

Marshland St James Parish Council

Dignity at Work / Bullying and Harassment Policy

1. Purpose and Scope

1.1. Marshland St James Parish Council will not tolerate bullying or harassment by, or of, any of its employees, Parish Councillors, contractors, visitors to the Parish 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.

1.2. 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 handling and the elected members' Code of Conduct.

1.3. The council will issue this policy to all employees as part of their induction and to all parish councillors as part of their Welcome Pack. The Parish Council may also wish to share this policy with contractors, visitors and members of the public.

2. Definitions

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.”

2.2. 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.”

2.3. 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.

2.4. 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.

2.5. Examples of unacceptable behaviour are (this list is not exhaustive):

Spreading malicious rumours; insulting, ridiculing or demeaning someone; exclusion or victimisation; 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 with work and/or constant criticism; blaming a person for others' mistakes; preventing an individual's promotion or training opportunities.

2.6. Bullying and harassment may occur in many contexts: face-to-face, in meetings, through written communication, including electronic communication 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.

3. Penalties

3.1. Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the council's Disciplinary Procedure.

3.2. If elected members are bullying or harassing employees, contractors, fellow councillors, or others then a referral through the Standards process in place at the time reported as a contravention of the member's Code of Conduct would be an appropriate measure.

3.3. 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, often available from the council's insurer, if such a matter arises.

4. The Legal Position

4.1. The council has 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.

4.2. 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.

4.3. 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.

5. Process For Dealing With Complaints Of Bullying And Harassment

5.1. Informal approach – Anyone; employee, contractor, councillor 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 enough 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.

5.2. 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 Personnel Committee (where there is one) 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 s/he is complaining.

5.3. Others – Any other party to the council, other than an employee, who feels he or she is being bullied or harassed, should where possible raise their complaint with the council, if an informal notification to the alleged perpetrator has not resolved 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 s/he has been bullied or harassed by any councillors or officers of the council should use the council's Complaints Procedure. It is important that the officer(s) or councillor(s) being complained about do not prevent the council operating impartially in its investigation and decision-making in this regard.

5.4. Grievance – Employees only: A meeting to discuss the complaint with the aggrieved party 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, or other duly appointed person/panel as appointed by the committee of the council which is handling the process. It may be appropriate for an external investigator or the principal authority to be involved in order to maintain objectivity and impartiality. Following the investigation, 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 some other intervention could be beneficial, and the council should contact the County Association, an employer’s body or ACAS to this effect, or the council may offer counselling. The employee will have a 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 aggrieved party. The council will commit not to victimize the aggrieved for raising the complaint once the appropriate dispute resolution process has been concluded.

5.5. Disciplinary Action – Following an investigation into allegations of bullying or harassment by an employee, 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 and would normally be treated as gross misconduct.

5.6. Code of Conduct – Formal complaints about bullying or other behaviour within the scope of the member’s Code of Conduct must be referred to the Monitoring Officer at the principal authority for formal consideration and, where appropriate, investigation as a potential breach of the Code. While the council awaits the outcome of this process, it is reasonable to take practical measures to manage the situation, e.g. by limiting opportunities to further harass/bully such as controlling direct contact between the councillor and employee, or to pursue training or mediation with the agreement of both parties. The council should not attempt to reach decisions on the merits of complaints that fall under the Code of Conduct or impose sanctions on councillors of its own accord; sanctions may only be imposed on the recommendation of the principal council. The right of employees to pursue a grievance or a formal standards complaint also needs to be respected.

5.7. A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in the more extreme cases.

5.8. False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee/councillor will not be tolerated and will be dealt with as serious misconduct under the disciplinary procedure or a referral to the standards process.

6. Responsibilities

6.1. 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.

6.2. There needs to be agreement about how “robust people management” and “bullying” differ; effective management of performance will usually include feedback based on objective evidence, delivered by a committee specifically designated and often trained to manage and appraise staff, with dialogue occurring on a face to face basis in confidential surroundings.

6.3. Bullying is more likely to be complained about when individual councillors criticise staff, often without objective evidence, without the mandate from the corporate body of the council, and in environments which are open to the public or other parties to the council, or by way of blogs, social media comments, or in the pub or local playground.

6.4. The council undertakes to share its policy with all councillors and workers and request that each party signs to demonstrate acceptance of its terms. All new councillors and employees will be provided with a copy of this policy.

7. Training & Review

7.1. A review of the policy shall be undertaken as appropriate and necessary amendments will be undertaken by the Parish Clerk and reported to the council for approval.

7.2. The council reserves the right to change this policy at any time without notice, so please check our website to obtain the latest copy.

7.3. The council will undertake to ensure that its councillors and workers are trained in the processes required by this policy as deemed appropriate.

8. Useful contacts

ACAS (Advisory, Conciliation and Arbitration Service) www.acas.org.uk Tel: 0845 7 47 47 47
Equalities and Human Rights Commission www.equalityhumanrights.com
DirectGov website www.gov.uk/workplace-bullying-and-harassment

This policy was adopted by Marshland St James Parish Council at its meeting on 26th September 2022

Policy reviewed 13th March 2023