

South Kirkby and Moorthorpe Town Council



Harassment and Bullying at Work Procedure

Personal Harassment

Scope of the Procedure

- a) Harassment is unlawful; therefore any intentional harassment in the workplace where an individual is the subject of offensive treatment may now be a criminal offence punishable at law by imprisonment and/or a substantial fine.
- b) All employees have a fundamental right to work in an environment free from harassment. Any infringement of this is a serious matter, which causes much personal distress including illness, and also undermines the employment prospects of the victim. It also affects the individual's work performance team relationships etc. and so has important implications for the employer. It is therefore the duty of the employer to provide a clear and effective procedure for dealing with cases of harassment and creating a working environment free of harassment.
- c) Managers must ensure that all employees are aware of the procedure and how seriously the Council treats such matters and that they understand their role in its implications. Managers should ensure that employee's complaints are dealt with in a decisive, sensitive and supportive manner. Managers should not ignore or treat lightly grievances from individuals on the assumption that they are oversensitive but must investigate the alleged harassment.
- d) This procedure is designed to ensure that a complainant is assured that the problem will be dealt with seriously and with sensitivity. The aim of the procedure is to ensure that problems are resolved fairly, speedily and ideally at the workplace. The procedure is separate from the Council's agreed Grievance and Disciplinary Procedures but arising out of its operation grievance or disciplinary action may ensue.
- e) Whether or not employees use the Harassment Procedure or the Council's Grievance Procedure they have a legal right to apply to an Employment Tribunal under the terms of the Sex Discrimination or Race Relations Act for a decision on the matter. If employees wish to pursue an application to an Employment Tribunal they must do so within 3 months of the alleged events taking place. Making a complaint to an Employment Tribunal under the Sex Discrimination (SDA) or Race Relations

Act (RRA) would not prevent an employee taking a complaint under the Criminal Justice and Public Order Act under criminal proceedings (either concurrently or retrospectively). The standard of proof in the claims is likely to be different, in that, for an SDA or RRA claim the balance of probabilities is considered, however, in criminal case, the proof has to be beyond all reasonable doubt.

f) AT ALL STAGES IN THE PROCEDURE BOTH THE COMPLAINANT AND RESPONDENT (THE PERSON COMPLAINED ABOUT) ARE ADVISED THAT THEY HAVE THE FREEDOM OF CHOICE TO INVOLVE AND/OR BE ACCOMPANIED BY A COLLEAGUE OR A TRADE UNION REPRESENTATIVE. Conciliation between the complainant and the respondent with a view to bringing the matter to a conclusion satisfactory to all parties can be attempted at any stage.

Definition of personal harassment

a) Harassment occurs when an individual employee is the subject of offensive treatment because of their sex, sexuality, race or disability and where this is believed to be the motivating factor or where evidence suggests this is the case.

b) It arises when the individual concerned is subjected to actions, which are unwanted, unwelcome and unreciprocated. Such actions may occur once, they may be repeated, they may or may not be deliberate. The main criterion is that they cause offence to the person concerned and the perpetrator knew or should have known that they would cause offence.

c) Offence can arise not only for the direct attention of another person but also as a result of actions motivated by the above which create an intimidating, hostile or humiliating working environment. It occurs when its purpose or effect unreasonably interferes with an individual's work performance.

d) Examples of harassment could include:

- Physical attacks on colleagues or damages to personal property.
- Unwanted contact such as deliberate touching or patting.
- Persistent staring or leering.
- Suggestive remarks and direct sexual propositioning such as repeated requests for dates.
- Displaying provocative material which is sexually or racially offensive e.g. pin-ups.
- Offensive remarks and jokes about race, sex, sexuality or disability.
- Refusing to work with or deliberately isolating colleagues on the basis of their race, sex, sexuality or disability.

Discussing the problem in confidence with a contact officer

a) The procedure recognises that an employee subjected to harassment may not wish to take formal proceedings in the first instance. Provision is therefore made for the employee to discuss the matter informally and confidentially with a member of staff.

b) An employee who wishes to discuss the details of an alleged harassment on an informal, confidential basis may do so by contacting the town clerk or a member of the employment sub-committee.

c) Individuals who believe they have been victims of harassment may contact any of the designated names. The Council has taken steps to provide this confidential and informal stage to the procedure. However, employees are advised that they can involve their trade union representative or a colleague immediately. The town clerk will be able to give confidential advice on procedures and options available including statutory rights and resolving the problem informally. They will also give support to victims of harassment.

d) The employee will always reserve the right as to whether to proceed to the formal stages of the procedure. There will, however, be no pressure on any employee to take matters further and the town clerk will not be involved in the formal procedure unless the complainant expressly wishes it. Either before or after speaking to the town clerk an individual who believes they have been the victim of harassment may register a formal complaint.

