



Dignity at Work Policy

Responsibility: Personnel Sub-Committee Committee / Full Council

Review Cycle: Annually

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DIGNITY AT WORK POLICY

Herstmonceux Parish 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. In support of this objective, Herstmonceux Parish Council has signed up to the NALC and SSALC Civility Pledge, as a commitment to civility and respect in our work, and politeness and courtesy in behaviour, speech, and in the written word.

Purpose

Herstmonceux Parish 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.

Every employee has a right to dignity at work in an environment that is free from conduct that they find personally objectionable. A breach of that right occurs when an employee suffers harassment, bullying or victimisation at the hands of their manager, a colleague or a councillor. Any or all of these pollute the working environment and can have a devastating effect on the health, confidence, morale and performance of those affected by it.

Herstmonceux Parish Council recognise that there is a continuum where unaddressed issues have the potential to escalate and become larger, more complex issues. 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 members and employees in ensuring their behaviour does not amount to bullying and/or harassment by giving examples.

What Constitutes a Breach of “Dignity at Work”?

Harassment is generally described as conduct or behaviour, verbal or non-verbal, that is unwelcome, unwarranted and is detrimental to the well-being and self-esteem of the person affected. Motivation is irrelevant and a single incident can amount to harassment if sufficiently grave. Examples of harassment include sexual or racial banter about another employee (including by email), derogatory comments relating to an employee’s disability, the display of material with unacceptable sexual or racial overtones and unwelcome sexual attention.

Bullying is primarily intimidating, but may also be insulting, offensive or malicious. It is frequently recognised through the abuse or misuse of power, or through means intended to undermine, humiliate, denigrate or create a detriment for the employee. It can be related to age, sex, race, disability, religion, ethnic origin or some personal characteristic of the individual. It may be persistent or an isolated incident. The crucial point is that the actions or comments are viewed as demeaning and unacceptable to the recipient. It could be an act, omission or conduct which causes a person to be alarmed or distressed. This is often in the form of intimidatory behaviour towards colleagues. Examples of bullying include:

- > personal insults, physical abuse, unjustified and/or excessive criticism on more than one occasion or deliberately ignoring someone.
- > spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, sexual orientation and religion or belief)
- > copying memos that are critical about someone to others who do not need to know
- > ridiculing or demeaning someone — picking on them or setting them up to fail
- > exclusion or victimisation
- > unfair treatment, overbearing supervision or other misuse of power or position
- > unwelcome sexual advances — touching, standing too close, display of offensive materials
- > making threats or comments about job security without foundation
- > deliberately undermining a competent worker by overloading and constant criticism

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Victimisation occurs when employees are treated less favourably than their colleagues eg: because they have either brought proceedings in an employment tribunal against the employer or had any connection with proceedings brought against the employer, or made any allegations against the employer that may give rise to a claim in an employment tribunal. Examples of victimisation include disciplining an employee unnecessarily, pressuring an employee to drop an allegation they have made and making sarcastic personal remarks.

First steps

If an employee feels that they have been the victim of harassment, bullying or victimisation they should initially approach the Clerk for a confidential discussion. If the allegation concerns the Clerk, first approach should be to the Chairman of Personnel Sub-Committee. If the complaint cannot be informally resolved at this stage, then a written complaint will be requested and will be followed by the processes described in the Council's Employment Suite of Policies - Disciplinary and Grievance Procedures.

Penalties

If it transpires that a member of staff has breached the right to dignity at work of another member of staff they may have committed misconduct and will be treated accordingly.

Further Scope

Should locum staff or contractors have a complaint connected to their engagement with Herstmonceux Parish Council this should be raised to the Clerk or the Chair of the Council. Locum staff and 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 a breach of dignity at work.

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. Herstmonceux Parish 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, the civility and respect pledge, equality of 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 members 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 or code of conduct.

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 any of the protected characteristics of the Equalities Act 2010, whether the characteristic is perceived or actual - age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Unwanted nicknames, especially relating to the above protected characteristics
- Spreading malicious rumours and unfounded allegations
- Insulting someone
- Lewd or suggestive comments or gestures
- Passive aggressive behaviours including subtle digs, negative comments or deliberate undermining of someone or their work
- Shouting and other aggressive communication delivery methods aimed at intimidating others
- Refusal to listen to other's view point or suggestions
- 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
- 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, unwarranted 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 assumptions or associations such as such as offensive jokes or comments about a protected characteristic under the Equalities Act 2010. 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.

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 the Clerk in the first instance or, with the Chair of the Council. 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 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 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 clerk 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, 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 Sub-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.

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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 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 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. 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 regulations 2018.

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).

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.

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; assumptions about lifestyle or inappropriate age related jokes
- Making fun or mimicking impairments related to a health condition, or using inappropriate language about disabilities.
- 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 / invasion of personal space such as unwanted touching of a pregnant persons stomach.
- Harassment based on race could include derogatory nicknames, or stereotyping based on ethnicity. It could include racist comments or jokes, or assumptions about lifestyles based on 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. Including how councillors behave with each other in council meetings and in how standards of behaviour are applied through the informal/formal discussion & policies.

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 and clerks 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 the 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.