



Anti-Harassment & Anti-Bullying Policy

Document Status: Draft

Document Ref: HRPOL -

Originator: Jackie Noble

Updated: Jackie Noble

Owner: Anica Goodwin

Version: 01.01.01

Date: January 2023

Approved by Corporate Management Team / Appointments and Staffing

Classification: SEC1 - Routine

Document Location

This document is held by Tamworth Borough Council, and the document owner is HR.

Printed documents may be obsolete; an electronic copy will be available on Tamworth Borough Council's Intranet. Please check for current version before using.

Revision History

Revision Date	Version Control	Summary of changes
October 2022		A new policy providing a framework for reporting and investigating bullying, harassment & victimisation.

Key Signatories

Approvals Creation and Major Change

Name	Title	Approved
Appts & Staffing		

Approvals Minor Change and Scheduled Review

Name	Title	Approved
Anica Goodwin		
TULG		

Approval Path

Major Change

	Action
Originator	HR
Owner	Head of Paid Service
TULG	Consultative Group
CMT	Corporate Approval
Appts & Staffing Committee	Council Approval

Minor Change

HR	Submission
TULG	Consultative Group
Director	Delegated Approval

Document Review Plans

This policy/ procedure will be reviewed on a 3 yearly basis unless it has:

- A monetary value included within it, in which case an annual review will be required, and/ or
- A legislative change is required as directed by government.

Distribution

The document will be distributed through Astute as a MANDATORY policy and will also be available on the Intranet.

Security Classification

This document is classified as SEC 1 Routine with access restricted to Tamworth Borough Council Staff and business partners.

Content	Page
1 Introduction	5
2 Purpose	5
3 Scope	5
4 Definitions	5
4.1 Harassment	5
4.2 Bullying	7
4.3 Victimisation	8
4.4 Microaggressions	8
5 Equality Act 2010	8
6 What constitutes bullying or harassment	9
7 The effects of bullying or harassment	10
8 Responsibilities	10
9 Manager's responsibilities	10
10 Employee's responsibilities	11
11 3 rd party harassment	11
12 SMART Working – remote bullying	12
13 Training	12
14 What happens if I am accused of bullying	12
15 Procedure principles	13
15.1 Timescale	13
15.2 Recording	13
15.3 Confidentiality	13
15.4 Formal & Informal	14
15.5 Police involvement	14
15.6 informal procedure	14
15.7 Formal procedure	15
15.8 Investigation	15
16 Disciplinary action	17
17 Further harassment	18
18 Transfer	18
19 Appeal	18
20 Counselling	19
21 Confidentiality	19
Appendix 1 Submission of complaint form	20
Appendix 2 Inappropriate v Appropriate Management	22
Community Impact Assessment	24

1 Introduction

- 1.1 Tamworth Borough Council (TBC) recognises the duties and responsibilities it has as an employer to provide work environments free from any form of harassment, bullying, victimisation, and unjustifiable discrimination.
- 1.2 Apart from those duties of care arising under health and safety legislation and responsibilities arising from anti-discriminatory legislation and case law, TBC's Equality Scheme and Code of Conduct underpins its commitment to eradicate any form of unfair or unjustifiable treatment of an individual or group of people in the workplace.
- 1.3 Serious bullying or harassment may amount to other civil or criminal offences e.g. a civil offence under the Protection from Harassment Act 1987 and criminal offences of assault in which the employee is personally liable.
- 1.4 Behaviour which results in an employee feeling demeaned, threatened, intimidated or bullied by another person is not acceptable. Complaints of harassment, bullying, victimisation or discrimination will be taken very seriously and will be responded to promptly in accordance with the policy, principles and procedures set out below.
- 1.5 The policy deals with the harassment of employees by other employees. Harassment by members of the public or third parties is dealt with under the Harassment, Assault, Threat (HAT) policy.

2 Purpose

- 2.1 The purpose of the policy is to provide a framework for lodging and investigating allegations of bullying, harassment or victimisation. It does not replace the Grievance Procedure which should be used for complaints not related to bullying and harassment.
- 2.2 The policy is also designed to complement our Equality Scheme and relevant training.

3 Scope

- 3.1 This policy applies to all employees of Tamworth Borough Council.

4 Definitions

4.1 Harassment

By law, harassment is when bullying or unwanted behaviour is related to any of the following (known as protected characteristics under the Equality Act 2010).

