



Seaford Town Council

To the Members of the Seaford Town Council

A Special meeting of the **Seaford Town Council** will be held in **The Council Chamber, 37 Church Street, Seaford**, on **Wednesday 17th March 2010**, at **7.00 pm** which you are summoned to attend.

S. Shippen
Town Clerk

10th March 2010.

AGENDA

1. Apologies for Absence

To consider apologies for absence.

2. Disclosure by members of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.

3. Public Participation

To deal with any questions, or brief representations, from members of the public in accordance with Standing Order 74 and Seaford Town Council Policy.

Items 5 & 6 were *deferred from the Council meeting on 21st January 2010.*

4. Grievance Policy, Disciplinary Procedure and Dignity at Work Policy

To consider report 152/09 concerning policies and procedures for dealing with discipline, grievance and dignity at work. (pages 3 to 17)

5. St. George's Day Update

To consider report 157/09 concerning an update on St. George's Day, 2010 (page 19).

6. Community Interest Company Registered Office Request

To consider report 195/09, on an outline request to allow 37 Church Street to be used as the Registered Address for a new Community Interest Company. (pages 21 to 22)

7. Exclusion of Press and Public

The Mayor will move that in accordance with the Public Bodies (Admission to Meetings) Act, 1960, the press and public be excluded from the meeting during the discussion of item 8 on the agenda as the matter concerns confidential business information.

8. Golf Course Clubhouse Options Appraisal

To consider report 196/09 concerning the options for the Golf Course Clubhouse (pages 23 to 47).

9. Progress Report

If members require any information on previously dealt with items please contact the Town Clerk or Administration Manager at 37 Church Street.

For further information about items appearing on this Agenda please contact Mrs S J Shippen, Town Clerk, 37 Church Street, Seaford, East Sussex, BN25 1HG. Telephone 01323 894870



Seaford Town Council

Report 152/09

Agenda Item No:	5
Committee:	Council
Date:	17th March 2010
Title:	Grievance Policy, Disciplinary Procedure and Dignity at Work Policy
By:	Sam Shippen, Town Clerk
Wards Affected:	All Seaford Wards
Purpose of Report:	To present a replacement policy on Grievance, a replacement Disciplinary Procedure and a new policy on Dignity at Work for adoption.

Recommendations

You are recommended:

- 1. To agree adoption of the Grievance Policy attached at Appendix 1.**
 - 2. To agree adoption of the Disciplinary Procedure attached at Appendix 2.**
 - 3. To agree adoption of the Dignity at Work Policy attached at Appendix 3.**
 - 4. To agree the introduction of a Discipline/Grievance Sub-Committee and an Appeals Sub-Committee as Sub-Committees of the Finance & General Purposes Committee.**
 - 5. Subject to the agreement of 4, to delegate authority to the two sub-committees to deal with matters of discipline/grievance and appeals as appropriate in accordance with Seaford Town Council policy and procedure.**
 - 6. Subject to the agreement of 4, to appoint five elected members as the Discipline/Grievance Sub-Committee and five elected members as the Appeals Sub-Committee.**
 - 7. To agree that at any one time three of the Sub-Committee Members make up a panel for a hearing.**
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1. Information

- 1.1** The Employment Act of 2008 was supplemented in 2009 with a Code of Practice issued by ACAS (Advisory, Conciliation and Arbitration Service).
- 1.2** When the Town Clerk and Councillors attended a recent Society of Local Council Clerks (SLCC) Regional Conference, the need to update policies was highlighted.

- 1.3 The Town Clerk has sourced documents written specifically for local councils by the SLCC Human Resources Advisor and adapted them to fit Seaford Town Council structure.
- 1.4 At present staffing matters are dealt with by the Finance & General Purposes Committee, although we do not have any discipline/grievance or appeals panels appointed.
- 1.5 As hearings, if required, are to be arranged speedily, it would be prudent to appoint these panels.
- 1.6 I would suggest that the panels be Sub-Committees of F&GP and are delegated authority to deal with discipline/grievance or appeals as and when required in line with the adopted policies and procedures. As delegation under the 1972 Local Government Act s101 can only be to a committee or sub-committee.
- 1.7 I am suggesting that five elected members be appointed to each sub-committee.
- 1.8 ACAS guidelines are that panels of three are normally sufficient, I therefore suggest that three people from the five make up any panel hearing.

