

## Anti-Harassment and Bullying Policy and Procedure

### Introduction

Cotswold District Council (CDC) prides itself on being an employer of choice. With an incredibly varied role in delivering the very best for our residents, communities and businesses, our employees are committed and really make a difference. CDC has a strong commitment to equality, diversity, and inclusion.

Employees are an organisation's most valued asset and as such we seek to ensure that all our policies and procedures reflect the very best in good practice. Everyone should be treated with respect and dignity, creating an environment where employees can deliver their best in a culture free of bullying or harassment. Having a culture that is diverse, equitable and inclusive is core to everything that we strive to achieve and to the organisational environment we wish to protect.

We will not tolerate any instances of bullying or harassment, victimisation, or discrimination at CDC, with all forms being dealt with effectively. Harassment and bullying can have very serious consequences for individuals and may cause stress, affect their health, impact their families and social relationships, as well as affecting their ability to perform their role and progress their careers. For organisations the impact can be low morale, poor work performance, high attrition and damage to the organisation's reputation. Therefore, any employee who is found to have harassed or bullied a colleague or stakeholder could face disciplinary penalties up to and including dismissal. Victimisation of a person making allegations of harassment and bullying is a disciplinary offence.

Key to protecting an inclusive and positive culture is seeking to eradicate bullying, harassment, victimisation, and discrimination at work. This policy and procedure support this aim by setting out the steps that will be taken to investigate and deal with complaints of bullying or harassment, and how we support those affected, as no one should have to suffer bullying or harassment in the workplace.

This policy does not form part of your contract of employment, and we reserve the right to amend or withdraw it at any time.

### Scope

This policy applies to anyone working for Cotswold District Council. This includes employees, contractors, volunteers, interns, and apprentices. The policy also relates to job applicants and is relevant to all stages of the employment relationship. The policy also applies to bullying or harassment by third parties.

### Our Commitment to You

We believe that a culture of equality, diversity and inclusion not only benefits our organisation and Partner Councils but supports wellbeing and enables our people to work better because they can be themselves and feel that they belong.

We are committed to promoting a working environment based on dignity, trust and respect, free from discrimination, harassment, bullying or victimisation.

A toxic workplace culture, where bullying or harassment is tolerated, is harmful to the wellbeing of the workforce as well as the wider organisation.

We adopt a zero-tolerance approach to instances of bullying or harassment. Our commitment to you is to ensure that all forms of harassment, bullying, and victimisation are dealt with effectively.

### What we expect From You

We expect you, and every one of our people, to take personal responsibility for observing, upholding, promoting, and applying this policy. Whatever your job is, this is part of your role.

Any dealings you have with third parties, including customers, suppliers, contractors, agency staff and consultants, must be free from discrimination, harassment, victimisation or bullying.

If anyone in the employ of CDC is found to have committed, authorised, or condoned an act of bullying or harassment, we will take action against them (for those to whom it applies) under our Disciplinary Procedure up to and including dismissal.

There is no justifiable reason to bully or harass anyone. For example, observing a particular religion is not a legitimate reason for bullying or harassing a colleague, neither is their sexual orientation. Even if you do not intend to bully or harass anyone, this does not legitimise your behaviour as it is the impact on the recipient that is important.

You should be aware that you can be personally liable for harassment.

If you experience bullying or harassment, we encourage you to speak up without delay and to ask for appropriate support.

### Who is Protected from Harassment?

The Equality Act 2010 prohibits discrimination because of certain protected characteristics. These include:

- disability
- sex
- gender reassignment
- race
- religion or belief
- sexual orientation
- age
- pregnancy and maternity
- Marriage and civil partnership

As well as the protected characteristics covered above, we consider harassment on any ground to be unacceptable.

### Meaning of Harassment

Harassment is unwanted conduct related to a protected characteristic that has the purpose or effect of:

- violating someone else's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for someone else.

Harassment can occur where someone perceives another person to have a protected characteristic, for example a perception that someone is transgender even if they are not.

Harassment can also arise by association, where someone is harassed because they are associated with someone with a protected characteristic, for example having a family member of a particular religion.

### Examples of harassment

Harassment can occur in many forms and can take place either at work or outside work. While this is not an exhaustive list, examples include:

- "banter", jokes, taunts or insults that are sexist, racist, ageist, transphobic, homophobic or derogatory against any other protected characteristic
- unwanted physical behaviour, for example, pushing or grabbing
- excluding someone from a conversation or a social event or marginalising them from the group
- derogatory comments about pregnancy, maternity leave or IVF treatment
- mimicking or making fun of someone's disability
- derogatory or offensive comments about religion
- unwelcome comments about someone's appearance or the way they dress that is related to a protected characteristic
- "outing" (i.e., revealing their sexual orientation against their wishes), or threatening to "out", someone
- consistently using the wrong names and pronouns following the transition of a person's gender identity
- displaying images that are racially offensive
- excluding or making derogatory comments about someone because of a perceived protected characteristic, or because they are associated with someone with a protected characteristic.

