

Anti Bullying, Harassment and Victimisation Policy & Procedure

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POLICY

1. Introduction

Brighton & Hove City Council (BHCC) has a zero tolerance approach to bullying, harassment and victimisation and is committed to tackling this at all levels of the organisation and ensuring all staff feel a sense of belonging. The purpose of this policy is to assist in maintaining a supportive, inclusive, and respectful working environment where unacceptable behaviour is easily identified, challenged, and stopped. It is intended this will improve employee performance, raise morale, reduce stress and absence levels and aid retention.

- All employees are entitled to:
 - a working environment free from bullying, intimidation, harassment or victimisation
 - be treated with dignity, respect and courtesy
 - experience no form of unlawful discrimination
 - be valued for their skills and abilities

2. Scope

This policy and procedure is intended to set out how to raise complaints of bullying and harassment against a colleague also employed by Brighton & Hove City Council.

The policy and procedure does not apply to staff appointed by a Governing Body to work in a School.

For concerns about councillors please see [Complaints about councillors \(brighton-hove.gov.uk\)](http://brighton-hove.gov.uk)

For concerns about service users please see the [Managing unreasonable customer behaviour policy](#).

3. Definition of Terms

- 3.1 **Bullying** while there is no legal definition of bullying ACAS defines it as is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.
- 3.2 **Harassment**, , is unwanted conduct related to a protected characteristic(s) and includes sexual harassment as unwanted behaviour of a sexual nature. Harassment has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The protected characteristics are set out in the Equality Act 2010. Please see [here](#).
- 3.3 **Discrimination** is treating someone less favourably than someone else because of a protected characteristic they hold.
- 3.4 **Victimisation** is a term used in discrimination law to describe action by one person , against another, in retaliation for involvement in bringing, or supporting, a complaint of discrimination.
- 3.5 **Complainant(s)** – employee or employees raising a complaint.

- 3.6 **Respondent(s)** – employee or employees who are subject to a complaint.
- 3.7 **Investigation Manager** – person appointed to investigate and determine an outcome.
4. **Principles**
- 4.1 All employees are responsible for ensuring they behave in an appropriate manner, showing respect for colleagues, customers and others working alongside or engaged with BHCC.
- 4.2 Managers have responsibility for setting standards. They should set a good example and ensure concerns raised are acted upon expediently.
- 4.3 All employees are responsible, where possible, for appropriately challenging inappropriate behaviour either witnessed or towards them. If an employee does not feel able or safe to challenge the person responsible directly, they should raise concerns with an appropriate person, which is likely to be the alleged perpetrator's manager.
- 4.4 Bullying is more usually a regular pattern of behaviour but can be a one-off incident if sufficiently serious.
- 4.5 Unacceptable behaviour may be verbal or written; intentional or unintentional.
- 4.6 Comments or actions may have taken place outside the working environment, such as on work related social events or via social media.
- 4.7 Online behaviour is considered equivalent to face-to-face behaviour. Employees must not engage in any conduct online that would not be acceptable in the working environment or that is unlawful. For example, making derogatory remarks, bullying, intimidating or harassing other users, using insults or posting content that is hateful, slanderous, threatening, discriminatory or pornographic. This includes conduct that impacts on work using social media (e.g. Twitter, Facebook or personal blogs, etc.), which may have been written out of working hours or using personal equipment. Please refer to the [Social media policy and guidelines](#) for more information.
- 4.8 It is likely that unacceptable behaviour, where upheld following formal investigation, will be subject to disciplinary procedures.
- 4.9 If an employee approaches a manager within their reporting hierarchy e.g. their manager or their line manager's manager, and that manager ignores/dismisses/refuses to acknowledge/discuss issues of bullying, harassment or victimisation, then they may be seen as complicit in any such act (in that they are allowing it to continue). It is noted a manager would not be expected to act against the wishes of the person experiencing unacceptable behaviour, unless there are over-riding health and safety reasons (including personal safety). If a manager is unsure about escalating they should seek advice from HR.
- 4.10 Proportionate actions by a manager to support and encourage an employee to perform against key objectives and to manage performance appropriately do not constitute bullying or harassment.
- 4.11 Support and advice is available, more detail is set out in Point 19

5. Criminal Offence

When a criminal offence may have been committed, the Bullying and Harassment Procedure may not be appropriate. These cases include, but are not be limited to, serious assault or threat of serious assault. Employees may wish to seek advice from their manager or HR and/or approach the Police directly.

