



HARRASSMENT & BULLYING POLICY

WRITTEN BY:

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INTRODUCTION

1.1 Biddulph Town Council will not tolerate harassment or bullying. All allegations of harassment or bullying will be taken seriously and dealt with promptly and confidentially.

It is the responsibility of the Chief Officer to ensure that all colleagues understand this policy, that it is adhered to and to deal with behaviours that are in breach of this policy. Where it is found that harassment or bullying has occurred, the appropriate action will be taken which could include dismissal for gross misconduct.

OBJECTIVES OF THE POLICY

2.1 The aim of this policy is to ensure that all colleagues are treated with dignity and respect and that the working environment is one free from bullying or harassment. It provides a mechanism for colleagues to challenge the unwanted behaviour. All employees are expected to treat fellow colleagues with respect and to adhere to this policy.

2.2 This policy applies not only to behaviour in the workplace but outside the workplace e.g. business trips, training courses, work related social activities as well as comments made via social media such as Facebook etc.

2.3 Bullying and harassment are not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems for an organisation including:

- poor morale and poor employee relations
- loss of respect for management
- poor performance
- lost productivity
- absence
- resignations
- damage to reputation
- tribunal and other court cases and payment of unlimited compensation.

It is in every employer's interests to promote a safe, healthy and fair environment in which people can work.

PROVISIONS

3.1 What is bullying and harassment?

There are many definitions of bullying and harassment.

Bullying may be 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 as defined in the Equality Act 2010 is:

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.

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems.

Unacceptable behaviour within Biddulph Town Council may include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying emails that are critical about someone to others who do not need to know

- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

3.2 Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues), email, phone, and automatic supervision methods – such as computer recording of downtime from work, or recording of telephone conversations – if these are not universally applied to all workers.

For practical purposes those making a complaint usually define what they mean by bullying or harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

3.3 How can bullying and harassment be recognised?

Bullying and harassment can often be hard to recognise – symptoms may not be obvious to others, and may be insidious.

Those on the receiving end may think ‘perhaps this is normal behaviour in this organisation’. They may be anxious that others will consider them weak, or not up to the job, if they find the actions of others intimidating. They may be accused of ‘overreacting’, and worry that they won’t be believed if they do report incidents.

People being bullied or harassed may sometimes appear to overreact to something that seems relatively trivial but which may be the ‘last straw’ following a series of incidents. There is often fear of retribution if they do make a complaint. Colleagues may be reluctant to come forward as witnesses, as

they too may fear the consequences for themselves. They may be so relieved not to be the subject of the bully themselves that they collude with the bully as a way of avoiding attention.

3.4 Is sexual harassment different?

Harassment of a sexual nature is one of the most common forms of harassment and is specifically outlawed by the Equality Act 2010 as is harassment related to relevant protected characteristics.

3.5 If you are being harassed or bullied

If you are being harassed or bullied, consider whether you feel able to raise the problem informally with the person responsible. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult or embarrassing, you should speak to The Chief Officer, who can provide confidential advice and assistance in resolving the issue formally or informally.

If informal steps are not appropriate, or have not been successful, you should raise the matter formally under our **Grievance Policy**.

The Chief Officer will investigate complaints in a timely and confidential manner. The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint, where possible. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. We will consider whether any steps are necessary to manage any ongoing relationship between you and the person accused during the investigation.

Once the investigation is complete, we will inform you of our decision. If we consider you have been harassed or bullied by an employee the matter will be dealt with under the **Managing Underperformance and Disciplinary Action Policy** as a case of possible misconduct or gross misconduct. If the harasser or bully is a third party such as a customer or other visitor, we will consider what action would be appropriate to deal with the problem. Whether or not your complaint is upheld, we will consider how best to manage any ongoing working relationship between you and the person concerned.

3.6 Protection and support for those involved

Staff who make complaints or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under our Disciplinary Procedure.

