



2017

SHAFTESBURY TOWN COUNCIL

Bullying & Harassment Policy



Draft

STC

28/02/2017

BULLYING & HARASSMENT POLICY

1 Policy Statement

1.1 Shaftesbury Town Council believes that all of its employees have the right to be treated with dignity and respect and that harassment and bullying is totally unacceptable. It will deal effectively with any form of harassment or bullying and take any steps it sees fit to either stop or prevent it.

2 Introduction

2.1 This policy should be read in conjunction with other Council policies and procedures such as: the Equal Opportunities Policy, Disciplinary Rules and Procedures, Grievance Procedure and the Elected Members Code of Conduct.

2.2 Employees are the Council's most valuable and important resource and it has a legal, moral and ethical duty to ensure that the environment in which they work enables them to contribute to their fullest potential and that they feel confident and comfortable about that working environment.

2.3 As well as considering the welfare of its employees, there is a strong business case for ensuring the elimination and prevention of harassment and bullying such as; the financial impact (e.g. cost of reduced performance), health and safety (e.g. physical and emotional effects on employees) and recruitment and retention (e.g. people will not wish to join us or to remain with us).

3 Scope of the Policy

3.1 This policy covers harassment and bullying by Officers and Members of the Council. It does not cover harassment and bullying from the public or contractors and in these cases employees should report any such behaviour to their manager who will take appropriate action depending upon the incident concerned.

4 Aims of the Policy

4.1 The information given below shows how harassment and bullying can affect both individuals and the Council and demonstrates the need for a policy. The aims of having a harassment and bullying policy are as follows:

- To ensure that all of the Council's employees are treated with dignity and respect;
- To ensure that harassment and bullying is prevented and, if it does occur, that action is taken to stop it;
- To ensure that the working environment is such that each employee feels confident and comfortable about the way they will be treated whilst at work;
- To ensure that all of the Council's employees know what harassment and bullying is and what the Council's policy is;
- To explain the responsibilities of Members, management and employees;
- To explain the procedures for dealing with harassment and bullying.

5 What is Harassment and Bullying?

5.1 Definitions

5.1.1 There are various definitions of harassment all of which are valid but there are two key questions which help to define 'Harassment?' they are, 'is the behaviour unwanted?' and 'does it undermine the dignity of the individual?' A definition of bullying is given below but harassment and bullying are closely linked and in fact, bullying itself is a sustained form of psychological harassment.

5.1.2 A general definition could be 'conduct which is unwanted and offensive and affects the dignity of an individual or group of individuals'.

a. Sexual Harassment

A definition of sexual harassment is 'unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of men and women at work'.

The following are examples of inappropriate behaviour:

- Physical - unwanted physical contact including unnecessary touching, patting, pinching or deliberately brushing against another employee's body.
- Verbal - unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome, offensive flirtations, suggestive remarks, innuendoes or lewd comments.
- Non verbal - the display of pornographic or sexually suggestive pictures, objects or written materials, leering, whistling, or making sexually suggestive gestures.
- Sex based conduct - that denigrates or ridicules or is intimidatory or physically abusive of an employee because of his/her sex, such as derogatory or degrading abuse or insults which are gender related and offensive comments about appearance or dress.

b. Racial Harassment

A definition of racial harassment is 'racially motivated actions and behaviour which are directed at people because of their race, colour, ethnic origin, cultural differences, creed and/or nationality and which are unwanted and/or cause offence and distress'.

As with sexual harassment described above, racial harassment can be expressed in a range of behaviours such as: physical or verbal conduct (e.g. assault, derogatory name calling, malicious comments, jokes, hostile attitudes), non verbal racist conduct (e.g. graffiti, display of racial insignia or material), damage to personal property, denial of opportunities and exclusion from social activities.

c. Harassment of Disabled People

Research shows that Society still views disabled people as 'victims' or 'sufferers' and this is a view which should be challenged. Any difficulties faced by disabled people are not due to their impairment but to society which fails to acknowledge their rights, access requirements and abilities.

