

Desborough Town Council

Dignity at Work/Bullying and Harassment Policy

1. PURPOSE AND SCOPE

1.1. STATEMENT

In support of our value to respect others Desborough 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.

This 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 policies on Grievance and Disciplinary handling and the Councillors Code of Conduct.

1.2. DEFINITIONS

- **Bullying**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails, or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

- **Harassment**

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

- **Unlawful discrimination**

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

1.3. EFFECTS

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.

1.4. EXAMPLES

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 working hours or non-work time.

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1.5. PENALTIES

Bullying and harassment by any employed persons can be considered examples of serious 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 employees. In extreme cases, harassment can constitute a criminal offence and the Council should take appropriate legal advice.

1.6. 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. Anyone concerned about being bullied or harassed is encouraged to maintain a journal or other record of the incidents.

An employee who feels they are being bullied or harassed may also raise the matter informally with their line manager or the Chair of Council or the Chair of the Personnel Committee. This person may speak with the person(s) causing concern informally to address the issue.

2.2. FORMAL APPROACH

2.2.1. 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 the complaint is about the Town Clerk, the Chair, or Chair of the Personnel Committee, 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 formal Grievance Procedure to be invoked. The employee will be expected to provide evidence of the conduct about which s/he is complaining. A meeting will be arranged to discuss the complaint with the complainant, normally within 5 working days of receipt of the written complaint. Following a Grievance Hearing or investigations 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.

2.2.2. OTHERS

Any other party to the Council, other than an employee, who feels he or she is being bullied or harassed should raise their complaint with the Council, (or the Monitoring Officer where a member is directly involved in bullying or harassment), if an informal notification has been unsuccessful at eliminating the problem. The complaint should then be

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investigated and a meeting held to discuss the facts and recommend the way forward. It is important that any Member about which the complaint is against does not prevent the Council operating impartially in its investigation and decision-making in this regard.

3. MEMBERS

Councillors whom the Council reasonably believes have been bullying or harassing another person(s) whilst undertaking Council activities may have action taken against them. The action taken must be reasonable. In some cases counselling or training in appropriate skill areas e.g. inter-personal communication, assertiveness, chairmanship etc., may be more appropriate than a penalty. The range of sanctions available to the Council, where a Member has been involved in bullying/harassment is limited. They include admonishment and seeking an undertaking to not repeat the behaviour; removal of opportunities to further harass/bully; banning from any committees of the Council and representation on any outside bodies; and a referral under the Councillors' Code of Conduct.

There may also be a referral to the Police under the Protection from Harassment Act 1997 or a claim to an Employment Tribunal for Third Party harassment (for harassment relating to one of the protected characteristics under the Equality Act) in extreme cases. This list is not exhaustive.

4. FALSE OR MALICIOUS ALLEGATIONS

False or malicious allegations of harassment or bullying which damage the reputation of an employee or Member will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure and/or a referral to the Monitoring Officer. This is not contrary to the Council's public interest disclosures policy and does not undermine the protections of that policy to people who have raised legitimate concerns.

5. 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.