- 4.1.1 For it to count as harassment, the unwanted behaviour must have either:
- Violated the person's dignity, whether it was intended to or not
 - Created an intimidating, hostile, humiliating, degrading or offensive environment for the person, whether it was intended or not.
- 4.1.2 Harassment can take many forms and occur on a variety of grounds. It can include physical, verbal and non-verbal harassment. It may be directed at an individual or group of individuals. It is not the intention of the perpetrator, but the deed itself and the impact on the recipient which determines what constitutes harassment. Actions should be judged in terms of whether a reasonable person would consider them to constitute harassment, regardless of the intentions of the perpetrator. All complaints of harassment will be treated seriously.
- 4.1.3 A single or repeated action, whether verbal or physical, towards an employee or group of employees can amount to harassment. Such actions would constitute less favourable treatment by creating a hostile environment likely to affect the work and well-being of employees. It can include institutional oppression where structures or groups collude to oppress an individual or individuals. It can also include bullying by an individual.
- 4.1.4 Harassment also includes the following:
- 4.1.5 **Harassment based on association.** It is unlawful to discriminate against or harass any individual for association with another individual who has a protected characteristic (other than marriage and civil partnership, and (according to guidance from the Government and ACAS) pregnancy and maternity). For example, if an employer denies an employee a promotion because they are taking care of a disabled relative and the employer thinks that the employee will not have any time for new duties, this will amount to associative discrimination as disability is one of the specified protected characteristics. Similarly, if an employer harasses an employee because their brother is gay, this would be unlawful as associative harassment as sexual orientation is another of the protected characteristics.
- 4.1.6 **Harassment based on a perception.** It is unlawful to discriminate against or harass any individual based on a perception that they have a particular protected characteristic (other than marriage and civil partnership, and pregnancy and maternity) when they do not, in fact, have the protected characteristic. For example, a male employee may look much older than his age. If the organisation does not allow him to make presentations to clients because his line manager thinks that he is too old, the employee has been discriminated against because of a perception of the protected characteristic of age, even though he may be relatively young. Similarly, if an employee is called names and made fun of because her colleagues believe that she is transgender, she may have a claim for perceptive harassment related to the protected characteristic of gender reassignment, even though she is not transgender.
- 4.1.7 An employee may be subjected to insulting and humiliating comments from their line manager because they are Muslim. The employee can bring a claim for harassment related to the protected characteristic of religion or belief. In addition, if that employee's colleagues are also present when these

comments are made, even though they are not directed at those individuals, they may also bring a claim for harassment related to the protected characteristic of religion as the line manager is creating an intimidating and offensive environment.

4.1.8 The Act sets out two specific definitions of sexual harassment, which are:

- conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- less favourable treatment related to sex or gender reassignment that occurs because of a rejection of or submission to sexual conduct.

4.1.9 In determining whether the unwanted conduct has the effect referred to, the factors that must be taken into account are:

- the perception of the complainant.
- the other circumstances of the case; and
- whether or not it is reasonable for the conduct to have that effect.

4.2 Bullying

4.2.1 Although there is no legal definition of bullying, it can be described as unwanted behaviour from a person or group that is either:

- Offensive, intimidating, malicious or insulting
- An abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

4.2.2 It might be:

- A regular pattern of behaviour or a one-off incident
- Happen face to face, on social media, in emails or calls (Teams or telephone)
- Happen at work or in other work-related situations
- Not always be obvious or noticed by others

4.2.3 Examples of bullying at work could include:

- Spreading malicious rumours about someone
- Consistently putting someone down in meetings
- Physical, verbal, or psychological threats
- Deliberately giving someone a heavier workload than everyone else
- Excluding someone from team events
- Someone consistently undermining their manager's authority
- Putting humiliating, offensive, or threatening comments or photos on social media

4.2.4 Sometimes bullying might be classed as harassment if it is related to certain 'protected characteristics' under discrimination law (Equality Act 2010). Bullying not classed as harassment could still lead to other legal issues, for example if it contributes towards constructive dismissal.

4.3 Victimisation

4.3.1 Victimisation occurs where an employee is subjected 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 give evidence in relation to a complaint. This would include, for example, isolating someone or giving them a heavier or more difficult workload, being denied a training opportunity or a promotion,

4.3.2 Employees who raise a genuine complaint under this policy will under no circumstances be subjected to any unfavourable treatment or victimisations as a result of making a complaint. However, if it is established that an employee has made a false or malicious complaint against another person about bullying or harassment, disciplinary action may be taken against that employee.