6. Equality and Diversity Statement

BHCC is committed to equality, creating fair and equitable outcomes for our people and service users, and embraces diversity in our working, learning, research and teaching environment. Our policies, procedures and guidance apply to all employees, whether fixed-term, permanent, part-time, full-time, and casual, inclusive of age, disability, gender marriage and civil partnership, pregnancy and maternity, 'race', religion or belief, sex and sexual orientation. More information can be found here [Our equality and inclusion policy statement and strategy](#)

7 How the Council will implement the policy

BHCC requires all employees to support and comply with the principles of this policy.

The policy will be communicated via the Wave.

8 The legal position

The law underpinning this policy is the [Equality Act 2010](#)

Other relevant legislation is the Health and Safety and Work Act 1974

9. Roles and Responsibilities

Achieving dignity and respect at work require collaborative effort by managers and employees.

Corporate Leadership Team (CLT) will

- demonstrate their commitment and support of this policy and to reflect the policy's principles within their own management practices

All Managers are responsible for ensuring that they:

- support the implementation of the policy and apply it in a fair, consistent and transparent way with regard to BHCC's Equality and Inclusion Policy;
- communicate to all their employees the behaviour expected of them, and set boundaries;
- intervene to stop unacceptable behaviour;
- take appropriate action if unacceptable behaviour continues;
- provide a supportive working environment;
- provide support for individuals who make a complaint, and those that are subject to complaints;
- set a good example by their own behaviour

Human Resources (HR) will

- consult with the relevant Trade Unions in implementing and updating the policy to reflect BHCC's and employee's needs;
- provide support and advice on the process.

Employees

- All employees have a responsibility to help create and maintain a work environment free from bullying and harassment.
- All employees should collaborate in stopping unacceptable behaviour by treating colleagues with dignity and respect;
- Have an understanding of how their own behaviour, may affect others or the and, necessary, changing it;
- Will intervene, if possible, to stop unacceptable behaviour and giving support to recipients;
- Will make it clear to colleagues if you find their behaviour unacceptable and explain why;
- Will report allegations of bullying and harassment to their manager (or appropriate manager), or HR and fully engaging in the investigation of the complaint
- Are required to co-operate with the process if a complaint is raised against them or if they have raised a complaint;
- Will complete any mandatory training required by the Council

Trade Unions

- Have the right to be consulted on any modifications to the policy;
- support Trade Union members alleging harassment, bullying or victimisation and members who have allegations raised against them.

10. Consultation, Approval, Ratification & Review

The policy has been shared with Unison and GMB for comment and input.

The policy and procedure will be reviewed after three years, or earlier if required by changes in legislation.. Any changes will be consulted upon with the recognised trade unions.

11. Further information

This policy should be read in conjunction with the following policies and documents

[Equality and inclusion policy statement and strategy](#)

[Restorative approach to racism guidance](#)

[Behaviour Framework](#)

Employees Code of Conduct

Disciplinary Policy and Procedure

Social Media Policy and Guidelines

Health and Safety Policy

12. Vexatious or Malicious complaints

If, at any time, there is evidence that allegations of harassment or bullying

have been made vexatiously or maliciously, and/or that false information has been provided, disciplinary action may be taken.

13. Monitoring

Human Resources will record the number of complaints received, either openly or anonymously, and also outcomes in order to monitor trends.

PROCEDURE

14. General principles

What is Bullying and Harassment?

- 14.1 Bullying and harassment is any behaviour that is unwanted, unwelcome and undermines an individual's dignity. This includes behaviour that unreasonably threatens job security, promotion prospects, or that creates an intimidating working environment. Behaviour may be perceived as unacceptable even if there was no intent to cause offence. Behaviour may also have overtones that an employee finds offensive, even if it was not directed at them.

Bullying and harassment can take many forms and can range from physical attack to more subtle conduct such as remarks or jokes. It can also include behaviour which deliberately or inadvertently excludes individuals from normal activities in the workplace, such as invitation to and participation at meetings.

