



Headbourne Worthy Parish Council

Anti-Bullying and Harassment Policy

Introduction

Everyone should be able to work in an environment free from harassment and bullying and be treated with dignity and respect regardless of gender, sexual orientation, transgender status, marital or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, or disability.

This policy and procedure provide guidance on what to do if you are concerned about bullying or harassment and what to expect if you raise concerns. It applies to all staff (whether permanent, fixed term, or casual), contractors and agency staff.

Policy

Headbourne Worthy Parish Council does not tolerate bullying or harassment. This is the case for work-related events that take place within or outside of normal working hours; on council property or elsewhere; whether the conduct is a one-off act or repeated course of conduct, and whether done purposefully or not.

HWPC does not tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. Retaliation or victimisation will also constitute a disciplinary offence, which may in appropriate circumstances lead to dismissal. You should also be aware that if a court or tribunal finds that you have bullied or harassed someone, in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

HWPC will take appropriate action if any of staff are bullied or harassed by staff, councillors, members of the public or suppliers.

What type of treatment amounts to bullying or harassment?

Bullying is offensive, intimidating, threatening, malicious or insulting behaviour, and/or an abuse or misuse of power that undermines, humiliates or injures the person on the receiving end.

Harassment is unwanted conduct related to relevant 'protected characteristics', which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Harassment amounts to unlawful discrimination if it relates to a 'protected characteristic'.

Examples of bullying and harassment include:

- Verbal abuse or offensive comments, jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Lewd or suggestive comments
- Deliberate exclusion from conversations or work activities
- Withholding information, a person needs in order to do their job
- Practical jokes, initiation ceremonies or inappropriate birthday rituals
- Physical abuse such as hitting, pushing or jostling
- Rifling through, hiding or damaging personal property
- Subjecting a person to humiliation or ridicule, belittling their efforts, often in front of others
- Abusing a position of power

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable. All employees must, therefore, treat their colleagues with respect and appropriate sensitivity.

Bullying does not include appropriate criticism of an employee's behaviour or proper performance management.

Reporting concerns

Witnessing an incident you believe to be harassment or bullying

If such behaviour such as this is witnessed it should be reported in confidence to the Clerk or a councillor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

Bullying or Harassment by a member of the public or supplier (as opposed to a colleague)

This should be raised with the Clerk or Chair of the Council in the first instance. They will decide how best to deal with the situation, in consultation with you.

Bullying or Harassment by a Councillor

This should be raised this with the Clerk or the Chair of the Council. They will then decide how best to deal with the situation, in consultation with the complainant. There are two possible avenues at this stage, informal or formal. The Informal Resolution is described below. Formal concerns

regarding potential breaches of Code of Conduct breaches should be investigated by the Monitoring Officer.

Bullying or Harassment by another member of staff

In the event of bullying or harassment by a colleague or contractor, there are two possible avenues for the complainant, informal or formal. These are described below.

Informal resolution

The complainant may prefer to resolve the situation themselves by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to the policy and must stop. Alternatively, the complainant may wish to ask the Clerk, or a councillor to put this to the perpetrator on their behalf or to be with them when they confront the perpetrator(s).

If the above approach does not work or if the complainant does not want to try to resolve the situation in this way, the matter should be raised with the Chair of the Council. The Chair (or another appropriate individual) will discuss with the complainant the option of trying to resolve the situation informally by:

- Telling the alleged perpetrator(s), without prejudging the matter, that there has been a complaint that their behaviour and it is having an adverse effect on a member of staff;
- That such behaviour is contrary to policy;
- That for employees, the continuation of such behaviour could amount to a serious disciplinary offence.

It may be possible to have the conversation with the alleged perpetrator without revealing the name of the complainant, if this is what they prefer. It should be stressed that the conversation is confidential.

In certain circumstances the Council may be able to involve a neutral third party to facilitate a resolution of the problem. The Chair will discuss this with the complainant if it is appropriate.

If the complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as a serious allegation of harassment or in cases where a problem has happened before) the council may decide to investigate further and take more formal action, notwithstanding the fact that the matter was raised informally.

Raising a formal complaint

If an informal resolution is unsuccessful or inappropriate, a formal complaint can be made to the Clerk or the Chair of the Council. A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

The Clerk or the Chair of the Council will appoint someone to investigate your complaint. The complainant will need to co-operate with the investigation and provide the following details (if not already provided):

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred
- The names of any witnesses and
- Any action taken by you to resolve the matter informally

... against a colleague or contractor

The alleged perpetrator(s) would need to be told the name of the complainant and the details of the complaint for the issue to be investigated properly. However, the investigation should be carried out as confidentially and sensitively as possible. If the complainant and the alleged perpetrator(s) work in proximity to each other, it should be considered whether it is appropriate to separate them whilst the matter is being investigated.

... against a member of the public or supplier

The complaint should be investigated as far as possible by contacting the member of public or the supplier's employer and asking for a response to the allegations.

... against a councillor

Formal concerns regarding potential breaches of Code of Conduct breaches should be investigated by the Monitoring Officer.

