

16th January 2023



**To Members of the Personnel Committee**

You are hereby summoned to a meeting of the Working Group to be held on **23rd January 2023**, at **7.30pm** at Thanet House, 58 London Road, Stroud, to conduct the following business.



Helen Bojaniwska  
Town Clerk

**AGENDA**

1. To receive apologies for absence
2. To receive declarations of interest or requests for dispensations
3. To answer questions from the public
4. To note the minutes of the meeting of the Personnel Working Group on 31<sup>st</sup> October 2022, previously circulated
5. To receive the Clerk's report
6. To approve a Respiratory Illnesses policy
7. To approve a Dignity at Work policy
8. To resolve in view of the confidential nature of the business to be transacted, that the press and public be excluded from the meeting for the discussion of the remaining items
9. To approve a scale point increase for one member of staff
10. To consider a flexible working request
11. To discuss staffing capacity and structures in the Green Spaces team

*Members are reminded that the Council has a general duty to consider the following matters in the exercise of any of its functions: Equal Opportunities (age, race, gender, sexual orientation, faith, marital status, and disability); Crime and Disorder (Section 17); Health and Safety; and Human Rights.*

# STROUD TOWN COUNCIL POLICY ON RESPIRATORY ILLNESSES

This policy has been developed to explain: the risks arising from respiratory illnesses; the protective measures that the Council is taking; and the steps that staff, councillors and volunteers are expected to take to protect themselves and others.

## What are respiratory illnesses?

The most common illnesses include:

<b>Illness</b>	<b>More information</b>
Common cold	<a href="https://www.nhs.uk/conditions/common-cold/">https://www.nhs.uk/conditions/common-cold/</a>
Bronchitis	<a href="https://www.nhs.uk/conditions/Bronchitis/">https://www.nhs.uk/conditions/Bronchitis/</a>
Sinusitis (sinus infection)	<a href="https://www.nhs.uk/conditions/sinusitis-sinus-infection/">https://www.nhs.uk/conditions/sinusitis-sinus-infection/</a>
Bronchiolitis	<a href="https://www.nhs.uk/conditions/Bronchiolitis/">https://www.nhs.uk/conditions/Bronchiolitis/</a>
Tonsillitis	<a href="https://www.nhs.uk/conditions/Tonsillitis/">https://www.nhs.uk/conditions/Tonsillitis/</a>
Chest infection	<a href="https://www.nhs.uk/conditions/chest-infection/">https://www.nhs.uk/conditions/chest-infection/</a>
Laryngitis	<a href="https://www.nhs.uk/conditions/Laryngitis/">https://www.nhs.uk/conditions/Laryngitis/</a>
Pneumonia (lung infection)	<a href="https://www.nhs.uk/conditions/Pneumonia/">https://www.nhs.uk/conditions/Pneumonia/</a>
Covid-19	<a href="https://www.nhs.uk/conditions/coronavirus-covid-19/">https://www.nhs.uk/conditions/coronavirus-covid-19/</a>

## What are the symptoms?

Symptoms of COVID-19, flu and common respiratory infections include:

- continuous cough
- high temperature, fever or chills
- loss of, or change in, your normal sense of taste or smell
- shortness of breath
- unexplained tiredness, lack of energy
- muscle aches or pains that are not due to exercise
- not wanting to eat or not feeling hungry
- headache that is unusual or longer lasting than usual
- sore throat, stuffy or runny nose
- diarrhoea, feeling sick or being sick

## Other rare illnesses

Some other rare illnesses have flu like symptoms so if you are experiencing the above symptoms and have:

- *been working in water bodies with an uncovered skin cut/abrasion* – please refer to this website to check that you do not have the symptoms of Weil's Disease (leptospirosis): <https://www.nhs.uk/conditions/leptospirosis>
- *been in contact with a bird which is suspected or known to have died from avian influenza (bird flu)* – please refer to this website, even though the risk is very low: <https://www.nhs.uk/conditions/bird-flu>

- *been working in an areas where there are deer and have a 'bullseye' type rash* – please refer to this website to check that you do not have symptoms of tick-borne Lyme Disease <https://www.nhs.uk/conditions/lyme-disease/>

## **Why do we need a policy?**

It's important that everyone understands the risk of potentially passing on a respiratory illness, to protect people at higher risks and reduce the spread of infections.