2. Financial Appraisal

There are no immediate financial implications arising from this report. Failure to adopt appropriate policies could lead to a financial penalty in the event of a claim.

3. Contact Officer

The Contact Officer for this report is Sam Shippen, Town Clerk.

Town Clerk

SEAFORD TOWN COUNCIL

Grievance Policy

1. PURPOSE AND SCOPE

It is the policy of the Seaford Town Council to give employees the opportunity to air and seek redress for any individual employment grievance which they may have. Grievances may be any concerns, problems or complaints employees wish to raise with the council. This document describes the procedure which aims to facilitate a speedy, fair and consistent solution to an individual employee's employment grievance. This procedure is produced in line with the ACAS Code of Practice 2009 as set out in the Employment Act 2008.

2. PRINCIPLES

- a) At every stage in the procedure the employee will be given the opportunity to state his or her case before any decision is made.
- b) Grievances will be dealt with promptly and consistently
- c) At all formal stages the employee will have the right to be accompanied by a work colleague or trade union representative during the Grievance Hearing.
- d) An employee will have the right to appeal against any outcome of a Grievance Hearing.
- e) At no time will an employee be penalised or victimised for having raised a Grievance against the council

3. PROCEDURE

3.1 Wherever possible, any grievance should be raised informally with the employee's line manager, or if this is inappropriate with the next level of management. In the case of the Town Clerk raising a grievance this should be directed to the Mayor unless the complaint is about the Mayor in which case the Leader of the Council should handle the Clerk's concerns. The recipient of the grievance from the clerk should share the grievance with the relevant committee established to handle employment matters and the issues should be treated with discretion and confidentiality at all times.

3.2 Written Statement: If the employee does not consider it appropriate to raise the grievance informally, or if requested by the person the employee spoke to informally, then the employee should submit a formal grievance in writing to their line manager, or if this is inappropriate to the next level of management.

3.3 Meeting or Hearing: Generally, within a reasonable period of time e.g. five working days of receipt of a written complaint, the line manager or Chair of the appropriately convened committee or hearing panel will arrange a meeting with the employee. The Hearing Manager will endeavour to make the meeting arrangements mutually convenient and will arrange a confidential location, free from interruptions. The Hearing Manager will investigate the substance of the complaint and hear submissions from the employee concerned together with such other submissions or evidence as s/he shall consider appropriate and take such steps as s/he shall consider necessary to resolve the issue raised. It may be necessary to adjourn the meeting in order for an investigation to take place. Careful consideration of the evidence and the necessary steps required to resolve the problems will be given to the grievance. The

employee may call witnesses by prior arrangement with the panel. There is no right for a Member or employee implicated in an employee's grievance to cross examine the aggrieved during a grievance hearing but the panel may wish to make its own investigations through interviewing these individuals and/or other witnesses separately. The Panel may ask the employee what he or she would like to happen as a result of raising the grievance and bear this in mind when preparing the response.

3.4 Response: The Hearing Manager will advise the decision to the employee in writing and, where appropriate, include an action plan to assist in the resolution of the problem. Councils which handle internal disputes effectively generally consider the options and costs in a timely fashion, then agree and publicise the workable solutions, monitor, review and learn from the experience. There may be some value in exploring Mediation as a way in which to resolve differences between two parties. The SLCC can advise on approaches and bodies which may be able to assist (nb external organisations may levy a fee for such services)

3.5 Appeal: If the employee is dissatisfied with the decision of the line manager on his/her complaint, s/he may appeal against the decision to the Mayor or if the grievance involves the Mayor to the Leader of the Council by written notice within five working days of the decision. An Appeal may be raised if:

- The employee thinks the finding, or action plan, is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

On receipt of the appeal the council's Appeals Panel shall arrange to meet and consult with the employee, the line manager or Members concerned and any other persons, as s/he shall consider appropriate without unreasonable delay. The Appeal Hearing Chair shall consider the issues and shall then take all such steps, as s/he may consider necessary to resolve those issues. Where the council's Mayor has chaired the initial grievance meeting the Deputy Mayor or Chair of another committee will hear the appeal as a hearing manager the decision of the Appeal Hearing will be final. The council will need to ensure that the Members involved in the hearings are able to act impartially and reasonably at all times. The outcome of the appeal should be conveyed to the employee in writing in a timely manner.

