



Dignity at Work Policy

Adopted by Marden Parish Council on: 20th August 2018
Reviewed: June 2019 / 6th April 2021
Review on: April 2022

HUMAN RESOURCES SUB- COMMITTEE

DIGNITY AT WORK POLICY

1. PURPOSE AND SCOPE

Statement:

In support of our value to respect others Marden Parish Council will not tolerate bullying or harassment by, or of, any of their employees, officials, Cllrs, contractors, visitors to the council or members of the public from the community which we serve. Marden Parish Council will not tolerate defamatory statements, either in written or spoken form by, or of, any of their employees, officials, Cllrs, 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 all employees in order to protect them from bullying and harassment. It should be read in conjunction with the council's policies on Grievance and Disciplinary handling.

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

Is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. This policy 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.

These definitions are derived from the ACAS guidance on the topic. Both bullying and harassment are behaviours which are unwanted by the recipient. 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 council's reputation and ultimately, legal proceedings against the Council and payment of legal fees and potentially unlimited compensation.

Libel

To publish in print, writing or broadcast an untruth about another which will do harm to that person or his/her reputation.

Slander

Oral defamation in which someone tells one or more persons an untruth about another which will harm the reputation of the person defamed.

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, deliberately undermining a competent worker by overloading work and/or constant criticism, preventing an individual's promotion or training opportunities. Bullying and harassment may occur face-to-face, in meetings, through written

communication, including email, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

Penalties

Bullying and harassment are considered examples of serious misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the council for employees or, for Cllrs, through referral to the Monitoring Officer at Maidstone Borough Council, as a contravention of the Cllr's Code of Conduct which may result in penalties against the Cllr concerned. In extreme cases harassment can constitute a criminal offence and the council should take appropriate legal advice, sometimes available from the council's insurer, if such a matter arises.

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 (age, gender, marital status, sexual orientation, race, religion, belief, colour, disability) 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, 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 damages for personal injury and distress can be awarded under the Act.

2. PROCESS FOR DEALING WITH COMPLAINTS OF BULLYING AND HARASSMENT, AND ALLEGED LIBEL AND SLANDER

Informal approach

Anyone; employee, contractor, Cllr or visitor, who feels he or she is being bullied or harassed, or has suffered libel and/or slanderous comments 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 that their conduct is unacceptable, offensive or causing discomfort.

Written correspondence received by Marden Parish Council which is deemed to be potentially libellous will be returned to its author and any issues raised in that correspondence will not be considered by the Council. The author will however be given a single opportunity to amend the correspondence and if the subsequent correspondence is considered non libellous any issues raised by the author will then be considered by the Council in the usual manner.

Any issue which is raised in such a manner as to be deemed potentially slanderous, be that direct verbal contact, by telephone, or voice message, will not be considered by the Council.

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, initially with the Chairman of the Human

Resources Committee or another Councillor if more appropriate. It may be appropriate for the complaint to be put in writing after the initial discussion with the Councillor, as this will enable the formal Grievance Procedure to be invoked.

Others

Any other party to the council, other than an employee who feels he or she is being bullied or harassed should raise their complaint with a councillor, where possible, or the Monitoring Officer if an informal notification to a Cllr has been unsuccessful at eliminating the problem or where a Cllr is directly involved in the bullying or harassment. The complaint should then be investigated and a hearing held to discuss the facts and recommend the way forward. A member of the public who feels s/he has been bullied or harassed by any Cllrs or officers of a council should use the council's official Complaints Procedure.

Grievance – Employees Only

A meeting to discuss the complaint with the complainant will normally be arranged within five working days of a written complaint being received and will be held under the provisions of the council's Grievance Procedure. This meeting will be to discuss the issues raised and a way forward for the member(s) of staff involved. Employees have a right to be accompanied by a work colleague or a trade union representative at this meeting. A full investigation of the complaint will be held by an officer as appointed by the Chairman/Councillor who is handling the process. It may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality.

The Hearing Panel will publish its recommendations following deliberation of the facts. An action plan should be made available to the complainant to demonstrate how the problem is to be resolved. It may be decided that mediation is required and the council should contact NALC, an employer's body or ACAS to this effect or the council may offer counselling. The employee will have a right of appeal as established by the Employment Act 2002. 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 will not be shared with the full council without prior approval by the complainant. The council will commit not to victimise the complainant for raising the complaint once the appropriate grievance/disciplinary process has been concluded.

