

## **WILLERBY PARISH COUNCIL DIGNITY AT WORK/BULLYING AND ANTI-HARASSMENT POLICY**

### **1.1 Statement**

In support of our value to respect others, Willerby 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 we serve. The council is committed to the elimination of any form of intimidation in the workplace. This policy reflects the spirit in which the council intends to undertake all of its business and outlines the specific procedures available to any employees in order to protect them from bullying and harassment. It should be read in conjunction with the Members Code of Conduct, Parish Council's Standing Orders and the Parish Council's Complaints Procedure.

### **1.2 Definitions**

"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 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 the protected characteristics covered in the Equality & Diversity policy which are: age, disability, gender reassignment, marriage and civil partnership, race (including colour, national, and ethnic or national origin), religion or belief, gender and sexual orientation.

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

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, damage to the council's reputation and ultimately, legal proceedings against the council and payment of legal fees and potentially unlimited compensation.

### **1.3 Examples of unaccepted 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.

Attempted or actual aggressive, threatening or physical actions (including raising of the voice, swearing, shouting) made towards any Councillor or member of staff. The use of aggressive, threatening, rude or abusive language or tone in written communication, (including on social media) and via email which threatens, harasses, or intimidates Councillors or Council Staff.

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 supervision methods. It may occur on or off work premises, during work hours or non-work time.

## 1.4 Penalties

Bullying and harassment by any employed persons can be considered examples of gross misconduct which will be dealt with through the Disciplinary Procedure at gross misconduct level and may result in summary dismissal from the council. If elected Members are bullying or harassing employees, contractors, fellow councillors or others who come into contact with the council, then a referral to the monitoring officer at East Riding Council reported as a contravention of the Code of Conduct would be an appropriate measure. If an employee is experiencing bullying or harassment from a third party (eg member of the public) the council will act reasonably in upholding its duty of care towards its employees. In extreme cases harassment can constitute a criminal offence and the council should take appropriate legal advice, often available from the council's insurer, if such a matter arises.

## 1.5 Legal Position

Councils have a duty of care towards their employees 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 outlined in 1.2 above, 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 creates a criminal offence or 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. Under the 1997 Act, case law has demonstrated that employers can be vicariously liable for harassment received in the workplace where the conduct is viewed as serious or oppressive and unacceptable and that a course of conduct can be established that links incidents separated by long time periods. Under the Act damages for personal injury and distress can be awarded.

## 1.6 False Allegations

False or malicious allegations of harassment or bullying which damage the reputation of a fellow Member or an employee will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure or the Code of Conduct process.

## 1.7 Responsibilities

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 the dignity of others. If unacceptable behaviour is observed then each individual can challenge the perpetrator and ask them to stop. Bullying is more likely to be complained about when individual Members criticise staff, often without objective evidence, without the mandate from the corporate body of the council and in environments which are open to the public by way of blogs, social media comments or in the local environment.

## 1.8 Scope of Policy

This policy covers the actions of all **members** of Willerby Parish Council, its **employees** and any volunteers or partners working alongside the council. Where the term employee is used in this policy, that should be taken to include any volunteers or partners.

## **1.9 General principles**

Willerby Parish Council recognises that harassment and bullying or victimisation is unlawful under the Equality Act 2010. As such, harassment or victimisation on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation is unacceptable and will not be tolerated.

- 1.91 Personal harassment takes many forms ranging from tasteless jokes and abusive remarks to pestering for sexual favours, threatening behaviour and actual physical abuse. For the purposes of this policy, it also includes bullying.
- 1.92 Bullying is understood to be targeted, persistent, offensive, intimidating, malicious or insulting behaviour towards an employee and can include the abuse or misuse of power to undermine, humiliate, denigrate or injure the recipient.
- 1.93 Whatever form it takes, personal harassment and bullying is always taken seriously and is totally unacceptable.
- 1.94 Willerby Parish Council recognises that personal harassment and bullying can exist in the workplace, as well as outside, and that this can seriously affect employees' working lives by interfering with their job performance or by creating a stressful, intimidating and unpleasant working environment.
- 1.95 Willerby Parish Council deplors all forms of personal harassment and bullying and seeks to ensure that the working environment is sympathetic to all our employees. The aim of this policy is to inform employees of the type of behaviour that is unacceptable and provide employees who are the victims of personal harassment and bullying with a means of redress.
- 1.96 Willerby Parish Council recognises that it has a duty to implement this policy and all employees are expected to comply with it. The council will also endeavour to review this policy at regular intervals in order to monitor its effectiveness.

