

# Isle of Wight Council

# **PROTECTION FROM HARASSMENT AND BULLYING POLICY**

## **LA Model Policy –January 2013**

References to "The Council" in this policy shall apply to Medina House School.

References to "Elected Members" in this policy shall apply to *Governors of Medina House School*.

References to "senior managers/managers" in this policy shall apply, as appropriate, to the Headteacher, Deputy Headteacher and members of the SLT.

References to "policies/procedures" in this policy shall apply to policies and procedures approved by the governors of Medina House School.

Approved by Governing Body .....

Signed ..... Matt Atkins  
Chair of Governors

Review Date; February 2020

# 1 Document Information

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V2	January 2013	Approved

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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 in particular 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 harassment or bullying is unacceptable.

Everyone is expected to observe this policy in their dealings with others and applies to all individuals working for us or at any of our premises irrespective of their status, level or grade. It therefore includes all Councillors, staff, trainees, volunteers, consultants, contractors, sub-contractors, casual and agency staff. It also covers suppliers and those providing services under contract with the council. The re-named policy replaces the previous Dignity at Work Policy dated February 2012.

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 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 Grievance Procedure. Inappropriate behaviour a member of staff under this policy will be treated as misconduct under the council's Disciplinary Policy and 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 Davina Fiore (Deputy Director of Resources (Corporate Governance) and Monitoring Officer – [davina.fiore@iow.gov.uk](mailto:davina.fiore@iow.gov.uk)) and the Deputy Monitoring Officers are Chris Mathews (Strategic Manager: Corporate Governance and Deputy Monitoring Officer - [chris.mathews@iow.gov.uk](mailto:chris.mathews@iow.gov.uk)) and Helen Miles (Strategic Manager: Legal Services - [helen.miles@iow.gov.uk](mailto:helen.miles@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 malicious or who has deliberately made false accusations.

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## 4 What the Law Says

The Equality Act 2010 prohibits harassment related to age, disability, gender re-assignment, marital or civil partner status, pregnancy or maternity, race, colour, ethnic or national origin, religion or belief, sex or sexual orientation.

The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.

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.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, 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
- ignoring or shunning someone for example, by deliberately excluding them from a conversation or a workplace social activity.

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

## 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 a worker's performance or behaviour, or reasonable instructions given to workers in the course of their 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

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

Managers are expected to behave in a professional manner at all times and to be aware of how their own behaviour can adversely impact on staff. Managers must take appropriate action where there are any incidents of harassment of which they are aware or ought to be aware. Managers 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**

- To be treated with dignity and respect.
- To have an opinion and present alternative views.
- To be consulted on decisions which affect their work
- To challenge and be assertive in a constructive manner.
- To have their contribution recognised.
- To have regular supervision and personal development reviews.
- To feel confident and supported at work.

#### **Responsibilities**

- To treat others with dignity and respect.
- To respect the authority and the decisions of others.
- To deal with conflict constructively.
- To recognise the needs of the business and others.
- To thank and recognise the efforts of others.
- 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.
- To support other employees.



## 8 Procedure for Dealing with Harassment and Bullying

In all cases, staff who wish to complain should take action as soon as possible after the offending behaviour has occurred and preferably within 20 working days of the incident or the last incident. Grievances about behaviour that ceased more than two 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 his or her attention before.

It is advisable for any member of staff who feels they 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, or nominated champions who have been specifically trained to assist in such matters (details can be obtained from the Human Resource Advisory Team). 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 further advice is necessary, contact a Human Resources Advisor. 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 amount to bullying or harassment, you should initially contact Human Resources Advisors or your Trade Union representative if you are a member, informally for confidential advice.

***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

If you consider that informal routes for solving the problem have been unsuccessful or would not be appropriate, 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.

It is for you to decide whether you follow the informal route to seek resolution to your complaint or if you prefer to follow the formal grievance procedure to deal with the matter. You may of course seek further advice before making this decision. However, we do have a duty to protect our 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.

If following 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 occurring.

## 8.3 Formal Investigations

We will investigate complaints in accordance with the 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, we may consider making temporary changes to working arrangements or if circumstances require, suspension 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.

We will also seriously consider any request that 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, we 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, we will attempt to discuss the matter with the third party.

