

# Lancashire County Council

## Employment Committee

Monday, 12th October, 2020 at 10.00 am

### Virtual Meeting - Skype

#### Agenda

##### Part I (Open to Press and Public)

No.	Item	
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1.	<b>Apologies</b>	
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2.	<b>Disclosure of Pecuniary and Non-Pecuniary Interests</b>	
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Members are asked to consider any pecuniary and non-pecuniary interests they may have to disclose to the meeting in relation to matters under consideration on the agenda.

3.	<b>Minutes of the Meeting held on 7 September 2020</b>	(Pages 1 - 4)
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To be confirmed, and signed by the Chairman.

4.	<b>Revised Grievance and Harassment Policies and Procedures</b>	(Pages 5 - 20)
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5.	<b>Urgent Business</b>	
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An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any member's intention to raise a matter under this heading.

6.	<b>Date of Next Meeting</b>	
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The next meeting of the committee will be held on Monday 9 November 2020 at 2pm, by means of a virtual meeting.

L Sales  
Director of Corporate Services

County Hall  
Preston



## Lancashire County Council

### Employment Committee

#### Minutes of the Meeting held on Monday, 7th September, 2020 at 2.00 pm - Skype Virtual Meeting

#### Present:

County Councillor Keith Iddon (Chair)

#### County Councillors

A Atkinson

D O'Toole

L Beavers

A Vincent

T Martin

P Williamson (1)

(1) Replaced County Councillor Driver CBE for this meeting only.

#### 1. Apologies

Apologies were received from County Councillor A Ali.

#### 2. Disclosure of Pecuniary and Non-Pecuniary Interests

CC Iddon declared a non-pecuniary interest in item 13: Winter Maintenance - Revised Collective Agreement, as he is unpaid volunteer for the out of hours winter maintenance service.

#### 3. Constitution, Membership and Terms of Reference

The committee reviewed a report detailing the membership, chairmanship and committee terms of reference for the 2020/21 municipal year.

#### Resolved: That

- (i) The appointment of County Councillors G Driver CBE and K Iddon as Chair and Deputy Chair respectively of the Employment Committee for the 2020/21 municipal year be noted.
- (ii) The membership and terms of reference of the Employment Committee for the 2020/21 municipal year be noted.

#### 4. Minutes of the Meeting held on 6 July 2020

**Resolved:** That the minutes of the meeting held on 6 July 2020 be confirmed and would be signed by the Chair at a later date.

## **5. Delegation of Employment Committee Functions**

The committee considered a report from Deborah Barrow, Head of Service for Human Resources, regarding the need to continue to respond quickly to address any potential emerging Human Resource issues as a result of the Coronavirus pandemic.

**Resolved:** That:

- (i) The powers to determine the terms and conditions on which employees hold office (as set out in section B1 of the committee's terms of reference), be delegated to the Chief Executive and Director of Resources, or the Head of Service for Human Resources, in consultation with the Monitoring Officer, in situations where, due to the needs for a quick response, it would not be possible to bring such decisions to the Employment Committee.
- (ii) The delegation as set out above, be in place until 31 January 2021, unless otherwise reviewed.

## **6. Parental Bereavement Leave Policy and Procedure**

The committee considered a report from Deborah Barrow, Head of Service for Human Resources, regarding new Government regulations requiring employers to provide two weeks statutory parental bereavement leave and statutory parental bereavement pay. It was noted that the council policy allowed for employees to be paid at full pay for both weeks leave, with no minimum service criteria. This was above the statutory regulations that had been introduced.

**Resolved:** That the proposed Parental Bereavement Leave Policy and Procedure, as presented, be approved.

## **7. Urgent Decisions Taken by the Director of Corporate Services in Consultation with the Chair and Deputy Chair of the Committee**

Jaswant Johal, Principal Lawyer, Legal, Governance & Registrars reminded the committee that the following urgent decision had been taken since the last meeting, by the Director of Corporate Services, following consultation with the Chair and Deputy Chair of the committee, in accordance with Standing Order D15 (1):

- Variations to the Local Pensions Partnership's Pay Proposals.

The full report had been circulated to committee members on 19 August 2020.

## **8. Urgent Business**

None.

