

HIRWAUN AND PENDERYN COMMUNITY COUNCIL

Anti-harassment and bullying policy (Dignity at Work)

Policy

The Council's aim is to provide a working environment that respects the rights of each employee and where Councillors and employees treat each other with mutual respect. Any behaviour that undermines this aim is unacceptable.

The Council does not tolerate any form of harassment or bullying under any circumstances. While implementing and upholding the policy is the duty of all Councillors and employees to take full responsibility for ensuring that harassment does not occur in the Community Council.

Principles and procedures

The following procedure has been designed to inform Councillors and employees about the type of behaviour that is unacceptable and provides employees who are the victims of harassment and bullying with a means of redress. The Community Council will not tolerate harassment or bullying of:

- job applicants
- employees
- other Councillors
- contractors
- agency workers
- the self-employed
- ex-employees.

This policy also applies to work related functions which are held outside of normal working hours, either on or off the Community Council's premises, such as Christmas parties, leaving celebrations, working lunches, etc.

Harassment

Definition

Harassment is unwanted conduct related to a relevant protected characteristic (an area covered by discrimination legislation) which has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive working environment for them.

Harassment will also occur where a colleague is treated less favourably because he or she has rejected or refused to submit to sex-based harassment, sexual harassment or gender re-assignment harassment.

Where it cannot be established that there was an intention to offend, conduct will only be regarded as violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment if, taking all the circumstances into account it would be reasonable to come to that conclusion.

People can be subjected to harassment on a wide variety of grounds. Some examples are:

- Sex-based (purely because of gender) or sexual (sexual in nature)
- Sexual orientation
- Trans-sexualism (gender reassignment)
- Being married or a civil partner
- Race, nationality, ethnic origin, national origin or skin colour
- Disability itself or a reason relating to it
- Age
- Employment status, e.g. part-time, fixed-term
- Membership or non-membership of a trade union
- Carrying out health and safety duties
- Religion or religious beliefs or lack of either
- Deeply held personal beliefs or lack of them
- Political beliefs
- Criminal record
- Health, e.g. AIDS/HIV sufferers
- Physical characteristics
- Social class
- Willingness to challenge harassment – being ridiculed or victimised for raising a complaint

Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it reoccurs, once it has been made clear by the victim that they consider it offensive. One incident may constitute harassment, however, if it is sufficiently serious. Harassment on any grounds, including the above, will not be tolerated.

Harassment at work is unlawful under the Equality Act 2010.

The Community Council together with the Clerk who fail to take steps to prevent harassment or investigate complaints may be held liable for their unlawful actions and be required to pay damages to the victim, as will the employee who has committed the act of harassment. There is no limit to the compensation that can be awarded in employment tribunals for acts of harassment.

Harassment on any grounds is also a criminal offence, primarily under the Protection from Harassment Act 1997. This means that employees who suffer harassment may contact the police, in the case of harassment from employees/councillors or harassment by third parties. Those found guilty face fines or periods of imprisonment of up to two years.

Additionally, an employee harassed by a colleague or councillor may sue that colleague or councillor personally for the damage and distress caused. The Community Council may be held vicariously liable under the Protection from Harassment Act for any harassment perpetrated by an employee or councillor whenever the behaviour in question is closely connected to the employment relationship.

Examples of harassment

Employees and Councillors must recognise that what is acceptable to one employee or Councillor may not be acceptable to another.

Examples of harassment include:

- Verbal – crude language, open hostility, offensive jokes, suggestive remarks, innuendoes, rude or vulgar comments, malicious gossip and offensive songs.
- Non-verbal – wolf-whistles, obscene gestures, sexually suggestive posters/calendars, pornographic material (both paper-based and generated on a computer, including offensive screen-savers), graffiti, offensive letters, offensive e-mails, text messages on mobile phones and offensive objects.
- Physical – unnecessary touching, patting, pinching or brushing against another employee's body, intimidating behaviour, assault and physical coercion.
- Coercion – pressure for sexual favours (e.g. to get a job or be promoted) and pressure to participate in political, religious or trade union groups, etc.
- Isolation or non-cooperation and exclusion from social activities.
- Intrusion – following, pestering, spying, etc.

