



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Bullying, Harassment and Discrimination Policy

DOCUMENT CONTROL

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Committee	Date of meeting pending approval
Personnel Committee	18 September 2024

DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District

DATE FOR REVIEW

No later than 1st September 2027 but sooner if impacted by legislative changes.

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1. Introduction

- 1.1 The Council is committed to providing a safe, inclusive, healthy and productive working environment, free from bullying, harassment, discrimination and any behaviour that makes people feel excluded, offended, humiliated or intimidated. This policy will enable employees/workers to be treated with dignity and respect and to be encouraged to meet their full potential.
- 1.2 The Council does not tolerate any form of bullying, harassment or discrimination under any circumstances. While implementing and upholding the policy it is the duty of all Councillors and employees/workers to take full responsibility for ensuring that bullying, harassment and discrimination does not occur in the Council.
- 1.3 This policy applies to everyone working for the Council including workers classed as casual staff, agency staff and consultants, whether working from Council premises or from other locations. It also covers design of, and attendance at, work-related social events.
- 1.4 Every employee and worker must:
- uphold the Council's values;
 - treat colleagues, Councillors and customers with dignity and respect;
 - be aware of the effect that their own behaviour can have on others;
 - create a work environment where bullying, harassment and discrimination is not tolerated;
 - support colleagues if they experience bullying, harassment or singling out;
 - challenge inappropriate behaviour and if this is difficult speak to a manager, a HR Business Partner, or a union representative;
 - set a positive example to others;
 - consider language and attitudes and think before making personal comments to or about others;
 - co-operate with any investigation undertaken by the Council regarding allegations of bullying, harassment or discrimination;
 - take personal responsibility for ensuring their knowledge and skills on equality and diversity issues are kept up to date;
 - inform their line manager if they suspect that unfair discrimination, harassment or victimisation is taking place within the organisation.
- 1.5 This procedure does not form part of any contract of employment or other contract to provide services and it may be amended at any time following consultation with trade union and subject to agreement from the Personnel Committee.

2. Policy Breach

- 2.1 Where bullying, harassment or discrimination is found to have taken place, disciplinary action may be taken, the outcome of which may include dismissal or termination of contract. The Council's Disciplinary Policy and Procedure cites harassment and other offences against human dignity such as assault and threatening behaviour at work as examples of behaviour which may constitute misconduct or gross misconduct.

3. The law and definitions of bullying, harassment and discrimination

- 3.1 Bullying and harassment are terms used interchangeably and cover a range of behaviours that undermine the right of others to be treated with dignity. Both the Council and individual employees / workers can be held liable for unlawful discrimination, harassment or bullying.

- 3.2 **Bullying** is: *'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'*. Source: Advisory, Conciliation and Arbitration Service (ACAS)
- 3.3 **Harassment** is: *'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*. Source: Equality Act 2010.
- 3.4 Sexual harassment is also unlawful under the Equality Act 2010. Sexual Harassment occurs when a person engages in unwanted conduct of a sexual nature that has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. This includes verbal, non-verbal or physical conduct including unwelcome sexual advances, touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings or sending emails with material of a sexual nature.
- 3.5 Another type of harassment occurs when an employee/worker is treated less favourably because that employee/worker submitted to, or rejected unwanted conduct of a sexual nature, or unwanted conduct which is related to sex or to gender identity, and the unwanted conduct creates for them any of the circumstances defined in paragraph 3.3.
- 3.6 There is also legal protection against harassment on the basis of an individual's membership or non-membership of a trade union.
- 3.7 **Discrimination is:** *'treating a person unfairly because of who they are or because they possess certain characteristics.'* Source: EOC.org.uk
- 3.8 There are nine protected characteristics stated in the Equality Act 2010:
- i. age
 - ii. disability
 - iii. race
 - iv. religion and belief
 - v. gender reassignment*
 - vi. sex
 - vii. sexual orientation
 - viii. pregnancy and maternity
 - ix. marriage and civil partnership.

*Although the legislation refers to gender reassignment, the council recognises it is considered best practice to use the terms gender identity and gender expression.

- 3.9 Discrimination is to show favour, prejudice or bias for or against a person on any arbitrary grounds, for example on the basis of race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age disability, religion, HIV status, conscience, beliefs, political persuasion. It can take the form of exclusion from recruitment, promotion or training opportunities, less favourable working conditions or terms of employment e.g. less overtime or shift work and even unlawful contract termination.
- 3.10 Annex A sets out the definitions of the different types of discrimination.
- 3.11 **Victimisation** is where an employee is subject to a detriment because they have brought proceedings, given evidence or information in connection with proceedings or made an allegation (whether or not express) that another person has done something in breach of the Equality Act.

