

BULLYING AND HARASSMENT POLICY

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SECTION 1: GENERAL GUIDING PRINCIPLES

POLICY STATEMENT

Chesterfield Borough Council will not tolerate behaviour at any level which constitutes bullying or harassment. Any reported allegation of bullying or harassment will be investigated fully and promptly by the council and appropriate action will be taken which may include an investigation against the offender which could result in disciplinary action up to and including dismissal.

All allegations concerning bullying or harassment will be taken seriously and dealt with fairly, sensitively and confidentially by the council and there will be no victimisation of any member of staff making or involved in a complaint.

Bullying or harassing actions can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts.

All employees have the right to be treated with dignity and respect at work as underpinned by the council values. A workplace environment which is free from hostility enables people to contribute more effectively to the council's success and to achieve higher levels of job satisfaction.

This policy is issued by way of guidance on the council's policy and practice. It does not form part of an employee's contract of employment or otherwise have any contractual effect.

SCOPE

The policy shall apply to all council employees, regardless of their status i.e. temporary, permanent or zero hours, contractors, consultants or any self-employed individuals working for the council.

PRINCIPLES

The Equality Act 2010 defines harassment as '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'.

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.

Victimisation is where a person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some way intimidating them.

Examples of inappropriate behaviour which may constitute bullying or harassing behaviour in the council include:

- Spreading malicious rumours or insulting someone by word or behaviour;
- Copying memos, letters or e-mails 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.

While bullying or harassment as described above includes words or conduct which is perceived to be offensive by the recipient, this perception must be reasonable. For example, it would be reasonable for a manager to be assertive in what they say, whereas it would not be reasonable for them to use an aggressive management style in any situation.

Words or conduct which the accused individual cannot reasonably be expected to know is offensive to the recipient, will only be deemed to have the purpose or effect of bullying or harassment if repeated, or persisted in, after the recipient objects and makes it known that they find it offensive.

Complaints should be submitted as promptly as possible and should normally be within three months from the date of the last incident. However, this time limit may be extended under exceptional circumstances and where it is considered reasonable, just and equitable to do so.

It should be noted that concerns raised by a manager over an employee's performance does not in itself constitute bullying or harassment.

At all stages in this procedure the employee (alleged perpetrator and/or complainant) can choose to be accompanied by a Trade Union Representative or a work colleague. The employee is responsible for arranging the attendance of their representative. The individual accompanying the employee should not be directly known to be involved in the allegations and not be acting in a legal capacity. If a disciplinary hearing or subsequent hearing is required the representative is permitted to address the hearing on behalf of the employee but is not permitted to answer questions on behalf of the employee (unless this has been agreed with the panel prior to the hearing).

Employees are expected to foster a working environment in which every employee and member of the public is treated with equal respect and dignity. All employees are expected to contribute to dealing with and preventing bullying or harassment through their own self-awareness, and through supporting colleagues who suffer harassment or bullying.

If it is found that an employee has made a deliberately false or malicious complaint against another employee about harassment or bullying, disciplinary action will be taken against that employee.

HR will provide training, guidance and support to line managers on the operation of this policy at all stages.

RESPONSIBILITY OF MANAGERS

Bullying and harassment left unchecked or badly handled, may result in poor morale and employee relations, loss of respect for managers, poor performance, lost productivity, absence, resignations and reputational damage. It is in the manager's interest to promote a safe, healthy and fair environment in which people can work. All managers have a responsibility for leading and setting standards of behaviour which are appropriate for a healthy working environment and consistent with the council's values, policies and procedures.

Managers have specific obligations to ensure that employees are aware of the council values and this policy and reflect it in their behaviour.

Managers must seek advice from Human Resources after receiving a complaint whether it be formal or informal in nature and consider an employee's complaint in a fair and reasonable way in line with this policy.

Managers should undertake a stress risk assessment when an employee has raised an issue of bullying or harassment.

Bullying is not about the management of conduct, change or performance although it is recognised by the council that employees may find it difficult to cope with these circumstances. Other aspects of management e.g. the allocation of work or the refusal of specific requests such as time off or changes in hours do not in themselves constitute bullying. The difference lies in the way that employees and managers carry out their duties and there is a difference between firm but fair management practice and a manager who uses a management style that is perceived as bullying by staff.

