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25 March 2011

S U M M O N S

MEETING: Extraordinary Personnel Sub Board
DATE: 4 April 2011
TIME: At the conclusion of Local Joint Staff Committee, but not before
5.00 pm
PLACE: Council Chamber, Town Hall, Gosport
Democratic Services contact: Lisa Young

LINDA EDWARDS
BOROUGH SOLICITOR

MEMBERS OF THE SUB-BOARD

The Mayor (Councillor Allen) (ex-officio)
Councillor Carter CR (Chairman)
Councillor Burgess (Vice-Chairman)

Councillor Chegwyn
Councillor Hook

Councillor Jessop
Councillor Wright

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

**In the event of the fire alarm sounding, please leave the room immediately.
Proceed downstairs by way of the main stairs or as directed by GBC staff, following any of the
emergency exit signs. People with disability or mobility issues please identify yourself to GBC
staff who will assist in your evacuation of the building.**

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Councillors are requested to note that, if any Councillor who is not a member of the Sub Board wishes to speak at the Sub Board meeting, then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

AGENDA

PART A ITEMS

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.

3. MINUTES

To confirm the Minutes of the Sub Board meetings held on 1 December 2010 and 20 January 2011 (copies attached)

4. DEPUTATIONS – STANDING ORDER 3.5

(NOTE: The Sub Board is required to receive a deputation(s) on a matter which is before the meeting of the Sub Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Thursday, 31 March 2011. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

(NOTE: The Sub Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Sub Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Thursday, 31 March 2011).

6. REVISED POLICIES: EQUALITY AND DIVERSITY, AND BULLYING AND HARASSMENT

To seek the Sub-Board's approval for updates to two of the Council's employment policies, namely the Equality and Diversity Policy, and the Bullying and Harassment Policy.

PART II
Contact
Officer:
Kathy Inch
Ext 5224

7. ANY OTHER ITEMS

-which the Chairman determines should be considered, by reason of special circumstances, as a matter of urgency.

8. EXCLUSION OF PUBLIC

To consider the following motion:

Extraordinary Personnel Sub Board
4 April 2011

That in relation to the following item the public be excluded from the meeting, as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item there would be disclosure to them of exempt information within Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972, and further that in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons set out in the report.

PART B ITEM
FOLLOWING THE EXCLUSION OF THE PRESS AND
PUBLIC

Item No.	Item	Paragraph no. of Part I of Schedule 12A of the Act	
9.	STAFF CHANGES (Report to Follow)	Paragraphs 1 and 3 Reason: The report identifies specific individuals and information regarding their personal financial affairs rather than the Council overall financial affairs. The public interest in the Council's overall affairs can be met in other ways without releasing such personal information and therefore the public interest in maintaining the privacy of personal information outweighs the public interest in the Councils financial affairs.	PART II Contact Officer: Kathy Inch Ext 5224

AGENDA ITEM NO. 6

Board/Committee:	Local Joint Staff Committee/Personnel Sub-Board
Date of Meeting:	4 th April 2011
Title:	Revised policies: Equality and Diversity, and Bullying and Harassment
Author:	Head of Personnel
Status:	FOR DECISION BY THE PERSONNEL SUB-BOARD

Purpose

To seek the Committee's approval for updates to two of the Council's employment policies, namely the Equality and Diversity Policy, and the Bullying and Harassment Policy.

Recommendation

That the Committee approve, for recommendation to Personnel Sub-Board for immediate adoption:

1. The updated Equality and Diversity Policy
2. The updated Bullying and Harassment Policy.

1 Background

- 1.1 The Equality Act 2010 consolidates nine separate pieces of anti-discrimination legislation into a single Act and updates and amends existing strands of anti-discrimination law.
- 1.2 The majority of the Act's provisions came into force on 1st October 2010, some took effect from 1st April 2011, and some are not yet implemented.
- 1.3 This new legislation necessitates updates to the Council's policies relating to equality and diversity, and bullying and harassment.

2 Report

2.1 Equality and Diversity Policy

- 2.1.1 The Equality Act 2010 incorporates a number of key concepts, some of which are new. They are as follows:

Protected characteristics on the grounds of which discrimination is unlawful – age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Associative discrimination – discrimination against a person because they have an association with someone with a protected characteristic.

Perceptive discrimination – discrimination against a person where the discriminator thinks the person possesses a protected characteristic, even though they may not actually possess it.

Indirect discrimination – where a policy applies to everyone but has a disproportionate impact on people with a protected characteristic. This is not a new concept, but it has now been extended to cover disability and gender reassignment.

