

Clavering Parish Council

# Dignity at Work/ Bullying and Harassment Policy

Reviewed and adopted by Clavering Parish Council at their meeting 09.03.2020

# Dignity at Work/Bullying and Harassment Policy

## 1. PURPOSE AND SCOPE

### 1.1 **Statement:**

In support of our value to respect others, Clavering Parish Council will not tolerate bullying or harassment by, or of, any of its 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 and members in order to protect them from bullying and harassment. It should be read in conjunction with the Council's policies on handling Grievance and Disciplinary matters and the Elected Members' Adopted Code of Conduct.

### 1.2 **Definitions**

Bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which undermines, humiliates, denigrates or injures an individual or a group of individuals, eroding their confidence and capability.

Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

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 (Advisory, Conciliation and Arbitration Service) 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, mental health issues, lack of respect for others, turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases incurring legal fees 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, eg touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
  - making threats about job security,
  - making threats of violence against a person or their family,
  - deliberately undermining a competent worker by overloading work and/or constant criticism,
  - preventing an individual's promotion or training opportunities.
  - Libel
  - Slander

Bullying and harassment may occur face-to-face, in meetings, through written communication, including electronic communication such as e-mail, by telephone or through supervision methods. It may occur on or off work premises, during work hours or non-work time.

- 1.4 **Penalties:** Bullying and harassment by an employee are considered examples of serious misconduct which will be dealt with through the Disciplinary Procedure.
- Bullying or harassment by an elected member will be dealt with through referral to the Monitoring Officer<sup>1</sup> as a contravention of the Adopted Code of Conduct, which may result in penalties against the member concerned. If an employee is experiencing bullying or harassment from a third party, the Council will act reasonably in upholding its duty of care towards its employees.
- In extreme cases harassment can constitute a criminal offence and the Council should take appropriate legal advice if such a matter arises.
- 1.5 **The Legal Position:** Councils have a 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.
- If an employer fails to act reasonably with regard to this duty of care by allowing bullying or harassment to continue unchallenged, an employee

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<sup>1</sup> The Monitoring Officer is employed by the District Council. He/she has the duty to ensure that the District Council, and the Parish Councils within its area, maintain the highest standards of conduct in all they do.

may decide to resign and claim 'constructive dismissal' at an Employment Tribunal.

Under the Equality Act 2010 bullying or harassment related to one of the protected characteristics covered by the Act (age, gender, marital status, sexual orientation, race, religion, belief, colour, disability) can be considered unlawful discrimination which could lead to an Employment Tribunal claim for discrimination against the council and the perpetrator(s) as individual named Respondents.

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.

## 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, whether by a councillor, contractor, member of the public or anyone else with whom the Council has contact, 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.

Anyone concerned about being bullied or harassed is encouraged to maintain a journal or other record of the incidents.

### 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 Chairman or another councillor if more appropriate. It may be appropriate for the complaint to be put in writing after the initial discussion with the councillor, as this will enable the formal Grievance Procedure to be invoked.

#### 2.2.2 Others:

Any party to the Council, other than an employee, who feels he or she is being bullied or harassed should raise their complaint with a The Parish

Clerk, or the Monitoring Officer where a member is directly involved in bullying and harassment, if an informal notification has been unsuccessful. The complaint should then be investigated and a recommendation made as to how to take the matter 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 an officer as appointed by the Chairman/councillor 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 NALC (National Association of Local Councils), an employer's body or ACAS to this effect, or the Council may offer counselling. The employee will have a right of appeal as established by the Employment Act 2002.

At all times the confidentiality of the grievance will be of paramount importance in order to maintain trust in the process. Hence details of the full grievance will not be shared with the full Council without prior approval by the complainant. The Council will commit not to victimise the complainant for raising the complaint once the appropriate grievance/disciplinary process has been concluded.

### **2.4 Disciplinary Action**

Following a Grievance Hearing or investigation into allegations of bullying or harassment, a full report will be made to all parties and this may result in disciplinary action being taken against the perpetrator of the alleged action/behaviour.

For an employee found to have been bullying/harassing others, this will follow the Council's Disciplinary procedure, under the Employment Act 2002 provisions and would normally be treated as Gross Misconduct.

For councillors who the Council reasonably believes to 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. interpersonal communication, assertiveness, chairmanship etc., may be more appropriate than a penalty. The range of disciplinary sanctions available to the Council, where a councillor 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, and a referral under the Code of Conduct. 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 Monitoring Officer.**

### 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 this policy with all members and employees and to review this policy as appropriate

### 4. USEFUL CONTACTS

- ACAS: [www.acas.org.uk](http://www.acas.org.uk) Tel: 0845 7474747
- Equality and Human Rights Commission: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)
- Direct Gov Website. [www.gov.uk](http://www.gov.uk)