

# **Cotton Parish Council**

## **Anti-harassment and bullying**

### **Policy**

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121125/32

#### **Introduction**

All staff should be able to work in an environment free from harassment and bullying and be treated with dignity and respect regardless of gender, sexual orientation, transgender status, marital or family status, colour, race, nationality, ethnic or national origins, creed, culture, religion or belief, age, or disability.

This policy and procedure provide guidance on what to do if you are concerned about bullying or harassment and what to expect if you raise concerns. It applies to all staff (whether permanent, fixed term, or casual), contractors and agency staff.

#### **Policy**

The Council does not tolerate bullying or harassment in the workplace. This is the case for work-related events that take place within or outside of normal working hours; on council property or elsewhere; whether the conduct is a one-off act or repeated course of conduct, and whether done purposefully or not.

The Council does not tolerate retaliation against, or victimisation of, any person involved in bringing a complaint of harassment or bullying. Retaliation or victimisation will also constitute a disciplinary offence, which may in appropriate circumstances lead to dismissal. You should also be aware that if a court or tribunal finds that you have bullied or harassed

someone, in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

The council will take appropriate action if any of our staff are bullied or harassed by staff, councillors, members of the public or suppliers.

### **What type of treatment amounts to bullying or harassment?**

Bullying is offensive, intimidating, threatening, malicious or insulting behaviour, and/or an abuse or misuse of power that undermines, humiliates or injures the person on the receiving end.

Harassment is unwanted conduct related to relevant 'protected characteristics', which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Harassment amounts to unlawful discrimination if it relates to a 'protected characteristic'.

Sexual harassment is a form of unlawful harassment (as defined above) which entails unwanted conduct of a sexual nature. A person of any gender can be a victim of sexual harassment, and it may be committed by a person of any gender.

Third party harassment and discrimination refers to the harassment and/or discrimination of an employee or worker that is carried out by someone who is not an employee or worker and may include:

customers or clients

suppliers and

independent contractors and consultants.

The use of the word 'harassment' throughout this policy includes sexual harassment.

### **Examples of bullying and harassment include:**

- unwanted physical conduct - such as unnecessary touching, patting, pinching, brushing against another person's body; insulting behaviour or obscene gestures; physical threats, aggressive behaviour and/or assault.

- unwanted verbal conduct - such as unwelcome advances; patronising titles or nicknames; offensive or insulting comments; propositions or remarks; innuendo; lewd or suggestive comments; over-familiar behaviour; slogans or songs; insensitive jokes, gossip and slander (including speculation about a person's private life and sexual activities); banter or abusive/offensive language which is either threatening or refers to a person's sex/gender, race (including colour and ethnic or national origins), disability, sexual orientation, religion or belief, age, marital status or civil partnership, pregnancy/maternity or gender reassignment.
- unwanted non-verbal conduct - such as racially or sexually based graffiti or graffiti referring to an individual's characteristics or private life; abusive or offensive gestures; leering, whistling, creation, distribution or display of suggestive or offensive pictures, objects or written materials (including "pin-up" calendars) or videos through any means.
- bullying - includes unwanted physical contact or assault but also verbal bullying such as insulting or threatening comments; comments intended to undermine, belittle, embarrass or humiliate the recipient; personal abuse, either in public or private, which humiliates or demeans the individual involved.
- virtual bullying - includes distribution of unwanted emails, texts, images or humiliating data published on social networking internet sites or abusing our technology or using the employee's own technology to contact a colleague in an intimidating or malicious manner.
- conduct of a sexual nature - includes unwanted physical, verbal and non-verbal conduct as discussed above; further examples include displaying pornographic or explicit images, indecent exposure, e-mails with sexual content, sexual innuendo, sexual solicitation, sexual assault; see also, coercion.
- coercion - including threats of dismissal or loss of promotion etc for refusal of sexual (or other) favours (or promises made in return for sexual or other favours); pressure to participate in political or religious groups etc.
- isolation or non-co-operation at work - deliberate exclusion from communications including group emails, conversations or social

activities; setting unrealistic deadlines; substituting responsible tasks with menial or trivial ones; withholding information or giving false information; constantly undervaluing effort.

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable. All employees must, therefore, treat their colleagues with respect and appropriate sensitivity.

Bullying does not include appropriate criticism of an employee's behaviour or proper performance management.

### **Sexual Harassment**

Sexual harassment is unlawful and will not be tolerated. Complaints resulting in the finding of sexual harassment having taken place will be subject to disciplinary action, up to and including summary dismissal (without notice). Or in the case of a worker, their engagement with us may be terminated.