Harassment can arise where the perpetrator did not have the intention of causing offence but does cause offence by what they say. For example, this can happen in respect of banter and jokes.

### Meaning of Sexual Harassment

Harassment may be sexual in nature. The law defines sexual harassment as:

- conduct, including verbal, comments, 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 and
- less favourable treatment related to sex or gender reassignment that occurs because of a rejection of, or submission to, sexual conduct.

### Examples of sexual harassment

Sexual harassment can occur in many forms. While this is not an exhaustive list, examples include:

- physical conduct of a sexual nature, unwelcome physical contact, or intimidation
- persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions
- showing or sending offensive or pornographic material by any means (e.g., by text, video clip, email or by posting on the internet or social media)
- unwelcome sexual advances, propositions, suggestive remarks, or gender-related insults
- offensive comments about appearance or dress, innuendo, or lewd comments
- leering, whistling, or making sexually suggestive gestures and
- gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours.

### Bullying

There is no legal definition of bullying. However, we regard it as conduct that is offensive, intimidating, malicious, insulting, or an abuse or misuse of power, and usually persistent in nature, that has the effect of undermining, humiliating or injuring the recipient.

Bullying can be physical, verbal or non-verbal conduct. It is not necessarily face to face and can be done by email, phone calls, online (cyber-bullying) or on social media. Bullying may occur at work or outside work.

If the bullying relates to a person's protected characteristic, it may also constitute harassment and, therefore, will be unlawful.

## Examples of bullying

While this is not an exhaustive list, bullying may include:

- physical, verbal or psychological threats
- excessive levels of supervision
- spreading rumours, malicious or offensive
- constantly putting someone down, undermining, criticising, showing a lack of respect and
- inappropriate and derogatory remarks about a person's performance.

It is important to understand that legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to people in the course of their employment, will not of themselves amount to harassment or bullying. **Micro-aggressions**

Micro aggressions - sometimes called micro-incivilities - are statements, actions, or incidents that are regarded as indirect, subtle, or unintentional discrimination against members of a marginalised group such as a racial or ethnic minority. They are sometimes referred to as "death by a thousand cuts". Micro-aggressions generally take one of three forms:

- **Micro-assaults:** Conscious and obvious insults made verbally or non-verbally to a marginalised individual or group, for example directing limp-wristed hand gestures towards a gay colleague and saying, "It's just a joke".
- **Micro-insults:** Unintentionally insensitive remarks or assumptions based on stereotypes, for example saying to a person with a disability "You don't look disabled to me".
- **Micro-invalidations:** Where a person denies, or seeks to cancel, the feelings and lived experiences of a marginalised individual or group, for example a white person saying, "I don't think the UK has a problem with racism - some people are just too sensitive".

Serious micro-aggressions can amount to unlawful harassment, bullying or discrimination but even less serious micro-aggressions can negatively impact the health and wellbeing of the person experiencing them.

## What to do if you are being Bullied or Harassed

### Informal route

#### **Bully/harasser is a colleague**

If you feel able to, and where you believe there is a reasonable prospect of resolution, you may decide to raise the issue with the individual themselves, to make clear that their behaviour is not welcome and to ask them to stop. They may not be aware that their behaviour is offending you or it may be unintentional on their part.

Alternatively, if you do not feel up to speaking directly to the individual, you may consider asking your line manager, or an alternative manager for support. If the individual causing offence is your line manager or a someone senior in the work structure, you may wish to speak with Human Resources for further guidance.

You may or may not want them to talk to the individual on your behalf and, where possible, we will respect your wishes. However, if the welfare or safety of you or others is at risk or where your allegations are particularly serious, we may have to approach the individual and instigate a formal investigation. In such a case we will, where possible, discuss this with you first.

**Mediation** is a voluntary and confidential process and if you do not wish to take part in mediation, you do not have to. The mediator will be impartial, neutral and fully trained to conduct mediation whether they be an internal or an external resource. Mediation can help to mend workplace relationships by: -

- Finding solutions that everyone agrees to.
- Improving communication.
- Allowing everyone involved to have control of what is finally agreed.

Mediation can be used at any stage in a disagreement but the earlier the disagreement is dealt with, the less chance there is of things becoming more difficult and entrenched.

### **Bully/harasser is a third party**

If you are experiencing bullying or harassment by a third party, for example a client or a supplier, we encourage you to report this to your line manager without delay so that they can consider what action it may be possible to take or how you should respond taking account of the fact this is a third party.

### **Formal route**

If you are not happy with the outcome of an informal process, or if you feel it is not appropriate to approach the issue informally, you may decide to raise your complaint formally.