Bullying

Definition

Bullying is a gradual wearing down process comprising a sustained form of psychological abuse that makes victims feel demeaned and inadequate. Bullying is defined as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which has the purpose, or effect of intimidating, belittling and humiliating the recipient, leading to loss of self-esteem for the victim and ultimately self-questioning his or her worth in the workplace and society as a whole.

Examples of bullying

Workplace bullying can range from extreme forms such as violence and intimidation to less obvious actions, like deliberately ignoring someone at work. These can be split into two categories:

The obvious:

- Shouting or swearing at people in public and private.
- Persistent criticism.
- Ignoring or deliberately excluding people.
- Persecution through threats and instilling fear.
- Spreading malicious rumours.
- Constantly undervaluing effort.
- Dispensing disciplinary action that is totally unjustified.
- Spontaneous rages, often over trivial matters.

The less obvious:

- Withholding information or supplying incorrect information.
- Deliberately sabotaging or impeding work performance.
- Constantly changing targets.
- Setting individuals up to fail by imposing impossible deadlines.
- Levelling unfair criticism about performance the night before an employee goes on holiday.
- Removing areas of responsibility and imposing menial tasks.
- Blocking applications for holiday or training.

The actions listed must be viewed in terms of the distress they cause the individual. It is the perceptions of the recipient that determine whether any action or statement can be viewed as bullying.

The impact of harassment and bullying

Harassment and bullying can lead to illness, absenteeism, an apparent lack of commitment, poor performance and resignation.

The damage, tension and conflict that harassment and bullying creates should not be underestimated. The result is not just poor morale, but higher labour turnover, reduced productivity, poor service and poor quality.

Public image can be badly damaged when incidents of harassment and bullying occur, particularly when they attract media attention. This can damage the reputation of the Council.

Enforcement

Any harassment or bullying will be classed as gross misconduct, for which employees may be summarily dismissed.

All employees will be informed of the Community Council's policy towards harassment and bullying. It will be stressed that all complaints of harassment will be treated seriously.

The Community Council expects its employees to ensure that this policy and procedure is adhered to at all times and expects all employees to respect the dignity of their colleagues.

The Code of Conduct for Councillors is relevant in this context and the key principles and practice of this policy will be respected and applied by Councillors in the context of their day to day work.

Procedures

Advice

The Community Council recognises the sensitive nature of harassment and bullying. Employees who believe they are being harassed or bullied may wish to discuss their situation before deciding what action to take. The Community Council operates an open door policy to discuss workplace problems and employees can discuss the matter with their line manager on an informal basis.

In appropriate cases, the Community Council may decide to engage an external advisor to assist in the assessment of an allegation of harassment by an employee. The Advisor' role will be to:

- ensure the conversation remains confidential as far as possible;
- listen sympathetically;
- help employees consider objectively what has happened;
- discuss what outcome the employee would wish to see;
- draw attention to available procedures and options;
- inform the employee of the legal liabilities involved;
- help weigh up the alternatives, but without pressure to adopt any particular course;
- assist the individual in dealing with the situation, if they ask for help;
- engaging with the Council as a means of helping resolve the situation.

Confidentiality will be maintained as far as possible. If an employee decides not to take any action to deal with the problem and the circumstances described are very

serious, however, the Community Council reserves the right to investigate the situation. It has an overall duty of care to ensure the safety of all employees who may be adversely affected by the alleged harasser's/ bully's behaviour.

Solutions

It is for the employee to decide which route to take in solving any problem that has occurred. There are two types of solution available – informal and formal.

Informal

Employees can choose to solve the matter themselves by approaching the harasser or bully, telling him or her that their behaviour is unwelcome and that it must stop. Otherwise a formal complaint will be made using the procedure outlined below.