Bullying at Work

Scope of procedure

a) The Bullying at Work Procedure is distinct from the Council's existing procedure for dealing with complaints of Personal Harassment although both share the same formal procedure. In some instances, Personal Harassment can be a particular form of bullying and where bullying is primarily motivated by personal factors related to race, sex, disability or sexuality it may be more appropriate to pursue the Personal Harassment Procedure rather than the Procedure on Bullying at Work.

b) Bullying occurs in the workplace as well as in the school playground making the daily lives of many workers intolerable. Bullying is a denial of the right of all employees to be treated with dignity and respect at work and is a breach of the duty of mutual trust and confidence between employer and employee. Workplace bullying will not be tolerated within the Council and this policy sets out a clear and effective procedure for dealing with cases of bullying at work and for promoting an environment where all employees can work free of bullying.

c) Workplace bullying is a proven cause of stress at work damaging the health and safety of staff and may result in symptoms such as anxiety, sleeplessness, high blood pressure, loss of self-confidence and even, in extreme cases, contemplating suicide. Failure to treat bullying at work seriously also adversely affects the quality of public services we provide and has a detrimental cost to the employer in the loss of human resources such as high levels of sickness absence and a demoralising effect of the whole workforce.

d) Bullying can be institutionalised and if it is not tackled it will be seen to be acceptable behaviour. A culture that condones bullying is one in which it is unlikely that employees will speak up however serious the extent of bullying. It is therefore a priority for those in senior positions of responsibility within the Council to set a standard free of bullying by maintaining professional conduct in their treatment of

employees. Employees in positions of responsibility and those with an authority for other colleagues must also discharge their responsibilities in a manner, which affords them dignity and respect. All employees have a duty to display mutual respect, courtesy and impartiality towards each other.

e) All employees will be made aware of the Council's procedure on bullying at work and how seriously the Council treats bullying at work and the procedure for its implementation. The procedure is designed to enable employees who believe that they are experiencing bullying at work to receive advice informally and confidentially and also to resolve formal complaints speedily and fairly within a clear and balanced framework. Managers should not disregard or treat lightly complaints from employees but must investigate the alleged bullying thoroughly and sensitively. It is important to recognise that any attempt to victimise an employee for making a complaint about bullying at work will be treated as a disciplinary offence.

f) The Bullying at Work procedure is separate from the Council's grievance and disciplinary procedures but arising out of its operation grievance or disciplinary action may ensue.

g) The procedure is designed to ensure that any problems relating to bullying at work are resolved at the workplace. Whether or not employees use the Bullying at Work procedure the Council recognises that employees also have legal rights and that employees who have suffered bullying at work may be able to seek remedies through the civil or criminal law. This procedure should therefore not be regarded as attempting to restrict an employee's legal rights but as a means of providing additional support and assistance.

h) The Criminal Justice and Public Order Act (1994) created a new criminal offence of intentional harassment, which covers all forms of harassment including workplace bullying. Bullying at work is also unlawful under the Protection from Harassment Act (1997) which makes harassment and causing someone to fear violence, including at work, a criminal offence. This involves a maximum penalty of 5 years imprisonment and/or an unlimited fine and the Act provides both civil and criminal remedies for victims. Bullying at work also leads to health and safety problems and is contrary to the health and safety responsibilities which both employer and employee have, as established in sections 2 and 7 of the Health and Safety at Work Act (1974). Employees who are forced to breach their employment contract or suffer personal injury through experiencing bullying at work which the employer has not resolved may also use the current civil law framework providing for compensation. Employees will also have recourse to legislation which makes it unlawful to discriminate against employees on account of race, sex or disability, on account of race, sex or disability on account of spent convictions or for being a member or non-member of a trade union.

