

EAST FARNDON PARISH COUNCIL DIGNITY AT WORK - BULLYING & HARASSMENT POLICY

Purpose and Scope

East Farndon Parish Council will not tolerate bullying or harassment by or of any of its employees, officials, members, contractors, visitors to the Council or members of the public from the community which it serves. 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 of its business and outlines the specific procedures available to all employees in order to protect them from bullying and harassment. It should be read in conjunction with the Parish Council's policies on Grievance and Disciplinary Arrangements, Equal Opportunities Policy and the Code of Conduct.

Definitions

These definitions are derived from the ACAS guidance on the topic.

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 is 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 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 Council and payment of legal fees and potentially unlimited compensation.

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 during work hours or non-work time.

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 corporate employer, the council and the perpetrator(s) as individual named Respondents.

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.

Responsibilities

All parties to the Parish Council have 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 each individual can challenge the perpetrator and ask them to stop.

Process for Dealing with Complaints of Bullying and Harassment

Informal approach

- Anyone - employee, contractor, Councillor or visitor - who feels they are 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

- Employees - Where the employee feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally with the Chair of the Council 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 to be invoked.
- Others - Any other party to the Parish Council, other than an employee, who feels they are being bullied or harassed, should raise their complaint with the Parish Council, where possible, if an informal notification to the alleged perpetrator has not been successful in eliminating the problem. The complaint should then be investigated and a meeting and a hearing held to discuss the facts and recommend the way forward.
- If an employee is experiencing bullying or harassment from a third party, the Parish 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 Parish Council should take appropriate legal advice, often available from the Council's insurer, if such a matter arises.

Penalties

For an Employee found to have been bullying/harassing others, this will result in disciplinary action using the Council's Disciplinary Procedure.

For a Councillor found to have been bullying/harassing others, the range of sanctions available include:

- Counselling or training in appropriate skill areas, e.g. inter-personal communication, assertiveness, chairship, etc.
- Sanctions such as admonishment, issuing an apology or giving an undertaking not to repeat the behaviour.
- A referral under the Code of Conduct to the Monitoring Officer of the Local Authority

A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in more extreme cases.