



*James Ellis*

Head of Legal and Democratic Services

**MEETING** : LOCAL JOINT PANEL  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 30 OCTOBER 2024  
**TIME** : 12.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE**

Jackie Bruce (Chair)  
E Buckmaster, A Daar, J Dumont, D Hollebon, S Forde, H Marsh and  
J Morris

**CONTACT OFFICER: MEETING CONTACT**

**Michele Aves**

[michele.aves@eastherts.gov.uk](mailto:michele.aves@eastherts.gov.uk)

**01279 502177**

## **AGENDA**

1. Apologies

To receive apologies for absence.

2. Minutes - 31 July 2024 (Pages 3 - 8)

To confirm the Minutes of the meeting held on 31 July 2024.

3. Chairman's Announcements

4. Declarations of Interest

To receive any Members' Declarations of Interest.

5. Reports by Secretary to the Employer's Side

(A) Bullying and Harassment Policy Update\_(Pages 9 - 32)

6. Reports by Secretary to the Staff Side

There are no reports from the Staff Side.

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE  
LOCAL JOINT PANEL HELD IN THE  
COUNCIL CHAMBER, WALLFIELDS,  
HERTFORD ON WEDNESDAY 31 JULY  
2024, AT 12.00 PM

---

PRESENT: J Bruce (Chair)  
Councillors E Buckmaster, A Daar,  
J Dumont, S Forde and J Morris

OFFICERS IN ATTENDANCE:

Michele Aves	- Committee Support Officer
Alex Wanless	- Service Manager (Human Resources and Organisational Development)

111 APOLOGIES

There were apologies for absence from Hilary Marsh and Councillor D Hollebon. Jordan Morris was substituting for Hilary Marsh.

112 MINUTES - 21 MAY 2024

It was moved by Councillor Daar and seconded by Councillor Dumont that the minutes of the meeting of the Local Joint Panel held on 21 May 2024 be confirmed as a correct record and signed by the Chair. After being put to the meeting and a vote taken, the motion was declared CARRIED. It was noted that Councillor E Buckmaster and Jordan Morris abstained from the vote.

**RESOLVED** – that the minutes of the meetings of the Local Joint Panel held on 21 May 2024 be confirmed as a correct record and signed by the Chair.

### 113 CHAIR'S ANNOUNCEMENTS

The Chair welcomed all to the meeting and reminded participants to use their microphones when speaking. She said that Paul Stevens, who was a valued member of the Panel and of Unison, had recently passed away. She said that her thoughts were with Paul's family and friends at this sad time.

The Chair introduced Jordan Morris, who was substituting at the meeting for Hilary Marsh, and said that he would be a permanent Panel member going forward following Paul Stevens' passing.

The Chair apologised for the supplementary agenda which contained a revised version of the BEAM Volunteering Policy. She explained that this was due to the correction of errors and formatting which were unable to be made by the publication deadline.

### 114 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 115 REPORTS BY THE EMPLOYER'S SIDE

There were no reports from the Employer's Side

### 115 BEAM VOLUNTEERING POLICY

The Human Resources and Organisational Development Manager introduced the report. He said that the BEAM Volunteering Policy was approved at the meeting of the Human Resources Committee on 5 June 2024, but Members had raised concerns which had required further consideration by the BEAM management team.

The Human Resources and Organisational Development Manager said that the issues and questions raised by the Members of the Human Resources Committee had now

been consulted upon, with the inclusion of Unison. He said that it was important that the language used within the policy referred to volunteers and not employees, and he welcomed any further comments or questions from the Panel.

Councillor E Buckmaster said that he had read the minutes from the Panel's previous meeting, and the revised policy. He said that as the portfolio holder for the previous administration he understood the importance of volunteers for BEAM, and the fine line between a volunteer and an employee. He asked if more tweaks to the policy would be made as the new facility opened.

The Human Resources and Organisational Development Manager said that as the reopening of the facility was in its infancy, further changes to the policy would have to be made. He said that BEAM now had a similar number of volunteers as before it's rebuild, with interviews and Disclosure and Barring Service (DBS) checks having taken place.

The Human Resources and Organisational Development Manager said that the next phase was to engage casual workers at BEAM.

Councillor E Buckmaster asked how casual workers were differentiated from volunteers.

