

Isle of Wight Council
**HARASSMENT AND
BULLYING POLICY
(PROTECTION FROM)**
April 2018

1 Document Information

Title:	Harassment and Bullying Policy (Protection from)
Status:	Final
Current Version:	V3
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Consultation:	V2 consulted with Recognised Trade Unions, Directors, Dignity at Work Champions, HR Advisers, Workforce
Approved by:	Claire Shand, Head of Resources
Approval Date:	Original approved January 2013
Review Frequency:	Every 3 Years
Next Review:	April 2021

Version History		
Version	Date	Description
V1.1	February 2009	Dignity at Work Policy - Revised Approved Policy
V1.2	November 2011	Dignity at Work Policy - Updated to ensure currency
V1.3	February 2012	Dignity at Work Policy - Updated to ensure currency
V1.4	August 2012	Update and renamed from Dignity at Work Policy
V1.5	October 2012	Final draft for consultation
V2	January 2013	Approved
V3	April 2018	General review and updates

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3 Policy Statement

The Isle of Wight Council is striving to become a values based organisation in which everyone is clear about the expected behaviours through which success can be achieved. To make sure that the values are demonstrated in all aspects of working life, it is necessary to underpin them with appropriately aligned policies and procedures.

This policy aims to fulfil our responsibility as an employer to promote positive, professional and courteous working relationships. It also aims to ensure that all staff are treated and treat others with dignity and respect, free from harassment and bullying. We must treat colleagues and others with dignity and respect and should always consider whether their words or conduct could be offensive. Even unintentional behaviour amounting to harassment and/or bullying and is therefore considered as unacceptable.

Everyone is expected to comply with this policy and it applies to all individuals working for us, at any of our premises irrespective of status, level or grade. It therefore includes all Councillors, staff, trainees, schools, volunteers, consultants, contractors, sub-contractors, casual and agency staff. It also covers suppliers and those providing services under contract with the council.

The content of this policy covers harassment or bullying which occurs both in and out of the workplace, such as business trips, events or work-related social functions. For guidance in relation to behaviour by third parties or visitors to our premises please refer to the Unacceptable Behaviour Policy.

We will take all allegations made under this policy seriously and address them promptly but this does not necessarily mean going straight to the formal procedure. Except in extreme cases, informal methods of dealing with harassment and bullying are often the most successful and it would be our aim to deal with matters informally in as many cases as possible.

To cool emotions and diffuse the situation, an immediate apology is invaluable and may avoid the need to take the matter further. Where informal action fails to resolve a situation, staff can follow the Isle of Wight Council's Grievance Procedure. Inappropriate behaviour by a member of staff under this policy will be treated as misconduct under the Isle of Wight Council's Disciplinary Procedure. In some cases it may amount to gross misconduct leading to summary dismissal.

If a member of staff who has submitted a grievance is treated unfairly as a result of their having done so this is known as victimisation and will be treated as a disciplinary matter or in the case of Councillors will be dealt with by the Monitoring Officer. The Monitoring Officer is Helen Miles (Head of Legal Services and Monitoring Officer) - helen.miles@iow.gov.uk and the Deputy Monitoring Officer is Justin Thorne (Principal Lawyer and Deputy Monitoring Officer) – Justin.thorn@iow.gov.uk.

Whilst the Council is determined in its zero tolerance approach to harassment and bullying, a responsible attitude is expected of everyone and appropriate action will be taken (which may include disciplinary action) against anyone whose actions are proven to be amount to bullying and/or harassment.

4 What the Law Says

The Equality Act 2010 prohibits **harassment** related to; age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

The Equality Act 2010 states that;

A commits harassment against B if A engages in;

- Unwanted conduct related to a relevant protected characteristic;
- Which has the purpose or effect of;
 - Violating B's dignity
 - Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

Under the Health and Safety at Work Etc Act 1974 staff are entitled to a safe place and system of work.

Individual members of staff may, in some cases, be legally liable for harassment of colleagues or third parties, including service-users, and may be ordered to pay compensation by a court or employment tribunal.

5 What is Harassment

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment as does an unintentional act.

Harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to; age, disability, gender reassignment, pregnancy or race, religion or belief, sex or sexual orientation.

