

## **Mattishall Parish Council**

### **Dignity at Work Policy – Bullying and Harassment**

Adopted: September 2021

Review due: September 2022

Policy to be reviewed annually.

1. Mattishall Parish Council (the Council) is committed to encouraging and maintaining good relations within a working environment which fosters team working and encourages all persons to give of their best. Everyone in the Council and those who have dealings with the Council has a responsibility to maintain good working relationships and not use words or deeds that may harm the wellbeing of others. In addition to the obligations placed upon both employers and employees by the Equality and Human Rights legislation, everyone has the right to be treated with consideration, fairness, dignity and respect. This contributes to a workplace environment in which individuals feel safe and can work effectively competently and confidently.

2. The Council's policy applies to all people working within the organisation and to all persons working off the premises. It extends to include non-permanent workers such as secondees, contractors, agency, temporary staff, consultants and any other workers. The policy, in addition, covers the behaviour of Councillors and employees outside working hours which may impact upon work or working relationships.

3. The Council has a "zero tolerance" policy and will investigate vigorously any allegations of bullying or harassment, regardless of whether the matter has been raised formally or informally.

#### **Key Principles**

4. The Council will provide and sustain a safe working environment in which everyone is treated fairly and with respect. Those working or dealing with the Council must not encounter harassment, intimidation or victimisation on the basis of gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background or any other personal characteristic.

5. Everyone carries a personal responsibility for their own behaviour and for ensuring that their conduct is in accordance with the principles set out in this policy. In addition, each person has a responsibility to report any instance of bullying or harassment which they witness, or which comes to their attention. Councillors and employees have a responsibility to act as role models, pro-actively addressing instances of bullying and harassment. Any Councillor acting as a manager should also make themselves aware of their responsibility.

6. **Harassment** may be defined as any conduct which is:

- unwanted by the recipient
- is considered objectionable
- causes humiliation, offence, distress or other detrimental effect

7. Harassment may be an isolated occurrence or repetitive: it may occur against one or more individuals. Harassment may be but is not limited to:

- physical contact – ranging from touching to serious assault, gestures, intimidation, aggressive behaviour.
- verbal – unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter, offensive language.
- non-verbal – offensive literature or pictures, graffiti and computer imagery, isolation or non-cooperation and exclusion or isolation from social activities.

8. **Bullying** is unlikely to be a single or isolated instance. It is usually, but not exclusively repeated and persistent behaviour, which is offensive, abusive, intimidating, malicious or insulting. Bullying includes but is not limited to:

- conduct which is intimidating, physically abusive or threatening
- conduct that denigrates, ridicules or humiliates an individual, especially in front of colleagues • humiliating an individual in front of colleagues
- picking on one person when there is a common problem • shouting at an individual to get things done
- consistently undermining someone and their ability to do the job • setting unrealistic targets or excessive workloads
- “cyber bullying” i.e. bullying via e-mail. (This should be borne in mind where employees are working remotely and are managed by e-mail. Care and sensitivity should be practised with regard to the choice of context and language).
- setting an individual up to fail e.g. by giving inadequate instructions or unreasonable deadlines

Harassment and Bullying may be summarised as any behaviour that is unwanted by the person to whom it is directed. It is the impact of the behaviour rather than the intent of the perpetrator that is the determinant as to whether harassment or bullying has occurred.

9. Any person who wishes to make a complaint of harassment or bullying is encouraged to first discuss matters informally with the Chair, provided that they feel able to do so. If the complaint is about the Chair, then the matter should be raised with the Vice-chair. Should the issues not be resolved at this stage, or the employee feels unable to raise the issue informally, then a formal resolution should be sought.

10. When a complaint of Harassment or Bullying is brought to the attention of the Chair at any level, whether informally or formally, prompt action must be taken to investigate the matter. Corrective action must be taken where appropriate and this may require an investigation under the Council's **Disciplinary Policy and Procedure**.

11. If it is considered that one of the parties concerned in a harassment or bullying case should be moved from their current workplace, then as a matter of principle the Council will normally remove the alleged perpetrator rather than the complainant. However, the final decision on who should be moved should reflect the circumstances of the case. It should be noted and explained to those concerned that the moving of either party is not an implication of guilt or culpability and no detriment to either party will be construed as a consequence.

12. All matters relating to the investigation of complaints of harassment or bullying will be treated in strict confidence. Any breach of confidentiality in this regard may render those responsible liable to disciplinary actions. However, it will be necessary that any alleged perpetrator is made aware of the allegations against them and the name(s) of those making the allegations together with the name(s) of any witnesses.