- Sexual harassment can include, but not limited to:
- unwanted physical, verbal and non-verbal conduct of a sexual nature
- displaying pornographic or explicit images
- indecent exposure
- using e-mail or social media to make inappropriate, derogatory or offensive content that is of a sexual nature, which can include sexual innuendos, sexual solicitation, sexual assault. This can include sharing, posting, liking or tagging someone in a post
- unwanted physical, verbal and non-verbal conduct of a sexual nature that is towards another person, such as a colleague, customer, client, suppliers, contractors or any other third party associated with us

### **Examples of situations involving sexual harassment:**

- A male colleague alters a pornographic image by placing an image of their female colleague's face onto it. He then sends it to other colleagues causing them to ridicule her.
- An employee has a sexual relationship with their supervisor. They then end their relationship as they think it was a mistake. The next day, the supervisor grabs the employee's bottom and says, "come on, don't play hard to get".
- Male workers download pornographic images onto their computers in an office where a woman works. She finds out about the images being downloaded and that the images are creating a hostile and humiliating environment for her.
- During a busy dinner service, one member of the waitressing team is helping in the kitchen to prepare orders. The chef makes inappropriate comments of a sexual nature about her appearance and makes advances towards her that include touching her back and shoulder whilst passing by or reaching for items.

Employees and workers should be aware that individuals may be held personally liable for their own acts and behaviour.

### **Third party harassment and discrimination**

Third party harassment and discrimination refers to harassment and/or discrimination of an employee or worker, that is carried out by someone who is not. Third party harassers and discriminators may include:

- customers or clients
- suppliers and
- independent contractors and consultants.

**Third party harassment will not be tolerated, and we take reasonable steps to prevent it from occurring including:**

- Warning notices to our service users
- Having a recorded message at the beginning of telephone calls

- Information in terms and conditions
- Providing regular training for managers and staff to raise awareness of rights related to sexual harassment and of this policy
- Provide specific training for managers to support them in dealing with complaints
- Take steps to minimise occasions where staff work alone
- Where possible, ensure lone workers have additional support
- Carry out a risk assessment when planning events attended by clients/customers and/or suppliers

Any employee or worker who believes that they have been the victim of third-party harassment and/or discrimination should immediately report the incident to their manager. In the case of an agency worker, they should immediately report it to both their temporary recruiting agency and to their point of contact within our organisation.

Where an employee or worker has been harassed and/or discriminated against by a third party, we will take reasonable steps to prevent any recurrence. The options may include:

- Issuing a warning about their behaviour
- Banning a other type of 3rd party
- Reporting criminal acts to the police
- Sharing information with other branches of our organisation

If an employee harasses and/or discriminates against a, supplier or an independent contractor or consultant the employee will be subject to disciplinary action. In the case of a worker, may have their agreement terminated.

**Examples of third party harassment and/or discrimination:**

- A young member of the bar staff is subjected to sexually offensive terms by a customer.

- In a retail store, an employee faces repeated harassment from a regular customer. The customer makes inappropriate comments about the employee's appearance and personal life, and sometimes behaves in a rude or aggressive manner. Despite the employee's attempts to handle the situation politely and report the behaviour, the harassment continues, causing significant stress and discomfort.

### **Victimisation**

Victimisation is when someone is treated less favourably because they have committed, or it is believed they may commit a "protected act". "Protected acts" include bringing legal proceedings relating to harassment or discrimination against the employer or the perpetrator, or the giving of evidence at a disciplinary or grievance hearing or at tribunal, or making complaints about the perpetrator or the employer about their alleged discriminatory and unlawful practices, etc.

We encourage employees and workers to challenge or raise incidents of unacceptable behaviour should they witness or experience it directly. Disciplinary action, including summary dismissal, without notice, may be taken against an employee who is found guilty of victimisation. In the case of a worker being found guilty of victimisation, their terms and conditions of engagement may be terminated with immediate effect.

### **Examples of victimisation:**

- A casual worker gives a witness statement as part of a grievance and disciplinary process that supports a colleague's claim of sexual harassment. As a result, their line manager fails to provide them with any further work.
- an employee files a complaint about racial discrimination by their manager. After raising the complaint, the employee's performance reviews become increasingly negative, even though their performance has not changed. The unfair reviews are used as a basis for denying them a promotion.

### **Risk assessment**

We will identify and assess the risks associated to bullying and harassment and identify reasonable measures to prevent it from

occurring. The findings will be recorded in writing, and we will keep our assessment under continuous review.

A copy of the risk assessment can be found on the website and can be supplied to employees, workers, or third parties as requested.

We encourage all employees and workers to inform their manager of areas in which they believe harassment protection could be further improved.

We also consider risks relating to bullying and harassment in our other organisational risk assessments, including our risk assessments for [tailor as appropriate: young workers / lone workers / off site working / working with 3rd parties].

Employees should not go alone to visit clients in their own homes unless the client is well known to them, or us and a risk assessment has been undertaken. Information on the name and address to be visited and estimated time of return must be given to the appropriate manager when home visits are arranged.