Again, as with sexual and racial harassment described above, there are a range of behaviours which are unacceptable such as; staring and/or uninvited touching, exclusion from social events, speaking to others rather than to the disabled person directly, asking intimate questions about a person's impairment, making assumptions about disabled people (e.g. that they do not have a social, sexual or private life), physical abuse or intimidation, unreasonably questioning a disabled person's work capacity and/or ability by making inappropriate demands or requirements (e.g. over zealous scrutiny of sickness records), making assumptions about a person's impairment, jokes and mimicking the particular disability.

d. Intentional Harassment

Many forms of intentional harassment are potentially criminal offences (see legislation below) and a person may commit such an offence when they intentionally cause a person harassment, alarm or distress, where they use threatening, abusive or insulting language or behaviour or disorderly behaviour or display any writing, sign or other visible representation which is threatening, abusive or insulting causing that other person harassment, alarm or distress.

e. Bullying

It must be clearly understood that it is a manager's responsibility to set targets and review work performance. It is also the manager's role when individuals do not reach targets to ensure that corrective processes are put in place. These discussions are sometimes difficult for both parties but need to take place to ensure employees work competently. In this context bullying will only occur when a manager abuses his or her authority. Bullying can be defined as offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress.

Bullying behaviour can include:

- all forms of harassment;
- aggressive, insulting and unco-operative attitude;
- destructive innuendo and sarcasm;
- constant unjustified criticism, unjustifiably removing responsibilities, and replacing them with trivial tasks to do instead;
- shouting at employees;
- a manager insisting that his or her way of doing things is always right without discussion;

- unreasonable use of disciplinary/competence procedures;
- unreasonable refusal of requests (e.g. leave or training) ;
- deliberately ignoring or excluding individuals from activities;
- imposing unreasonable workloads and/or unjustifiably reducing deadlines;
- constantly undermining an employee in terms of their professional or personal standing;
- undervaluing an employees efforts;
- seeking to make a person appear incompetent, or intentionally creating an unacceptable working environment, with the object of either achieving a dismissal or of making them resign;
- making someone the butt of jokes;
- 'flame-mail' (i.e. aggressive e-mail) can also be a source of bullying;

It should be noted that bullying does not just occur in manager/subordinate relationships, it can occur when there is unacceptable peer pressure or pressure by others in a position of "authority" e.g. Members.

6. The Legal Framework

6.1 Having a harassment and bullying policy is not a question of being 'politically correct', there is a legal framework which supports having such a policy. Harassment and bullying are unlawful on a number of grounds and the key legislation is as follows:

Sex Discrimination Act 1975 and Race Relations Act 1976

Where there is a sexual or racial element to harassment or bullying, employees may be able to take their case to an Employment Tribunal.

Health and Safety at Work Act 1974

Under this Act employers are responsible for providing a healthy and safe working environment. Harassment and bullying undermines that and is included in the Health and Safety Executive's definition of violence. It is also clear that managing working relationships is important and bullying and harassment may cause stress. Failure to take action to prevent or deal with any known occurrences could amount to a breach of the Act.

Employment Rights Act 1996

An employee could take a case to an Employment Tribunal and complain of 'constructive dismissal' where they felt that they had to resign because they were being harassed or bullied and their employer was taking no action either to stop or prevent it.

Criminal Justice and Public Order Act 1994

As described under intentional harassment above, harassment of this nature is a criminal offence and, if found guilty, could lead to a fine and/or imprisonment.

Disability Discrimination Act 1995

It is unlawful to victimise disabled people who make use of, or try to make use of, their rights under the Act. People who help disabled people complain about discrimination are also protected.

7 Effects of Harassment and Bullying

7.1 There are two ways of looking at the effects of harassment and bullying, from the employer's point of view and from the employee's point of view. As mentioned above there is a strong business case for having this policy and the effects of harassment and bullying on the organisation could include; poor morale, low productivity, high absenteeism and increased staff turnover. However, the effects on individuals is of greater concern.

