

## **Annex 4**

### **ANTI - BULLYING & HARASSMENT PROCEDURE**

#### **A Purpose**

Tonbridge & Malling Borough Council expects employees to treat members of the public, their colleagues, subordinates, and supervisors/managers with respect and courtesy at all times. The Council does not condone unacceptable behaviour, particularly when it is discriminatory to any individual or groups of people.

The Council will take a firm stance against bullying or harassment of employees by members of the public. The Council will ensure that people can raise their concerns about bullying or harassment without fear of reprisal or being victimised.

#### **B Scope**

This procedure applies to all employees and covers behaviour described as “bullying” and any act of harassment including that based on any of the legally protected characteristics (as defined by the Equality Act 2010) of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Harassment Procedure should be applied when employees raise issues relating specifically to harassment or bullying. However, in some circumstances the employee may consider it more appropriate to raise their concerns in accordance with the Council’s Confidential Reporting Code. Advice and guidance on how to pursue matters of concern via the Confidential Reporting Code can be obtained from the Monitoring Officer or the Chief Internal Auditor.

If a member of the public makes a complaint about bullying or harassment the matter should be dealt with in accordance with the Council’s Complaints Procedure.

#### **C Definition**

In accordance with the Equality Act 2010, there are three forms of harassment.

1. General harassment is where an individual (A) engages in unwanted conduct related to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation), and that conduct has either the purpose or effect of violating another’s (B’s) dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

2. Conduct of a sexual nature and the conduct has either the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
3. Conduct of a sexual nature or related to gender reassignment and the conduct has either the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B and because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B has not rejected or submitted to the conduct.

Broadly harassment is behaviour or actions that are unwanted and offensive to another person, in particular when it is intimidating, hostile, degrading or humiliating. It may take the form of either persistent or isolated incidents and can include:

- comments about the way a person looks
- indecent or offensive remarks or using offensive terms
- comments about the person's life style
- indecent or offensive jokes about specific groups of people
- displaying visually offensive material.

Critically, if a behaviour or action is considered to be offensive, it may constitute harassment whether intentional or otherwise. Individuals can complain of behaviour that they find offensive even if it is not directed at them. Offensive acts have the potential for a legal challenge against both the individual and the Council. Similarly, the Council may take legal action against members of the public where there is evidence that there has been harassment of members of staff.

## **D Shared Service and Partnership Working**

Employees seconded to work elsewhere or those employed in a shared service arrangement are entitled to use this procedure to raise an issue about bullying or harassment. As it could be the case that an allegation impacts against more than one employer, every effort will be made to agree an approach that reflects best practice across the organisations/agencies involved.

## **E Informal Action**

Frequently, people who perceive that they are experiencing bullying or harassment simply want the behaviour to stop. If employees wish to seek resolution by informal means, they can discuss the issue with a union representative or colleague and then with their line manager, a more senior manager within their service, the Personnel & Development Manager or the Personnel & Customer Services Manager. Details of the behaviour/incident(s) will then be shared with the person alleged to be responsible for the harassment. The manager discussing the behaviour/incidents should seek an agreement to standards of behaviour that

both parties find acceptable, and should explain that disciplinary action may result if the unacceptable behaviour continues.

## **F Formal Action**

In cases of serious misconduct or a failure to comply with agreed or requested informal action, details of what is happening should be reported, to an appropriate level of management. Employees are entitled to involve their trade union representative if they so wish.

All such complaints will be investigated. If such an investigation reveals that there is likelihood that bullying or harassment did occur, the charge will be investigated in accordance with the Council's Disciplinary Procedure. Severe cases are likely to be regarded as gross misconduct warranting summary dismissal.

Formal action progressed via the Council's Disciplinary Procedure is subject to equalities monitoring to ensure that the Council's Equality & Diversity Policy is being implemented. Any data gathered will be confidential and will not identify individual employees.

## **G Investigation**

The investigation should be undertaken as quickly as possible, normally within 5 days of the allegation, and should be conducted with an appropriate level of confidentiality and aim to establish the relevant facts. Wherever possible the relevant Chief Officer should nominate two independent people to undertake the investigation. Wherever possible the composition of the investigation team should reflect the nature of the case.

A record of the outcome of the investigation should be shared with both parties. The relevant manager (supported by a Personnel Manager) will meet the employee who made the complaint (accompanied if they wish by a union representative or work colleague) to discuss the outcome of the investigation.

During the course of the investigation, and any possible subsequent action, consideration needs to be given to the ability of the two parties to continue to work together. If this is not possible or practical it may be necessary to suspend the alleged harasser, provide special paid leave to the complainant, or arrange for temporary alternative places of work for either or both parties.

## **H After the Procedure**

Although disciplinary action may have taken place and provided a formal conclusion to the situation, support and guidance should be offered to both parties to further reduce the likelihood of similar complaints in the future. Individual cases will be monitored to ensure that there is no repetition of the offensive or bullying behaviour and that there is no subsequent victimisation of complainants. No retaliation of any kind will occur because an individual has reported an incident of harassment or bullying. Misuse or inappropriate

use of the Harassment Procedure is unacceptable and could be treated as such according to the Council's Disciplinary Policy.

Any employee who remains aggrieved following the outcome of the application of the Harassment Procedure, has the right to raise/pursue their complaint under the Grievance Procedure. Such a complaint would be heard at Step 3 of the Procedure (by a Chief Officer).