Harassment - again not a new concept, but it now has a wider context. It applies to all protected characteristics except pregnancy and maternity, and marriage and civil partnership. Employees can complain of harassment even if they do not possess the protected characteristic or the harassment is not directed at them. Employers can be liable for harassment of their staff by non-employees.

Direct discrimination and victimisation – concepts carried over from previous legislation.

Combined (dual) discrimination – the introduction of this concept has been delayed from the proposed April 2011 commencement. It involves discrimination against a person because of a combination of protected characteristics.

- 2.1.2 As part of the provisions relating to disability discrimination, the Act made unlawful pre-employment health questions except for certain defined reasons. Pre-employment health questions are only permissible for purposes of equality monitoring, compliance with disability discrimination requirements and for genuine job-related reasons. In consequence, the Council no longer requires all shortlisted applicants to complete a medical report form.

- 2.1.3 Other changes made by the Act are:

- 2.1.3.1 Extension of Employment Tribunals' power so that they can make recommendations that an employer takes steps to eliminate or reduce the effect of discrimination on other employees, not just the claimant in a Tribunal case.
- 2.1.3.2 Transsexual people were previously protected from discrimination only when under medical supervision, but this protection is now extended to include transsexual people not under such supervision.
- 2.1.3.3 Positive action remains lawful to enable employers to remove barriers that might prevent some people being employed by or progressing within an organisation, but the Act also allows employers to favour a candidate from an under-represented minority in cases where two candidates for a job or for promotion are equally well qualified. This is an option, not an obligation, and it must not be a blanket policy. Positive discrimination remains unlawful, other than in these very limited circumstances.
- 2.1.3.4 There are additional obligations on the public sector to lead by example, promoting equality in their workplaces.

The single equality duty for the public sector requires demonstration that equality in the workforce is being achieved across all the protected characteristics.
- 2.1.4 In consequence of the changes, our Equality and Diversity Policy has been reviewed and updated, as have our practices and procedures. The updated policy has been the subject of consultation with UNISON and with the Equality and Diversity Steering Group, whose comments have been incorporated. The revised policy is attached as Appendix A.

2.2 Bullying and Harassment Policy

- 2.2.1 The changes highlighted above relating to harassment require a change in the Council's Bullying and Harassment policy in order to reflect the revised legislation.
- 2.2.2 The policy has been reviewed and updated, and this has been the subject of consultation with UNISON and with the Equality and Diversity Steering Group, whose comments have been incorporated. The revised policy is attached as Appendix B.

3 Risk Assessment

- 3.1 The review and update of policies ensures that our practices and procedures remain in accordance with current legislation.

4 Legal Implications

- 4.1 The updates recommended are in compliance with the new Act.

5 Financial Implications

- 5.1 There are no direct financial implications of these updates.

6 Conclusion

- 6.1 The Equality Act 2010 consolidates a substantial part of the anti-discrimination law, and introduces some new concepts.
- 6.2 In order to comply with that new legislation, the Council's policies relating to equality and diversity, and bullying and harassment, have been updated.
- 6.3 The updates have been the subject of consultation with UNISON, and with the officer group which oversees issues relating to equality and diversity. Recommendations made by UNISON and members of the Equality and Diversity Steering Group have been incorporated in the documents.
- 6.4 The policies were previously the subject of equality impact assessments, and these assessments have been re-visited in consequence of the legislative changes.
- 6.5 Local Joint Staff Committee are requested to approve the updated policies for recommendation to Personnel Sub-Board for adoption forthwith.

Financial Services comments:	None
Legal Services comments:	Contained in Paragraph 4 of this Report
Service Improvement Plan implications:	
Corporate Plan:	
Risk Assessment:	Paragraph 3
Background papers:	
Appendices/Enclosures:	Appendix A – Updated Equality and Diversity Policy Appendix B – Updated Bullying and Harassment Policy
Report author/Lead Officer:	Kathy Inch

GOSPORT BOROUGH COUNCIL**EQUALITY AND DIVERSITY IN EMPLOYMENT****POLICY STATEMENT**

The Borough Council of Gosport confirms its commitment to equality of opportunity in all areas of its work and to the fair provision of its services to all sections of the community, in order to achieve its mission of working with the community to improve everyone's quality of life and deliver a sustainable future for the Borough. The Council's strategic priorities relating to people, places, prosperity and the pursuit of excellence, are underpinned by values of which equal opportunities forms an important element. The Council recognises the value of diversity in the population and in its workforce, and takes seriously its duty to promote equality.

