



Harassment and Bullying Policy

**Human Resources
December 2009**

1 Introduction

- 1.1 Harassment and Bullying are totally unacceptable forms of behaviour and as such will not be tolerated by Stafford Borough Council.
- 1.2 It is vital that an environment exists where it is clear that any complaints of discrimination, harassment or bullying will be taken seriously and will be addressed fairly and confidentially.
- 1.3 To this effect the aim of this policy is to ensure that all members and employees are aware that they have the right not to be harassed and the right to complain should it occur.
- 1.4 Harassment and bullying can damage a person's dignity and self respect. It can lead to feelings of isolation and inadequacy and in some cases can have a detrimental effect on health leading to anxiety, depression, loss of confidence and stress related illnesses. At the very least this can have an adverse effect on the organisation, including
 - Poor morale and poor employee relations
 - Loss of respect for managers and supervisors
 - Poor performance
 - Lost productivity
 - Absence
 - Resignations
 - Damage to organisation's reputation
 - Tribunal and other court cases, which can lead to payment of unlimited compensation
- 1.5 Where harassment or bullying is proven following thorough investigation it may be necessary to take disciplinary action, which may result in dismissal.

2 Harassment

- 2.1 Clearly harassment and bullying can be sensitive issues. The Council recognises that harassment can take many forms.
- 2.2 Harassment is defined as unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident.

3 Bullying

- 3.1 Bullying is a form of harassment. Bullying can be characterised as offensive, intimidating, offensive, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the

recipient. Abuse of power can be experienced from manager to subordinate, peer to peer or one group of staff to another individual.

4 Unacceptable Behaviour

4.1 Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems. The following examples are deemed to forms of unacceptable behaviour

- Spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, age, disability, sexual orientation and religion or belief)
- Copying memos that are critical about someone to others who do not need to know
- Ridiculing or demeaning someone – picking on them or setting them up to fail
- Jokes and offensive language
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances – touching, standing too close, display of offensive materials
- Making threats or comments about job security without foundation
- Deliberately undermining competent working by overloading and constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities

5 Responsibilities

5.1 Harassment and bullying can often be hard to recognise. They may not be obvious to others, and may be insidious. The recipient may think 'perhaps this is normal behaviour in this organisation'. They may be anxious that others will consider them weak, or not up to the job, if they find the actions of others intimidating. They may be accused of 'over reacting', and worry that they won't be believed if they do report incidents.

5.2 People being bullied or harassed may sometimes appear to over react to something that seems relatively trivial but which may be the 'last straw' following a series of incidents. There is often fear of retribution if they do make a complaint. Colleagues may be reluctant to come forward as witnesses, as they too may fear the consequences for themselves. They may be so relieved not to be the subject of the bully themselves that they collude with the bully as a way of avoiding attention.

5.3 Managers Responsibilities

Under the Health and Safety at Work Act managers have a legal and contractual obligation to prevent harassment and bullying from taking place.

In particular they are responsible for:-

- ensuring that their own behaviour does not constitute harassment or bullying
- to create and maintain a working environment free from harassment and bullying
- to inform staff clearly of what is and is not acceptable workplace behaviour
- to inform staff of the actions they can take if they feel they are being bullied or harassed and of the support available to them
- to inform staff that harassment and bullying or victimisation of an individual complaining of harassment are disciplinary offences
- to treat any complaint seriously and take prompt action to stop harassment and bullying as soon as it is identified
- to implement this policy and ensure staff are aware of it and understand it
- where bullying/harassment is alleged by a member of staff against a Councillor, to report any such allegation to the Council's Monitoring Officer or Head of Service.

