

STRONGER together



Lewes District Council



Working in partnership with **Eastbourne Homes**

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1. Introduction

- 1.1. Lewes District Council (LDC) and Eastbourne Borough Council (EBC) are committed to creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect.
- 1.2. The purpose of this policy is to provide a safe, healthy and harmonious working environment for all staff and to ensure that everybody is aware that bullying and harassment will not be tolerated by the councils.
- 1.3. We work to support the corporate commitment to making our organisation a great place to work.
- 1.4. The councils 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 councils will also not tolerate victimisation of a person for making allegations of bullying or harassment in good faith or supporting someone to make such a complaint. Victimisation is a disciplinary offence.
- 1.5. Staff have an important role in helping to establish the right working environment and to promote dignity at work. All staff have an obligation to ensure that they do not bully or harass their colleagues or, through their own actions or inaction, condone such behaviour in others.

2. The scope of this policy

- 2.1. This policy covers bullying and harassment of and by managers, employees, contractors, agency staff and anyone else engaged to work at the councils, whether by direct contact with the organisation or otherwise. If the complainant or alleged harasser is not employed by us, e.g. if the worker's contract is with an agency, this policy will apply with any necessary modifications such as that the councils could not dismiss the worker but would instead require the agency to remove the worker, if appropriate, after investigation and disciplinary proceedings.
- 2.2. The policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace e.g. business trips and work-related social events. The councils have a duty of care to all our employees, even if they are working away from their normal work or whilst they are agile working to maintain an environment which encourages mutual trust and respect and is free from all forms of bullying and harassment. This is not intended to lessen the enjoyment of any such events but to benefit all staff and ensure that everyone can enjoy them without fear of being made to feel uncomfortable by another the conduct of another member of staff.
- 2.3. Any breach of either the Code of Conduct or the Dignity at Work Policy at a work related social event may result in disciplinary action being taken under the Council's disciplinary procedure.
- 2.4. The policy also covers cyber bullying. Staff should not make comments on personal social media pages outside of work that are either derogatory about the people they work with or bring the councils into disrepute. The councils have a separate Social Media Policy which staff should familiarise themselves with and our IT Acceptable Use Policy states that the councils retain the right to filter and monitor internet and email use.
- 2.5. All employees and elected members have a responsibility to help us in creating a work environment in which the dignity of all staff is respected. We expect everybody to comply with this policy and everyone should ensure that their behaviour does not cause offence and could not in any way be considered to be harassment or bullying.

3. What is bullying and harassment?

- 3.1. **Bullying** is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end. It may be a one-off incident or persistent behaviour. The abuse of power may not always relate to status or power within the organisation.
- 3.2. **Harassment** is unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:
- 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/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.
- 3.3. 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/her and to have his/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/her, e.g. 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, e.g. 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/her.
- 3.4. Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that the recipient is deaf. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if his/her child is disabled, wife is pregnant or friend is a devout Christian.

- 3.5. There may also be circumstances in which an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it might be that a client makes a series of racist remarks to a black employee. If an employee feels that he/she has been bullied or harassed by customers, suppliers, vendors or visitors, he/she should report any such behaviour to their manager who will take appropriate action. Bullying or harassment of customers, suppliers, vendors or visitors or others will be dealt with through the disciplinary procedure.
- 3.6. A single incident can be harassment if it is sufficiently serious. It may not be directly aimed at any one individual – for example, the display or circulation of sexually suggestive pictures.
- 3.7. 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 will often be gross misconduct, which can lead to dismissal without notice.
- 3.8. Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Serious bullying or harassment may amount to other civil or criminal offences, e.g. a civil offence under the Protection from Harassment Act 1997 and criminal offences of assault.

Examples of bullying or harassment

- 3.9. Bullying and harassment may be misconduct that is physical, verbal or non-verbal, e.g. by letter or email (so-called "flame-mail").
- 3.10. Examples of unacceptable behaviour that are covered by this policy include (but are not limited to):
 - 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, e.g. suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advancement, 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 individual's age, disability, sexual orientation or religion;
 - questions about a person's sex life;
 - unwanted nicknames related to a person's age, race or disability;
 - the use of obscene gestures;

- excluding an individual because he/she is associated or connected with someone with a protected characteristic, e.g. his/her child is gay, spouse is black or parent is disabled;
- ignoring an individual because he/she is perceived to have a protected characteristic when he/she does not, in fact, have the protected characteristic), e.g. an employee is thought to be Jewish, or is perceived to be a transsexual;
- 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/her up to fail;
- making threats or comments about someone's job security without good reason;
- ridiculing someone;
- isolation or non-cooperation at work; and
- excluding someone from social activities.

4. What is victimisation?

- 4.1. **Victimisation** is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/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/she has made a complaint or giving him/her a heavier or more difficult workload.
- 4.2. 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.
- 4.3. If the Councils have good grounds to believe that you have made a complaint or grievance that you know to be untrue, or giving evidence that you know to be untrue, or not in good faith this may lead to disciplinary action being taken against you.
- 4.4. Whilst staff are encouraged to raise any concerns they may have they should understand that any management activities, such as instigating disciplinary proceedings, monitoring performance, dealing with attendance issues and changing deadlines and priorities and responding to services needs do not, if handled reasonably, necessarily constitute harassment or bullying.
- 4.5. Some bullying and harassment may amount to other civil or criminal offences in which case the disciplinary procedure may be invoked and the matter referred to the police.

5. Maintaining Dignity at Work

5.1. The aim of this policy is to resolve a complaint of harassment or bullying so that we can all work effectively together. 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:

- 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;
- making it clear that you find harassment and bullying unacceptable;
- reporting harassment or bullying to your manager or human resources 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.