7.2 The effects of harassment and bullying on individuals are similar to those of stress and could include: isolation, anxiety, distress, depression, palpitations and panic attacks, headaches, nausea, ulcers, sleeplessness, skin rashes, irritable bowel syndrome, high blood pressure, and loss of self confidence.

8. Responsibilities

8.1 To be undertaken by all Managers.

Managers will have the following responsibilities:

- Compliance with the Policy;
- Creating/ensuring that there is a supportive working environment;
- Making sure that their employees know the details of this policy and ensuring compliance with it;
- Making sure that their employees know what standards of behaviour are expected of them;
- Taking allegations of harassment and/or bullying seriously and dealing with them as quickly as possible;
- Ensuring that recipients of harassment and/or bullying receive appropriate support which might include counselling, (note: consideration should be given as to whether the harasser/bully should be given access to counselling);
- Dealing with complaints under the Informal or Formal procedure (see below);
- Ensuring that matters are dealt with confidentially and impartially;
- Ensuring that their employees attend any training requirement;

- Liaising with the Head of Personnel on how to deal with cases that arise.

8.2 Employees

Employees will have the following responsibilities:

- Compliance with the policy;
- For treating their colleagues with dignity and respect;
- Having an awareness of their own standards of behaviour;
- Making it clear that they find harassment and bullying unacceptable;
- Reporting harassment and supporting management with the investigation of complaints;
- Intervening to stop harassment and/or bullying and give support to recipients.

8.3 Members

Members will have the following responsibilities:

- Compliance with the Policy
- Treating employees with dignity and respect

Those who are recipients of harassment and/or bullying

Those who consider that they are being harassed or bullied have the right to seek redress through either the informal or formal procedure. Only if the matter is brought to the attention of the harasser/bully or manager can action be taken to stop the behaviour.

9 Action - The procedure for dealing with harassment and/or bullying

9.1 The decision as to how any case of harassment and bullying should be pursued will, in the first instance, rest solely with the person being harassed or bullied. He/she must not feel pressurised to deal with the matter informally just because it might appear to be easier for Management to deal with. However, if the harassment or bullying is serious (e.g. alleged assault or rape) then the matter should be dealt with formally and will be reported to the Police since a criminal act may have taken place.

9.2 Whilst all types of harassment or bullying are serious, it has to be recognized that there are varying degrees of such behaviour. In order to help the recipient assess the seriousness of the problem and to help and guide them, there are a number of people within the Council who can act as a 'listener'. A 'listener' is a person you feel you can trust who is not directly involved in the issue, which could include your Line Manager, a member of the Management Team or a Member of the Council.

9.3 A 'listener' will operate in complete confidence and will know how to access specialised help. Alternatively, recipients may, if they prefer, contact their line manager, trade union representative or any colleague for advice and guidance.

9.4 Whatever the circumstances of the case, it is very important that a written record is kept of any incidents of harassment or bullying in case there is a need for subsequent action.

9.5 Informal Action

If it is possible and appropriate to do so, recipients should ask the person who is harassing or bullying them to stop such behaviour making it clear that it is offensive and unwelcome. This can be done face to face or in writing.

If the recipient feels that they cannot approach the harasser/bully themselves then this initial approach can be made by a friend, colleague, trade union representative or manager.

It is important that notes are kept of the incidents of harassment or bullying complained of and the harasser/bully's response.

It is possible that some people may not have realised that their behaviour was offensive and alerting them to it will alter their behaviour.