The table below sets out a framework to make clear the distinctions between the management styles and provides a guide as to whether an employee's concerns may relate to bullying. These behaviours apply to staff at all levels:

Firm but fair	Bullying and harassing
Consistent and fair	Aggressive, inconsistent and unfair
Determined to achieve the best results but reasonable and flexible	Unreasonable and inflexible
Knows their own mind and is clear about their ideas, but willing to consult with colleagues and staff before drawing up proposals	Believes that they are always right, has fixed opinions, believes they know best and not prepared to value other people's opinions
Insists on high standards of service and behaviours in the team	Insists upon high standards of service and behaviour but blames others if things go wrong
Will discuss in private any perceived deterioration before forming views or taking action and does not apportion unwarranted blame on others when things go wrong	Loses temper, regularly degrades people in front of others, and threatens official warning without listening to any explanation
Asks for people's views and listens to the team	Tells people what is happening, does not listen

RESPONSIBILITY OF EMPLOYEES

All employees are responsible for promoting a positive working environment free from bullying and harassment and are expected to ensure that their own conduct is in accordance with the council's values and Code of Conduct policy.

Employees should support the policy by challenging and discouraging offending behaviour, avoid colluding with inappropriate behaviour, co-operate fully in any complaints procedure and support colleagues who are experiencing bullying and harassment through raising any concerns with their line manager, for example.

Employees are encouraged, wherever possible to resolve complaints in an informal manner. This approach should not be used to discourage an employee from using the formal procedure or when an instance of harassment could be of such a serious nature that the complaint would warrant formal action.

In some cases an employee may only perceive that they have been a victim of bullying or harassment because of a course or pattern of conduct over a period of time. If this is the case the employee should seek to resolve their concerns as soon as they perceive they may have been bullied or harassed.

Any employee named as a witness will be expected to co-operate at all stages of the procedure. In particular, they are expected to provide their statements in a timely manner and make themselves available to attend meetings in order to facilitate the case proceeding in accordance with the timescales set out in this procedure.

SECTION 2: PROCEDURE

The council aims to try to resolve issues quickly and informally whenever possible. The three stages to the process are:

1. Informal action
2. Formal action
3. Appeal process

1. INFORMAL ACTION

In some cases where employees feel they may have been or are being bullied or harassed it may be possible to rectify matters informally. Often people are not aware that their behaviour is unwelcome and an informal facilitated discussion can lead to greater understanding and an agreement that the behaviour will cease. An employee may choose to approach the person themselves to discuss the behaviour. However, if an employee feels unable to do this, informal resolution of matters can sometimes be best achieved through timely dialogue with a manager, HR, a Trade Union Representative or work colleague. Alternatively, the employee may decide to write to the alleged harasser about their bullying or harassing behaviour.

Informal action is not appropriate if the employee has fears for their health or safety or if informal resolution has previously been attempted and failed to produce a change in the alleged bully or harasser's conduct.

2. FORMAL ACTION

Where the informal procedure is exhausted, or the matter is considered too serious, or the employee does not wish to deal with the matter informally, a formal written complaint should be made by the employee to their manager who will contact HR and a commissioning manager will be identified. Where their manager is the alleged perpetrator the employee should make the complaint to the Head of HR.

The formal complaint should include the following information:

- Clear, specific allegations against the named person(s)
- Where possible, dates, times and witnesses to any incidents
- Relevant documentary evidence
- Details of any informal action taken to address the issue.

An investigating officer will be appointed to conduct the investigation. Consideration will be given to those carrying out the investigation to ensure they reflect the nature of the case, are impartial and are at an appropriate level within the council.

In the event of a serious allegation of bullying or harassment it may be necessary to separate the two parties at the workplace against whom the allegation has been made until a full investigation has been carried out. Every effort will be made to relocate the alleged perpetrator and not the complainant, taking account of skill set unless the complainant specifically asks to be moved. In exceptional circumstances consideration may also be given to whether the alleged perpetrator should be suspended. Suspension will be on full pay and does not constitute disciplinary action.

