

LEDBURY TOWN COUNCIL BULLYING, HARASSMENT & VICTIMISATION POLICY

Introduction

Our aim is to provide a working environment that respects the rights of each employee and where colleagues treat each other with respect. Any behaviour that undermines this aim is unacceptable.

Ledbury Town Council does not tolerate any form of harassment or bullying under any circumstances. While implementing and upholding the policy is the duty of all our managers and supervisors, all employees have a responsibility to ensure that harassment does not occur in Ledbury Town Council.

Legislation

This policy is underpinned by the following Acts of Parliament:

Protection from Harassment Act 1997
Equalities Act 2010

Principles and procedures

The purpose of this policy is to inform employees of the type of behaviour that is totally unacceptable and to explain what solutions there are to employees who may suffer the unlawful actions of bullying, harassment or victimisation. It also sets out the steps that Ledbury Town Council will take to deal with any employee complaints of bullying, harassment or victimisation including by third parties such as visitors to the premises.

Ledbury Town Council will not tolerate bullying, harassment or victimisation of:

- Job applicants
- Employees
- 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 Ledbury Town Council premises, such as Christmas parties, leaving celebrations, working lunches, attendance at conferences, etc.

Harassment

Harassment at work is a discriminatory act, and therefore unlawful under the Equality Act 2010 and employees can be personally liable for harassment claims

Harassment is very difficult to define as it can take many forms, but it 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 is repetitive 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 repeatedly treated less favourably because they have rejected or refused to submit to sex-based harassment, sexual harassment, or gender reassignment 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

Ledbury Town Council together with any managers or supervisors 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 individual 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.

Ledbury Town Council will also be liable for harassment that comes from a third party (e.g., a customer or supplier) if that harassment occurs on at least two occasions, the organisation is aware that it has happened and does nothing to stop it happening.

Harassment on any grounds is also a criminal offence, primarily under the Protection from Harassment Act 1997. This means that colleagues who suffer harassment may contact the police, in the case of harassment from fellow employees 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 may sue that colleague personally for the damage and distress caused. Ledbury Town Council may be held vicariously liable under the Protection from Harassment Act 1997 for any harassment perpetrated by an employee whenever the behaviour in question is closely connected to the employment relationship.

Examples of harassment

Employees must recognise that what is acceptable to one employee may not be acceptable to another.

Examples of harassment include, but are not limited to:

- Derogatory comments about someone's clothing that are related to a protected characteristic, for example religious clothing
- 'Jokes' or 'banter' against a protected characteristic, for example racist 'jokes'
- Persistently using the wrong names and pronouns following a gender identity transition
- Mimicking or making fun of somebody's disability
- Marginalising someone because they are a particular ethnic group

Sexual harassment

Sexual harassment is any unwanted sexual conduct that has the purpose or effect of violating a person's dignity or creating a hostile environment for them.

The law requires employees to take reasonable steps to prevent sexual harassment of workers in the course of their employment.

Examples of sexual harassment include, but are not limited to:

- Unwelcome sexual invitations or pressure to meet up socially
- Displaying sexually explicit material
- Unwanted physical sexual behaviour, for example caressing or grabbing in a sexual manner
- Leering or making sexually suggestive gestures
- Sending pornographic material

Victimisation

Victimisation means treating someone badly because they have done, or are suspected of doing or intending to do, any of the following protected acts:

- Bringing proceedings under the Equality Act 2010
- Giving evidence or information in connection with proceedings under the Equality Act 2010
- Doing any other thing in connection with the Equality Act 2010
- Alleging that a person has breached the Equality Act 2010

Victimisation may include, for example, a manager bringing false disciplinary proceedings against an employee because they complained they were being sexually harassed.

Third party harassment

Third-party harassment occurs where a person is harassed by someone who does not work for the same employer, such as a visitor or supplier. We recognise the seriousness of third-party harassment and we have zero tolerance towards this. Employees are encouraged to report any incidents of harassment by third parties which they experience or witness.

