

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

Louth Town Council believes that civility and respect are important in the working environment, and expect all councillors, officers and the public to be polite and courteous when working for, and with the council.

### **Purpose**

Louth Town Council is committed to creating a working environment where all council employees, councillors and others who come into contact with it in the course of the council's, are treated with dignity, respect and courtesy.

We recognise that there is a continuum where unaddressed issues have the potential to escalate and become larger, more complex issues and this policy sets out how concerns will be managed. However, the emphasis of this policy is on resolution and mediation where appropriate, rather than an adversarial process.

This document:

- explains how we will respond to complaints of bullying or harassment;
- ensures that we respond sensitively and promptly; and,
- provides support in ensuring behaviour does not amount to bullying and/or harassment by giving examples.

### **Scope**

This policy covers bullying and harassment of Louth Town Council representatives (employees and Councillors). Should agency staff, or contractors have a complaint connected to their engagement with Louth Town Council this should be raised with the Town Clerk in the first instance.

Agency staff, or contractors are equally expected to treat council colleagues, and other representatives and stakeholders with dignity and respect, and the council may terminate the contract, without notice, where there are suspicions of harassment or bullying.

Complaints about other employment matters will be managed under the council's grievance policy.

It is noted that the management of a situation may differ depending on who the allegations relate to (e.g. employees, contractor, councillor). However, the council will take appropriate action if any of its representatives are bullied or harassed by employees, councillors, members of the public, suppliers or contractors.

### **The position on bullying and harassment**

All staff and council representatives are entitled to dignity, respect and courtesy within the workplace and at council and to not experience any form of discrimination. Louth Town Council will not tolerate bullying or harassment at council, in the workplace or at work-related events outside of the workplace, whether the conduct is a one-off act or repeated course of

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

conduct, and whether harm is intended or not. Neither will it tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. You should also be aware that, if you have bullied or harassed someone (e.g. physical violence, harassment), in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

Louth Town Council expects all representatives of the council to treat each other with respect and uphold the values of the code of conduct and all other policies and procedures set by the council. It expects all representatives to demonstrate respect by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.

Allegations of bullying and harassment will be treated seriously. Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. See Louth Town Council's Grievance and Disciplinary Procedures for further details regarding the process. Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

False accusations of harassment or bullying can have serious and far-reaching consequences. Everyone has a responsibility not to make false allegations. While Louth Town Council will assume that all complaints of bullying and harassment are made in good faith, if allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under the council's disciplinary procedure.

### What Type of Treatment amounts to Bullying or Harassment?

'Bullying' or 'harassment' are phrases that apply to treatment from one person (or a group of people) to another that is unwanted and that has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person.

#### Harassment

- Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic
- Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic

#### Bullying

- Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

Examples of bullying and harassment include but are not limited to:

- Physical conduct ranging from unwelcome touching to serious assault
- Unwelcome sexual advances
- The offer of rewards for going along with sexual advances e.g. promotion, access to training
- Threats for rejecting sexual advances
- Demeaning comments about a person's appearance
- Verbal abuse or offensive comments, including jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Unwanted nicknames, especially related to a person's age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Spreading malicious rumours or insulting someone
- Lewd or suggestive comments or gestures
- Deliberate exclusion from conversations, work activities or social activities.
- Withholding information a person needs in order to do their job
- Practical jokes, initiation ceremonies or inappropriate birthday rituals
- Physical abuse such as hitting, pushing or jostling
- Rifling through, hiding or damaging personal property
- Display of pictures or objects with sexual or racial overtones, even if not directed at any particular person
- Isolation or non-cooperation at work
- Subjecting a person to humiliation or ridicule, belittling their efforts, whether directly and / or in front of others
- The use of obscene gestures
- Abusing a position of power

Bullying and harassment can occur through verbal and face to face interactions but can also take place through sharing inappropriate or offensive content in writing or via email and other electronic communications and social media.

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable and behaviour could be harassment when the person had no intention to offend. We all have the right to determine what offends us. Some behaviour will be clear to any reasonable person that it is likely to offend – for example sexual touching. Other examples may be less clear, however, you should be aware that harassment will occur if behaviour continues after the recipient has advised you that the behaviour is unacceptable to them.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

Harassment can also occur where the unwanted behaviour relates to a perceived characteristic (such as offensive jokes or comments based on the assumption someone is gay, even if they are not) or due to their association with someone else (such as harassment related to their partner having a disability for example).