## **2.0 Examples of personal harassment**

Personal harassment can take many forms and employees and members may not always realise that their behaviour constitutes harassment. Examples of harassment include:

- insensitive jokes and pranks
- lewd or abusive comments
- deliberate exclusion from conversations
- displaying abusive or offensive writing or material
- abusive, threatening or insulting words or behaviour
- name-calling
- picking on someone or setting them up to fail
- exclusion or victimisation
- undermining their contribution/position
- demanding a greater work output than is reasonably feasible
- blocking promotion or other development/advancement.

These examples are not exhaustive and disciplinary action at the appropriate level will be taken against employees committing any form of personal harassment. Where any member of the council is accused under this policy, that will be dealt with under the Code of Conduct regime in place at the time albeit that such an action would not preclude a civil or criminal action being launched.

## **2.1 Examples of sexual harassment**

Sexual harassment can take place in many forms within the workplace and can go undetected for a period of time where employees do not understand that particular behaviour is classed as sexual harassment. Sexual harassment is unwanted behaviour related to sex, or of a sexual nature, by one employee towards another and examples of sexual harassment include:

- lewd or abusive comments of a sexual nature such as regarding an individual's appearance or body
- unwelcome touching of a sexual nature
- displaying sexually suggestive or sexually offensive writing or material
- asking questions of a sexual nature
- sexual propositions or advances, whether made in writing or verbally.

Sexual harassment can also take place where an employee is treated less favourably because they have rejected, or submitted to, the unwanted conduct that is related to sex or is of a sexual nature. Whether less favourable treatment occurs as a result will be examined broadly and includes areas such as blocking promotion and refusal of training opportunities or other development opportunities.

## **2.2 Examples of victimisation**

Victimisation takes place when an employee is treated unfavourably as a direct result of raising a genuine complaint of discrimination or harassment. Furthermore, any employee who supports or assists another employee to raise a complaint is also subjected to victimisation if they are treated unfavourably.

## **2.3 Third party harassment**

Willerby Parish Council operates a zero-tolerance policy in relation to harassment perpetrated against any one of its employees or members by a third party, such as a member of the public with regards to violence, abuse, aggression or threats made in person, over the telephone or in written communication (including on social media and via email).

The Parish Council considers threatening behaviour to be:

- Attempted or actual aggressive, threatening or physical actions (including raising of the voice, swearing, shouting) made towards any Councillor or member of staff.
- The use of aggressive, threatening, rude or abusive language or tone in written communication, including on social media and via email which threatens, harasses, or intimidates Councillors or Council Staff. All employees are encouraged to report any and all instances of harassment that involve a third party in line with the reporting procedure, as outlined below.

If the council finds that the allegation is well-founded, it will take steps it deems necessary in order to remedy this complaint. This can include, but is not limited to:

- warning the individual about the inappropriate nature of their behaviour
- banning the individual from council premises
- reporting the individual's actions to the police.
- Willerby Parish Council reserve the right not to respond to future contact if they continue to be addressed in the same tone

In addition to this, the council will endeavour to take all reasonable steps to deter and prevent any form of harassment from third parties taking place.

## **2.4 Responsibilities**

### Employee responsibilities

Willerby Parish Council requires its employees to behave appropriately and professional at all times during the working day, and this may extend to events outside of working hours which are classed as work-related such as community events. Employees should not engage in discriminatory, harassing, or aggressive behaviour towards any other person at any time.

Any form of harassment or victimisation may lead to disciplinary action up to and including dismissal if it is committed:

- in a work situation
- during any situation related to work, such as a council organised community event
- against a colleague or other person connected to the employer outside of a work situation, including on social media
- against anyone outside of a work situation where the incident is relevant to their suitability to carry out the role.

A breach of this policy by will be treated as a disciplinary manner.

### Council responsibilities

The council will be responsible for ensuring all members of the council and employees understand the rules and policies relating to the prevention of harassing and bullying behaviour at work and during work-related community events. The council will promote a professional and positive workplace and be alert in identifying areas of risk and incidents of harassment, sexual harassment and bullying.

The council will also take into account aggravating factors, such as abuse of power or position when deciding what disciplinary action to take against an employee or member.

Where an incident is witnessed, or a complaint is made under this policy, the council will take prompt action to deal with this matter. All incidents will be deemed serious and dealt within in a sensitive and confidential manner.