## **9. Date of Next Meeting**

It was noted that the next meeting of the committee would be held on Monday, 12 October 2020 at 10:00 a.m. by means of a virtual meeting.

## **10. Exclusion of Press and Public**

**Resolved:** That the press and members of the public be excluded from the meeting during consideration of the following items of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 12 A to the Local Government Act 1972.

It was considered that in all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

## **11. Lancashire Renewables Ltd Annual Pay Review, Terms & Conditions Alignment**

(Not for Publication – Exempt information as defined in Paragraphs 2, 3 and 4 of Part 1 of Schedule 12A to the Local Government Act, 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interests in disclosing the information).

Paul Brindle, General Manager Lancashire Renewables Limited presented a report setting out the annual pay review for Lancashire Renewables Ltd, changes to the terms and conditions of employment and the alignment of the company standard terms and conditions.

In response to a question it was clarified that an established methodology, agreed in 2013, was used to calculate the annual pay increase.

**Resolved:** That:

- (i) The pay proposal for Lancashire Renewables, as presented be agreed, with effect from 1 January 2020.
- (ii) The alignment of standard terms and conditions of employment, as presented, be agreed.

## **12. Lancashire Renewables Ltd, Permanent Headcount Increase, Waste Processing Strategy Trials**

(Not for Publication – Exempt information as defined in Paragraphs 3 and 4 of Part 1 of Schedule 12A to the Local Government Act, 1972. It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighed the public interests in disclosing the information).

**Resolved:** That the proposed increase in the permanent headcount of the company, as presented, be approved to enable the changes to operational activities to continue on a permanent basis.

CC Iddon left the meeting.

**13. Winter Maintenance - Revised Collective Agreement**

**Resolved:** That CC Atkinson be appointed as Chair for this item.

The committee considered a report from Deborah Barrow, Head of Service for Human Resources, regarding the collective agreement in place between the council's recognised Trade Unions and Lancashire County Council. The agreement sets out the terms and conditions of employment for those staff involved in the provision of out of hours winter maintenance services.

**Resolved:** That the revised Collective Agreement for the 2020/21, 2021/22, 202/23 winter season, as presented, be approved and reviewed annually.

L Sales  
Director of Corporate Services

County Hall  
Preston

## Employment Committee

Meeting to be held on Monday, 12 October 2020

Electoral Division affected: None;
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## Revised Grievance and Harassment Policies and Procedures

(Appendices A and B refer)

Contact for further information:

Deborah Barrow, (01772) 535805, Head of Service Human Resources,  
deborah.barrow@lancashire.gov.uk

### Executive Summary

The council's Grievance and Harassment Policies and Procedures have been reviewed as part of the Human Resources policy review programme. Revised drafts have been produced, which are modernised, streamlined, continue to be legally compliant and align with the council's improvement journey, culture and values.

### Recommendation

The committee is asked to approve the revised Grievance and Harassment Policies and Procedures, set out at Appendices A and B.

### Background and Advice

In July 2020, a report was presented to the Corporate Management Team to provide an update on the Human Resources policy review programme, its principles and priorities. A clear set of principles were established, to ensure that our Human Resources policies going forward are:

- Modernised – that they align to the values and priorities of the council.
- Straightforward – in terms of the tone and language used, and that clear steps and processes are set out within them.
- Take account of best practice – that through our networks and research that they are benchmarked against those of other high performing organisations.
- Take account of fairness and accountability – that they set expectations to both employees and managers.
- Legally compliant – that they comply with current employment regulations, along with Acas Codes of Practice and national conditions of service, where applicable.
- Embedded and impactful – that our policies and procedures are understood by all, applied where appropriate, and that managers are equipped to make judgements and decisions. Successful delivery of this will also support the development of the council's performance management culture.

The priorities for the Human Resources policy review programme cover three proposed groups, the first of which form what are considered to be the council's core Human Resources policies and procedures that are most used by our employees and managers. These core policies and procedures have clear impacts on overall performance management, productivity and behaviours within the workplace and have therefore been categorised within the first group of policies to be reviewed. Grievance and harassment are two of these core policies and procedures.