Bullying

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 self-questioning their 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:

Examples of bullying include, but are not limited to:

The obvious:

- shouting or swearing at people in public and private
- persistent criticism
- ignoring or deliberately excluding
- persecution through threats and instilling fear
- spreading malicious rumours
- constantly criticising someone's work or undervaluing their effort
- dispensing disciplinary action that is unjustified
- spontaneous rages, often over trivial matters

- Threats of or actual physical violence
- Unpleasant or over-repeated jokes about a person, including name calling
- Unfair or impractical performance requirements or targets
- Making threats about job security

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, promotion, 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, bullying and victimisation

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

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

Public image can be severely damaged when incidents of harassment, bullying and victimisation occur, particularly when they attract media attention. This can result in a loss of customers.

Enforcement

Any harassment, bullying or victimisation will be dealt with seriously, promptly and in confidence. Employees who feel they have been subject to such behaviour must not hesitate in using this procedure.

All employees will be informed of Ledbury Town Council policy towards harassment, bullying and victimisation at induction training and through communication and awareness programmes. It will be stressed that all complaints will be treated seriously.

Ledbury Town Council expects all managers and supervisors 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 policy will be regularly monitored by the Resources Committee to ensure that it is achieving its aims, and that managers and employees are confident about its application.

Training, communication, and awareness

Ledbury Town Council recognises that a written policy is not sufficient to eliminate harassment, bullying and victimisation. Prominent and regular communication, training and awareness sessions are important to ensure that all employees:

- understand our commitment to prevent harassment and bullying
- understand their responsibilities and role in the process.
- know how to seek advice and guidance.
- know how to make complaints and are confident they will be handled effectively.

Ledbury Town Council is committed to communicating the policy effectively through:

- training and awareness programmes for all staff at all levels
- briefings for employee and trade union representatives
- posters / notices on staff notice boards.
- a section in the staff handbook
- line manager support to guide employees through the policy and procedures.
- inclusion in Team meetings
- induction

All new starters must attend training on this policy as part of their induction programme and every current employee will be required to attend regular training as an update on this policy.

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HARASSMENT, BULLYING AND VICTIMISATION PROCEDURES

Advice

Ledbury Town 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. Ledbury Town Council operates an open-door policy to discuss workplace problems and employees can discuss the matter with their manager on an informal basis.

Ledbury Town Council recognises that this may not always be appropriate in the circumstances, however. If this is the case, employees can discuss the situation with the next higher level of management or with the Town Clerk.

Advisers/line managers will:

- ensure the conversation remains confidential as far as possible
- ensure the use of active listening
- help individuals consider objectively what has happened
- discuss what outcome the individual would wish to see
- draw attention to available procedures and options
- inform the individual 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

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, Ledbury Town 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.

Any allegation of bullying, harassment or victimisation will be dealt with seriously, promptly and in confidence. Employees who feel they have been subject to bullying, harassment or victimisation must not hesitate in using this procedure.

However, following a full investigation, if Ledbury Town Council finds that the complaint is not upheld and in addition, has grounds to believe that the complaint was brought in bad faith, disciplinary action may be taken under Ledbury Town Council's disciplinary procedure.

Allegations of bullying, harassment or victimisation in a work situation (which includes work social events and interactions on social media between colleagues) are likely to be classed as allegations of gross misconduct which may lead to disciplinary action up to and including summary dismissal (or ending their engagement in the case of a worker). If any employee harasses (including sexual harassment) or victimises anyone outside of a work situation, but where the incident is relevant to that employee's suitability to carry out their role at Ledbury Town Council, then this would

also be classed as an allegation of gross misconduct. When considering allegations of bullying, harassment or victimisation, aggravating factors such as an abuse of power over a more junior colleague will be taken into account when deciding on appropriate action.

