

POLICY & PROCEDURE: HARASSMENT & BULLYING

PURPOSE: To provide Policy and Procedural framework to respond to Harassment and Bullying in the workplace and elsewhere

SCOPE: This Policy and Procedure applies to Employees of Melbourn Parish Council. The Policy principles also apply to the treatment of Melbourn Parish Councillors, Service Providers, Contractors and to Members of the Public with whom the Council come into day-to-day contact. The scope also includes harassment and bullying by members of the public of staff or any other persons related to Council. In some cases this may fall under the separate Policy covering Persistent, Vexatious or Abusive Complaints, 4.18.

POLICY:**1. Principles**

- 1.1 The principles contained here for the management and control of **Harassment and Bullying** are consistent with the sister Policy **Equality and Diversity** (5.2). These two documents, taken together, form a complete position statement.
- 1.2 This document aims to better define the behaviours that comprise Harassment and Bullying and provide a procedural link to other Policies and Procedures where violations of the Equality Policy take place. The other Policies linked to this document are **Grievance** (5.4) and **Discipline** (5.5).

2. Definitions & Responsibilities

- 2.1 There is no simple definition of harassment and bullying. It takes many forms, occurs on a variety of grounds and may be directed at an individual or groups of individuals. As an employer, Melbourn Parish Council defines harassment as a form of employee misconduct that constitutes all unwanted actions or conduct that affects the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct and action contrary to equal treatment for staff as regards access to work and employment, training, and working conditions. This applies to age, disability, gender reassignment, race, religion and belief, sex and sexual orientation. Please refer to Section 2 of the Equality and Diversity Policy (5.2) for a list of the characteristics in which harassment can take place.
- 2.2 However, it is not just dependant upon possession of one of the 'protected characteristics' listed above – it applies to everyone. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient. This applies even when the actions or comments are directed at others.

- 2.3 We will bear in mind that behaviour considered to be harassment or bullying by one person may be judged as firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the 'grey' areas that cause most problems. The following are examples of unacceptable behaviour:
- Spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, disability, sexual orientation and religion or belief).
 - Copying memos, letters or emails that are critical about someone to others who do not need to know.
 - Ridiculing or demeaning someone - picking on them or setting them up to fail.
 - Exclusion or victimisation.
 - Unfair treatment.
 - Overbearing supervision or other misuse of power or position.
 - Unwelcome sexual advances or comments of a sexual nature, touching, standing too close, display of offensive materials.
 - Making threats or comments about job security without foundation.
 - Deliberately undermining a competent worker by overloading and constant criticism.
 - Preventing individuals progressing by intentionally blocking promotion or training opportunities.
- 2.4 The Equality Act 2010 added a new dimension to the definition of harassment - third party harassment. This means an employer is potentially liable for harassment of its employees by people (third parties) who are not employees of the organisation, such as customers and clients.
- 2.5 To be considered liable the harassment must have taken place on at least two previous occasions, the employer is aware of it and has not taken reasonable steps to prevent it from happening again. This applies to age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.
- 2.6 The unwanted nature of harassment distinguishes it from acceptable behaviour.
- 2.7 The steps to be taken for *Employees* if harassment is being suffered are set out below, Procedure Section 3.
- 2.8 When *Councillors, Service Providers, Contractors* are the subject of a complaint by a member of the public or vice versa, the matter should be raised informally with the Chair or Vice Chair following the same guidance as set out under Section 3 below. If the matter is upheld it may be necessary to refer the behaviour to CAPALC or another body for a formal disciplinary ruling or advice.

Again, the processes and guideline set out in Section 3 below should be used as a framework.

PROCEDURE

It is the duty of the Parish Council to take action against harassment or bullying if it becomes aware of a potential problem, even before a possible victim has reported such matters. The procedures for Harassment and Bullying broadly follow a similar path and principles and those for Grievance and Discipline, and are linked together.