#### Revised Grievance Policy and Procedure (Appendix A)

The revised draft policy and procedure complies with the Acas Code of Practice on Disciplinary and Grievance Procedures, which sets out a "fair process" for all employers to follow where an employee raises a grievance.

Alongside a refresh of the language and tone used, the revised policy and procedure also:

- aims to promote the use of informal resolution wherever possible, which can lead to a much quicker resolution and more positive outcomes for everyone concerned;
- incorporates complaints of bullying, which would have previously been dealt with under the council's current Bullying and Harassment Procedure; and
- further clarifies when to and when not to follow the grievance process.

#### Revised Harassment Policy and Procedure (Appendix B)

The council's current Bullying and Harassment Procedure was designed to address all complaints of harassment and bullying within the council. However, the current policy requires an initial consideration from Corporate Human Resources to review all complaints and assess whether the complaint meets the definition of "harassment" or "bullying" and therefore whether it should be "registered" or not as an official complaint. In the case of bullying, this step can prove very contentious because bullying is subjective and one person's view on whether behaviours would amount to bullying can differ significantly to that of another.

The revised draft policy and procedure focuses solely on harassment, as defined by the Equality Act 2010, which is very specific. This change means that there should no longer be any dispute or room for interpretation on whether a complaint meets the official definition and whether it should be registered, because all complaints that meet the definition will be registered as standard. Where a complaint does not meet the definition, such as in a bullying complaint, it will be addressed via the council's revised Grievance Policy and Procedure.

Alongside a refresh of the language and tone used, the revised draft policy and procedure also:

- ensures that all complaints which meet the definition of harassment will be investigated in line with the council's Disciplinary Procedure. This demonstrates our commitment to taking any complaints of harassment within



the council very seriously and makes the process more straightforward for everyone involved; and

- further clarifies when to and when not to follow the harassment process.

### **Consultations**

The revised draft Grievance and Harassment Policies and Procedures have been shared with the recognised trade unions, through the Joint Negotiating and Consultative Forum, who have noted the proposed changes.

### **Implications:**

This item has the following implications, as indicated:

### **Risk management**

The council is legally required to ensure that its Grievance and Harassment Policies and Procedures comply with current employment legislation. Ensuring that the language and tone is clear, straightforward and understandable, should enable employees and managers to understand their responsibilities with regards to grievances and harassment complaints and that these can be resolved, without unreasonable delay, through the informal or formal processes.

### **Financial**

There are no financial implications to the revised policy and procedure.

### **Local Government (Access to Information) Act 1985**

#### **List of Background Papers**

Paper	Date	Contact/Tel
None		
Reason for inclusion in Part II, if appropriate		
N/A		



# Grievance Policy and Procedure

## Policy Statement

At Lancashire County Council, we strive to create a positive working environment, however we recognise that from time to time issues can occur within the workplace and you may wish to raise a concern or complaint. In these circumstances, we will work with you to address matters swiftly and in the most effective way possible. This is particularly important if you experience or witness any behaviours within the council which may amount to bullying.

The purpose of this policy is to ensure that all grievances are dealt with in a fair and consistent manner and at the earliest possible opportunity. Our intention is to try to resolve all work-related concerns in an informal setting through constructive dialogue, which can lead to a much quicker resolution and positive outcome for everyone concerned. Therefore, all employees and managers are expected to make every effort to resolve issues informally, without recourse to the formal process.

The procedure below explains how to raise a grievance.

## Scope

This policy applies to all council employees, excluding teaching and non-teaching employees in schools and employees who transferred to the council in accordance with TUPE regulations and who remain on their previous terms and conditions of employment.

## Definition

A grievance is defined as a concern, problem or complaint that an employee raises with their employer.

## Principles

We are committed to promoting a culture of open communication where concerns, problems or complaints can be raised without fear of victimisation or reprisal.

We expect all individuals to raise concerns, problems or complaints in good faith, with the aim of resolving matters informally and therefore restoring good working relations.

The grievance process is not a substitute for good day-to-day communication about workplace issues and it is important to recognise that it may not always be possible to resolve concerns or complaints to everyone's satisfaction.

## When to Use the Grievance Procedure

This procedure deals with any concerns, problems or complaints relating to employment matters and relationships at work, including allegations of bullying.

It can be used for individual grievances or collective grievances held by more than one employee about a particular issue concerning their employment.

## When Not to Use the Grievance Procedure

This procedure will not apply in the following circumstances:

- In relation to the content of a council policy or procedure.

- To submit a complaint about the outcome of an internal procedure that has its own appeal process, for example, the disciplinary procedure or redundancy procedure.
- To submit a complaint about harassment; this should be raised via the dedicated [harassment policy and procedure](#).

Normal management action would not ordinarily be a reason to raise a grievance and so if you have any concerns in relation to any action or decisions taken by your manager, you should discuss this directly with them.

### **Malicious Grievances**

The grievance procedure must not be used to raise complaints in a malicious manner, for example, complaints that are intended to cause distress to others or delay another process.

Inappropriate use of the procedure may result in disciplinary action being taken against the person who raised the complaint. However, no action will be taken if a complaint which proves to be unfounded is judged to have been made in good faith.

### **Repeat Grievances**

Grievances that have already been considered and responded to cannot be raised again under this or any other council policy or procedure.

### **Grievances after Employment has Ended**

Grievances will not be considered if they are received after you have left the council, but if you raise a grievance during your notice period, we will aim to deal with your complaint before your employment ends. If this is not possible, the council may in its absolute discretion make any relevant enquiries into your complaint in order to conclude the matter and provide you with a written response.

### **Timescales**

Tackling issues at an early stage is key to preventing them from becoming more serious problems and so it is important that you raise the matter with the appropriate person / manager at the time the incident occurs to allow it to be dealt with swiftly. Delaying reporting matters in order to collate a series or list of events in order to 'strengthen a claim' is not something we would advise or recommend, as it does not allow for the matter to be 'nipped in the bud'.

Grievances should be raised without unreasonable delay following the event or action that led to the complaint. We reserve the right not to pursue historic matters, i.e., grievances submitted more than 3 months after the incident(s) took place.

Every effort will be made to comply with the timescales outlined in this procedure, however it is recognised that on occasion these may need to be modified within a reasonable timeframe dependent on the nature of the complaint.

## **Grievance Procedure**

This procedure is intended to enable grievances to be resolved at the earliest opportunity and at the lowest appropriate supervisory level.

### **Allegations of Bullying**

Wherever a grievance involves allegations of bullying, the manager considering the matter must take advice from Corporate HR as soon as possible to agree how the allegations are handled.

## **Informal Process**

If you have a complaint, you should talk to your line manager in the first instance. If this is not appropriate because the complaint relates to your line manager, talk to the manager of your line manager. The manager will discuss the complaint with you, make any initial enquiries where appropriate and take steps to address it.

If your complaint relates to another council employee, you should try to approach them, either in person or in writing, to make clear that their behaviour / actions are unwelcome and should stop. You may wish to talk this through with a work colleague, manager or trade union representative in advance of your approach to the respondent, if that would help you to feel more comfortable. If you feel this would be too difficult, you may ask your manager, or another manager if this is more appropriate, to approach the other person on your behalf. Your manager can also help by facilitating a discussion or mediation for you and the other person, to assist in resolving the complaint and rebuilding working relationships.

All employees are expected to exhaust the informal stage of the policy, unless the nature of the complaint is so serious that the informal route would not be appropriate.

## **Formal Process**

If the informal process has been exhausted but is unsuccessful in resolving your complaint, you may submit a formal grievance in writing to your manager. If the grievance relates to your line manager, you should submit your grievance to the manager of your line manager.

In setting out the nature of your grievance, you should:

- be specific (i.e. explain what happened and when);
- be mindful of the language you use and stick to factual details;
- provide details of any witnesses and any relevant evidence to support your concerns, if applicable;
- state whether you have attempted to resolve the matter informally, and be aware that if you have not pursued the complaint via the informal process, you will be asked to do so; and
- explain what outcome you are looking for from this process and explain how you think the matter can be resolved.

Please be aware that if your grievance relates to another employee or manager within the council, we will need to share the details of the complaint with them and give them the opportunity to respond.

The manager considering the grievance will then invite you to a formal meeting; this is your opportunity to explain your grievance.

The meeting will be arranged without unreasonable delay; this will normally be within 10 working days from the date your grievance was received, however where this isn't practicable because of the complexity of the complaint or operational factors, the manager will notify you of the reason(s) for the delay and the expected timeframe.