All individuals will be treated in a fair and equal manner and in accordance with the law regardless of gender, marriage or civil partnership, race, religion/belief, skin colour, age, disability, sexual orientation, gender reassignment, culture, nationality, or ethnic origin, pregnancy or maternity, employment status, or union membership status. No requirement or condition will be imposed without justification which could disadvantage individuals purely on any of the above grounds.

The Council will not discriminate in any area of employment, or in the provision of its services to the public, and accepts its responsibilities to comply with all relevant legislation including the Equality Act 2010, which consolidates nine separate pieces of anti-discrimination legislation, and other legislation covering matters of fairness and equality, i.e. Sex Discrimination Act 1986, Rehabilitation of Offenders Act 1975, Protection from Harassment Act 1997, the remaining parts of the Equality Act 2006, and the Children Act 1989. The Council will not tolerate unacceptable attitudes, language or behaviour on issues of diversity, and has produced an Equality Scheme covering all appropriate characteristics. The Council's Equality Scheme, Bullying and Harassment Policy and Policy on the Employment of Ex-Offenders should be read in conjunction with this document.

It is the responsibility of all officers of the Council to act in a fair and proper manner and in accordance with the Council's policies. Managers will ensure that the policy is properly applied. Responsibility for central co-ordination, advice and review of the policy lies with the Chief Executive through the Head of Personnel.

All staff receive training in equal opportunities and diversity, which is also provided for Members of the Council, regular updates are issued, and the topic is covered during the induction of new staff. It is also a regular feature of Team meetings.

Any member of staff who feels that they have been subjected to unfair discrimination, bullying/harassment or victimisation should take the matter up with the Chief Executive, the Head of Personnel, a Manager, or a Trade Union representative, as appropriate.

GOSPORT BOROUGH COUNCIL
EQUALITY AND DIVERSITY POLICY
EMPLOYMENT

1. SUMMARY

The Council is committed to equality of opportunity for all, to removing barriers to equal opportunity, and to ensuring that no unjustifiable requirements or conditions are imposed which could disadvantage particular groups or individuals because of a protected characteristic. The Council fully recognises and accepts its responsibility to ensure that there is no discrimination on the grounds of a person's gender, marriage or civil partnership, pregnancy or maternity, race, culture, nationality, ethnic origin, religion/belief, skin colour, age, disability, sexual orientation, gender reassignment, union membership or employment status.

All individuals will be treated solely on their merits as employees or applicants for employment. The selection process for the recruitment of new staff will be clear and transparent. Procedures are adopted and training provided to avoid the possibility of bias or prejudice and consequent discrimination.

All areas of employment are covered by this policy, i.e. advertising, recruitment and selection, terms on which employment is offered, job allocation, promotion, secondment, training and development, discipline and grievance, and all aspects of day to day employment. Harassment or bullying of any employee will not be tolerated under any circumstances.

The Council is committed to the principle that mechanisms to determine both the pay and other terms and conditions of employment do not discriminate unlawfully, and recognises that decisions must be made on objective criteria. We will ensure that equal pay is given to employees carrying out like work or work seen as equivalent or work of equal value, for which purpose we use the National Joint Council Job Evaluation Scheme.

The Council encourages flexible work practices to allow a diversity of people into employment, and to help employees manage changing situations during their employment.

The Council will continue to keep its policies under review to ensure that employment, training, communication, and other policies do not disadvantage any particular group or individual because of a protected characteristic.

Every officer who manages or supervises staff has responsibility for applying this policy, and it is the responsibility of every employee to respect and act in accordance with it.

It is recognised that the co-operation and support of all staff is essential to the successful implementation of this policy. Consequently, the policies and practices are the subject of regular consultation with the recognised Trade Union(s).

2. DEFINITIONS

DISCRIMINATION

Discrimination can be direct or indirect. **Direct discrimination** occurs when a person treats another less favourably because of a protected characteristic. This covers less favourable

treatment because of an association with someone with a protected characteristic or an incorrect belief that someone has a protected characteristic.

Indirect discrimination occurs where a provision, criterion or practice is applied, which cannot be justified as necessary for the job and is not a proportionate means of achieving a legitimate aim, which is discriminatory in relation to a protected characteristic. Indirect discrimination does not have to have been intentional to lead to an award of compensation.

There have been various Acts and Regulations covering discrimination, the majority of which are now embodied in the Equality Act 2010, which make it UNLAWFUL to discriminate in relation to a protected characteristic. It is also UNLAWFUL for a person to instruct, cause or induce someone to discriminate against, harass or victimise another person, or attempt to do so.

