



PORTISHEAD TOWN COUNCIL

DIGNITY AT WORK – BULLYING AND HARASSMENT POLICY

This policy applies to any acts of harassment or bullying in the work place and covers all employees and members of Portishead Town Council.

PURPOSE AND SCOPE

In support of our value to respect others Portishead Town Council is committed to ensuring that all employees and members work in a healthy and safe environment free from discrimination, intimidation and harassment. Harassment and bullying is totally unacceptable and the Council is committed to preventing and eradicating it in all of its forms. If necessary, it will provide education and training to staff and members to pursue these commitments. This policy reflects the spirit in which the Council intends to undertake all of its business and outlines the specific procedures available to all employees and members in order to protect them from bullying and harassment. It should be read in conjunction with the Council's policy on Grievance and Disciplinary procedures.

A copy of the policy will be issued to all employees as part of their induction and to all members of the Council.

AIMS OF THE POLICY

- To ensure that all of the Town Council's employees are treated with respect and dignity and that they feel confident in the way they will be treated whilst at work.
- To ensure that harassment and bullying is prevented, that any occurrence is treated seriously and appropriate action taken to prevent it.
- To make all employees and members aware of what constitutes bullying and harassment and what the Council's policy is.
- To ensure that employees and members are aware of their responsibilities in relation to bullying and harassment.
- To ensure that the procedures for dealing with bullying and harassment are known to all.

WHAT IS BULLYING AND HARASSMENT?

Bullying

Bullying is a misuse of power to intimidate somebody in a way which leaves them feeling hurt, vulnerable or powerless. It can also be defined as offensive, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of individuals, gradually eroding their confidence and capability, which may cause them to suffer stress.

Harassment

Harassment is unwanted and uninvited conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This policy covers, but is not limited to, harassment on the grounds of sex, marital status, sexual orientation, race, colour, nationality, ethnic origin, religion, belief, disability or age.

Bullying and Harassment are closely linked; bullying itself is a sustained form of psychological harassment.

Both bullying and harassment are behaviours which are unwanted by the recipient. Bullying and harassment in the workplace can lead to poor morale, low productivity and poor performance, sickness absence, lack of respect for others, high staff turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited compensation.

Unacceptable and inappropriate behaviour

Examples of unacceptable behaviour are as follows (this list is not exhaustive): unwelcome comments and gestures, spreading malicious rumours, insulting someone, ridiculing or demeaning someone, jokes of a derogatory nature, exclusion or victimisation, shunning of a particular employee, unfair treatment, overbearing supervision or other misuse of position of power, threatening or obscene behaviour, racial harassment, sexual harassment, unwanted physical contact, making threats about job security, deliberately undermining a competent worker by overloading work and/or constant criticism, preventing an individual's promotion or training opportunities.

PENALTIES

Bullying and harassment are considered examples of serious misconduct which will be dealt with, for employees, through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Council or for members, through referral to North Somerset Council's Standards Committee as a contravention of the members Code of Conduct which may result in penalties against the member concerned. In extreme cases harassment can constitute a criminal offence and the Council will take appropriate legal advice if this should arise.

LEGAL POSITION

The Council has a duty of care towards all its employees and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If the Council fails to act reasonably with regard to this duty of care by allowing bullying or harassment to continue unchallenged an employee may decide to resign and claim 'constructive dismissal' at an Employment Tribunal.

Under the Equality Act 2010 bullying or harassment related to one of the protected characteristics covered by the Act (age, gender, marital status, sexual orientation,

race, religion, belief, colour, disability) can be considered unlawful discrimination which could lead to an Employment Tribunal claim for discrimination against the corporate employer, the council and the perpetrator(s) as individuals named respondents.

In addition, the Criminal Justice and Public Order Act 1994 and Protection from Harassment Act 1997 created a criminal offence of harassment with a fine and/or prison sentence as a penalty and a right to damages for the victim. A harasser may be personally liable to pay damages if a victim complains to an Employment Tribunal on the grounds of discrimination. The 1997 Act was originally designed to assist in stalking situations but case law has demonstrated that it can be relevant to employment disputes, for instance; employers can be vicariously liable for harassment received in the workplace, that the conduct is viewed as 'serious', or 'oppressive and unacceptable', that a 'course of conduct' needs to be established but that this can link incidents which are separated by long time periods and that damages for personal injury and distress can be awarded under the Act.

PROCESS FOR DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT

Employee

If an employee feels they are being bullied or harassed they have two routes to deal with the situation – informal and formal.

Informal procedure

The choice of route in the first instance rests with the complainant; however it is advisable that where possible the informal route should initially be followed in an attempt to resolve the problem with the minimum of disruption and embarrassment to the complainant or alleged harasser. It is possible that an individual is unaware that their behaviour is causing offence; if this is the case the problem might be resolved without damage to working relationships.