### **People at risk**

People who are at higher risk from COVID-19 and other respiratory infections include:

- older people
- those who are pregnant
- those who are unvaccinated
- people of any age whose immune system means they are at higher risk of serious illness.

For more information see:

<https://www.gov.uk/government/publications/covid-19-guidance-for-people-whose-immune-system-means-they-are-at-higher-risk>

- people of any age with certain long-term conditions.

For more information see: <https://www.nhs.uk/conditions/coronavirus-covid-19/people-at-higher-risk/who-is-at-high-risk-from-coronavirus/>

The risk of becoming seriously unwell from COVID-19 and other respiratory infections is very low for most children and young people.

Please advise your line manager, or the Town Clerk if you are at a greater risk of serious illness from respiratory infections so that a personal risk assessment can be put in place for you.

### **Reducing the spread**

Respiratory infections can spread easily and cause serious illness in some people. You will not always know whether someone you encounter outside your home or in the workplace is at higher risk of becoming seriously unwell. They could be strangers (for example, people you sit next to on public transport or at a public meeting) or people you may have regular contact with (for example, friends and work colleagues). This means it is important to follow the advice in this policy to reduce the spread of infection and help to keep others safe.

The risk of catching or passing on a respiratory infection is greatest when someone who is infected is physically close to or sharing an enclosed and/or poorly ventilated space with, other people. When someone with a respiratory viral infection such as COVID-19 breathes, speaks, coughs or sneezes, they release small particles that contain the virus which causes the infection. These particles can be breathed in or can come into contact with the eyes, nose, or mouth. The particles can also land on surfaces and be passed from person to person via touch.

There are simple things you can do in your daily life that will help reduce the spread of respiratory infections and protect those at highest risk. Things you can choose to do are:

### **Get vaccinated**

Vaccines are the best defence we have against COVID-19 and other respiratory infections such as flu. They provide good protection against hospitalisation and death. They also reduce the risk of long-term symptoms. The COVID-19 vaccines are safe and effective and vaccine programmes are continuously monitored.

### **COVID-19**

Vaccinations are available free of charge for eligible groups. A full course of a COVID-19 vaccine provides protection against severe disease, including against the Omicron variant, but this protection wears off over time. Booster doses significantly improve the protection offered by vaccines. You should get a booster vaccine for COVID-19 if you are offered one.

For more information visit: <https://www.nhs.uk/conditions/coronavirus-covid-19/coronavirus-vaccination/>

Influenza vaccinations are available free of charge for eligible groups. For more information visit: <https://www.nhs.uk/conditions/vaccinations/book-flu-vaccination/>

If staff members are not eligible for a free influenza vaccination the Council will pay the reasonable cost of getting vaccinated, either by providing a voucher or on submission of a valid receipt.

Staff members may take reasonable time off work to attend a vaccination clinic if there are none available outside of working hours.

### **Let fresh air in if meeting others indoors**

There are no longer limits on the number of occupants of workspaces, but steps can be taken to avoid being physically close to or sharing an enclosed and/or poorly ventilated space with other people.

### **Thanet House**

All areas of the ground floor of Thanet House are equipped with extraction fans which can be used where necessary to provide fresh air.

Upstairs windows can be opened if required.

### **Libby's Drive depot**

Consider opening windows or doors when more smaller spaces are crowded.

### **Other locations**

When booking spaces for meetings outside of the office, consideration should be given to choosing spaces for meetings that can comfortably fit the expected

number of attendees, and/or have suitable ventilation. During the summer months meeting outdoors may be a healthier option.

Some committee, working group and business meetings may be able to meet online to minimise the need for face-to-face contact. The Council will periodically review which meetings may be held face-to-face.

### **Good hygiene practice**

#### **Wash your hands**

Hands touch many surfaces and can become contaminated with viruses and other germs. Once contaminated, hands can transfer these to your eyes, nose or mouth. From there, the germs can enter your body and infect you.

Washing or sanitising your hands removes viruses and other germs, so you are less likely to become infected if you touch your face. Using soap and water is the most effective way to clean your hands, especially if they are visibly dirty.

Hand sanitiser can be used when soap and water are not available. You should do this regularly throughout the day.