Definition of Bully

a) Workplace bullying can be defined as the persistent use of aggressive, malicious, intimidating or humiliating behaviour towards colleagues which by abuse of power attempts to undermine an employee or group of employees.

b) Bullying can be physical, verbal or non-verbal behaviour and can take place in private or in the presence of others and is treatment, which the perpetrator knew or ought to have known, would be intimidating and humiliating for the victim.

c) Bullying can occur in a number of different ways. Whilst the majority of cases can be identified as managers to employees, it must be recognised that the reverse does also occur i.e. employee to manager, colleague to colleague. All are characterised by the above definition but, while some are obvious and easy to identify, others can be subtle, complex and difficult to describe. Bullying behaviour may include:

- Shouting at colleagues, threatening or abusive language especially in front of others.
- Constant unjustifiable criticism and persistently picking on people especially in front of others.
- Re-assigning work unnecessarily or unexpectedly and replacing it with in appropriate or menial tasks.
- Unreasonably removing the responsibility or authority necessary for someone to carry out their work.
- Unfair use of sanctions and misuse of power e.g. to ensure another's demotion, dismissal or removal.
- Constantly changing guidelines without good reason.
- Unreasonably refusing to delegate work.
- Blocking promotion.
- Turning down annual or compassionate leave for no reasonable grounds.
- Making someone the target of jokes or consistently attacking a colleague on account of their professional or personal status.
- Spreading malicious rumours, gossip or falsehoods which undermine a person's professional status.
- Continually ignoring, marginalising or excluding an individual e.g. their ideas, opinions, work, performance, contributions etc.
- Withholding important information, permission, approval or consent necessary for someone to carry out their duties.
- Persistently setting someone up to fail by attempting to make them appear incompetent e.g. by unnecessarily over-burdening them with work.
- Excessive supervision without agreement.
- Taking undeserved credit but never accepting responsibility if things go wrong.
- Damaging someone's possessions.
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Informal procedure: Discussing the problem in confidence

a) The procedure recognises that an employee subjected to bullying may not wish to take formal proceedings in the first instance. Provision is therefore made for the employee to discuss the matter informally and confidentially with a member of staff acting in the capacity of informal advisor.

b) An employee who wishes to discuss the details of alleged bullying on an informal, confidential basis may do so initially by speaking to a friend or colleague. You may

also wish to contact one of the following who will receive guidance advising on issues of Bullying at Work and whose role will be publicised:

- Trade Union representative/safety representative.
- The Town Clerk or the Employment Sub-Committee.

c) Individuals who believe they have been victims of bullying may contact any of the above. The Council has taken steps to provide this confidential and informal stage to the procedure. They will give support to victims of bullying.

d) The employees will always reserve the right as to whether to proceed to the formal stages of the procedure. There will, however, be no pressure on any employee to take matters further and any 'informal supporter' will not be involved in the formal procedure unless the complainant expressly wishes it. Either before or after speaking to an 'informal supporter', an individual who believes they have been the victim of bullying may register a formal complaint.

Personal Harassment and Bullying at Work formal procedure

Stage 1: Registering a complaint

a) Any employee who feels they have been subjected to unwanted personal harassment or bullying at work and wishes to make a formal complaint to the town clerk or line manager. It is important to recognise that any attempt to victimise an employee for making a complaint about harassment or bullying at work will be treated as a disciplinary offence.

b) A colleague may also lodge a complaint on behalf of the complainant. In such cases the complainant must have given authority to the colleague to register a complaint. The complaint must be formally registered with the town clerk within 3 working days of being made and a complaint cannot be progressed until the town clerk has received notification.

c) If the town clerk fails to resolve the issue to a conclusion satisfactory to all parties through conciliation, then a management investigation will begin. Exceptionally the town clerk may decide that no investigation is necessary despite lack of conciliation but this must be done in consultation with the chair of the employment sub-committee and the complainant advised of their rights under the existing Grievance Procedure.

Stage 2: Management Investigation

a) The town clerk and a line manager will interview the complainant in order to obtain a written statement describing the harassment/bullying behaviour

b) As part of the investigation the town clerk will write to the respondent outlining the allegations made against him/her. The respondent will be instructed not to contact the complainant about the complaint and any attempt to do so will be treated as a disciplinary offence.

- c) An interview will take place between the town clerk and the respondent. If there are any witnesses to the alleged incidents they will be interviewed by the town clerk.
- d) The town clerk will, in consultation with the employment sub-committee, if necessary consider the findings and decide what course of action to take.

Stage 3: Outcome

- a) If the employment sub-committee in consultation with the town clerk concludes that there is no case to answer the complainant and the respondent should be informed accordingly, which should be confirmed in writing. At this stage the complainant should be advised of the existing Grievance Procedure.
- b) If the claim is upheld, the matter may be treated as a disciplinary offence and a disciplinary hearing will be held in accordance with the Council's agreed procedure.