



# HPC RESPECT, ANTI-HARASSMENT AND BULLYING POLICY

## 1 INTRODUCTION

All staff 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, agency staff, visitors, Councillors or members of the Council.

Bullying and harassment in the workplace can lead to poor morale, low productivity and poor performance, sickness absence, mental health issues, lack of respect for others, turnover, damage to the council's reputation and ultimately, legal proceedings against the council and payment of legal fees and potentially unlimited compensation.

## 2 Policy

All persons involved with the Council must show respect to each other at all times. This means respecting differences, valuing opinions, welcoming diversity of thought and listening to others. Being mindful of how our behaviour can impact others, either intentionally or unintentionally, is key.

When working for or with HPC, everyone has a right to feel included and respected at work, regardless of who they are and whatever their background and experience. Anyone should feel comfortable to speak up if they experience or witness behaviour which they find unacceptable or inappropriate.

The Council does not tolerate bullying or harassment in the workplace. 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.

The Council 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.

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

### 3 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(s) 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'. (see the ACAS guidance for these definitions)

Examples of bullying and harassment are given in the Annex to this Policy:

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, which must be carried out following Council standards.

### 4 Responsibilities

All parties to the council have a responsibility to ensure that their conduct towards others does not harass or bully or in any way demean the dignity of others. If unacceptable behaviour is observed, then each individual can challenge the perpetrator and ask them to stop. There needs to be agreement about how "robust people management" and "bullying" differ; effective management of performance will usually include feedback based on objective evidence, delivered by a committee specifically designated and often trained to manage and appraise staff, with dialogue occurring on a face to face basis in confidential surroundings. Bullying is more likely to be complained about when individual Members criticise staff, often without objective evidence, without the mandate from the corporate body of the council and in environments which are open to the public or other employees or by way of blogs, social media comments, or in the pub or local playground.

The Council undertakes to share its policy with all members and workers and request that each party signs to demonstrate acceptance of its terms. All new members and employees will be directed to the Council web site where all policies & procedures can be accessed..



A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk and reported to the full council for approval.

The Council will undertake to ensure that its members and workers are trained in the processes required by this policy as deemed appropriate.

## 5 Use of the disciplinary procedure

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

## 6 Victimisation

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

## 7 False allegations

False accusations of harassment or bullying can have a serious effect on innocent individuals. 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.

## 8 Disclosure and confidentiality

We will treat personal data collected during this process in accordance with the data protection policy. Information about how data is used and the basis for processing data is provided in the employee privacy notice.

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

## 9 Procedures

### 9.1 Reporting concerns

- 9.1.1 What you should do if you witness an incident you believe to harassment or bullying



If you witness such behaviour you should report the incident in confidence to an authority such as the Clerk, a councillor, or the Police. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

- 9.1.2 What you should do if you feel you are being Bullied or Harassed by a member of the public or supplier (as opposed to a colleague)

If you are being bullied or harassed by someone with whom you come into contact at work, please raise this with the Clerk or a councillor in the first instance. They will then decide how best to deal with the situation, in consultation with you.

- 9.2 What you should do if you feel you are being Bullied or Harassed by a councillor

If you are being bullied or harassed by a councillor, there are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of Code of Conduct breaches will be investigated by the Monitoring Officer.

- 9.3 What you should do if you are being Bullied or Harassed by another member of staff

If you are being bullied or harassed by a colleague or contractor, there are two possible avenues for you, informal or formal. These are described below.

## 10 Informal resolution

If you are being bullied or harassed you may be able to resolve the situation yourself by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to our policy and must stop. Alternatively, you may wish to ask the Clerk, a colleague or another councillor to put this on your behalf or to be with you when confronting the perpetrator(s).

If the above approach does not work or if you do not want to try to resolve the situation in this way, or if you are being bullied by your own manager, you should raise the issue with the Chair of the Council. The Chair (or another appropriate individual) will discuss with you 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 is having an adverse effect on a member of staff;

That such behaviour is contrary to our 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 your name, if this is what you want. They will also stress that the conversation is confidential.



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

If your 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 that you raised the matter informally. We will consult with you before taking this step.

