

Gainsborough Town Council

Richmond House, Richmond Park, Morton Terrace

Gainsborough, Lincolnshire, DN21 2RJ

Tel: 01427 811573

Website: gainsborough-tc.gov.uk



PERSONNEL COMMITTEE AGENDA

To: Committee members:

Councillor Sean Brennan

Councillor Dennis Dannatt

Councillor Richard Doy

Councillor Stuart Morley

Councillor Kenneth Woolley

Councillor Richard Craig

Councillor Caz Davies

Councillor Paul Key

Councillor James Plastow

Notice is hereby given that a meeting of the **Personnel Committee** which will be held on **Wednesday 14 February 2024** commencing at **7:00pm** in the meeting room, **Richmond House, Richmond Park, Morton Terrace, Gainsborough, DN21 2RJ** and your attendance at such meeting is hereby requested to transact the following business.

AGENDA

PC24/086 Apologies for Absence

To note apologies for absence.

PC24/087 Declarations of Interest

To receive any declarations of interest in accordance with the requirements of the Localism Act 2011.

PC24/088 Dispensation Requests

To consider any dispensation requests received by the Town Clerk in relation to personal and/or disclosable pecuniary interests, not previously recorded.

PC24/089 Items for Exclusion of Public and Press

To determine which items on the agenda, if any, require the exclusion of public and press under the Public Bodies (Admissions to Meetings) Act 1960 1 (2) and resolve to exclude public and press for these items.

PC24/090 Minutes of the Previous Meeting

To receive the minutes of the previous Personnel Committee meeting and resolve to sign these as a true and accurate record.

Paper A Wednesday 17 January 2024 (pages 4 to 6)

PC24/091 Whistle Blowing and Confidential Reporting Policy

To review and adopt the Whistle Blowing and Confidential Reporting Policy.

Paper B (pages 7 to 13)

Current policies at page 69 https://gainsborough-tc.gov.uk/wp-content/uploads/2020/12/Staff_Handbook.pdf and <https://gainsborough-tc.gov.uk/wp-content/uploads/2020/12/Confidential-Reporting-Policy-200108.pdf>

PC24/092 Equality and Diversity Policy

To review and adopt the Equality and Diversity Policy.

Paper C (pages 14 to 20)

Current policy at page 33 https://gainsborough-tc.gov.uk/wp-content/uploads/2020/12/Staff_Handbook.pdf

PC24/093 Dignity at Work Policy

To review and adopt the Equality and Diversity Policy.

Paper D (pages 21 to 33)

The Dignity at Work Policy will replace the 'Bullying and Harassment' Policy at page 41 https://gainsborough-tc.gov.uk/wp-content/uploads/2020/12/Staff_Handbook.pdf

PC24/094 Staff Management Matter

To consider an update on a staff performance management matter.

Exclusion of Public and Press recommended due to personal nature of discussion.

Paper E (pages 34 to 53)

PC24/095 Staff Structure Review

To consider potential changes to the staffing structure.

Exclusion of Public and Press recommended due to personal nature of discussion.

Paper F (pages 54 to 59)

PC24/096 Interim Town Clerk trial

To consider trial of the Interim Town Clerk and make recommendation to Full Council.

Exclusion of Public and Press recommended due to personal nature of discussion.

Paper G (pages 60 to 61)

PC24/097 Items for Notification

To receive any items for notification to be included on a future agenda (for information only)

- Sickness Absence Policy
- Health and Safety Policy Review
- Maternity Leave Policy Review
- Paternity Leave Policy Review
- Shared Parental Leave Policy Review
- Adoption Leave Policy Review
- Parental Bereavement Policy Review
- Staff Policy reviews
- Electronic Information and Communication Systems Policy

- HR Management Software

PC24/098 Time and Date of Next Meeting

To note the date and time of the next Personnel Committee meeting is scheduled for Wednesday 13 March 2024 at 7:00pm.

Rachel Allbones
Interim Town Clerk
Richmond House
Gainsborough

Thursday, 08 February 2024

PAPER A

Gainsborough Town Council

Richmond House, Richmond Park, Morton Terrace

Gainsborough, Lincolnshire, DN21 2RJ

Tel: 01427 811573

Website: gainsborough-tc.gov.uk



DRAFT PERSONNEL COMMITTEE MINUTES

Minutes of the Personnel Committee meeting held on **Wednesday 17 January 2024 at 7:00pm** in the meeting room, Richmond House, Richmond Park, Morton Terrace, Gainsborough, DN21 2RJ.

