

FERRYHILL TOWN COUNCIL



POLICY

BULLYING AND HARASSMENT

Introduction

Ferryhill Town Council recognises the right of all employees to be treated with dignity and respect and will not tolerate bullying or harassment of its employees at work or arising from the actions of Ferryhill Town Council Members.

Bullying and harassment not only affect the welfare of employees but also affect the organisational effectiveness of the Council. It can lead to stress, increased absence, and a decrease in confidence, motivation and work performance. This in turn affects service delivery, increases costs and damages the Council's image.

The Council expects a high standard of behaviour and conduct from employees at all times. This policy identifies unacceptable forms of behaviour and describes the options available to employees who experience bullying and harassment to resolve the situation. All employees and members are required to comply with this policy.

The Council recognises that employees experiencing bullying and harassment may have a right to take legal action against the harasser under civil or criminal law. However, this will not prevent the Council from carrying out its own investigations and taking appropriate action.

Definitions

<i>Bullying</i>	any behaviour by a person directed against an individual or individuals, which is intimidating, offensive or malicious and which undermines the confidence and self-esteem of the individual.
<i>Harassment</i>	unwanted behaviour by a person that an individual or individuals finds intimidating, upsetting, embarrassing, humiliating or offensive, and which affects a person's dignity at work.
<i>Recipient</i>	an employee who perceives that they are being harassed or bullied.
<i>Harasser</i>	an employee or Member of the Council whose behaviour is perceived to be unacceptable.

For the rest of this policy, the word harassment also includes bullying.

Reasons why harassment occurs

The Council accepts that it is an individual's perception of behaviour towards them that can lead to the feeling of bullying and harassment. What may be inoffensive to one person may cause upset and distress to another. The Council views all forms of harassment as unacceptable behaviour and will not tolerate it.

By way of example, harassment can occur where there is fierce competition between employees, heavy workloads or an uncertain working environment. It may occur because a person deliberately sets out to intimidate, humiliate or distress another. However, it may also occur because a person fails to consider the effect of their behaviour upon others.

Harassment of an individual can occur on many grounds, for example because of gender, sexual orientation, race, ethnic origin, nationality, disability, age, physical characteristics or personal /religious/ political beliefs. **Forms of harassment**

Harassment is about an individual's perception as to whether certain behaviour is unacceptable and disadvantageous to them. It can take a range of forms including:

- ❖ unwanted physical contact, obscene gestures;
- ❖ verbal abuse, jokes, offensive language, slander;
- ❖ displays of written or photographic material;
- ❖ exclusion and non-co-operation at work;
- ❖ persistent criticism, unfounded criticism;
- ❖ being denied/excluded from training and development opportunities;
- ❖ unreasonable refusal to grant annual holiday or other leave of absence;
- ❖ setting impossible targets or deadlines/setting someone up to fail.

How to deal with harassment

If an employee feels they are being harassed, this needs to be brought to the attention of the harasser so that the harassment can stop. Harassment needs to be treated sensitively by all those involved. This includes how the harasser is treated as he/she may not be aware that their actions have caused offence or upset.

There are two ways a complaint of harassment can be handled - **informally** and **formally**.

Except in serious cases of harassment, the recipient should attempt to stop the behaviour using the informal procedure.

Alternatively, the recipient can approach their trade union representative or line manager for advice and help. If the harasser is the recipient's line manager they can contact the Town Clerk. If the harasser is the Town Clerk the employee should consider submitting a grievance, approaching their trade union representative or chair of the Personnel Sub-Committee.

If the Town Clerk is feeling harassed by a member of the Council then a similar approach is required. The informal approach will require the Town Clerk to speak to the Member concerned to explain the effect on him/her of the actions being taken by the Member and ask that it stop. Bullying is a potential breach of the Members' Code of Conduct.

If the Member does not stop the harassment, the Town Clerk should consider submitting a formal grievance, which may be referred to the Monitoring Officer of Durham County Council, or may complain directly to the Monitoring Officer.

If an employee witnesses harassment they should initially approach the recipient and support them in taking action to stop the behaviour.

Victimisation

Victimisation may occur after a complaint of harassment has been made. It may appear in the form of the recipient finding the situation has become worse since complaining, or any employee involved in the complaint becoming isolated by colleagues or their manager, or subject to other forms of retaliation by colleagues or their manager.

Victimisation arising from a case of harassment is misconduct and will be dealt with under the Council's Disciplinary Procedure.

Statement of Confidentiality

The Council recognises that problems of harassment in the workplace involve sensitive issues and therefore must be treated with discretion. To eliminate harassment from the workplace the Council does not tolerate any form of harassment. However, to eliminate harassment it is necessary to know when it occurs.

The Council is responsible for the actions of its employees and members and therefore must be informed when it occurs. Information will only be divulged on a strict 'need to know' basis. The Council will make every effort to ensure that all those involved in the investigation and resolution of cases, including recipients, harassers and witnesses respect the necessity for a professional and confidential approach at all times.