In addition, wash your hands:

- after coughing, sneezing and blowing your nose
- before you eat or handle food
- after coming into contact with surfaces touched by many others, such as handrails, and shared areas such as kitchens and bathrooms
- when returning home

Hand sanitiser and soap will be provided at the Council office and depot.

#### **Cover your nose and mouth when you cough and sneeze**

Coughing and sneezing increases the number of particles released by a person, the distance the particles travel and the time they stay in the air. If an infected person coughs or sneezes without covering their nose and mouth, it will significantly increase the risk of infecting others around them. By covering your nose and mouth, you will reduce the spread of particles carrying the virus.

#### **Clean your surroundings frequently**

Cleaning surfaces reduces the risk of catching or spreading infections. Surfaces and belongings can be contaminated with COVID-19 and other germs when people who are infected touch them or cough, talk or breathe over them.

Cleaning surfaces will reduce the risk of you catching or spreading infections. The Council's officer cleaner is instructed to pay particular attention to surfaces that are touched frequently, such as handles, light switches, and work surfaces.

#### **Face coverings and masks**

Face coverings and face masks are not a requirement in the workplace, but may be considered in crowded and enclosed spaces, and may protect you from becoming infected by some respiratory viruses.

## **What to do if you are unwell**

### COVID-19 testing

The Council will make COVID-19 test kits available to all staff. You are advised to keep a pack of tests at home in case you need them.

Take a COVID-19 test if you are experiencing symptoms associated with COVID-19:

- a high temperature or shivering (chills) – a high temperature means you feel hot to touch on your chest or back (you do not need to measure your temperature)
- a new, continuous cough – this means coughing a lot for more than an hour, or 3 or more coughing episodes in 24 hours
- a loss or change to your sense of smell or taste
- shortness of breath
- feeling tired or exhausted
- an aching body
- a headache
- a sore throat
- a blocked or runny nose
- loss of appetite
- diarrhoea
- feeling sick or being sick

If you have a positive COVID-19 test result, it is very likely that you have COVID-19 even if you do not have any symptoms. You can pass on the infection to others, even if you have no symptoms.

Many people with COVID-19 will no longer be infectious to others after 5 days. If you have a positive COVID-19 test result, do not come in to work or attend a council meeting for 5 days after the day you took your first positive test.

### Stay at home

If you have symptoms of any other respiratory infection, have not tested positive for COVID-19, but do not feel well enough to work or attend a Council meeting, you should stay at home and avoid contact with other people until you are feeling better.

If you feel better, but still have symptoms, like a runny nose, sore throat or cough please continue to stay at home until you are properly recovered. If you are able to, staff should consider working at home until properly recovered. Your line manager will be able to advise on what tasks may be completed at home.

### Sharing a house with someone unwell

If someone that you share your home with is unwell with COVID-19 please take regular COVID-19 tests before coming into work or attending a Council meeting and stay at home if you test positive.

There is further guidance here: <https://www.nhs.uk/conditions/coronavirus-covid-19/self-isolation-and-treatment/>

### **Sick leave**

Please refer to the Council's Personnel Handbook for further information on the Council's sickness absence scheme.

### **Policy review**

This policy will be reviewed if there are any changes to government guidance or annually.

DRAFT

# Adoption of new Dignity at Work Policy

When the Council signed the Civility and Respect pledge a commitment was made to adopting a Dignity at Work Policy.

A draft policy, based on the NALC/SLCC template is attached for consideration, along with some notes that came with it.

If adopted this would replace the current Bullying and Harassment policy in the Employee Handbook, which states:

“Bullying and harassment is in breach of the Council’s Code of Conduct, employment policies and that of the duty of care. The Council has a legal obligation to ensure this is complied with at all times.

Members must not raise matters which directly relate to the conduct, capability or otherwise of any named or inferred individual or group of officers at meetings of Council or any meeting where the public are or may be present”.

The new policy provides a much firmer basis for action to address bullying and harassment than the existing policy, and is therefore recommended for approval.