Harassment is unacceptable even if it does not fall within any of these categories. Harassment may include, for example;

- unwanted physical conduct or "horseplay", including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
- unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless), and suggestions that sexual favours may further a career or that a refusal may hinder it;
- continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- mocking, mimicking or belittling someone;
- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- outing or threatening to out someone as gay or lesbian; or
- treating a trans person less favourably on the grounds that they intend to undergo gender reassignment, are in the process of undergoing gender reassignment, or have at some time in the past undergone gender reassignment;
- ignoring or shunning someone for example, by deliberately excluding them from a conversation or a workplace social activity;
- using platforms such as social media to intimidate, degrade or humiliate an individual (irrespective of whether there was an intention to do so).

A person may be harassed even if they were not the intended "target". A person may be harassed by association. For example, a racist joke about a different ethnic group if they created an offensive environment.

6 What is Bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct by an individual or group of people. Bullying may include, by way of example:

- shouting at, being sarcastic towards, ridiculing or demeaning others;
- physical or psychological threats;
- overbearing and intimidating levels of supervision;
- inappropriate and / or derogatory remarks about someone's performance;
- abuse of authority or power by those in positions of seniority; or
- deliberately excluding someone without good reason.

It is important to note that managers are required to manage staff performance. Managers are expected to treat staff fairly, communicate effectively and use appropriate measures to deal with those who are struggling to deliver to target or take appropriate action where misconduct is apparent. Reasonable management action includes giving reasonable instructions, performance appraisals, informal reprimands and fairly instigating capability or disciplinary procedures. Legitimate, reasonable and constructive criticism of your performance or behaviour, or reasonable instructions given to you in the course of your employment will not amount to harassment or bullying on their own provided they are addressed in a professional manner in the correct setting, i.e. a private meeting and that clear guidance and expectations are given. Whilst it is correct that bullying is subjective an investigation will consider whether the manager's actions and behaviour whilst carrying out their functions were reasonable or if they crossed over into the arena of one of the examples above.

7 Rights and Responsibilities

7.1 Managers

You must ensure that all your staff are aware of the standards of behaviour and conduct expected of them at work and you should set an example. You must also ensure that you apply standards fairly and consistently and that you contribute to a positive organisational culture in promoting the following values – respect, openness, equality, truth, fairness and recognition.

You are expected to behave in a professional manner at all times and to be aware of how your own behaviour can adversely impact on staff. You must take appropriate action where there are any incidents of harassment of which you are aware or ought to be aware. You are to make every attempt to assist if asked with any investigation and be supportive of colleagues who are asked to do the same.

7.2 All Staff

Every member of staff has rights and responsibilities, which can be summarised as:

Rights	Responsibilities
<ul style="list-style-type: none"> To be treated with dignity and respect. 	<ul style="list-style-type: none"> To treat others with dignity and respect.
<ul style="list-style-type: none"> To have an opinion and present alternative views. 	<ul style="list-style-type: none"> To respect the authority and the decisions of others.
<ul style="list-style-type: none"> To be consulted on decisions which affect their work. 	<ul style="list-style-type: none"> To deal with conflict constructively.
<ul style="list-style-type: none"> To challenge and be assertive in a constructive manner. 	<ul style="list-style-type: none"> To recognise the needs of the business and others.
<ul style="list-style-type: none"> To have their contribution recognised. 	<ul style="list-style-type: none"> To thank and recognise the efforts of others.
<ul style="list-style-type: none"> To have regular supervision and personal development reviews. 	<ul style="list-style-type: none"> To comply with Council policy requirements and to modify their own behaviour at work if they become aware that it is unacceptable in light of this Policy.
<ul style="list-style-type: none"> To feel confident and supported at work. 	<ul style="list-style-type: none"> To support other employees.

8 Procedure for Dealing with Harassment and Bullying

In all cases, if you wish to complain you should take action as soon as possible after the offending behaviour has occurred and preferably within 20 days (not including weekends or bank holidays) of the incident or the last incident. Grievances about behaviour that ceased more than 2 months ago will not normally be accepted as undue delay is inappropriate and the alleged harasser is likely to ask why the complainant has not brought matters to their attention before.