For example it is unlawful not to interview or appoint a man or woman solely because of gender, to sexually or racially harass a woman or man at work, to automatically refuse to consider applicants from a particular racial group or with a disability, or because of their age. It would be indirect discrimination, and therefore unlawful, to impose an unjustifiable requirement relating to, for example, qualifications, which would prevent those not educated in the U.K. from applying for a job, or to unreasonably change a working pattern, without justification, which would mean that those with childcare responsibilities would be unable to meet it.

Victimisation is also unlawful, and occurs when a person suffers detriment because of doing a protected act or being believed to have done a protected act, or it being believed they may do a protected act (e.g. report discrimination, give evidence, bring proceedings). The Council will not tolerate victimisation on any grounds.

Dual discrimination, which is expected to be introduced at some time in the future, occurs where discrimination takes place on a combination of no more than two of the protected characteristics of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation.

The Rehabilitation of Offenders Act 1974 provides that (with some exceptions) convictions are “spent” after a specified period of time, the time being dependent on the nature of the sentence imposed. “Spent” convictions need not be disclosed by applicants for employment, and must not be taken into account in employment decisions. (The (Exceptions) Order of 1975 and (Exceptions) (Amendment) Order of 1986 provides for certain categories of employment where disclosure of “spent” convictions is required. In such cases, the Council will require a Criminal Record Disclosure Certificate – this requirement will be made clear in relevant recruitment documentation) The Council has produced a Policy on the Employment of Ex-Offenders, which should be read in conjunction with this policy, and confirms that the holding of a criminal offence will not necessarily be a bar to employment – all circumstances will be taken into account in employment decisions. In accordance with the Safeguarding Vulnerable Groups Act 2006, those barred from working with children/young persons or vulnerable adults CANNOT and will not be employed in such a capacity. The Council will ensure that continuing developments relating to the protection of children and vulnerable adults are incorporated in its policies and practices.

HARASSMENT AND BULLYING

Harassment occurs where a person is subjected to unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) that has the purpose or effect of either violating that person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that

individual. It can take many forms and may be directed at an individual or group of individuals. It takes into account the perception of the recipient, other circumstances and whether it is reasonable for the conduct to have that effect.

In accordance with the Protection from Harassment Act 1997, all forms of repeated harassment are unlawful, even if they are not related to a protected characteristic.

Sexual harassment is unwanted conduct of a sexual nature, or related to gender reassignment or sex where a person suffers less favourable treatment because of their rejection of or submission to that conduct. It can include unwelcome physical, verbal or non-verbal conduct.

It may be persistent, or could be an isolated incident of a serious nature, and can range from violence and bullying to ignoring someone, and can include physical contact, jokes, offensive language, gossip, display of posters, obscene gestures, non co-operation at work, coercion, pestering and/or spying.

Persistent harassment by third parties, e.g. customers or suppliers, will not be tolerated; the Council takes seriously its responsibilities to ensure that appropriate action is taken where any incident is reported.

Extreme forms of harassment, such as assault, constitute offences under criminal law.

Bullying is a sustained form of psychological abuse that aims to make victims feel demeaned and inadequate. It is defined as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. (If any physical contact is involved, this will be considered an assault.)

The Bullying and Harassment Policy, which should be read in conjunction with this policy, sets out in more detail the type of behaviour which constitutes bullying and/or harassment, and confirms the procedure which should be followed, which is detailed below.

EQUAL PAY

Pay includes pensions, discretionary bonuses and sick pay, all other terms and conditions, and any additional benefits. The Council recognises that employees should receive equal pay for work of equal value in accordance with the legislation.

Like work is defined as work which is the same or broadly similar. *Work rated as equivalent* is defined as work which has achieved the same or a similar number of points under a job evaluation scheme. *Work of equal value* is defined as work which is of broadly equal value when compared under headings such as effort, skill and decisions.

The Council uses a Job Evaluation Scheme to determine the value of all jobs, and undertakes an equal pay audit every three years.

3. THE PROCEDURE: WHAT TO DO

If you consider that discrimination has occurred, or that you have been victimised, bullied or harassed, it is important that prompt action is taken. You can determine whether you wish to deal with the matter initially informally or more formally. You are advised to retain a written log of all incidents including dates, times, witnesses, and retain any relevant reports, letters, e-mails.

- (1) You can speak or write to the individual you feel has discriminated against you, bullied, harassed or victimised you. The primary aim is to ensure that the behaviour stops. It is therefore important to make it clear as soon as possible to the perpetrator that the behaviour is unwelcome and must stop immediately.

- (2) If you do not want to do this, or feel that it would be difficult for you, you should report the matter to one of:

your Line Manager,
your Section Head,
your Service Unit Manager,
the Head of Personnel or Personnel Officer,
or your Trade Union representative,

who will take the matter up on your behalf. If the person you report to is not your Service Unit Manager, he/she will normally need to be involved at this stage. The Head of Personnel should also be advised. Confidentiality will be respected, only such persons as necessary having details of the matter, and you will be kept informed of action taken.