All representatives of Louth Town Council must, therefore, treat their colleagues with respect and appropriate sensitivity and should feel able to challenge behaviour that they find offensive even if it is not directed at them.

It is important to recognise that bullying does not include appropriate criticism of an employee's behaviour or effective, robust performance management. Constructive and fair feedback about your behaviour or performance from your manager or colleagues/Councillors is not bullying. It is part of normal employment and management routines, and should not be interpreted as anything different.

### **Victimisation**

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload.

Provided that you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the council will take appropriate action to deal with any alleged victimisation.

Making a complaint that you know to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action being taken against you.

### **The Legal Position**

Councils have a duty of care towards all their workers and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If an employer fails to act reasonably with regard to this duty of care by allowing bullying or harassment to continue unchallenged an employee may decide to resign and claim 'constructive dismissal' at an Employment Tribunal.

Under the Equality Act 2010 bullying or harassment related to one of the protected characteristics covered by the Act (age, gender, marital status, sexual orientation, race, religion, belief, colour, disability) can be considered unlawful discrimination which could lead to an

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

Employment Tribunal claim for discrimination against the corporate employer, the council and the perpetrator(s) as individual named Respondents.

The legal definition of “Third Party Harassment” has been introduced which makes the employer vicariously liable for harassment from other parties such as parishioners, contractors etc., and it must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or member of the council. In addition, the Criminal Justice and Public Order Act 1994 and Protection from Harassment Act 1997 created a criminal offence of harassment with a fine and/or prison sentence as a penalty and a right to damages for the victim. A harasser may be personally liable to pay damages if a victim complains to an Employment Tribunal on the grounds of discrimination

### **Reporting Concerns**

#### **What you should do if you feel you are being bullied or harassed**

If you are being bullied or harassed by someone that you encounter at Louth Town Council, please raise this as follows:

- Employees*
- with the Town Clerk
  - with a Councillor
  - any report will be taken seriously, and the matter will be dealt with as below and in line with the Staff Grievances and Discipline Procedure.
- Councillors*
- with the Town Clerk, Chairman or Vice Chairman of the Personnel Committee

There are two ways to resolve an issue. Informal or formal.

#### **Informal resolution**

If you are being bullied or harassed, you may be able to resolve the situation yourself by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to the council’s policy and must stop. Alternatively, you may wish to ask the Town Clerk, Chairman or Vice Chairman of the Personnel Committee or a colleague to put this on your behalf or to be with you when confronting the perpetrator(s).

If the above approach does not work or if you do not want to try to resolve the situation in this way, you should raise the issue with the Town Clerk, Chairman or Vice Chairman of the Personnel Committee and they will discuss with you the option of trying to resolve the situation informally by telling the alleged perpetrator, without prejudicing the matter, that:

- there has been a complaint that their behaviour is having an adverse effect on a council member
- such behaviour is contrary to Louth Town Council policy

It may be possible for this conversation to take place with the alleged perpetrator without revealing your name, if this is what you want. The person dealing with it will also stress that the conversation is confidential.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

In certain circumstances we may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. This will be discussed with you if it is appropriate.

### **Raising a formal complaint**

If informal resolution is unsuccessful or inappropriate and you consider that the perpetrator has breached the Council's Code of Conduct, a formal complaint can be made. To do this a written complaint should be made as follows:

- to the Monitoring Officer, where the perpetrator is a Councillor, who will investigate the matter.
- to the Town Clerk, where the perpetrator is an employee, who will investigate in line with the Council's Staff Grievance and Disciplinary Procedure:

Employees will need to co-operate with the Council's investigation and provide the following details:

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred,
- The names of any witnesses and
- Any action taken by you to resolve the matter informally.

The alleged perpetrator(s) would normally need to be told the complainant's name and the details of your grievance in order for the issue to be investigated properly. However, the investigation will be carried out in as confidentially and sensitively a manner as possible. Where the complainant and the alleged perpetrator(s) work in proximity to each other, we will consider whether it is appropriate to make temporary adjustments to working arrangements whilst the matter is being investigated.

Investigations will be carried out as promptly as possible (allowing for council regulations to be met), sensitively, as far as possible, confidentially and in accordance with the Council's Grievance and Disciplinary Procedures. When carrying out any investigations, we will ensure that individuals' personal data is handled in accordance with the data protection policy.