3.7 What should employers do about bullying and harassment?

1. Maintain fair policies and procedures for dealing promptly with complaints from employees. Complaints of bullying and harassment can usually be dealt with using clear grievance and disciplinary procedures. Please refer to the **Grievance Policy** and the **Managing Underperformance and Disciplinary Action Policy** for further information.

It is important to let employees know that complaints of bullying and/or harassment, or information from staff relating to such complaints, will be dealt with fairly and confidentially and sensitively. Employees will be reluctant to come forward if they feel they may be treated unsympathetically or are likely to be confronted aggressively by the person whose behaviour they are complaining about. Staff should know to whom they can turn if they have a work-related problem, and managers should be trained in all aspects of the organisation's policies in this sensitive area.

2. Set a good example and set standards of behaviour. The behaviour of employers and the Chief Officer is as important as any formal policy. Strong management can unfortunately sometimes tip over into bullying behaviour. A culture where employees are consulted and problems discussed is less likely to encourage bullying and harassment than one where there is an authoritarian management style. The organisation must make it clear that bullying and harassment are unacceptable. The **Employee Code of Conduct** sets out expected behaviours and organisational values.

3.8 How should employers respond to a complaint of bullying and/or harassment?

The Chief Officer will investigate the complaint promptly and objectively, taking the complaint seriously. Employees do not normally make serious accusations unless they feel seriously aggrieved. The investigation must be seen to be objective and independent. Decisions can then be made as to what action needs to be taken.

Employers investigating claims of harassment should consider all the circumstances before reaching a conclusion, and particularly the perception of the complainant as harassment is often felt differently by different people. Having gathered all the evidence employers should ask themselves "could what has taken place be reasonably considered to have caused offence?"

3.9 Informal approaches

In some cases it may be possible to rectify matters informally. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. It may be that the individual will choose to do this themselves, or they may need support from personnel, a manager, an employee representative, or a counsellor.

3.10 Counselling

In both large and small organisations, counselling can play a vital role in complaints about bullying and harassment, by providing a confidential avenue for an informal approach, and perhaps the opportunity to resolve the complaint without need for any further or formal action.

Counselling can be particularly useful where investigation shows no cause for disciplinary action, or where doubt is cast on the validity of the complaint. Counselling may resolve the issue or help support the person accused as well as the complainant.

3.11 Mediation

An independent third person or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two (or more) people in dispute to find a solution to the issue that they can both agree to. The mediator does not take sides or tell those in dispute what to do. Mediation is most likely to be successful if both parties:

1. understand what mediation involves
2. enter into the process voluntarily
3. are seeking to repair the working relationship.

Mediation can be a good way of dealing with bullying, discrimination or harassment situations depending upon the nature of any allegations.

Discrimination or bullying actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts. In some cases the individual and/or the organisation may view the allegations to be of such a nature that investigation and possible disciplinary action is the only alternative.

Mediators may be employees trained to act as internal mediators in their own workplace in addition to their day jobs. Or they may be from an external mediation provider.

3.12 Disciplinary procedures

Where an informal resolution is not possible, Biddulph Town Council may decide that the matter is a disciplinary issue which needs to be dealt with formally through the **Managing Underperformance and Disciplinary Action Policy**.

RELEVANT LEGISLATION

4.1 Harassment

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. Employees can complain of behaviour that they find offensive even if it is not directed at them.

Harassment is ‘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’.

The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

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.

4.2 Unfair dismissal

Employers have a ‘duty of care’ for all their employees. If the mutual trust and confidence between employer and employee is broken – for example, through bullying and harassment at work – then an employee can resign and claim ‘constructive dismissal’, at an Employment Tribunal on the grounds of breach of contract. Employers are usually responsible in law for the acts of their workers.

4.3 Health and safety

Breach of contract may also include the failure to protect an employee’s health and safety at work. Under the Health and Safety at Work Act 1974 employers are responsible for the health, safety and welfare at work of all employees.