- (3) If the matter is resolved at this stage, a confidential note of the incident and the action taken will be retained in confidence for a period of two years by the Head of Personnel, who is responsible for monitoring equal opportunity issues in employment.

- (4) If the matter is not capable of being resolved informally, or if it remains unresolved due to non-acceptance of the allegation made or because the behaviour continues, then you should put your complaint in writing, detailing:

- The name of the person who is alleged to have carried out the discrimination
- What form of discrimination has occurred, when and where
- The names of any witnesses to incidents of discrimination
- The names of any others who have been treated in a similar way
- Any action already taken to counteract the discrimination

either to the Head of Personnel or your Union representative, who will request an interview with an independent Service Unit Manager (i.e. a Manager other than the Manager employing you or the person about whom you are complaining), at which you may be accompanied by a representative of your choice.

- (5) A separate interview should be arranged by the Service Unit Manager with the person against whom the allegations are made, who may be accompanied by a representative of his/her choice at that interview. A personnel representative may also be present.

- (6) The Service Unit Manager will be responsible for carrying out a thorough investigation as quickly as possible, as a result of which a decision may be made that either:

- * the allegation(s) is/are unfounded
- * the matter has been satisfactorily resolved and no further action is necessary
- * the disciplinary procedure should be invoked and a formal meeting arranged.

- (7) If you remain dissatisfied with the decision, you may raise the matter under the Council's Grievance Procedure. In accordance with that procedure, if the matter is not resolved, it can ultimately be considered by a Panel of Members of the Council.

Notes

If the allegation refers to a Service Unit Manager, the matter should be referred to the Chief Executive or a Director. A matter involving the Chief Executive should be referred to the Council's Monitoring Officer.

If the matter involves an Elected Member, the Chief Executive should be advised. The Chief Executive will where appropriate refer the matter to the Leader of the relevant political group, and will determine appropriate action. Separate procedures exist for issues involving Elected Members.

If the matter involves a member of the public or a visitor to the Town Hall, the relevant Service Unit Manager (or Chief Executive or Director) should take appropriate action.

If an employee decides not to take any action to deal with a problem and the circumstances described are serious, the Council reserves the right to investigate the situation in accordance with its duty of care to ensure the safety of all employees who may be adversely affected by the behaviour.

Where a complaint is being investigated, it is recognised that it may be difficult for the employees concerned to continue to work in close proximity. If this is the case, the Council will consider all the circumstances and may consider, for example, a voluntary request from either party to transfer to another job, or transfer to another location, although a transfer cannot be guaranteed since this depends on the availability and suitability of any alternatives. Alternatively, or in addition, counselling or mediation will be arranged if appropriate.

Malicious complaints – Where a complaint is blatantly untrue and can be shown to have been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the Council's disciplinary procedure, as will any witnesses who have deliberately misled the investigating officer(s).

Grievance procedure – The appropriate stage of the procedure will depend on the level at which the matter was determined. For example, if it was determined at Service Unit Manager level, stage 5 of the Grievance procedure will apply i.e. hearing by Chief Executive or Director.

4. AWARENESS, MONITORING AND RESPONSIBILITY

The Head of Personnel has overall responsibility for co-ordination of the policy, advice and review. The Chief Executive, Deputy Chief Executive, Service Unit Managers, Section Heads and Line Managers have responsibility for ensuring its adoption and implementation in their Units.

Procedures and documentation will be kept under constant review, with any changes being subject to consultation before adoption.

Advice on the policy is given to all new employees as part of their induction to the Council, and training is provided regularly for all staff, with updates being issued where there are changes in Regulation or guidance.

The process of recruitment and selection as well as subsequent retention will be monitored and reviewed to ensure compliance with this policy. This includes the drafting of job descriptions and person specifications, application forms, the wording and placing of advertisements, short-listing, interviewing and other selection arrangements, staff development scheme, terms and conditions of employment, training and development opportunities, promotion, redundancy provisions, discipline/grievance, and all aspects of employment.

Wherever possible and appropriate, job share and flexible working patterns will be offered.

The body/committee responsible for agreeing employment policies is the Personnel Sub-Board.

5. INFORMATION AND ADVICE

If you would like further information about this policy or about equal opportunities generally, please contact a member of staff in the Personnel Section.

