

11<sup>th</sup> October 2016

## **BUXTED PARISH COUNCIL**

### **DIGNITY AT WORK POLICY**

#### **PURPOSE**

In support of its value to respect others, Buxted Parish Council will not tolerate the bullying or harassment of any member of staff by any other member of staff, employee, official or member. This policy outlines the specific procedures available to all employees in order to protect them from bullying and harassment and to maintain their dignity at work.

The Council will issue this policy to all employees as part of their induction and to all members as part of their welcome pack. The Council may also wish to draw the public's attention to this policy via the Data Transparency pages of the Council's website.

#### **Definitions**

##### **Bullying**

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**

Harassment may be characterised as *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 that are unwanted by the recipient. They are generally evidence by a pattern or course of conduct, rather than being 'one off' incidents.

#### **Examples of unacceptable behaviour**

Spreading malicious rumours, insulting, 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 email or social media), by telephone or through automatic supervision methods. It may occur on or off work premises, during or outside working hours.

#### **The Legal position**

The Council has a duty of care towards its staff 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. From 6<sup>th</sup> April 2008, changes to the Sex Discrimination Act mean Council has a duty of care towards all staff and liability under common law arising out of the Employment Rights Acts 1996 and the Health and Safety at Work Act 1974.

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In addition, the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997 created a criminal offence of harassment with a fine and/or prison sentence, and a right to damages for the victim. An individual causing harassment 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 the damages for personal injury and distress can be awarded under the Act.

## **Penalties**

Bullying and harassment by any employee can be considered as serious misconduct, which will be dealt with through the Council's Disciplinary Procedure (Policy no. 2) at Gross Misconduct level and may result in summary dismissal from the Council. If the person bullying or harassing a member of staff is an elected Councillor, then the matter should be referred to Monitoring Officer at Wealden District Council. Standards Board as a contravention of the Member's Code of Conduct. In extreme cases, harassment (see Section 1.4 above) may constitute a criminal offence. The Council should take the appropriate legal advice if a criminal offence of harassment is alleged or suspected.

## **PROCESS FOR DEALING WITH BULLYING AND HARASSMENT**

### **Informal approach**

Any member of staff who feels s/he 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 to an intermediary, that their conduct is unacceptable, offensive or causing discomfort. Any member of staff who believes s/he is being bullied or harassed is advised and encouraged to make a record of any incidents, including the date, time, the behaviour complained of and details of witnesses, if any.

### **Formal approach**

Where the employee feels unable to resolve the matter informally, s/he should report the matter to the Parish Clerk or Chairman. The Town Clerk/Chairman will investigate and will ask the complainant to put the complaint in writing unless s/he has already done so. Any statement made by the complainant and/or notes made will be treated as confidential.

Once all necessary evidence of the complaint has been gathered, the Parish Clerk/Chairman will invoke the Council's Disciplinary Procedure (Policy no. 2).

### **Disciplinary action**

The Disciplinary hearing will be conducted by the Personnel Committee/Full Council as per Policy no. 2. At the conclusion of a disciplinary hearing, and if the Committee is satisfied that misconduct has occurred, the Chairman will prepare a report to present to Full Council. The Council will then decide whether the circumstances warrant dismissal or a lesser course of action. The employee complained of will be informed of the Council's decision at the conclusion of the meeting.

The employee complained of may appeal Council's decision under the provisions of the Disciplinary Policy.

### **Responsibilities**

All members of staff have a responsibility to ensure that their conduct towards others does not bully, harass or otherwise demean the dignity of others. If unacceptable behaviour is observed it is the duty of the person observing the behaviour to challenge the perpetrator and ask them to stop. If the member of staff witnessing the incident feels unable to confront the perpetrator (for example, where it is likely that the observer will themselves be subjected to harassment or bullying by the perpetrator),

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then the matter should be reported in confidence to the Parish Clerk. The Parish Clerk will then be required to speak to the person bullied or harassed and gather the appropriate evidence as per 2.2 above.

This policy will be reviewed annually and any necessary emendations undertaken by the Parish Clerk and reported to Full Council for approval.