



Seaton Town Council Constitution

Chapter 33 Dignity at Work Policy

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1. Purpose and Scope

1.1 Statement

In support of our value to respect others Seaton Town Council ('the Council') will not tolerate bullying or harassment by, or of, any of its officers, members, contractors, volunteers, 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 policies on grievance and disciplinary handling and the Members' Code of Conduct.

The Council will issue this policy to all officers as part of their induction and to all members on being elected or co-opted to the Council. The Council may also wish to share this policy with contractors, volunteers, visitors and members of the public.

1.2 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.

1.2 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.

1.4 Penalties

Bullying and harassment by any employed persons can be considered examples of serious 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 officers, contractors, fellow councillors or others then a referral through the standards process in place at the time, reported as a contravention of the Members' Code of Conduct could be an appropriate measure. If an officer 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, sometimes available from the Council's insurer, if such a matter arises.

1.5 The legal position

Councils have a duty of care towards all their employees 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, 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. The legal definition of "Third Party Harassment" has been introduced which makes the employer vicariously liable for harassment from other parties such as parishioners, contractors etc and it must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or councillor.

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.

2. Process for dealing with complaints of bullying and harassment

2.1 Informal approach

Anyone; employee, contractor, member, volunteer 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.

2.2 Formal approach

2.2.1 Officers

Where the officer feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chairman of the 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 officer will be expected to provide evidence of the conduct about which s/he is complaining.

2.2.2 Others

Any other party, other than an officer, who feels he or she is being bullied or harassed should raise their complaint with the Town Clerk or Chairman of the Council, where possible, if an informal notification approach has been unsuccessful at resolving the problem. The complaint should then be investigated and a meeting held to discuss the facts and recommend a 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. It is important that the member(s) being complained about do not prevent the Council operating impartially in its investigation and decision-making in this regard.

2.3 False or malicious allegations

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 and/or a referral to the standards process.

3. Responsibilities

All individuals 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 an individual can challenge the perpetrator and ask them to stop. Effective management of performance will usually include feedback based on objective evidence, with dialogue occurring on a face to face basis in confidential surroundings.

Bullying is more likely to be complained about when individual members criticise officers, 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 social media comments verbal conversations locally.

The Council undertakes to share its policy with all members and officers and request that each party signs to demonstrate acceptance of its terms.

A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Town 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.

4. Useful contacts

ACAS www.acas.org.uk Tel: 0845 7 47 47 47

Local Government Ombudsman for Wales www.ombudsman-wales.org.uk Tel: 0845 601 0987

Equalities and Human Rights Commission www.equalityhumanrights.com

SLCC www.slcc.co.uk

DirectGov website:

www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670