The Human Resources and Organisational Development Manager said that casual workers were generally technicians who would go through a recruitment process and be paid, thus giving a clear line.

Jackie Bruce said that casual staff would be those workers who had a technical skill, i.e., light riggers, who were not required by BEAM on a full-time basis to do their specific job.

Jackie Bruce said that the Human Resources Committee had questioned why BEAM was not engaging volunteers

under eighteen years of age. She said that work had since been carried out with six formers from local schools and drama clubs, and that potentially this could happen next year. She said that any such change would be brought back to the Panel/ Human Resources Committee.

Sharon Forde said that it was good practice for volunteers to never be out of pocket, i.e., with travel expenses, parking fees and lunch if they worked over a certain time. She said that if such expenses were not paid this could exclude certain people, adding that volunteering could help the unemployed back into work.

The Human Resources and Organisational Development Manager said that volunteers' expenses had been explored and discussed with Unison. He said that it was a difficult area, which did raise tax implications.

Councillor Daar said that she had worked as a volunteer manager, and that it was not possible to give regular lunches or lunch vouchers to volunteers. She said that travel and car parking fees could be reimbursed, and referenced paragraph 16.0 of the policy which detailed recognition and benefits for BEAM volunteers.

Jackie Bruce said that paragraph 16.0 did allude to the payment of expenses, which could be developed further.

The Human Resources and Organisational Development Manager said that volunteering was a good social mobility tool, but the payment of expenses would have financial implications. He said that he would go back to the operations team with the Panel's feedback.

Councillor Dumont said that more thought and work was needed to form an expenses policy, which was both compliant with HM Revenue and Customs (HMRC) and which set out the procedure for claiming. He added that 'benefits' were normally taxable.

Councillor Dumont asked to what degree the recent

changes to employment law would impact the Council.

The Human Resources and Organisational Development Manager said that the changes announced in the July King's Speech would affect many of Human Resources' policies, with work within the team to prioritise the most urgent and educate managers. He said that the Panel was likely to be busy as a consequence of these changes.

Councillor E Buckmaster said that it was important that volunteers received training and asked for clarification regarding the online training mentioned within the policy.

The Human Resources and Organisational Development Manager said that discussions around volunteers having access to the Council's e-learning platform were ongoing. He said that volunteer inductions would be held at BEAM itself, and that the Council's Health and Safety Officer was very proactive, supporting hands on training were role appropriate.

It was moved by Councillor E Buckmaster and seconded by Councillor Daar, that the recommendations, as detailed, be approved. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the updated BEAM Volunteering Policy be recommended to the Human Resources Committee for approval.

116 REPORTS BY THE STAFF SIDE

There were no reports from the Staff Side.

117 URGENT BUSINESS

There were no urgent items.

The meeting closed at 12.23 pm

Chairman .....
Date .....



## East Herts Council Report

### Local Joint Panel

**Date of meeting: Wednesday 30 October 2024**

**Report by:** Joseph Dumont– Executive Member for Corporate Services

**Report title:** Bullying and Harassment Policy Update

**Ward(s) affected:**

### Summary –

The Bullying and Harassment policy was reviewed in October 2024 to include provisions from the Worker Protection Act (2024). An amendment to the existing Equality Act 2010 Section 40A turns the duty to safeguard against sexual harassment in the workplace into an active provision and expands the duty to protect against third parties. This report explains the amendments to the policy and includes the council's action plan to ensure the provision is proactively working to protect staff.

### **RECOMMENDATIONS FOR The Local Joint Panel to:**

- a) Recommend the Human Resources Committee, to approve the updated Bullying and Harassment Policy.
- b) Recommend the Human Resources Committee to approve the action plan.

### **1.0 Proposal(s)**

- 1.1 The proposals are set out in the recommendations below.

### **1.0 Background**

- 1.1. From 26th October 2024, the Worker Protection Act (2024). An amendment to the existing Equality Act 2010 Section 40A comes into effect, requiring all employers to take proactive measures to safeguard against sexual harassment. The Council believes this active provision can be extended to all harassment to

cover the protected characteristics outlined in the Equality Act 2010 and provide a safe working environment for all staff.

- 1.2. The council has included reasonable steps identified that HR and the Services in the council will implement. This hasn't been detailed exhaustively in the policy to allow the agility to respond to issues and feedback. Outside of this report to respond to the change in legislation, the council will report on statistics and action plans in the Equalities report delivered to the HR Committee annually.

### **3.0 Reason(s)**

- 3.1 Section 12 has been included in the policy to cover the new duty and ensure the council actively reviews the provision.

## **12.0 “Reasonable Prevention of Harassment.**

**12.1** East Herts Council is committed to eliminating discrimination based on sex, marital status, sexual orientation, race, colour, nationality, gender reassignment, creed or religious belief, ethnic or national origins, age and disability. It is every staff member's right to work without fear of harassment or victimisation. October 2024's The Worker Protection Act (2024), an amendment to the existing Equality Act 2010 Section 40A, introduces a proactive provision against sexual harassment, and East Herts Council is committed to adding to and strengthening its existing prevention provision.

**12.2** As a proactive measure, East Herts Council will commit to reviewing its provision annually to ensure that it is fit for purpose. The Council will actively work with feedback and suggestions from the Union and staff to improve the provision. Action plans and reporting figures will be included in Human Resources' annual report to the Human Resourcing Committee in the Annual Equalities Report. Due to the new duty, this will specifically highlight sexual harassment, but all types of harassment data is included in the report.

**12.3** The council's provision to actively prevent sexual and other types of harassment, as per The Equality Act 2010, will include, but is not limited to:

- Mandatory staff training and mandatory manager training on the Annual Training calendar and eLearning system.
  - Training for elected members.
  - Ensuring appropriate reporting routes are maintained.
  - Support via Employee Assistance is available.
  - Conducting internal and external risk assessments for "Third-party."
- 3.2 Implementing additional operational action plans based on risk assessments for high-risk environments where staff have prolonged contact with the public and/or contractors.
- 3.3 The following actions have been identified and will be implemented in Q3-Q4-Q1.
- 3.3.1 Mandatory staff training and manager training on the Annual Training calendar and eLearning system. The training calendar is in development, and managers' training will be included in the HR sessions on ER issues. eLearning for staff has been secured on the current system, and HR recommends that this be mandatory and reported upon. HR will discuss with communications to ensure the anti-harassment stance is communicated to staff regularly, along with reporting lines for those with concerns.
- 3.3.2 Training for Elected Members. Democratic Services should provide training and information with support from HR. EELGA is currently developing an offer for Members.
- 3.3.3 Ensure appropriate reporting routes are maintained. We will review the current reporting routes and ensure fresh and on going communication is included in staff communications. Consider and develop confidential and independent reporting methods.
- 3.3.4 Conducting internal and external risk assessments for "Third-party." H&S Advisor will work with the head of

service and service managers to complete risk assessments.

3.3.5 Implementing additional operational action plans based on risk assessments for high-risk environments where staff have prolonged contact with the public and contractors. We have identified our customer service desks at Wallfields, outdoor lone working officers, BEAM and hostels as the highest risk. Those high-risk areas will agree on action plans and implement proactive measures.

3.3.6 Examples of measures are as follows:

- Ensuring adequate lighting
- Signage to communicate to the public and contractors that harassment isn't tolerated and placed at contact points and prominent areas of buildings.
- Information is included in external communications to communicate that harassment isn't tolerated and in email signatures when communicating with the public and external contractors.
- Continuously review lone working arrangements and listen to staff feedback and concerns to improve.
- Include questions about safety and harassment risks in staff voice/engagement surveys to look for trends.
- Include anti-harassment stance inside refreshed Culture and Values work within East Herts Together Group.
- Communications and managers should brief staff prior to staff activities such as Christmas events and staff drinks to remind them of their duty and expectations and reduce risk from other staff and third parties.

## **4.0 Options**

4.1 N/A

## **5.0 Risks**

5.1 This is a statutory update to employment law, and the employment tribunal has enhanced powers, and the EHRC will have powers to implement fines and sanctions.

5.2 Third-party duty is a “grey area” in law and is yet to be tested in court; legal advice is to be wide-reaching and cautious. Service managers must ensure they consider all aspects of their team’s work when completing risk assessments.

## **6.0 Implications/Consultations**

6.1

### **Community Safety**

Yes

Third-party accountability on the employer's part means that the community is a contributing factor. Ensuring safety at community contact points is important to show active provision.

