

MALVERN TOWN COUNCIL BULLYING AND HARASSMENT POLICY

Purpose and Scope

1. Statement

1.1. In support of our value to Town Council staff, and in respect of others, Malvern Town Council will not tolerate bullying or harassment by, or of, any of their 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.

2. Definitions

2.1. *Harassment* is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This policy 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.

2.2. *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 or capability, which many cause them to suffer stress".

2.3. These definitions are derived from the ACAS guidance on the topic. Both harassment and bullying are behaviours which are unwanted by the recipient. Harassment and bullying in the workplace can lead to poor morale, productivity and poor performance, sickness absence, lack of respect for others, turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited compensation.

3. Examples of unacceptable behaviour are as follows (this list is not exhaustive):

3.1. 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, deliberately undermining a competent worker by overloading work and/or constant criticism, preventing an individual's promotion or training opportunities. Bullying and harassment may occur face to face, in meetings, through written communication, including e-mail, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

4. Penalties

4.1. Harassment and bullying are considered examples of serious misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Council for employees or through referral to the Standards Board of England, as a contravention of the Members Code of Conduct which may result in penalties against the member concerned.

5. The Legal Position

5.1. 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. Under the following laws, bullying or harassment may be considered unlawful discrimination: Sex Discrimination Act 1975, Race Relations Act 1976, Disability Discrimination Act 1995, Employment Equality (Sexual Orientation) Regulations 2003, Employment Equality (Religion or Belief) Regulations 2003, Employment Equality (Age) Relations 2006. In addition, the Criminal Justice and Public Order Act 1994 and Protection from Harassment Act 1997 created a criminal offence of harassment and a right to damages for the victim.

Process for dealing with complaints of Harassment and Bullying

6. Informal approach

6.1. Anyone, employee, contractor, member or visitor, who feels he or she is being bullied or harassed, should try to resolve the matter informally, in the first instance. It may be sufficient to explain to the person(s) involved in the unwanted behaviour that their conduct is unacceptable, offensive or causing discomfort.

7. Formal Approach

7.1. *Employees:* where the employee feels unable to solve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chair of the Council or another Councillor if more appropriate. It may be more appropriate for the complaint to be put in writing after the initial discussion with the Councillor, as this will enable the formal Grievance Procedure to be invoked.

7.2. *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 a Councillor, and where possible, the Town Clerk and request that the complaint be investigated and a hearing held to discuss the facts and recommend the way forward.

8. Grievance

8.1. A meeting to discuss the complaint with the complainant will 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. This meeting will be to discuss the issues raised and a way forward for the member(s) of staff involved. Employees have a right to be accompanied by a work colleague or a trade union representative at this meeting. A full investigation of the complaint will be held by an officer as appointed by the Chair/Councillor who is handling the process. It may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality. The Hearing Panel will publish its recommendations following deliberation of the facts. An action plan should be made available to the complainant to demonstrate how the problem is to be resolved. It may be decided that mediation is required and the Council could contact NALC, an employer's body or ACAS to this effect or the Council may offer counselling. The employee will have a right of appeal as established by the Employment Act 2002. At all times the confidentiality of the grievance will be of paramount importance in order to maintain trust in the process hence details of the full grievance will not be shared with the Full Council without prior approval by the complainant. The Council will commit not to victimize the complainant for raising the complaint once the appropriate grievance/disciplinary process has been concluded.

9. Disciplinary Action

9.1. Following a Grievance Hearing 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 this will follow the Disciplinary Procedure, under the Employment Act 2002 provisions, in accordance with NJC Green Book Terms and Conditions. The action must be reasonable and in some cases counselling or training in appropriate skill areas eg inter-personal communication, assertiveness, chairmanship etc, may be more appropriate than a penalty. The range of disciplinary sanctions available to the council, where a member has been involved in bullying/harassment include: admonishment and an undertaking not to repeat the process, removal of opportunities to further harass/bully, banning from committees of the Council and representation of any outside bodies, a referral to the Standards Board by the Council and/or the aggrieved victim. There may also be a referral to the Police under the Protection from Harassment Act 1997, in the most extreme cases.

9.2. 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 serious misconduct under the Disciplinary Procedure or a referral to the Standards Board.

10. Responsibilities

10.1. 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.

10.2. The Council undertakes to share its policy with all members and workers and request that each party signs to demonstrate that acceptance of its terms. All new members and employees will be provided with a copy of this policy.

10.3. A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk.

10.4. The Council will undertake to ensure that its members and workers are trained in the processes required by this policy as deemed appropriate.

11. Useful Contacts

- ACAS www.acas.org.uk tel: 0300 123 1100
- Local Government Ombudsman for Wales <https://www.ombudsman.wales> Tel: 0300 790 0203
- Andrea Adams Trust, a charity committed to tackling workplace bullying www.andreaadamsconsultancy.com 0333 939 0177
- Society of Local Council Clerks (SLCC) www.slcc.co.uk Tel: 01823 253646
Advisory Note 24

July 2008