If victims would find it difficult or embarrassing to raise the issue directly with the person creating the problem, support can be sought from a colleague or union representative who can accompany the victim when speaking to the harasser or bully.

A third option, is that the victim can put his or her views in writing to the harasser or bully, telling him or her that their behaviour is unacceptable and that it must stop.

Formal

Where informal solutions fail, or serious harassment or bullying occurs, employees can bring a formal complaint in the form of a grievance, with the procedure adapted to take account of the sensitivities of such situations. Each step and action under the formal grievance procedure will be taken without unreasonable delay.

Complaints will be investigated swiftly and confidentially while ensuring that the rights of both the alleged victim and the alleged harasser or bully are protected. Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting a colleague in making, a complaint, even if it is not upheld, as long as it is made in good faith. Everyone involved in the investigation, including witnesses, will be required to maintain confidentiality. The procedure is as follows:

Step 1: Lodging a statement of grievance and conducting an investigation:

- The complaint should be put in writing, outlining the alleged incidents, when they occurred, the harm caused, the names of any witnesses and the name of the alleged harasser or bully.
- The written complaint should initially be lodged with the employee's line manager. If this would not be appropriate in the circumstances, it should be submitted direct to the Council.

- An independent investigator will be appointed who has had no previous involvement with the situation and who will conduct investigatory interviews with the complainant, the individual against whom the complaint has been lodged and any relevant witnesses. The right to accompaniment will be provided to all those interviewed.
- The investigator will submit a full report to the Community Council.

Step 2: Grievance meeting:

- The employee will be invited to a meeting with a Panel of Councillors who have not been directly involved in the complaint to discuss the grievance and the result of the independent investigator's report.
- The employee will be provided with the right to accompaniment.
- The timing and location of the meeting must be reasonable.
- The meeting will not take place until the Panel has had a reasonable opportunity to consider the information contained in the employee's grievance letter and the independent investigator's report.
- The employee must take all reasonable steps to attend the meeting.
- The meeting must be conducted in a manner that enables the employee to explain his or her case and for the Chair of the Panel to set out the results of the investigation.
- After the meeting the Chair of the Panel will inform the employee of his or her decision as to the grievance and notify the employee of the right to appeal against that decision if the employee is not satisfied with it.

Step 3: Hearing the appeal:

- If the employee wishes to appeal, he or she must inform the Chair of the Appeals Committee.
- The employee will be invited to attend a further meeting.
- The employee will be provided with the right to accompaniment.
- The timing and location of the meeting will be reasonable.
- The employee must take all reasonable steps to attend the meeting.
- The meeting will be conducted in a manner that enables both sides to explain their cases.
- After the appeal meeting the Chair of the Appeals Committee will inform the employee of the final decision, within 5 working days.

Full records will be kept of the grievance proceedings and copies of meeting records given to the complainant.

If, at the end of Step 1, the complaint is upheld the matter will be considered by the full Council (Councillors who are implicated in the complaint will need to declare an interest and not take part in the discussions) to discuss how the complaint can be resolved. The Council should seek external support and guidance as appropriate.

Continuing to work together

Whether a complaint is upheld or not, the Community Council recognises that it may be difficult for the employee(s) concerned to continue to work in close proximity to the alleged perpetrator of the harassment during the investigation or following the outcome of the proceedings. If this is the case the Community Council will examine how the sensitivities of the situation can be addressed.

Monitoring

Where harassment or bullying has been found to have occurred and the perpetrator remains in employment or a member of the Council, regular checks will be made to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim. The Community Council will also ensure that the perpetrator who committed the act of harassment or bullying is not victimised in any way.

Malicious complaints

Where a complaint is blatantly untrue and has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the Community Council's disciplinary procedure.

Complaints to an employment tribunal

While the Community Council trusts that employees will use the internal procedure to resolve any concerns they have about harassment, claims can be lodged with an employment tribunal where harassment is on the grounds of:

- sex
- gender reassignment
- race
- disability
- sexual orientation
- religion
- belief
- age