

Dignity At Work (Harassment and Bullying)

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1 POLICY STATEMENT

- 1.1 Dover District Council (“the Council”) is committed to being an equal opportunities employer and creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect.
- 1.2 The Council will not tolerate any form of victimisation, bullying or harassment on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation or any other grounds.
- 1.3 Harassment and bullying can have very serious consequences for employees and the Councils. It may make people unhappy, may cause them stress, affect their health and family and social relationships; may affect their work performance and could cause them to leave their job. Severe cases of harassment and bullying can even lead to mental illness and suicide.
- 1.4 Effects on the Council may include loss of morale, poor work performance, increased turnover of staff, legal claims and damage to the Councils' reputations. Employees found guilty of harassment or bullying may face disciplinary penalties, up to and including dismissal and could be personally liable to pay compensation in legal claims. Serious harassment (e.g., where a campaign has been waged against someone over a prolonged period) may be a criminal offence.
- 1.5 The Council will not tolerate bullying and harassment of any kind. All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken. The Council will also not tolerate victimisation of a person for making allegations of bullying or harassment (whether they are made in good faith or not), or supporting someone to make such a complaint. Victimisation is a disciplinary offence.

2 THE SCOPE OF THIS POLICY

The policy covers bullying and harassment in the workplace, including any other partnership working with any other Council, and in any work-related setting outside the workplace, including, but not limited to, business trips and work-related social events.

2.1 Employees

This policy covers bullying and harassment of, and by, managers (including senior managers, statutory officers, and the Chief Executive), employees, contractors, agency employees and anyone else engaged to work at, or for, the Council, whether by direct contract with the Council, or otherwise, including volunteers and placements, or secondments to or from other Councils, including through partnership working, joint ventures or shared services.

2.2 Agency Workers

If the complainant, or alleged harasser, is not employed by the Council, - for example, if the worker's contract is with an agency - this policy will apply with any necessary modifications such as that the Council could not dismiss the worker but would instead require the agency to remove the worker, if appropriate, after investigation and disciplinary proceedings.

2.3 Third Parties

The policy does not cover bullying or harassment by customers, suppliers, vendors, or visitors. In these cases, employees should report any such behaviour to their manager who will take appropriate action. Bullying or harassment by employees of customers, suppliers, vendors or visitors, or others will be dealt with through the Performance & Conduct procedure.

3 ROLES AND RESPONSIBILITIES

3.1 We all have a responsibility to help create and maintain a work environment free of bullying and harassment. You can help to do this by:

- Following the Council's Code of Conduct and, where they exist, published organisational values and ways of working.
- being aware of how your own behaviour may affect others and changing it, if necessary - you can still cause offence even if you are 'only joking'.
- treating your colleagues with dignity and respect.
- taking a stand if you think inappropriate jokes or comments are being made.
- making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case.
- intervening, if possible, to stop harassment or bullying and giving support to recipients.
- reporting harassment or bullying to your manager (HR can help you identify a suitable manager if you do not wish to approach your line manager) and supporting the Council in the investigation of complaints; and
- if a complaint of harassment or bullying is made, not prejudging, or victimising the complainant or alleged harasser.

3.2 Managers have a particular responsibility to:

- encourage their team members to follow the Council's Code of Conduct and, where they exist, published organisational values and ways of working.
- set a good example by their own behaviour.
- ensure that there is a supportive working environment.
- make sure that staff know what standards of behaviour are expected of them.
- intervene to stop bullying or harassment; and
- report promptly to HR any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them.

4 GUIDANCE ON TACKLING BULLYING & HARASSMENT FOR EMPLOYEES AND MANAGERS

4.1 Definitions of Bullying and Harassment

Bullying

Can include offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate, or injure the person on the receiving end.

Harassment

Could be a form of unlawful direct discrimination and can include unwanted conduct related to sex, gender reassignment, race or ethnic or national origins, disability, sexual orientation, religion or belief (or lack of), age, marital status, or any other personal characteristic which:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his or her dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.
- Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a 'joke' may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him or her, for example sexual touching.
- It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, for example, certain 'banter', flirting, or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence will not be harassment, but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him or her.
- A single incident can be harassment if it is sufficiently serious.
- All bullying and harassment is misconduct and is a disciplinary offence, which will be dealt with under the Council's disciplinary policy. Bullying or harassment may be gross misconduct which can lead to dismissal without notice.
- Some bullying or harassment will constitute unlawful discrimination, for example, if it relates to a person's sex, age, race, religion or belief, sexual orientation, or disability. Serious bullying or harassment may amount to other civil, or criminal offences, for example, civil or criminal offences under the Protection from Harassment Act 1997 or Public Order Act 1986.

