



Witham St Hughs Parish Council.

DIGNITY AT WORK POLICY

1. Purpose and Scope

Statement:

Witham St Hughs Parish Council will not tolerate bullying or harassment of any of its employees or volunteers by elected members, other employees, contractors, visitors to the Parish Council or members of the public. 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 its business and outlines the specific procedures available to all employees & Volunteers to protect them from bullying and harassment. It should be read in conjunction with the Parish Council's policies on Equality, Disciplinary and Grievance handling as set out in the Employees Contract of Employment and the Code of Conduct for elected members. The Parish Council will issue this policy to all employees as part of their induction and to all newly elected members.

Everyone who encounters the Parish Council has 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 everyone can challenge the perpetrator and ask them to stop. Effective management of performance will usually include feedback based on objective evidence with dialogue occurring on a face-to-face basis in confidential surroundings.

Bullying and harassment is most likely to be complained about when individual elected members or members of the public criticise Parish Council employees or volunteers, often without objective evidence and in environments which are open to the public such as Parish Council meetings or by way of blogs or Facebook comments or other social media ("cyber bullying").

Outside the general protection against discrimination and harassment related to a protected characteristic, in order to protect employees and volunteers at Witham St. Hughs Parish Council has a duty to protect employees and volunteers against sexual harassment. Cases of sexual harassment is specifically identified and protected by legislation.

2. Definitions

Bullying:

"a pattern of individual or persistent offensive, abusive, intimidating or insulting behaviour, abuse of power or unfair penal sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence, and which may cause them to suffer stress".

Harassment:

"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. 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 Parish Council's reputation and ultimately, legal proceedings against the Parish Council including payment of legal fees and potentially unlimited compensation.

Sexual Harassment

The Equality Act 2010 defines sexual harassment as unwanted conduct of a sexual nature that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person and renders such conduct unlawful.

3. Examples

Examples of unacceptable behaviour are as follows (this list is not exhaustive):

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 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.

Examples of sexual harassment are as follows (this list is not exhaustive)

- Sexual comments or jokes
- displaying sexually graphic pictures, posters or photographs
- suggestive looks, staring or leering
- propositions and sexual advances
- making promises in return for sexual favours
- sexual gestures

4. 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 regarding 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.

The preventative duty of the Worker Protection (Amendment of Equality Act 2010) Act 2023 specifically relates to Sexual Harassment 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.

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: 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.

Informal approach

Someone who feels he/ 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 record of the incidents.

Formal approach

Employees

Where an employee of the Parish Council feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Parish Clerk. In the case of bullying or harassment of the Parish Clerk he / she should raise this with the Chair of the Personnel Committee in the first instance.

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 member of staff will be expected to provide evidence of the conduct about which he /she is complaining.

Others

Anyone else who has business with the Parish Council, other than an employee, who feels he / she is being bullied or harassed should raise their complaint with the Parish Clerk. The complaint will be investigated and a meeting held, if necessary, to discuss the facts and recommend the way forward.

At all times the confidentiality of the complaint will be of paramount importance in order to maintain trust in the process. Details of the complaint will not be shared with the Parish Council without prior approval by the aggrieved. The Parish Council will undertake not to victimise the complainant for raising the complaint once the appropriate dispute resolution process has been concluded.

Disciplinary Action

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.

For an **employee** found to have been bullying / harassing/ sexually harassing others this will follow the Parish Council's Disciplinary procedure and will be treated as Gross Misconduct.

For **members** whom 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 counselling or training in appropriate skill areas e.g. inter-personal communication, assertiveness, chairmanship etc., may be appropriate.

The range of disciplinary sanctions available to the Parish 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 Parish Council and representation on any outside bodies; unsupervised contact (directly or indirectly) either in person, by telephone or by e-mail with the employee concerned; with a referral under the Code of Conduct to the Monitoring Officer.

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 or specifically sexual harassment relating to one of the protected characteristics under the Equality Act). This list is not exhaustive.

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 the Monitoring Officer.

6. Penalties.

Bullying and harassment or sexual harassment by any employed persons of one another can be considered examples of serious 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, harassing or sexually harassing Parish Council employees, contractors, fellow councillors, or members of the public a referral to the Monitoring Officer as a contravention of the Code of Conduct may be an initial appropriate measure. If this is unsuccessful then referral to the Parish Council's solicitors may follow.

If an employee is experiencing bullying or harassment from a member of the public the Parish Council will act reasonably in upholding its duty of care towards its own employees. Such complaints will be taken seriously and will be pursued with the third party concerned, exercising whatever sanctions are available. In some cases, harassment can constitute a criminal offence, and the Parish Council will take appropriate legal advice and action if such an issue arises.

The Contact Officer/Member will discuss cases in complete confidence and will not divulge information to any other person without the agreement of the employee. Any employee who talks to the Contact Officer / Member about bullying is not under any obligation to take further action.

The designated Contact Officers/Members are:

- The Chair of the Personnel Committee
- The Parish Clerk

An employee may initiate the Council's Grievance Procedure with or without having approached a Contact Officer/Member.

Unfounded Allegations of Bullying or Harassment

If an employee makes an unfounded allegation of bullying or harassment for malicious reasons, this will be investigated and dealt with fairly and objectively under Witham St Hughs Parish Council's Disciplinary Procedure.

Whenever a case of bullying or harassment arises, Witham St Hughs Parish Council will take the opportunity to examine its policy, procedures and working methods to see if they can be improved.

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