4.4 Microaggressions

4.4.1 Microaggressions, sometimes called micro-incivilities, are statements, actions, or incidents that are regarded as indirect, subtle, or unintentional discrimination against members of a marginalised group such as a racial or ethnic minority. They are sometimes referred to as “death of a thousand cuts”. Microaggressions generally take 3 forms:

- Micro-assaults – Conscious and obvious insults made verbally or non-verbally to a marginalised individual or group, for example directing limp-wristed hand gestures towards a gay colleague and saying “it is just a joke”.
- Micro-insults – Unintentionally insensitive remarks or assumptions based on stereotypes, for example saying to a person with a disability “you don’t look disabled to me.”
- Micro-invalidations – Where a person denies, or seeks to cancel, the feelings and experiences of a marginalised individual or group, for example a white person saying “I don’t think the UK has a problem with racism, some people are just too sensitive.”

4.4.2 Serious microaggressions can amount to unlawful harassment, bullying or discrimination but even less serious microaggression can negatively impact the health and wellbeing of the person experiencing it.

5 **Equality Act**

5.1 The Equality Act 2010 defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;

- pregnancy and maternity;
 - race;
 - religion or belief;
 - sex; and
 - sexual orientation.
- 5.2 The Equality Act 2010 makes harassment unlawful across all the protected characteristics, with the exceptions of marriage and civil partnership, and pregnancy and maternity (which are covered by direct discrimination provisions in the Equality Act 2010).
- 5.3 Although pregnancy and maternity and civil partnership are not specifically protected under the legal provisions of harassment, TBC considers harassment on any ground to be unacceptable.

6 What constitutes bullying or harassment

- 6.1 Bullying or harassment can range from extreme forms, such as violence to less obvious actions like deliberately excluding a colleague from conversation or activities. Whatever the form of bullying and harassment, it is behaviour which is unwelcome and unpleasant and can have a long-lasting impact on those involved.
- 6.2 Extreme forms of bullying and harassment, such as sexual or racial assault, which are offences under the criminal law, are clearly recognisable. Other forms of bullying and harassment may include:
- Physical contact ranging from unwelcome touching to serious assault,
 - Unwelcome sexual advances,
 - Threats for rejecting sexual advances,
 - Demeaning comments about a person's appearance,
 - Unwanted nicknames relating to a person's age, race or disability,
 - Verbal and written harassment through unwelcome jokes, offensive language, gossip, slander, letters, comments about differences, real or perceived,
 - Visual displays of pictures, posters, graffiti, obscene gestures, flags and emblems,
 - Isolation or non-co-operation at work, exclusion from social activities,
 - Coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups,
 - Intrusion by pestering, spying, following,
 - Insulting or harassing colleagues via messages or graphics on electronic mail systems,
 - Spreading malicious rumours,
 - Setting somebody up to fail,
 - Making threats about somebody's job security without good reason,
 - Unreasonable work demands linked to an individual's social identity,
 - Mimicking people with disabilities; and
 - Challenging difficulties.

- 6.3 This list is not exhaustive but gives some examples of the range of behaviour that is harassment. Although harassment may be overt, it can also appear in far more subtle guises. In some cases, it can consist of thoughtless acts on the perpetrator's part.

7 The effects of bullying and harassment

- 7.1 Whether intentional or otherwise, bullying or harassment does have a direct effect on the individual concerned. Something intended as a 'joke' may offend another person. Different people find different things unacceptable. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that their behaviour is not acceptable to them.
- 7.2 The effects of harassment may include deterioration of physical/mental health and work performance. Harassment undermines the confidence of the person. It can cause embarrassment, anger, anxiety, fear, guilt and stress and make going to work difficult. It may put strains on personal and family life. It can lead to illness, increased absenteeism, an apparent lack of commitment, poor performance and even resignation. All these have a direct impact on the organisational effectiveness.

8 Responsibilities

- 8.1 TBC recognises its role as a good employer to provide a safe working environment conducive to the delivery of a high-quality service to the community. Harassment and workplace bullying can lead to poor performance, high levels of absence and, in extreme circumstances, claims of constructive dismissal or unlawful discrimination and civil claims. It is, therefore, the responsibility of TBC to ensure that managers and employees are aware of the issues and effects of harassment and to ensure that effective practices and policies are put in place to tackle and prevent it.

