

## **Principles and Objectives**

Detling Parish Council is committed to creating an environment where all Council Members Officers contractors' members of the public and others who come into contact with the Council, its Members and Officers, are treated with the dignity, respect and courtesy that we ourselves would expect. We aim to create an environment where there is zero tolerance for harassment and bullying

We recognise that unaddressed issues have the potential to escalate and become larger, more complex issues and this policy sets out how concerns will be managed. The emphasis of this policy is on resolution and mediation where appropriate, rather than an adversarial process. Although the Council will not hesitate to take action where necessary and appropriate.

This document:

- explains how we will respond to complaints of bullying or harassment.
- ensures that we respond sensitively and promptly; and,
- supports our Staff and Members in ensuring that behaviour does not amount to bullying and/or harassment.

## **Scope of the Policy**

This policy covers bullying and harassment of and by all Members and Staff in office or employed at Detling Parish Council. . Should agency staff, or contractors have a complaint connected to their engagement with the [Council this should be raised with their nominated contact, manager, or the Chairman of the Council, in the first instance. Should the complaint be about the Chairman of the council the complaint should be raised with Vice-Chairman of the Council.

Agency staff, or contractors are equally expected to treat Council colleagues, and other representatives and stakeholders with dignity and respect, and the Council may terminate the contract, without notice, where there are reasonable suspicions of harassment or bullying.

Complaints about other employment matters will be managed under the Council's grievance policy.

It is noted that the management of a situation may differ depending on whether the allegations relate to Members, Officers or Contractors. , but the Council will take appropriate action if any of its Members or Staff are bullied or harassed by Staff , Members the public, suppliers or contractors.

## **The Council's position on bullying and harassment**

All Staff and Members are entitled to dignity, respect and courtesy whether within the workplace or taking part in other Council related activities. Everyone associated with the Council are entitled to have this expectation met and to not experience any form of discrimination. The Council will not tolerate bullying or harassment within any aspect of the Council's work or activities, within or without the workplace; whether the conduct is a one-off act or repeated course of conduct, and whether harm is

intended or not. Neither will we tolerate retaliation against, or victimisation of, any person involved in raising a complaint of harassment or bullying. The Council will ensure that Members Staff and Contractors are aware that, bullying or harassment can be a criminal offence, which could result in a prosecution and a significant sentence. In the case of Members this could also lead to a disqualification from holding elected office.

We expect all parts of the of the Council to treat each other with respect and uphold the values of the code of conduct, and the principles set out in the Civility and Respect pledge (further details available from NALC) to comply with, equality opportunities policy, and the other policies and procedures set by the Council.

The Council expects all those involved in its activities to demonstrate respect by listening and paying attention to others and having due regard and consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind. Disagreements on matters both large and small are to be expected, but they must be navigated without personal animus.

Where allegations of bullying and harassment are brought forward, they will be treated seriously and. Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. The grievance policy sets out further details regarding the process. . Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result, and the Council will take action against any attempt at retaliatory action.

False accusations of harassment or bullying can have a serious effect on innocent individuals. Staff and others have a responsibility not to make false allegations. While we will assume that all complaints of bullying and harassment are made in good faith, in the event that allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under the Council's disciplinary procedure. Where an allegation is not upheld but is the product of a misunderstanding or failure of communication or understanding the Council will seek to address any underlying issues identified.

## Key Definitions:

### Harassment

- Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic
- Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic

### Bullying

- Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.

### What Type of Treatment amounts to Bullying or Harassment?

'Bullying' or 'harassment' are phrases that apply to treatment from one person (or a group of people) towards another that is unwanted and that has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person.

Examples of bullying and harassment include:

- Physical conduct ranging from unwelcome touching to serious assault.
- Unwelcome sexual advances
- The offer of rewards for going along with sexual advances e.g., promotion, access to training
- Threats for rejecting sexual advances.
- Demeaning comments about a person's appearance
- Verbal abuse or offensive comments, including jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation.
- Unwanted nicknames, especially related to a person's age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation.
- Spreading malicious rumours or insulting someone
- Lewd or suggestive comments or gestures
- Deliberate exclusion from conversations, work activities or social activities.
- Withholding information that, a person needs in order to do their job.
- Practical jokes, initiation ceremonies or inappropriate birthday rituals
- Physical abuse such as hitting, pushing or jostling.
- Rifling through, hiding or damaging personal property
- Display of pictures or objects with sexual or racial overtones, even if not directed at any particular person.
- Isolation or non-cooperation at work

- Subjecting a person to humiliation or ridicule, belittling their efforts, whether directly and / or in front of others
- The use of obscene gestures
- Abusing a position of power

Bullying and harassment can occur through verbal and face to face interactions but can also take place through sharing inappropriate or offensive content in writing or via email and other electronic communications and social media.