# **DIGNITY AT WORK POLICY**

to replace existing section on Bullying and Harrasment in the Personnel Handbook

**Stroud Town Council believes that civility and respect are important in the working environment, and expect all councillors, officers and the public to be polite and courteous when working for, and with the council.**

## **Purpose**

Stroud Town Council is committed to creating a working environment where all council employees, councillors, contractors and others who come into contact with us in the course of our work, are treated with dignity, respect and courtesy. We aim to create a workplace where there is zero tolerance for harassment and bullying.

In support of this objective, Stroud Town Council has signed up to the Civility Pledge, as a commitment to civility and respect in our work, and politeness and courtesy in behaviour, speech, and in the written word. Further information about the Civility and Respect Pledge is available [NALC](#) & [SLCC](#).

We recognise that there is a continuum where unaddressed issues have the potential to escalate and become larger, more complex issues and this policy sets out how concerns will be managed however the emphasis of this policy is on resolution and mediation where appropriate, rather than an adversarial process.

This document:

- explains how we will respond to complaints of bullying or harassment;
- ensures that we respond sensitively and promptly; and,
- supports our employees in ensuring their behaviour does not amount to bullying and/or harassment by giving examples.

## **Scope**

This policy covers bullying and harassment of and by Town Clerks and all employees engaged to work at Stroud Town Council. Should agency staff, or contractors have a complaint connected to their engagement with Stroud Town Council this should be raised to their nominated contact, manager, or the Chair of the Council, in the first instance. Should the complaint be about the Chair of the council the complaint should be raised to the Chair of the council's Personnel Committee.

Agency staff, or contractors are equally expected to treat council colleagues, and other representatives and stakeholders with dignity and respect, and the council may terminate the contract, without notice, where there are suspicions of harassment or bullying.

Complaints about other employment matters will be managed under the council's grievance policy.

It is noted that the management of a situation may differ depending on who the allegations relate to (e.g., employees, contractor, councillor), however, the council will take appropriate action if any of its employees are bullied or harassed by employees, councillors, members of the public, suppliers, or contractors.

## The position on bullying and harassment

All staff and council representatives are entitled to dignity, respect and courtesy within the workplace and to not experience any form of discrimination. Stroud Town Council will not tolerate bullying or harassment in our workplace or at work-related events outside of the workplace, whether the conduct is a one-off act or repeated course of conduct, and whether harm is intended or not. Neither will we tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. You should also be aware that, if you have bullied or harassed someone (e.g. physical violence, harassment), in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

We expect all representatives of the council to treat each other with respect and uphold the values of the code of conduct, civility and respect pledge, equality opportunities policy, and all other policies and procedures set by the Council.

We expect you to demonstrate respect by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.

Allegations of bullying and harassment will be treated seriously. Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. See the grievance policy for further details regarding the process. Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

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. While we will assume that all complaints of bullying and harassment are made in good faith, in the event that allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under the council's disciplinary procedure.

### Definitions of Harassment and Bullying

Harassment	<ul style="list-style-type: none"><li>• Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic</li><li>• Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic</li></ul>
Bullying	<ul style="list-style-type: none"><li>• Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.</li></ul>

### What Type of Treatment amounts to Bullying or Harassment?

'Bullying' or 'harassment' are phrases that apply to treatment from one person (or a group of people) to another that is unwanted and that has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person.

Examples of bullying and harassment include:

- Physical conduct ranging from unwelcome touching to serious assault

- Unwelcome sexual advances
- The offer of rewards for going along with sexual advances e.g. promotion, access to training
- Threats for rejecting sexual advances
- Demeaning comments about a person's appearance
- Verbal abuse or offensive comments, including jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Unwanted nicknames, especially related to a person's age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Spreading malicious rumours or insulting someone
- Lewd or suggestive comments or gestures
- Deliberate exclusion from conversations, work activities or social 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
- Display of pictures or objects with sexual or racial overtones, even if not directed at any particular person
- Isolation or non-cooperation at work
- Subjecting a person to humiliation or ridicule, belittling their efforts, whether directly and / or in front of others
- The use of obscene gestures
- Abusing a position of power

Bullying and harassment can occur through verbal and face to face interactions but can also take place through sharing inappropriate or offensive content in writing or via email and other electronic communications and social media.

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable, and behaviour could be harassment when the person had no intention to offend. We all have the right to determine what offends us. Some behaviour will be clear to any reasonable person that it is likely to offend – for example sexual touching. Other examples may be less clear; however, you should be aware that harassment will occur if behaviour continues after the recipient has advised you that the behaviour is unacceptable to them.

