

## Introduction

The Council / School is committed to ensuring all employees are treated with dignity and respect regardless of race, religion, age, disability, gender, sexual orientation, social class or origin. The Council / School believes that harassment or bullying in any form is unacceptable and will not be tolerated in the workplace.

## Aims of the Policy

The policy aims to raise awareness of the effects of such behaviour and outlines procedures to be followed in dealing with complaints of bullying, harassment or victimisation.

## Scope

This policy applies to all employees with the exception of those employees working in maintained schools under the direct control of a School Governing Body. The policy does **not** apply to elected members or School Governors.

### School Based Employees:

Newport City Council commend this policy to individual Governing Bodies for adoption. If adopted by a Governing Body, the policy will apply to all employees under the direct control of that Governing Body.

## To be read in conjunction with:

Corporate Diversity Policy  
Employee Code of Conduct  
Disciplinary Policy

## PRINCIPLES

The Council / School is committed to ensuring employees are treated with dignity and respect whilst at work, and considers fairness and equity are primary principles in the conduct of its business. Any form of discrimination, harassment, victimisation or bullying is unacceptable, and will not be tolerated either from an individual or groups of individuals.

The Council / School acknowledges its responsibility for the working environment, and for the welfare and protection of its employees.

The Council / School believes that individual employees are responsible for their own behaviour, both professionally and personally. There is an expectation that staff will conduct themselves in a manner which does not cause offence to another person. In essence, everyone has a responsibility for upholding personal dignity and challenging unacceptable behaviour.

The Council / School is committed to resolving issues raised under the *Bullying and Harassment Policy* as early and as quickly as possible.

This Policy is also available in Welsh. Should you wish for any process under this Policy to be conducted in Welsh please advise the relevant manager and this can be arranged.

## Complaints of Bullying and Harassment

The Council / School believes that employees who feel that they are not being treated with dignity and respect or who feel they have been bullied, harassed or victimised have the right to complain and to have that complaint dealt with seriously and promptly.

The Council / School is committed to resolving issues raised under the *Bullying and Harassment Policy*, through alternative conflict resolution processes, such as a facilitated discussion or mediation.

The Council encourages employees to report all incidents of inappropriate behaviour and employees can expect to have any reports of such incidents, to be treated seriously, promptly and confidentially.

In order to support employees who wish to exercise their right to complain under this policy, the Council / School has developed a network of resources that are available to offer advice and assistance to both parties throughout the process. These can include Managers, Human Resources Officers and Trade Union Representatives.

## Complaints Against Elected Members

The policy does **not** apply to elected members. Elected members are governed by a statutory *Members' Code of Conduct*; this is enforced by the Public Services Ombudsman. If a Council / School employee feels they have a complaint of bullying and / or harassment against an elected member, they should contact the Head of Law and Standards who will be able to advise them on the appropriate process they can follow.

## Complaints Against Members of School Governing Bodies

This policy does **not** apply to complaints of bullying and harassment from employees against members of School Governing Bodies. If a Council / School employee feels they have a complaint of bullying and / or harassment against a member or members of a School Governing Body, they should contact the Clerk to the Governing Body via the Council's Governor Support team, who will be able to provide the employee with details of the School's *Complaints Policy*, which is the appropriate route for dealing with complaints against Governors.

## Complaints from Members of the Public

Members of the public who feel that they have been the subject of bullying and / or harassment from a behaviour from a Council or School employee in the course of their duties should be referred to the Council / School *Complaints Policy*.

## The Equality Act 2010

The Council / School is required to have regard to the Equality Act 2010, which outlines the various types of discrimination, victimisation, harassment and other unlawful conduct in employment.

The Equality Act 2010 is concerned with harassment, victimisation and discrimination in the workplace, specifically in respect of the following "protected characteristics" age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In discharging their duty the Council / School is committed to eliminating conduct that is prohibited by the Equality Act 2010, including breaches of non-discrimination, such as bullying. The Council / School has a duty to advance equality of opportunity between those who share a protected characteristic and employees who do not share it and will seek to foster good relationships between these groups of employees.

