

CDLT POLICY: BULLYING, HATE-LED BEHAVIOUR, HARASSMENT AND ABUSE

1. CDLT has zero tolerance for behaviour which is bullying, hate-led, harassing, and/or abusive whether physical, psychological, online or a combination of the foregoing.
2. Bullying, hate-led behaviour, harassment, and abuse is determined by the impact on the victim, not the rationale of the perpetrator. If you feel you are being impacted then that is sufficient to act.
3. Charity officers and staff must immediately cease engagement with persons or bodies who bully, hate, harass or otherwise abuse them individually or collectively.
4. The charity, its officers and staff will not engage with persons or bodies we perceive to engage in bullying, hate-led behaviour, harassment, and abuse.
5. Officers and staff must report all bullying, hate-led behaviour, harassment, and abuse incidents which make them feel uncomfortable, alarmed, distressed or otherwise unsafe, whether online or in person, to CDLT senior officers and Police Scotland (see footnote).

Trustees and Staff footnote:

- *To contact Police Scotland telephone 999 (in an emergency) or 101 (in a non-emergency).*
- *It is important to report instances of harassment when they occur as the police will keep a record. Please also keep a contemporaneous written or digital record of the incident(s).*
- *Police Scotland has various online forms which can be used to report abuse, harassment or hate crimes on their website:*
<https://www.scotland.police.uk/secureforms/c3/>

CDLT POLICY CONTEXT

1. Ethnic hatred and the Equalities Act 2010

The Clan Donald Lands Trust (CDLT) is a Scottish registered charity (SC007862) established in 1971.

CDLT is governed by a Board of unpaid volunteer trustees. The CDLT Board employs a senior executive officer as its legal representative. The executive officer employs staff (both paid and voluntary) to fulfil the aims and purposes of the charity. As a registered charity, CDLT is strictly bound

by the objectives and purposes of the charity as outlined in the 2013 Deed of Amendment available on our website.

Under section 9(1)(c), 9(3) and 9(4) of the Equalities Act 2010, CDLT identifies as a heritage and cultural interest community body within an ethnic group defined as Gaels and an ethnic region defined as the Gàidhealtachd. CDLT recognises that membership of this ethnic group is non-exclusive to native Gaelic speakers and that cultural locus, self-determination and shared ethnic background and identity form the basis of our group.

CDLT as a cultural and heritage body, CDLT employees, and ethnic Gaels have experienced conduct, including harassment, motivated (wholly or partly) by malice and ill-will towards ethnic Gaels and the culture of the Gàidhealtachd. As individual persons from our ethnic background and/or related ethnic cultural and heritage bodies we are defined within subsection (2) of the Hate Crime and Public Order (Scotland) Act 2021.

CDLT has produced this policy in recognition of the impact of bullying, hate-led behaviour, harassment and abuse on our charity officers and staff following concerns and complaints about unacceptable behaviours by persons and bodies. On behalf of the charity and the Clan community as represented by the charity, the Board of CDLT will not tolerate such conduct and will not hesitate to take appropriate action.

2. Definition of bullying, harassment, abuse, and intimidation

In the UK, the terms ‘harassment’, ‘intimidation’ and ‘abuse’ are often used interchangeably as the experience for victims can overlap.

The Protection from Harassment Act 1997 indicates that someone’s actions amount to harassment when they make the victim feel distressed, humiliated, threatened or fearful of further violence. ‘Violence’ in this context does not need to be physical and may be psychological or online abuse. Usually, such actions amount to harassment when they occur more than once.

Bullying and harassment can be part of a cumulative course of conduct or a pattern of behaviour. Bullying specifically is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated, or insulted.

A determining factor in bullying, hate-led behaviour, harassment, and abuse is the impact it has on the victim. Regardless of what others may think, and no matter who the perpetrator is or the rationale behind the aggression, if in the course of our charity’s work such behaviour impacts a person or persons within the charity, then that is sufficient for the charity to take decisive action.