Harassment can also occur where the unwanted behaviour relates to a perceived characteristic (such as offensive jokes or comments based on the assumption someone is gay, even if they are not) or due to their association with someone else (such as harassment related to their partner having a disability for example). See the council's Equality Policy.

All employees must, therefore, treat their colleagues with respect and appropriate sensitivity and should feel able to challenge behaviour that they find offensive even if it is not directed at them.

It is important to recognise that bullying does not include appropriate criticism of an employee's behaviour or effective, robust performance management. Constructive and fair feedback about your behaviour or performance from your manager or colleagues/Councillors is not bullying. It is part of normal employment and management routines and should not be interpreted as anything different.

## **Victimisation**

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload.

Provided that you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the council will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.

Making a complaint that you know to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action being taken against you.

## **Reporting Concerns**

### 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 your nominated manager in the first instance or, with the Town Clerk/or a councillor. Any such report will be taken seriously, and we will decide how best to deal with the situation, in consultation with you.

### 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, please raise this with the Town Clerk or the Chair of the council in the first instance. They will then decide how best to deal with the situation, in consultation with you. There are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of the Councillors Code of Conduct must be investigated by the Monitoring Officer.

The council will consider reasonable measures to protect your health and safety. Such measures may include a temporary change in duties or change of work location, not attending meetings with the person about whom the complaint has been made etc.

### What you should do if you witness an incident you believe to be harassment or bullying:

If you witness such behaviour you should report the incident in confidence to the Town 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.

### 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.

## **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 the council's policy and must stop. Alternatively, you may wish to ask the Town Clerk, your nominated manager or a colleague 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 nominated manager, you should raise the issue with the Chair of the council. (If your concern relates to the Chair, you should raise it with the Chair of the Personnel Committee). The Chair (or another appropriate person) will discuss with you the option of trying to resolve the situation informally by telling the alleged perpetrator, without prejudicing the matter, that:

- there has been a complaint that their behaviour is having an adverse effect on a member of the council staff
- such behaviour is contrary to our policy
- for employees, the continuation of such behaviour could amount to a serious disciplinary offence

It may be possible for this conversation to take place with the alleged perpetrator without revealing your name, if this is what you want. The person dealing with it will also stress that the conversation is confidential.

In certain circumstances we may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. The Chair (or another appropriate person) 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 extremely serious allegation or in cases where a problem has happened before) we 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.

## **Raising a formal complaint**

If informal resolution is unsuccessful or inappropriate, you can make a formal complaint about bullying and harassment through the council's grievance procedure. You should raise your complaint to the Town 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 Town Clerk or the Chair of the council will appoint someone to investigate your complaint in line with the grievance policy. 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.

The alleged perpetrator(s) would normally need to be told your name and the details of your grievance in order 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 make temporary adjustments to working arrangements whilst the matter is being investigated.

Where your complaint relates to potential breaches of the Councillors Code of Conduct, these will need to be investigated by the Monitoring Officer. The council will consider any adjustments to support you in your work and to manage the relationship with the councillor the allegations relate to, while the investigation proceeds.

Investigations will be carried out promptly (without unreasonable delay), sensitively and, as far as possible, confidentially. When carrying out any investigations, we will ensure that individuals' personal data is handled in accordance with the data protection policy.

The council will consider how to protect your health and wellbeing whilst the investigation is taking place and discuss this with you. Depending on the nature of the allegations, the Investigator may want to meet with you to understand better your complaint (see the grievance policy for further information, and details of your right to be accompanied).

After the investigation, a panel will meet with you to consider the complaint and the findings of the investigation in accordance with the grievance procedure. At the meeting you may be accompanied by a fellow worker or a trade union official.

Following the conclusion of the hearing 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.

### **The use of the Disciplinary Procedure**

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. We will keep you informed of the outcome.

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

# GUIDANCE FOR USING THE DIGNITY AT WORK POLICY

This is an example of an employment policy designed for a council adhering to statutory minimum requirements and does not constitute legal advice. As with all policies it should be consistent with your terms and conditions of employment.