Councillors Present: Councillor Dennis Dannatt (Vice Chairman)

Councillor Richard Doy

Councillor James Plastow

In Attendance:

Rachel Allbones

Interim Town Clerk (ITC)

PC24/075 Apologies for Absence

Apologies for absence were received from Councillors R Craig, C Davies, P Key, S Morley, K Woolley.

PC24/076 Declarations of Interest

No declarations of interest were made.

PC24/077 Dispensation Requests

No dispensation requests were received.

PC24/078 Items for Exclusion of Public and Press

RESOLVED: to exclude the public and press from items PC24/080, PC24/081, PC24/082 & PC24/083 in accordance with the Public Bodies (Admissions to Meetings) Act 1960 1 (2) due to the confidential nature of the business to be discussed.

PC24/079 Minutes of the Previous Meeting (Paper A)

RESOLVED: that the minutes of the Personnel Committee meeting held on Wednesday 8 November 2023 be approved as a as a true and accurate record and signed by the Chairman.

PC24/080 Staff Sickness, Absence and Leave (Paper B)

RESOLVED: to **NOTE** the report.

PC24/081 Personal Injury Claim (Paper C)

RESOLVED: to **NOTE** the report and outcome.

PC24/082 Staff Structure Review (Paper D)

RESOLVED: to defer until the Leader and Vice Chairman of Personnel have carried out a review with the Interim Town Clerk and reported back to the committee.

PC24/083 Interim Town Clerk Trial Review (Paper E)

RESOLVED: to defer until a decision is made with the Town Clerk position.

PC24/084 Items for Notification

RESOLVED: to **NOTE** the items for notification to be included on a future agendas:

- Staff Structure Review
- Interim Town Clerk Trial review
- Sickness Absence Policy
- Staff Policy reviews
- Electronic Information and Communication Systems Policy
- Whistle Blowing and Confidential Reporting Policy
- HR Management Software

PC24/085 Time and Date of Next Meeting

RESOLVED: to **NOTE** the date and time of the next Personnel Committee meeting scheduled for Wednesday 14 February 2024 at 7:00pm at Richmond House, Morton Terrace.

The meeting closed at 7:13pm

Signed as a true record of the Meeting: _____ Dated _____
Presiding chairman of approving meeting

PAPER B

Confidential Reporting / Whistleblowing Policy

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Document History

Adopted by Council – 8 January 2020

Reviewed & Adopted -

Reviewed & Adopted –

1. Introduction

All organisations face the risk of things going wrong or unknowingly harbouring malpractice. The Council believes it has a duty to identify such situations and take the appropriate measures to remedy the situation. By encouraging a culture of openness within the Council, it is hoped that such problems can be prevented.

Employees are often the first to realise that there may be something seriously wrong within the Town Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

Gainsborough Town Council is committed to the highest possible standards of openness, transparency and accountability. In line with that commitment it expects employees and others that we deal with who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

This policy document makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage.

*This Confidential Reporting / Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or "blowing the whistle" outside.*

The policy applies to all employees of the Council and other workers including temporary, subcontracted and agency workers and those contractors working for the Council on Council premises or property, (e.g. contactors). It also covers suppliers and those providing services under a contract with the Council in their own premises, (e.g. grounds maintenance contractor).

Staff and Elected Members are responsible for making service users aware of the existence of these procedures.

2. Aims and Scope of this Policy

This policy aims to:

- encourage individual staff members to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for individual staff members to raise those concerns and receive feedback on any action taken;
- ensure that individual staff members receive a response to concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure individual staff members that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they made any disclosure in good faith.

There are existing procedures in place to enable staff members to lodge a grievance relating to their employment. This Confidential Reporting / Whistleblowing Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;

- damage to the environment;
- the unauthorised use of public funds;
- possible fraud and corruption;
- breaches of any legal and / or statutory obligations
- sexual or physical abuse of clients;
- other unethical conduct;
- deliberately concealing any of the above.