During the investigation

The Council will consider how to protect the complainant's health and wellbeing whilst the investigation is taking place. Depending on the nature of the allegations, the investigator may want to meet with the complainant to understand the complaint better. Whilst there is no Statutory right to be accompanied at investigation meetings, the investigator should consider requests to have a work colleague or union representative at that meeting.

The Hearing

After the investigation, a panel will meet with the complainant at a Grievance Hearing (following the Grievance Procedure) to consider the complaint and the findings of the investigation. At the meeting the complainant may be accompanied by a fellow worker or a trade union official.

After the meeting the panel will write to the complainant with their decision and to notify the complainant of the right to appeal if they are dissatisfied with the outcome. The request for appeal should be put in writing explaining the reasons why the complainant remains dissatisfied with the decision. The appeal will be heard under the appeal process that is described in the Grievance Procedure.

Victimisation

Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

False allegations

False accusations of harassment or bullying can have a serious effect on innocent individuals. Staff and others have a responsibility not to make false allegations. False allegations made in bad faith will be dealt with under the disciplinary procedure.

Disclosure and confidentiality

Personal data collected during this process will be dealt with in accordance with the data protection policy.

Use of the disciplinary procedure

Harassment and bullying constitute serious misconduct. If, at any stage from the point at which a complaint is raised, the Council believe there is a case to answer and a disciplinary offence might have been committed, the Council will instigate the disciplinary procedure. Any employee found to have harassed or bullied a colleague will be liable to disciplinary action up to and including summary dismissal.

This is a non-contractual procedure which will be reviewed from time to time.

Date of policy: September 2023

Notes

1. Protected characteristics

A 'protected characteristic' is defined in the Equality Act 2010 as age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is unlawful to discriminate against an individual because of any of the protected characteristics.

Discrimination includes treating people differently because of a protected characteristic. Harassment is unwanted conduct related to a 'protected characteristic'. Employees can complain of harassment even if the behaviour in question is not directed at them. This is because the complainant does not actually need to possess the relevant protected characteristic. An employee can complain of unlawful harassment if they are related someone with a protected characteristic, or because a colleague believes they have a protected characteristic.

2. Legal risks

An employee does not need to be employed to make a discrimination claim at a tribunal.

- Job applicants who believe they have not been appointed because of a 'protected characteristic' can make a claim.
- New or established employees who are dismissed because of a health condition can make a discrimination claim at a tribunal.
- An employee in their probationary period may claim discrimination if their employment has been ended for no credible reason.
- An employee subjected to harassment can make a discrimination claim at a tribunal.
- An employee asked to retire can make a discrimination claim at a tribunal.

Successful unfair dismissal claims are limited to a compensation cap, whereas those for unlawful discrimination have no cap.

A positive employment culture, and swift action if conduct falls beneath acceptable standards will help mitigate the risks. An unhealthy culture will make it difficult to defend claims.

The time to defend and the cost of defending tribunal claims can be significant, irrespective of the outcome.

3. Culture and behaviour

Modern day workforces are eclectic, and a positive culture throughout the council enables staff with different backgrounds and beliefs to share ideas and shape how the council achieves what councillors decide for the community.

Different people find different things acceptable. It may not be obvious that some behaviour would be unwelcome or could offend a person. Those in positions of 'power' over an employee may not always understand how words or actions are received. An employee may not always find it easy to communicate how they really feel. 'Banter' that on the face of it is reciprocated may nonetheless be unwelcomed and damaging. Others who overhear comments, or learn of them third hand, will form judgements about the culture.

Whilst both staff and councillors jointly determine what the working culture is like, councillors are key in demonstrating what is and isn't acceptable behaviour. This is apparent from how councillors behave with each other in council meetings and how standards of behaviour are applied through the use of informal discussion and formal policies.

4. During the investigation

Employers have duty of care to provide a safe place of work. If a complaint is made, discuss how to manage working relationships whilst the allegation is being investigated and until the outcome is disclosed. This is as much for the protection of the alleged perpetrator as for the aggrieved.

Consider whether a neutral person should be offered as a 'listening ear' for both parties in the investigation. Offer other support that may be appropriate to the situation such as signposting to support groups, time off for counselling etc. If you have suspended a staff member, your duty of care continues and it's important to consider their wellbeing and mental health.

Ensure that regularly communication with both parties.

5. Victimisation

All employees have the right to raise genuine concerns without the fear of reprisals. If the aggrieved (or a witness) is treated differently / less favourably because they have raised a complaint, then this is victimisation. This would include isolating someone because they have made a complaint, cancelled a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

6. False allegations

If an employee makes an allegation that they know to be untrue, or gives evidence that they know to be untrue, the council should consider the matter under the disciplinary procedure. Such an allegation would be potentially Gross Misconduct.

7. Complaints against councillors

Following the Ledbury case, the law is clear that any formal complaint regarding a breach of the Code of Conduct must be referred to the Monitoring Officer for investigation. During the investigation, it is critical to ensure that where an employee of the council has made the complaint, that the council agrees with the employee reasonable measures to protect their health and safety. Such measures may include a temporary change in duties, change of work location, not attending meetings with the person to whom the complaint has been made etc.