In less serious cases, other potential remedies could include formal warnings, all-party meetings, informal mediation and information warnings.

In the case of third-party harassment, potential actions to remedy a complaint or prevent it happening again, could include warning the third-party about their behaviour, banning the third-party from the workplace, reporting any criminal acts to the police or sharing information with the third-party's employer if appropriate.

If you encounter any incident of bullying, harassment or victimisation, including third-party harassment, please do raise your concerns with your manager as soon as possible. However, if you do not feel comfortable speaking with your usual point of contact, please raise your concerns with any other member of the management team.

When you raise an issue, we will talk to you about how you would like it dealt with and resolved.

Solutions

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

Informal

If you prefer, you can raise the matter informally. Please be assured that we will deal with an informal complaint as seriously as a formal complaint.

You may or may not want the manager to speak with the individual on your behalf and, where possible, we will respect your wishes. However, if the welfare or safety of you or others is at risk or where it is necessary given the nature of the allegations, we may have no choice but to approach the individual and potentially instigate a formal investigation. In such a case we will, wherever possible, discuss this with you first.

You may prefer to raise the matter directly with the employee themselves, to make it clear that their behaviour is upsetting or offending you. This is entirely your choice and you should not feel obliged to tackle matters directly. However, if you chose to deal with the matter directly, we would also ask you to flag your concerns with your manager for support and in order to notify us of the concerning behaviour.

If you are not the direct victim, but instead witness bullying, harassment or victimisation, we would also ask you to raise this with your manager as soon as possible, in order for your concern to be actioned appropriately.

A third option, is that the victim can put their views in writing to the harasser or bully, making them aware that their behaviour is unacceptable and that it must stop.

Formal

Where informal solutions fail, or serious harassment, bullying or victimisation 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 complaint's 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 – a failure to do so will be a disciplinary matter. The procedure is as follows:

Again, if you are not the direct victim, but instead witness any bullying, harassment or victimisation, you are still able to address this formally by raising your concerns in writing or submitting a grievance through the grievance policy if you prefer.

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.
- If the victim would find it distressing to set out their complaint in writing, then he or she should contact the Town Clerk who will provide assistance
- The written complaint should initially be lodged with the employee's manager. If this would not be appropriate in the circumstances, it should be lodged with the relevant member of the Resources Committee.
- 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 Town Clerk, or if not appropriate, the Chair of the Resources Committee

Step 2: Grievance meeting:

- The employee will be invited to a meeting with the Town Clerk, or if not appropriate, the Chair of the Resources Committee 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 Town Clerk, or if not appropriate, the Chair of the Resources Committee 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 the Town Clerk, or if not appropriate, the Chair of the Resources Committee to set out the results of the investigation.
- After the meeting, the employee will be informed of the 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, they must inform the Mayor.
- 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 Mayor will inform the employee of the final decision, within five 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 passed to the appropriate line manager to conduct a disciplinary hearing with the person who perpetrated the harassment or bullying.

Continuing to Work Together

Whether a complaint is upheld or not, Ledbury Town Council recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another during the investigation or following the outcome of the proceedings. If this is the case Ledbury Town Council will consider a voluntary request from either party to transfer to another job or work location. A transfer cannot always be guaranteed, however.

Monitoring

Where harassment or bullying has been found to have occurred and the perpetrator remains in employment, regular checks will be made to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim.

Ledbury Town Council will also ensure that the employee who committed the act of harassment or bullying is not victimised in any way.

This policy and procedure will be monitored regularly to monitor its effectiveness.

Malicious complaints

Following a full investigation, if Ledbury Town Council finds that the complaint is not

upheld and in addition, has grounds to believe that the complaint was brought in bad faith, disciplinary action may be taken under Ledbury Town Council's disciplinary procedure.

Complaints to an employment tribunal

While Ledbury Town 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
- marriage and civil partnership.
- pregnancy and maternity

Date Adopted:

Review Date: