



# WHITE COLNE PARISH COUNCIL

White Colne Village Hall, Bures Road, White Colne, CO6 2QA.

[www.whitecolneparishcouncil.gov.uk](http://www.whitecolneparishcouncil.gov.uk)

[clerk@whitecolneparishcouncil.gov.uk](mailto:clerk@whitecolneparishcouncil.gov.uk)

## Staff Recruitment & Employment Policy & Procedure

### 1. Introduction

- 1.1 This policy provides guidance to those involved in selecting staff for the Council.
- 1.2 The Council has made clear its commitment to equal opportunities for all by the adoption of an Equal Opportunities Statement (see Section 7).
- 1.3 All selection processes should take place within the framework laid down by this policy.
- 1.4 The council may, by resolution, choose to use an alternative approach, but must pay due regard to the procedures laid out in this Staff Recruitment Policy.
- 1.5 All those involved in selecting candidates for employment should be aware that legislation increasingly regulates employment behaviour. Failure to follow certain basic steps can lead to an aggrieved candidate referring a matter to an employment tribunal.

### 2. Aims

- 2.1 The key aims of the Council's recruitment policy are:
  - To maximise the effectiveness of the recruitment and selection process
  - To ensure the recruitment and selection processes are consistent, fair and transparent, and in accordance with legislation
  - To ensure the recruitment and selection processes are in accordance with the councils' Equal Opportunities Statement

### 3. Applications

- 3.1 The Council will provide a job description and person specification for each vacancy, and these documents will form the basis for the selection process. The Clerk will be responsible for ensuring these are reviewed and reflect the current responsibilities of the role.
- 3.2 The person specification will include a list of skills, experience and qualifications which are essential and/or desirable for the role. Candidates will be assessed and selected for interview against the person specification criteria.

- 3.3 The job description and person specification will be included in the recruitment pack, which will also provide details of working hours, pay scales and type and length of contract.
- 3.4 Vacancies will be advertised internally and externally, except where the Council are amending a temporary or fixed-term contract to a permanent position, where the existing post-holder (assuming their performance is satisfactory) may be offered the position prior to any other advertising.
- 3.5 The Council will consider the viability of part-time and/or job share candidates for each role, and will make clear in its advertisement if this will be considered.
- 3.6 The Council may use application forms for recruitment in respect of all staff, and may not accept CVs alone. All potential applicants should be directed to apply formally through the official contact named in the advertisement.

#### **4. Shortlisting**

- 4.1 The Council will agree a shortlisting panel to assess the applications. The composition of the panel will vary according to the type of post being filled.
- 4.2 Any Member with a personal connection to any of the candidates will be excluded from the entire selection process.
- 4.3 As soon as possible after the closing date for applications, the shortlisting panel will select candidates for interview by assessing the information in their application form against the job description and person specification.

#### **5. Interviews**

- 5.1 The Council will agree the composition of the interview panel, which will normally comprise the members of the shortlisting panel.
- 5.2 To ensure a consistent and fair approach, all candidates will be asked similar questions, with supplementary questions structured around each candidate to enable individuals to demonstrate their relevant skills and abilities. The questions will vary depending on the vacancy.
- 5.3 The interview panel must take every care to ensure they do not imply discrimination by asking questions about personal circumstances which are unrelated to the job. Such questions are contrary to the council's Equal Opportunities Statement.
- 5.4 Each member of the interview panel will take notes to support their assessment of the candidates' suitability of the role, and the panel may agree a scoring system to help objectively assess the candidates.
- 5.5 Once all of the candidates have been interviewed, the panel members should compare their notes and agree the most suitable candidate, ensuring their decision is based on the criteria in the job description and person specification.

## **6. Notification and Appointment**

- 6.1 Post interview arrangements are the responsibility of the Clerk, or where the vacancy is for the Clerk role, the Council Chairman.
- 6.2 Candidates should be notified as soon as possible of the outcome. A verbal offer of appointment may be made to the successful candidate, but must be formally confirmed in writing. The offer is conditional on obtaining satisfactory references and, where applicable, proof of eligibility to work in the UK and any copies of qualification certificates.
- 6.3 If unsatisfactory responses to references are received, the Council may reconsider the offer of appointment. If the offer is subsequently withdrawn, the Council may make an offer to one of the original unsuccessful candidates, or decide to begin the recruitment process again.

## **7. Equal Opportunities**

### **7.1 Our commitment**

- 7.1.1 The council is committed to providing equal opportunities in employment and to avoiding unlawful discrimination.
- 7.1.2 This policy is intended to assist the council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.
- 7.1.3 Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment.
- 7.1.4 White Colne Parish Council's Dignity at Work Policy is attached at Appendix i.

### **7.2 The law**

- 7.2.1 It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality, caste and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as "protected characteristics".
- 7.2.2 Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

### **7.3 Types of unlawful discrimination**

- 7.3.1 Direct discrimination is where a person is treated less favourably than another because of a protected characteristic.  
In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.
- 7.3.2 Indirect discrimination is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic such that it would be to the detriment of people who share that protected

characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

- 7.3.3 Harassment is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.
- 7.3.4 Associative discrimination is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic.
- 7.3.5 Perceptive discrimination is where an individual is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when they don't, in fact, have that protected characteristic.
- 7.3.6 Third-party harassment occurs where an employee is harassed and the harassment is related to a protected characteristic, by third parties.
- 7.3.7 Victimisation occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance under the Equality Act 2010, or because they are suspected of doing so. However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint.
- 7.3.8 Failure to make reasonable adjustments is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

#### **7.4 Equal opportunities in employment**

- 7.4.1 The council will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.
- 7.4.2 Recruitment  
Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.
- 7.4.3 Working practices  
The council will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done, when considering requests for variations to these standard working practices and will refuse such requests only if the council considers it has good reasons, unrelated to any protected characteristic, for doing so. The council will comply with its obligations in relation to statutory requests for contract variations. The council will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

#### **7.4.4 Equal opportunities monitoring**

The council will monitor the ethnic, sex/gender and age composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems that may be identified as a result of the monitoring process.

- 7.4.5 The council treats personal data collected for reviewing equality and diversity in accordance with the data protection policy. Information about how data is used and the basis for processing is provided in the council's privacy notices.

#### **7.5 Dignity at work**

- 7.5.1 The council has a separate Dignity at Work Policy (Appendix i) concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

#### **7.6 Training and prevention**

- 7.6.1 The council will raise awareness of equal opportunities to those likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.
- 7.6.2 The council will raise awareness with all staff engaged to work at the council to help them understand their rights and responsibilities under the dignity at work policy and what they can do to help create a working environment free of bullying and harassment.
- 7.6.3 We will take active steps to try to prevent third-party harassment of staff. If any third-party harassment of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. Action may include warning the harasser about their behaviour, banning them from our premises, reporting any criminal acts to the police, and sharing information with other local councils.

#### **7.7 Employee responsibilities**

- 7.7.1 Every employee is required to assist the council to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination. Employees can be held personally liable as well as, or instead of, the council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.
- 7.7.2 Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

#### **7.8 Grievances**

- 7.8.1 White Colne Parish Council's Grievance Policy is attached at Appendix ii.
- 7.8.2 If you consider that you may have been unlawfully discriminated against, you should use the council's grievance procedure to make a complaint. If your complaint involves bullying or harassment, the grievance procedure is modified as set out in the dignity at work policy.

- 7.8.3 The council will take any complaint seriously and will seek to resolve any grievance that it upholds. You will not be penalised for raising a grievance, even if your grievance is not upheld, unless your complaint is both untrue and made in bad faith.

## **7.9 Monitoring and review**

- 7.9.1 This policy will be monitored periodically by the council to judge its effectiveness and will be updated in accordance with changes in the law. In particular, the council will monitor the treatment and outcomes of any complaints of harassment, sexual harassment or victimisation we receive to ensure that they are properly investigated and resolved, those who report or act as witnesses are not victimised, repeat offenders are dealt with appropriately, cultural clashes are identified and resolved and workforce training is targeted where needed; the ethnic and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the council will implement them.
- 7.9.2 Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with relevant data protection legislation.

## **8. Staff training**

- 8.1 Employees of the council are fundamental in all areas of service delivery and development. It is essential that they are fully trained to carry out their duties as efficiently and effectively as possible.
- 8.2 Employees of the council will have an annual appraisal and training & development needs will be discussed. The annual appraisal will be used to highlight any training & development requirements.
- 8.3 The Clerk & Responsible Financial Officer is expected to be proficient in administering and discharging their duties, and may attend any training & development events aimed at furthering their understanding of legal and financial requirements, IT, the planning system, or any other areas identified.
- 8.4 White Colne Parish Council will give an annual budget to staff training & development, to include the purchasing of printed materials.

## **9. White Colne Parish Council Policies & Procedures**

- 9.1 Further Policies & Procedures regarding Staff Recruitment, and general employment practice:  
[Disciplinary Policy](#)  
Handling Aggression at Work Policy  
[Health & Safety Policy](#)  
Lone Working Policy  
Performance Management Policy  
Poor Performance & Improvement Policy  
[Privacy Policy](#)  
Sickness & Absence Policy  
Staff Expenses Policy  
Stress Management Policy

## Whistleblowing Policy

**Adopted: May 2025; Minute ref: 023/25**

**Next review: May 2026**



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## **DIGNITY AT WORK POLICY**

### **Introduction**

**White Colne Parish 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**

White Colne Parish Council is committed to creating a working environment where all council employees, councillors, contractors and others who come into contact with us in the course of our work, are treated with dignity, respect and courtesy. It aims to create a workplace where there is zero tolerance for harassment and bullying. 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,
- supports our employees in ensuring their behaviour does not amount to bullying and/or harassment by giving examples.

### **Scope**

This policy covers bullying and harassment of and by clerks/chief officers and all employees, volunteers and sub-contractors engaged to work at White Colne Parish Council. Should agency staff, or contractors have a complaint connected to their engagement with the Council, this should be raised to their nominated contact, manager, or the Chairperson of the Council, in the first instance. Should the complaint be about the Chairperson of the Council, the complaint should be raised to the Vice-Chairperson or Clerk to the Council.

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 employees 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 to not experience any form of discrimination. White Colne Parish Council will not tolerate bullying or harassment in our workplace or at work-related events outside of the workplace, whether the conduct is a one-off act or repeated course of conduct, and whether harm is intended or not. Neither will we 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.

We expect all representatives of the council to treat each other with respect and uphold the values of the code of conduct, equality opportunities policy, and all other policies and procedures set by the Council.

We expect you 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 the grievance policy 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 a serious effect on innocent individuals. Staff and others have a responsibility not to make false allegations. While we will assume that all complaints of bullying and harassment are made in good faith, in the event that allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under the council's disciplinary procedure.

### 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.

## **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.

Examples of bullying and harassment include:

- 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.

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). See the council's equality and diversity Policy.

All employees 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, which may include disciplinary action against anyone found to have victimised you.

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.

### **Reporting Concerns**

#### **What you should do if you feel you are being bullied or harassed by a member of the public or supplier (as opposed to a colleague)**

If you are being bullied or harassed by someone with whom you come into contact at work, please raise this with your nominated manager in the first instance or, with the clerk/or a councillor. Any such report will be taken seriously, and we will decide how best to deal with the situation, in consultation with you.

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

**councillor:** If you are being bullied or harassed by a councillor, please raise this with the clerk/chief officer or the chair of the council in the first instance. They will then decide how best to deal with the situation, in consultation with you. There are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of the Councillors Code of Conduct must be investigated by the Monitoring Officer.

The council will consider reasonable measures to protect your health and safety. Such measures may include a temporary change in duties or change of work location, not attending meetings with the person about whom the complaint has been made etc.

#### **What you should do if you witness an incident you believe to be harassment or**

**bullying:** If you witness such behaviour you should report the incident in confidence

to the clerk/chief officer or a councillor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

**What you should do if you are being bullied or harassed by another member of staff:** If you are being bullied or harassed by a colleague or contractor, there are two possible avenues for you, informal or formal. These are described below.

#### 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 clerk/chief officer, your nominated manager 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, or if you are being bullied by your own nominated manager, you should raise the issue with the chair of the council. (If your concern relates to the chair, you should raise it with the chair of the personnel/staffing committee). The chair (or another appropriate person) 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 member of the council staff
- such behaviour is contrary to our policy
- for employees, the continuation of such behaviour could amount to a serious disciplinary offence

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.

In certain circumstances we may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. The Chairperson (or another appropriate person) will discuss this with you if it is appropriate.

If your complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as extremely serious allegation or in cases where a problem has happened before) we may decide to investigate further and take more formal action notwithstanding that you raised the matter informally. We will consult with you before taking this step.

#### Raising a formal complaint

If informal resolution is unsuccessful or inappropriate, you can make a formal complaint about bullying and harassment through the council's grievance procedure. You should raise your complaint to the Clerk or the Chairperson of the council. A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

The Clerk or the Chairperson of the council will appoint someone to investigate your complaint in line with the grievance policy. You will need to co-operate with the investigation and provide the following details (if not already provided):

- 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 your name and the details of your grievance in order for the issue to be investigated properly. However, we will carry out the investigation as confidentially and sensitively as possible. Where you 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.

Where your complaint relates to potential breaches of the Councillors Code of Conduct, these will need to be investigated by the Monitoring Officer. The council will consider any adjustments to support you in your work and to manage the relationship with the councillor the allegations relate to, while the investigation proceeds.

Investigations will be carried out promptly (without unreasonable delay), sensitively and, as far as possible, confidentially. 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 panel will meet with you to consider the complaint and the findings of the investigation in accordance with the 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 panel 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 use of the Disciplinary Procedure**

If at any stage from the point at which a complaint is raised, we believe there is a case to answer and a disciplinary offence might have been committed, we will instigate our disciplinary procedure. We will keep you informed of the outcome.

***This is a non-contractual policy and procedure which will be reviewed from time to time.***

**Date of policy: November 2024**

**Date for next review: May 2026**

## Notes:

The examples of bullying and harassment are just that – examples. This should not be considered an exhaustive list.

## 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 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;

- 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 person's stomach.
- 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 employees 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.

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 121s to offer 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 it has a zero tolerance to bullying and harassment and remind them of the policy in place to address concerns. If the allegations mentioned are significant, the council may want to suggest that it will need to investigate further, even if a 'grievance' is not raised, so as to ensure that any concerns and risks are managed, and the council is meeting its responsibilities and duty of care as an employer.

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.

### **Scope**

All council representatives are expected to uphold the values of the Dignity at Work Policy, however this policy sets out how allegations from employees will be managed. As indicated in the policy, concerns from a contractor, agency worker etc. should be raised to the identified person, and an appropriate approach will be considered based on the situation and relationship of the complainant with the council.

Likewise, concerns raised about the behaviour of a contractor or agency worker would not generally be managed via the full process (such as the disciplinary process) but appropriate action would be considered based on the situation. To treat people (such as contractors, or a casual worker) engaged by the council the same

as an employee could blur the status of the employment relationship, so consider seeking professional advice if needed.

### **Managers**

Recognising that councils are of varying sizes, where the term manager/nominated manager is used it is recognised this could be the Clerk, another employee of the council, or a councillor depending on the situation. It is good practice to have a clearly identified person who is the responsible 'line manager' or equivalent contact for an employee so that there is clarity on how the employee should report concerns to, who they notify if they are sick or to request leave etc. More often for council employees this may be the Clerk, and for the Clerk officer this could be the Chairperson/Vice-Chairperson, or possibly an individual councillor.

### **Bullying and harassment & 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 in the workplace 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.

### **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.

Consider whether a neutral person should be offered as a 'listening ear' for both parties in the investigation. This could be a councillor or nominated manager who is not involved in the investigation or allegations and can be a point of check in as raising, or being subject to allegations can be stressful.

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. You should ensure that the grievance policy adopted adheres to any local policies and procedures, with consideration of any timescales and escalation routes in your locally adopted policy.

### **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. In some situations it may be appropriate to provide anonymised witness statements however this would be a last resort, and could compromise the fairness of the process. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought. For the same reason it can be difficult for a council to consider an anonymous complaint, however if the concerns are significant and compromise the council in their duty of care to employees, then consideration of how the deal with the matter may be required.

### **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.

### **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 (either by the complainant, or the Council with agreement of the complainant). 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. 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.



# WHITE COLNE PARISH COUNCIL

White Colne Village Hall, Bures Road, White Colne, CO6 2QA.

[www.whitecolneparishcouncil.gov.uk](http://www.whitecolneparishcouncil.gov.uk)

[clerk@whitecolneparishcouncil.gov.uk](mailto:clerk@whitecolneparishcouncil.gov.uk)

## GRIEVANCE POLICY

### Introduction

1. This policy is based on and complies with the 2015 ACAS Code of Practice (<http://www.acas.org.uk/index.aspx?articleid=2174>).
2. It also takes account of the ACAS guide on discipline and grievances at work. ([https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG\\_Guide\\_Feb\\_2019.pdf](https://www.acas.org.uk/media/1043/Discipline-and-grievances-at-work-The-Acas-guide/pdf/DG_Guide_Feb_2019.pdf)).
3. It also takes into account relevant law affecting Councils.
4. It aims to encourage and maintain good relationships between the Council and its employees by treating grievances seriously and resolving them as quickly as possible. It sets out the arrangements for employees to raise their concerns, problems or complaints about their employment with the Council. The policy will be applied fairly, consistently and in accordance with the Equality Act 2010.
5. Many problems can be raised and settled during the course of everyday working relationships. Employees should aim to settle most grievances informally with their line manager.
6. This policy confirms that:
  - employees have the right to be accompanied or represented at a grievance meeting or appeal by a companion who can be a workplace colleague, a trade union representative or a trade union official. This includes any meeting held with them to hear about, gather facts about, discuss, consider or resolve their grievance. The companion will be permitted to address the grievance/appeal meetings, to present the employee's case for their grievance/appeal and to confer with the employee. The companion cannot answer questions put to the employee, address the meeting against the employee's wishes or prevent the employee from explaining their case.
  - the Council will give employees reasonable notice of the date of the grievance/appeal meetings. Employees and their companions must make all reasonable efforts to attend. If the companion is not available for the proposed date of the meeting, the employee can request a postponement and can propose an alternative date that is within five working days of the original meeting date unless it is unreasonable not to propose a later date
  - any changes to specified time limits must be agreed by the employee and the Council
  - an employee has the right to appeal against the decision about their grievance. The appeal decision is final
  - information about an employee's grievance will be restricted to those involved in the grievance process. A record of the reason for the grievance, its outcome and action taken is confidential to the employee. The employee's grievance

records will be held by the Council in accordance with the General Data Protection Regulation (GDPR)

- audio or video recordings of the proceedings at any stage of the grievance procedure are prohibited, unless agreed by all affected parties as a reasonable adjustment that takes account of an employee's medical condition
- if an employee who is already subject to a disciplinary process raises a grievance, the grievance will normally be heard after completion of the disciplinary procedure
- if a grievance is not upheld, no disciplinary action will be taken against an employee if they raised the grievance in good faith
- the Council may consider mediation at any stage of the grievance procedure where appropriate, (for example where there have been communication breakdowns or allegations of bullying or harassment). Mediation is a dispute resolution process which requires the consent of affected parties
- Employees can only use all stages of the grievance procedure if the complaint is not a code of conduct complaint about a councillor. Employees can use the informal stage of the council's grievance procedure (paragraph 4) to deal with all grievance issues, including a complaint about a councillor. Employees cannot use the formal stages of the Council's grievance procedure for a code of conduct complaint about a councillor. If the complaint about the councillor is not resolved at the informal stage, the employee can contact the monitoring officer of Braintree District Council which will inform the employee whether or not the complaint can be dealt with under the code of conduct. If it does not concern the code of conduct, the employee can make a formal complaint under the Council's grievance procedure (see paragraph 5)
- the Council may engage external investigators, grievance or appeal panels for the purposes of the process.
- if the grievance is a code of conduct complaint against a councillor, the employee cannot proceed with it beyond the informal stage of the Council's grievance procedure. However, whatever the complaint, the Council has a duty of care to its employees. It must take all reasonable steps to ensure employees have a safe working environment, for example by undertaking risk assessments, by ensuring staff and councillors are properly trained and by protecting staff from bullying, harassment and all forms of discrimination
- if an employee considers that the grievance concerns their safety within the working environment, whether or not it also concerns a complaint against a councillor, the employee should raise these safety concerns with their line manager at the informal stage of the grievance procedure. The Council will consider whether it should take further action in this matter in accordance with any of its employment policies (for example its health and safety policy or its dignity at work policy) and in accordance with the code of conduct regime

### **Informal grievance procedure**

7. The Council and its employees benefit if grievances are resolved informally and as quickly as possible. As soon as a problem arises, the employee should raise it with their manager to see if an informal solution is possible. Both should try to resolve the matter at this stage. If the employee does not want to discuss the grievance with their manager (for example, because it concerns the manager), the employee should contact the Chairperson of the Council or, if appropriate,

another member of the Council. If the employee's complaint is about a councillor, it may be appropriate to involve that councillor at the informal stage. This will require both the employee's and the councillor's consent.

### **Formal grievance procedure**

8. If it is not possible to resolve the grievance informally and the employee's complaint is not one that should be dealt with as a code of conduct complaint (see above), the employee may submit a formal grievance. It should be submitted in writing to the Chairperson of the Council.
9. The Council will appoint a sub-committee of 3 members to hear the grievance in the event that the grievance is raised by or relates to the Clerk. Where the grievance is not raised by or relates to the Clerk, the Council may appoint the Clerk to hear the Grievance. The sub-committee will appoint a Chairperson from one of its members. No councillor with direct involvement in the matter shall be appointed to the sub-committee.

### **Investigation**

10. If the sub-committee decides that it is appropriate, (e.g. if the grievance is complex), it may appoint an investigator to carry out an investigation before the grievance meeting to establish the facts of the case. The investigator may be an appropriate employee, councillor or external party. The investigation may include interviews (e.g. the employee submitting the grievance, other employees, councillors or members of the public).
11. The investigator will summarise their findings (usually within an investigation report) and present their findings to the sub-committee.

### **Notification**

12. Within 14 calendar days of the Council receiving the employee's grievance (this may be longer if there is an investigation), the employee will normally be asked, in writing, to attend a grievance meeting. The written notification will include the following:
  - the names of its Chairperson and other members
  - the date, time and place for the meeting. The employee will be given reasonable notice of the meeting which will normally be within 35 calendar days of when the Council received the grievance
  - the employee's right to be accompanied by a workplace colleague, a trade union representative or a trade union official
  - a copy of the Council's grievance policy
  - confirmation that, if necessary, witnesses may attend (or submit witness statements) on the employee's behalf and that the employee should provide the names of their witnesses as soon as possible before the meeting
  - confirmation that the employee will provide the Council with any supporting evidence in advance of the meeting, usually with at least two days' notice
  - findings of the investigation if there has been an investigation

- an invitation for the employee to request any adjustments to be made for the hearing (for example where a person has a health condition).

### **The grievance meeting**

13. At the grievance meeting:
  - the Chairperson will introduce the members of the sub-committee to the employee
  - the employee (or companion) will set out the grievance and present the evidence
  - the Chairperson will ask the employee questions about the information presented and will want to understand what action do they want the Council to take
- any member of the sub-committee and the employee (or the companion) may question any witness
  - the employee (or companion) will have the opportunity to sum up the case
  - a grievance meeting may be adjourned to allow matters that were raised during the meeting to be investigated by the sub-committee.
14. The Chairperson will provide the employee with the sub-committee's decision, in writing, usually within 7 calendar days of the meeting though may be longer e.g. where further investigations are required. The letter will notify the employee of the action, if any, that the Council will take and of the employee's right to appeal.

### **The appeal**

15. If an employee decides that their grievance has not been satisfactorily resolved by the sub-committee, they may submit a written appeal to the staffing committee. An appeal must be received by the Council within 7 calendar days of the employee receiving the sub-committee's decision and must specify the grounds of appeal.
16. Appeals may be raised on a number of grounds, e.g.:
  - a failure by the Council to follow its grievance policy
  - the decision was not supported by the evidence
  - the action proposed by the sub-committee was inadequate/inappropriate
  - new evidence has come to light since the grievance meeting.
17. The appeal will be heard by a panel of 3 members of the Council who have not previously been involved in the case. There may be insufficient members of the Council who have not previously been involved. If so, the appeal panel will be a committee of three Council members which may include members of other parish councils, the District Council, or the County Council. The appeal panel will appoint a Chairperson from one of its members.
18. The employee will be notified, in writing, usually within 14 calendar days of receipt of the appeal of the time, date and place of the appeal meeting. The meeting will normally take place within 35 calendar days of the Council's receipt of the appeal. The employee will be advised that they may be accompanied by a workplace colleague, a trade union representative or a trade union official.
19. At the appeal meeting, the Chairperson will:

- introduce the panel members to the employee
  - explain the purpose of the meeting, which is to hear the employee's reasons for appealing against the decision of the sub-committee
  - explain the action that the appeal panel may take.
20. The employee (or companion) will be asked to explain the grounds of appeal.
  21. The Chairperson will inform the employee that they will receive the decision and the panel's reasons, in writing, and when they are likely to receive the letter. This may be within 14 calendar days of the appeal meeting, however will be longer where further investigations are required.
  22. The appeal panel may decide to uphold the decision of the sub-committee or substitute its own decision.
  23. The decision of the appeal panel is final.

**Date of policy: November 2024**

**Date for next review: May 2026**