3.6 Bullying or Harassment: If a grievance concerns alleged bullying or harassment the matter should be reported promptly to the employee's Line Manager, or another manager/Member if more appropriate, with an indication of the required action. The complaint will then be investigated and any action taken and any resolution achieved will be reported back. If the solution is not satisfactory to the complainant, the matter will be discussed further and, if appropriate, an alternative solution agreed. The decision at this stage will generally conclude the enquiry. If a further appeal or review is available the employee will be notified. As a result of an investigation into a claim of harassment disciplinary action may be instigated against any alleged perpetrators of the action or in the case of alleged perpetrators being elected Members a Code of Conduct complaint lodged by the council through the Standards process/Ombudsman in Wales

Refer to the Dignity at Work/Bullying and Harassment Policy for further details

3.7 Right to be Accompanied: At any formal stage of the procedure an employee may be accompanied by a fellow employee of their choice or their trade union representative or official of a trade union (appropriately accredited) but as this is an internal procedure they will not be entitled to be accompanied by any external supporter e.g. partner, parent, solicitor etc. This

right to be accompanied is enshrined in the Employment Relations Act 1999. To exercise this right the employee should make a reasonable request. The companion will be allowed to address the hearing, put and sum up the employee's case, respond to views expressed at the hearing and to confer with the employee during the hearing (sometimes in an adjournment) but is not allowed to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

3.8 Hearing Panels

The SLCC advise that councils establish hearing panels to hear disciplinary and grievance hearings on an annual basis so that if a dispute does arise in the workplace the elected members involved are already trained and briefed on their duties as a hearing or appeal panel member. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will need to be substituted as panel members.

3.9 Confidentiality: So far as is reasonably practicable, the council will keep any grievance or complaint of harassment confidential between the manager or Member investigating the grievance or complaint, the employee and the person about whom the grievance or complaint is made. If it is necessary to investigate the matter with any other employee or person, the employee will be so advised.

3.10 Record Keeping: In all cases, written records of the nature of the grievance raised, the employer's response, action taken (with reasons), details of any appeal and subsequent developments will be retained and kept in accordance with the Data Protection Act 1998.

3.11 Grievances raised during Disciplinary Proceedings

In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members. The SLCC recommends, in line with ACAS advice, that disciplinary matters are placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances it is pragmatic to deal with the two disputes concurrently but SLCC would advise caution and specialist advice should be sought if this arises.

4. GETTING IT WRONG

Following the repeal of the 2004 Dispute Resolution regulations employees no longer HAVE to raise a grievance before going to an employment tribunal. However, establishing a mechanism for differences and disputes to be resolved internally can often allow the employment relationship to continue. Failure to follow the ACAS Code of Practice (available at www.acas.org.uk) when dealing with grievances can lead to an Employment Tribunal awarding an uplift of an award against the council of up to 25%. Tribunals dealing with constructive dismissal and discrimination claims are particularly interested in whether the employer followed a procedure when dealing with an internal dispute and whether the employer acted fairly and reasonably. One way in which to avoid such a penalty is to have an agreed procedure, communicate that procedure to staff and Members, revisit and review the procedure regularly and have some training for those who are expected to operate the procedure.