5.4 Employee's Responsibilities

All employees have a duty of care for themselves and others in the workplace. Each person is responsible for their own behaviour and its impact on others. Employees should:-

- not participate in any form of harassment or bullying
- make colleagues aware that they do not support this kind of behaviour
- encourage colleagues to respect each other

- provide support to anyone being harassed or bullied
- report any incidents of harassment or bullying in the workplace they are aware of

5.5 Employee Rights

Employees have the right to expect:-

- to be treated with dignity and respect and to work in an environment free from harassment, bullying or victimisation
- to make a complaint of harassment and bullying and receive appropriate support in doing so without fear of victimisation
- to have any complaint treated seriously and appropriate action taken by management to resolve the problem
- to be made aware of any harassment or bullying claim made against them
- to have any complaint of harassment or bullying treated as confidentially as possible

Victimisation of any employee who has complained of harassment (whether successfully proven or not) shall be treated as a serious disciplinary offence.

6 Procedure

6.1 Every employee has the right to expect to be treated with respect and consideration, regardless of the situation or pressures the organisation may be under. In resolving a complaint of harassment this policy consists of informal and formal stages. It is in the interest of the Council and individuals concerned that any complaints of harassment and bullying are dealt with internally and as quickly as possible. Where employees feel confident and comfortable that an informal approach may be sufficient to stop the harassment or bullying from happening then this should be tried in the first instance. However, employees maintain the right to request a formal investigation or to use the grievance procedure.

6.2 The Council recognises that it is the right of employees to determine for themselves whether the behaviour of another is unacceptable to them and to bring a complaint in respect of harassment. The determination of whether a complaint of harassment is justified and if so, what disciplinary action should apply shall be for management to decide.

6.3 Any employees who feel they have a complaint will have access to someone who can give sympathetic and impartial advice and/or counselling. Employees

should contact a member of the HR team for further advice and support in this area.

- 6.4 Throughout this procedure, employees complaining of harassment, and those against whom it is alleged, have the right to be accompanied by a representative or supporter. It is vital employees are made aware of the importance of maintaining confidentiality throughout any complaint or consequential investigation.

7 Informal Resolution

- 7.1 The main aim of informal resolution is to tell the harasser that their behaviour is unacceptable and that it must stop. In some cases the harasser may not be aware that their behaviour is causing offence. The individual may choose to speak to the harasser face to face, on the telephone or to write a letter. In some situations the individual may not feel confident enough to do this, particularly if their complaint is against a superior. In this case they should ask a colleague or representative to speak to the harasser on their behalf. Alternatively employees can speak to their Manager or if they wish a senior manager whom they trust, ideally within their own department, but if necessary in another department, or a member of Human Resources section to try to resolve the matter. Details of any meetings should be kept.
- 7.2 Where an employee raises an allegation of bullying with a manager in another department this manager must report the allegation to Human Resources to take appropriate action.

8 Mediation

- 8.1 In many cases the employee may not wish to put in a formal complaint for fear of reprisal and just wants the behaviour to stop. Mediation is another option open to the parties concerned to reach a resolution. The employee can request a mediation meeting through the Human Resources section.
- 8.2 In effect the mediator will manage the process of bringing two parties together to reach mutual agreement as detailed in the Dignity at Work Policy.
- 8.3 The mediator should be someone who is impartial and trusted by all concerned, should ideally be distanced from the work situation and be trained in conflict resolution. In most situations an Officer from Human Resources will undertake this role, however, in some cases a mediator may be sought from an external organisation. A meeting must be arranged within 14 days or as soon as practically possible after the initial request. The alleged perpetrator will also be informed within that timescale.

- 8.4 Ideally the mediator should meet separately with each party and then bring them together in a neutral location to reach a positive solution acceptable to both parties. The format of the meetings will depend on the situation and personalities involved. Sometimes several mediation sessions may be required.
- 8.5 Meetings should be non-threatening and allow each party to discuss their perception of events and have their say. The ultimate aim of the meeting should be to develop an action plan to make clear required behaviours for future relationships.

9 Formal Resolution

- 9.1 Where a complaint is of a sufficiently serious nature or where informal resolution / mediation is unsuccessful or inappropriate the employee should put their complaint in writing to their manager, a senior manager or to the Human Resources Section.
- 9.2 Sometimes employees may feel that the line management structure in their own department may be too flat or relationships between the senior management structure of their own department and the alleged bully too close to ensure impartiality and fair treatment. In such cases the employee/s may write directly to the Chief Executive who will nominate an investigating officer acceptable to the employee concerned.