### **Reporting concerns**

What you should do if you witness an incident you believe to be harassment or bullying

If you witness such behaviour you should report the incident in confidence to the Clerk or a councillor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

### **What you should do if you feel you are being Bullied or Harassed by a member of the public\_or supplier (as opposed to a colleague)**

If you are being bullied or harassed by someone with whom you come into contact at work, please raise this with the Clerk or a councillor in the first instance. They will then decide how best to deal with the situation, in consultation with you.

### **What you should do if you feel you are being Bullied or Harassed by a councillor**

If you are being bullied or harassed by a councillor, please raise this with the Clerk or the Chair of the Council in the first instance. They will then decide how best to deal with the situation, in consultation with you. There are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of Code of Conduct breaches will be investigated by the Monitoring Officer.

### **What you should do if you are being Bullied or Harassed by another member of staff**

If you are being bullied or harassed by a colleague or contractor, there are two possible avenues for you, informal or formal. These are described below.

#### **Informal resolution**

If you are being bullied or harassed you may be able to resolve the situation yourself by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to our policy and must stop. Alternatively, you may wish to ask the Clerk, a colleague or another councillor to put this on your behalf or to be with you when confronting the perpetrator(s).

If the above approach does not work or if you do not want to try to resolve the situation in this way, or if you are being bullied by your own manager, you should raise the issue with the Chair of the Council. The Chair (or another appropriate individual) will discuss with you the option of trying to resolve the situation informally by:

- Telling the alleged perpetrator(s), without prejudging the matter, that there has been a complaint that their behaviour is having an adverse effect on a member of staff;
- That such behaviour is contrary to our policy;
- That for employees, the continuation of such behaviour could amount to a serious disciplinary offence.

It may be possible to have the conversation with the alleged perpetrator without revealing your name, if this is what you want. They will also stress that the conversation is confidential.

In certain circumstances we may be able to involve a neutral third party to facilitate a resolution of the problem. The Chair will discuss this with you if it is appropriate.

If your complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as a serious allegation of harassment or in cases where a problem has happened before) the council may decide to investigate further and take more formal action notwithstanding that you raised the matter informally. We will consult with you before taking this step.

### **Raising a formal complaint**

If informal resolution is unsuccessful or inappropriate, you can make a formal complaint about the harassment or bullying to the Clerk or the Chair of the Council, if the behaviour was not from a Councillor (if it was please see raise to the Monitoring Officer). A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

The Clerk or the Chair of the Council will appoint someone to investigate your complaint. You will need to co-operate with the investigation and provide the following details (if not already provided):

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred
- The names of any witnesses and
- Any action taken by you to resolve the matter informally

### **... against a colleague or contractor**

The alleged perpetrator(s) would need to be told your name and the details of your complaint for the issue to be investigated properly. However, we will carry out the investigation as confidentially and sensitively as possible. Where you and the alleged perpetrator(s) work in proximity to each other, we will consider whether it is appropriate to separate you whilst the matter is being investigated.

### **... against a member of the public or supplier**

We will investigate the complaint as far as possible by contacting the member of public or the supplier's employer and asking for a response to the allegations.

### **... against a councillor**

Formal concerns regarding potential breaches of Code of Conduct breaches will be investigated by the Monitoring Officer.

### **During the investigation**

Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. If, after an investigation, we decide that an employee has harassed or bullied another employee, then the employee may be subject to disciplinary action, up to and including dismissal.

The Council will consider how to protect your health and wellbeing whilst the investigation is taking place and discuss this with you. Depending on the nature of the allegations, the Investigator may want to meet with you to better understand your complaint. Whilst there is no Statutory right to be accompanied at investigation meetings, the Investigator will consider your request if you want to have a work colleague or union representative with you at that meeting.

### **Hearing**

After the investigation, a panel will meet with you in a Grievance Hearing (following the Grievance Procedure) to consider the complaint and the findings of the investigation. At the meeting you may be accompanied by a fellow worker or a trade union official.

After the meeting the panel will write to you to inform you of the decision and to notify you of your right to appeal if you are dissatisfied with the outcome. You should put your appeal in writing explaining the reasons why you are dissatisfied with the decision. Your appeal will be heard under the appeal process that is described in the Grievance Procedure.

### **Victimisation**

Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

### **False allegations**

False accusations of harassment or bullying can have a serious effect on innocent individuals. Staff and others have a responsibility not to make false allegations. False allegations made in bad faith will be dealt with under our disciplinary procedure.

### **Disclosure and confidentiality**

We will treat personal data collected during this process in accordance with the data protection policy. Information about how data is used and the basis for processing data is provided in the employee privacy notice.

### **Use of the disciplinary procedure**

Harassment and bullying constitute serious misconduct. If, at any stage from the point at which a complaint is raised, we believe there is a case to answer and a disciplinary offence might have been committed, we will instigate our disciplinary procedure. Any employee found to have harassed or bullied a colleague will be liable to disciplinary action up to and including summary dismissal.

This is a non-contractual procedure which will be reviewed from time to time.