3. Informal Procedure

- 3.1 Due to the subtle nature of harassment and bullying it is often necessary for you as the victim to first note and record unwelcome events, with details of place, date and the nature of the issue. If others are witness to the problem this should also be noted.
- 3.2 Unless circumstances make this very difficult you should then try to talk to the individual concerned, with a witness if possible, to explain that their conduct is unwelcome, considered by the recipient to be bullying or harassment and that it is to stop. (This procedure is encouraged in order to give you confidence to deal with what may be only a chance remark, which has not been intended to cause offence but has occurred due to a misunderstanding.
- 3.3 The treatment of the early stages of harassment and bullying should be assessed on a case-by-case basis. For low-level unwelcome behaviour it is reasonable to wait until the behaviour has occurred and been recorded **three times**. However, for serious violations it is right to proceed with the steps set out below, if not immediately, then at a time when the complainant is sure of their ground.
- 3.4 Once you as the victim feel matters have reached a point where someone must be informed you should make the complaint known to the Clerk. If the Clerk is involved directly in the matter the evidence and case should be notified to the Chair or Vice Chair of the Council. If the Chair or Vice Chair of the Council is involved in the complaint, the Chair must seek external advice on how to proceed.
- 3.5 Whoever receives the complaint of Bullying or Harassment will informally investigate, based on the evidence presented. This will be done by first discussing the events with the complainant and then with those about whom the complaint has been made. If there are witnesses these should also be interviewed.
- 3.6 The discussions will be kept confidential if this is possible. An assessment will be made by the investigating manager who will then share in confidence the conclusions with a member of the Council, preferably the Chair or Vice Chair, provided these are not already involved. A decision will be made and communicated to the persons involved.

3.7 Outcomes

The following are potential outcomes from investigation under the Informal Procedure:

- 3.7.1 The complaint or allegation seems unfounded due to a misunderstanding
- 3.7.2 It is agreed by all parties that matters were too trivial and the case is not carried further
- 3.7.3 The matter can be resolved with an apology or similar method, either written or verbal
- 3.7.4 For employees, the matter has substance and a course of action is agreed involving advice, guidance, training and monitoring through the normal supervisory processes. In this event a note of the action being taken will, with the offender(s)' knowledge, be placed on their personal file. The outcome of monitoring will be discussed with the alleged offender and recorded. This record may be used as evidence in the event of further harassment by the alleged offender at some subsequent stage, bearing in mind that the passage of time will reduce the 'weight' that can be attributed to it. Records will be kept for three years before they are deemed to expire.
- 3.7.5 For non-employees, i.e. councillors, service providers and members of the public there may be a number of best options, depending on circumstances. In such cases the Chair or Vice Chair of the Council will decide on the best course of action, if necessary with external assistance.
- 3.7.6 If the complaint is determined to have foundation, and are sufficiently serious, it will be referred to the Disciplinary Procedure (5.5) and action taken accordingly.
- 3.7.7 If you as the person bringing the complaint is not satisfied with the ruling and/or outcome you may formally raise the matter under the Grievance Procedure (5.4).

4. Formal Procedure

- 4.1 If after the steps taken under the informal procedure the corrective action has not been effective and the harassment or bullying continues, then the formal procedure must be instigated.
- 4.2 If, as per 3.7.6 above, the matter is found from the informal procedure investigation to be sufficiently serious the formal procedure must be instigated.
- 4.3 For employees, the formal procedure will follow the steps laid down in the Disciplinary Procedure (5.5). Please refer to this. The rights of follow up shown in Procedure 5.5 for both Appeal and Grievance apply.

- 4.4 The potentially sensitive nature of the harassment and bullying complaints may require the normal process for the disciplinary meeting to be adapted to minimise distress. In general, any departure from the normal process of disciplinary meetings will be determined by the needs of each case and should as a general rule, be put to both sides and agreed by them. In the event of disagreement the decision of Chair of the Panel is final.
- 4.5 For serious complaints of harassment and bullying that affect Councillors, Service Providers, Contractors or Members of the Public, cases should be treated on their individual merits. Normally the Chair of the Council will decide on appropriate action either internally or by taking external guidance.

Document Approval:

(Chair to Melbourn Parish Council)



Date of Parish Council Meeting: 23 April 2019