## DEFINITIONS

There is no one legal definition of bullying, harassment or victimisation. However, bullying, harassment and victimisation can involve conduct that is unlawful under either common law or specific legislation. Some acts of harassment or bullying may amount to discrimination, assault or incitement, giving rise to civil liability or criminal prosecution of the perpetrator.

Discrimination, harassment, victimisation and bullying may be against one or more individuals, and may involve a single incident or a series of events. The display of such conduct is not limited to face-to-face contact, but can be in writing, via e-mail or by telephone. It can also include behaviour outside work time, which impacts upon work, or is carried out while engaged on work related duties.

The Council / School recognises that it is for each individual to decide what conduct is acceptable and what they deem to be unacceptable behaviour. Consequently different employees may reach a different view of the same situation, based on their perception of it.

## Discrimination

There are various types of discrimination and other unlawful conduct set out in the Equality Act 2010.

1. *Direct discrimination* – where a person treats another less favourably because of a protected characteristic.
2. *Combined direct discrimination* – where a person is treated less favourably because of a combination of protected characteristics, e.g. gender and age.
3. *Indirect discrimination* – when a policy or practice is apparently neutral but the effect places a group of people at a significant disadvantage.

**Workplace bullying** can be defined as “offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress.” (ACAS)

**Harassment** is defined as “improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcome and stressful work environment, or cause personal offence or injury. Harassment is most easily identified when it is continuous, frequent, repetitive and part of an overall pattern. (Industrial Society)

**Victimisation** occurs when a person is treated less favourably because they are suspected or known to have complained (this need not be limited to complaints regarding bullying or harassment), or given evidence about behaviour which has resulted in a complaint alleging a breach of conduct, or a request to have a decision reviewed. Victimisation is a form of bullying or harassment and is unacceptable, may be illegal and could lead to disciplinary action being taken.

***Further information and examples of bullying and harassment can be found in Appendix 1.***

## EMPLOYEES’ RESPONSIBILITIES

All employees have a responsibility for upholding personal dignity and challenging unacceptable behaviour. Consequently, employees must:

- Be aware of, and comply with, the *Bullying and Harassment Policy*.
- Be conscious of the distinction between acceptable behaviour, and that which is not welcomed by others.
- Not participate in, encourage or condone the bullying, harassment or victimisation of others.
- Take responsibility for prompt action where the individual feels that they are being bullied, harassed or victimised as a result of someone’s actions.
- Ensure colleagues are not subjected to bullying, harassment or victimisation in any form, reporting situations where they believe this is occurring.

## MANAGERS’ RESPONSIBILITIES

Managers / Head Teachers are responsible for assessing the job performance, behaviour, attitude and attendance at work of employees, and taking appropriate action to ensure required standards are attained. However, in doing so, any concerns, criticisms or action taken must be justifiable, constructive and conducted in an appropriate manner. Managers / Head Teachers must treat staff with dignity and respect, and must not use an intimidating style or go beyond the normal bounds of managerial authority, in order to achieve objectives.

In addition to the responsibilities which apply to all employees, all managers are expected to promote a culture which affords dignity to all employees for whom they are responsible. Managers / Head Teachers must:

- Set an example to other staff.
- Be aware of their duty of care to staff, which includes the prevention of bullying, harassment or victimisation

- Ensure that all employees, in particular new employees, are clear regarding the standards of behaviour expected by the Council
- Make employees aware of the Council's *Bullying and Harassment Policy* through induction training and training briefings.
- Be alert to potential problem situations if they are aware of behaviour which might cause offence, and act promptly to prevent or stop any behaviour which compromises an individual's dignity at work without waiting for a complaint to be made.
- Respond sensitively to any concerns, bearing in mind that it is the perception of the individual which is important.
- Treat complaints of unacceptable behaviour, harassment, victimisation or bullying seriously, and deal with any issues raised fairly and confidentially.

## HANDLING BULLYING AND HARASSMENT COMPLAINTS

### INITIAL PROCEDURE

The objective of the Initial stage is to resolve the complaint/allegation as early and as quickly as possible.

