



HOVETON PARISH COUNCIL

Dignity At Work (Bullying & Harassment) Policy

PURPOSE AND SCOPE

In support of our value to respect others, Hoveton Parish Council will not tolerate bullying or harassment by, or of, any of its employees, members, volunteers, contractors, visitors to the Council, or members of the public. 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 grievance and disciplinary handling, the Council's Access To Council Services & Vexatious Correspondence Policy, and the members' Code of Conduct.

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 tends to undermine, humiliate, denigrate or injure 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. It may be related to age, sex, race, disability, religion, sexual orientation, nationality, or any other personal characteristic of the individual, and it may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

These definitions are derived from ACAS guidance on the topic of bullying and harassment.

Bullying and harassment are behaviours which are unwanted by the recipient. Bullying and harassment in the workplace can lead to poor morale, low productivity, poor performance, sickness absence, mental health issues, high turnover, damage to the Council's reputation, and legal proceedings.

EXAMPLES

Examples of unacceptable behaviour are as follows (this list is not exhaustive):

- spreading malicious rumours;
- insulting someone or 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;
- making threats of physical violence against a person or their family;
- deliberately undermining a competent worker by overloading them with work and/or through constant criticism;
- blaming a person for others' mistakes;
- preventing an individual's promotion or training opportunities.

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

PENALTIES

Bullying or harassment by an employee can be considered an example of gross misconduct, which will be dealt with according to the Council's disciplinary procedures. If members are bullying or harassing employees, fellow councillors, volunteers, contractors or others then a referral through the Standards process (reported as a contravention of the members' Code of Conduct) could be an appropriate measure. 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. If a member or volunteer of the Council is experiencing bullying or harassment from a third party, the Council will act reasonably in upholding its duty of care towards that individual. In extreme cases, harassment can constitute a criminal offence and the Council should take appropriate legal advice, often available from the Council's insurer, if such a matter arises.

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 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. A harasser may be personally liable to pay damages if a victim complains to an employment tribunal on the grounds of discrimination. The Protection from Harassment Act 1997 was originally introduced to deal with the problem of stalking. However, the Act deals with a much wider range of behaviour than that, including behaviour which alarms or distresses the victim, and case law has demonstrated that it can be relevant to employment disputes (for instance, employers can be vicariously liable for harassment received in the workplace).

PROCESS FOR DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT

1. Informal Approach

Anyone – employee, member, volunteer, contractor, or visitor – who feels they are 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) responsible for the unwanted behaviour, or to an intermediary, 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. Formal Approach

Employees

Where an employee feels unable to resolve the matter informally as described above, any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chairman of the Council or another member of the Council if more appropriate. 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.

Others

Any other party to the Council, other than an employee, who feels they are being bullied or harassed should raise their complaint with the Council if an informal approach to the alleged perpetrator has been unsuccessful at eliminating the problem. The complaint should then be investigated and a meeting held to discuss the facts and recommend the way forward. A member of the public who feels they have been bullied or harassed by a member or officer of the Council should follow the Council's official Complaints Procedure. It is important that the member(s) or officer(s) being complained about do not prevent the Council operating impartially in its investigation and decision-making in this regard.

3. Grievance (Employees Only)

A meeting to discuss the complaint with the aggrieved party will normally be arranged within ten 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 to try to find a way forward for the member(s) of staff involved. The employee has 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 undertaken by an officer or other duly appointed person, though it may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality.

The 'hearing panel' will confirm its recommendations following deliberation of the facts and an action plan should be made available to the aggrieved employee to demonstrate how the problem is to be resolved. It may be decided that mediation or other intervention is required and the Council should contact NALC, an employer's body, or ACAS to this effect, or should offer the employee counselling. If the employee still feels aggrieved at this point with regard to their original complaint, the employee has a right of appeal under the provisions of the Council's Grievance Procedure.

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 grievance will not be shared with the full Council without prior approval of the aggrieved party. The Council will commit not to victimise the aggrieved for raising the complaint once the appropriate dispute resolution process has been concluded.

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.

Where an employee is found to have been bullying/harassing others, this disciplinary action will follow the Council's Disciplinary Procedure under the ACAS Code of Practice.

For members who the Council reasonably believes have been bullying or harassing another person(s) whilst undertaking council activities the range of sanctions available to the Council are limited and must be reasonable, proportionate, and not intended to be punitive. In some cases, counselling or training in appropriate skill areas (e.g. interpersonal communication, assertiveness, chairmanship, etc) may be more appropriate than a penalty. Sanctions may include: admonishment; the issuing of an apology and/or the giving of an undertaking by the member not to repeat the behaviour; removal of opportunities to further harass or bully; or removing the right to representation on any outside bodies where there will be contact with the individual who raised the complaint. A referral under the Code of Conduct to the relevant reviewing body is usually an appropriate step and there may be further disciplinary sanctions available as a result of the Standards Committee reviewing the evidence under the Code in place at the time.

Where it is found that an employee, member, or volunteer of the Council has experienced bullying or harassment from a third party, such as a member of the public, the Council will uphold its duty of care towards that individual. In the first instance, any action taken will be in accordance with the Council's Access To Council Services & Vexatious Correspondence Policy. In extreme cases, harassment can constitute a criminal offence and the Council will follow the appropriate legal advice if such a matter arises. A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate, whether the perpetrator of the alleged action/behaviour is a member of the public or an employee, member or volunteer of the Council.

5. False Allegations

False or malicious allegations of harassment or bullying which damage the reputation of an employee or member will not be tolerated and will be dealt with as serious misconduct under the Council's Disciplinary Procedure or via a referral to the Standards process. In the case of false or malicious allegations being made against an employee, member, or volunteer of the Council by a third party (such as a member of the public), the Council will take and follow the appropriate legal advice.

REVIEW

A review of this policy shall be undertaken each year (or as appropriate) and necessary amendments shall be undertaken by the Parish Clerk and reported to the full Council for approval. The Council will undertake to ensure that its members and employees are trained in the processes required by this policy, as deemed appropriate.

Adopted by Hoveton Parish Council on 4th February 2019