Once a meeting has been scheduled, you must take all reasonable steps to attend. If your work colleague, trade union representative or official employed by a trade union is unavailable on the proposed date, you may suggest an alternative date within 5 working days of the original. If you do not attend the re-arranged meeting, a decision on your grievance may be made in your absence and the outcome will be confirmed in writing.

If necessary, the manager may adjourn the meeting to allow for further relevant information to be obtained in order for the manager to reach a decision on the outcome of your grievance. Where

this is the case, the manager will keep you updated on the progress of the enquiries and, if necessary, notify you of the reason(s) for any delay.

The manager will then notify you of their decision in writing without unreasonable delay, and where appropriate, set out what action they recommend or intend to take to resolve the grievance, as soon as reasonably practical.

## **Appeal Process**

If you raise a formal grievance, you have a right of appeal against the outcome on the grounds that the procedure was not followed correctly, relevant information was not considered or that the matter has not been satisfactorily resolved.

You must submit your grounds for appeal in writing to the manager named in the grievance decision letter within 5 working days of the date that you received the outcome. It is really important that you set out the grounds on which you are appealing so that the manager considering your appeal can prepare to address these at the appeal meeting.

The appeal will be conducted by a senior manager who has not been involved in the decision-making process previously.

The manager considering the appeal will then invite you to a meeting without unreasonable delay; this will normally be held within 20 working days of receipt of your appeal. If it is not possible to achieve this timeframe, this will be explained to you and the date will be confirmed.

The appeal meeting is your opportunity to talk through your grounds of appeal but it is not a re-hearing of the original meeting. The manager will consider evidence presented at the original meeting which is relevant to the grounds of appeal or any new information relating to your original grievance that could have had a bearing on the outcome but was not sourced at the time.

After the meeting, the manager will notify you in writing of their final decision without unreasonable delay. This decision is final and there will be no further right of appeal.

## **Other Procedural Matters**

### **Grievance Meetings**

Everyone involved in this procedure, whether you are the complainant or respondent, has the right to be accompanied at formal grievance meetings / appeals by a work colleague, trade union representative or an official employed by a trade union. The work colleague, trade union representative or official employed by a trade union can present your case and respond to any views expressed at the meeting on your behalf, but cannot answer questions on your behalf or prevent others from explaining their case.

We do not allow meetings to be recorded as this can cause attendees to feel uncomfortable and less willing to participate, but the manager hearing the complaint may either take summary notes at the meeting or arrange for a note taker to attend to summarise the key points of the discussion. Any notes taken by the manager or note taker will not be detailed minutes of the meeting, therefore if you wish to make your own notes during the meeting, you are welcome to do so.

### **Grievances and Other Procedures**

If you raise a grievance during the disciplinary procedure and the two matters are related, it may be appropriate for us to deal with both matters concurrently.

If you raise a counter complaint against someone who has raised a grievance against you, in most cases the two matters will be dealt with together within the original grievance; such complaints will not stop the original process.

## Confidentiality

It is important that all parties involved in these procedures maintain confidentiality when any issues, complaints or concerns are being considered in order to preserve the integrity of the process.

Statements, letters and other communications will be strictly confidential to those involved in the grievance procedure and records will be kept in accordance with data protection legislation. Any breaches in confidentiality may be treated as a misconduct issue in itself.

## Facilitated Discussions and Mediation

There are situations where a facilitated discussion or mediation may assist in rebuilding working relationships that have become strained. The aim of each intervention is for the parties to identify an agreement on how to resolve their dispute and to improve their working relationships for the future.

These interventions can be used at any stage of the procedure and will be facilitated or led by a neutral party not directly connected with the grievance. There is no right to be accompanied during these meetings.

Facilitated discussions and mediation are voluntary interventions that will only take place with the mutual agreement of the parties involved, however we hope all parties will recognise the benefits of seeking to resolve issues this way and we encourage the take up of these approaches wherever possible.

## Additional Support

We recognise that the grievance procedure can be stressful for all parties involved and we would encourage you to speak with your line manager in the first instance if you have any questions or concerns.

