SWANSCOMBE AND GREENHITHE TOWN COUNCIL

DIGNITY AT WORK: BULLYING AND HARRASSMENT POLICY *(for use in conjunction with the council's disciplinary and grievance procedures)*

(This Policy was reviewed by the full Council at its meeting held on 19 May 2016, minute 18/16-17)

1 Purpose and scope

1.1 Statement

In support of our value to respect others Swanscombe and Greenhithe 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. 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. The council will ensure this policy is available to all employees, all members, contractors, visitors and members of the public.

1.2 Definitions

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 and capability, which may cause them to suffer stress. 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. These definitions are derived from the ACAS guidance on the topic. Both bullying and harassment are behaviours which are unwanted by the recipient. Bullying and harassment in the workplace can lead to poor morale, low 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.

1.3 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, 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.

1.4 Penalties:
Bullying and harassment 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 committee, as a contravention of the member's Code of Conduct which may result in penalties against the member concerned. In extreme cases harassment can constitute a criminal offence and the council will take appropriate legal advice, if/when such a matter arises.

1.5 The legal position:
Councils have 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 (Sex Discrimination) 2005, Employment Equality (Age) Regulations 2006. 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. In addition, a harasser may be personally liable to pay damages if a victim complains to an employment tribunal for sexual, racial, disability or age 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 that their conduct is unacceptable, offensive or causing discomfort.

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/and the chair of the Personnel Committee. The complaint should be put in writing after the initial discussion

with the Town Clerk or/and chair of the Personnel Committee, as this will enable the formal grievance procedure to be invoked.

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 Town Clerk. The complaint should then be investigated and, if appropriate, a meeting held to discuss the facts and recommend the way forward. A member of the public who feels s/he has been bullied or harassed by any members or officers of a council should use the council's official complaints procedure.

2.3 Grievance – employees only:

A meeting to discuss the complaint with the complainant will normally 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 the Town Clerk. It may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality. An action plan could 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 should 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 victimise the complainant for raising the complaint once the appropriate grievance/disciplinary process has been concluded.

2.4 Disciplinary action:

Following a grievance hearing or investigation 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. For an employee found to have been bullying/harassing others this will follow the council's disciplinary procedure, under the Employment Act 2002 provisions and would normally be treated as gross misconduct. For members who the council reasonably believe have been bullying or harassing another person(s) whilst undertaking council activities the action taken must be reasonable and 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 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 on any outside bodies, a referral to the standards committee 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. This list is not exhaustive.

2.5 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 and/or a referral to the standards committee.

3 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. The council undertakes to make available its policy to all members and employees. All new members and employees will be made aware of this policy. A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Town Clerk and reported to the full council for approval.

4. Useful contacts

- ACAS www.acas.org.uk tel: 0845 7474747
- Standards Board for England www.standardsboard.gov.uk or tel: 0161 8175300
- Local Government Ombudsman for Wales www.ombudsman-wales.org.uk tel:01656 641150
- Andrea Adams Trust, a charity committed to tackling workplace bullying in the UK, www.andreaadamstrust.org or tel: 01273 704900
- SLCC www.slcc.co.uk Advisory Note 24