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable, and behaviour could be harassment when the person had no intention to offend. We all have the right to determine what offends us. Some behaviour will be clear to any reasonable person that it is likely to offend for example sexual touching. Other examples may be less clearcut,; however, you should be aware that harassment will occur if behaviour continues after the recipient has advised you that the behaviour is unacceptable to them.

harassment can also occur where the unwanted behaviour relates to a perceived characteristic for example offensive jokes or comments based on the assumption someone is gay, even if they are not, or due to their association with someone else (such as inter racial marriage, or a child or partner having a disability for example.

All Staff, Members and Contractors must, therefore, treat their colleagues with respect and appropriate sensitivity and should feel able to challenge behaviour that they find offensive even if it is not directed at them.

### **Constructive Comment**

It is important to recognise that bullying does not include appropriate criticism of an employee's behaviour or effective, robust performance management. Constructive and fair feedback about your behaviour or performance from your manager or colleagues/ councillors is not bullying. It is part of normal employment and management routines and should not be interpreted as anything different.

### **Victimisation**

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload and other action designed to create a hostile environment.

Provided that a complainant acted in good faith, i.e., and genuinely believe that what they are saying is true, they have a right not to be victimised for making a complaint or taking action in relation to a complaint of bullying or harassment and the Council will take appropriate action to deal with any alleged victimisation, which may include disciplinary or other action against anyone found to have victimised. a complainant.

Making a complaint that is known to be untrue, or giving evidence that is known to be untrue, will lead to disciplinary or other appropriate action being taken against the perpetrator..

## **Reporting Concerns**

### **What should occur do if the bullying or harassment is by a member of the public or supplier**

In this scenario the matter, assuming the bullying and harassment involved activities connected to the Parish Council, should be raised with the nominated manager in the first instance, or, with the Clerk/or the Chairman of the Council (or Committee Chairman. Any such report will be taken seriously, and the Council will decide how best to deal with the situation, in consultation with the affected Member of Staff, or Councillor.

### **What should Occur if bullying or harassment is by a Councillor:**

If bullying or harassment is by a Councillor, this should be raised with the clerk/chief officer or the chair of the council in the first instance. They will then decide how best to deal with the situation, in consultation with you. There are two possible avenues for you, informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of the Councillors Code of Conduct must be investigated by the Monitoring Officer.

The council will consider reasonable measures to protect your health and safety. Such measures may include a temporary change in duties or change of work location, not attending meetings with the person about whom the complaint has been made etc.

**What you should do if you witness an incident you believe to harassment or bullying:** If you witness such behaviour you should report the incident in confidence to the clerk/chief officer or a councillor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

**What you should do if you are being bullied or harassed by another member of staff:** If you are being bullied or harassed by a colleague or contractor, there are two possible avenues for you, informal or formal. These are described below.

#### Informal resolution

If you are being bullied or harassed, you may be able to resolve the situation yourself by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to the council's policy and must stop. Alternatively, you may wish to ask the clerk/chief officer, your nominated manager or a colleague to put this on your behalf or to be with you when confronting the perpetrator(s).

If the above approach does not work or if you do not want to try to resolve the situation in this way, or if you are being bullied by your own nominated manager, you should raise the issue with the chair of the council. (If your concern relates to the chair, you should raise it with the chair of the personnel/staffing committee). The chair (or another appropriate person) will discuss with you the

option of trying to resolve the situation informally by telling the alleged perpetrator, without prejudicing the matter, that:

- there has been a complaint that their behaviour is having an adverse effect on a member of the council staff.
- such behaviour is contrary to our policy.
- for employees, the continuation of such behaviour could amount to a serious disciplinary offence.

It may be possible for this conversation to take place with the alleged perpetrator without revealing your name, if this is what you want. The person dealing with it will also stress that the conversation is confidential.

In certain circumstances we may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. The chair (or another appropriate person) will discuss this with you if it is appropriate.

If your complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as extremely serious allegation or in cases where a problem has happened before) we may decide to investigate further and take more formal action notwithstanding that you raised the matter informally. We will consult with you before taking this step.