Other policies and documents which should be read in conjunction with this document are:

- Equality Scheme
- Bullying and Harassment Policy
- Code of Practice on Recruitment and Selection
- Policy on the Employment of Ex-Offenders
- Disciplinary and Grievance Procedures

These documents are available on Infonet, or on request from staff in the Personnel Section.

EQUAL OPPORTUNITIES POLICY

PROVISION OF SERVICES

In accordance with its Mission, Priorities and Values, the Council is committed to equality of opportunity for all, to promoting equal opportunity and removing barriers. The Council fully recognises and accepts its responsibility to ensure that it does not discriminate with regard to any of the characteristics protected under the Equality Act 2010, i.e. age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. We value diversity in the population and in our workforce, and are committed to providing services fairly to all sections of the community. In the exercise of our functions, we have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is unlawful under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In pursuance of our aims, we will consider in advance how everyone can appropriately use and access services, which will be designed to meet identified needs. We will assess the impact of our policies, procedures and services, and make changes where this is identified as appropriate and practicable. We will have regard to any potential disadvantage related to social and economic background in taking strategic decisions.

All individuals will be treated fairly, and all relevant legislation will be complied with, in the provision of our services, and in arrangements for access to facilities and information.

In pursuance of this policy, the Council will monitor the use of its services by means of consultation, checking, monitoring and maintaining records, and the satisfaction of its service users through the use of questionnaires/surveys as appropriate. We will report on equality initiatives and processes as required by legislation, and, where needs are identified in consequence of our monitoring activities, appropriate action will be taken. Confidentiality will be respected.

The officer responsible for equality of opportunity in the provision of our services is the Chief Executive, and the body/committee responsible for agreeing policy actions in service provision is the Policy and Organisation Board.

The Council will ensure that

- All staff are trained in equality and diversity in order that they can provide an appropriate and informed response to all service users without unlawful discrimination.
- Recruitment and selection methods are free from bias and applied fairly.
- Any complaints of discrimination, harassment or victimisation are dealt with speedily and fairly and appropriate action is taken where necessary.
- Confidentiality of information is maintained at all times.

The Council will

- provide suitable interpreting or translation services where needed
- ensure that buildings are accessible to all wherever possible or that a suitable alternative is provided
- provide information in alternate formats as needed to ensure accessibility
- undertake appropriate consultation in accordance with the Council's consultation strategy and guidance,
- assess the potential impact of its major policies and procedures on equality for its service users.

The Council uses a number of service suppliers (contractors, consultants and other suppliers). Where services are supplied on behalf of the Council, we ensure that suppliers who have direct contact with service users, staff, or the general public, act in a way that is compliant with current equality legislation and the Council's Equality and Diversity Policy.. The process of selecting and procuring of suppliers is undertaken in a way that is fair and non discriminatory.

If you feel that you have been treated unfairly or suffered discrimination, harassment or victimisation, you should report this without delay to the Chief Executive.

Any such complaints will be fully investigated as speedily as possible, and you will be kept advised of action taken.

If you are dissatisfied with any decision, you have the right to use the Council's formal Complaints Procedure, and to take the matter up with the appropriate external body.

GOSPORT BOROUGH COUNCIL

BULLYING AND HARASSMENT POLICY

1. SUMMARY

The Council is committed to providing a working environment that respects the rights of each individual - bullying and harassment are unacceptable and will not be tolerated. Everyone should be treated with dignity and respect at work.

The policy and procedure has been designed to inform employees about the type of behaviour that is unacceptable, and to provide employees who are the victims of harassment or bullying with a means of redress.

Implementing and upholding this policy is the duty of all our managers including line managers, but all employees have a responsibility to ensure that bullying and harassment have no place at work, including work-related activities and functions.

This policy should be read in conjunction with the Council's Equality and Diversity Policy.

2. DEFINITIONS

Bullying is a sustained form of psychological abuse that aims to make victims feel demeaned and inadequate. It is defined as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient (ACAS). It is behaviour which leads to loss of self-esteem for the victim and ultimately the self-questioning of their worth. If any physical contact is involved, this will be considered an assault.

Harassment as a form of unlawful discrimination occurs where a person is subjected to unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) that has the purpose (intention) or effect (unintentional) of either:

violating that person's dignity, or
creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

It takes into account the perception of the individual, other circumstances and whether it is reasonable for the conduct to have that effect. It includes harassment based on a person's association with someone with a relevant protected characteristic or on a perception that a person has a relevant protected characteristic. It also covers third party harassment – where a third party (e.g. contractor, customer) harasses an employee. An employer must take reasonably practicable steps to prevent repeated harassment by third parties.

Each person has the right to decide what behaviour is acceptable or unacceptable; if an individual finds certain behaviour unacceptable and they feel damaged by it, then that individual has the right to say so.

Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it recurs once it has been made clear that it is regarded by the victim as offensive. However, just one incident may constitute harassment if it is sufficiently serious.

In accordance with the Protection from Harassment Act 1997, all forms of repeated harassment are **unlawful** even if they are not related to one of the protected characteristics. The Council, its managers and supervisors, and **employees personally** can be held liable for unlawful actions and required to pay damages.

3. **EXAMPLES OF UNACCEPTABLE CONDUCT**

(i) Bullying

Examples of behaviour that could be perceived as bullying may include:

- Ostracising someone (refusing to speak to them, blatantly ignoring their views or comments or excluding them from activities)
- Deliberately withholding vital work-related information in order to make someone look foolish or embarrass them
- Personal put-downs or insults
- Spreading rumours or gossip or making false allegations in order to discredit someone
- Physical shoving or barring someone's way
- Playing practical jokes on someone
- Aggressive or intimidating behaviour, including where this is displayed in front of others
- Deliberately sabotaging or impeding work performance

From a manager to subordinate, the following could be perceived as bullying:

- Deliberately imposing grossly excessive or unachievable workloads or impossible deadlines in order to make life difficult for a particular employee
- Repeated unfair criticism or destructive and negative criticism that focuses on blame rather than improvement
- Criticising an individual in front of colleagues
- Excessive or overbearing monitoring of an employee's work without proper reason
- Ordering an employee to work below their level of ability, or to perform mundane or demeaning tasks for no proper reason
- Removing an employee's responsibility without consultation and for no proper reason
- Unreasonably threatening an employee with discipline or dismissal, where there is no justifiable reason.

It is the job of a manager to provide constructive and fair criticism of an employee's performance or behaviour at work where this is warranted. It is unacceptable to condone bullying under the guise of "strong management" but it is part of every manager's job to point out to employees where work is unsatisfactory, why that is so and how to put matters right for the future. Criticism should be given in a constructive, not destructive, way. A strong management style does **not** amount to bullying provided that employees are treated with respect and dignity.

Constructive criticism focuses on actions and behaviour, facts with examples, and future improvement, and should be given calmly and reasonably. Destructive criticism may involve aggressive behaviour, personal put-downs, allocating blame rather than responsibility and acting emotionally and irrationally.

(ii) Harassment

Examples of behaviour which could be perceived as harassment are as follows:

Sex-related: telling jokes about women or men, making derogatory sexist remarks

Sexual: display of sexually explicit material on computer screens or in calendars, leering in an overtly sexual way, physically touching in a sexual manner where this is not welcome, remarks, banter or jokes of a sexual nature, making sexual suggestions or persisting with advances after it has been made clear they are unwelcome

Gender reassignment: calling someone a nickname linked to the fact that they have undergone gender reassignment, inappropriate touching, leaving items specifically associated with the former or new gender on a person's desk

Racial: calling someone a nickname linked to skin colour or nationality, remarks, banter or jokes about people from different racial backgrounds

Disability: using insulting terminology when referring to a disabled colleague, excessive staring, mimicking a disabled colleague's mannerisms or speech

Religious: remarks, banter or jokes about particular religious beliefs or practices, derogatory remarks about a particular item of clothing or jewellery worn as a symbol of religion

Sexual orientation: deliberate isolation of someone on grounds of their sexuality or perceived sexuality, deliberately behaving in an effeminate manner in the presence of someone who is gay, using a nickname based on sexuality or perceived sexuality

Age: banter and jokes that make fun of older people or demean their abilities, calling someone a name linked to their age, ignoring someone or treating their views as worthless because of their age.

Appearance: unreasonable personal criticism or jokes about an individual's appearance, e.g. related to a personal or protected characteristic.

The most common form of harassment in employment is general banter linked to sex, race, religion, sexual orientation or age.

Isolation or exclusion from work-related social activities, intrusion such as stalking, pestering or spying, intimidating behaviour, offensive letters or e-mails, malicious gossip, can all amount to harassment.

These examples are not exhaustive. They are provided to assist employees in understanding what is and is not acceptable at work.

3. AWARENESS

Harassment and bullying will not be tolerated under any circumstances and if complaints are upheld, this will result in disciplinary action. In accordance with the Council's Disciplinary Procedure, deliberate serious harassment amounts to gross misconduct, which may result in instant dismissal.

Harassment and bullying of staff by visitors to the Council, contractors or Members of the Council, is taken equally seriously and action will be taken to protect employees and prevent the repetition of any such behaviour.