### **Data Protection**

Yes

Harassment reporting and claims for victim and accused are private and personal data and will be processed confidentially. Continuing to ensure that reporting to HRC must be sufficiently anonymised to avoid the potential of identification and confidentially, and trust in those in the reporting must have high integrity.

### **Equalities**

Yes

This is an amendment to the Equality Act 2010 Section 40A. It is based on equitable behaviours. The new law specifically targets sexual

harassment due to recent cases in the media and the #Metoo movement. The council implements the duty with due regard to the new law but maintains that no harassment is tolerated, regardless of category.

### **Environmental Sustainability**

No

No direct impact

### **Financial**

Yes

There is moderate financial risk from fines and tribunal costs increasing. Some costs will occur to communicate and train staff on the duty and standards required.

### **Health and Safety**

Yes

This Law supports the provision of a safe working environment for all staff.

### **Human Resources**

Yes

As in the report above. Outlines service actions and support and monitoring are required from HR.

### **Human Rights**

Yes

Ensures fundamental human rights are supported and that our staff feel safe and secure at work.

### **Legal**

Yes

Update to The Equality Act 2010 Section 40A and will have statutory powers to fine and sanction. HR have attended an employment law update from an Employment Lawyer to gain advice and best practise.

### **Specific Wards**

No

### **7.0 Background papers, appendices and other relevant material**

7.1 Bullying and Harassment Policy included amendments highlighted in yellow for consideration and comment.

### **Contact Member**

Joseph Dumont

Executive Member for Corporate Services

[joseph.dumont@eastherts.gov.uk](mailto:joseph.dumont@eastherts.gov.uk)

### **Contact Officer**

Alex Wanless, Service Manager (Human Resources and Organisational Development)

[alex.wanless@eastherts.gov.uk](mailto:alex.wanless@eastherts.gov.uk)

### **Report Author**

Alex Wanless, Service Manager (Human Resources and Organisational Development)

[alex.wanless@eastherts.gov.uk](mailto:alex.wanless@eastherts.gov.uk)



## **EAST HERTS COUNCIL**

# **Bullying and Harassment Policy**

---

## **Policy Statement**

Policy Statement No. 17

February 2021 (issue 4)

Updated: October 2024 (issue 5)



## Contents

EAST HERTS COUNCIL .....	1
Policy Statement .....	1
1.0 Introduction .....	3
2.0 PURPOSE AND SCOPE .....	3
3.0 HARASSMENT & BULLYING – DEFINITIONS AND FORMS.....	4
3.1 Harassment.....	4
3.2 Bullying .....	5
3.3 Forms of Harassment and Bullying .....	5
4.0 GENERAL PRINCIPLES .....	7
5.0 RESPONSIBILITIES UNDER THE POLICY.....	8
6.0 MAKING A COMPLAINT .....	9
7.0 INFORMAL PROCEDURE .....	10
8.0 FORMAL PROCEDURE .....	12
9.0 HARASSMENT/BULLYING BY CONTRACTORS, AGENCY STAFF, SERVICE USERS OR OTHER GROUPS .....	14
10.0 HARASSMENT/BULLYING BY ELECTED MEMBERS.....	16
11.0 APPEALS TO STAGE 2 GRIEVANCES FROM THIS PROCEDURE .....	17
12.0 REVIEW .....	17
12.1 This procedure will be reviewed if there are any changes in legislation or best practice requiring amendments to be made. ....	17

## **1.0 Introduction**

- 1.1 East Herts Council is committed to the elimination of discrimination on the grounds of sex, marital status, sexual orientation, race, colour, nationality, gender reassignment, creed or religious belief, ethnic or national origins, age and disability. It is the right of every member of staff to work without fear of harassment or victimisation. The council recognises the problems associated with bullying and harassment and is committed to providing an environment in which all individuals can operate effectively, confidently and competently.
- 1.2 We welcome the support of staff in seeking to eradicate harassment and bullying in the workplace, or outside work if it has a bearing on the working relationship.
- 1.3 Where unacceptable behaviour occurs within the scope of this policy, appropriate disciplinary action will be taken which may include dismissal. The council treats serious cases of harassment or bullying as gross misconduct.
- 1.4 This procedure does not form part of any individual employee's contract of employment with East Herts Council

## **2.0 PURPOSE AND SCOPE**

- 2.1 The purpose of this policy & procedure is to provide a procedure under which staff who consider they are victims of harassment or bullying can seek action which is non-threatening to them and quickly ends the problem. It is intended to give confidence to those who might be afraid to seek a solution to the problem due to fear of reprisal or ridicule and to put into practical application the council's firm commitment to the elimination of harassment and bullying.
- 2.2 This policy is a specialised version of the councils Grievance Policy. Any formal actions to investigate an employee's complaint taken within the scope of this Procedure will count as grievances,

grievance hearings and grievance decisions.

