MIDDLETON STONEY PARISH COUNCIL

DIGNITY AT WORK POLICY

BULLYING AND HARASSMENT in the WORKPLACE

Purpose and Scope

Statement: In support of our value to respect others the 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 from the community which we serve. 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 its business and outlines the specific procedures available to all employees to protect them from bullying and harassment. It should be read in conjunction with the council's policies on Grievance and Disciplinary handling and the Elected Members Code of Conduct, the Member: Officer Protocol and the Staffing Committee Terms of Reference.

The council will issue this policy to all employees as part of their induction and to all Members as part of their Welcome Pack. The council may also wish to share this policy with contractors, visitors, and members of the public.

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 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, turnover, damage to the council's reputation and ultimately, legal proceedings against the council and payment of legal fees and potentially unlimited compensation.

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.

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 the Gross Misconduct level and may result in summary dismissal from the council.

If elected Members are bullying or harassing employees, the internal Grievance procedure should be used by the employee affected. This may be followed by a complaint under the Member's Code of Conduct.

If elected Members are bullying or harassing employees, contractors, fellow councillors, or others the behaviour could be reported as a contravention of the Member's Code of Conduct.

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.

The 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 regarding 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 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, and 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 periods and that damages for personal injury and distress can be awarded under the Act.

Process for dealing with complaints of Bullying and Harassment

Informal approach – Any employee, contractor, member, or visitor, who feels he or she is being bullied or harassed should try to resolve the problem informally, in the first instance. It may be sufficient to explain to the person(s) involved in the unwanted behaviour or an intermediary, 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. Alternative dispute resolution e.g., mediation can be helpful in this situation as it enables the perpetrator and the person who feels bullied to resolve issues within a facilitated environment.

Formal approach

Employees:
Where the employee feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chair of the Staffing/Personnel committee or another Councillor if more appropriate. It may be appropriate for the complaint to be put in writing after the initial discussion, as this will enable the formal Grievance Procedure to be invoked. The employee will be expected to provide evidence of the conduct about which s/he is complaining.

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 council, where possible if an informal notification to the alleged perpetrator has been unsuccessful at eliminating the problem. The complaint should then be investigated, and a meeting held to discuss the facts and recommend the way forward. A member of the public who feels s/he has been bullied or harassed by any Members or officers of a council should use the council's official Complaints Procedure. The Officer(s) or Member(s) being complained about mustn't prevent the council from operating impartially in its investigation and decision-making in this regard.

Grievance – Employees only – this section should be read in conjunction with the council's Grievance Procedure.

A meeting to discuss the complaint with the aggrieved party will normally be arranged within a reasonable period of a 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 a way forward for the member(s) of staff involved. Employees have a right to be accompanied by a work colleague or a trade union representative at this meeting. A full investigation of the complaint will be held by an officer, or an impartial member or other duly appointed person as appointed by the committee of the council which is handling the process. It may be appropriate for an external investigator to be involved 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 aggrieved employee to demonstrate how the problem is to be resolved. It may be decided that mediation or some other intervention is required, and the council should contact OALC, an employer's body or ACAS to this effect or the council may offer counselling. The employee will have a right of appeal. At all times the confidentiality of the grievance will be of paramount importance to maintain trust in the process hence details of the full grievance will not be shared with the full council without prior approval by the aggrieved party. The council will commit not to victimize the aggrieved for raising the complaint once the appropriate dispute resolution process has been concluded.

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.

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, if deemed serious and/or involved discrimination, could be treated as Gross Misconduct.

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, request to issue 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. In addition, the council must ensure that it is able to operate its duty of care towards the employee and provide a safe working environment. A referral under the Code of Conduct to the Monitoring Officer may be an appropriate step and there may be further sanctions available as a result of the reviewing the evidence under the Code in place at the time. Parish/Town Councils do not have the power to increase penalties imposed following a determination arising from a complaint under the Code.

A complaint to the Police under the Protection from Harassment Act 1997 may also be warranted in the most extreme cases.

This list is not exhaustive.

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 for staff or a referral to the Monitoring Officer for Members.

Responsibilities

All parties to the council have a responsibility to ensure that their conduct towards others does not harass or bully or in any way demean the dignity of others. If unacceptable behaviour is observed then each individual can challenge the perpetrator and ask them to stop. There needs to be agreement about how "robust people management" and "bullying" differ; effective management of performance will usually include feedback based on objective evidence, delivered by a committee specifically designated and often trained to manage and appraise staff, with dialogue occurring on a face to face basis in confidential surroundings. Bullying is more likely to be complained about when individual Members criticise staff, often without objective evidence, without the mandate from the corporate body of the council and in environments which are open to the public or other employees or by way of blogs, social media comments, or in the pub or local playground.

The council undertakes to share its policy with all members and workers and request that each party signs to demonstrate acceptance of its terms. All new members and employees will be provided with a copy of this policy.

A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk and reported to the full council for approval.

The Council will undertake to ensure that its members and workers are trained in the processes required by this policy as deemed appropriate.

Useful contacts

ACAS www.acas.org.uk Tel: 0300 123 1100
Equalities and Human Rights Commission www.equalityhumanrights.com