The council recognises the need to investigate and resolve cases of bullying and harassment in a timely manner, to minimise potential stress to all those involved. The investigation should be completed without undue delay, to establish the facts, interview those concerned and provide the relevant information to decide what action to take. However, such cases are often very complicated and need to be dealt with sensitively and thoroughly to ensure that full consideration is given to each situation.

The investigation meetings will be arranged by the investigating officer, supported by Human Resources. All parties and witnesses who are interviewed should be afforded and should maintain strict confidentiality, although anonymity will not be possible. The investigating officer will normally meet both parties and any relevant witnesses individually. Both parties should be permitted to submit written statements, to be represented or accompanied during the investigation meetings by a trade union representative or a work colleague.

Once the investigation has been completed, the investigating officer will submit a written report to the commissioning manager setting out their findings and making recommendations on what actions should be taken which may include:

- Support for those involved in the case, by providing coping techniques;
- Taking no action, where the allegation has not been substantiated;
- Taking informal or supportive action such as standard setting, additional suitable training, and facilitated discussion.
- Mediation – utilising internal or external third party.
- Relocation of the alleged perpetrator. (Every effort will be made to relocate the perpetrator and not the complainant, taking account of skill set unless the complainant specifically asks to be moved.)
- Convening a Disciplinary Hearing, where there is potential evidence of misconduct;

The commissioning manager will confirm the outcome of the investigation normally within 5 working days of receipt of the investigation report or as soon as is practically possible. A copy of the report will be given to the parties involved together with the outcome with due regard to confidentiality (Appendices will not be included). A meeting with the commissioning manager and a member of HR will be offered to each party to explain the outcome of the investigation.

Where a disciplinary hearing is recommended, it will be held in accordance with the council's Disciplinary Policy. The investigation report can be used as the basis of the management case at a disciplinary hearing. Where there have been serious or repeated incidences of bullying or harassment formal disciplinary action up to and including dismissal may be taken.

Unless dismissal has resulted from the Disciplinary policy, as part of the formal complaint, the line manager involved has a responsibility to ensure that there is some reconciliation between both parties to enable them to work effectively in the future. This will be undertaken and if this fails, relocation may prove necessary and in these cases the alleged perpetrator and not the complainant, should be relocated unless the person complaining requests otherwise.

3. APPEAL PROCESS

Where an employee is not satisfied with the outcome of the investigation they can appeal in writing to the relevant CMT member within 10 working days of receipt of the outcome letter.

The employee's letter of appeal should state the grounds of appeal. The grounds of appeal are:

- On procedural grounds if it affects the merits of the case;
- If new evidence comes to light;
- If the decision appears not to be supported by the evidence.

An appeal hearing will be arranged within 15 working days of receipt of the appeal.

The decision of the appeal process will be final and there will be no other right of appeal.

MEDIATION

Mediation is a voluntary process for resolving interpersonal differences at either an informal or formal stage of the bullying and harassment procedure and would entail a commitment from those involved to participate and work towards a resolution. Mediation should only be considered when the affected employees are openly committed to finding a solution to the issue. If either party is not willing to commit to mediation it should not be seen as a detriment. It can help rebuild relations that have been damaged but should not be used in place of formal procedures; where the health and safety of staff and the public is at on-going risk; or, in place of clear management instruction on expected behaviours/levels of performance.

The process of mediation is designed to help the employees involved to share their experiences, identify the impact of the situation on them, and consider how they need to change and what they need from others to resolve the situation.

Employees will be encouraged to establish a written agreement with the mediator, which will remain confidential, unless all those party to the agreement are prepared to share it. For further information about mediation please contact HR.

ON-GOING SUPPORT

Following a bullying and harassment claim either party may be worried about working with the other again. The council will ensure that on-going support is available for all parties involved if required and consideration given to exploring ways of resolving any remaining difficulties in working relationships.

MONITORING

Formally reported cases of bullying and harassment will be recorded and monitored by Human Resources including outcomes of hearings and appeal decisions.

ADDITIONAL SUPPORT

Any one requiring additional support during any stage of this process should contact HR.

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