

17. BULLYING AND HARRASSMENT

- 17.1. In support of our value to respect others, Mepal 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. It is in every employer's interests to promote a safe, healthy and fair environment in which people can work productively.
- 17.2. 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 and members in order to protect them from bullying and harassment. It should be read in conjunction with the Council's policies on handling Grievance and Disciplinary matters.
- 17.3. The Council will issue this policy to all employees as part of their induction and to all members as part of their Welcome Pack. The Council may also share this policy with contractors, visitors and members of the public.
- 17.4. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which undermines, humiliates, denigrates or injures an individual or a group of individuals, eroding their confidence and capability.
- 17.5. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- 17.6. 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.
- 17.7. These definitions are derived from the ACAS (Advisory, Conciliation and Arbitration Service) 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, lack of respect for others, turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited compensation.
- 17.8. 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, eg touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
 - 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.
- 17.9. Bullying and harassment may occur face-to-face, in meetings, through written communication, including e-mail, by telephone or through supervision methods. It may occur on or off work premises, during work hours or non-work time.
- 17.10. 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 through referral to the Monitoring Officer as a contravention of the Member's Code of Conduct, which may result in penalties against the member 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.
- 17.11. **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.
- 17.12. 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.
- 17.13. 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.
- 17.14. 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.
- 17.15. Anyone - employee, contractor, member or visitor - who feels he or she is being bullied or harassed, whether by a councillor, colleague, member of the public or anyone else with whom the Council has contact, 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.
- 17.16. 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 Chair 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.

- 17.17. Any party to the Council, other than an employee, who feels he or she is being bullied or harassed should raise their complaint with a The Parish Clerk or a councillor where possible. A member of the public who feels s/he has been bullied or harassed by any members or officers of a Council should use the Council's official Complaints Procedure.
- 17.18. **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.
- 17.19. 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.
- 17.20. 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 (National Association of Local Councils), 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.
- 17.21. 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.
- 17.22. **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.
- 17.23. For an employee found to have been bullying/harassing others, this will follow the Council's Disciplinary procedure, under the Employment Act 2002 provisions and would normally be treated as Gross Misconduct.
- 17.24. For councillors who the Council reasonably believes to 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, e.g. interpersonal communication, assertiveness, chairmanship etc., may be more appropriate than a penalty. The range of disciplinary sanctions available to the Council, where a councillor 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. There may also be a referral to the Police under the Protection from Harassment Act 1997, in the most extreme cases. This list is not exhaustive.

- 17.25. False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee/member will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure and/or a referral to the Monitoring Officer.
- 17.26. 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 this policy with all its members and employees and request that each party signs to demonstrate acceptance of its terms. All new members 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 members and workers are trained in the processes required by this policy as deemed appropriate.

17.27. USEFUL CONTACTS

Monitoring Officer: East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely CB7 4EE. Tel: 01353 665555

ACAS: www.acas.org.uk Tel: 0845 7474747

Equality and Human Rights Commission: www.equalityhumanrights.com

Direct Gov Website. www.gov.uk

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