#### Raising a formal complaint

If informal resolution is unsuccessful or inappropriate, you can make a formal complaint about bullying and harassment through the council's grievance procedure. You should raise your complaint to the clerk/chief officer or the chair of the council. A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

The clerk/chief officer or the chair of the council will appoint someone to investigate your complaint in line with the grievance policy. You will need to co-operate with the investigation and provide the following details (if not already provided):

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred,
- The names of any witnesses and
- Any action taken by you to resolve the matter informally.

The alleged perpetrator(s) would normally need to be told your name and the details of your grievance in order for the issue to be investigated properly. However, we will carry out the investigation as confidentially and sensitively as possible. Where you and the alleged perpetrator(s) work in proximity to each other, we will consider whether it is appropriate to make temporary adjustments to working arrangements whilst the matter is being investigated.

Where your complaint relates to potential breaches of the Councillors Code of Conduct, these will need to be investigated by the Monitoring Officer. The council will consider any adjustments to support you in your work and to manage the relationship with the councillor the allegations relate to, while the investigation proceeds.

Investigations will be carried out promptly (without unreasonable delay), sensitively and, as far as possible, confidentially. When carrying out any investigations, we will ensure that individuals' personal data is handled in accordance with the data protection policy.

The council will consider how to protect your health and wellbeing whilst the investigation is taking place and discuss this with you. Depending on the nature of the allegations, the Investigator may want to meet with you to understand better your complaint (see the grievance policy for further information, and details of your right to be accompanied).

After the investigation, a panel will meet with you to consider the complaint and the findings of the investigation in accordance with the grievance procedure. At the meeting you may be accompanied by a fellow worker or a trade union official.

Following the conclusion of the hearing the panel will write to you to inform you of the decision and to notify you of your right to appeal if you are dissatisfied with the outcome. You should put your appeal in writing explaining the reasons why you are dissatisfied with the decision. Your appeal will be heard under the appeal process that is described in the grievance procedure.

### **The use of the Disciplinary Procedure**

If at any stage from the point at which a complaint is raised, we believe there is a case to answer and a disciplinary offence might have been committed, we will instigate our disciplinary procedure. We will keep you informed of the outcome.

### **Culture and behaviour**

We work in eclectic communities and working environments, and a positive culture within the council enables employees with different backgrounds and beliefs to share ideas and shape how the council achieves its objectives for their community.

It is important to recognise that different individuals may find different behaviours bullying or harassing so while there is not always intent to offend or cause harm, that does not mean that the effect of the behaviour has not caused harm or offence.

It can take people a period of time to decide to raise their concerns, as they worry about consequences (perhaps from peers by complaining about a colleague who is popular, or they fear victimisation from the perpetrator or others). The council should consider whether there are opportunities (such as 121s to offer opportunity to reflect on relationships/morale) to identify issues earlier and address negative behaviours. Individuals can often mention concerns they are experiencing but not want to take it further. The council should remind the complainant that it has a zero tolerance to bullying and harassment and remind them of the policy in place to address concerns. If the allegations mentioned are significant, the council may want to suggest that it will need to investigate further, even if a

'grievance' is not raised, so as to ensure that any concerns and risks are managed, and the council is meeting its responsibilities and duty of care as an employer.

Whilst both staff and councillors jointly determine the working culture, councillors are key in demonstrating what is and isn't acceptable behaviour. This is apparent from how councillors behave with each other in council meetings and also in how standards of behaviour are applied through the use of informal discussion and formal policies.

### **Scope**

All council representatives are expected to uphold the values of the Civility and Respect Policy, however this policy sets out how allegations from employees will be managed. As indicated in the policy, concerns from a contractor, agency worker etc. should be raised to the identified person, and an appropriate approach will be considered based on the situation and relationship of the complainant with the council.

Likewise, concerns raised about the behaviour of a contractor or agency worker would not generally be managed via the full process (such as the disciplinary process) but appropriate action would be considered based on the situation. To treat people (such as contractors, or a casual worker) engaged by the council the same as an employee could blur the status of the employment relationship, so consider seeking professional advice if needed.

### **Managers**

Recognising that councils are of varying sizes, where the term manager/nominated manager is used it is recognised this could be the clerk/chief officer, another employee of the council, or a councillor depending on the situation. It is good practice to have a clearly identified person who is the responsible 'line manager' or equivalent contact for an employee so that there is clarity on how the employee should report concerns to, who they notify if they are sick or to request leave etc. More often for council employees this may be the clerk/chief officer, and for the clerk/chief officer this could be the chair/deputy Chair, or possibly chair of a staffing/personnel committee.