**Prepared by Sam Shippen, Town Clerk based on a model produced by Bethan Osborne,
National HR Advisor SLCC**

**Adopted by Council *insert date*
Review Date *insert date***

SEAFORD TOWN COUNCIL

Disciplinary Procedure

1. PURPOSE AND SCOPE

This procedure is designed to help and encourage all Seaford Town Council employees to achieve and maintain high standards of conduct whilst at work or representing the council. The aim is to ensure consistent and fair treatment for all. This procedure is prepared in accordance with the dismissal and dispute resolution procedures as set out in the Employment Act 2008 and the ACAS Code of Practice APR 2009

2. PRINCIPLES

- f) No disciplinary action will be taken against an employee until the case has been fully investigated
- g) At every stage in the procedure the employee will be advised of the nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.
- h) At all formal stages the employee will have the right to be accompanied by a trade union representative or work colleague during the disciplinary interview.
- i) No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty of dismissal without notice or payment in lieu of notice may be applied.
- j) An employee will have the right to appeal against any disciplinary penalty imposed.
- k) The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

3. THE PROCEDURE FOR MISCONDUCT and GROSS MISCONDUCT

3.1.1 The following list provides examples of **misconduct** which will normally give rise to formal disciplinary action:

- Unauthorised absence from work
- Persistent short-term and/or frequent absences from work without a medical reason
- Lateness for work or poor time keeping
- Inappropriate standard of dress
- Minor breaches of Health and Safety or other rules or procedures
- Failure to perform your job to the standard expected or in line with your job description/objectives
- Time wasting
- Disruptive behaviour
- Misuse of the council's facilities (e.g. telephones, computers, email or the internet)
- Refusal to carry out reasonable requests or instructions
- Smoking in unauthorised areas
- Failure to follow an agreed council Procedure

This list is not exhaustive and offences of a similar nature will result in disciplinary action being instigated N.B. persistent or frequent absence on medical grounds and long term sickness absence will be dealt with using a procedure for Incapacity.

3.1.2 The following list provides examples of offences which are normally regarded as **gross misconduct**:

- Theft, fraud, deliberate falsification of records, or other acts of dishonesty
- Fighting, assault on another person
- Deliberate damage to property of the council, its workers or members
- Gross incompetence in the conduct of work
- Gross negligence which results in the council or employees being put at risk.
- Being under the influence of illegal drugs or excessive alcohol
- Acts of incitement towards or actual acts of discrimination, harassment or victimisation including on the grounds of sex, race, colour, ethnic origin, disability, sexual orientation, age, religion or belief
- Serious acts of insubordination
- Serious breach of duty to keep information of the council, its service providers and its clients confidential
- Unauthorised entry to computer records
- Serious breach of the council's Security, Health & Safety, Confidentiality or e-mail and Internet
- Any action, whether committed on or off the premises, that is likely to or does bring the council into disrepute
- Serious negligence which causes or might cause significant loss, damage or injury
- Accepting bribes or incentive payments from suppliers
- Unauthorised use of council funds or credit
- Working with an external agency to provide information which would be detrimental to and cause commercial risk to the council.

This list is not exhaustive and other offences of a similar gravity will result in disciplinary action being instigated at Gross Misconduct level which carries a potential penalty of dismissal. Gross Misconduct is generally any conduct which places extreme pressure on the mutual trust which exists in an employment relationship.

3.2 INFORMAL ACTION

Minor misconduct will be dealt with informally usually in a confidential one-to-one meeting between the employee and line manager. In the case of the Clerk being the individual against whom there is a complaint or allegation the matter should be handled discreetly by the Leader & Deputy Leader of the Council and involve an informal meeting initially. However, where the matter is more serious or informal action has not brought about the necessary improvement the following procedure will be used:

3.3 FORMAL ACTION

3.3.1 The level of warning you may receive for misconduct/gross misconduct will depend on how serious the council considers the alleged actions to be and your previous conduct in all the circumstances. In the event of alleged gross misconduct the formal process may commence at Stage 4 –see 3.4 below.

