

# Necton Parish Council

## Dignity @ Work

### Bullying & Harassment Policy



#### Document Control

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## 1. Purpose and Scope

### 1.1 Statement

In support of our value to respect others, Necton 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 it serves. The Parish Council is committed to the elimination of any form of intimidation in the workplace.

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 members in order to protect them from bullying and harassment. It should be read in conjunction with the Parish Council policies on Grievance and Disciplinary handling, the Code of Conduct and Good Councillor guide.

This policy will be included within the induction of employees and members. The policy will also be available to the public from the Parish Council's website.

### 1.2 Definitions

*Bullying*<sup>1</sup>- "characterised as offensive, intimidating, malicious, insulting or insulting behaviour; an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient."

*Harassment*<sup>2</sup>- "Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."

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.

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<sup>1</sup> Source of definition: ACAS A Guide for Managers and Employers, June 2014

<sup>2</sup> As defined by the Equality Act 2010

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, damage to the Parish Council's reputation and ultimately, legal proceedings against the Council.

### **1.3 Examples of unacceptable behaviour** (non-exhaustive list)

- Spreading malicious rumours, insulting someone, ridiculing or demeaning someone
- Exclusion or victimisation, unfair treatment, overbearing 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 work and/or 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, 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.

### **1.4 Penalties**

Bullying and harassment by any employed persons can be considered examples of gross misconduct, which will be dealt with through, the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Parish Council.

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 Parish Council's Code of Conduct, could be an appropriate measure.

If an employee is experiencing bullying or harassment from a third party, the Parish 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 Parish Council should take appropriate legal advice, often available from the Council's insurer, if such a matter arises.

### **1.5 The Legal position**

Parish 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.

Note: Unless bullying amounts to conduct defined as harassment in the **Equality Act 2010**, it is not possible to make a complaint to an Employment Tribunal about it.

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.

## **2. Process for dealing with complaints of Bullying and Harassment**

### **2.1 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.

### **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 Chair of the Parish Council 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 Council's **Grievance Procedure** to be invoked. The employee will be expected to provide evidence of the conduct about which they are complaining.

The complaint will then be progressed further through the Council's Grievance Procedure and where appropriate the Disciplinary Procedure will be introduced to follow up on conclusions of the grievance investigation.

#### **2.2.2 Others**

Any other party to the Parish Council, other than an employee, who feels they are being bullied or harassed, should raise their complaint with the Parish Council, where possible, if an informal notification to the alleged perpetrator has been unsuccessful at eliminating the problem. The complaint will then be investigated and a hearing 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 Parish Council's official Complaints Procedure.

For Members (Parish Councillors) who the Parish 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. 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 Breckland Council Standard Board 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.

### **3. Responsibilities**

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.

#### **Associated documents**

- Grievance policy & procedure
- Disciplinary policy & procedure
- Equality & Diversity policy