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 disciplinary action being taken against the perpetrator of the alleged action/behaviour.

For an **Employee** found to have been bullying/harassing others this will follow the council's Disciplinary procedure, under the ACAS Code of Practice and would normally be treated as Gross Misconduct.

For **Cllrs** who the council reasonably believe have been bullying or harassing another person(s) whilst undertaking council activities the action taken must be reasonable and in some cases counselling or training in appropriate skill areas eg inter-personal communication, assertiveness, chairmanship etc, may be more appropriate than a penalty. The range of disciplinary sanctions available to the council, where a Cllr has been involved in bullying/harassment include: admonishment and an undertaking not to repeat the process, removal of opportunities to further harass/bully, banning from committees of the council and representation on any outside bodies. A referral under the Code of Conduct to the relevant reviewing body is usually an appropriate step and there may be further disciplinary sanctions available as a result of the Monitoring Officer reviewing the evidence under the Code in place at the time. A referral to the Police under the Protection from Harassment Act 1997 may also be appropriate in the more extreme cases.

False or malicious allegations

False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee/Cllr will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure or a referral to the Standards process.

3. 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.

The council undertakes to share its policy with all Cllrs and workers and request that each party signs to demonstrate acceptance of its terms. All new Cllrs and employees will be provided with a copy of this policy.

A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk and reported to the full council for approval.

The council will undertake to ensure that its Cllrs and workers are trained in the processes required by this policy as deemed appropriate.

4. CONFLICTING SITUATIONS IN THE WORKPLACE

There are regrettably isolated cases of conflict arising between the Council and the Officers and staff from time to time. The majority of these situations tend to arise in the first year after the election of a new Council where there is a predominance of Councillors new to Local Government, and a new Chairman is taking up the Office for the first time. This may be further exacerbated where Cllrs who have not served for many years return to Office and lack current knowledge of the law and procedures.

The most important thing to recognise is that for local government to work effectively at this, or for that matter any level, there has to be a partnership between the Chairman, the Clerk and Deputy Clerk to the Council. This relationship is crucial and both parties need to understand the other's role. The Chairman needs to remember that his or her powers are constrained by Standing Orders and by the fact that it is the Council, and not he or she, who is the Clerk to the Council's or other Officers' employers. Indeed, this relationship is held in law to be an implied term in the contract of employment: known as implied mutual trust and confidence.

The Clerk to the Council and Deputy Clerk have to remember that he or she is employed by the Council and owes allegiance to each and every Cllr collectively. The Chairman is, of course, the leader and spokesperson for the Council but he or she cannot go beyond what it is known that the Council will support in carrying out his or her functions.

It is important that both the Chairman and the Clerk to the Council appreciate fully at an early stage each other's functions. Some guidelines should always be in place before either party starts to perform. A mutual discussion over the job description may not be a bad place to start. A mutual affirmation of understanding and support would be a good place to finish.

Where any difficulties between the Clerk to the Council and the Council or individual Councillors become apparent then expert advice should be sought at the earliest possible moment to try and prevent a relationship becoming irreparably harmed. Marden Parish Council subscribes to Kent Association of Local Councils and also pays the membership fee to the Society of Local Council Clerks for the Parish Clerk and Deputy Parish Clerk. The Parish Clerk is also a member of the Association of Local Council Clerks (ALCC).

These all offer a pathway to such expert advice for both the Chairman and the Clerk to the Council and all give a clear benefit to the Council and employees. Change is inevitable; much brought about by changes in legislation that impact on the smallest Local Council as on the largest. The Officers must be prepared to accept changes in working practice and all lawful requests.

The Clerk to the Council is the manager of all other Parish Council employees. Changes should be left to the Clerk to manage in the first instance.

If a conflict situation becomes apparent the provisions of the Employment Act 2002 need to be borne in mind together with the Parish Council's Disciplinary and Grievance Procedures.

5. USEFUL CONTACTS

ACAS www.acas.org.uk Tel 0845 7474747

SLCC www.slcc.co.uk

KALC www.kentalc.gov.uk

DirectGov website www.GOV.uk

Office Opening Times

Mondays, Tuesdays & Fridays 10am - 12 noon

www.mardenkent-pc.gov.uk

Email: clerk@mardenkent-pc.gov.uk

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