It is advisable if you feel you are being subjected to unacceptable behaviour to keep records of dates, times, witnesses, feelings at the time and any relevant documentation and to seek the help and support of someone who is able to help. This may be your line manager or their line manager, a work colleague or Trade Union representative. By discussing the matter, it will help to identify problems directly resulting from harassment; enable the employee to think about what has happened; and to reach a decision on positive steps that can be taken.

The procedure to be followed where bullying or harassment is by Councillors is provided at Appendix B.

8.1 Informal Steps

If you believe you are being bullied or harassed, you should initially consider raising the problem informally with the person responsible, if you feel able. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult or embarrassing, you should speak to your manager in the first instance, who can provide confidential advice and assistance in resolving the issue formally or informally. If your concerns are about your manager you should speak to your manager's manager.

You may also consider whether mediation would be an appropriate resolution option. Mediation is a voluntary, confidential and informal method of helping people who don't see eye to eye sort through their differences. The process involves an impartial person facilitating conversations between those in dispute to assist them in developing mutually acceptable agreements to move forward and improve their future working relationship. To find out more about mediation as possible resolution option please contact your HR Adviser.

Please also see Appendix A for further guidance on how to approach an issue informally.

If you are not certain whether an incident or series of incidents amounts to bullying or harassment, contact your Trade Union representative if you are a member informally for further advice or alternatively an HR Adviser for advice on the process.

If informal steps have not been successful or are not possible or appropriate, you should follow the formal procedure set out below.

8.2 Raising a Formal Grievance

Where the informal process has failed to achieve a satisfactory resolution to the problem or if the issue is of a serious nature where the informal process would be inappropriate, a formal grievance may be submitted and an investigation will then be undertaken. As the grievance procedure does not make provision for allegations against a Councillor please refer to Appendix B for the process that should be followed.

If you follow the formal grievance procedure, you will need to set out the full details of the conduct in question, including the name of the harasser or bully, the nature of the harassment or bullying, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from re-occurring.

You may of course seek further advice before making this decision. However, the Isle of Wight Council has a duty to protect its staff and there may be circumstances where it is considered necessary to pursue the matter independently if we consider it appropriate to do so, although this will be discussed with you before any such action is taken.

8.3 Formal Investigations

Your manager will investigate complaints in accordance with the Isle of Wight Council's Grievance Procedure and in a timely manner so far as is reasonably practicable. Individuals not involved in the grievance or the investigation should not be told about it. The investigation will be conducted by someone with appropriate experience and no prior involvement in the matter. The investigation will aim to be thorough, impartial and objective, and carried out with sensitivity and due respect for the rights of all parties concerned.

Where your grievance is about another employee or colleague, your manager may consider making temporary changes to working arrangements or if circumstances require, precautionary suspension (following discussion with HR) may take place pending the outcome of the investigation. This will depend on the individual circumstances of the case and the severity of the matter. The investigator will also meet with the alleged harasser or bully who may also be accompanied by a colleague or Trade Union representative of their choice to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond and they may be provided with a copy of the grievance resolution form.

Your manager will also seriously consider any request you make for changes to your own working arrangements during the investigation. For example you may ask for changes to your duties or working hours so as to avoid or minimise contact with the alleged harasser or bully.

Where your complaint is about someone other than an employee, such as a contractor, customer, service user, supplier, or visitor, your manager will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, your manager will attempt to discuss the matter with the third party.

If your complaint is about your manager you should raise the matter with your manager's manager in the same way.

It may be necessary to interview witnesses to any of the incidents mentioned in your grievance. If so, the importance of confidentiality will be emphasised to them.

At the end of the investigation, the investigator will submit a report, a copy of which will be given to you and, if deemed appropriate, may also be given to the alleged harasser.

8.4 Action Following the Investigation

If the manager conducting the grievance hearing considers, on the balance of probability, that harassment or bullying has occurred, prompt action will be taken to address it.

Where the harasser or bully is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct against them under the Isle of Wight Council's Disciplinary Procedure. If you submit a grievance you will not be entitled to be informed of the outcome of any disciplinary process. You will only be informed that disciplinary action has been instigated.

Where the harasser or bully is a third party, appropriate action might include speaking or writing to the person and / or their superior about their behaviour; or, in very serious cases, banning them from the premises or terminating a contract with them.

Whether or not your grievance is upheld, your manager will consider how best to manage the ongoing working relationship between you and the alleged harasser or bully. It may be appropriate to arrange some form of mediation and / or counselling, or to change the duties, working location or reporting lines of one or both parties.

Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under the Isle of Wight Council's Disciplinary Procedure.

9 Protection and Support for Those Involved

Staff who submit grievances or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result. Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. However, an employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

If you believe you have suffered any such treatment you should inform your manager (or your manager's manager where appropriate). If the matter is not remedied you should raise it formally using the Isle of Wight Council's Grievance Procedure.

Anyone found to have retaliated against or victimised someone for making a grievance or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under the Isle of Wight Council's Disciplinary Procedure.

We offer access to confidential counselling, which is available as per the details below and is for anyone affected by, or accused of, bullying or harassment. . The service includes a 24/7 confidential helpline and online access to practical self-help information and wellbeing tools to support you. If you would like to access the helpline you can do so by phoning HELP using their 24 hour freephone number: **0800 276 1003**. You can call anytime and you will be able to speak with a helpline counsellor. To access the practical self-help information and wellbeing tools please go to: <https://isleofwightc.helpeap.com/>. Further information can also be found at the following link:- <http://wightnet.iow.gov.uk/hr/HealthSafeWell/EmpAssist.aspx>.

In addition, Appendix C provides guidance for those who are accused of bullying or harassment.

10 Confidentiality and Data Protection

10.1 Confidentiality

Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether using the grievance procedure or involved in any investigation, is responsible for observing the high level of confidentiality that is required so far as is reasonably practicable.

Details of the investigation and the names of the person making the grievance and the person accused must only be disclosed to relevant parties.

Information about a grievance by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. These will be processed in accordance with the Isle of Wight Council's Data Protection Policy.

Breach of confidentiality may give rise to disciplinary action under the Isle of Wight Council's Disciplinary Procedure.

10.2 Record Keeping

For formal procedures, record keeping will be in accordance with the requirements of the Isle of Wight Council's Grievance Procedure.

For informal processes, except mediation, those involved should keep notes of meetings and all relevant documentation. Once the process is complete, the manager should ensure the file is kept confidentially and separate from personal files and is not kept any longer than is necessary for the purpose.

Where mediation has taken place, any notes taken by the mediator will be destroyed at the end of the process.

11 Appendix A – Further Advice

Tips about how to request a situation or behaviour change for those who wish to approach the alleged harasser:

Describe the other person's behaviour, or the situation being reacted to, specifically and objectively:

When you..... When..... When I

When you raise your voice and criticise my work in front of colleagues.

Express your feelings or reaction to the other person's behaviour or the situation in an objective and unemotional way:

I feel belittled, embarrassed, upset and demotivated.

Specify one or two behaviour changes you would like the person to make (ask for agreement)

I would prefer I want I would like

I would prefer that we discuss work problems in a calm and rational manner in your office. I would like you to listen to my point of view and not raise your voice.

Choose the consequences you are prepared to carry through. Tell the person what you can do for him / her if the agreement to change is kept (positive consequences)

If you do

If you do this I am sure we will get along much better which will motivate me to achieve what you are asking of me.

If necessary, tell the person what you will do if the agreement is not kept (negative consequences)

If you don't

If your behaviour continues as it is, I feel I must take the matter further with your line manager.

Answers to common questions:

Q *I feel I am being harassed. How can I be sure about this? Should I do something about it?*

A It is always important to raise the matter, when anyone's behaviour is either threatening or causes discomfort. If possible speak directly to the person who is behaving in this way - see 8.1 Informal Steps, otherwise see section 8.2 Raising a Formal Grievance. Problems tackled immediately are easier to resolve than when behaviour has been allowed to continue unchallenged for any length of time.

See the beginning of this Appendix for further guidance on how to request a situation or behaviour change.

Q *Is there anyone who will help me?*

A Yes, your line manager, or a Trade Union Representative. In addition, talk to any colleagues who have been subjected to similar behaviour or witnessed the offending behaviour towards you.

Q *What if the informal approach does not work or if I feel my complaint is too serious to be dealt with informally.*

A You will need to lodge a grievance under the Isle of Wight Council's Grievance Procedure <http://wightnet.iow.gov.uk/documentlibrary/view/grievance-procedure-incl-school-based-staff>.