9 Manager's responsibility

- 9.1 Managers, including supervisors and team leaders, have a duty to ensure that unfair treatment does not occur in work areas for which they are responsible, by:
- Promote a team ethos and an appropriate and supportive working environment,
 - Challenging inappropriate behaviour,
 - Responding to, and supporting any employee complaining about unfair treatment with sensitivity,
 - Providing full and clear advice on the procedure to be followed,
 - Ensuring that no repetition or victimisation occurs after a complaint has been resolved,
 - Setting a good example by their own behaviour,
 - Making sure that staff know what standards of behaviour are expected of them,
 - Intervening to stop bullying or harassment.

- 9.2 If there is clear evidence that a manager has not taken the necessary action to deal with a legitimate complaint, they may be subject to disciplinary action or the capability procedure and claims from the employee that they have caused constructive dismissal.
- 9.3 However, TBC managers also have a duty to address performance or behaviour that is below standard. Such challenges, even when repeated and persistent, do not of themselves constitute bullying or harassment. It is important to understand that legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to employees in the course of their employment, will not of themselves amount to bullying.
- 9.4 There is a complementary duty to provide employees with the necessary training, systems and support to enable them to achieve set standards and to treat employees with courtesy and respect at all times. **Appendix 2** details examples of good management practice and inappropriate behaviour.

10 Employee's responsibility

- 10.1 Every employee has a responsibility for their own behaviour ensuring appropriate standards of conduct for themselves and for others to help create and maintain a work environment free of bullying and harassment. Employees should be aware that they can be personally liable for harassment. Employees can help to create an inclusive culture by:
- Being aware of how your own behaviour may affect others and changing it, if necessary – you can still cause offence even if you are 'only joking'
 - Treating colleagues with dignity and respect
 - Taking a stand if you think inappropriate jokes or comments are being made;
 - Making it clear to others when you find their behaviour is unacceptable, unless it should be obvious in advance that this would be the case
 - Intervening if possible to stop bullying and harassment and giving support to recipients
 - Making it clear that you find bullying and harassment unacceptable
 - Reporting harassment and bullying to your manager or HR and supporting the organisation in the investigation of complaints
 - If a complaint of harassment or bullying is made, not prejudging or victimising the complainant or alleged harasser.

11 Third party harassment

- 11.1 There are no provisions in the Equality Act 2010 to cover third party harassment. However, if the employee is experiencing bullying or harassment by a third party, for example, a resident, during the course of their duties, this should be reported to their manager so that they can advise on the best course of action as the Harassment, Assault, Threat (HAT) policy may apply. If the third party is a contractor, this will be referred to their employer to investigate.

12 SMART Working – Remote Bullying

- 12.1 Without physical cues and the context of in person communication, remote working leaves space for different readings or interpretation of sometimes simple messages which can lead to misunderstandings. All employees are required to keep their cameras on for Teams meetings to assist with reading non-verbal cues.
- 12.2 Bullying and harassment is not always carried out face to face. Home and Hybrid employees may experience more subtle examples with the increase of one-to-one communications in isolation where no one can hear the conversation over Teams or telephone.
- 12.3 Bullying, harassment or victimisation can still occur for staff working remotely at home and can extend in the following examples:
- Rude or aggressive emails, whether sent specifically to a single individual or to a broader group and targeting one or more members
 - Inappropriate language or behaviour communicated over the phone or via Teams or any other collaboration method used in the workplace
 - Bullying colleagues on non-work social media platforms, e.g. Facebook, WhatsApp
 - Demonstrating a subconscious bias, for example assuming women will be undertaking more childcare or housework duties than men and therefore checking up on female more than male employees to make sure that work is being done
 - Not inviting or excluding someone from online meetings
 - Ignoring or belittling someone in an online meeting
 - Failing to copy someone into emails
 - Inappropriate behaviour on Teams
 - Ignoring or not calling someone

13 Training

- 13.1 All new employees must attend equality, diversity and inclusion training as part of their onboarding programme. Every employee must then attend regular equality, diversity and inclusion refresher training on a 3-year cycle.
- 13.2 All employees are expected to proactively support equality, diversity and inclusion initiatives by attending training or events to educate themselves on the challenges faced by others and how to alleviate them in the workplace.

14 What happens if I am accused of bullying or harassment?

- 14.1 If someone approaches you informally about your behaviour, it is important not to dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable, and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. You may have offended without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way

you now know may cause offence. Provided that you do not repeat the behaviour that will be an end to the matter.

14.2 If a formal complaint is made, it will be fully investigated.

15 The procedure for dealing with complaints - Principles

15.1 Timescales

15.1.1 When a complaint has been made, it should be investigated thoroughly and as quickly as possible – ensuring that the rights of the alleged perpetrator are protected as well as those of the complainant. The formal and informal procedures set out below provide a clear timescale for the resolution of complaints.