13. No person will be victimised or suffer detriment for making a complaint of harassment or bullying and no other shall threaten either explicitly or implicitly that the person's complaint will be used as the basis for decisions affecting that individual. Such conduct will be treated as a very serious disciplinary offence. Similarly, all Parish Councillors are required to act on any complaint of harassment or bullying. Failure to do so will be regarded as misconduct which if proven, will result in disciplinary action.

14. All complaints of harassment or bullying whether raised formally or informally must be notified by the recipient of the complaint to the Chair for recording in accordance with the requirements of the Equality and Human Rights legislation. This legislation requires such records to be maintained and the incidence of bullying and harassment to be monitored.

15. This policy and procedure will be reviewed periodically giving due consideration to legislative changes.

## **APPENDIX PROCEDURE 1.**

### **Informal Resolution**

1.1 Very often people are not aware that their behaviour is unwelcome or misunderstood and an informal discussion can lead to greater understanding and agreement that the behaviour will cease.

1.2 Complainants are therefore encouraged to try, if they feel able to do so, to resolve the problem informally by making it clear to the alleged harasser that his/her actions are unwanted and should not be repeated. This may be done verbally or in writing in which case the complainant should keep a copy of the documentation and, where possible, the times and dates of incidents should be recorded.

1.3 If the complainant feels unable to approach the alleged harasser, a work colleague, or Trade Union representative could be asked to speak to the alleged harasser on the complainant's behalf. A note should be made of the action taken and the matter notified to the Chair.

1.4 An individual who is made aware that their behaviour is unacceptable should:

- Listen carefully to the complaints and the particular concerns raised.
- Respect the other person's point of view: everyone has a right to work in an environment free from harassment/intimidation.
- Understand and acknowledge that it is the other person's reaction/perception to another's behaviour that is important.
- Agree the aspects of behaviour that will change.
- Review their general conduct/behaviour at work and with workplace colleagues.

## **2. Formal Resolution**

2.1 If the alleged harassment continues, the complainant feels unable or unwilling to deal with the matter informally, or the allegation is so serious as to prevent use of the informal procedure, a complaint should then be raised formally with the employer (the Council).

2.2 When dealing with a complaint of harassment under the Formal Resolution Procedure, a Working Group will be established comprising three Parish Councillors not involved in the complaint, which should:

- Take full details of the incidents in writing from the complainant and their representative (if appropriate).
- Take full details from any witnesses/other complainants who come forward and may have witnessed the alleged behaviour.
- Inform the alleged harasser of the complaints against him/her, advise the alleged harasser to seek representation and invite him/her to a meeting in order that they can comment on the allegations against them.
- Keep all parties informed of expected timescales.
- Inform all parties in writing of the outcome and any action that may be required.

2.3 If the allegations and the working situation warrant it, the alleged harasser may be temporarily suspended during the investigation (in accordance with established disciplinary procedure).

2.4 Should there be a case to answer against the alleged harasser, the Working Group which has dealt with the complaint will conduct a separate disciplinary investigation. The normal disciplinary procedure for misconduct/gross misconduct should then be followed. However, the following points should be taken into account.

- The complainant will normally be required to attend the disciplinary hearing as a witness, unless there are exceptional circumstances which prevent them from doing so.
- If the complainant is required to attend, they are entitled to be accompanied by either a friend or relative and have any questions directed through that person.

If the complaint is upheld at the disciplinary stage, there are a number of possible outcomes for the harasser, depending on the evidence presented and the circumstances. These could include, but are not limited to:

- Dismissal.
- A formal warning.
- A recommendation of redeployment of the harasser, either on a temporary or a permanent basis. This will not be on any less favourable terms and conditions of employment.
- Implementation of other sanctions as detailed in the Council's Disciplinary Policy.
- Making arrangements for both parties to work as separately as possible within the same workplace.

2.6 In addition to the above, the harasser may be required to attend any training courses as deemed necessary by the Council.

2.7 With any allegation, the need for a thorough and objective investigation is paramount. Consequently, if through the course of the investigation evidence demonstrates that the allegation has been made frivolously, maliciously, or for personal gain, then the individual making the complaint will be subject to Disciplinary proceedings as outlined in the Council's Disciplinary Policy.

### **3. Appeals**

3.1 Appeals against decisions taken under the Bullying and Harassment at Work Policy and Procedure shall be dealt with as follows:

- Appeals against a disciplinary sanction will be dealt with in accordance with the appeals process in the Disciplinary Procedure.
- Appeals by a complainant about the outcome of any inquiry will be dealt with in accordance with the appeal process in the Grievance Policy.

### **4. Records**

4.1 Where the complaint is informal and resolved at this stage, no record will be kept on personal files.

4.2 Following formal investigation, where the complaint is not substantiated, no records will be retained.

4.3 Where a complaint is substantiated or partially substantiated but does not proceed to disciplinary, a letter confirming the outcome will be retained on the

personal file and supporting documentation retained in a separate file for a period of twelve months.