Q *I do not want him / her to lose their job – is this likely to happen?*

A Although this may worry you, it is important to realise that another employee's behaviour is not your responsibility. It is up to the employer to make a judgement and decide on appropriate action.

Q *How can I carry on working with the alleged harasser in the future? What if they bear a grudge or victimise me?*

A Such anxieties are understandable and this is why, in less serious cases, the informal approach often works best enabling people to carry on working together. However, you should be reassured of the Council's attitude on such matters. Victimisation is a disciplinary offence and will not be tolerated.

12 Appendix B – Harassment of Staff by Councillors

The procedure outlined below should be followed in all cases where you feel it necessary to raise an allegation against a Councillor. The grievance procedure does not make provision for complaints to be made against Councillors and therefore does not apply.

The Council's Constitution contains a protocol for Member/Officer relationships and expects any dialogue between the two to be 'mutually respectful'. The Constitution also states that complaints about Councillors should be made to the Monitoring Officer. In cases of complaints of harassment of staff by Elected Member(s), the following procedure, agreed by the Monitoring Officer, is to be followed:

Step 1

If you feel that you have been subjected to harassment by a Councillor, you should inform your manager. Your manager will ask for a written account of the incident(s) in question.

Step 2

Your manager will inform their Head of Service, who, in turn, will inform the Monitoring Officer. The Monitoring Officer will decide whether:

- The matter is relatively low level and therefore may be progressed by the relevant Head of Service/Director arranging a meeting with the Councillor concerned to discuss the complaint on an informal basis and, request that any unacceptable behaviour ceases. In such cases the relevant Group Leader will be informed of the matter and where appropriate become involved in the management of the situation in consultation with the Monitoring Officer and/or Head of Service. It would be helpful at this stage if an apology can be obtained from the Councillor, this can then be relayed to you.

If the meeting with the Councillor does not result in an appropriate outcome, the Head of Service/Director will refer the matter back to the Monitoring Officer, who will assume responsibility for the process.

- The matter appears to be of a more serious nature and therefore the Monitoring Officer will assume responsibility for the process but will keep the Head of Service informed of progress. The relevant Group Leader will be informed and consulted on appropriate action to be taken which may include a formal complaint against the Member.

At all stages, you will be kept informed by the Monitoring Officer.

13 Appendix C – Guidance for Those Accused of Harassment, Bullying or Victimisation

If you are told that a person views your own behaviour as offensive and demeaning, or an act of victimisation, you should:

- Read this policy in full and note your own obligations under the policy.
- Respect the rights of all members of staff to work in an environment that is free from harassment, bullying or victimisation.
- Remain calm and listen carefully to the allegation and to the particular concerns expressed, remembering that in the first instance, it is the other person's reaction to the behaviour that is important, not the reaction you think they should have had.
- Try to agree on how to deal with the situation professionally and positively, taking full account of this policy and the Isle of Wight Council's Grievance Procedure.
- Consider whether the allegation can be justified in any way and whether it is appropriate for you to change your behaviour.
- Make sure that if you are in a position to change your behaviour or conduct easily, you do so immediately rather than persist with something the other person considers unwanted.
- Seek further guidance and help from your manager (or manager's manager if appropriate).

You should also bear in mind that:

- The first indication you may have that there is a problem is when a colleague tells you that they are offended or upset by certain aspects of your behaviour and want you to stop behaving in that way.
- All staff have the right to ask a person to stop behaving in a manner which is uncomfortable and unwanted.
- If approached by someone informing you that an informal or formal complaint or grievance has been made against you, remember that the complainant does not have a responsibility to raise the issue with you first and may actually feel unable or unwilling to do so as what is perceived as offensive or degrading by one person may not be or seem so to another even though you may consider your behaviour harmless. Ultimately what is important is what a third person might reasonably consider to be the nature of your conduct.

14 Appendix D – Useful Websites

Further information can be obtained from:

- The Equality Act 2010 – http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf
- The Equality and Human Rights Commission (EHRC), which is a statutory body charged with enforcing anti-discrimination legislation. The EHRC helpline can provide guidance and information on discrimination and human rights issues to employees – their helpline number is 0845 604 6610 and website is <https://www.equalityhumanrights.com/en>.
- The Council's Equality and Diversity website pages: <https://www.iwight.com/Council/Working-for-the-Council/Equality-and-Diversity/Introduction>.