

Okeford Fitzpaine Parish Council

Bullying, Harassment and Vexatious Behaviour Policy

Bullying and Harassment

1. Purpose and Scope

1.1 Statement: In support of our value to respect others the 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.

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.

1.2 Definitions

• **Bullying** “Bullying may be characterized 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 from ACAS guidance and are behaviours 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, damage to the Council’s reputation and ultimately, legal proceedings against the Council incurring legal fees and compensation.

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 working hours or non-work time.

1.4 Penalties: Bullying and harassment by any employed persons can be considered examples of serious misconduct, which will be dealt with through the Disciplinary Procedure. If elected Members are bullying or harassing employees, contractors, fellow councillors, others then a referral as a contravention of the Member’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 employees. In extreme cases, harassment can constitute a criminal offence and the council should take appropriate legal advice.

1.5 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 Council.

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 and Harassment

2.1 Informal approach – Anyone; employee, contractor, member or visitor, who feels he or she 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 Formal approach

2.2.1 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 Clerk, or if the complaint is about the Clerk, 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. A meeting will be arranged to discuss the complaint with the complainant, normally within 5 working days of receipt of the written complaint. Refer to the Council's Grievance Policy. Following a Grievance Hearing or investigations 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.

2.2.2 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 the Council, (or the Monitoring Officer where a member is directly involved in bullying or harassment), if an informal notification has been unsuccessful at eliminating the problem. The complaint should then be investigated and a meeting held to discuss the facts and recommend the way forward. It is important that any Member about which the complaint is against does not prevent the Council operating impartially in its investigation and decision-making in this regard.

2.2.3 Members 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 e.g. inter-personal communication, assertiveness, chairmanship etc., may be more appropriate than a penalty. The range of sanctions available to the council, where a member has been involved in bullying/harassment are limited. They include admonishment and an undertaking not to repeat the process, removal of opportunities to further harass/bully, banning from any committees of the Council and representation on any outside bodies, and a referral under the Code of Conduct. There may also be a referral to the Police under the Protection from Harassment Act 1997 or a claim to an Employment Tribunal for Third Party harassment (for harassment relating to one of the protected characteristics under the Equality Act) in extreme cases. This list is not exhaustive.

Note: 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.

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 members and employees and to review its policy as appropriate.

4. Useful contacts

- ACAS www.acas.org.uk tel: 0845 7 47 47 47
- Local Government Ombudsman for England www.lgo.org.uk 0300 061 0614
- Equalities and Human Rights Commission www.equalityhumanrights.com
- SLCC www.slcc.co.uk
- DirectGov website

www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670

FRIVOLOUS, VEXATIOUS, ABUSIVE OR PERSISTENT COMPLAINTS

This policy is to assist Okeford Fitzpaine Parish Council (OFPC) deal with anyone who repeatedly complains about the same issue although OFPC has replied to the complaint, or who appears to go out of their way to find things to complain about as a means of harassing the council, or who complains in an unreasonable way.

The situation to be addressed

There are times when nothing further can be done to solve a real or perceived problem and continual communication with the person complaining only uses up the limited time and energy available to a Parish Council. This policy is to set out the criteria used by OFPC to decide if a complaint should be classed as frivolous or vexatious or abusive or persistent and whether to cease to communicate with the particular complainant.

The policy applies to complainants who seek to disrupt the work of OFPC by following an unreasonable course of conduct or repeatedly put in complaints in order to irritate, annoy or cause distress.

How to recognise frivolous, vexatious, abusive or persistent complaints Complaints may be rejected at any time if, in the Council or relevant committees opinion, they are repetitious or prolific and/or the complainant obsessively pursues unreasonable complaints and/or expects unrealistic outcomes and/or carries out complaints in an unreasonable manner.

- They are complaints where any one, or more, of the items below are seen to apply: The OFPC complaints procedure has been implemented and exhausted and a decision already given to the individual;
- The complainant changes the substance of the complaint or continually raises new issues or seeks to prolong contact by raising further concerns or questions while the complaint is being considered;
- The complainant is unwilling to accept documented evidence given as being factual or deny receipt of any adequate response in spite of communications answering their questions, or refuses to accept OFPC decisions;
- The complainant does not clearly identify the precise issues which they wish investigated;
- The complainant focuses on matters which are not sufficiently serious to an extent which is out of all proportion to their importance;

- The complainant has been verbally or physically threatening, offensive or intimidating, in person or in communications, in which case all face to face contact with them will cease at once and Thames Valley Police may be informed;
- The complainant has had an excessive number of contacts with OFPC, placing unreasonable demands on time and resources;
- The complainant insists on the complaint being dealt with in ways which are not compatible with the adopted complaints procedure;
- The complainant makes the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insists the minor differences make these 'new' complaints that should be put through the whole complaints procedure;
- The complainant complains about or challenges an issue based on a historic and irreversible decision or incident;
- The complainant makes what appear to be groundless complaints about staff dealing with the complaints and seeking to have them dismissed or replaced;
- The complainants adopt a 'scattergun' approach by pursuing a complaint or complaints with OFPC and, at the same time, with a Member of Parliament, elected members of this and other councils, other levels of Local Government, the authority's independent auditor, Standards Board, local police, solicitors, or the Ombudsman;
- The complainant is known to have recorded meetings or face to face contacts or telephone conversations without the prior consent of all parties involved, except where legislation allows;
- The complainant has made unreasonable demands on OFPC, for example insisting on responses or enquiries being provided more urgently than is reasonable or necessary;
- The complainant has made unreasonable complaints, where complaints do not have any serious purpose or value, are designed to cause disruption or annoyance, have the effect of harassing OFPC, or can otherwise be characterised as obsessive or unreasonable;
- The complainant has made repetitive complaints and allegations which ignore the replies made for and on behalf of OFPC in previous communications;
- The complainant is offensive, abusive or threatening in any way.

Actions to take in such cases OFPC will meet in private at the end of a full council meeting to discuss any complaints/complainants that are considered by the Clerk, Chairman and at least two other Parish Councillors to come under the above definitions.

STAGE 1 - If it is agreed by the majority that the complaints fall under the required definition, the Clerk will write to the individual to say that their behaviour is considered by OFPC to be unreasonable and unacceptable and requests a change of approach. The individual will be sent a copy of this policy at this stage.

STAGE 2 - If there is no improvement in behaviour, then OFPC will inform the complainant in writing that their behaviour is not acceptable and why. They will be informed that communication from OFPC will cease and the period of time for which that will apply before review. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Banning the complainant from making contact by telephone, except through a third party;
- Banning the individual from sending emails to individuals and/ or council employees and insisting they only correspond by letter;
- Banning the individual from accessing any council premises except by appointment;
- Requiring contact to take place with one named staff member only;

- Requiring any personal contact to take place in the presence of an appropriate witness;
- If behaviour threatens the safety or welfare of staff or councillors, OFPC may report the matter to the local Police or take appropriate legal action.

The decision will be reviewed at 6 monthly intervals.

New complaints

Any further complaints made by the complainant will be examined and those not deemed to be frivolous, vexatious, persistent or abusive will be dealt with.