4. Behaviours that could be regarded as bullying, harassment or discrimination

- 4.1 Bullying, harassment and discrimination are not always verbal and face to face, but can involve written communications or visual images, such as pictures of a sexual nature or embarrassing photographs sent by text, instant messaging, email or posts on social media (e.g. Facebook, Twitter, Instagram).
- 4.2 Bullying and harassment may involve single or repeated incidents, ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It can occur with or without witnesses.

5. Examples of Unacceptable Behaviour

- 5.1 The following list includes examples of unacceptable behaviour from an employee, but is not exhaustive:
- personal insults to, or about, colleagues, customers or service users (particularly on the grounds of age, race, sex, disability, sexual orientation, gender identity, gender expression and religion or belief);
 - physical aggression, violence or intimidation;
 - practical jokes which embarrass or humiliate;
 - engaging in banter or making jokes which are degrading, patronising or make people feel excluded,
 - verbal abuse including personal insults, inappropriate stereotyping, offensive comments, taunts, threats, malicious gossip or innuendo;
 - making racist threats or insinuations;
 - making homophobic, biphobic or transphobic insults and threats;
 - outing an individual as LGBT+ (Lesbian Gay Bisexual or Trans) without their consent;
 - gossip or speculation about someone's sexual orientation, gender identity or gender expression;
 - making unnecessary and/or degrading references to an individual's sexual orientation or gender identity;
 - repeatedly refusing to address a trans person by their name and correct gender pronoun;
 - abuse of an individual's right to personal privacy, for example, intrusion into another employee's personal property or into their private life (this may also be a breach of the General Data Protection Regulations);
 - deliberate isolation or non-cooperation and exclusion from normal social or professional contact in the workplace;
 - sexual advances – assault, unwanted physical contact, standing too close, sexually suggestive comments or gestures, the display of offensive materials, making decisions on the basis of sexual advances being accepted or rejected;
 - personal intrusion from pestering, spying and stalking.
 - Undermining professional ability – such as unreasonable over-scrutiny of work, undue criticism, undervaluing contribution, preventing fair access to opportunities, withholding relevant information.

6. Management Responsibilities

- 6.1 It is the responsibility of all managers to behave in accordance with this policy and set an example to others.
- 6.2 Managers must encourage an inclusive atmosphere whereby staff feel able to talk to them about problems or concerns; where everyone is treated with dignity and respect and where any form of bullying, harassment or discrimination is not tolerated. Managers must prevent bullying, harassment and discrimination wherever possible and take immediate action once

it is identified. Where managers receive a report of unacceptable behaviour or observe it first-hand, they have a responsibility to take immediate steps to address the matter, whether or not a formal complaint has been made.

6.3 Managers must also:

- provide a good example of appropriate behaviour;
- be alert to the possibility of bullying, harassment or discrimination;
- attend mandatory management training on equality and diversity issues;
- act promptly to correct behaviour which could cause offence or be seen to contravene this policy;
- make sure all new employees and workers are aware of expected standards of behaviour and reinforce this at regular intervals e.g. at team meetings and one to ones;
- make sure new starters and all employees take up learning and development opportunities to refresh their understanding of equality and diversity issues;
- record any incidents of bullying, harassment or discrimination and the outcomes of any action or investigations;
- treat all cases of bullying, harassment and discrimination sensitively and with appropriate confidentiality and seek advice from Human Resources where appropriate.

7. Raising a Concern

7.1 It is hoped that most issues and concerns can be resolved at an informal stage. However, this is not always possible, so a formal approach is also outlined in this policy.

8. Informal Approach

- 8.1 Sometimes people make genuine mistakes and/or might not be aware their behaviour is unwelcome or offensive. In the first instance, if the employee/worker feels able to speak to the individual(s) at the time of the incident they should make it clear that they find their behaviour offensive and unwelcome and ask for it to stop.
- 8.2 Letting the individual(s) know their behaviour is unwelcome or offensive, either directly or with the help of a third party, will not only give them the opportunity to stop but to become more aware of any unconscious bias or prejudices they may have.
- 8.3 If the employee/worker finds it difficult to speak to the individual(s) directly, they could approach them in conjunction with the support of their line manager, a HR Business Partner, or a trade union representative.
- 8.4 The employee/worker may find it helpful to keep a diary of all incidents, a record of dates and times and the names of any witnesses etc. in order to facilitate early discussions.
- 8.5 Where the complaint is about the line manager of the employee/worker or the employee/worker does not believe it is appropriate for the line manager to deal with the complaint, then the matter should be raised with a HR Business Partner for support and guidance.
- 8.6 At any part of the informal approach an employee/worker can speak confidentially to a HR Business Partner about their concerns or any of the following people to discuss the options available to resolve the matter:
- line manager;
 - any manager in the Council;
 - a trade union representative;
 - the Employee Assistance Programme.