The council will consider how to protect your health and wellbeing whilst the investigation is taking place and discuss this with you. Depending on the nature of the allegations, the investigator may want to meet with you to understand better your complaint (see the grievance policy for further information, and details of your right to be accompanied).

After the investigation, a formal grievance meeting will be held with the complainant to consider the matter and the findings of the investigation, in accordance with the

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

grievance procedure. At the meeting you may be accompanied by a fellow worker or a trade union official.

Following the conclusion of the hearing the Town Clerk will write to you to inform you of the decision and to notify you of your right to appeal if you are dissatisfied with the outcome. You should put your appeal in writing explaining the reasons why you are dissatisfied with the decision. Your appeal will be heard under the appeal process that is described in the grievance procedure.

The council will consider any adjustments to support an employee in their work and to manage the relationship with the Councillor the allegations relate to, while the investigation proceeds, if necessary.

---

### Notes:

#### Protected Characteristics

A 'protected characteristic' is defined in the Equality Act 2010 as age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is unlawful to discriminate against an individual because of any of the protected characteristics.

Discrimination includes treating people differently because of a protected characteristic. Employees can complain of harassment even if the behaviour in question is not directed at them. This is because the complainant does not actually need to possess the relevant protected characteristic. An employee can complain of unlawful harassment if they are related to someone with a protected characteristic, or because a colleague believes they have a protected characteristic.

Examples of harassment related to a protected characteristic could include but are not limited to:

- Making assumptions about someone's ability due to their **age**, or denying development opportunities to someone based on their age. This could also include assumptions about their lifestyle or making inappropriate jokes related to age.
- Making fun or mimicking impairments related to a health condition, or using inappropriate language about disabilities. Constantly selecting social activities that make it impossible for a colleague with a **disability** to participate in.
- Refusing to treat a person as their new gender, or disclosing information about their gender identity could be harassment on the grounds of **gender reassignment**.
- **Pregnancy/Maternity** harassment could include refusing opportunities due to pregnancy or maternity leave, or inappropriate touching and invasion of personal space such as unwanted touching of a pregnant persons stomach.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

- Harassment based on **race** could include derogatory nicknames, or stereotyping based on ethnicity. It could include racist comments or jokes, or assumptions about someone's lifestyle based on their ethnicity.
- **Gender** harassment could include not considering people for a job based on gender stereotyping roles, or implementing practices that disadvantage one gender over another. Rude, explicit jokes, even if not directed at an individual, or comments on individuals dress or appearance.
- Regularly arranging team meals over periods of fasting or religious occasions or failing to adjust a dress code to accommodate religious dress could be examples of harassment based on **religion/belief**.
- Excluding same sex partners from social events could be both **sexual orientation** and **marriage/civil partnership** discrimination, as could not offering the same work-related benefits.

A person does not need to be employed or have 2 years qualifying service to make a discrimination claim at a tribunal.

- Job applicants who believe they have not been appointed because of a 'protected characteristic' can make a claim.
- New or established employees who are dismissed, or treated unreasonably because of a health condition can make a discrimination claim.
- An employee subjected to harassment can make a discrimination claim at a tribunal.
- An employee asked to retire can make a discrimination claim at a tribunal

### **Legal risks**

Successful unfair dismissal claims are limited to a compensation cap, whereas those for unlawful discrimination have no cap.

A positive employment culture, and swift action if conduct falls beneath acceptable standards will help mitigate the risks. An unhealthy culture will make it difficult to defend claims.

The time to defend and the cost of defending tribunal claims can be significant, irrespective of the outcome.

### **Culture and behaviour**

We work in eclectic communities and working environments, and a positive culture within the council enables people with different backgrounds and beliefs to share ideas and shape how the council achieves its objectives for their community.

It is important to recognise that different individuals may find different behaviours bullying or harassing so while there is not always intent to offend or cause harm, that does not mean that the effect of the behaviour has not caused harm or offence.



# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

It can take people a period of time to decide to raise their concerns, as they worry about consequences (perhaps from peers by complaining about a colleague who is popular, or they fear victimisation from the perpetrator or others). The council should consider whether there are opportunities (such as 1-2-1s to offer an opportunity to reflect on relationships/morale) to identify issues earlier and address negative behaviours. Individuals can often mention concerns they are experiencing but not want to take it further. The council should remind the complainant that bullying and harassment has no place in the Council and remind them of the policy in place to address concerns.