15.1.2 Any complaint of harassment should be made within 20 working days of the first or most recent event, unless there are clear exceptional circumstances why this is not possible. There may be occasions where an individual might want to complain about a number of small incidents which have occurred over a period of time and only feel in a position to complain some months later.

15.2 Recording

15.2.1 If an employee feels they have been harassed, they should write down what happened as soon as possible after the event and continue to maintain a log of subsequent incidents. A note should be made of any witnesses to the alleged behaviour.

15.2.2 A complaint is regarded as formal when an individual either completes a Bullying & Harassment complaint form (**Appendix 1**) or submits a complaint in writing.

15.3 Confidentiality

15.3.1 It is essential for both the complainant and the alleged harasser that all stages of the Anti Bullying and Anti Harassment Procedure and thereafter are handled in strict confidence. Even when the investigation is complete, line managers and others involved in the complaint should continue to respect the sensitivity of the process.

15.4 Formal and Informal Procedures

15.4.1 All complaints will be treated seriously. The procedure provides an informal and a formal route for resolving complaints but, even when a complaint is dealt with informally (and this should be the preferred way if possible), it is still being addressed under the procedure.

15.4.2 Many complaints of harassment will be able to be dealt with informally and employees are encouraged in the first instance to talk directly and informally to the person whom they believe is harassing them and explain clearly what aspect of the person's behaviour is unacceptable or is causing offence and request that it stops immediately. It may be that the person whose conduct is

causing offence is genuinely unaware that their behaviour is unwelcome or objectionable and that a direct approach can resolve the matter without the need for formal action. The employee may want to add that, if the behaviour continues, they will make a formal complaint. The employee should keep a note of the date and what was said and done.

15.4.3 However, the informal approach should not be used to discourage an employee from recourse to using the formal procedure either when they prefer that option or when an instance of harassment could be of such a serious nature that the complaint would warrant formal action. Formal procedures should also be used where a previous attempt at informal resolution has proved unsuccessful. The seriousness of some forms of harassment will mean that a formal complaint is necessary.

15.5 Police involvement/disciplinary action

15.5.1 Serious allegations of harassment may require a reference to the police and/or immediate formal disciplinary action on the part of the employer. When an individual(s) is/are suspended as part of the formal procedure, such suspension does not presume guilt or innocence and should be on normal pay.

15.6 Informal Procedure

15.6.1 Employees may wish to talk about a problem informally and in confidence, for example, this might be with the HR department or line manager.

15.6.2 Employees may be able to sort out matters informally. The person may not know that their behaviour is unwelcome or upsetting and an informal discussion may help them to understand the effects of their behaviour and agree to change it.

15.6.3 In many cases of harassment the recipient may wish to raise the problem informally with the alleged perpetrator pointing out that their conduct is unwelcome, offensive or interfering with their work and their wish for this to stop immediately. Informal discussions with the relevant parties should usually cover the following:

- a) The nature of the problem,
- b) Why it is unacceptable,
- c) A remedy, which is acceptable to the parties.

15.6.4 The employee who finds it difficult or embarrassing to raise the problem directly with the person creating the problem may wish to seek the support of their line manager/direct supervisor, or a Trade Union Representative or HR. Where the complaint is about the employee's direct line manager, the complaint may be raised with a more senior member of management. The manager will meet the alleged perpetrator and may arrange a meeting if the individual and the complainant wish. The purpose of the meeting is to resolve matters informally. A record of the conversation should be kept. The manager may seek advice from HR to assist in resolving matters.

15.6.5 The manager should initially meet the complainant to discuss the complaint and seek to agree with them the course of action to be pursued, as follows:

- No further action to be taken at this stage, but the situation to be kept under review, and any further incidents of unwelcome conduct to be brought to the attention of the manager.
- The manager to meet with the alleged perpetrator to discuss the unwelcome conduct, being complained of its impact upon the complainant, and ways of ensuring that there is no repetition. As part of this process, with the agreement of both parties, the Manager may convene a meeting between them with a view to seeking to resolve matters informally.
- The formal procedure is invoked

15.6.6 The informal procedure should normally be completed within 10 working days. Where this is not possible, relevant parties should be informed of the likely timescale.

15.6.7 The employee should also be made aware of the Council's EAP service which employees can refer to for advice and counselling.

15.7 Formal Procedure

15.7.1 The formal procedure will be necessary in those instances where the informal route has proved ineffective or where the allegation of bullying or harassment is of such a serious nature that it is necessary to invoke the formal procedure from the outset. The individual who is complaining has the right to proceed straight to the formal procedure if they wish.