Managers have a particular responsibility to:

- 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 human resources any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them.

5.2 This policy should not be used to raise issues or complaints which would normally be dealt with under other Council procedures such as:

- issues relating to your employment which would normally be raised under the grievance procedure
- pay and grade
- recruitment decisions

- capability
- discipline
- whistleblowing
- collective disputes

6. What should I do if I think I am being bullied or harassed?

- 6.1. If you think that you are being bullied or harassed it is important that you seek support as soon as possible.
- 6.2. Speak to either your line manager, HR Business Partner or Unison representative. We will seek to identify and resolve any issues at the earliest opportunity and if possible informally.
- 6.3. The person may not know that his/her behaviour is unwelcome or upsetting. An informal discussion may help him/her to understand the effects of his/her behaviour and agree to change it. You may feel able to approach the person yourself, or with the help of someone in human resources, a manager, trade union representative or another employee. Alternatively, an initial approach could be made on your behalf by one of these people. You should tell the person what behaviour you find offensive and unwelcome, and say that you would like it to stop immediately.
- 6.4. The line manager should seek to identify and resolve any issues at the earliest opportunity and they should intervene to stop bullying and harassment and offer support to those affected. Managers should make the perpetrator fully aware of the affect their behaviour has had on the other person or group of people, the possible consequence and help them to find way of changing their attitude or approach in the workplace.
- 6.5. 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.
- 6.6. If an informal approach does not resolve matters, or you think the situation is too serious to be dealt with informally, a formal investigation will be required.
- 6.7. You should put in writing the following:
 - Clear, specific allegations against a named person (s)
 - Dates, times and witnesses to incidents with direct quotes where appropriate
 - Factual description of events
 - Any indication of how each incident made you feel
 - Any documentary evidence
 - Details of any action you have already taken e.g information action
- 6.8. This should be raised with your senior manager. Or if the complaint is against your senior manager, it should be referred to a Head of Service or

Head of HR, if appropriate. If your complaint concerns an officer from outside your own service area, the Head of Service will be consulted on how the matter should be investigated and who will be responsible for any decisions.

- 6.9. All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. You will have the right 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 whether or not the Council has determined that harassment or bullying has occurred. Where possible we will aim to complete these investigations within 10 working days but clearly this will depend on how quickly the investigating officer is able to meet with the complainant and any other appropriate people.
- 6.10. The councils 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/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.
- 6.11. Wherever possible, we will try to ensure that you and the alleged harasser are not required to work together while the complaint is under investigation. This could involve giving you the option of remaining at home on special leave, if you wish. In a serious case, the alleged harasser may be suspended while investigation and any disciplinary proceedings are underway.
- 6.12. The investigation will consider the perception of the person making the complaint, the other circumstances of the case and whether or not it is reasonable for the conduct to have had the effect the complainant has detailed.
- 6.13. If your complaint is upheld, and the person found to have bullied or harassed you remains in our employment, every effort will be made to ensure that, if possible, you do not have to continue to work alongside the harasser, if you do not wish to do so. 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.
- 6.14. If your complaint is not upheld, a member of the human resources team 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. We 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.

- 6.15. If it is found through the investigation that the complaint has been made maliciously or the allegations are vexatious (initiated without sufficient grounds) then the member of staff may be dealt with fairly and objectively under the disciplinary procedure. The disciplinary policy details the process that will be followed if this is deemed appropriate and the potential outcomes.
- 6.16. Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings.

7. What happens if I am 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/her and to have his/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 that has caused offence, that may well be the end of the matter.
- 7.2. If a formal complaint is made about your behaviour, this will be fully investigated and we 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 meetings by a trade union representative or work colleague of your choice. The procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct that, if proved, could lead to dismissal without notice.
- 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, we will try to ensure that you and the complainant are not required to work together while the complaint is under investigation. If the allegation is of gross misconduct, 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 that is not upheld and we have good grounds for believing that the complaint was not made in good faith, we may take disciplinary action against the person making the false complaint.
- 7.7. You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him/her in making the complaint

or given evidence in relation to such a complaint. Disciplinary action will be taken against you if we have 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 a member of the human resources team 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. We 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

- 8.1. The councils 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.
- 8.2. The councils will also periodically monitor how successful it is being in creating a workplace free of bullying and harassment by other means which may include confidential staff surveys.
- 8.3. Both parties, the complainant and the respondent, will have a right of appeal under this policy.
- 8.4. In many cases a successful outcome can be achieved at the end of informal discussions or a formal investigation. There may be situations which require further work to enable to the parties to resolve issues and restore their working relationships such a mediation which would be arranged confidentially via HR.

9. Support

- 9.1. The councils provide an Employee Assistance Programme which can play a valuable role in complaints about bullying and harassment by providing a confidential service to support any employee that feels they need external support. It can assist employees with all sorts of work life issue and provides information, support and guidance on a range of issues – 24 hours a day, 365 days a year.
- 9.2. Staff can self-refer and this service is completely confidential. Services range from clinical services such as Cognitive Behavioral Therapy, Telephone Counselling, and Face-to-Face Counselling through to practical support and information around debt, legal and specialist information similar to Citizen's Advice regarding consumer rights and other issues.
- 9.3. Employees can be supported in a wide variety of areas including:
 - Work/career queries/problems
 - Emotional/stress
 - Relationships/family issues
 - Alcohol problems
 - Legal concerns
 - Debt/financial and tax
 - Childcare problems
 - Health and wellbeing
 - Lifestyle