

COLWICH PARISH COUNCIL



PD123 BULLYING AND HARRASSMENT

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BULLYING AND HARRASSMENT

Bullying and Harassment – PD123

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BULLYING AND HARRASSMENT

1 PURPOSE AND SCOPE

Statement

- 1.1 In support of our value to respect others, Colwich Parish Council will not tolerate bullying or harassment by, or of, any of its colleagues, 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.
- 1.2 Any reference to “colleague” refers to either a Councillor or an official.
- 1.3 This policy reflects the spirit in which the Council intends to undertake its business and outlines the specific procedures available to all officials in order to protect them from bullying and harassment. It should be read in conjunction with the council's policies on Grievance (PD125) and Disciplinary (PD124) handling and the Elected Members Code of Conduct (PD012).
- 1.4 The Council will issue this policy to all officials as part of their induction and to all Councillors as part of their Welcome Pack. The Council may also share this policy with contractors, visitors and members of the public.
- 1.5 Bullying is more likely to be complained about when individual Councillors criticise officials, 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 officials or by way of blogs, social media comments, or in the pub or local playground.

Definitions

Bullying

- 1.5 *“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

- 1.6 *“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.*
- 1.7 These definitions are derived from the ACAS (Advisory, Conciliation and Arbitration Service) guidance on the topic.
- 1.8 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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- 1.9** 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.
- 1.10** Examples of unacceptable behaviour might include: (this list is not exhaustive)
- 1.10.1** Spreading malicious rumours.
 - 1.10.2** Insulting someone.
 - 1.10.3** Ridiculing or demeaning someone.
 - 1.10.4** Exclusion or victimisation.
 - 1.10.5** Unfair treatment.
 - 1.10.6** Overbearing supervision or other misuse of position or power.
 - 1.10.7** Unwelcome sexual advances.
 - 1.10.8** Making threats about job security.
 - 1.10.9** Making threats of physical violence against a person or their family.
 - 1.10.10** Deliberately undermining a competent worker by overloading work and/or constant criticism.
 - 1.10.11** Blaming a person for others' mistakes.
 - 1.10.12** Preventing an individual's promotion or training opportunities.
- 1.11** Bullying and harassment may occur:
- 1.11.1** Face to face.
 - 1.11.2** In meetings.
 - 1.11.3** Through written communication including electronic communication such as e-mail or on social media.
 - 1.11.4** By telephone.
 - 1.11.5** Through automatic supervision methods.
- 1.12** Bullying and harassment may occur on or off the Council premises at any time.
- 1.13** Bullying and harassment by any official can be considered as gross misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Council.
- 1.14** Bullying and harassment by any Councillor may result in a referral to the Monitoring Officer as a contravention of the Member's Code of Conduct.
- 1.15** If an official is experiencing bullying or harassment from a third party the Council will act reasonably in upholding its duty of care towards its own officials.
- 1.16** In extreme cases harassment can constitute a criminal offence and the Council will take appropriate legal advice if such a matter arises.

The Legal Position

- 1.17** The Council has a duty of care towards all its officials and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If the Council fails to act reasonably with regard to its duty of care by allowing bullying or harassment to continue unchallenged an official may decide to resign and claim 'constructive dismissal' at an Employment Tribunal.

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- 1.18** Under the Equality Act 2010 bullying or harassment related to one of the protected characteristics covered by the Act (age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation) 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.
- 1.19** 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; the Council could 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 PROCESSES FOR DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT

Informal approach

- 2.1** Anyone; colleague, contractor 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.

Formal approach

Officials

- 2.2** Where the official feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chief Officer or Chairman of the Employment 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 (PD125) to be invoked. The official will be expected to provide evidence of the conduct about which he or she is complaining.

Others

- 2.3** Any other party to the council, other than an official, who feels he or she is being bullied or harassed should raise their complaint with the Council (PD041), 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 meeting held to discuss the facts and recommend the way forward. A member of the public

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who feels he or she has been bullied or harassed by any Councillors or officials of the Council should use the Council's official Complaints Procedure. It is important that the Official(s) or Councillor(s) being complained about do not prevent the Council operating impartially in its investigation and decision-making in this regard.

Grievance – Officials only

- 2.4 A meeting to discuss the complaint with the aggrieved party will normally be arranged within five working days of a written complaint being received and will be held under the provisions of the Council's Grievance Procedure (PD125). This meeting will be to discuss the issues raised and a way forward for the official(s) involved.
- 2.5 Officials have a right to be accompanied by a fellow official or a trade union representative at this meeting.
- 2.6 A full investigation of the complaint will be held by the Chief Officer, or other duly appointed person as appointed by the Complaints Committee. It may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality.
- 2.7 The Hearing Panel will publish its recommendations following deliberation of the facts. An action plan will be made available to the aggrieved official to demonstrate how the problem is to be resolved. It may be decided that mediation or some other intervention is required, and the Council will contact NALC (National Association of Local Councils), an employer's body or ACAS to this effect, or the council may offer counselling.
- 2.8 The official will have a right of appeal.
- 2.9 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 of the aggrieved party. The Council will commit not to victimize the aggrieved for raising the complaint.

3 DISCIPLINARY ACTIONS

- 3.1 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.
- 3.2 For an **Official** found to have been bullying/harassing others this will follow the Council's Disciplinary procedure (PD124) under the ACAS Code of Practice and would normally be treated as Gross Misconduct.
- 3.3 For **Councillors**, 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:
 - 3.3.1 Admonishment.

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- 3.3.2** Issuing an apology or giving an undertaking not to repeat the behaviour.
- 3.3.3** Removal of opportunities to further harass/bully such as removal from a committee(s) where direct contact with the official or decision-making about that official will take place.
- 3.3.4** Removing the right to representation on any outside body.
- 3.3.5** A referral under the Code of Conduct to the Monitoring Officer.

- 3.4** A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in the more extreme cases.
- 3.5** False or malicious allegations of harassment or bullying which damage the reputation of a colleague, contractors, visitors to the council or members of the public will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure (PD124) or a referral to the Monitoring Officer.

4 RESPONSIBILITIES

- 4.1** 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 their dignity. If unacceptable behaviour is observed, then each individual can challenge the perpetrator and ask them to stop. 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.
- 4.2** The Council undertakes to share its policy with all colleagues and request that each party signs to demonstrate acceptance of its terms. All new colleagues will be provided with a copy of this policy.
- 4.3** A review of the policy shall be undertaken each year.
- 4.4** The Council will undertake to ensure that officials are trained in the processes required by this policy.
- 4.5** The Council will encourage Councillors to attend appropriate training.

SIGNED	
COUNCILLOR WENDY PLANT PARISH COUNCIL CHAIRMAN	

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<i>I CONFIRM THAT I HAVE RECEIVED AND READ A COPY OF THE COUNCIL'S BULLYING AND HARASSMENT POLICY AND BY SIGNING THIS FORM ACCEPT THE TERMS THEREIN</i>	
COUNCILLORS:	
Cllr Bloor	
Cllr Boyce	
Cllr Dunn	
Cllr B Forster	
Cllr M Forster	
Cllr Hall	
Cllr Hardwick	
Cllr Hill	
Cllr Martin	
Cllr Meakin	
Cllr Mosley	
Cllr Plant	
Cllr Upton-Loach	
Cllr Walters	
OFFICIALS:	
Revd Mr Michael Lennon (Chief Officer)	
Mr Anthony Egan (Deputy Chief Officer)	
Mr Philip Russell (Head Lengthsman)	
Mr Ian Deans	
Miss Francesca Alineri-Willis	
Mr Dan Lowbridge	
Miss Nicola Martin	