15.7.2 For most allegations of harassment, the individual who is claiming harassment should make a formal complaint in writing to their line manager. However, in cases where the line manager is the alleged perpetrator of the harassment, the complainant should raise the allegation with the line manager's line manager. If the allegation is made against the Chief Executive, the issue should be referred to the Leader of the Council.

15.8 Investigation

15.8.1 Upon receipt of a complaint, HR and the relevant Assistant or Executive Director will appoint an Investigating Officer. The complaint should include full information about the alleged harassment, stating the following:

- name of the alleged harasser,
- nature of the harassment,
- date and time when the harassment took place,
- names/statements of any witnesses,
- any action already taken to stop the harassment.

15.8.2 The complaint should be acknowledged as soon as possible (e.g. within 3 days), and the alleged harasser given written notification, including full details of it at the same time.

- 15.8.3 The investigating officer should commence an investigation into the alleged harassment within no more than 5 working days of the complaint being lodged. The investigation should aim to be completed normally within 20 working days. Where this is not possible, both the alleged harasser and the complainant should be informed of the reason for the delay and the likely timescales for completion.
- 15.8.4 The investigating officer will normally meet both parties and any relevant witnesses individually in the first instance. The investigating officer should permit both parties to be accompanied during the investigation by a TU Representative or work colleague in order to provide support to the parties.
- 15.8.5 In every case, the respondent will be:
- a) Given details of the complaint in writing
 - b) Given notification of any decision of precautionary action (e.g. transfer)
 - c) Invited to interview in writing, including a statement setting out their right to be accompanied.
- 15.8.6 The investigating officer should endeavour to base the investigation on objectivity and fact rather than preconceptions.
- 15.8.7 All parties and witnesses should be afforded and maintain strict confidentiality.
- 15.8.9 Arrangements will be made for the protection of the complainant and the alleged harasser, if requested, whilst the investigation is in progress. Both parties must not be victimised in any way, either while the matter is being investigated or at any time afterwards. During the investigation, temporary redeployment of one or both parties may be necessary. This does not imply guilt but may be necessary to ensure the integrity of the investigation and reduction of further risk to the complainant. Factors when considering a move include; likelihood of further harassment, proximity of respondent to claimant and the likelihood of interference with witnesses which would affect the integrity of the investigation.
- 15.8.10 The investigating officer will prepare a report. It should be noted that, in some cases, there will be no witnesses and they will need to consider whether, on the basis of the statements made by the complainant and the alleged perpetrator alone, and on the balance of probabilities, the conduct complained of occurred. They may recommend:
- That the allegation has not been substantiated, and that no action should be taken.
 - That the allegation has not been substantiated, but that the parties should be encouraged to participate in activity designed to seek to resolve on-going differences between them, e.g. mediation.
 - That the allegation has been substantiated, but that it is not considered appropriate to initiate the formal disciplinary procedure.
 - That the allegation has been substantiated, and that a formal disciplinary hearing should be initiated.

15.8.11 During the course of the investigation, the Investigating Officer may come across areas of concern which is beyond the remit of their investigation. In this case, they should write an addendum report detailing their concerns and recommendation for remedial action.

15.8.12 The report is sent to the relevant Assistant Director/Executive Director to review. If they decide that an allegation has been substantiated, but that the formal disciplinary procedure should not be initiated, then they could recommend:

- Guidance, counselling, or training for the individual(s) responsible,
- Voluntary transfer of either party (the complainant to be offered prior choice), without detriment to current terms and conditions of employment.
- Compulsory transfer of the person(s) responsible, without detriment to current terms and conditions of employment.

15.8.13 Both the complainant and respondent will receive a written summary of the Investigating Officer's conclusions at the completion of the process.

15.8.14 If the complaint is substantiated managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person against you or others.

16 Disciplinary Action

16.1 If there is evidence that harassment has taken place, and the Assistant Director or Executive Director judges that disciplinary action is appropriate, they will appoint an appropriate senior manager to conduct a disciplinary hearing under the disciplinary procedure. This will be a manager other than the Investigating Officer. The complaint should be heard as quickly as possible.

16.2 As the matter has been fully investigated under the Anti-Bullying & Anti-Harassment Procedure, it will not be necessary to conduct an investigation under the Disciplinary Procedure. If this proceeds to a formal hearing, if found blameworthy, the perpetrator will receive a sanction as outlined in the Disciplinary Procedure. They will also have the right to representation and appeal as specified in the Disciplinary Procedure.

