

# **Warwick District Council**

## **DIGNITY AT WORK POLICY & PROCEDURE**

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### **1. Purpose**

The purpose of this procedure is to develop a working environment where harassment and bullying are known to be unacceptable and where individuals have the confidence to complain in the knowledge that their complaint will be addressed fairly, promptly, and confidentially, and to provide a framework to process any such complaint.

Warwick District Council is committed to maintaining a workplace that encourages and supports the right to dignity at work and all employees are expected to respect the rights of individuals to:

- Have dignity in their working life
- Be treated fairly
- Be respected for their individuality and diversity

The Council recognises the harmful effects of harassment and bullying which can include anxiety, distress, reduced job satisfaction and productivity, sickness absence, poor working relationships and high staff turnover, and is committed to implementing policies and procedures to:

- prevent bullying and harassment at work
- promote the provisions of this procedure
- handle complaints seriously, fairly and confidentially
- ensure complainants do not suffer further treatment which could be considered to be bullying or harassment as a result of raising concerns regarding their treatment

Any form of intimidating behaviour including harassment and bullying may be treated as a disciplinary matter. This applies not only at the workplace during working hours but at other work related activities – for example training courses, conferences and social functions.

### **2. Scope**

This policy applies to all employees, except those employed under JNC Chief Officer or JNC Chief Executive Conditions, where other arrangements apply.

### 3. Definitions

Harassment is unwanted conduct that violates an individual's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual. In the case of harassment, it is conduct that may be related to The Equality Act 2010 which explicitly states the following characteristics: sex, race, religion or belief, disability, sexual orientation, age, gender reassignment, marriage or civil partnership, or pregnancy and maternity, or any other personal characteristic.

Bullying may be described as offensive, intimidating, malicious or insulting behaviour or, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

In both cases, it is behaviour that the recipient finds demeaning, offensive or unacceptable. It may be persistent or an isolated incident.

There are many forms of harassment and bullying and some examples are detailed below. This is not an exhaustive list.

- Spreading malicious rumours, or insulting someone
- Unwelcome personal comments or personal insults
- Offensive jokes, language or gossip
- Humiliation, for example criticising a colleague in front of others
- Failure to safeguard confidential, personal information,
- Ridiculing or demeaning someone – picking on them or setting them up to fail
- Aggression or intimidation
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances or physical contact
- Coercion for sexual favours
- Making threats or comments about job security without foundation
- Persistent overloading, criticism or setting impossible deadlines
- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Inconsistencies in following policy, for example allowing some employees to accrue excessive flexi credit/debit or allowing some staff to take leave without sufficient notice.
- Collusion to undermine staff or management, maliciously to reach a personally driven outcome

Bullying and harassment are not necessarily face to face – they may be written, verbal, visual, (displaying posters etc.), physical or electronic.

Employees should be aware that it is the effect of the behaviour that determines whether bullying or harassment has occurred; even if the alleged harassment is unintentional, this can still be considered as harassment.

An employee can submit a claim that behaviour amounts to bullying or harassment even if the behaviour is not directed at the employee who complains, but the behaviour creates an environment that any individual who witnesses the behaviour finds intimidating, hostile, degrading, humiliating or offensive.

#### **4. Key Principles**

- The Council believes that harassment, discrimination, bullying or unfair treatment of any kind is unacceptable and is committed to promoting dignity and respect at work. Accordingly, any such act may be considered to constitute an act of misconduct in accordance with the Council's disciplinary procedure.
- The primary focus should be on attempting to resolve such matters at the earliest opportunity, with the aim of achieving early conciliation between those concerned.
- High performance and productivity are dependent on effective working relationships, and the fair and reasonable handling of complaints is an important element in creating and maintaining those relationships.
- Managers and employees should approach complaints constructively, deal with issues promptly and not delay meetings, decisions or confirmation of those decisions
- Harassment and bullying are to be distinguished from a manager making reasonable requests to a member of staff
- The employee has a right to be accompanied at formal meetings, normally by a colleague or trade union representative
- Mediation should be considered where accessible and appropriate.

#### **5. Exclusions**

This procedure will not apply:

- Where there are separate, specific Council procedures to address an issue e.g. Grievance Procedure, Confidential Reporting Code, Recruitment and Selection Procedure.
- Where the complaint is considered to be frivolous, malicious or vexatious, this may be treated as misconduct and lead to disciplinary action.
- To matters relating to personal grievances or for addressing personal differences between employees

- To incidents which happened more than 3 months previously. However, complaints may be considered which are out of time where there are extenuating circumstances, or if it is in the interest of the Authority to continue with the complaint.

## **6. Roles and Responsibilities**

Employees have a responsibility to:

- Protect the dignity of colleagues throughout the Council.
- Avoid behaviour that may cause an individual to feel the subject of harassment or bullying.
- Challenge inappropriate behaviour from other employees.
- Familiarise themselves with the dignity at work policy and procedure
- Participate in an investigation when requested to do so by an investigating officer – NB, Employees can be accompanied by work colleagues or trade union officials at the meetings.

Managers have a responsibility to:

- Familiarise themselves with the dignity at work policy and procedure and ensure it is complied with
- Protect their employees from harassment and bullying
- Take prompt action to stop any harassment or bullying they become aware of, whether a complaint has been raised or not
- Ensure their staff are aware of the dignity at work policy and procedure
- Ensure the workplace is free of offensive posters, documents use of language / behaviours which may constitute harassment or bullying
- Attempt to resolve such complaints fairly, promptly, and confidentially
- Promote a working environment in which harassment and bullying cannot flourish.

HR have a responsibility to:

- Provide support and advice to managers and employees on the operation of the procedure.
- Provide support and advice to facilitate the resolution of complaints raised through the dignity at work policy and procedure.
- Ensure where an employee wishes to be accompanied by a work colleague or trade union official, meetings are arranged accordingly.