A copy of this policy, together with the Council's Equality and Diversity Policy, will be provided to each employee with their contract of employment. It is also available for viewing by staff and Members of the Council on the Council's Infonet site. Service Unit Managers and Section Heads will receive formal training on managing equality and diversity including incidents of bullying and harassment, with guidance included in the Management Manual. They will be responsible for ensuring that all Officers in their Unit and Section are aware that bullying and harassment will not be tolerated within the Council and that, if they are subjected to bullying or harassment, they are aware of the procedure to be followed.

The Council provides regular training for all staff through an e-learning package, and regular updates as changes occur in legislation and best practice.

4. THE PROCEDURE

If you consider that harassment or bullying has occurred, or that you have been victimised because you have made a complaint about harassment or bullying, it is important that prompt action is taken.

You are advised to retain a written log of all incidents including dates, times, witnesses. In addition, if reports, letters, memos are relevant, they should be retained.

The procedure to be followed is detailed in the Equality and Diversity policy, which can be accessed on Infonet, but is also repeated below.

Just as it is for the individual to decide what behaviour is either acceptable or unacceptable to them, it is also for the individual to decide which route to take in solving the problem. It can be resolved informally or formally. You can choose to solve it yourself by approaching the perpetrator and telling them that their behaviour is unwelcome and must stop; you could seek support in doing this from a colleague or Trade Union representative who can accompany you. Alternatively, you could put your views in writing to the perpetrator.

Where informal solutions fail, or you do not want to speak to the person you feel has harassed or bullied you or victimised you because you have made a complaint, or the bullying or harassment is serious in nature, you should approach either - your Line Manager, Section Head, Business Unit Manager, the Head of Personnel or a Personnel Officer, or your Trade Union representative, who will take the matter up on your behalf. Such complaints should be investigated swiftly, with confidentiality, only such persons as necessary having details of the matter, and you will be kept informed of action taken.

If the matter is resolved at this stage, a confidential note of the incident and the action taken will be made and retained in confidence by the Head of Personnel for a period of two years.

If the matter remains unresolved due to non-acceptance of the allegation made or because the behaviour continues, then the following procedure should be adopted. The procedure is repeated in detail in the Council's Equality and Diversity policy.

1. Consider whether you wish to deal with the matter informally, by speaking to the perpetrator, either personally, with a colleague or Trade Union representative accompanying you, or in writing.
2. If you do not wish to do this, or feel that it would be difficult for you, report the matter to one of:

your line manager
your Section Head
your Service Unit Manager
the Head of Personnel or a Personnel Officer
your Trade Union representative

who will take the matter up for you with the perpetrator and their Business Unit Manager.
3. If the matter is able to be resolved as a result of the above, a confidential note will be made and retained by the Head of Personnel.

4. If the matter is not capable of being resolved informally, or if problems continue, you should detail your complaint in writing and, through the Head of Personnel or a Personnel Officer or your Trade Union representative, submit this to an independent Service Unit Manager (i.e. a Manager other than the Manager employing you or the person about whom you are complaining) requesting an interview with that Manager. You may be accompanied at that interview by a representative of your choice.
5. The independent Service Unit Manager will arrange to interview the person against whom the allegations are made, who may be accompanied by a representative of his/her choice.
6. The Service Unit Manager will carry out a thorough investigation as quickly as possible (which may involve interviewing witnesses identified by the complainant or the alleged perpetrator), as a result of which a decision may be made that either:
 - * the allegation(s) is/are unfounded
 - * the matter has been satisfactorily resolved and no further action is necessary
 - * the disciplinary procedure should be invoked and a formal meeting arranged.
7. If you are dissatisfied with the decision, you may invoke the Council's formal Grievance Procedure.

It may not be possible to establish that there was an intention to offend. In such circumstances, conduct will be regarded as bullying or harassment (making a person feel demeaned and inadequate, violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment) if, taking all the circumstances into account, particularly including the recipient's views, it would be reasonable to come to that conclusion.

Malicious complaints – Where a complaint is blatantly untrue and investigation indicates that it has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the Council's disciplinary procedure, as will any witnesses who have deliberately misled the investigating officer(s).

5. MONITORING AND RESPONSIBILITY

The Head of Personnel has overall responsibility for co-ordination of the policy, advice and review, and for monitoring its application and effectiveness. Service Unit Managers have responsibility for ensuring its adoption and implementation in their Units.

Procedures and documentation will be kept under constant review, with any changes being subject to full consultation with recognised Trade Unions before adoption.

The committee responsible for agreeing policy is the Personnel Sub-Board.

6. INFORMATION AND ADVICE

If you would like further information about this policy or about harassment and bullying generally, please contact the Head of Personnel.