



### 1 PURPOSE

In accordance with our value to respect others, Pennington Parish Council will not tolerate bullying or harassment by, or of, employees, members, 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 members, contractors, employees and the public in order to protect them from bullying and harassment. It should be read in conjunction with the Council's Disciplinary & Grievance Procedure and the Code of Conduct. It has been informed by the relevant guidance on bullying and harassment published by the Advisory, Conciliation and Arbitration Service (ACAS).

The Council will make this policy readily available to all members and employees, contractors, visitors and members of the public.

### 2 DEFINITIONS OF BULLYING AND HARASSMENT

ACAS characterises bullying as "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".

The Equality Act 2010 defines harassment as "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". The "relevant protected characteristics" are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

Bullying and harassment are behaviours which are unwanted by the recipient. They are 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, high turnover, damage to the Council's reputation and, ultimately, legal proceedings, payment of legal fees and potentially compensation.

### 3 EXAMPLES

Examples of unacceptable behaviour include (but are not limited to):

- spreading malicious rumours;
- insulting someone;
- 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 with work and/or constant criticism;
- blaming a person for others' mistakes;
- obstructing 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 email or on social media), or by telephone. It may occur on or off work premises, during work hours or non-work time.

## **4 PENALTIES**

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

If members are bullying or harassing employees, contractors, fellow councillors or others then this may be treated as a breach of the Code of Conduct. 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 will take appropriate legal advice if such a matter arises.

## **5 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 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. 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 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. 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. Case law indicates that 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.

## **6 PROCESS FOR DEALING WITH COMPLAINTS ABOUT BULLYING AND HARASSMENT**

### **6.1 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, 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.

### **6.2 Formal Approach**

In the event that attempts to resolve the problem informally are not successful, a formal process must begin, as follows:

- Where the victim of the alleged bullying or harassment is an employee of the Council, he/she should follow the Council's Grievance Procedure.
- Where the victim of the alleged bullying or harassment is any party other than an employee, he/she should follow the Council's Complaints Procedure.

In either case, there are circumstances in which referral to an external body may be appropriate, as outlined in the Council's Complaints Procedure.

### **6.3 Investigation and Sanctions**

- Where the alleged perpetrator of the bullying or harassment is an employee of the Council, the matter will be dealt with according to our Disciplinary Procedure.
- Where the alleged perpetrator of the bullying or harassment is a member of the Council, the matter will be dealt with according to our Non-Compliance with the Code of Conduct.
- Where the alleged perpetrator of the bullying or harassment is neither an employee nor member of the Council, the matter will be reported by the Clerk to the full Council for determination of any appropriate action.

### **7 UNREASONABLE AND VEXATIOUS COMPLAINTS**

The Council's Complaints Procedure and Habitual and Vexatious Communications/ Complaints policy outlines our approach to unreasonable and vexatious complaints in general, and we shall use the same approach in the case of unreasonable or vexatious allegations of bullying or harassment.

### **8 RESPONSIBILITIES**

All parties to the Council have a responsibility to ensure that their conduct does not bully, harass 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.