If at any point you feel worried or upset, please contact the Employee Support team on 01772 538333, who can provide an impartial listening ear and practical help to all employees who may have work-related or personal problems or concerns. Alternatively, you can contact your trade union, if you are a member.

You may also wish to reach out to the various support networks within the council, which include the [Disabled Workers Forum](#), the [Forum of Asian and Black Employees \(FABE\)](#) and the [LGBT Employee Network](#).

## Sickness Absence and the Grievance Process

Please be aware that if you are absent due to sickness during the grievance process, you must follow the normal sickness absence reporting procedure. It is in everyone's interest that concerns and complaints are resolved as quickly as possible and so the grievance process will continue while you are absent and we will update and engage with you as required. If you do not feel well enough to attend a meeting during this time, we will invite you to make a written submission for the manager hearing the grievance to consider.

## Policy Version Control

Version	Date	Change
1	October 2020	Requirement to exhaust informal process first, unless circumstances make this route inappropriate. Complaints of bullying to be raised and investigated under this procedure rather than under the bullying and harassment procedure that existed previously.

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Rewording of information about when not to use this procedure.  
Addition of scenarios where the council reserves the right not to pursue complaints.  
Revised timescales in line with Acas Code of Practice, reminding managers to act "without unreasonable delay".

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# Harassment Policy and Procedure

## Policy Statement

At Lancashire County Council, we believe everyone has the right to be treated with dignity and respect and we take a zero-tolerance approach to any form of harassment. Allegations of such behaviour will be taken very seriously and any employee who is found to have harassed a colleague will be subject to disciplinary action, up to and including dismissal.

The purpose of this policy is to empower employees to challenge and report instances of harassment in the knowledge that their concerns will be dealt with seriously. The policy applies to incidents that take place during and outside working hours, including during business trips, work-related social events and via social media, where an employee's actions adversely affect the council or have a bearing on any workplace relationship.

The procedure below explains how to raise a harassment complaint.

## Scope

This procedure applies to all council employees and workers excluding teaching and non-teaching employees in schools and employees who transferred to the council in accordance with TUPE regulations and who remain on their previous terms and conditions of employment.

## Definitions

"Harassment" is defined as unwanted conduct related to a protected characteristic under the [Equality Act 2010](#), that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Harassment may take the form of persistent behaviour or an isolated incident. There does not always have to be a deliberate intention to cause distress or hurt; it is the impact the behaviour has on the complainant that will be considered when investigating whether such behaviour has taken place.

The "complainant" is the term used to describe the person making the complaint.

The "respondent" refers to the alleged harasser.

## Principles

We are committed to promoting a culture of open communication where concerns and complaints can be raised without fear of victimisation or reprisal.

### When to Use the Harassment Procedure

This procedure deals with alleged incidents of harassment, as per the definition above.

You can complain about harassment even if the behaviour in question is not directed at you. This is because you do not actually need to possess the relevant protected characteristic yourself. You can therefore submit a complaint if you have:

- Experienced harassment because you are related to or associate with someone who possesses a relevant protected characteristic;

- Experienced harassment by a colleague who has the mistaken perception that you possess a relevant protected characteristic; or
- Witnessed harassment because of a protected characteristic and are upset by it.

### **When Not to Use the Harassment Procedure**

At Lancashire County Council, we take all allegations of harassment seriously, however we will only investigate complaints which raise a legitimate or genuine concern. This procedure will not apply in the following circumstances:

- Where the complaint does not meet the definition of harassment as set out above.
- To raise allegations of bullying, unless the incident(s) complained of specifically relates to the protected characteristics stated within the definition of harassment as set out above. Allegations of bullying which do not relate to protected characteristics should be raised via the [grievance policy and procedure](#).

### **Malicious Complaints**

The harassment procedure must not be used to raise complaints in a malicious manner, for example, complaints that are intended to cause distress to others or to delay another process.

Inappropriate use of the procedure may result in disciplinary action being taken against the person who raised the complaint. However, no action will be taken if a complaint which proves to be unfounded is judged to have been made in good faith.

### **Harassment as a Criminal Offence**

In some circumstances, harassment can be considered a criminal offence and anyone found guilty of such behaviour can be held personally accountable for their actions under criminal law.