4.4 Where the matter proceeds to a disciplinary hearing then the storage of records should be in accordance with the disciplinary procedure.

## **Mattishall Parish Council**

### **Disciplinary, Dismissal and Grievance Policy**

#### **1. Introduction**

It is policy that the following procedure should be followed when an employee is being disciplined or dismissed. The procedure provides that in normal cases a series of warnings will be given before discipline or dismissal is contemplated. The stages of the procedure that apply when discipline or dismissal is being contemplated comply with the statutory dismissal and grievance procedures and are based on the ACAS protocol. Matters which may be dealt with under this disciplinary and dismissal procedure include discipline and dismissal for the following reasons:

- misconduct
- sub-standard performance
- harassment or victimisation
- misuse of council facilities including computer facilities (eg e-mail and the Internet)
- poor timekeeping
- unauthorised absences

Minor cases of misconduct and most cases of poor performance may be dealt with by informal advice, coaching and counselling. An informal oral warning may be given, which does not count as part of the formal (or statutory) disciplinary procedure. No formal record of this type of warning will be kept. If there is no improvement or the matter is serious enough, the employee will be invited to a disciplinary meeting. The meeting will be with a Working Group comprising three Members of the Parish Council at which the matter can be properly discussed. The employee will be allowed to bring a colleague, friend or relative to the meeting. The outcome of the meeting will be communicated to the employee. There are the following possible outcomes:

#### **Oral warning.**

In the case of minor infringements, the employee may be given a formal oral warning by the Working Group. A note of the oral warning will be kept on file but will be disregarded for disciplinary purposes after six months. The employee has the right to appeal against a formal oral warning. As a possible resolution support may be offered in the form of training.

## **Written warning**

If the infringement is more serious or there is no improvement in conduct after a formal oral warning the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this, the right of appeal and the fact that a final written warning may be given if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months.

## **Final written warning.**

Where there is a failure to improve or change behaviour during the currency of a prior formal written warning, or where the infringement is sufficiently serious, the employee may be given a final written warning. This will give details of the complaint, warn that failure to improve will lead to dismissal and refer to the right of appeal. The final written warning will be kept on file but will normally be disregarded for disciplinary purposes after twelve months.

## **Dismissal.**

If the conduct or performance still fails to improve the final step will be to contemplate dismissal.

The Working Group must follow the "Standard Disciplinary and Dismissal Procedure" which is a statutory requirement. Failure to do so will usually result in a finding of automatically unfair dismissal.

## **2. The Standard Disciplinary and Dismissal Procedure**

**Step 1:** Working Group gives employee a written statement and calls a hearing. The Working Group will set out in writing the alleged conduct, characteristics or other circumstances which lead them to contemplate dismissing or taking disciplinary action against the employee. The Working Group will inform the employee, in the written statement of the basis on which they have made the allegations. If possible, the Working Group will provide the employee with copies of any relevant evidence. The Working Group will invite the employee to a hearing to discuss the matter and will inform them who will be attending on behalf of the Council. The Working Group will comprise three Members of the Parish Council who may also be accompanied by a Human Resources Adviser or other appropriate person.

**Step 2:** Meeting is held. The Working Group advises the remaining Members of the Parish Council and then informs employee of the outcome. The meeting will take place before any action, other than suspension on full pay, is taken. The meeting will be held without undue delay but only when the employee has had a reasonable opportunity to consider a response to the Working Group's written statement and any further verbal explanation the Working Group has provided. The employee must take all reasonable steps to attend the meeting. After the meeting the Working Group will inform the employee of their decision and notify the employee of their right to appeal against the decision if not satisfied with the Working Group's decision. The employee must appeal to complete the statutory procedure.

**Step 3:** Appeal against the disciplinary decision if necessary. If the employee wishes to appeal, they must inform any member of the Working Group in writing, within fourteen calendar days. The Parish Council will then invite the employee to attend a further meeting. The employee must take all reasonable steps to attend the meeting. Two councillors from another Norfolk parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Adviser or other appropriate person. The appeal hearing may take place before or after dismissal or disciplinary action has taken effect. After the appeal hearing the Working Group will inform the employee of their final decision and will confirm it in writing as soon as practicable.

### **Gross misconduct**

If after investigation it is confirmed that the employee has committed one of the following offences (the list is not exhaustive), they will normally be dismissed:

- theft
- fraud and deliberate falsification of records
- physical violence
- serious bullying or harassment
- deliberate damage to property
- serious insubordination
- misuse of an organisation's property or name
- bringing the employer (Parish Council) into serious disrepute
- serious incapability whilst on duty brought on by misuse of alcohol, prescribed or illegal drugs
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time they will be paid. Any decision to dismiss will be taken by the Parish Council only after a full investigation. The Standard Disciplinary and Dismissal Procedure applies to dismissals for gross misconduct.