#### Step One

Where an incident occurs which an employee feels contravenes their dignity at work, or where they feel they have been discriminated against, bullied, harassed or victimised, they should:

- Record the details of the incident as soon as possible after it has happened. The record should include details of the date, time and place of incident; full details of what happened and what was said; names of any witnesses to the incident
- Where possible, approach the person responsible for the unacceptable behaviour at the time of the incident, or as soon as possible after the event. This is to make it clear that their behaviour has caused offence and is not wanted and to request that the behaviour stops or is modified in the future.

This is the first step in addressing the situation and can often resolve it, particularly if the person responsible does not realise the impact of their behaviour on others.

If the unacceptable behaviour continues, or the employee does not feel able to discuss the problem with the person who is causing (or has caused) the distress, they should inform their immediate manager. Where the issue relates to their immediate manager, the employee should refer the matter directly to their manager's manager or to Human Resources. Managers should take advice from Human Resources as soon as any complaint of bullying or harassment is raised to them.

#### School Based Employees

*Where the issue relates to their Head Teacher, the employee should raise the matter with the Chair of Governors in the first instance.*

### Step Two – Facilitated Discussion

The next step in the Initial Procedure is for the manager to seek to bring both parties together in an informal meeting known as a **facilitated discussion**. In order for this to progress, the employee raising the concerns will have to agree to their concerns to be shared with the person responsible for the unacceptable behaviour.

Facilitated discussions are aimed at clarifying matters between both employees in order to seek a better understanding of the problem, and achieve an amicable resolution. Meetings are usually facilitated by the manager, who may be supported by Human Resources.

As facilitated discussions are informal meetings, trade union representatives will not normally be present,

and would only be present by the mutual agreement of **both** parties. The person against whom the complaint has been made has the right to receive a summary of the complaint in writing in advance of the meeting.

The manager will keep a written record of events and the resolution reached, and will continue to monitor relations between the parties.

Where the issue cannot be resolved through a facilitated discussion, or where the issues are such that a facilitated discussion is not appropriate, a further option that can be used to try to resolve the issues is formal **mediation**. Any mediation process would take place in accordance with the process outlined in the Council's / School's [Mediation Policy](#).

If the initial procedure fails to provide a resolution or the matter is considered so serious that it requires investigation, the employee or manager has the right to progress the complaint through the formal procedure.

The Council / School will treat complaints of discrimination, harassment bullying 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 only the identity and the nature of the allegations are revealed to the alleged perpetrator, so they are 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.

## FORMAL PROCEDURE

The Formal procedure will normally be commenced when the initial procedure has failed to provide a resolution. In exceptional circumstances, the complainant's senior manager (third tier or above) / Head Teacher and Human Resources may collectively determine that the allegations are so serious that the formal procedure should be instigated immediately.

Formal complaints should be made in writing to the employee's manager. If the employee's immediate manager is the individual about whom the complaint is being made, the formal complaint should be sent to the next level of manager.

### School Based Employees

*Where an employee's complaint is formal, any investigation process and subsequent outcome will take place in accordance with the School's Disciplinary Procedure and not the process detailed within this policy.*

*Where an employee's complaint is against the Head Teacher, the matter should be raised with the Chair of Governors in the first instance.*

The manager (or the person who receives the complaint), within 5 working days of receipt of the complaint, will:

- Write to the complainant acknowledging their complaint, identifying who the Investigating Officer will be.
- Write to the alleged perpetrator summarising the complaint and identifying who the Investigating Officer will be.

The Investigating Officer will then contact both parties to clarify the process and timescales to be followed, and will offer both parties support from Occupational Health. The manager will inform both parties of their right to be represented by a trade union representative or work colleague at any meetings required as part of the investigation. Finally, the Investigating Officer will inform Human Resources that the case has moved to the formal stage.

At this stage, the possibility of transfer, redeployment, suspension from duty, or separation arrangements

will be considered; this will not constitute disciplinary action. Implementation of the above will be put in place to protect the interests of both parties, and will be on full pay and without prejudice for the duration of the investigation. A decision on which individual (if any) to move will be based on objective criteria such as travel arrangements, work-life balance issues, needs of the service, availability of resources.

In addition, where a complaint is against the individual's direct manager it may be necessary to alter/amend the line management arrangements whilst the complaint is being investigated.

## **Investigation Process**

Any investigation of a formal complaint must be handled sensitively and with due respect for the rights to both the complainant and the alleged bully or harasser.