2.3 This procedure will not cover circumstances where an employee has been dismissed under the Councils Disciplinary Procedure, in which case the Disciplinary (Appeals) Procedure will apply.

2.4 This policy applies to all employees except for Chief Officer level or any other nominated statutory posts. For these postholders the principals will apply, however reference should be made to the separate nationally agreed terms and conditions, for policy and procedural guidance.

2.5 This policy was reviewed in October 2024 to include active provisions from the Worker Protection Act (2024). An amendment to the existing Equality Act 2010 Section 40A aims to protect against sexual harassment of East Herts Council Staff.

### **3.0 HARASSMENT & BULLYING – DEFINITIONS AND FORMS**

#### **3.1 Harassment**

3.1.1 The current definition of harassment as set out in the Equality Act 2010 is 'unwanted conduct or sexual conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual and because of rejection or submission to the conduct the individual is treated less favourably than they would have been treated if they had not rejected or submitted to the conduct.

3.1.2 The protected characteristics are; age, disability, gender reassignment, race, religion, sex and sexual orientation.

3.1.3 In deciding whether conduct has the effect referred to in the definition the following must be taken into consideration:

- (a) the perception of the individual
- (b) the circumstances of the case
- (c) whether it is reasonable for the conduct to have that effect.

3.1.4 The scope has been extended to include harassment based on association or perception and by a third party.

3.1.5 The essential characteristic of harassment is that the action(s) is unwanted by the recipient.

## **3.2 Bullying**

3.2.1 Bullying is not specifically defined in law, however ACAS gives the following definition:

'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'.

3.2.2 Bullying is often inextricably linked to the areas of harassment described above.

## **3.3 Forms of Harassment and Bullying**

3.3.1 Harassment and bullying can range from extremes such as violence, to less obvious forms such as ignoring or excluding someone. Forms include:

- Inappropriate and unwelcome physical contact
- Abusive, aggressive, threatening or insulting words and behaviour.
- Derogatory remarks or offensive language.
- Insensitive jokes or pranks.
- Gossip or slander.
- Spreading malicious rumours or making malicious allegations.
- Displaying or circulating or distributing offensive writing or literature or pictures or computer imagery.
- Posters, graffiti, badges, or other symbolic displays of offensive material.
- Requests for sexual favours.

- Speculation or innuendo about a person's private life and sexual activities.
- Obscene gestures.
- Unwelcome or unauthorised use of mobile phones to take pictures or video films or record conversations without agreement.
- Pressure to participate in political/religious groups.
- Isolation or non-cooperation.
- Exclusion from conversations or work or social activities.
- Criticising individuals unreasonably in front of others.
- Constantly devaluing effort and/or achievement.
- Blaming individuals for mistakes that are not their fault.
- Setting employees up to fail, for instance by setting unreasonable deadlines, changing work objectives without consultation, or withholding information necessary for the individual to do their job.
- Substituting responsible tasks with menial or trivial ones without justifiable cause.

This list is not exhaustive, actions could be in person or online and the actions in question must be viewed in terms of the offence or distress they cause the individual and the degree to which the offence caused is apparent to a reasonable person.

3.3.2 A professional management conversation concerning performance or behaviour where legitimate and constructive criticism is made (or a reasonable request/instruction given) may be difficult for an employee to hear (and therefore unwanted) but does not constitute bullying behaviour providing such criticism or instruction is legitimate/reasonable.

3.3.3 Harassment and bullying can occur between any two parties, and may be directed by one or more individuals towards one or more individuals. A person may be harassed even if they were not the intended "target". They can be perpetrated by people at any level of the organisation against people at any other level - or at the same level - within the staffing structure.