### **Modified Dismissal Procedure**

In a few cases of gross misconduct the Parish Council may be justified in dismissing immediately without conducting an investigation. In these cases a two-step "Modified Dismissal Procedure" will be followed, otherwise the dismissal will be automatically unfair.

**Step 1:** Working Group gives written statement. The Working Group must give the employee a written statement setting out the conduct that has resulted in the dismissal and informing them of the right to appeal against the decision to dismiss. The employee must appeal to complete the statutory procedure.

**Step 2:** Appeal against the disciplinary decision. If the employee wishes to appeal they must inform any Member of the Parish Council's Working Group. A meeting must be held (in accordance with the general principles set out above). After the meeting, the Working Group must inform the employee of their decision following the meeting.

### **3. General Principles**

The following principles apply to the Standard Dismissal and Disciplinary Procedure and the Modified Dismissal Procedure set out above:

- (a) The Parish Council (as a collective) has authority to discipline an employee in accordance with this procedure.
- (b) The employee has the right to be accompanied to any meeting by a representative or a colleague.
- (c) Each step in the procedure will be taken without unreasonable delay and hearings will be held at reasonable times and locations.
- (d) Meetings will be conducted in a manner that enables both Parish Council or a designated Working Group and employee to explain their cases.
- (e) Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records will be kept confidential.

### **4. Grievance Procedure**

It is policy to ensure that any employee with a grievance has access to a procedure, which can lead to a speedy resolution of the grievance in a fair manner. Most routine complaints and grievances are best resolved informally in discussion with Members of the Parish Council. Where the grievance cannot be resolved informally it will be dealt with under the following procedure that complies with the statutory standard three-step grievance procedure.

#### **The Standard Grievance Procedure**

**Step 1:** Employee gives written statement of grievance. The employee must put their grievance in a written statement of grievance and send a copy to any Member of the Parish Council not involved in the complaint.

**Step 2:** Meeting of the Working Group is held and informs the remainder of the Parish Council of their findings and then informs the employee of the outcome. The Working Group will invite the employee to attend a meeting to discuss the grievance. The meeting will only take place once they have informed the Working Group of the

basis for the grievance they have set out a written statement, and the Working Group has had a reasonable opportunity to consider what response to make. The employee must take all reasonable steps to attend the meeting. The Working Group will comprise three Parish Councillors not involved in the grievance and may also be accompanied by a Human Resources Adviser or other appropriate person. After the meeting the Working Group must inform the employee of the decision taken in response to the grievance and notify them of their right to appeal if they are not satisfied with the Working Group's decision. The employee must appeal to complete the statutory procedure.

**Step 3: Appeal if necessary** If the employee wishes to appeal they must inform the Working Group. The Working Group will then invite the employee to attend another meeting. The employee must take all reasonable steps to attend. Two councillors from another Norfolk Parish who have not been previously involved in the disciplinary procedure will hear the appeal. They may be accompanied by a Human Resources Adviser or other appropriate person. After the meeting the Working Group must inform the employee of the decision taken.

## **5. The Modified Grievance Procedure**

The Modified Grievance Procedure will apply in relation to the grievance only if:

- The employee no longer works for the Parish Council.
- The employee has agreed with the Parish Council in writing that it will apply.
- The employee raised it before they left, but the standard procedure wasn't completed, or it was not raised until after the employee left.

There are two steps within the Modified Grievance Procedure:

**Step 1:** Employee gives written statement of grievance The employee must put their grievance in a written statement and send a copy to the Parish Council.

**Step 2:** Parish Council gives written response The Parish Council must write back to the employee giving their response to the points raised.

6. Principles Applicable to the Standard and Modified Grievance Procedure. (a) Each step in the grievance procedure should be carried out without unreasonable delay. The times and locations of meetings should be reasonable. (b) Meetings must be conducted in a way that allows both parties to explain their case. (c) Records should be kept detailing the nature of the grievance raised, the Parish Council's response, any action taken and the reasons for it. These records should be kept confidential. (d) The employee has the right to be accompanied to the hearing by a friend or colleague. (e) There are some cases in which the statutory procedure does not have to be followed or does not have to be followed in full, for example where the grievance is about the fact the Parish Council intends to dismiss the employee. In these cases, the Parish Council will not necessarily follow the statutory procedures set out above. (f) If an employee wishes to seek resolution of a grievance, s/he must contact any Member of the Parish Council.