Examples of bullying and harassment that are covered by this statement include (but are not limited to) the following:

- persons in authority who abuse their position by assuming a threatening or intimidating management style, e.g., ignoring people who are waiting to make a contribution to a meeting; cutting people off whilst they are speaking; aggressive questioning; dismissing others' views or suggestions; excluding relevant people from departmental plans and communications;
- excluding team members from team activities and communications;
- work place banter which includes language that could be offensive to others;
- allocating employees unreasonable workloads that require an individual to work excessive hours for sustained periods, or scheduling work without due consideration of the need for meal breaks or inter-site travel;
- undermining someone's competence or expertise;
- unwelcome jokes or personal comments;
- homophobic, biphobic or transphobic jokes or comments;
- jokes or comments about sexual orientation, gender identity and gender expression;
- racist jokes or comments;
- sexual harassment, which can include (but is not limited to) unwanted sexual comments or comments about someone's body, unwelcome innuendos, wolf whistling, groping, tugging or lifting someone's clothing, or stalking;
- physical conduct ranging from unwelcome touching to assault;
- harassment may be on the basis of someone's own protected characteristic(s) or because of their association with another person or persons with a protected characteristic(s).

Harassment on any grounds can also be a criminal offence under the Protection from Harassment Act 1997. Employees who are harassed by fellow employees or third parties may report it to the police.

14.3 Employees have an absolute right to complain, either informally and/or formally, if they are treated in a manner that they believe has caused offence, humiliation, embarrassment or distress. Talking about unacceptable standards of behaviour can be difficult, but BHCC is committed to listening to and addressing complaints.

15. Informal approach to tackling bullying or harassment

15.1 It may be possible to sort out matters informally, particularly if the person does not know that their behaviour is unwelcome or upsetting. An informal discussion may help them to understand the effect of their behaviour and agree to change it.

15.2 It is acknowledged that the complainant may feel that they are unable to start the process at an informal stage, in which case they may proceed to the Stage 1 formal process.

15.3 People who witness unacceptable behaviour, as well as those whom experience it directly, have the right to raise concerns.

15.4 You may wish to have a confidential discussion with someone in the Fair and Inclusive Team before you decide what to do. This team provides an internal, completely confidential space, to raise any issues and speak to a member of staff who is trained to provide signposting support and discuss the options of how a concern can be taken forward. You can contact them by emailing FairandInclusive@brighton-hove.gov.uk

15.5 Some people feel able to approach the person on their own, or with the help or support from a colleague, manager, Trade Union representative or the appropriate Staff Forum.

15.6 When raising a concern, politely tell the person what they have said or done that is offensive and unwelcome, and ask them to stop it immediately. It could be added that, if the behaviour continues, a formal complaint may be made.

15.7 If an employee feels unable to approach the person face to face they may want to consider putting their concerns in writing to the person. It should be made clear what they have said or done that is offensive and unwelcome and be asked to stop it immediately. Make it clear that, if the behaviour continues, a formal complaint may be made.

15.8 You may not feel able to approach the person yourself but prefer to raise the issue informally with your manager, or the next appropriate line manager, before proceeding to the Stage 1 formal process.

15.9 It is advised that those who experience unacceptable behaviour keep a record of any incidents that occur and/or attempts to address the issue, noting the dates, times, circumstances and names of any witnesses. This will be useful in the event that they need to use the formal route to deal with the problem.

15.10 If an employee is approached and told that their behaviour could be construed as bullying and harassment, they should be prepared to listen patiently and calmly to the

situation. Whilst it may be upsetting, they should allow the other employee to express their concerns, and then try to reach common ground to remedy the situation and allow normal working relationships to be resumed.

- 15.11 Being subjected to, accused of or tackling unacceptable behaviour may be difficult and stressful. Support is available via Occupational Health and/or the confidential Counselling helpline.
- 15.12 Managers, complainants and respondents are encouraged, wherever possible, to be open minded when trying to identify ways of resolving differences in order to maintain good employment relations. It is expected that all individuals involved will enter into the informal procedure in good faith, with the aim of resolving a particular issue.
- 15.13 If you feel the actions were of a discriminatory nature and related to one or more of your protected characteristics, you can choose to follow the Reparative approach to discrimination. (LINK)
- 15.14 The Council operates a Mediation Scheme. This entails an independent third party known as a mediator to try and help resolve issues thereby potentially avoiding the need for the formal process to be instigated. However a mediator can be deployed at any stage of the procedure. Mediation works by encouraging the parties to speak to each other in order to reach a mutually acceptable agreement. It gives them a chance to talk honestly about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. Mediation is a voluntary process which all parties involved need to agree to.