## **4.0 GENERAL PRINCIPLES**

- 4.1 If a complaint is brought to the attention of management, it will be investigated promptly and appropriate action taken. All employees involved in an investigation are expected to respect the need for confidentiality.
- 4.2 Measures will be taken to ensure that employees are protected against victimisation for making or being involved in a complaint. Any action taken against an employee for complaining about harassment or bullying (except where the complaint is found to be false and malicious) will be investigated as a potential disciplinary offence.
- 4.3 Where an employee makes a formal complaint under Section 8 of this procedure, the employee should be kept informed in general terms (usually by the investigating manager) of any decisions or actions taken, and/or any proposed future action with an indication of timescales.
- 4.4 Any allegations/complaints found to be false and malicious may result in disciplinary action being taken against the complainant.

## **5.0 RESPONSIBILITIES UNDER THE POLICY**

- 5.1 Every East Herts Council employee is responsible for their own conduct within the terms of this policy. The aim of the policy is to protect employees from harassment and bullying and to enable them, if necessary, to make a complaint or assist in an investigation without fear of reprisal. The responsibility for ensuring that this is achieved lies with the complainant themselves, the line manager and colleagues.
- 5.2 The complainant: We acknowledge that people who are harassed or bullied often feel vulnerable and isolated and believe it is best not to complain as their complaints will not be taken seriously. East Herts Council will treat all complaints very seriously and we would strongly encourage anyone in this situation to take active

measures to stop the bullying or harassment by using the informal and/or formal procedures set out below.

5.3 The manager: All East Herts managers have a duty to establish and maintain a working environment free from harassment and bullying and to challenge incidents when they occur. Any manager who receives a complaint of harassment or bullying, or is witness to such behaviour, must investigate the complaint or incident and ensure that the problem is resolved as quickly as possible. They may be able to intervene informally (with the consent of the victim) to resolve the problem, or where this is likely to be inadequate or inappropriate they may need to take measures to invoke action - or support the victim in taking action - under the formal procedure set out in Section 8 below.

5.4 Colleagues: All employees must comply with this policy and take steps to ensure that bullying and harassment does not occur. This includes not colluding in or ignoring harassment or bullying behaviour directed at others, and challenging it (or drawing it to the attention of an appropriate manager) if you think it is taking place. Any employee who receives a complaint of harassment or bullying must respect the confidentiality of both the complainant and the alleged perpetrator, and should encourage the complainant to consider using the informal and/or formal procedures set out below.

## **6.0 MAKING A COMPLAINT**

6.1 A member of staff who believes that s/he is being subject to harassment or bullying may, if they choose to, first use the informal procedures set out in Section 7 below. It is preferable for all concerned that complaints of harassment or bullying are dealt with informally wherever possible since the intention is to prevent the harassment or bullying. Informal action often enables quick,

practical solutions while preserving confidentiality and minimising embarrassment for the victim.

However, where the complainant feels that the informal procedure is inappropriate or likely to prove ineffective, they may use the formal procedure described in Section 8 below.

- 6.2 Any employee being subjected to or witnessing any incident(s) of harassment or bullying should keep a written record including the date, time, nature of incident(s), any correspondence relating to the incident(s), names of those involved and the names of any witnesses.
- 6.3 The Council's confidential [Employee Assistance Programme](#) is available to employees who feel they need such counselling support. Managers can refer employees if appropriate but it can also be accessed through self-referral and without approval from managers, Occupational Health or HR. The role of the counsellor is to provide support and assistance to the complainant during this stressful time. The role also extends to the alleged harasser, if requested. However, the same counsellor should not advise the alleged harasser. The counsellor has no role in formal investigations and neither are they a source of evidence in any proceedings, since all discussions between counsellor and employee are confidential.

## **7.0 INFORMAL PROCEDURE**

- 7.1 Some people are unaware that their behaviour in some circumstances could be viewed as harassing or bullying. If it is clearly pointed out to them that their behaviour is unacceptable, the problem can sometimes be resolved.
- 7.2 Employees that feel comfortable doing so should raise the matter informally with the alleged perpetrator, stating which aspect of their behaviour is offensive and unacceptable, the effect it is having on



them and making it clear that it should cease. This can be done either verbally or by means of a written communication, a copy of which they should keep.