This guidance is provided to support understanding of the policy, and its application, as well as where local adaptations may be required. The guidance is not part of the policy and should be removed from the policy adopted and shared with council employees.

The Dignity at Work Policy will replace a previous 'Bullying and Harassment' Policy, to create a policy that is focussed on encompassing behaviours beyond simply bullying and harassment, and zero tolerance with the aim of dealing with concerns before they escalate. It is important that any commitment made in the policy is applied in practice.

Wording has been suggested to demonstrate a council's commitment to promoting dignity and respect where they have signed up to the NALC, SLCC and OVW Civility and Respect Pledge. Council's that have not signed up to this are requested to consider making this pledge which is based on basic behaviours and expectations of all council representatives to create workplaces that allow people to maintain their dignity at all times. If your council has not agreed to the pledge this wording should be removed.

The policy is drafted with consideration of employment language and terminology that is reflective of a modern working environment, setting a tone that is engaging, collaborative and inclusive. A council may want to update references where relevant to reflect local terminology and structure, however should be considerate of equality, diversity and inclusion.

The examples of bullying and harassment are just that – examples. This should not be considered an exhaustive list.

## **Notes:**

### **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. 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.

Examples of harassment related to a protected characteristic could include;

- Making assumptions about someone's ability due to their **age**, or denying development opportunities to someone based on their age. This could also include assumptions about their lifestyle or making inappropriate jokes related to age.
- Making fun or mimicking impairments related to a health condition, or using inappropriate language about disabilities. Constantly selecting social activities that make it impossible for a colleague with a **disability** to participate in.
- Refusing to treat a person as their new gender, or disclosing information about their gender identity could be harassment on the grounds of **gender reassignment**.
- **Pregnancy/Maternity** harassment could include refusing opportunities due to pregnancy or maternity leave, or inappropriate touching and invasion of personal space such as unwanted touching of a pregnant person's stomach.
- Harassment based on **race** could include derogatory nicknames, or stereotyping based on ethnicity. It could include racist comments or jokes, or assumptions about someone's lifestyle based on their ethnicity.
- **Gender** harassment could include not considering people for a job based on gender stereotyping roles, or implementing practices that disadvantage one gender over another. Rude, explicit jokes, even if not directed at an individual, or comments on individuals' dress or appearance.
- Regularly arranging team meals over periods of fasting or religious occasions or failing to adjust a dress code to accommodate religious dress could be examples of harassment based on **religion/belief**.
- Excluding same sex partners from social events could be both **sexual orientation** and **marriage/civil partnership** discrimination, as could not offering the same work-related benefits.

A person does not need to be employed or have 2 years qualifying service 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, or treated unreasonably because of a health condition can make a discrimination claim.
- 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.

### **Legal risks**

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**

We work in eclectic communities and working environments, and a positive culture within the council enables employees with different backgrounds and beliefs to share ideas and shape how the council achieves its objectives for their community.

It is important to recognise that different individuals may find different behaviours bullying or harassing so while there is not always intent to offend or cause harm, that does not mean that the effect of the behaviour has not caused harm or offence.

It can take people a period of time to decide to raise their concerns, as they worry about consequences (perhaps from peers by complaining about a colleague who is popular, or they fear victimisation from the perpetrator or others). The council should consider whether there are opportunities (such as 121s to offer opportunity to reflect on relationships/morale) to identify issues earlier and address negative behaviours. Individuals can often mention concerns they are experiencing but not want to take it further. The council should remind the complainant that it has a zero tolerance to bullying and harassment and remind them of the policy in place to address concerns. If the allegations mentioned are significant, the council may want to suggest that it will need to investigate further, even if a 'grievance' is not raised, so as to ensure that any concerns and risks are managed, and the council is meeting its responsibilities and duty of care as an employer.

Whilst both staff and councillors jointly determine the working culture, 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.

### **Scope**

All council representatives are expected to uphold the values of the Dignity at Work Policy, however this policy sets out how allegations from employees will be managed. As indicated in the policy, concerns from a contractor, agency worker etc. should be raised to the identified person, and an appropriate approach will be considered based on the situation and relationship of the complainant with the council.

Likewise, concerns raised about the behaviour of a contractor or agency worker would not generally be managed via the full process (such as the disciplinary process) but appropriate action would be considered based on the situation. To treat people (such as contractors, or a casual worker) engaged by the council the same as an employee could blur the status of the employment relationship, so consider seeking professional advice if needed.