16.3 Where the Executive Director or Assistant Director judges that harassment has occurred, but formal disciplinary action is not warranted, other action such as guidance, counselling, training or voluntary transfer without invoking the Disciplinary Procedure may be recommended.

16.4 Where the disciplinary action taken against the perpetrator is anything other than dismissal, it may be necessary to relocate or transfer one party to an alternative work location. It is the harasser who should be transferred not the person who has been harassed. However, the complainant should be given a prior choice as to whether they wish to be transferred instead.

17 Further harassment

- 17.1 Every effort should be made to prevent further harassment. If the complainant feels further harassed as a result of submitting their complaint, they must advise the Investigation Officer.

18 Transfer

- 18.1 If a complaint is not upheld, consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party. In those cases, the person against whom the complaint was lodged should be given first choice as to whether they want to be transferred.

19 Appeal

- 19.1 The complainant and alleged perpetrator will have the right of an appeal against the decision.
- 19.2 The appeal will need to be set out in writing and the Head of HR & OD within ten working days of receipt of the conclusions of the investigation.

Process:

- a. The purpose of the appeal will be to consider:
 - Whether the correct process and procedure has been followed,
 - Whether any new evidence has come to light which would have materially affected the outcome, and
 - Whether there is any way in which the decision could be found to be inherently unfair.
 - b. A manager, who has not previously been involved in the investigation will be appointed to hear the appeal. They will examine the evidence and conduct any further investigation required.
 - c. A face to face or Teams meeting with the complainant must be offered. Employees have the right to be accompanied by a Trade Union representative or workplace colleague.
 - d. The manager will provide a final decision (which is not subject to further appeal) and will have the authority to either uphold or overturn the decision.
 - e. The manager will communicate the decision in writing to both the complainant and respondent. The communication will include a statement on whether the appeal has been upheld and will outline the remedies required within 10 working days of receipt of the appeal. Where this cannot be achieved, the manager will write to advise the relevant parties accordingly.
- 19.3 Where formal disciplinary action is taken, the right of appeal for the alleged perpetrator will be under the disciplinary procedure and not the procedure set out above.

20 Counselling

- 20.1 It may be appropriate, depending on the circumstances of the situation that arrangements are made for counselling for the complainant and respondent through the Employee Assistance Programme provider.

21 Confidentiality

- 21.1 Subject to the requirement of this process, everything said, or referred to, during investigation interviews should be treated in confidence. All parties will not discuss, or share, information from such interviews with any other party as this could prejudice the outcome.

Appendices 1

Tamworth Borough Council Complaint of Bullying or Harassment Anti-Bullying and Anti-Harassment Policy

Name	
Job Title	
Location	
Contact Number	
Trade Union Support? If yes, please supply name	
Please record your definition of the type of harassment experience e.g. sexual, racial	
Name of alleged perpetrator	
Details of the Harassment experienced:	
Were there any witnesses? If yes, please give details.	
Date(s) or length of time you have experienced this.	

Have you taken any action yourself? Yes/No. If yes, please give further detail.

**Have you spoken to or raised your concerns with anyone within the Council?
Yes/No. If yes, please give details**

Please email this form to your line manager marked Private and Confidential

Inappropriate behaviour v Good Management

Inappropriate Behaviour	Good Management Practice
Using abusive, sarcastic or patronising language, intimidating behaviour, shouting or unwanted physical contact.	Treating everyone with respect and in a calm, polite and professional manner.
Passing judgement on an employee's performance without giving them a chance to explain, answer or discuss.	Discussing performance issues, giving the employee a chance to answer/respond.
Public humiliation.	Discussing performance issues in a private location (e.g. in an office).
Issuing warnings via text, email or voicemail.	Allowing time for proper discussion (i.e. not "a quick chat on the way out of the door"). Issuing warnings in accordance with the appropriate procedures and only after a face-to-face meeting.
Unnecessarily copying in senior management to emails criticising performance. Discussing an employee's poor performance with others (without justification).	Maintaining appropriate confidentiality.
Inconsistency – singling out individual employees for criticism. Setting targets not in line with other team members. Excluding employees from meetings which they have a reasonable expectation of attending.	Treating all team members equally. That the standards are for the role and conduct is in line with council policies.
Not giving the employee a reasonable time to improve.	Setting realistic targets and time for improvement.
Making unfair comparisons with others. Withholding support at times of necessity.	Accepting that some employees might need more training/support than others.
Ignoring an individual or 'freezing them out'	Explaining/clarifying expectations so that employees are clear as to what is expected of them. Offering supportive management/coaching.
Setting demeaning or trivial tasks. Overburdening an individual or imposition of work that is not necessary. Refusing to clarify objectives or constantly changing targets in order to "set someone up to fail"	Ensuring employee is aware of what is expected of them and reviewing performance against set objectives.
Setting unrealistic tasks/targets.	Setting reasonable (and if possible) agreed targets and timescales with the employee.
Not taking account of mitigating circumstances.	Exploring with the employee any personal or health problems that might be affecting performance.
Ignoring or failing to investigate the possibility that the failure to perform	Making sure the employee is provided with adequate support, supervision and training.