Where the allegations in a complaint involve a potential criminal matter, we may need to contact the police. If the police become involved in a complaint, a review will be undertaken to determine when any internal council processes can commence at the same time as the police involvement.

### **Timescales**

Tackling issues at an early stage is key to preventing them from becoming more serious problems and so it is important that you raise the matter with the appropriate person / manager at the time the incident occurs to allow it be dealt with swiftly. Delaying reporting matters in order to collate a series or list of events in order to 'strengthen a claim' is not something we would advise or recommend, as it does not allow for the matter to be 'nipped in the bud'.

Complaints should be reported without unreasonable delay following the event or action that led to the complaint. We reserve the right not to pursue historic matters, i.e., where the complaint is submitted more than 3 months after the incident(s) took place.

Due to the nature of harassment allegations, it is difficult to set timescales for addressing complaints. However, wherever we are notified that harassment may have taken place, we will act as soon as reasonably practical and aim to resolve matters within a timely manner.

## **Harassment Procedure**

### **Responsibilities**

We all have a role to play in creating an environment where everyone is treated with dignity and respect, in line with the council's core values.

You should always be mindful of your own behaviour and how this may impact others, even if you are "only joking", and discourage harassment by making clear that you find such behaviour unacceptable. You should also intervene, where possible, if you witness harassment, then report any instances to management straight away and support the council in the investigation of complaints.

### **Informal Action**

We appreciate the thought of addressing harassment may be daunting, but wherever possible, you are encouraged to try to resolve problems informally in the first instance, as informal resolution can often help resolve matters quicker, minimise stress for those involved and enable relationships to be rebuilt more easily. It also gives the respondent the opportunity to re-assess their behaviour, as they might not even have set out to offend you or realise the impact of their words and / or actions on you.

In the first instance, you should approach the respondent, either in person or in writing to make clear that their behaviour is unwelcome and should stop. You may wish to talk this through with a work colleague, manager or trade union representative in advance of your approach to the respondent, if that would help you to feel more comfortable. If you feel this would be too difficult, you may ask your manager, or another manager if this is more appropriate, to approach the respondent on your behalf.

Your manager can also help by facilitating a discussion between you and the respondent or arranging mediation with an independent party to assist in rebuilding working relationships.

### **Formal Action**

It is hoped that most cases of alleged harassment will be resolved by the informal procedure outlined above. However, formal action may be considered where informal action proves ineffective, or where circumstances make this route inappropriate.

To raise a formal harassment complaint, you must complete a [harassment complaint form](#) and submit this to the Corporate HR Team without delay.

Please note that we reserve the right not to pursue complaints where;

- The matters complained of are already being considered under alternative procedures, for example the grievance or disciplinary procedures.
- We are prevented from assessing or investigating the matter because the employee has not provided any or enough information in order to do that.

Please be aware that if your complaint relates to another employee or manager within the council, we will need to share the details of the complaint with them and give them the opportunity to respond.

Corporate HR will review the form to check whether the harassment procedure is the right route for your complaint (i.e. whether the matter complained of meets the definition of harassment as set out in this policy) or whether it would be more appropriate for your complaint to be considered under the [Grievance Policy and Procedure](#). If this is the case, we will notify you and refer the matter to an appropriate manager within your service to consider.

Where the harassment procedure is the right process for your complaint, the matter will be referred to an appropriate manager within the respondent's service to commission an investigation into the matter in line with the council's [Disciplinary Policy and Procedure](#). The respondent will be notified of the allegation(s) of harassment and will be invited to give a statement as part of the investigation, along with any relevant witnesses to the matter.

In considering the findings of the investigation, if the manager believes that there is evidence that harassment has taken place or, on the balance of probability, harassment has taken place, the matter will be referred to a formal hearing under the disciplinary procedure. You will be invited to give a statement during the investigation and may be invited to participate in the disciplinary process as a witness, however due to confidentiality, we will be unable to inform you of the exact outcome of that process, but you will be advised when it has concluded.

## **Other Procedural Matters**

### **Meetings**

Everyone involved in this procedure, whether you are the complainant or respondent, has the right to be accompanied at any meetings convened under this procedure by a work colleague, trade union representative or an official employed by a trade union. Your work colleague, trade union representative or official employed by a trade union can present your case and respond to any views expressed at the meeting on your behalf, but cannot answer questions on your behalf or prevent others from explaining their case.

