

SOHAM TOWN COUNCIL

DIGNITY AT WORK/BULLYING & HARRASSMENT POLICY

1. Purpose and scope

Statement:

In support of our value to respect others, Soham Town Council ('the Council') will not tolerate bullying, harassment or stalking by, or of, any of its employees, officials, members, contractors, visitors to the Council or members of the public from the community, which it serves. 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 and members 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, the Code of Conduct and Good Councillor guide.

This policy will be included within the induction of employees and members. The policy will also be available to the public from the Council's website.

Definitions:

Bullying: "characterised as offensive, intimidating, malicious or insulting behaviour; an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient."

Harassment: "unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

Stalking: "unwanted and/or repeated surveillance by an individual or group toward another person. Stalking behaviours are interrelated to harassment and intimidation and may include following the victim in person or monitoring them".

Bullying, harassment and stalking 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, damage to the Council's reputation and, ultimately, legal proceedings against the Council.

Examples of unacceptable behaviour (non-exhaustive list):

- Spreading malicious rumours, insulting someone, ridiculing, or demeaning someone.
- Exclusion or victimisation, unfair treatment, overbearing 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 email or on social media, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or outside of work time.
- Stalking can include repeated physical or visual closeness, like waiting for someone to arrive at certain locations and non-consensual communication such as repeated phone calls, emails or text messages.

Penalties

Bullying, harassment and stalking by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure. This may result in summary dismissal from the Council.

If elected Members are bullying or harassing employees, contractors, fellow Councillors or others then a referral to the Monitoring Officer reported as a contravention of the Code of Conduct may be appropriate.

If an employee is experiencing bullying, harassment or stalking from a third party, the Council will act reasonably in upholding its duty of care towards its employees.

In extreme cases, harassment can constitute a criminal offence and the Council will take appropriate legal advice (often available from the Council's insurer) if such a matter arises.

The Legal Position

The Council has a duty of care towards its employees and liability under the common law arising out of the **Employment Rights Act 1996** and the **Health & 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.

Note: unless bullying amounts to conduct defined as harassment in the **Equality Act 2010**, it is not possible to make a complaint to an Employment Tribunal about it.

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 the 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. This has now been added as an addition to the Protection from Harassment Act 1997 (section 2a). For instance, employers can be vicariously liable for harassment received in the workplace from other parties such as parishioners, contractors etc. The Council must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or Member of the Council. Bullying and harassment in the most serious or malicious cases is criminal and carries serious penalties including, but not limited to, financial penalty and/or imprisonment.

2. Process for Dealing with Complaints of Bullying and Harassment

Informal Approach

Anyone (employee, contractor, Member or visitor) who feels they are 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.

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 Chairman of the Council, 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 Council's **Grievance Procedure** to be invoked. The employee will be expected to provide evidence of the conduct about which they are complaining.

The complaint will then be progressed further through the Council's Grievance Procedure and, where appropriate, the Disciplinary Procedure will be introduced to follow up on conclusions of the grievance investigation.

Formal Approach – Others

Any other party to the Council, other than an employee, who feels they are being bullied, harassed or stalked should raise their complaint with the Council where possible, and if an informal notification to the alleged perpetrator has been unsuccessful at eliminating the problem. The complaint will then be investigated, and a hearing held to discuss the facts and recommend a way forward. A member of the public who feels they have been bullied or harassed by any members or officers of the Council should use the Council's official Complaints Procedure.

For Members (Town Councillors) who the Council reasonably believes have been bullying or harassing another person(s) whilst undertaking Council activities, the range of sanctions available to the Council are limited. Any sanction must be reasonable, proportionate and not intended to be punitive. In some cases, counselling or training in appropriate skills areas e.g., inter-personal communication, chairmanship etc. may be more appropriate than a penalty. A referral to East Cambridgeshire District Council's Monitoring Officer is usually an appropriate step. A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in more extreme cases.

3. 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 Member can and should challenge the perpetrator and ask them to stop.

Associated Documents:

- Councillor Code of Conduct
- Complaints Procedure
- Grievance & Disciplinary Policy
- Equal Opportunities Policy