If an Employee uses this policy to raise a concern in good faith, the Council gives them its assurance that they will not suffer any form of retribution or detrimental treatment.

Any serious concerns that individuals have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting / Whistleblowing Policy.

This may be about something that:

- makes individual staff members feel uncomfortable in terms of known standards, their experience or the standards they believe the Council subscribes to;
- is against the Council's Standing Orders and policies;
- falls below established standards of practice;
- amounts to improper conduct.

This policy does **not** replace the Council's Complaints Procedure.

3. Safeguards: Harassment or Victimisation

The Council is committed to good practice and high standards and wants to be supportive of employees.

The Council recognises that the decision to report a concern can be a difficult one to make. If what employees are saying is true, they should have nothing to fear because you will be doing your duty to their employer and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect staff when they raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect staff members.

4. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal identities if so wished. At the appropriate time, however, staff members may need to come forward as a witness.

5. Anonymous Allegations

This policy encourages staff to put their name to allegations whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources.

6. Untrue Allegations

If a staff member makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against individuals. If, however, a staff member makes any allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against that staff member.

7. How to Raise a Concern

As a first step, staff member(s) should normally raise concerns with the Town Clerk. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

If the matter concerns the Town Clerk, individual staff members should approach the Chairman of the Council.

Concerns may be raised verbally or in writing. Staff wishing to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are concerned about the situation.

The earlier staff members express any concern the easier it is to take action.

Although staff members are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for their concern.

For advice or to raise a concern, either verbally or in writing, employees can raise issues confidentially with the Town Clerk; however if you feel you cannot follow this route, for whatever reason, they can contact the Chairman of the Council.

Staff members may invite their trade union or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

8. How the Council Will Respond

The Council will respond to individual concerns. Do not forget that testing out any concerns is not the same as either accepting or rejecting them.

Where appropriate, the matters raised may:

- be investigated by committee, internal audit, or through the disciplinary process;
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it

should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days of a concern being raised, the person to whom a staff member passed on their concern will respond in writing:

- acknowledging that the concern has been received;
- indicating how the Town Council proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- updating individuals whether any initial enquiries have been made;
- supplying updated information on staff support mechanisms;
- updating if further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and staff members will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the staff member who made the initial report.

Where any meeting is arranged, off-site (if requested by a staff member), individuals can be accompanied by a union representative or work colleague.

The Council will take steps to minimise any difficulties which individuals may experience as a result of raising a concern. For instance, if individuals are required to give evidence in criminal or disciplinary proceedings, the Council will arrange for individuals to receive advice about the procedure.

The Council accepts that staff members need to be assured that the matter has been properly addressed. Thus subject to legal constraints, we will inform individuals of the outcome of any investigation.

9. The Town Clerk (as Proper Officer of the Council)

The Town Clerk has overall responsibility for the maintenance and operation of this policy and will maintain a record of concerns raised and the outcomes (but in a form which does not endanger individual confidentiality) and the Town Clerk will report as necessary to the Council.

10. Taking the Matter Further

This policy is intended to provide staff members with an avenue within the Council to raise concerns. The Council hopes individual staff members will be satisfied with any action taken. If they are not satisfied, and they feel it is right to take the matter outside the Council, the following are possible contact points:

- a trade union;
- the local Citizens Advice Bureau;
- relevant professional bodies or regulatory organisations;
- a relevant voluntary organisation;

- the Police.

If individuals do take the matter outside the Council, they should ensure that they do not disclose confidential information. They should check and obtain advice with their trade union or SLCC (if they are a member) regarding this.

PAPER C

[ENTER COUNCIL NAME] EQUALITY AND DIVERSITY POLICY

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Our commitment

The council is committed to providing equal opportunities in employment and to avoiding unlawful discrimination.

This policy is intended to assist the council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.

Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment.

The law

It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality, caste and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as "protected characteristics".

Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

The council will not discriminate against or harass a member of the public in the provision of services or goods. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of services. In addition, service providers have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service.

Types of unlawful discrimination

Direct discrimination is where a person is treated less favourably than another because of a protected characteristic.

In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.

Indirect discrimination is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

Harassment is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

Associative discrimination is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic.

Perceptive discrimination is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic.

Third-party harassment occurs where an employee is harassed and the harassment is related to a protected characteristic, by third parties.