Managers' Responsibilities

All managers and supervisors have the responsibility for making sure that their employees are treated professionally and with dignity and respect. This will help to establish a supportive and productive working environment and will help employees to perform effectively and to the best of their ability.

Legitimate management action, taken within Council procedures, to deal with employees whose conduct or capability is in question is not harassment. Where a manager is raising concerns about the conduct or capability of an employee it must be done in a professional and sensitive manner ensuring respect for the individual concerned. However, any action or behaviour which falls outside what can be reasonably regarded as legitimate management action and is intimidating, offensive or distressing may constitute harassment.

Where you witness unacceptable or offensive behaviour you should take action. This may be on an informal basis by approaching the employee whose behaviour is causing offence. You should explain why the behaviour is offensive and the consequences if the behaviour continues.

Every manager or supervisor is responsible for dealing effectively with any informal or formal complaint of harassment which is brought to their attention. Failure to deal with a complaint can be regarded as a conduct or capability issue and result in disciplinary action.

Employees' Responsibilities

Employees must treat all people with courtesy and respect and be aware of how your behaviour can be interpreted by others. You should make sure that you know and understand the types of behaviour and actions that can be regarded as bullying and harassment. If you are aware that your behaviour causes or could cause offence you should stop it immediately.

You must be aware that behaviour or actions that are regarded as harassment can result in disciplinary action which may include dismissal.

If you make a false or malicious claim of harassment against another person this will result in disciplinary action.

You are responsible for your own behaviour and should make sure that you protect the dignity of other colleagues and promote a workplace free from harassment.

Training

Specific training in how to deal with cases of bullying and harassment will be given to senior officers.

Monitoring and evaluating the procedure

The procedure and policy will be reviewed as part of the planned review schedule for policies.

Legislation and Codes of Practice relevant to cases of bullying and harassment include:

- ❖ Sex Discrimination Act 1975
- ❖ Race Relations Act 1976
- ❖ Race Relations (Amendment) Act 2000
- ❖ Disability Discrimination Act 1995

Where harassment is of a specific nature based on sex, race or disability it is regarded as unlawful discrimination and is covered by statute under the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

❖ Protection from Harassment Act 1997

The Protection from Harassment Act makes harassment, including harassment of an employee in the workplace, a criminal offence which could result in a fine and/or imprisonment.

❖ Criminal Justice and Public Order Act 1995

Under the Criminal Justice and Public Order Act, the use of threatening, abusive or insulting words or disorderly behaviour intended to cause harassment, abuse or distress is a criminal offence.

❖ Employment Rights Act 1996

Since all contracts of employment include an implied duty on both employer and employee to maintain trust and confidence, a failure by the employer to protect the employee against bullying or harassment by colleagues is likely to amount to a breach of this term. This may entitle the employee to pursue a case of constructive dismissal, if they terminated their employment as a result of the behaviour and the employer's failure to do anything about it.

❖ Health and Safety at Work Act 1974

The Health and Safety at Work Act, section 2 (1) places a duty on the employer to 'ensure so far as is reasonably practicable, the health, safety and welfare at work of all employees.' It is therefore possible, provided any injury was reasonably foreseeable, for a breach of this duty to give rise to a personal injury claim for any mental or physical suffering caused by bullying or harassment.

❖ Human Rights Act 1998

Human Rights Act 1998 includes the right not to 'be subjected to degrading treatment or punishment'.

❖ **Trade Union and Labour Relations (Consolidation) Act 1992**

The Trade Union and Labour Relations (Consolidation) Act 1992 contains the right not to be dismissed on the basis of trade union membership or activities, or of non-trade union membership.

❖ **The European Commission's Recommendation and Code of Practice on Protecting the Dignity of Men and Women at Work**

Under the European Commission's Recommendation and Code of Practice on Protecting the Dignity of Men and Women at Work article 2 of the Code requires member states to create a climate at work in which men and women respect one another's dignity.

❖ **Equality Act 2010**

The Act provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

Informal Procedure

Unless it is a serious case of harassment, the recipient should attempt to stop the behaviour using the informal procedure.

There are 2 courses of action that can be taken in this procedure (the Town Clerk will approach the chair of the council).

- 1 The recipient experiencing harassment can approach the harasser directly. However, it is acknowledged that this may be too difficult or embarrassing for some employees. In this case the recipient can report their complaint of harassment to their trade union representative. The trade union representative will be able to offer advice and can then take the complaint to their line manager for the recipient.
- 2 Alternatively, the recipient can report the behaviour to their line manager or a senior manager and ask them to speak to the harasser.

Whichever course of action is taken it should be explained to the alleged harasser:

- ❖ exactly what behaviour is being complained of;
- ❖ that their behaviour is causing the recipient discomfort and/or offence;
- ❖ how that behaviour makes the recipient feel;
- ❖ that the recipient wants the behaviour to stop.

It should then be agreed what behaviour is acceptable and how they should treat each other.

Where a line manager has dealt with the informal complaint, they should keep a log of the incident and action taken as this will act as a record should the situation arise again.