If an employee feels that they are being bullied or harassed they should ask the person to stop and make it clear to them that their behaviour is unacceptable. It is advisable to keep a written note of what has happened. If an employee feels that they cannot approach the bully/harasser themselves then they should enlist the assistance of the Town Clerk and/or the Chairman of the Council and/or the Chairman of the Staffing & Finance Committee, as appropriate.

Formal Procedure

When the employee feels unable to resolve the matter informally the complaint about bullying or harassment should be raised formally with the Town Clerk and/or Chairman of the Council and/or the Chairman of the Staffing & Finance Committee, as appropriate. The complaint should be put in writing as this will enable the formal Grievance Procedure to be invoked.

A hearing panel to discuss the complaint with the complainant will normally be arranged within five working days of the written complaint being received and

will be held under the provisions of the Council's Grievance Procedure. This meeting will be to discuss the issues raised and to find a way forward for the member of staff involved. The procedures for the Hearing (stage 2) can be found in the Council's Protocol for Hearings. Employees have a right to be accompanied by a work colleague or trade union representative. A full investigation of the complaint will be carried out by a person appointed by the Chairman of the Staffing & Finance Committee; this could be either the Town Clerk or another councillor as appropriate. In some cases it may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality. The hearing panel will publish its recommendations following deliberation of the facts. An action plan should be made available to the complainant to demonstrate how the problem is to be resolved. This could include mediation through ACAS or counselling through the Occupational Health Service. The employee will have a right of appeal. The procedures for an Appeal Hearing (stage 3) can be found in the Council's Protocol for Hearings. At all times the confidentiality of the grievance will be of paramount importance in order to maintain trust in the process hence details of the full grievance will not be shared with the full council without prior approval of the complainant.

A reasonable delay in making a complaint will not prejudice the investigation. Bullying and harassment issues are often sensitive and the offended employee may have tried to cope without complaining, been reluctant to cause trouble for a colleague or been too embarrassed to speak about the matter sooner. No adverse conclusions should be drawn from the fact that the complainant has suffered in silence. However, the time lapse should not be unreasonably long.

This procedure is separate and distinct from either the Grievance or Disciplinary procedures.

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.

If an employee is found to have been bullying or harassing others the Council's Disciplinary Procedure will be invoked. Bullying or harassment will normally be treated as Gross Misconduct.

Members

If a member feels they are being bullied or harassed they should, in the first instance, follow the informal procedure outlined above, enlisting the assistance of their Group Leader or other colleague if appropriate. Where it has not been possible to resolve the matter informally, and where another member is directly involved in the bullying or harassment, it may be necessary to refer the complaint to the relevant reviewing body under the Code of Conduct in the case of Portishead this is North Somerset Council's Monitoring Officer/Standards Committee.

If the Council believe that a member has been bullying or harassing another person(s) whilst undertaking council activities the action taken must be reasonable and in some cases counselling or training in appropriate skill areas e.g. interpersonal communication, assertiveness, chairmanship etc may be more appropriate than a penalty. The range of disciplinary sanctions available to the council where a member has been involved in bullying and/or harassment include: admonishment and an undertaking not to repeat the process, removal of opportunities to further harass/bully, banning from committees of the council and representation on any outside bodies, referral to North Somerset Council's Monitoring Officer/Standards Committee by the council and/or the aggrieved victim. There may also be a referral to the Police in the most extreme cases. This list is not exhaustive.

If the complaint involves an employee of the Council, the Council's Disciplinary Procedure will be invoked (see Disciplinary Action above).

Other Provisions

The Council will ensure that once the process has been concluded and in any return to work, both the complainant and the alleged bully/harasser are not victimised and that other employees do not take sides.

False or Malicious allegations of bullying or harassment which damage the reputation of an employee or member will not be tolerated and will be considered as harassment itself. Such a matter will be dealt with as Serious Misconduct under the Disciplinary Procedure or referred to North Somerset Council's Monitoring Officer/Standards Committee, as appropriate.

Complaints about members of the public alleging harassment or bullying will be treated as sensitively as any other complaint and appropriate action will be taken. Complaints made by members of the public alleging bullying or harassment by staff will be dealt with through the Council's Complaints Procedure.

RESPONSIBILITIES

Employees and members have the following responsibilities –

- To comply with the policy
- To make sure that their own behaviour does not contribute to incidents of harassment and bullying
- To treat their colleagues with dignity and respect
- To report incidents of bullying and harassment and support any investigations
- To point out to a colleague that their behaviour is causing offence to either themselves or other colleagues, before it develops into a more serious issue.

*March 2007
Reviewed April 2011
Reviewed Jan 2016*