3.3.2 Disciplinary Letters

If there is a concern about an employee's conduct or behaviour then a letter will be given to the employee advising him/her of the allegation(s) and reasons why this is unacceptable. The letter should invite the employee to attend a meeting at which the alleged misconduct will be discussed and will inform the employee of their right to be accompanied to the meeting. The letter will specify at which stage the disciplinary procedure is being invoked (see 4 stages below) and if invoked at Stage 4 for Gross Misconduct the letter will warn that a potential outcome could be dismissal. The time, date and venue of the meeting will also be advised. Any documents to be produced at the meeting will also be provided.

3.3.3 Disciplinary Meetings

The time and location of a disciplinary meeting should be agreed with the employee and it should be held in a private location with no interruptions. This will normally be without undue delay but allowing the employee to prepare their case e.g. within 5 days of the letter being sent, where practically possible. At the meeting the manager (or in the case of the Clerk being disciplined, the Chairman of the hearing panel) will state the complaint against the employee and go through the evidence which has been gathered. The employee will also be allowed to ask questions, present evidence and call witnesses if advance notice has been given that they will do so.

If the employee is unable to attend the meeting due to unforeseeable reasons out of their control (e.g. illness) then the council will reasonably rearrange the meeting. However, if the employee fails to attend the meeting without good reason the meeting can be held in the employee's absence.

3.4 OUTCOMES AND PENALTIES

Stage 1 - Oral Warning

In the instance of a first complaint that conduct does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING. He or she will be advised of;

- the reason for the warning,
- that it is the first stage of the disciplinary procedure,
- the improvement that is required and the timescales for achieving this improvement,
- together with a review date and any support available (where applicable) and
- his or her right of appeal.

A brief note of the oral warning will be kept but it will be spent after 6 months, subject to satisfactory conduct.

Stage 2 - Written Warning

If the offence is a serious one, or if further to previous formal disciplinary action, a WRITTEN WARNING will be given to the employee by the Line Manager. This will give details of the complaint, the improvement required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right of appeal. A copy of this written warning will be kept on file but it will be disregarded for disciplinary purposes after 12 months subject to satisfactory conduct..

Stage 3 – Final Written Warning

If there is still a failure to improve and conduct or performance is still unsatisfactory, or the misconduct is sufficiently serious, a FINAL WRITTEN WARNING will normally be given to the employee. This will give details of the complaint, will warn that dismissal will result if there is no satisfactory improvement and will advise of the right of appeal. A copy of this final written warning will be kept by the Line Manager (or in the case of the Clerk being disciplined by the

Chair of the Hearing Panel) but it will be spent after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct.

Stage 4 – Dismissal or other sanctions

If conduct is still unsatisfactory and the employee still fails to reach the prescribed standards, or where the Council reasonably believes Gross Misconduct has occurred, DISMISSAL may result. Only the appropriately convened hearing panel can take the decision to dismiss an employee. The employee will be given a written statement of allegations against him/her, invited to a meeting and then be notified in writing of the reasons for the decision taken at the hearing. Penalties at this stage may include dismissal with notice or summary dismissal (i.e. without any notice), Final Written Warning with/without demotion, loss of pay or loss of seniority. If dismissal is the outcome, the employee will be advised of the date on which employment will terminate. In all cases the employee has a right of appeal.

Very exceptionally, if an offence of Gross Misconduct is extremely serious an employee can be dismissed immediately without a meeting. In this situation a letter setting out reasons for dismissal would be sent to the employee offering the opportunity for an appeal hearing.

3.5 SUSPENSION

If you are accused of an act of gross misconduct, you may be suspended from work on full pay while the council investigates the alleged offence. Only the appropriately convened committee has the power to suspend. This enables a swift and thorough investigation to occur. Whilst suspended pending disciplinary investigation regular contact with a nominated person at the council will be maintained although access to premises, equipment or systems may be denied. The Investigator who compiles evidence for the disciplinary hearing must play no part in the subsequent decision-making to ensure impartiality. The Council will need to consider the implications of such arrangements on its hearing and appeal panel plans early on in the disciplinary process.

3.6 APPEALS

The Appeals stage of the disciplinary process is part of the Code of Practice to which an employee has a right. It can be exercised after any of the stages of disciplinary action for Misconduct/Poor Performance or Gross Misconduct.