9.6 Formal Action

i. The formal procedure can be invoked if the recipient wishes and must be followed when the particular 'offence' is so serious, that criminal prosecution may result, or when informal procedures have failed to resolve the problem. The recipient must make a formal written complaint to his/her manager.

ii. At this stage the matter will be investigated as part of and under the Council's Grievance Policy and Disciplinary Rules and Procedures. An Investigating Officer who will not be the complainant's Line Manager, will thoroughly investigate the complaint which will involve gathering evidence, obtaining statements, interviewing the recipient and the alleged harasser/bully.

iii. The usual representation will apply to the alleged harasser/bully and the recipient can be supported throughout the process by a colleague or trade union representative.

iv. If, at the conclusion of the investigation, there is a case to answer, the case matter will be considered at a Disciplinary hearing. The recipient should be given feedback after the conclusion of the hearing. If it is decided after the investigation or the hearing that there is no case to answer, an explanation must be given to the recipient. It should be noted that the recipient does not have a formal right of

appeal or the right to raise a grievance against any decision affecting the harasser/bully following a disciplinary hearing or investigation.

v. If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral through the Standards process in place at the time reported as a contravention of the Member's Code of Conduct could be an appropriate measure. If an employee is experiencing bullying or harassment from a third party the council will act reasonably in upholding its duty of care towards its own employees. In extreme cases harassment can constitute a criminal offence and the council should take appropriate legal advice, often available from the council's insurer, if such a matter arises.

vi. If the recipient has made a malicious and unfounded complaint then this may constitute harassment in itself and be dealt with under the disciplinary procedure.

vii. If the matter involves a complaint against a Member, the Town Clerk must be informed and, following investigation, a report should be submitted to the Human Resources Committee.

viii. If the matter involves a complaint against the Town Clerk the Chairman of the Human Resources Committee will determine the most appropriate means of dealing properly with the complaint.

10. Counselling

If requested by either party (i.e. the recipient or harasser/bully), the Council will consider the provision of formal counselling.

11. Penalties

11.1 Employee: Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the council.

11.2 Councillor: If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral through the Standards process in place at the time reported as a contravention of the Member's Code of Conduct could be an appropriate measure. If an employee is experiencing bullying or harassment from a third party the council will act reasonably in upholding its duty of care towards its own employees. In extreme cases harassment can constitute a criminal offence and the council should take appropriate legal advice, often available from the council's insurer, if such a matter arises.

11.3 Disciplinary Action - Following a Grievance Hearing or investigation into allegations of bullying or harassment a full report will be made to all parties and this may result in disciplinary action being taken against the perpetrator of the alleged action/behaviour.

i. For an **Employee** found to have been bullying/harassing others this will follow the council's Disciplinary procedure under the ACAS Code of Practice and would normally be treated as Gross Misconduct.

ii. For **Members** who the council reasonably believe have been bullying or harassing another person(s) whilst undertaking council activities the range of sanctions available to the council, are limited and must be reasonable, proportionate and not intended to be punitive. In some cases counselling or training in appropriate skill areas e.g. inter-personal communication, assertiveness, chairmanship etc. may be more appropriate than a penalty. Sanctions may include; admonishment, issuing an apology or giving an undertaking not to repeat the behaviour, removal of opportunities to further harass/bully such as removal from a committee(s) where direct contact with the employee or decision-making about that employee will take place, or removing the right to representation on any outside bodies where there will be contact with the employee who has raised the complaint. A referral under the Code of Conduct to the relevant reviewing body is usually an appropriate step and there may be further disciplinary sanctions available as a result of the relevant Standards Committee reviewing the evidence under the Code in place at the time.

A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate or a claim to an Employment Tribunal for Third Party harassment (for harassment relating to one of the protected characteristics under the Equality Act) in the most extreme cases.

This list is not exhaustive.

iii. False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee/Member will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure or a referral to the Standards process.

12. Useful Contacts

- ACAS www.acas.org.uk tel: 0845 7 47 47 47
- Local Government Ombudsman for England www.lgo.org.uk 0300 061 0614
- Equalities and Human Rights Commission www.equalityhumanrights.com
- SLCC www.slcc.co.uk
- DirectGov website
www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_1_0026670
- DirectGov website www.GOV.uk

13. This policy was adopted by Shaftesbury Town Council on xxx xxx xxx
This policy was updated on xxx xxx xxx