7.3 If the employee feels unable to do this, or has tried this and it has failed, they should approach any of the following for confidential advice/support and be encouraged to take appropriate steps:

- Line manager or another manager or a member of Human Resources
- A EHC colleague
- Trade Union representative

The colleague or TU rep or Manager or HR Officer may accompany the employee to any discussion with the alleged perpetrator and facilitate a discussion to resolve matters.

7.4 HR should also be contacted (if they have not been by the complainant) to provide advice and support over the informal stage to ensure matters are treated consistently and support is provided to both parties.

## **8.0 FORMAL PROCEDURE**

8.1 A formal complaint can be made using East Herts Council formal Grievance Procedure. The employee should also copy their written grievance to the Head of Human Resources or, in their absence, the Human Resources Officer.

8.2 The formal procedure will apply where:

- Where the complainant feels that the informal stage is inappropriate or likely to prove ineffective.
- The informal procedure has proved ineffective and the complainant wishes to make a formal complaint.

- The nature of the allegation is serious enough to warrant formal action from the outset.
  - An allegation has been made by a “third party”, who witnessed an incident.
  - It becomes apparent during an informal stage to the manager supporting this stage that the matters are serious enough to warrant formal action.
- 8.3 HR will appoint an appropriate manager to investigate the complaint promptly and adequately. The manager will be supported by an HR Officer. Human Resources may appoint a note-taker in addition to an HR Officer to support the investigator. In certain cases, East Herts Council may appoint an independent and/or expert investigator from outside the organisation.
- 8.4 The complainant may request extra support from management during the time that any complaint is being investigated, which may include a request to work separately from the alleged perpetrator. In considering such requests, management will conduct a risk and reasonableness assessment before deciding on action designed to protect the employee from the risk of further harassment without unnecessary disruption to services.
- 8.5 Depending on the nature and severity of the allegations, the employee who is accused of harassment or bullying may be suspended on full pay whilst the circumstances of a serious complaint are being investigated, in accordance with the procedures for suspension set out in the council's Disciplinary Procedure.
- 8.6 Investigation will be conducted with the aim of establishing the facts of the case. Where the complainant or any witness is interviewed as part of the investigation, they will have the option of being accompanied by a trade union representative or a work colleague of their choice. The alleged perpetrator will have the same option.
- 8.7 The investigatory process shall include a formal grievance hearing with the complainant under the terms of the Council's Grievance Procedure (see Stage 6 of the Grievance Procedure).

- 8.8 All efforts should be made to conclude the investigation within 28 days of receiving the formal complaint. If this time limit is exceeded, the complainant should be advised of this and informed of a likely date when the investigation will end.
- 8.9 The investigator will prepare a report of the investigation. The investigator will conclude on the balance of probabilities whether the complaint should be upheld and referred to a disciplinary hearing or whether the perpetrator should be issued with an informal warning where there is only some substance or the misconduct only warrants an informal warning, or they may determine there is no case to answer.

Where the matter is referred to a Disciplinary hearing, any disciplinary action will be conducted in accordance with the council's disciplinary policy, with the additional specific provisions:

- The complainant, as well as the employee accused of harassment or bullying, will have the right to be accompanied at the hearing by a trade union representative or a work colleague.
- The severity of the disciplinary penalty imposed upon an employee found guilty of harassment will be consistent with those detailed in the disciplinary procedure (e.g. serious acts of harassment or bullying will normally result in summary dismissal). Where a lesser penalty is considered appropriate, this may be coupled with action to ensure that the victim is able to continue working without embarrassment or anxiety. This may include the transfer of the harasser to a different work area or department on a temporary or permanent basis, or the amendment of working practices to minimise contact between the two employees

## **9.0 HARASSMENT/BULLYING BY CONTRACTORS, AGENCY STAFF, SERVICE USERS OR OTHER GROUPS**

- 9.1 The Council has a responsibility under equality legislation to protect our staff from harassment by third parties (stakeholders

and other external contacts). The Council will take all reasonable actions in response to incidents of unacceptable behaviour towards employees. Management investigates reported incidents and takes appropriate action.