10 Investigation

- 10.1 An investigating officer will be nominated by the Head of Service (or by the Chief Executive if appropriate) and along with a representative of the Human Resources section will investigate the case.
- 10.2 Where a complaint is made against a Head of Service, Director or the Chief Executive an independent external investigating Officer will be appointed as soon as possible. Complaints against Heads of Service or Directors should be to Chief Executive. Complaints against the Chief Executive should be made to the Leader of the Council. The Leader of the Council will take advice from the West Midlands Employers Organisation.
- 10.3 An investigation will normally commence within 5 working days, or as soon as practically possible, after receiving the complaint. The complaint will be acknowledged in writing and at the same time the accused will be given written notification with details of the allegations made against them.

- 10.4 All parties should be informed about the harassment policy and the importance of not discussing the case with other people. Initially an interview will take place with the complainant and then other parties to establish details of the case. A work colleague, counsellor or union representative may accompany both the complainant and alleged harasser.

11 **Suspension**

- 11.1 Where both parties work in close proximity to each other it may be necessary to ensure that they do not continue to do so during the investigation and any consequent disciplinary proceedings. This may necessitate the accused being moved to a different area or suspended on full pay. Under no circumstances should the complainant be moved unless they expressly request to do so.

12 **Outcome**

- 12.1 Following investigation the Head of Service/Director (or where appropriate the Chief Executive) must decide whether the complaint is upheld and if so what action will be taken.
- 12.2 Both parties must be informed in writing within 3 working days, or as soon as practically possible, of the decision being made. If the case is not proven the Investigating officer will exercise judgement about what happened on the balance of probability. Both parties (the complainant and the alleged harasser) will be seen (separately) to advise them on the outcome. There is the option of returning to the informal approach including mediation and/or counselling, training on managerial and/or interpersonal skills, or behavioural counselling.
- 12.3 If the case is proved then it will be dealt with via the Council's Disciplinary Policy and this should be initiated as soon as possible. Serious cases of bullying may lead to dismissal. In less serious cases the accused may also be moved to a different area on a permanent basis to avoid further harassment, combined perhaps with managerial/interpersonal skills training or behavioural counselling.
- 12.4 A complaint of harassment can be very stressful for all parties concerned. Support should be offered in terms of training and/or counselling and should form the basis of future relationships. The Head of Service/Director must ensure that where a complaint is not proven the person complained about is not subsequently treated in a detrimental manner.
- 12.5 The council will not tolerate any retaliation against or victimisation of any employee involved in bringing a complaint of harassment under this procedure. This in itself will constitute a disciplinary offence, which may, in appropriate circumstances lead to dismissal.

13 Monitoring

- 13.1 A month after the outcome of the complaint/mediation, a mediator or member of the Human Resources Section, initially involved in the investigation will arrange to meet with the complainant to ascertain whether the situation has improved. If it has not, further mediation or action must be taken.
- 13.2 Heads of Service/Directors must also monitor the situation, particularly when employees return to the work environment to ensure that further harassment does not take place.
- 13.3 Complaints by members of the public (or contractor or other agent working for the Council):-

Where a complaint is received from a member of the public it should be recorded by the Officer receiving the complaint and referred to the Head of Service/Director who will investigate the allegations as outlined earlier.

14 Malicious Complaints

It is fully expected that employees will act responsibly regarding this issue. False accusations can have a serious effect on innocent individuals. Therefore should an investigation show that a false accusation has been made in bad faith, appropriate disciplinary action, which could include dismissal will follow.

15 Conclusion

- 15.1 Management have a responsibility to enforce and communicate this policy and to set standards of behaviour and conduct that are acceptable in the workplace. Any occurrences of bullying or harassment must be challenged and stopped by management. Complaints must be taken seriously and addressed appropriately.

16 Review

- 16.1 This policy will be reviewed in line with organisation and statutory requirements and will be subject to consultation with the Council's trade unions.

17 Records

- 17.1 It is important to keep written records during this process. These will be kept confidential, and retained in accordance with the Data Protection Act 1998.