

Council meeting 3 & 4 August 2004

OPEN BUSINESS

Harassment & Bullying statement

Purpose

To consider a harassment and bullying statement for adoption by the Society

Recommendation

The Corporate Governance Steering Group recommends:

that Council adopt the statement on harassment and bullying.

1. Background

Employers are responsible for preventing bullying and harassing behaviour. It is in their interests to make it clear to everyone that such behaviour will not be tolerated — the costs to the organisation may include poor employee relations, low morale, inefficiency and potentially the loss of staff. This applies not only to managers and staff (employees) but also to the organisation's elected and appointed representatives. An organisational statement of behaviour expected and behaviours not tolerated can make it easier for all individuals to be fully aware of their responsibilities to others.

There are legal implications under the Health & Safety at Work Act 1974, the Sex Discrimination Act, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, and the Employment Equality (Religion or Belief) Regulations 2003. Although bullying and harassment are not grounds for direct application to an Employment Tribunal, claims can be brought under the above legislation.

The attached proposed statement is based on the work of The Law Society, The Cabinet Office and ACAS and is informed by good practice across the public and voluntary sectors.

2. Conclusions

It is in the interests of the Society to follow good practice and to adopt a statement setting out the Society's position on bullying and harassment, thereby putting itself in a better position to deal with any problems which may arise in the future.

It is proposed that the statement, once agreed, would form an appendix to the Council Governance Handbook and be incorporated into the Employee Handbook.

Christine Glover
Chairman, Corporate Governance Steering Group

Harassment and Bullying Statement

Introduction

The Society considers that all staff, Council Members and Committee members have the right to be treated with dignity and respect at work and will seek to ensure that the working environment is sympathetic and conducive to effective job performance.

This statement sets out what is defined as being harassment, bullying and victimisation. It also describes the personal conduct expected of all Society Council Members, Committee members, members of the Society engaged on Society business, staff, contractors, and visitors when interacting with others.

The Society is committed to providing a working environment that enables people of all backgrounds and interests to work together and to achieve their potential. To ensure that this can happen the Society does not tolerate any form of harassment, bullying or victimisation. All allegations of such behaviour will be investigated fairly and promptly. All complaints will be handled under the Code of Conduct for Council Members or the Disciplinary procedures for staff members. Everybody needs to be responsible for challenging all forms of harassment and for respecting the dignity of all individuals.

The legal position

Employers have a duty of care for all their employees. If the mutual trust and confidence between employer and employee is broken, which can occur when bullying or harassment take place, then the employee can resign and claim 'constructive dismissal' on the grounds of breach of contract. Breach of contract may also arise from a failure to protect an employee's health and safety at work under the Health and Safety at Work Act 1974, and persistent bullying and harassment typically involves the causing of psychological harm, so amounting to a failure of the duty to protect health and safety. Harassment and bullying may also be a breach of discrimination legislation and, in addition, are covered by the Criminal Justice and Public Order Act 1994. Employers and/or the individual harasser or bully may find themselves facing fines, compensation and possibly a jail sentence.

What is harassment?

Harassment is unwanted conduct affecting the dignity and well-being of women and men at work and can take many forms. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual and may be persistent or an isolated incident. It includes a range of unsolicited behaviours which, whether intentional or not, create feelings of unease, humiliation, intimidation or discomfort; or cause offence, exclusion or withdrawal, or threaten or appear to threaten, job security or ability to continue in office. The key is that the actions or comments are viewed as demeaning and unacceptable by the recipient.

It is not just an individual whose behaviour may be perceived as harassment – groups of people may pick on, harass or bully someone.

What is bullying?

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which undermines, humiliates, denigrates or injures the recipient. It can manifest itself in a variety of ways. A person in authority can bully a subordinate, a colleague can bully a peer or a group can bully an individual. Bullying is insidious and undermines the ability and confidence of the person who is suffering from it.

Bullying is **not** legitimate, constructive, justifiable and fair criticism of an employee's performance or behaviour at work through the appropriate line management channels with appropriate guidance on proper standards and how to achieve them.

In practice it is sometimes difficult to distinguish between bullying and harassment. Both are about the abuse of power – whether by use of physical strength, behaviour and attitude, or position of authority. If issues of gender, race, disability, sexual orientation, religion or belief are involved, then this would be a form of direct discrimination and therefore unlawful.

Responsibility

Everyone has the responsibility to respect the dignity of others by ensuring that:

- our own behaviour does not constitute harassment in any of its forms
- we do not condone, either actively or passively, the unacceptable behaviour of others
- when we see unacceptable behaviour taking place we take action to stop it and inform the appropriate authority.

Relationships between Council members and staff

Further guidance on the relationship between Council members and staff is provided in Sections 7 and 8 of the Council Governance Handbook and in the Code of Conduct for employees.

Responsibilities of managers

Managers within the Society have a responsibility to ensure bullying and harassment do not occur in areas under their control. If managers believe that this might be the case, they should take immediate action as it is helpful to tackle these issues at an early stage. The Society will provide training to managers on dealing with this sensitive issue.

Complaints of bullying or harassment

Any individual's complaint of bullying or harassment will be investigated promptly and objectively and the complaint will be taken seriously. The incident will be handled fairly, confidentially and sensitively. The Society will protect any individual who brings a complaint in good faith from victimisation or retaliation.

Procedures

Any complaint against a Council member will be handled under the Code of Conduct for Council Members. The procedure is set out in Section 9 of the Council Governance Handbook, Conduct of Council Members.

Complaints against employees will be handled through the Society's grievance procedure as set out in the Employee Handbook, Section 11, Resolving Problems.