- 9.2 Employees have a duty to report incidents of harassment by people who are not East Herts Council employees. This should be done by advising their line manager of what happened and by completing an Incident Report Form on the intranet and returning it to the Health & Safety Officer. HR will also be informed of the incident to ensure that any support is provided to meet the employee's needs.
- 9.3 In such circumstances, the employee may first choose to follow the informal procedure set out in Section 7 above.
- 9.4 However, when the complainant feels that the informal procedure is inappropriate or likely to prove ineffective, they should make a formal complaint to their line manager in writing.
- 9.5 Upon receiving a formal complaint the line manager must inform his/her senior manager of the complaint, and investigate the complaint promptly and adequately. While the complaint is being investigated the line manager should instigate all reasonable measures (with the authority of the senior manager if necessary) to protect the employee from the risk of further harassment.
- 9.6 If after the investigation, the immediate line manager (and their line manager if relevant) are satisfied that harassment has occurred, it will be the responsibility of the senior manager to instigate appropriate action - within the council's legal and constitutional powers and operational/financial capacities - to prevent the perpetrator from further harassing the complainant or any other member of staff.

In some cases a warning to the perpetrator may be adjudged sufficient in the first instance, coupled with other practical action designed to protect the complainant from exposure to further acts of harassment. However, for serious cases, or where an initial warning has proved ineffective, such action may ultimately include:

- Denying further access to EHC by the visitor or agent of a contractor or consultant, or termination of the contract for services.

9.7 Whatever the initial or ultimate course of action decided upon in relation to the perpetrator, the line manager and the senior manager must, from the point of becoming aware of the harassment, take reasonable and appropriate action to prevent or minimise the potential for the complainant to be subjected to further acts of harassment.

## **10.0 HARASSMENT/BULLYING BY ELECTED MEMBERS**

10.1 Any dealing between Members and Officers should be conducted with mutual trust, respect and courtesy. Further guidance is available in the Council's Constitution and the Member/Officer Relations Protocol.

10.2 If an employee wishes to raise concerns about a member's behaviour towards them they should raise the complaint with the Monitoring Officer in accordance with the Constitution. This procedure will not apply in those circumstances and the matter will be managed by the Monitoring Officer (Head of Legal and Democratic Services).

10.3 Details of how to make such a complaint to the Monitoring Officer can be found here: <https://www.eastherts.gov.uk/councillors-committees/complaints-about-councillors>

## **11.0 APPEALS TO STAGE 2 GRIEVANCES FROM THIS PROCEDURE**

11.1 If the investigator decides that there is a disciplinary case to answer neither party will have a right of appeal against this decision. There is a separate right of appeal regarding a sanction against an employee following a disciplinary hearing. Please see Disciplinary Policy for further details.

11.2 If the manager decides that it is likely that there is some substance to the complaint/grievance but that the matter should be resolved

through informal means this will uphold the complaint and neither party will have a right to appeal against the decision.

- 11.3 If the manager decides that there is no case to answer, the complainant may appeal against the decision. Please see the Grievance Policy for further details.

## **12.0 Reasonable Prevention of Harassment.**

12.1 East Herts Council is committed to eliminating discrimination based on sex, marital status, sexual orientation, race, colour, nationality, gender reassignment, creed or religious belief, ethnic or national origins, age and disability. It is every staff member's right to work without fear of harassment or victimisation. October 2024's The Worker Protection Act (2024), an amendment to the existing Equality Act 2010 Section 40A, introduces a proactive provision against sexual harassment, and East Herts Council is committed to adding to and strengthening its existing prevention provision.

12.2 As a proactive measure, East Herts Council will commit to reviewing its provision annually to ensure that it is fit for purpose. The Council will actively work with feedback and suggestions from the Union and staff to improve the provision. Action plans and reporting figures will be included in Human Resources' annual report to the Human Resourcing Committee in the Annual Equalities Report. Due to the new duty, this will specifically highlight sexual harassment, but all types of harassment data is included in the report.

12.3 The council's provision to actively prevent sexual and other types of harassment, as per The Equality Act 2010, will include, but is not limited to:

- Mandatory staff training and mandatory manager training on the Annual Training calendar and eLearning system.
- Training for elected members.
- Ensuring appropriate reporting routes are maintained.
- Support via Employee Assistance is available.
- Conducting internal and external risk assessments for "Third-party."

- Implementing additional operational action plans based on risk assessments for high-risk environments where staff have prolonged contact with the public and/or contractors.

### **13.0 REVIEW**

12.4 This procedure will be reviewed if there are any changes in legislation or best practice requiring amendments to be made.

# Pathway for Dealing with Complaints of Bullying and Harassment