- Bullying and harassment do not necessarily occur face-to-face, physically, or verbally. They may also occur in written communications, email or SMS, telephone, social media, and automatic supervision methods, such as computer recording of downtime from work or call handling systems.
- Bullying and harassment may be by employee to employee or may involve groups of people.

4.2 Examples of Bullying or Harassment

Examples of unacceptable behaviour that are covered by this policy include (but are not limited to) the following:

- 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, or access to training.
- threats for rejecting sexual advances, e.g., suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advances, assigned work, or any other condition of employment or career development.
- demeaning comments about a person's appearance.
- unwelcome jokes, or comments of a sexual, or racial nature, or about an employee's age.
- questions about a person's sex life.
- unwanted nicknames related to a person's age, race or disability.
- the use of obscene gestures.
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g., magazines, calendars or pin-ups.
- spreading malicious rumours or insulting someone.
- picking on someone or setting him or her up to fail.
- making threats, or comments about someone's job security without good reason.
- ridiculing someone.
- isolation, or non-cooperation at work.
- overbearing supervision or other misuse of power or position.
- deliberately undermining a competent worker by overloading and constant criticism.
- preventing employees from progressing by deliberately blocking opportunities for training and promotion, and
- excluding someone from social activities.

Examples of unacceptable behaviour do not include the following:

- managers addressing incidents of misconduct or poor performance in accordance with the Council's stated policies and normal practice; and
- monitoring of an employee's performance or conduct with a view to supporting him or her to make improvements.

5 VICTIMISATION

Victimisation, for the purposes of this policy and procedure, is treating someone less favourably than others because he or she has, complained under the Equality Act 2010 (whether formally or otherwise) that someone has been bullying or harassing him or her, or someone else, or supported someone to make a complaint, or given evidence in relation to a complaint. This would include isolating someone because he or she has made a complaint or giving him or her worse work.

- 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 which you know to be untrue, or giving evidence which, you know to be untrue, may lead to disciplinary action being taken against you.

6 ACTION FOR EMPLOYEES WHO BELIEVE THEY ARE BEING BULLIED OR HARASSED

6.1 An informal approach by you:

- a) You may be able to sort out matters informally. The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effects of his or her behaviour and agree to change it. You may feel able to approach the person yourself, or with the help of someone else such as a manager, trade union representative or another employee. Alternatively, an initial approach could be made on your behalf by one of these people. HR can facilitate the identification of a neutral manager within the Council(s) to support you if required.
- b) You should tell the person what behaviour of his or hers you find offensive and unwelcome and say that you would like it to stop immediately. You may want to add that, if the behaviour continues, you intend to make a formal complaint to your manager. You should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues, and you wish to make a formal complaint.
- c) Feedback should always be constructive and factual. Do not make accusations, but calmly explain how the other person's actions have made you feel. The person may not realise that they had offended you and may have difficulty accepting what you say. If this is the case, talk to your line manager, or seek advice from HR who may be able to arrange mediation for you both.

6.2 An informal approach by your manager:

If an informal approach by you does not resolve matters, or you are uncomfortable taking this course of action, either your manager or another manager, who may be more senior, may undertake to resolve the situation using the informal approach set out within the Council's Grievance Policy.

Your manager will, on your behalf, tell the person how his or her behaviour is unwelcome and that you would like it to stop immediately. The individual will be informed that, should his or her behaviour continue, a formal grievance may be raised in order to resolve the matter. Your manager will keep a record of this conversation and will update you on the outcome. You should keep a record of your conversations with your manager, including any actions which have been agreed to resolve the matter. This will be useful evidence if the unacceptable behaviour continues, and you wish to make a formal complaint.

You should inform your manager if the unwelcome behaviour continues, so that further action can be taken.

This course of action does not prevent you from raising a formal Grievance, should you wish to. Your manager or HR will discuss your options with you and offer advice as appropriate.

6.3 The Council's formal Grievance Procedure:

- a) If an informal approach does not resolve matters, or you think the situation is too serious to be dealt with informally, you can make a formal complaint by using the Council's grievance procedure. In the case of grievances about bullying or harassment, you can choose whether to raise your grievance with your manager, or directly with HR, who will support you to identify a suitable alternative person to whom you could raise the grievance. We will ensure that you can bring your complaint in the first instance to someone of your own sex if you so choose.
- b) In very serious cases, a criminal offence may have been committed and you may wish to report matters to the police. The Council can arrange for someone to accompany you to make a complaint to the police if you wish.
- c) All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. You may wish to be accompanied by a work colleague or trade union representative of your choice at any meeting dealing with your grievance. You will be kept informed of the general progress of the process of investigation and the outcome of any disciplinary proceedings. The Council will decide on a balance of probabilities, after considering all available evidence, whether harassment or bullying has occurred.
- d) The Council will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a 'need to know' basis. For example, your identity and the nature of the allegations must be revealed to the person you are complaining about, so he or she is able to respond to the allegations. Some details may also have to be given to potential witnesses, but the importance of confidentiality will be emphasised to them. If the complaint is upheld, and a person who has been found to have harassed you is kept in the Council's employment, managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person against you or others.
- e) In very serious cases, the Council will try to ensure that you and the alleged harasser are not required to work together whilst the complaint is under investigation. This could involve giving you the option of remaining home on special leave if you wish. In a serious case, the alleged harasser may be suspended whilst investigation and any disciplinary proceedings are underway.