3. Harassment and the law

Section 8 of the Protection from Harassment Act 1997 outlines the law in Scotland when dealing with harassment.

Extract: ‘Every individual has a right to be free from harassment and, accordingly, a person must not pursue a course of conduct which amounts to harassment of another and (a) is intended to amount to harassment of that person; or (b) occurs in circumstances where it would appear to a reasonable person that it would amount to harassment of that person.’

Harassment of a person includes causing the person alarm or distress. It is important to note that alarm or distress can be both physical and psychological.

'Conduct' is the actions taken by a person to cause another person to feel alarmed or distressed and may include speech or such other actions amounting to a course of conduct occurring on more than one occasion.

Examples of harassing behaviours may include:

- Sending text messages
- Repeated phone calls
- Stalking
- Being present in an area where to a reasonable person such behaviour would amount to harassment, including after being requested not to be present in that area
- Unwanted letters, emails, or visits
- Social media conduct including messages and comments
- Threatening and abusive behaviour
- Statements made in public assemblies, including classrooms, talks and presentations
- Cyberbullying or cyber harassment via Facebook, Twitter, YouTube, Snapchat, Instagram, and other social media forums
- Spreading rumours
- Extortion and coercion

When a behaviour of a harassing nature is directed towards a person's race, disability, religion, gender, sexual orientation, ethnicity, or other protected characteristics, there are specific areas of law in place to protect the victim. This includes the recently updated Hate Crime and Public Order (Scotland) Act 2021.

Non-Harassment Orders

A Non-Harassment Order is designed to protect a victim from a course of conduct which amounts to harassment and causes the victim fear, alarm, and distress. It can be obtained by applying to the Sheriff Court or the Court of Session as a civil order. This permits a quicker process without police involvement at that stage.

A criminal offence does not have to have been committed by the harasser for a Non-Harassment Order to be sought.

Breaching a Non-Harassment Order is a criminal offence which can result in a person being sentenced with a fine or imprisonment.

In addition, a victim of the breach of a Non-Harassment Order can also apply to the Court for a civil-based claim. This can result in the person being entitled to an award of damages (financial compensation) or the court may grant a further order known as an Interdict or Interim Interdict against that person to stop specified types of behaviour.

Interdict or Interim Interdict

An Interim (temporary) Interdict or Interdict is an Order whereby the court stipulates that an individual is to refrain from carrying out a specified action or behaviour.

When an Interdict is granted, it is also possible for the Court to attach a Power of Arrest to the order. This means that in the event that a person has breached the terms of the Interdict, the police have an automatic power of arrest.

4. Online abuse, harassment, and intimidation

Online abuse, harassment and intimidation can be defined as “harms facilitated by digital means” including comments, shared content, or direct messages on social media. It also includes smear campaigns, bullying, doxing, impersonation, inciting hate and aggression, among other activities.

Online harassment, abuse and intimidation can be posted or shared on any social media platform, by email or in online meeting platforms or chatrooms. Determination comes down to the impact on the victim, not the rationale of the perpetrator.

These malicious online behaviours are regarded as a form of violence. Police advise that the message received does not necessarily need to be physically violent in nature; for the police to take action it only needs to be oppressive and have caused some alarm or distress.

Most intimidatory behaviour is an attempt to gain control by bullying or coercion, but no control can be gained if engagement is refused. Police guidance is not to engage with the perpetrator(s) and report matters which have an impact on person or persons.

5. Psychological abuse and impact on wellbeing

Psychological abuse is recognised to include actions that degrade, demoralise or shame, instil fear, cause stress or harm credibility. A large part of psychological abuse is intimidation, which can take multiple forms including bullying and other forms of harassment. This very harmful form of abuse can be carried out in person, by phone, by email and on social media.

Many forms of psychological abuse are criminal offences, including: harassment; being followed; persistent and/or unwanted communication or contact; threats; conduct which causes a nuisance, alarm, or distress (including online behaviour); and damage to property.

ENDS

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