Victimisation occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he/she is suspected of doing so. However, an employee is not protected from victimisation if he/she acted maliciously or made or supported an untrue complaint.

Failure to make reasonable adjustments is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

Equal opportunities in employment

The council will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

Recruitment

Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.

Working practices

The council will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done, when considering requests for variations

to these standard working practices and will refuse such requests only if the council considers it has good reasons, unrelated to any protected characteristic, for doing so. The council will comply with its obligations in relation to statutory requests for contract variations. The council will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

Equal opportunities monitoring

The council will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems that may be identified as a result of the monitoring process.

The council treats personal data collected for reviewing equality and diversity in accordance with the data protection policy. Information about how data is used and the basis for processing is provided in the council's privacy notices.

Dignity at work

The council has a separate dignity at work policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

People not employed by the council

The council will not discriminate unlawfully against those using or seeking to use the services provided by the council.

You should report any bullying or harassment by suppliers, visitors or others to the council who will take appropriate action.

Training

The council will [provide training in/raise awareness of] equal opportunities to those likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.

The council will [provide training to/raise awareness of] all staff engaged to work at the council to help them understand their rights and responsibilities under the dignity at work policy and what they can do to help create a working environment free of bullying and harassment. [The council will provide additional training to managers to enable them to deal more effectively with complaints of bullying and harassment.]

Your responsibilities

Every employee is required to assist the council to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination. Employees can be held personally liable as well as, or instead of, the council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.

Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

Grievances

If you consider that you may have been unlawfully discriminated against, you should use the council's grievance procedure to make a complaint. If your complaint involves bullying or harassment, the grievance procedure is modified as set out in the dignity at work policy.

The council will take any complaint seriously and will seek to resolve any grievance that it upholds. You will not be penalised for raising a grievance, even if your grievance is not upheld, unless your complaint is both untrue and made in bad faith.

Monitoring and review

This policy will be monitored periodically by the council to judge its effectiveness and will be updated in accordance with changes in the law. [In particular, the council will monitor the ethnic and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the council will implement them.

Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with relevant data protection legislation.]

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

Date of policy: December 2019

Approving committee:

Date of committee meeting:

Policy version reference:

Supersedes: [Name of old policy and reference]

Policy effective from:

Date for next review:

— policy ends here —

Notes

This is an example policy that should be adjusted to reflect the procedures and policy of the council. It is important that any commitment made in the policy is applied in practice.

1. Green Book terms

The Green Book sets out practical principles that councils can adopt and acknowledges that local councils will need to select the appropriate measures to match their circumstances.

The guidance covers:

- Developing and action plan to establish and monitor progress
- Recruitment and Selection Procedures
- Training
- Pay, Grading and Conditions of Service
- Dealing with Harassment

Guidance

Where there is text in [square brackets] this part may be updated or be deleted if not relevant. An alternative option may have been provided.

Important notice

This is an example of an employment policy designed for a small 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 document was commissioned by the National Association of Local Councils (NALC) in 2019 for the purpose of its member councils and county associations. Every effort has been made to ensure that the contents of this document are correct at time of publication. NALC cannot accept responsibility for errors, omissions and changes to information subsequent to publication.

This document has been written by the HR Services Partnership – a company that provides HR advice and guidance to town and parish councils. Please contact them on 01403 240 205 for information about their services.

PAPER D

Dignity at Work Policy

Gainsborough 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.

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Document History

Adopted by Council –
Reviewed & Adopted -
Reviewed & Adopted –

Purpose

Gainsborough 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.

[Optional – for Councils who have committed to the pledge] In support of this objective, Gainsborough 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 Gainsborough Town Council. Should agency staff, or contractors have a complaint connected to their engagement with Gainsborough 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 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. Gainsborough 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 and Diversity 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.

Harassment

- Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic.
- Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic.

Bullying

- Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.

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 and Diversity 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 line 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 line 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 Policy. 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

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.

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/line manager is used it is recognised this could be the Town Clerk, 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 Town Clerk, and for the Town Clerk this could be the Chair/Deputy Chair, or possibly Chair of the 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, Town Clerk, line 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 line 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 (Town Clerk/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 Policy or against a Councillor and can only be dealt with by the Monitoring Officer.

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