What to do if a colleague wants to discuss a concern about your behaviour with you

- 15.14 Do not ignore a complaint because you were only joking, or decide the complainant was being too sensitive. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others - you may have offended someone without intending to. If that is the case, the person concerned may be willing to accept an apology from you and an assurance that you will be careful to avoid behaving in a way that might knowingly cause offence.
- 15.15 Provided that you do not repeat the behaviour which has caused offence, this is likely to be the end of the matter. It can be, and should be, seen as a useful learning experience about the effect of your behaviour on others, and therefore an opportunity for self-reflection and improvement.
- 15.16 If you are approached for this reason you can meet with them at once, or agree to meet to discuss the issues in the next couple of days, to give you time to reflect. You may want to suggest it would be helpful to have a colleague present or consider mediation.
- 15.17 **When you meet:**
- listen to the points that are made without interrupting or getting defensive;
 - allow the complainant to explain the way they feel;
 - seek clarification on what aspects of your behaviour are felt to be unacceptable;
 - discuss how you might work together more effectively;

- it may be a shock to be told about the effect of your behaviour, so if you need to, ask for a break or time to consider your response;
- try to remain calm and avoid aggravating what is a difficult situation for both of you;
- apologise, if appropriate.

16 Procedure for making a formal complaint

General Principles

- 16.1 In order to safeguard individuals, confidentiality must be very strictly respected and information limited to those who have a need to know and only to the extent necessary. Any breach of confidentiality may result in disciplinary action being instigated.
- 16.2 BHCC reserves the right to seek advice from, or share information with, appropriate external authorities if it believes that it is under an obligation to do so.
- 16.3 If a formal complaint of harassment, bullying or victimisation is made, consideration may be given to separating the complainant and respondent at work while the allegation is investigated. This is not intended to be a punishment but to protect both parties and BHCC pending a formal investigation and appropriate action being taken.
- 16.4 Any person against whom a complaint has been made (respondent) needs to know the nature and details of the complaint in order to respond.

17 Stage 1 – Formal Complaint of Bullying and/or Harassment

- 17.1 If a complainant is unable to resolve their concerns informally and wish to raise a formal complaint, they should complete B&H Form 1 and submit it to their Head of Service or a more senior manager if the complaint is about the Head of Service. A copy of the form should also be sent to Human Resources. Please see [\(link to form when on Wave\)](#)
- 17.2 If the complaint is about a member of the Corporate Leadership Team, the B&H Form 1 should be sent to the Chief Executive. If the complaint is about the Chief Executive the form should be sent to the Monitoring Officer
- 17.3 The recipient (as set out in 17.1 or 17.2) of the complaint will acknowledge receipt of the form and liaise with Human Resources to identify an appropriate Investigation Manager.
- 17.4 The Investigation Manager will be at an appropriate level of management more senior than either the Respondent or Complainant where this is possible. Alternatively BHCC may engage an external consultant to investigate the complaint. In the event of any concerns raised about who is an appropriate Investigation Manager a final decision will be made by the Director of HR & Organisational Development (or nominee).
- 17.5 The Investigation Manager will write to the Complainant to arrange a meeting. A member of Human Resources will usually attend the meeting. The Complainant will be advised of their right to be accompanied to this meeting by a trade union representative or work colleague.
- 17.6 The Investigation Manager will write to the Respondent notifying them a complaint has been raised and ask them to attend a meeting. A member of Human Resources will usually attend

the meeting. The Respondent will be advised of their right to be accompanied to this meeting by a trade union representative or work colleague. A record of the meeting will be made.

- 17.7 The Complainant and the Respondent will both be offered appropriate support via Occupational Health. HR will advise on this.
- 17.8 Following meetings with the Complainant and Respondent the Investigation Manager, with advice from Human Resources, will decide if it is necessary to interview anyone else in connection with or as a witness to the allegations.
- 17.9 Following the interviews the Investigation Manager will compile a report outlining their decision on the outcome of the Complaint.
- 17.10 The Investigation Manager will send the report to the Complainant and Respondent, normally within ten working days of the completion of the investigation. Meetings with the Complainant and Respondent may be appropriate to share the key findings of the investigation. In exceptional circumstances it may be necessary to redact personal or sensitive information from witness statements before sharing them with the report. If any of the material is relevant to the case it will be referenced in the report without disclosure of sensitive or personal details. The final decision on this will be made by Director of HR & Organisational Development (or nominee).
- 17.11 Possible outcomes may include:
- There is no evidence to support the complaint and therefore no action will be taken - the complaint has not been upheld.
 - The complaint is upheld and an outcome and recommendations are communicated. Recommendations may be one of or a combination of the following:
 - Additional support for the Complainant;
 - Stipulations around the future behaviour and conduct of the Respondent;
 - Additional support and/or training for the Respondent;
 - The application of the restorative approach (link)
 - Mediation between the Complainant and the Respondent providing both parties are in agreement to participating;
 - Refer the matter to a disciplinary process.Any disciplinary proceedings will not begin until the bullying and harassment procedure has been completed and cannot overturn its findings and recommendations. Please note that a disciplinary investigation may not require all parties and witnesses to be re-interviewed.
 - Failure to co-operate with recommended outcomes may be considered to be a failure to follow reasonable management instructions, and may be subject to disciplinary action.
- 17.12 . The complainant(s) will be notified that appropriate action has been taken.
- 17.13 The Investigation Manager should ensure all relevant documentation is sent to HR at the same time it is sent to the Complainant and Respondent. A copy of the decision will be held