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 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 under our Disciplinary Procedure. The person who submitted the grievance will not be entitled to be informed of the outcome of any disciplinary process. They 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, we will consider how best to manage the on-going 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 our Disciplinary Procedure.

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## 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.

If you believe you have suffered any such treatment you should inform the Human Resources Advisory Service. If the matter is not remedied you should raise it formally using our 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 our Disciplinary Policy and Procedure.

We offer access to confidential counselling, which is available on request for anyone affected by, or accused of, bullying or harassment. The details are set out at the following link: [http://wightnet2000.iow.gov.uk/staff/staff\\_benefits/Employee\\_Assistance\\_Programme](http://wightnet2000.iow.gov.uk/staff/staff_benefits/Employee_Assistance_Programme).

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

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## **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 our Data Protection Policy.

Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

### **10.2 Record Keeping**

For formal procedures, record keeping will be in accordance with the requirements of the Grievance Procedure.

For informal processes, those involved should keep notes of meetings and all relevant documentation. Once the process is complete, the line manager should ensure the file is kept confidentially and separate from personal files, and will carry out a review six months from completion of the informal process in conjunction with Human Resources. Those directly involved in the case will be informed in writing of the decision taken at the review stage (i.e. whether the documentation has been destroyed).

## 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 9.2 Informal Steps, otherwise see section 9.3 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 Council's Grievance Procedure which is available on the Intranet Key Documents site or use the link in Appendix E - Related Documents.

**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 a member of staff feels in 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 a member of staff feels that they have been subject to harassment by a Councillor, they should inform their line manager. The line manager will ask for a written account of the incident(s) in question.

### Step 2

The line 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 the employee concerned.

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, the employee 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 associated 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 HR Adviser.

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.

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## 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](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 [www.equalityhumanrights.com](http://www.equalityhumanrights.com).
- The Council's Equality and Diversity website pages: [http://www.iwight.com/equality\\_and\\_diversity/](http://www.iwight.com/equality_and_diversity/) and the following Related Documents (Appendix E).

## 15 Appendix E - Related Documents

- Sustainable Community Strategy *Eco-Island* [www.eco-island.org.uk](http://www.eco-island.org.uk)
- Corporate Plan [www.iwight.com/council/documents](http://www.iwight.com/council/documents)
- Safeguarding Adults Policy and Procedures Sections 1, 2, and 3 <http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-1-of-3>  
<http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-2-of-3>  
<http://wightnet.iow.gov.uk/documentlibrary/view/safeguarding-adults-policy-and-procedures-section-3-of-3>
- Local Safeguarding Children Boards [www.4lscb.org.uk](http://www.4lscb.org.uk)
- Grievance Policy and Procedure <http://wightnet.iow.gov.uk/documentlibrary/view/grievance-procedure>
- Disciplinary Policy and Procedure <http://wightnet.iow.gov.uk/documentlibrary/view/disciplinary-policy-procedure>
- Whistleblowing Policy <http://wightnet.iow.gov.uk/documentlibrary/view/whistleblowing-at-work-policy>
- Health and Safety Manual [http://www.iwight.com/council/health\\_and\\_safety/healthan.asp](http://www.iwight.com/council/health_and_safety/healthan.asp)
- ICT Electronics Communications Policy <http://wightnet.iow.gov.uk/documentlibrary/view/ict-electronic-communications-policy>
- Managing Aggression and Violence at Work (part of the Health and Safety Manual) <http://wightnet.iow.gov.uk/documentlibrary/view/health-and-safety-manual-2-34-violence-aggression>
- Equality and Diversity Webpages [http://www.iwight.com/equality\\_and\\_diversity/](http://www.iwight.com/equality_and_diversity/)
- Unacceptable Behaviour Policy To be included
- Council's Constitution To be included  
[http://www.iwight.com/council/what\\_is\\_a\\_council/images/Constitution.pdf](http://www.iwight.com/council/what_is_a_council/images/Constitution.pdf)
- Social Media Policy [http://www.iwight.com/council/what\\_is\\_a\\_council/images/Constitution.pdf](http://www.iwight.com/council/what_is_a_council/images/Constitution.pdf)