An appropriate manager will be appointed to undertake an investigation into the complaint. The Investigating Officer may be supported by a member of Human Resources. Those carrying out the investigation should not in any way be connected with the allegation, and every effort should be made to resolve complaints as soon as is reasonably possible.

If either party has any concerns regarding the Investigating Officer appointed, these concerns should be detailed in writing to the Head of Service within 5 days of the letter being providing the notification of the Investigating Officer. Where concerns are raised, these will be considered by the Head of Service and a decision may be taken to replace the Investigating Officer.

The Investigating Officer should ensure that both parties are aware of their rights to representation throughout the process. The investigation will involve interviewing both parties separately, together with any relevant witnesses. During the investigation, the complainant will be given the opportunity to clarify in detail their complaint.

During the formal interview, the alleged perpetrator will be provided with the details of the nature of the complaint and will have the opportunity to respond fully to allegations raised.

Following completion of the investigation, the Investigating Officer will draw up a report detailing the background, findings, conclusions and recommendations.

## **Outcome - No Case to Answer**

Where the Investigating Officer determines that there is no case to answer, both the individual who made the complaint and the person against whom the complaint was made will be informed separately in person of the outcome, and this will then be confirmed in writing. Both parties will be advised of any recommendations made as a result of the investigation. Counselling and mediation may be offered to the parties involved (please refer to the Council's [Mediation Policy](#)).

If the complainant is still unhappy in respect of the original complaint they are able to exercise their right of appeal within seven calendar days of the outcome meeting. Any appeal must be made in writing, stating the grounds for the complainant's appeal (e.g. key witnesses have not been interviewed, specific information has not been considered).

The appeal should be heard by an independent manager, who should be no less than a third tier manager. The independent manager may request to meet with the Investigating Officer who investigated the initial complaint.

**The decision reached at the appeal meeting as to whether there is a case to answer is final; there is no further right of appeal.**

## Outcome - Case to Answer

If the Investigating Officer is satisfied that the facts they have gathered are sufficient for disciplinary action to be taken against an employee, a Disciplinary Hearing should take place in accordance with the Council's *Disciplinary Policy*. The Investigating Officer's report will be used as the investigation report for the Disciplinary Hearing and the Investigating Officer will present the Disciplinary case.

Where disciplinary action is taken as a result of a complaint under the *Bullying and Harassment Policy*, the complainant cannot appeal against the perceived leniency or severity of the action taken.

Following the Disciplinary Hearing, the Disciplining Officer / Chair of the Staff Discipline and Dismissal Committee will arrange to meet with the complainant to discuss the outcome of their complaint and they will be advised of any further recommendations made. This will **not** include details of the action taken (i.e. the level of warning issued). Any information provided to the complainant will be solely for the purposes of providing resolution to their initial complaint. The complainant must also be advised that strict confidentiality regarding their complaint and its outcome will need to be maintained in the future, as any breaches of confidentiality may warrant action under the Council's / School's *Disciplinary Policy*.

## **MALICIOUS COMPLAINTS**

Complaints of bullying, harassment or victimisation are made in good faith and will be dealt with in accordance with the *Bullying and Harassment Policy* on this basis. However, complaints which, after investigation, are considered not to have been made in good faith will be treated seriously and could possibly lead to disciplinary action being taken against the complainant. There would need to be clear supporting evidence that the complaint made was malicious or vexatious. It is important to note, however, that a complaint would not be considered malicious simply because a case was considered unfounded.

## **ADVICE AND COUNSELLING**

A person who has complained of bullying, harassment or victimisation or is considering making such a complaint will have access, where appropriate, to the Council's Occupational Health Service and/or a Counsellor for support and advice.

Counselling will also be available for individuals whose behaviour has been found unacceptable. They may be unaware or insensitive to the impact of their actions and counselling can help them change their behaviour and prevent the occurrence of further incidents. However, it is recognised that counselling can only be taken up by mutual consent.

If an individual feels they wish to assess counselling support as the result of bullying and harassment, they should normally discuss this with their line manager in the first instance that will make the necessary arrangements. However, if an individual feels that it is not appropriate to discuss this with their line manager, they should contact Human Resources directly, or via their line manager's manager or trade union representative.