### **Bullying and harassment & performance management**

The policy sets out that bullying and harassment does not include appropriate criticism of an employee's behaviour or effective, robust performance management. It is not uncommon for an employee, when receiving critical feedback, to claim that this is bullying and/or harassing. It is the role of the nominated manager to provide effective and constructive feedback to encourage performance at the required standard.

Even when the feedback is not positive it should be fair, communicated in a professional and reasonable manner and shared with the objective of aiding understanding and achieving an improvement to overcome the shortfalls. There is no absolute definition of when the feedback may not be appropriate. Often it will be for the person/panel hearing the dignity at work complaint/grievance to determine whether the performance management has upheld the standards expected in terms of respect and civility and any feedback has been shared in a fair and professional way.



## **Responsibilities**

All staff and representatives of the council are responsible for their own behaviour in the workplace and for taking steps to revise unacceptable behaviour and appropriately challenge that of others.

Leaders – councillors, clerks, chief officers, managers - are responsible for ensuring that these standards of treating people with civility, respect and courtesy are upheld, both through their own example, and by communicating and promoting these expectations to all employees. They are also responsible for ensuring that concerns raised are treated seriously and addressed in line with this policy in a timely manner.

## **During the investigation**

Employers have a duty of care to provide a safe place of work. If a complaint is made, discuss how to manage working relationships whilst the allegation is being investigated and until the outcome is disclosed. This is as much for the protection of the alleged perpetrator as for the aggrieved.

Consider whether a neutral person should be offered as a 'listening ear' for both parties in the investigation. This could be a councillor or nominated manager who is not involved in the investigation or allegations and can be a point of check in as raising, or being subject to allegations can be stressful.

Offer other support that may be appropriate to the situation such as signposting to support groups, time off for counselling etc. If you have suspended a staff member, your duty of care continues and it is important to consider their wellbeing and mental health.

Ensure that you communicate regularly with both parties.

The investigation and any subsequent hearing should be completed in accordance with the grievance policy which sets out a process for dealing with concerns. You should ensure that the grievance policy adopted adheres to any local policies and procedures, with consideration of any timescales and escalation routes in your locally adopted policy.

## **Confidentiality**

It may be possible for concerns to be raised with the perpetrator without disclosing the name of the complainant however in a small council it is likely that it will be clear that the accused will know where the accusation has come from. The council representative (clerk/chief officer/councillor) speaking to the alleged perpetrator must be clear that the discussion is confidential, and the individual would be at risk of formal disciplinary action if there is any sort of victimisation or retaliation for the individual raising their concern.

During any formal investigation it may be necessary to disclose the nature of the allegations and where they came from to ensure a fair and balanced investigation and process. This should be discussed with the person raising the concerns to understand any issues and how they may be mitigated. In some situations, it may be appropriate to provide anonymised witness statements however this would be a last resort and could compromise the fairness of the process. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought. For the same reason it can be difficult for a council to consider an anonymous complaint,

however if the concerns are significant and compromise the council in their duty of care to employees, then consideration of how the deal with the matter may be required.

### **Victimisation**

All employees have the right to raise genuine concerns without the fear of reprisals. If the aggrieved (or a witness) is treated differently / less favourably because they have raised a complaint, then this is victimisation. This would include isolating someone because they have made a complaint, cancelling a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

### **False allegations**

If an employee makes an allegation that they know to be untrue, or gives evidence that they know to be untrue, the council should consider the matter under the disciplinary procedure. Such an allegation would be potentially gross misconduct.

### **Complaints against Councillors**

Following the Ledbury case, the law is clear that any formal complaint about a councillor regarding a breach of the code of conduct must be referred to the Monitoring Officer for investigation (either by the complainant, or the Council with agreement of the complainant). During the investigation, it is critical to ensure that where an employee of the council has made the complaint, that the council agrees reasonable measures with the employee to protect their health and safety. Such measures may include a temporary change in duties, change of work location, not attending meetings with the person about whom the complaint has been made etc.

Careful consideration is required where a grievance is raised against the council as a whole due to lack of support related to councillor behaviours. The specific allegations will need to be considered to determine whether the allegations can be addressed by the council or require exploration of the councillor's behaviour in order to respond, in which case the Monitoring Officer may be required to investigate the alleged behaviours of a/any councillors where this may relate to the code of conduct. It is a matter of fact whether the complaint is against the council and can therefore be dealt with by the council's grievance procedure or against a councillor and can only be dealt with by the Monitoring Officer.