



WILLITON PARISH COUNCIL

**2 Killick Way
Williton
Taunton
Somerset
TA4 4PY**

DIGNITY AT WORK - BULLYING AND HARASSMENT POLICY

(To be read in conjunction with: Member-Officer Protocol & Disciplinary and Grievance Procedure)

1 Purpose and Scope

All staff should be able to work in an environment free from harassment and bullying and be treated with dignity and respect regardless of gender, sexual orientation, transgender status, marital or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, or disability.

The relationship between Councillors and Officers is an essential ingredient that should contribute to the successful working of the organisation. This relationship within the Council should be characterised by mutual respect, informality and trust. Councillors and Officers must feel free to speak to one another openly and honestly. Nothing in this Policy is intended to change this relationship. Objective criticism is usually acceptable but can be unacceptable if the criticism becomes personal. This policy gives guidance on what to do on the rare occasions when things go wrong.

Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace.

This policy and procedure provides guidance on what to do if you are concerned about bullying or harassment and what to expect if you raise concerns. It applies to all staff (whether permanent, fixed term, or casual), members, contractors and agency staff.

1.1 Statement:

- 1.1.1 In support of our value to respect others, Williton Parish 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 Parish Council is committed to the elimination of any form of intimidation in the workplace.
- 1.1.2 This policy reflects the spirit in which the Parish Council intends to undertake all of its business and outlines the specific procedures available to all employees and others in order to protect them from bullying and harassment. It should be read in conjunction with the Parish Council's procedures on Discipline and Grievance and also, the Member-Officer Protocol.
- 1.1.3 The Parish Council will issue this policy to all employees as part of their induction and to all members as part of their Welcome Pack. The Parish Council may also wish to share this policy with contractors, visitors and members of the public.

1.2 Definitions (Derived from ACAS (Advisory, Conciliation and Arbitration Service) guidance on the topic)

- 1.2.1 **Bullying** “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”.
- 1.2.2 **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.
- 1.2.3 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 Parish Council’s reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited compensation.

1.3 Examples of Unacceptable Behaviour (This list is not exhaustive)

1.3.1

- Inappropriate behaviour
- Intimidation/humiliation
- Excessive criticism
- Autocratic/dictatorial behaviour
- Shouting
- Browbeating
- Haranguing
- Swearing
- Ridiculing or demeaning someone, particularly in an open forum
- Expressions of intolerance
- General discourtesy
- Victimisation
- 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
- Publicly commenting about an individual’s performance who is not present to defend themselves

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.

It is important to recognise that conduct which one person may find acceptable; another may find totally unacceptable. All employees and councillors must, therefore, treat their colleagues with respect and appropriate sensitivity. Bullying does not include appropriate criticism of an employee’s behaviour or proper performance management.

1.4 Why Is Action Required

There is an implied term of mutual trust and confidence in every contract of employment. Where the parish council is aware of a situation of bullying or harassment of an employee by one of its Councillors, but fails to act to stop it, it will be in breach of that implied term of employment contract and may be held liable for the constructive dismissal of that employee. It is in every employer's interest to promote a safe, healthy and fair environment in which people can work. A parish council's duty of care to an employee relates to all forms of personal injury, which will include mental as well as physical health. If a risk to health was foreseeable but no action was taken then the parish council could be at fault and compensation could be sought.

1.5 If You Witness Bullying and Harassment

If you witness such behaviour you should report the incident in confidence to the Clerk or the Chairman. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

1.6 The Members' Code of Conduct

Bullying is expressly forbidden under paragraph 3(2)(b) of the Model Code of Conduct. There are, in addition, complementary obligations to:

- not do anything which may cause the authority to breach any equality laws;
- treat others with respect;
- not intimidate any person who is or is likely to be a complainant, a witness or involved in an investigation relating to a breach of the Code; and
- Not compromise or attempt to compromise the impartiality of those who work for, or on behalf of, the authority.

A proven allegation of bullying or harassment will always be a breach of the Code of Conduct and the Councillor involved is liable to be reported to the Local Standards Committee. If criticism amounts to a personal attack or is of an offensive nature, the Councillor is likely to have crossed the line of what is acceptable behaviour.

1.7 Penalties

- 1.7.1 Bullying and harassment are considered examples of serious misconduct which will be dealt with through the Disciplinary and Grievance Procedure and may result in dismissal from the Parish Council for employees or through referral to Somerset Council's Monitoring Officer 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 Parish Council should take appropriate legal advice.

1.8 The Legal Position

- 1.8.1 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. Under the Equality Act 2010 bullying or harassment may be considered unlawful discrimination and the legal definition of "Third Party Harassment" has been introduced which makes the employer vicariously liable for harassment from other parties such as parishioners, contractors etc. and it must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or member of the Parish Council. 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.

1.9 Process for Dealing with Complaints of Bullying and Harassment

1.9.1 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. In the interests of maintaining good working relations, the employee is encouraged to discuss any grievance first with the Parish Clerk or Chairman with a view to resolving the matter informally if appropriate. If the employee feels that this is not appropriate, or he or she wishes to pursue a formal grievance, they should follow the procedure detailed below.

2.0 Formal approach

2.0.1 Employees

Where the employee feels unable to resolve the matter informally, any complaint about harassment or bullying should be put in writing to the Parish Clerk or Chairman.

A meeting to discuss the grievance with the employee will normally be arranged within five working days of a written grievance 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 grievance 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 report its findings and recommendations to the employee. An action plan should be made available to the employee to demonstrate how the problem is to be resolved. It may be decided that mediation is required and the council should contact NALC, an employer's body or ACAS to this effect or the council may offer counselling. The employee has the right of appeal.

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 employee. The council will commit not to victimise the employee for raising the grievance once the appropriate grievance/disciplinary process has been concluded.

2.0.2 Others

Any other party to the Parish Council (other than an employee) who feels he or she is being bullied or harassed should raise their complaint with a Parish Councillor, where possible, or the Monitoring Officer at Somerset Council 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 Parish Council should use the Parish Council's official Complaints Policy.

2.1 Disciplinary Action

2.1.1 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.

2.1.2 For an **Employee** found to have been bullying/harassing others this will follow the Parish Council's Disciplinary Procedure.

2.1.3 For **Members** who the Parish Council reasonably believe have been bullying or harassing another person(s) whilst undertaking Parish Council activities, the action taken must be reasonable and, in some cases, coaching or training in appropriate skill areas (e.g. inter-personal communication, assertiveness, chairmanship), 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 Somerset Council's Monitoring Officer (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, or a claim to an Employment tribunal for Third Party harassment (for harassment relating to one of the protected characteristics under the Equality Act) in the most extreme cases. (This list is not exhaustive).

2.2 False Allegations

2.2.1 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 Somerset Council's Monitoring Officer.

3 Responsibilities

3.1 All parties to the Parish 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.

3.2 The Parish 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.

3.2 A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Parish Clerk and Personnel Committee and reported to 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.

4 Useful Contacts

- ACAS www.acas.org.uk Tel: 0300 123 1100
- Local Government Ombudsman for England www.lgo.org.uk Tel: 0300 061 0614
- Equalities and Human Rights Commission www.equalityhumanrights.com
- DirectGov website www.GOV.uk

Reviewed and readopted by Williton Parish Council on 5th August 2024

Signed