- f) If your complaint is upheld, and the person found to have bullied or harassed you remains in the Council's employment, every effort will be made to ensure, if possible, that, if you do not wish to, you do not have to continue to work alongside the harasser. We will discuss the options with you. These may include the transfer of the harasser or, if you wish, you may be able to transfer to another post.
- g) If your complaint is not upheld, HR and the Council will support you, the alleged harasser, and your manager(s) in making arrangements for you both to continue or resume working and to help repair working relationships. The Council will consider making arrangements to avoid you and the alleged harasser having to continue to work alongside each other, if either of you do not wish to do this. However, the Council cannot provide any guarantee that this can be accommodated. In such a situation, we would expect all parties to make reasonable effort to repair the working relationship and agree to, and take part in, any initiatives that may support this, such as mediation or facilitated meetings.
- h) You have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint which you know to be untrue may lead to disciplinary action being taken against you.
- i) Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings. In such cases, it is likely that the Council will follow the Performance & Conduct Procedure or the Grievance Procedure and will manage this process alongside any external actions as appropriate.

7 WHAT HAPPENS IF AN EMPLOYEE IS ACCUSED OF BULLYING OR HARASSMENT

- 7.1 If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable, and everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour, which has caused offence, that may well be the end of the matter. If you are upset or concerned about your colleague's complaint, do not retaliate, but take time to reflect, or seek the advice of your line manager. HR can arrange mediation if this is appropriate and both parties agree to it.

- 7.2 If a formal complaint is made about your behaviour, this will be fully investigated and the Council may bring disciplinary proceedings, if appropriate. The Council will follow its disciplinary procedure and you will have the rights set out in that procedure. You will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied to formal meetings by a trade union representative or work colleague of your choice. You can request to be accompanied at an informal meeting provided that this does not delay the process. The Council takes complaints of bullying and harassment seriously and, if substantiated, this may lead to disciplinary action up to and including dismissal.
- 7.3 The Council will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a 'need to know' basis. For example, some details may have to be given to potential witnesses, but the importance of confidentiality will be emphasised to them.
- 7.4 Wherever possible, the Council will try to ensure that you and the complainant are not required to work together whilst the complaint is under investigation. In some circumstances, you may be suspended on full pay during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded.
- 7.5 If the complaint against you is upheld, on a balance of probabilities, a disciplinary penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If the complaint is upheld, but you are not dismissed, the Council could decide to transfer you to another post.
- 7.6 If a complaint is made against you which is not upheld and the Council has good grounds for believing that the complaint was not made in good faith, the Council will take disciplinary action against the person making the false complaint.
- 7.7 You must not victimise a person who has made a complaint against you (whether or not that complaint was made in good faith) or anyone who has supported him or her in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against you if the Council has good reason to think that you may have victimised the complainant or someone else.
- 7.8 If the complaint against you is not upheld, the Council, together with HR will support you, the complainant, and your manager(s) in making arrangements for you both to continue or resume working and to help repair working relationships. The Council will consider making arrangements to avoid you and the complainant having to continue to work alongside each other, if either of you do not wish to do this.
- 7.9 Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against you, which would proceed independently of the Council's disciplinary proceedings. You could be personally liable to pay compensation to the complainant if a successful claim in the employment tribunal or other courts was brought against you. Criminal proceedings could lead to conviction and criminal penalties.

8 MAKING THIS POLICY WORK

The Council will provide training to all existing and new employees and others engaged to work at the Council to help them understand their rights and responsibilities under this policy and what they can do to help create a working environment free of bullying and harassment. We will provide additional training to managers to enable them to deal more effectively with complaints of bullying and harassment, and to identify and rectify inappropriate behaviour in its early stages.

The Council will review the outcomes of cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

The Council will also periodically monitor how successful it is in creating a workplace free of bullying and harassment by other means which may include confidential staff surveys.

See Also

Disciplinary and Performance, Procedure & Guidance

Grievance Policy, Procedure & Guidance

Investigation Procedure

Code of Conduct