

Dignity at Work/Bullying and Harassment Policy

Purpose and Scope

Statement: In support of our value to respect others Cottenham 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 in order to protect them from bullying and harassment. It should be read in conjunction with the council's policies on Grievance and Disciplinary procedures and the Elected Members Code of Conduct.

Definitions

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."

Harassment is

"unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment." This usually 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.

ACAS www.acas.org.uk

Bullying and Harassment are behaviours which are unwanted by the recipient. They are generally evidenced by a pattern of conduct, rather than being related to one-off incidents.

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, legal proceedings against the council and payment of legal fees and potentially unlimited compensation.

1. Penalties: Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure. If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral through the Standards process in place at the time reported as a contravention of the Member's 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 own employees. In extreme cases harassment can constitute a criminal offence and the council should take appropriate legal advice.

2. 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 corporate employer, 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 1997 Act was originally designed to assist in stalking situations but 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, that the conduct is viewed as 'serious', or 'oppressive and unacceptable', that a 'course of conduct' needs to be established but that this can link incidents which are separated by long time periods and that damages for personal injury and distress can be awarded under the Act.

3. Process for dealing with complaints of Bullying and Harassment

Informal approach – Anyone; employee, contractor, member, 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) involved in the unwanted behaviour, or 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.

Formal approach:

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 Chair of the Human Resources committee or another Councillor 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. The employee will be expected to provide evidence of the conduct about which they are complaining.

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, where possible, if an informal notification 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 any Members or officers of a council should use the council's official Complaints Procedure. It is important that the Officer(s) or Member(s) being complained about do not prevent the council operating impartially in its investigation and decision-making in this regard.

NB Employee Grievances – please refer to Grievance policy

For **Members** who the council reasonably believe 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. inter-personal communication, assertiveness, chairmanship etc. may be more appropriate than a penalty. Sanctions may include; admonishment, issuing an apology or giving an undertaking not to repeat the behaviour, removal of opportunities to further harass/bully such as removal from a committee(s) where direct contact with the employee or decision-making about that employee will take place, or removing the right to representation on any outside bodies where there will be contact with the employee who has 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 (England) reviewing the evidence under the Code in place at the time. A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in the more extreme cases.

4. 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 or a referral to the Standards process.

5. Useful contacts

- ACAS www.acas.org.uk and Tel no: 0300 123 1100
- Local Government Ombudsman for England www.lgo.org.uk
Tel: 0300 061 0614
- Equalities and Human Rights Commission www.equalityhumanrights.com
- SLCC www.slcc.co.uk
- DirectGov website www.GOV.uk