

LYDD TOWN COUNCIL

Dignity at Work

Bullying and Harassment Policy

1. Purpose and Scope

1.1. Statement: In support of our value to respect others Lydd 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 from the community which we serve. The council is committed to the elimination of any form of intimidation in the workplace.

The 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 and Disciplinary Procedures and the Elected Members Code of Conduct.

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**

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.

1.3. 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.

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1.4. Penalties:

Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure.

If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral 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 if such a matter arises.

1.5. 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 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 Council.

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.

2. Process for dealing with complaints of Bullying and Harassment:

2.1. Informal approach:

Anyone - 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.

2.2 If your complaint is resolved informally, the alleged perpetrator(s) will not be subject to disciplinary sanctions. However, in exceptional circumstances (such as a serious allegation of sexual or racial harassment or in cases where the problem has happened before) the Council may decide to investigate further and take more formal action. The Council would consult with you before taking this step.

2.3. Formal approach:

2.3.1. 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 Town Clerk or if this is inappropriate, with the Chair of the Personnel committee or the Town Mayor using the Council's grievance procedure. It will 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.

2.3.2. Others, Councillors, Contractors, Consultants, Public

Any other party to the council, other than an employee, who feels he or she is being bullied or harassed should raise their complaint in writing with the Town Clerk where possible using the Council's complaints procedure or with the Monitoring Officer at Folkestone and Hythe District Council where a Member is directly involved in the bullying or harassment using the Code of Conduct.

2.4. Grievance – Employees only:

A meeting to discuss the complaint with the aggrieved party will normally be arranged within five working days of a written complaint being received and will be held under the provisions of the council's Grievance Procedure.

The Clerk or Chair of Personnel Committee (as appropriate) will invite the employee to attend the meeting to discuss the complaint. The alleged perpetrators would be informed of the basis for the grievance, The investigation will be carried out as confidentially and sensitively as possible. The Council will ensure that individuals personal data is handled in accordance with the General Data Protection Policy.

2.4.1. Appeal

The Appeals Panel, which will be formed from at least three members who have not been involved in the complaint previously. The appeal must be put in writing by the employee who may be accompanied by another employee or trade union representative of their choice

2.5 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 would normally be treated as Gross Misconduct.

For Councillors, who the council reasonably believe have 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, chairmanship etc may be appropriate.

The range of disciplinary sanctions available to the council where a member has been involved in bullying/harassment include: issuing of an apology, admonishment to further harass or bully such as removal from direct contact or decision making about that employee, banning from Committees of the Council and appointment to outside bodies. A referral under the Code of Conduct is usually an appropriate step. There may also be a referral to the police under the Protection from Harassment Act 2010 in the most extreme cases.

This list is not exhaustive.

2.6. 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 a serious misconduct under the Disciplinary Procedure or a referral to the Monitoring Officer.

2.7. 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.

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.