



# Astley Village Parish Council

## BULLYING AND HARASSMENT POLICY

### 1.0 PURPOSE AND SCOPE

**1.1 Statement:** In support of our value to respect others this Parish Council will not tolerate bullying or harassment by, or of, any of their employees, officials, members, contractors, visitors to the Parish Council or members of the public from the community which we serve. The Parish Council is committed to the elimination of any form of intimidation in the workplace. This policy reflects the spirit in which the Parish 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 Parish Council's Grievance and Disciplinary Procedures. The Parish Council will issue this policy to all employees and Parish Councillors as part of their induction. The Parish Council may also wish to share this policy with contractors, visitors and members of the public.

### 1.2 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, lack of respect for others, turnover, damage to the Parish Council's reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited 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, 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 e-mail, 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 are considered examples of serious misconduct which will be dealt with through the Parish Council's Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Parish 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 Parish Council will take appropriate legal advice, sometimes available from the Parish Council's insurer, if such a matter arises.

**1.5 The Legal position:** The Parish Council has 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 Parish 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.

## 2.0 DEALING WITH BULLYING AND HARASSMENT COMPLAINTS

**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 that their conduct is unacceptable, offensive or causing discomfort.

### 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 Chair of the Personnel 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.

**2.2.2 Others:** Any other party to the Parish Council, other than an employee who feels they are being bullied or harassed should raise their complaint with a Councillor, where possible, or Chair of the Parish Council, or the Monitoring Officer, if an informal notification to a member has been unsuccessful at eliminating the problem or where a member 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 they have been bullied or harassed by any members or officers of the Parish Council should use the Parish Council's official Complaints Procedure.

**2.3 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 Parish 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 Chair/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 Parish Council should contact another Agency such as, an employer's body or Acas to this effect or the Parish 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 Parish Council without prior approval by the complainant. The Parish Council will not victimise the complainant for raising the complaint once the appropriate grievance/disciplinary 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 Parish Council's Disciplinary procedure, under the Employment Act 2002 provisions and would normally be treated as Gross Misconduct. For Members who the Parish Council reasonably believe have been bullying or harassing another person(s) whilst undertaking Parish 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 Parish Council, where a member 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 Parish Council and representation on any outside bodies, a referral to the Standards Board (or equivalent) by the Parish Council and/or the aggrieved victim. 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.

**2.5 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.

### **3.0 RESPONSIBILITIES**

All parties to the Parish 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.