## **2.5 Process for dealing with complaints of Bullying and Harassment**

### **2.51 Informal approach**

Anyone who feels they are being bullied 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.

The council recognises that complaints of personal harassment, and particularly of sexual harassment, can sometimes be of a sensitive or intimate nature and that it may not be appropriate for an employee to raise the issue through the normal grievance procedure. In these circumstances employees are encouraged to raise such issues with a colleague of their choice, or their professional body, or their trade union or through an external support body such as ERNLLCA.

If an employee is the victim of harassment they should make it clear to the harasser that their behaviour is unwelcome and ask the harasser to stop. If unable to do this verbally, the employee should provide a written request to the harasser - one of the organisations described in the paragraph above will be able to help.

## 2.52 Formal approach

### Employees:

Where an employee feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Chairman or another Councillor if more appropriate. It may be appropriate that the complaint is put in writing after any initial discussion, as this will enable a formal Grievance process to be invoked in accordance with the terms set out in the Employment Contract.

Where the informal approach fails, or if the harassment is more serious, employees should bring the matter to the attention of the Chairman of the council's personnel committee or (where no such committee is in existence) to the Chairman of the Council, as a formal written grievance. If possible, employees should keep notes of the harassment so that the written complaint can include:

- the name of the alleged harasser
- the nature of the alleged harassment
- the dates and times when the alleged harassment occurred
- the names of any witnesses
- any action already taken by you to stop the alleged harassment.

Where it is not possible to make the formal complaint to one of the postholders above, for example where they are the alleged harasser, employees should approach another member of the council in whom they have confidence.

On receipt of a formal complaint the council will make every endeavour to cease, or limit, the employee's contact and take action to separate them from the alleged harasser to enable an uninterrupted investigation to take place.

On conclusion of the investigation, which will normally be within 28 days of the complaint being raised, a report of the findings will be submitted to the council.

If the decision is that the allegation is well founded, the harasser (if an employee) will be liable to disciplinary action in accordance with the council's disciplinary procedure up to and including dismissal. Where the harasser is a volunteer or partner of the council, this may result in the termination of joint working.

Where the harasser is a member of the council, the matter will have been dealt with under the Code of Conduct regime in place at the time, other than where the allegation is made against the council as a corporate body in that it has failed to follow its Duty of Care over its employee. In such circumstances, the council commits to taking external advice as to the way forward.

The council is committed to ensuring employees are not discouraged from using this procedure and no employee will be victimised for having brought a complaint.

### 2.53 Others:

Any other party to the council (other than an employee & member) who feels they are being bullied or harassed should raise their complaint with the council, where possible. If an informal notification to the alleged perpetrator has been unsuccessful at eliminating the problem. The complaint should then be investigated following the council's Complaints Procedure. It is important that the Officer(s) or Member(s) being complained about do not prevent the council operating impartially in its investigation and decision making in this regard.

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## **2.54 Grievance – Employees only**

Following the completion of the Grievance process and where it is established that bullying or harassment has taken place, an action plan should be made available to the aggrieved employee to demonstrate how the problem is to be resolved. Intervention or mediation may be required, and the council may wish to contact, NALC, SLCC or ACAS to arrange this. 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 may not be shared with the full council without prior approval by the aggrieved party. The council will commit not to victimise the aggrieved party for raising a complaint once the appropriate dispute resolution process has been concluded.

## **2.56 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 further action being taken against the perpetrator of the alleged action/behaviour.

**For an employee** to have been bullying/harassing others this will follow the Council's Disciplinary Procedure and would normally be treated as gross misconduct which could ultimately lead to dismissal.

**For Members** who the council reasonably believes have been bullying or harassing another person whilst undertaking council activities in the first instance a referral under the Code of Conduct to the Monitoring Officer at East Riding Council an appropriate step and there may be further disciplinary sanctions available as a result of the Standards Committee reviewing the evidence under the Code in place at the time. The Parish Council may instruct the member to undertake training in particular skill areas such as code of conduct & interpersonal communication. The Council may implement sanctions such as; admonishment, issuing an apology or giving an undertaking not to repeat the behaviour, removal of opportunities to further harass/bully such as removal of direct contact with the employee, removing the right to representation on any projects where there will be contact with the employee who has raised the complaint.

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

This list is not exhaustive.

## **2.6 Adoption**

Willerby Parish Council resolved to adopt this policy at a Full Council Meeting held on 15<sup>th</sup> February 2022, Minute Reference 5423.