An employee who wishes to appeal against a disciplinary decision should inform the Mayor (or Chairman of the relevant committee) within five working days, in writing and giving reasons for the appeal. An Appeal may be raised if:

- The employee thinks the finding or penalty is unfair
- New evidence has come to light
- The employee thinks that the procedure was not applied properly

Where possible the Appeal will be heard by a separate panel of elected members who have not been involved in the original disciplinary hearing, who will view the evidence with impartiality. The employee will have the right to be accompanied by a colleague or accredited Trade Union official or lay member at the appeal hearing. The outcome of the appeal and reasons for it will be advised to the employee as soon as possible after the meeting and be confirmed in writing.

At the Appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased. The decision taken at the Appeal hearing will be final.

3.7 THE RIGHT TO BE ACCOMPANIED

At each formal stage of disciplinary interview an employee has the right to be accompanied and can make a reasonable request for such a person to accompany them. An employee can ask any other employee or a trade union representative or an appropriately accredited official employed by a trade union to accompany them, to give support and help them prepare for the disciplinary interview. This right is enshrined in the 1999 Employment Relations Act. As this is an internal process there is no provision to have any external person accompany or represent an employee e.g. partner, parent, solicitor etc. the companion can address the hearing, put and sum up the employee's case, respond on behalf of the worker to any views expressed at the meeting, confer with the employee. The companion cannot however answer questions on the employee's behalf or address the hearing if the employee does not wish him/her to or prevent the employee explaining their case.

3.8 HEARING PANELS

The SLCC advise that councils establish hearing panels to hear disciplinary and grievance hearings on an annual basis so that if a dispute does arise in the workplace the elected members involved are already trained and briefed on their duties as a hearing or appeal panel member. In situations where individual members are implicated in the dispute or have undertaken an investigatory role then they will need to be substituted as panel members.

3.9 NOTE-TAKING

It is highly recommended that a note-taker be provided to every meeting/hearing which arises as a result of a disciplinary process as Employment Tribunals are particularly keen to view contemporaneous notes of events which have led to an employment dispute. Councils will need to give this requirement careful consideration in order to respect employee confidentiality.

3.10 GRIEVANCES RAISED DURING DISCIPLINARIES

In some circumstances when a disciplinary process has commenced an employee chooses to exercise his/her right to raise an internal grievance about the employment relationship with the council or individual Members. The SLCC recommends, in line with ACAS advice, that disciplinary matters are placed on hold until grievances have been aired and actions towards a resolution have been progressed. In exceptional circumstances it is pragmatic to deal with the two disputes concurrently but SLCC would advise caution and specialist advice should be sought if this arises.

3.11 CRIMINAL CHARGES OR CONVICTIONS

If an employee is charged with or convicted of a criminal offence this does not automatically give rise to a disciplinary situation. Consideration needs to be given to how a charge or conviction may affect an employee's ability to undertake his or her job duties and their relationships with the employer, colleagues, subordinates or customers.

4. GETTING IT WRONG

Failure to follow the ACAS Code of Practice (available at www.acas.org.uk) can lead to an Employment Tribunal awarding an uplift of an award against the council of up to 25%. Tribunals dealing with unfair dismissal claims are particularly interested in whether the employer followed a procedure and whether the employer acted fairly and reasonably. One way in which to avoid such a penalty is to have an agreed

procedure, communicate that procedure to staff and Members, revisit and review the procedure regularly and have some training for those who are expected to operate the procedure.

Prepared by Sam Shippen, Town Clerk based on a model produced by Bethan Osborne, National HR Advisor SLCC

Adopted by Council *insert date*

Review Date *insert date*

SEAFORD TOWN COUNCIL

Dignity at Work Policy

Note: This policy should be used in conjunction with the Council's Disciplinary and Grievance procedures.