We do not allow meetings to be recorded as this can cause attendees to feel uncomfortable and less willing to participate, but the manager hearing the complaint will either take summary notes at the meeting or arrange for a note taker to attend to summarise the key points of the discussion. Notes taken by the manager or note taker will not be detailed minutes of the meeting, therefore if you wish to make your own notes during the meeting, you are welcome to do so.

### **Complaints about Multiple Individuals or Joint Complaints about an Individual**

If the complaint is against a number of employees, the individual respondents will only receive written notification of the complaints specific to themselves.

Where more than one complaint is submitted about the same individual under this procedure, the complaints will be jointly investigated.

### **Harassment by a Third Party**

Our expectations of standards of behaviour extend to third parties, therefore if you experience harassment during the course of your employment, you must notify your manager, who will liaise with Corporate HR for advice.

Where concerns relate to an individual who is not an employee of the council, for example, a member of the public or service user, the procedure will depend on the nature of the allegation and the relationship. Many incidents of unacceptable behaviour can be dealt with effectively in an informal manner using the same process as for internal complaints. However, serious or repeated incidents of unacceptable behaviour from non-employees towards employees will be taken very seriously and may lead to legal action, exclusion from services or other appropriate sanctions.

Where allegations are made against employees of other organisations, for example partnership organisations, an appropriate senior manager of that organisation should be informed. Such complaints will be dealt with through this process and the outcome of any investigation into the complaint will be given to the partnership organisation to take any necessary action against their employee.

If an employee from a partnership organisation raises a complaint against a council employee, this must be dealt with through the partnership organisation's own complaints process. We will cooperate with this process and then will take any necessary action against the employee on

receipt of the partnership organisation's completed investigation. We reserve the right to request further investigation is undertaken by the partnership organisation if it is deemed necessary.

## **Confidentiality**

It is important that all parties involved in these procedures maintain confidentiality when any issues, complaints or concerns are being considered in order to preserve the integrity of the process.

Statements, letters and other communications will be strictly confidential to those involved in the procedure and records will be kept in accordance with data protection legislation. Any breaches in confidentiality may be treated as a misconduct issue in itself.

## **Facilitated Discussions and Mediation**

There are situations where a facilitated discussion or mediation may assist in rebuilding working relationships that have become strained. The aim of each intervention is for the parties to identify an agreement on how to resolve their dispute and to improve their working relationships for the future.

These interventions can be used at any stage of the procedure and will be facilitated or led by a neutral party not directly connected with the complaint. There is no right to be accompanied during these meetings.

Facilitated discussions and mediation are voluntary interventions that will only take place with the mutual agreement of the parties involved, however we hope all parties will recognise the benefits of seeking to resolve issues this way and we encourage the take up of these approaches wherever possible.

## **Additional Support**

We recognise that this can be a very stressful process for all parties involved and we would encourage you to speak with your line manager in the first instance if you have any questions or concerns.

If at any point you feel worried or upset, please contact the Employee Support team on 01772 538333, who can provide an impartial listening ear and practical help to all employees who may have work related or personal problems or concerns. Alternatively, you can contact your trade union, if you are a member.

You may also wish to reach out to the various support networks within the council, which include the [Disabled Workers Forum](#), the [Forum of Asian and Black Employees \(FABE\)](#) and the [LGBT Employee Network](#).

## **Sickness Absence and the Harassment Process**

Please be aware that if you are absent due to sickness during the harassment complaint process, you must follow the normal sickness absence reporting procedure. It is in everyone's interest that concerns and complaints are resolved as quickly as possible and so the process will continue while you are absent and we will update and engage with you as required. If you do not feel well enough to attend a meeting during this time, we will invite you to make a written submission for the manager hearing the complaint to consider.

## Policy Version Control

Version	Date	Change
1	October 2020	Removal of bullying from this process. Removal of registration process New procedure for handling formal complaints; all complaints that meet the definition of harassment will be investigated in line with disciplinary procedure. Revised harassment complaint form for formal complaints. Rewording of information about raising complaints under different procedures.