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## DIGNITY AT WORK / BULLYING AND HARASSMENT POLICY

### 1. PURPOSE & SCOPE

- 1.1 In support of our value to respect others Chesham Bois Parish Council will not tolerate bullying or harassment by, or of, any of its employees, officials, Councillors, contractors, visitors to the Council or members of the public. The Council is committed to the elimination of any form of intimidation in the workplace.

This policy is produced by the Society of Local Council Clerks and 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 and the Elected Members' Code of Conduct.

- 1.2 **Definitions:** There is no simple definition of harassment. It takes many forms, occurs on a variety of grounds and may be directed at an individual or groups of individuals.

*"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 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. 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.

- 1.3 **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, 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.

Bullying and harassment may occur face-to-face, in meetings, through written communication, including electronic communication such as e-mail or on social media, by telephone or through automatic 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 Councillors are bullying or harassing employees, contractors, fellow Councillors, or others then a referral through the Standards process in place at the time reported as a contravention of the Council's Code of Conduct could be an appropriate measure.

If an employee is experiencing bullying or harassment from a third party the Council will act reasonably in upholding its duty of care towards its own employees.

In extreme cases harassment can constitute a criminal offence and the Council should take appropriate legal advice, often available from the Parish Council's insurer, if such a matter arises.

- 1.5 **The Legal Position:** Parish 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.

## 2. PROCESS FOR DEALING WITH COMPLAINTS OF BULLYING & HARRASSMENT

- 2.1 **Informal Approach:** Anyone; employee, contractor, Councillor or visitor, who feels s/he is being bullied or harassed 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.

- 2.2.1 **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 or another Councillor if more appropriate. It may be appropriate for the complaint to be put in writing after the initial discussion, as this will enable the formal Grievance Procedure to be invoked. The employee will be expected to provide evidence of the conduct about which s/he is complaining.

- 2.2.2 **Formal Approach - Others:** Any other party to the Council, other than an employee, who feels s/he is 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 will then be investigated, and a meeting 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 Councillors or Officers of the Council should use the Council's official Complaints Procedure. It is important that the Officer(s) or Councillor(s) being complained about do not prevent the Council operating impartially in its investigation and decision-making in this regard.

- 2.3 **Grievance – Employees Only:** A meeting to discuss the complaint with the aggrieved party 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 Policy & 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.

The complaint will be investigated using the using the procedure as set out in section 3.3 of the Council's Grievance Policy & Procedure. The Hearing Panel will publish its recommendations following deliberation of the facts. An action plan will be made available to the aggrieved employee to demonstrate how the problem is to be resolved. The employee will have a right of appeal.

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 aggrieved party. The Council will commit not to victimize the aggrieved for raising the complaint once the appropriate dispute resolution process has been concluded.

2.4 **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 Councillors who the Council reasonably believe have been bullying or harassing another person(s) whilst undertaking Council activities the range of sanctions available to the Council are limited and must be reasonable, proportionate and not intended to be punitive. 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 Standards Committee 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.

This list is not exhaustive.

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