanied by a fellow worker or trade union official if they are required or invited to attend a disciplinary hearing. In cases of racial harassment any colleague of his or her choice may accompany the complainant.
  - An employee who receives a warning or is dismissed for harassment may appeal against the penalty in accordance with the Shared Lives disciplinary procedure
5. In the case of a Shared Lives host, the Shared Lives manager will hold a host review. The review report will be presented to the Shared Lives panel for a decision about continuing approval.
6. In the case of an individual, the Shared Lives manager will work with the person's social worker/care manager or representative to agree a way forward. In cases of serious harassment the individual may have to leave the placement.
7. If the complainant is not satisfied about the way his or her complaint has been handled, he or she may ask for it to be reconsidered by a more senior manager. Requests for reconsideration of the complaint should be made within 14 working days of the first hearing. The decision of this second hearing will be sent in writing to both parties and will be final.

An employee, Shared Lives host or individual who brings a complaint of sexual or racial harassment will not suffer victimisation for having brought the complaint. However, if the complaint is untrue and has been brought in bad faith (e.g. maliciousness) disciplinary or other appropriate action will be taken.