on the Complainant's file. If the complaint is upheld a copy will also be held on the Respondent's file.

- 17.14 Should the Complainant remain dissatisfied with the outcome from Stage 1 they may proceed to Stage 2.
- 16.12 The Respondent is not entitled to appeal the outcome of a bullying and harassment complaint raised against them. If the matter is referred to a disciplinary process the Respondent has the rights of appeal set out in the disciplinary procedure.

18 Stage 2 – Appeal

- 18.1 A Complainant who is not satisfied with the outcome of their complaint at Stage 1 may appeal in writing to Human Resources as set out in the Stage 1 outcome letter. The appeal should be submitted within ten working days of receipt of the outcome of Stage 1.
- 18.2 Complainants must be specific about the grounds of the appeal, including the basis on which they think that the outcome was wrong or inappropriate, as these will form the agenda for the Appeal Hearing and may determine who should be present. Appeals may be raised on any grounds including:
- a failure to follow procedure;
 - a manifestly unreasonable decision not supported by the evidence;
 - any proposed recommendations from Stage 1 were inappropriate given the circumstances of the case;
 - alleged bias in the original procedure.

The appeal should also include the remedy or outcome sought by the Complainant. The appeal will be heard by a manager more senior than the Investigation Manager where possible.

- 18.3 Where possible a hearing will be held within ten working days of receipt of the Stage 2 notification, or at a mutually agreed date.
- 18.4 A member of HR will attend as an adviser. The purpose of the appeal hearing is not to re-hear the complaint. The Investigation Manager at Stage 1 will also be present to explain the details of the investigation and the reasoning behind the outcome. The Complainant will be given the opportunity to explain their grounds for appeal. They may be accompanied by a trade union representative or work colleague. A record of the meeting will be made.
- 18.5 Where possible the Complainant and Respondent will be notified of the outcome of their appeal and reasons for the decision in writing within ten working days of the appeal hearing. A copy of the decision will be held on the Complainant's file.
- 18.6 The Respondent is not entitled to appeal against an outcome of a Stage 2 complaint raised against them.
- 18.7 This is the last stage of the procedure and there is no further right of appeal.

19 Support for Complainant and Respondent

- 19.1 It is acknowledged that raising a complaint or being accused of bullying or harassment may be difficult and stressful.
- 19.2 The line manager (or their manager if the complaint involves them) will talk to the Complainant and Respondent to ascertain what support they need.
- 19.3 Support is available via Occupational Health or the confidential Counselling helpline service. Staff counselling, information and advice service
- 19.4 Support may also be available through the appropriate staff forum or trade union if the employee is a member

20 What to do if you are accused formally of bullying or harassment

- 20.1 If a formal complaint is made about your behaviour it will be fully investigated and dealt with in accordance with the Bullying and Harassment policy and procedure, which may result in a disciplinary investigation and disciplinary action.
- 20.2 Both parties are expected to engage fully in any investigation.
- 20.3 You must not victimise a person who has made a complaint against you or anyone who has supported them in making the complaint, or given evidence in relation to such a complaint. Disciplinary action may be taken against you if the Council has good reason to think that you may have victimised the Complainant or someone else related to the complaint.

21. Raising a Complaint anonymously

You are encouraged to raise your complaint openly as this enables us to address issues and make necessary changes to organisational culture and practice. However if you do not feel comfortable/safe doing so you can raise it anonymously **add details and link to anon reporting system**. Reporting anonymously may mean a full investigation and appropriate action are not possible There is an opportunity within the anonymous reporting system for a two way conversation to take place while anonymity of the complainant is maintained