## 11 Raising a formal complaint

You can make a formal complaint about the harassment or bullying 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. You 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
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### Allegations against a colleague or contractor

The alleged perpetrator(s) would need to be told your name and the details of your complaint for the issue to be investigated properly. However, we will carry out the investigation as confidentially and sensitively as possible. Where you and the alleged perpetrator(s) work in proximity to each other, we will consider whether it is appropriate to separate you whilst the matter is being investigated. against a member of the public or supplier

We will investigate the complaint as far as possible by contacting the member of public or the supplier's employer and asking for a response to the allegations.

### Allegations against a councillor

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.



## 12 During the investigation

Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. If, after an investigation, we decide that an employee has harassed or bullied another employee, then the employee may be subject to disciplinary action, up to and including dismissal.

Employers have a duty of care to provide a safe place of work. If a complaint is made, the Council will discuss with both parties 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.

Depending on the nature of the allegations, the Investigator may want to meet with you to better understand your complaint. Whilst there is no Statutory right to be accompanied at investigation meetings, the Investigator will consider your request if you want to have a work colleague or union representative with you at that meeting.

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

Ensure that you regularly communicate with both parties.

## 13 Hearing

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

After the meeting the panel will write to you to inform you of the decision and to notify you of your right to appeal if you are dissatisfied with the outcome. You should put your appeal in writing explaining the reasons why you are dissatisfied with the decision. Your appeal will be heard under the appeal process that is described in the Grievance Procedure.

## 14 Penalties within HPC

Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the council.

If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral through the Standards process in place at the time reported as a contravention of the Member's Code of Conduct could be an appropriate measure. If an employee is experiencing bullying or harassment from a third party, the council will act reasonably in upholding its duty of care towards its own employees. In extreme cases



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harassment can constitute a criminal offence and the council should take appropriate legal advice, often available from the council's insurer, if such a matter arises.

Relevant legislation & guidelines Useful contacts

ACAS [www.acas.org.uk](http://www.acas.org.uk) Helpline 0300 123 1100 , Open Monday to Friday, 8am to 6pm.

Local Government Ombudsman for England [www.lgo.org.uk](http://www.lgo.org.uk) 0300 061 0614 Equalities and Human Rights Commission [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

SLCC (the professional body for local council clerks and senior council employees) [www.slcc.co.uk](http://www.slcc.co.uk)

DirectGov website [www.GOV.uk](http://www.GOV.uk)

ALCC Union, email: [advice@alccunion.co.uk](mailto:advice@alccunion.co.uk), or call 0330 055 2881 , the advice line and email is open from 09:00 – 17:00 Monday - Friday.

#### POLICY HISTORY

Date of policy: Nov 2021 Approving committee:

Date of committee meeting:

Full Council Resolution:

Policy version reference:

Supersedes: [Name of old policy and reference]

Policy effective from:

Date for next review: 1 year from policy date

— policy ends here —



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## ANNEX

### 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.

### Legal risks

Councils have a duty of care towards all their workers and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If an employer fails to act reasonably with regard to this duty of care by allowing bullying or harassment to continue unchallenged an employee may decide to resign and claim 'constructive dismissal' at an Employment Tribunal

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.

### 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 also in how standards of behaviour are applied through the use of informal discussion and formal policies. Examples of unacceptable behaviour at work include (but are not limited to):

- physical conduct ranging from touching to sexual advances and serious assault;
- the offer of rewards for going along with sexual advances, e.g. promotion, access to training;
- suggestions that refusing sexual advances will adversely affect aspects relating to employment (such as pay, promotion, training, work opportunities, or any other condition of employment or development);
- comments about a person's appearance;
- jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion; Lewd or suggestive comments
- questions about a person's sex life;
- unwanted nicknames, especially related to a person's age, race or disability;
- the use of obscene gestures;
- excluding an individual for a non-work reason
  
- treating an employee differently because they have, or are perceived to have, a 'protected characteristic' or are associated with someone who does;
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person;
- spreading malicious rumours or insulting someone;
- picking on someone or setting them up to fail;
- making threats or comments about someone's job security without good reason;
- ridiculing someone;
- isolation or non-cooperation at work, deliberate exclusion from conversations or work activities,
- excluding someone from social activities.
- 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
- 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

#### Important notice

This policy is based upon a model policy by NALC designed for a small council adhering to statutory minimum requirements. It does not constitute legal advice. It was commissioned by the National Association of Local Councils (NALC) in 2019 for the purpose of its member councils and county associations. Every effort has been made to ensure that the contents of



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