<p>might be caused by factors outside the employee's control.</p>	
<p>Contacting employees on holiday/sick leave/non-working days with work that could be dealt with on their return.</p>	<p>Ensuring that there is appropriate cover to deal with employee absences. Having a system in place so that absent employees are only contacted for genuine emergencies.</p>
<p>Threatening disciplinary action for trivial or fabricated incidents. Making threats about job security without foundation.</p>	<p>Only make use of the disciplinary procedure in cases where there is a genuine belief of behaviour that would warrant disciplinary action.</p> <p>Only referring to dismissal as the final step in a properly conducted performance; disciplinary; absence; redundancy or change management procedure.</p>



Part 1 – Details		
What Policy/ Procedure/ Strategy/Project/Service is being assessed?	Anti-bullying and Anti-harassment policy	
Date Conducted	January 2023	
Name of Lead Officer and Service Area	Jackie Noble HR	
Commissioning Team (if applicable)	N/A	
Director Responsible for project/service area	Anica Goodwin	
Who are the main stakeholders	Employees	
Describe what consultation has been undertaken. Who was involved and what was the outcome	CMT TULG Members	
Outline the wider research that has taken place (E.G. commissioners, partners, other providers etc)		
What are you assessing? Indicate with an 'x' which applies	A decision to review or change a service	<input type="checkbox"/>
	A Strategy/Policy/Procedure	<input checked="" type="checkbox"/>
	A function, service or project	<input type="checkbox"/>
What kind of assessment is it? Indicate with an 'x' which applies	New	<input checked="" type="checkbox"/>
	Existing	<input type="checkbox"/>
	Being reviewed	<input type="checkbox"/>
	Being reviewed as a result of budget constraints / End of Contract	<input type="checkbox"/>

Part 2 – Summary of Assessment

Give a summary of your proposal and set out the aims/ objectives/ purposes/ and outcomes of the area you are impact assessing.

To provide guidance on how to report and investigate allegations of bullying, harassment and victimisation

Who will be affected and how?

All employees - This policy provides guidance for of support.

Are there any other functions, policies or services linked to this impact assessment?

Yes No

If you answered 'Yes', please indicate what they are?

All employees

Code of Conduct

Disciplinary

Equality Scheme

Harassment Assault and Threat (HAT)

Part 3 – Impact on the Community

Thinking about each of the Areas below, does or could the Policy function, or service have a direct impact on them?

Impact Area	Yes	No	Reason (provide brief explanation)
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of age
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of disability and explicitly references reasonable adjustments
Gender Reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of gender reassignment
Marriage & Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of marital status
Pregnancy & Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of pregnancy and maternity
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of race
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of religion or belief and explicitly references adjustments for religious observance
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sexual

			orientation
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sex
Gypsy/Travelling Community	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment
Those with Caring/Dependent responsibilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of those with caring responsibilities
Those having an offending past	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies consistent and fair treatment irrespective of sex
Children	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Vulnerable Adults	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Families	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those who are homeless	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those on low income	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Drug or Alcohol problems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Mental Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Those with Physical Health issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not a factor
Other (Please Detail)	<input type="checkbox"/>	<input type="checkbox"/>	

Part 4 – Risk Assessment

From evidence given from previous question, please detail what measures or changes will be put in place to mitigate adverse implications

Impact Area	Details of the Impact	Action to reduce risk

Part 5 - Action Plan and Review

Detail in the plan below, actions that you have identified in your CIA, which will eliminate discrimination, advance equality of opportunity and/or foster good relations.

If you are unable to eliminate or reduce negative impact on any of the impact areas, you should explain why

Impact (positive or negative) identified	Action	Person(s) responsible	Target date	Required outcome

Date of Review (If applicable)

This page is intentionally left blank