To make a formal complaint, you should discuss this first with your line manager. If your complaint is about your line manager, you should raise this with another appropriate manager. If you have any queries you should refer to your HR Business Partner. Under the formal procedure within this policy,

- We will usually ask you to set out your complaint in writing or via email. Please include as much detail as possible, for example:
  - the alleged bully/harasser's name
  - the nature of the bullying/harassment
  - the dates of the alleged acts of bullying/harassment
  - names of any witnesses
  - and details of any action taken to address the matter so far;
  - any other information that you feel is directly relevant
- you may be asked to discuss this in more detail with the investigating officer
- you can expect the matter to be investigated, which may include meeting with the alleged bully/harasser to ascertain their response to the allegations. It may also include interviewing potential witnesses who we will instruct to keep the matter confidential
- expect the manager chairing the matter to carry out further investigations of the complaint where necessary
- invite you to a meeting to discuss your complaint in full. You will have the right to be accompanied by a colleague or trade union representative
- hold a meeting with you to enable us to ask you further questions in light of any information we have gathered from the alleged bully/harasser and/or witnesses
- the chair will consider all the evidence in full and make a decision and

- inform you of the decision (this will normally be in person without unreasonable delay) and, if we uphold the complaint, instigate disciplinary action up to and including dismissal against the bully/harasser. You will be notified of the timescales involved and any decision will be confirmed to you in writing.

We will investigate fully every formal complaint in an objective and confidential way, ensuring that we respect your rights as well as the rights of the alleged bully/harasser. You are of course welcome to be accompanied by a work colleague or Trade Union Representative to any investigatory meetings held.

We will use every effort to complete an investigation into bullying or harassment as quickly as possible.

Where the alleged bully/harasser is a third party, we may need to adjust the procedure under this policy to ensure we conduct appropriate investigations and we will discuss this with you.

### Right to Representation

At any formal meeting you have the right to be represented by a work colleague or a Trade Union representative. However, consideration will be given to another person in exceptional circumstances.

### Appeals

If you are not satisfied with the outcome of the formal hearing, you have the right to appeal.

Should you wish to appeal, you should write to the Manager referenced in the outcome letter setting out what aspects of the decision you are unhappy with and the reasons why. Appeals should be submitted without unreasonable delay and usually no longer than five working days after we inform you of the decision.

The manager or delegated person will arrange a meeting with you to discuss your appeal in full and to try and reach a satisfactory solution. You must take all reasonable steps to attend this meeting and you may be accompanied by a colleague or trade union representative. If you cannot attend for a genuine reason the matter will normally be rescheduled at least one time (thereafter it may be held in your absence).

The manager or delegated person will write to you to confirm the outcome of the appeal, which will be final.

### Support for those Affected or Involved

We understand that anyone affected by, or involved with, a complaint of bullying or harassment may feel anxious or upset and we will do what we can to support you.

If you feel you cannot continue to work in close contact with the alleged bully/harasser, we will seriously consider any requested changes to your working arrangements during our investigation into the matter.

Anyone who complains or takes part in good faith in a bullying or harassment investigation must not suffer any form of detrimental treatment or victimisation. We take such matters very seriously, if you feel you have suffered any victimisation, please inform your line manager as soon as possible. Equally, making malicious, vexatious or false allegations will not be tolerated and is a disciplinary offence.

Regardless of the outcome of your complaint, we will consider carefully how to best approach any ongoing working relationship between you and the individual concerned. For example, depending on the specific circumstances, it may be possible to consider amending the job duties, location or reporting lines of either you or the other person. For example, where the roles in question mean that this is possible to manage

without disrupting the work. Alternatively, we may propose that workplace mediation or counselling is appropriate if this can be agreed voluntarily by the parties.

### Sensitivity and Confidentiality

Anyone involved with an informal or formal complaint about bullying or harassment, including witnesses, must keep the matter strictly confidential and act with appropriate sensitivity to all parties.

If you are found to have breached confidentiality or acted without due care or sensitivity in a case of bullying or harassment, we may take [disciplinary action](#) against you up to and including dismissal (or other appropriate action for non-employees).

### Consequences of Breaching this Policy

If, following a formal investigation, we find that you have committed, authorised or condoned an act of bullying or harassment, we will deal with the issue as a possible case of misconduct or gross misconduct.

We may take disciplinary action against you, up to and including dismissal (or other appropriate action for non-employees).

Anyone who complains or takes part in good faith in a bullying or harassment investigation must not suffer any form of detrimental treatment or victimisation. If we find that you have victimised anyone in this way, we will instigate disciplinary action against you up to and including dismissal (or other appropriate action for non-employees).

We will also offer support for all those affected as we seek to encourage a positive work environment free of harassment and bullying where employees are confident to speak out and use this policy should it ever be required.

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