8.7 In some cases, the offensive behaviour or comments may not be directed personally to an employee/worker, but they may still find them offensive. For example, they may overhear a team member make derogatory or discriminatory comments to or about someone else. In such instances the employee should speak to the individual(s) if they feel able to or raise their concern with their line manager.

8.8 If the particular case is concerning wider council practices and is in the public interest this should be raised under the Whistleblowing Policy.

9. Mediation

9.1 In some cases, a trained, impartial mediator may be able to help parties talk through the issues and agree a way of resolving the matter and restoring working relations. This can help avoid the need for more formal procedures.

9.2 Mediators do not make judgments or determine outcomes - they ask questions that help uncover underlying problems, assist the parties to understand each other's point of view and help them look at options for resolving their dispute.

9.3 Trained mediators can be accessed through a HR Business Partner.

10. Formal Approach

10.1 Should the informal approach fail to stop the bullying, harassment or discrimination, or if you believe the situation is still unresolved, or so serious as to warrant immediate formal action, an employee/worker can make a formal complaint using the Council's Grievance Procedure.

10.2 Where the complaint is about the line manager of the employee/worker or the employee/worker does not believe it is appropriate for the line manager to deal with the complaint, then the grievance form should be returned directly to a HR Business Partner.

10.3 In all the above matters further help and guidance can also be sought from a trade union representative or a HR Business Partner.

11. Confidentiality

11.1 Complaints must be treated confidentially and not discussed with anyone who is not involved in the procedures. Steps should be taken to ensure confidentiality and fairness to all parties. No-one will be victimised as a result of making a complaint or being subject to a complaint of bullying, harassment or discrimination. Any employee who fails to adhere to confidentiality or who victimises another individual will be subject to disciplinary procedures.

12. Bullying, harassment or discrimination by members of the public or others

12.1 The Council has a duty to protect the health, safety and welfare of their employees/workers and will not tolerate bullying, harassment or discrimination towards employees or workers from members of the public.

12.2 Employees/workers must speak to their line manager immediately if they experience offensive or unwelcome behaviour from anyone they are required to deal with as a result of carrying out their role on behalf of the Council.

12.3 All incidents will be investigated in line with the Violence and Aggression to Employees at Work (CA05) policy. Advice can also be sought from a HR Business Partner or the Health and Safety Manager.

13. Councillor conduct

13.1 Employees may regularly come into contact with councillors, who may be members of the district, parish or town, or county councils.

13.2 The Constitution gives guidance on the Officer and Member protocol, regarding the respective roles of officers and councillors, which can be found here: [Conventions for the Management of Council Business and a protocol on Member/Officer Relations](#). Councillors are also required to comply with their Code of Conduct, which can be found here: [Councillor Code of Conduct](#).

13.3 If an employee is concerned that a councillor's conduct falls short of what is required, they should discuss this with their line manager and the Monitoring Officer, who can give advice.

14. Support for Employees

14.1 Allegations of bullying, harassment or discrimination can be upsetting for all parties and management have a responsibility for making sure everyone receives appropriate support.

14.2 Guidance and counselling can be offered by the [Employee Assistance Programme](#) to people whose behaviour is unacceptable, as well as those affected by the unacceptable behaviour.

14.3 Employees/workers who are a member of a trade union may wish to contact their representative for support

15. Other sources of information and advice

- [Unison](#) Email: unison@oxfordshire.gov.uk phone 01865 815990
- [National bullying helpline](#) Tel: 0300 323 0169
- [Citizens Advice](#)
- [ACAS](#) (Advisory, Conciliation and Arbitration Service)
- [Equal Opportunities Commission](#)
- [Equality and Human Rights Commission](#)
- [Stonewall](#)

Annex A - Definitions of unlawful discrimination

Direct discrimination occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic. For example, in recruitment, promotion or advancement decisions, access to training, selection for redundancy.

This includes discrimination by **perception** when an individual is treated less favourably because others mistakenly think they possess one of the protected characteristics.

It also includes '**Associative**' discrimination where someone is treated less favourably because they associate with another person who possesses one of the protected characteristics.

Indirect discrimination may occur when a working condition, practice or rule is applied which puts workers sharing a protected characteristic at a disadvantage. Conditions disadvantaging particular groups will be unlawful, unless they can be objectively justified for business reasons and there is no other practical way of achieving it.

Positive action is not the same as positive discrimination which is unlawful.

Positive action is permitted under the law, allowing employers to take certain steps to improve work opportunities for people who share a protected characteristic.

The council monitor the composition of the local labour market and our workforce, and where there is evidence for the need to improve equality of opportunity for certain groups sharing a protected characteristic, we may decide to take positive steps to address this in accordance with the legal criteria.