## APPENDIX 1

### WHAT IS BULLYING?

The *Bullying and Harassment Policy* defines workplace bullying as:

“offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress.” (ACAS)

Bullying at work is acknowledged as workplace stress by the Health and Safety Executive (HSE) in their Guided ‘Stress at Work’. The HSE say that stress at work can be triggered or made worse where ‘there is prolonged conflict between individuals, including bullying or where staff are treated with contempt or indifference’.

#### **Examples of bullying behaviour which are clearly unacceptable include:**

- Making life difficult for those who have the potential to do the bully’s job better than the bully; this would include undermining or sabotaging an individual’s work.
- Punishing others for being too competent by constant criticism, or by removing their responsibilities, often giving them trivial tasks to do instead.
- Refusing to delegate because they feel that they can’t trust anyone else.
- Shouting at staff to get things done, persistently picking on people in front of others or in private.
- Insisting that a way of doing things is always right.
- Keeping individuals in their place by intentionally blocking promotion or training opportunities.
- Making threats or inappropriate comments about work performance, career or job security.
- Unnecessarily overbearing supervision, such as withholding relevant information, constantly overruling the individual’s authority either privately or in the presence of colleagues
- Deliberately failing to meet deadlines or with-holding information from a manager, so that the manager appears to have failed in their role.
- If someone challenges a bully’s authority, overloading them with work and reducing the guidelines, hoping that they fail at what they do.
- Feeling envious of another’s professional or social ability, so setting out to make them appear incompetent, or make their lives miserable, in the hope of getting them dismissed or making them resign.
- Excluding an individual by deliberately ignoring them / not speaking to them, including exclusion from work-related social events.

### WHAT IS HARASSMENT?

The *Bullying and Harassment Policy* defines harassment as:

“improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcome and stressful work environment, or cause personal offence or injury. Harassment is most easily identified when it is continuous, frequent, repetitive and part of an overall pattern. However, some harassment is serious enough to be recognised even if the behaviour occurred only once, and it may also be a criminal offence” (Industrial Society)

Harassment on the grounds of colour, race, nationality, ethnic or national origin, sex, sexual orientation, gender reassignment, trans-sexualism, marital status, disability, age, religion/belief, HIV status or any other personal characteristic of the individual breaches the Council’s *Bullying and Harassment Policy*.



**Examples of conduct which are clearly unacceptable include the following:**

## **Physical Conduct**

- Unwanted verbal, physical or sexual advances or physical assaults because of an individual characteristic.
- Explicit derogatory physical treatment causing offence to an individual, including offensive and obscene gestures.
- Threatening to commit an act of violence against another person
- Unwanted and unnecessary physical contact, including unnecessary touching or standing too close to someone so that they feel uncomfortable.
- Less tangible forms of behaviour such as staring or leering.

## **Use of Language**

- Explicit derogatory or patronising verbal comments, insults, ridicule or innuendo causing offence to an individual; this includes comments about dress or appearance.
- Discriminating remarks, images or material which cause the individual to feel threatened, humiliated, patronised or harassed,
- Jokes about, at the expense of, or made because of, an individual's personal characteristics; this includes teasing and practical jokes.
- Unwanted, intrusive or persistent questioning or speculation about an individual's personal characteristics or private life and activities, including the spreading of malicious gossip.

## **Use of non-verbal materials**

- Duplication, publication or display of written or photographic material likely to cause offence (including via e-mail). This includes the display of flags, posters or other offensive symbols and the sending of hate mail.
- Damaging, defacing or destroying the property of another person
- Offensive graffiti

## **Work Performance / Career Prospects**

- Intentional behaviour which interferes with the employee's job performance, undermines job security or creates a threatening/intimidating work environment.
- Basing decisions affecting an employee's career, training opportunities and promotion on an individual's personal characteristics or circumstances.
- Suggestions that sexual favours may further someone's career based on willingness or refusal to offer sexual favours; demands for sexual favours.

## **General**

- Victimisation of a person because of an individual's personal characteristics.
- Deliberate abuse.
- Having to witness offensive behaviour.
- Making vexatious or frivolous complaints against a colleague/s.
- Isolation or exclusion from social events or activities related to work.

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## Document Control

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