1. PURPOSE AND SCOPE

1.1 Statement:

In support of our value to respect others Seaford 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 issue this policy to all employees as part of their induction and to all members as part of their Welcome Pack. The council may also wish to share this policy with 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 for England, 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 should take appropriate legal advice, sometimes available from the council's insurer, if 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 Clerk or if the matter involves the Clerk with the Mayor. It may be appropriate for the complaint to be put in writing after the initial discussion 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 Mayor, where possible, or the Monitoring Officer if an informal notification to a member has been unsuccessful at eliminating the problem or where a member is directly involved in the bullying or harassment. The complaint should then be investigated and a hearing 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 Clerk or an officer as appointed by the Mayor or committee 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 should contact SALC/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 2008. 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 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 Local Standards Committee (or equivalent) 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 Local 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 share its policy with all members and workers and request that each party signs to demonstrate acceptance of its terms. All new members and employees will be provided with a copy of this policy.

A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk and reported to the full council for approval.

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

Prepared by Sam Shippen, Town Clerk based on a model produced by Bethan Osborne, National HR Advisor SLCC

Adopted by Council *insert date*

Review Date *insert date*

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Seaford Town Council

Report 157/09

Agenda Item No: 6
Committee: Council
Date: 17th March 2010
Title: St George's Day Update
By: Sam Shippen, Town Clerk
Wards Affected: All Seaford Wards
Purpose of Report: To provide update on Council resolution C.57.

Recommendations

You are recommended:

- 1. To note the report.**
-

1. Information

1.1 Council considered report 95/09 at its meeting on 19th November 2009.

1.2 Resolution C.57 agreed in principle to celebrate St. George's Day and that Members forward ideas to the Town Clerk to include in a further report to be made to the this Council meeting.

1.3 No ideas have been forwarded to the Town Clerk following the meeting.

2. Financial Appraisal

There are no financial implications arising from this report.

3. Contact Officer

The Contact Officer for this report is Sam Shippen, Town Clerk.

Town Clerk

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Seaford Town Council

Report 195/09

Agenda Item No:	7
Committee:	Council
Date:	17th March 2010
Title:	Community Interest Company Registered Office Request
By:	Sam Shippen, Town Clerk
Wards Affected:	None
Purpose of Report:	To outline request received to allow 37 Church Street to be used as the Registered Address for a new Community Interest Company.

Recommendations

You are recommended:

- 1. To agree that the Community Interest Company be granted permission to use 37 Church Street as their registered address without charge.**
 - 2. To agree that Seaford Town Council becomes a subscribing organisation of the Community Interest Company at no initial cost to the Council.**
-

1. Information

- 1.1** “Isn’t it Bonkers!” has been run as a free to enter event based upon raising awareness of Climate Change and what people can do to reduce the impact of their actions on the environment and save money for the past few years in various Lewes District coastal towns.
- 1.2** In 2010 it is Seaford’s turn to run this event which is planned to take place on Sunday 26th September at the Downs Leisure Centre.

- 1.3** To date, the Seaford Waste Forum have been working on the plans for Seaford. In previous years committees were formed in Peacehaven and Newhaven.
- 1.4** The feeling of the organising committee is that each year a lot of effort is spent on setting up an organisation and relearning what was learnt the previous year. It seems a good idea to set up a Community Interest Company which would form the core of expertise on, for example, presenting, raising funds and just maintaining contacts from year to year. It would also have the opportunity to undertake other environmental and sustainability raising events.
- 1.5** A Community Interest Company (CIC) is a not for profit organisation. The proposed company would have to comply with the legal requirements. One of these requirements is to have a registered office address and the committee via Councillor Eddie Collicot have requested to use 37 Church Street for that purpose.
- 1.6** A registered address would be used on official documentation with Companies House. I would not foresee complications arising from this request, on the contrary it would be a positive indication of support for the organisation by this Town Council.
- 1.7** A second request has been made, that the Town Council become a subscribing organisation. They have stated that this carries no financial liability but would identify the Council as a supporter of what is being done. They may request a grant at a later date but this would be considered on its own merit at the time of request.

2. Financial Appraisal

There are no direct financial implications arising from this report.

3. Contact Officer

The Contact Officer for this report is Sam Shippen, Town Clerk.

Town Clerk