## **Managers**

Recognising that councils are of varying sizes, where the term manager/nominated manager is used it is recognised this could be the clerk/chief officer, another employee of the council, or a councillor depending on the situation. It is good practice to have a clearly identified person who is the responsible 'line manager' or equivalent contact for an employee so that there is clarity on how the employee should report concerns to, who they notify if they are sick or to request leave etc. More often for council employees this may be the clerk/chief officer, and for the clerk/chief officer this could be the chair/deputy Chair, or possibly chair of a staffing/personnel committee.

## **Bullying and harassment & performance management**

The policy sets out that bullying and harassment does not include appropriate criticism of an employee's behaviour or effective, robust performance management. It is not uncommon for an employee, when receiving critical feedback, to claim that this is bullying and/or harassing. It is the role of the nominated manager to provide effective and constructive feedback to encourage performance at the required standard.

Even when the feedback is not positive it should be fair, communicated in a professional and reasonable manner and shared with the objective of aiding understanding and achieving an improvement to overcome the shortfalls. There is no absolute definition of when the feedback may not be appropriate. Often it will be for the person/panel hearing the dignity at work complaint/grievance to determine whether the performance management has upheld the standards expected in terms of respect and civility and any feedback has been shared in a fair and professional way.

## **Responsibilities**

All staff and representatives of the council are responsible for their own behaviour in the workplace and for taking steps to revise unacceptable behaviour and appropriately challenge that of others.

Leaders – councillors, clerks, chief officers, managers - are responsible for ensuring that these standards of treating people with civility, respect and courtesy are upheld, both through their own example, and by communicating and promoting these expectations to all employees. They are also responsible for ensuring that concerns raised are treated seriously and addressed in line with this policy in a timely manner.

## **During the investigation**

Employers have a 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. This could be a councillor or nominated manager who is not involved in the

investigation or allegations and can be a point of check in as raising, or being subject to allegations can be stressful.

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 is important to consider their wellbeing and mental health.

Ensure that you communicate regularly with both parties.

The investigation and any subsequent hearing should be completed in accordance with the grievance policy which sets out a process for dealing with concerns. You should ensure that the grievance policy adopted adheres to any local policies and procedures, with consideration of any timescales and escalation routes in your locally adopted policy.

### **Confidentiality**

It may be possible for concerns to be raised with the perpetrator without disclosing the name of the complainant however in a small council it is likely that it will be clear that the accused will know where the accusation has come from. The council representative (clerk/chief officer/councillor) speaking to the alleged perpetrator must be clear that the discussion is confidential and the individual would be at risk of formal disciplinary action if there is any sort of victimisation or retaliation for the individual raising their concern.

During any formal investigation it may be necessary to disclose the nature of the allegations and where they came from to ensure a fair and balanced investigation and process. This should be discussed with the person raising the concerns to understand any issues and how they may be mitigated. In some situations it may be appropriate to provide anonymised witness statements however this would be a last resort, and could compromise the fairness of the process. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought. For the same reason it can be difficult for a council to consider an anonymous complaint, however if the concerns are significant and compromise the council in their duty of care to employees, then consideration of how to deal with the matter may be required.

### **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, cancelling a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

### **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 be gross misconduct.

### **Complaints against Councillors**

Following the Ledbury case, the law is clear that any formal complaint about a councillor regarding a breach of the code of conduct must be referred to the Monitoring Officer for investigation (either by the complainant, or the Council with agreement of the complainant). During the investigation, it is critical to ensure that where an employee of the council has made the complaint, that the council agrees reasonable measures with the employee 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 about whom the complaint has been made etc.

Careful consideration is required where a grievance is raised against the council as a whole due to lack of support related to councillor behaviours. The specific allegations will need to be considered to determine whether the allegations can be addressed by the council, or require exploration of the councillors behaviour in order to respond, in which case the Monitoring Officer may be required to investigate the alleged behaviours of a/any councillors where this may relate to the code of conduct. It is a matter of fact whether the complaint is against the council and can therefore be dealt with by the council's grievance procedure or against a councillor and can only be dealt with by the Monitoring Officer.