## **7. Action against Trade Union Representatives**

If an accredited trade union representative is the subject of the investigation, the circumstances of the case should be reported to a regional official of the trade union concerned.

## **8. Addressing a Complaint of Harassment or Bullying**

### **Informal Stage**

Employees and their managers should aim to settle any complaint informally before implementing the formal procedure, as an informal approach can often resolve matters quickly and effectively. Where this is not possible, the formal process should be followed.

If possible, the complainant should make it clear to the person against whom the complaint is being made that their behaviour is inappropriate and ask the harasser to stop. If the employee feels unable to do this, they may ask their manager, colleague or trade union representative to act on their behalf, or to accompany them. Alternatively, they may prefer to contact HR or the Council's employee counselling service, via HR.

If the complaint is about the employee's manager, another manager should be involved. Employees should take advice from HR on who to approach.

Initial steps should be taken to resolve the matter through face to face discussion and mediation, if necessary, to determine the most appropriate course of action.

Where complainants wish to attempt to resolve the issue informally, they should be supported in this wherever possible. However, if the investigation shows that an informal approach is inappropriate, due to the seriousness of the allegations, or fear that the complainant may be at risk, formal action should be considered.

### **Mediation**

The purpose of mediation is to find a solution acceptable to each party. Mediation is a voluntary process and both parties must agree to it. Either party may choose to withdraw at any point. The mediator is impartial and cannot impose a decision – the resolution must be reached by voluntary agreement between the two parties.

Mediation is most successful when both parties:

- understand what is involved,
- enter into the process voluntarily,
- are prepared to attempt to repair the working relationship

It can be particularly helpful in cases where the person against whom the allegation has been made is unaware of the impact of their actions and also in situations where, whether the allegation is proven or not, there is a need to restore the employment relationship.

## **Formal Stage 1 – Meeting**

### ***Employee***

If the employee considers:

- that they have a complaint regarding an incident which occurred in the last three months; or
- that their complaint has not been resolved to their satisfaction informally; or
- their complaint is so serious that an informal approach is not appropriate

They should submit their complaint in writing to a more senior manager within three months of the alleged incident and include:

- Name/s of the individuals concerned.
- Details of the allegation/s including relevant dates, locations and nature of the incident
- Details of any witnesses or supporting evidence.
- Details of what efforts the employee and others have made to resolve the complaint.
- The reason(s) why the employee remains dissatisfied with the outcome of the informal stage of the procedure, or why the informal procedure is inappropriate
- Details of any outcomes sought

### ***Manager***

#### ***Potential Misconduct***

At this stage the manager should consider whether the nature of the allegation constitutes potential misconduct, according to the Council's disciplinary procedure.

If so, from this point, the Council's disciplinary procedure should be followed and the complainant should be advised of this decision.

#### ***Further Investigation Required***

If the complaint does not appear to concern behaviour which could be considered to be misconduct, but it is felt by the manager that further investigation will be required to clarify the issue and to determine what action should be taken, then the manager will undertake that investigation.

- At this stage, HR advice should be sought
- Separate meetings should be held with the complainant and the person against whom the allegation has been made, as soon as practically possible, but within seven calendar days of receipt of the employee's written complaint.
- Both the complainant and the person against whom the complaint has been made may choose to be accompanied at these meetings.

- If necessary, other witnesses should be interviewed, if this is considered necessary, to ascertain facts which may have a bearing on the case
- Should the relationship between the two parties create an unworkable situation, alternative working arrangements can be considered, if this appears to be the only option. HR advice should be sought in these cases and this step should only be considered as a short term temporary measure.
- Having concluded interviews, if the allegation is found to be unsubstantiated, attempts should be made to conciliate between the two parties. Following satisfactory conciliation, the process is complete.
- Where the allegation is found not to be substantiated, but it is not possible to reach conciliation (the complainant remains aggrieved) there is a right of appeal. In these cases, both employees may need further support to successfully re-establish good working relationships.
- Where the claim appears to be substantiated, (i.e. harassment has occurred) then the manager should pursue the allegations of misconduct derived from the findings of the investigation under the disciplinary procedure. In these circumstances, it may not always be necessary to conduct a separate investigation.

All parties should be notified in writing of the decision taken and of any actions to be put in place.

### **Formal Stage 2 – Appeal**

If the complainant is not satisfied with the outcome of the formal stage there is a right of appeal. The Council's Appeal procedure will be followed.

## **9. Further Guidance**

### **Harassment by third parties**

Employers are potentially liable for harassment of their employees by third parties, for example customers or clients. Employers are liable when harassment has occurred on at least two previous occasions, they are aware harassment has occurred, and they have not taken reasonable steps to prevent it from happening again.

If an employee makes a complaint about a third party, an investigation should be carried out and action taken to prevent a reoccurrence. When a complaint is upheld, consideration should be given to actions necessary to rectify the situation. This may include mediation, conciliation and, where the third party is a service user, may result ultimately in the withdrawal of service provision.



### **Harassment by Elected Members**

Complaints against Warwick District Councillors should be discussed with the Deputy Chief Executive & Monitoring Officer, who will provide advice and support on this matter.

### **Harassment by Chief Executive**

Complaints against the Chief Executive should be made in writing to the Council's Executive Committee. The complaint will be considered in accordance with the Code of Corporate Governance procedure and Employee Code of Conduct.

### **Harassment by Chief Officers**

Complaints against a Chief Officer should be made in writing to the Chief Executive who will consider the complaint in accordance with the Code of Corporate Governance procedure and Employee Code of Conduct.

## **10. Monitoring**

Cases of harassment or bullying will be monitored by HR and reported quarterly via official reports on data.