Whilst both staff and councillors jointly determine the working culture, councillors are key in demonstrating what is and isn't acceptable behaviour. This is apparent from how councillors behave with each other in council meetings and also in how standards of behaviour are applied through the use of informal discussion and formal policies.

### **Bullying and harassment and performance management**

The policy sets out that bullying and harassment does not include appropriate criticism of an employee's behaviour or effective, robust performance management. It is not uncommon for an employee, when receiving critical feedback, to claim that this is bullying and/or harassing. It is the role of the nominated manager to provide effective and constructive feedback to encourage performance at the required standard.

Even when the feedback is not positive it should be fair, communicated in a professional and reasonable manner and shared with the objective of aiding understanding and achieving an improvement to overcome the shortfalls. There is no absolute definition of when the feedback may not be appropriate. Often it will be for the person/panel hearing the dignity at work complaint/grievance to determine whether the performance management has upheld the standards expected in terms of respect and civility and any feedback has been shared in a fair and professional way.

### **Responsibilities**

All staff and representatives of the council are responsible for their own behaviour while acting on behalf of Louth Town Council and for taking steps to revise unacceptable behaviour and appropriately challenge that of others.

Leaders – councillors, clerks, chief officers, managers - are responsible for ensuring that these standards of treating people with civility, respect and courtesy are upheld, both through their own example, and by communicating and promoting these expectations to all employees. They are also responsible for ensuring that concerns raised are treated seriously and addressed in line with this policy in a timely manner.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

### **During the investigation**

Employers have a duty of care to provide a safe place of work. If a complaint is made, discuss how to manage working relationships whilst the allegation is being investigated and until the outcome is disclosed. This is as much for the protection of the alleged perpetrator as for the aggrieved.

Offer other support that may be appropriate to the situation such as signposting to support groups, time off for counselling etc. If you have suspended a staff member, your duty of care continues and it is important to consider their wellbeing and mental health.

Ensure that you communicate regularly with both parties.

The investigation and any subsequent hearing should be completed in accordance with the grievance policy which sets out a process for dealing with concerns.

### **Confidentiality**

It may be possible for concerns to be raised with the perpetrator without disclosing the name of the complainant however in a small council it is likely that it will be clear that the accused will know where the accusation has come from. The council representative (clerk/chief officer/councillor) speaking to the alleged perpetrator must be clear that the discussion is confidential and the individual would be at risk of formal disciplinary action if there is any sort of victimisation or retaliation for the individual raising their concern.

During any formal investigation it may be necessary to disclose the nature of the allegations and where they came from to ensure a fair and balanced investigation and process. This should be discussed with the person raising the concerns to understand any issues and how they may be mitigated. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought.

### **Victimisation**

All employees have the right to raise genuine concerns without the fear of reprisals. If the aggrieved (or a witness) is treated differently / less favourably because they have raised a complaint, then this is victimisation. This would include isolating someone because they have made a complaint, cancelling a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

### **False allegations**

If an employee makes an allegation that they know to be untrue, or gives evidence that they know to be untrue, the council should consider the matter under the disciplinary procedure. Such an allegation would potentially be gross misconduct.

# Louth Town Council

## DIGNITY AT WORK/IN COUNCIL POLICY

### **Complaints against Councillors**

Following the Ledbury case, the law is clear that any formal complaint about a councillor regarding a breach of the code of conduct must be referred to the Monitoring Officer for investigation. During the investigation, it is critical to ensure that where an employee of the council has made the complaint, that the council agrees reasonable measures with the employee to protect their health and safety and safeguard them. Such measures may include a temporary change in duties, change of work location, not attending meetings with the person about whom the complaint has been made etc.

Careful consideration is required where a grievance is raised against the council as a whole due to lack of support related to councillor behaviours. The specific allegations will need to be considered to determine whether the allegations can be addressed by the council, or require exploration of the councillors behaviour in order to respond, in which case the Monitoring Officer may be required to investigate the alleged behaviours of a/any councillors where this may relate to the code of conduct. It is a matter of fact whether the complaint is against the council and can therefore be dealt with by the council's grievance procedure or against a councillor and can only be dealt with by the Monitoring Officer.