



Bullying and Harassment Policy

STONEHOUSE TOWN COUNCIL

Adopted 19 February 2018 (Minute K1/465)

Reviewed:

To be reviewed May 2018

Policy Statement

Stonehouse Town Council will not tolerate bullying or harassment by, or of, any of its employees, officials, members, contractors, visitors to the council or members of the public. The council is committed to the elimination of any form of intimidation in the workplace.

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 in order to protect them from bullying and harassment. It should be read in conjunction with the council's Grievance policy and the Elected Members Code of Conduct.

1. Definitions

Bullying

“Bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse of this use of power or authority which tends to undermine an individual or a group of individuals, gradually eroding their confidence and capability, which may cause them to suffer stress.”

Harassment is

“unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.” This usually 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.

These definitions are derived from the Advisory Conciliation and Arbitration Service (ACAS) guidance on the topic.

Bullying and Harassment are behaviours which are unwanted by the recipient. They are generally evidenced by a pattern of conduct, rather than being related to one-off incidents.

Bullying and harassment in the workplace can lead to poor morale, low productivity and poor performance, sickness absence, mental health issues, lack of respect for others, staff turnover, damage to the council's reputation and ultimately, legal proceedings against the council and payment of legal fees and potentially unlimited compensation

For examples see Appendix 2

For penalties - see Appendix 3

2. Procedural Guidelines

a. Informal resolution

Anyone; employee, contractor, member or visitor, who feels he or she is being bullied or harassed should in the first instance share the problem with an intermediary to resolve the problem informally.

It may be sufficient to explain to the person(s) involved in the unwanted behaviour, that their conduct is unacceptable, offensive or causing discomfort. Anyone concerned about being bullied or harassed is encouraged to maintain a journal or other record of the incidents.

b. Formal resolution

Employees: Where the employee feels unable to resolve the matter informally they should follow the grievance procedure.

Members Where a member feels he/she has been bullied or harassed by another councillor or by a member of staff they should report it to the chair or deputy chair of council, who would follow the grievance procedure as far as that is appropriate.

Where a member of the council feels they have been bullied by an external body/individual they should report it to the chair or deputy chair of council who will refer it to the appropriate committee.

Others: Any other party to the council, other than an employee, who feels he or she is being bullied or harassed should raise their complaint with the Clerk, The complaint should then be investigated in accordance with the complaints procedure.

Appendix 1

LEGAL POSITION

Councils have a duty of care towards all their workers and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If an employer 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, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, marriage and civil partnership) 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 individual 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.

Appendix 2

EXAMPLES of unacceptable behaviour are as follows; (this list is not exhaustive)

Spreading malicious rumours, insulting someone, ridiculing or demeaning someone, exclusion or victimisation, unfair treatment, overbearing supervision or other misuse of position or power, unwelcome sexual advances, making threats about job security, making threats of physical violence against a person or their family, deliberately undermining a competent worker by overloading work and/or constant criticism, blaming a person for others' mistakes, preventing an individual's promotion or training opportunities.

Bullying and harassment may occur face-to-face, in meetings, through written communication, including electronic communication such as e-mail or on social media, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

Appendix 3

PENALTIES

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. 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.

A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in the more extreme cases.

Appendix 4

USEFUL CONTACTS

- ACAS Advisory Conciliation and Arbitration Service, www.acas.org.uk tel: 0845 7 47 47 47
- Local Government Ombudsman for Wales www.ombudsman-wales.org.uk tel: 0300 790 0203
- Local Government Ombudsman for England www.lgo.org.uk 0300 061 0614
- Equalities and Human Rights Commission www.equalityhumanrights.com
- Society of Local Council Clerks www.slcc.co.uk
- DirectGov website www.GOV.uk

This policy is cross-referenced to the following Parish Council's adopted policies:

- Discipline
- Grievance
- Equality
- Members' Code of Conduct

This policy has been adapted from the template provided by the Society of Local Council Clerks in the Advice Note - Dignity at Work / Bullying and Harassment Policy (© SLCC 2013)