The manager will monitor the situation by monthly contact with the recipient to make sure that the problem has not come back. If the unwanted behaviour carries on, the recipient may wish to use the formal procedure.

The informal procedure is designed to stop harassment when it takes place and to help all employees/members to work together in a professional and dignified manner. Employees may not be aware that their actions cause offence to others and once it is pointed out to them informally it may resolve the situation.

Formal procedure

If the informal approach has not resolved the problem behaviour, or an incident has occurred which is so offensive to the recipient that an informal approach is not considered appropriate, then the recipient can use the formal procedure.

Completing an Harassment Complaint Form

Under the formal procedure, the recipient should complete a harassment complaint form. This asks for details of the alleged harasser, a description of what happened, how the recipient felt and details of any witnesses. See appendix 3.

The Town Clerk will acknowledge the formal complaint in writing within 5 working days.

The harasser should be informed that a formal complaint of harassment has been made against them. They should also be notified in writing with full details of the allegations within 5 working days.

Initial Investigation

Human Resource support will be able to offer advice and support on the use of the procedure and in handling the case. An investigation should then be commenced and the complainant contacted to discuss the incident(s) in more detail and establish any further facts not mentioned in the form. When this meeting has taken place, the HR Adviser will discuss the following possibilities with the line manager:

- ❖ The need to suspend the alleged harasser from work, or;
- ❖ Whether the two parties can be separated at work, or;
- ❖ Whether the two parties can continue to come into contact with each other at work while attempts are made to solve the problem.

Any suspension will be carried out under the procedures stated in the Council's Disciplinary Procedure.

Formal Investigation

The HR Adviser and line manager will investigate the incident under the procedures for investigation outlined in the Council's Disciplinary Procedure. This should be carried out within 10 working days of receiving the complaint. This includes taking statements from the recipient, any witnesses and the alleged harasser. If the formal investigation is unlikely to be completed within 10 working days an alternative timescale should be discussed with the recipient. All those asked to attend investigatory interviews will be able to have a trade union representative or colleague with them.

When the investigation has been completed the HR Adviser will discuss the findings with the Line Manager. Possible outcomes of the formal investigation are that;

- ❖ the complaint is not upheld and therefore no further action is taken
- ❖ the problem is resolved informally between the two parties
- ❖ there is a need for ongoing monitoring of the situation

- ❖ disciplinary action is taken against the harasser.

The results of the investigation will be notified to both parties in writing within 5 working days of the findings being agreed.

Throughout this procedure, the information provided by individuals will be treated on a confidential basis. Only those involved in dealing with the complaint will be made aware of all the facts.

Disciplinary Action

If a disciplinary interview is necessary it will be organised in accordance with the Council's Disciplinary Procedure. Careful consideration should be given to the need to have the recipient present at the interview as a witness and the way in which the interview is going to be conducted. For example, if it is necessary for the recipient to be present and the alleged harasser is represented, only the representative is able to ask the recipient questions. The recipient will also be able to be represented to provide support during the disciplinary interview.

The outcome of any disciplinary interview could be:

- ❖ No action;
- ❖ An oral warning;
- ❖ A written warning;
- ❖ A final written warning;
- ❖ Dismissal

If action is taken short of dismissal, the harasser will be told about the standards of behaviour expected in future. It will also be explained that if the recipient is victimised in the future for bringing this complaint, or if the behaviour continues, there will be further disciplinary action.

If the outcome of the disciplinary interview is that no action is taken against the alleged harasser, this should be explained to the recipient. If no action is taken, the recipient cannot appeal against that decision. He/she can use the Council's Grievance Procedure if they do not feel the process has been carried out effectively.

The harasser has the right to appeal against any disciplinary action taken, as explained in the Council's Disciplinary Procedure.

If disciplinary action has been taken against the harasser, his/her behaviour will be monitored by the nominated contact by monthly contact with the recipient and the harasser. This will continue for a period of time as decided at the disciplinary interview. No disciplinary proceedings will be started against the recipient for bringing an unfounded claim of harassment, unless it is felt that the complaint has been made out of malice.

FERRYHILL TOWN COUNCIL
BULLYING/HARASSMENT COMPLAINT FORM
(Employee)

BULLIED/HARASSED (delete issue not applicable)

Complainant:

Date(s) and time(s) of alleged incident(s):

Name of person you believe Bullied/Harassed you or another person:

Day, Date and time of incident:

Where did the incident occur?

If the alleged harassment was toward another person, identify that other person:

Describe the incident(s) as clearly as possible. Include a full description of the events, and verbal statements (i.e., threats, requests, demands, etc.), and what, if any, physical contact was involved. Attach additional pages as necessary.

List any witnesses who were present:

HR24

How did you or the person harassed (if not you) react to the harassment?

This complaint is based upon my honest belief that has harassed me or another person.

I hereby certify that the information I have provided in this document is true, correct and complete to the best of my knowledge.

.....
(Complainants signature)

.....
(Date)

.....
(Received by)

.....
(Date)