

## Harassment Policy

### **POLICY STATEMENT**

Boughton Monchelsea Parish Council will not tolerate any harassment, intimidation, discrimination or victimisation by or against its employees. Harassment on the grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity or trade union membership status is unacceptable. Harassment in certain circumstances is a criminal offence as it is prohibited by law.

### **INTRODUCTION**

1. In order to achieve the Parish Council's objectives, the working environment needs to be one in which employees are able and encouraged to meet their full potential.
2. Harassment makes the working environment threatening and unwelcoming. The hidden costs of failing to tackle harassment in the workplace are low morale, reduced efficiency and sickness absence, often stress-related.
3. Harassment may, under certain circumstances, constitute a criminal offence or may contravene other obligations imposed by the law, such as the Health and Safety at Work etc, Act 1974 (which states that the employer must ensure the provision of a healthy and safe place of work) or a duty, contractual or otherwise, to be a good employer.
4. Boughton Monchelsea Parish Council resolves to create a climate where harassment does not occur and where the culture is non-threatening for all those engaged on work for and on its behalf.

### **DEFINITION**

5. 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. As an employer, Boughton Monchelsea Parish Council defines harassment as a form of employee misconduct which constitutes all unwanted actions or conduct which affects the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct and action contrary to equal treatment for staff as regards access to work and employment, training, and working conditions. This applies to age, disability, gender reassignment, race, religion and belief, sex and sexual orientation.
6. The Equality Act 2010 added a new dimension to the definition of harassment - third party harassment. This means an employer is potentially liable for harassment of its employees by people (third parties) who are not employees of the organisation, such as customers and clients. To be considered liable the harassment must have taken place on at least two previous occasions, the employer is aware of it and has not taken reasonable steps to prevent it from happening again. This applies to age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.
7. The unwanted nature of harassment distinguishes it from acceptable behaviour.

### **HARASSMENT COMPLAINTS PROCEDURE**

#### **Initial Stage**

8. There are benefits to all concerned in resolving complaints at an initial stage. It can result in complaints being handled more quickly, thus minimising distress to the employee(s). However if the complaint is of a more serious nature this may warrant more urgent formal

resolution of the complaint. Any complaint received should be responded to as quickly as possible under the circumstances.

9. All initial discussions must be held in confidence. Any information revealed to the Parish Council will be treated in a highly confidential way and statements and other documents will be kept in a secure manner.
10. Initial routes to consider in resolving a complaint can include one or a number of the following,
  - The complainant asks the offender(s) to stop the offending behaviour. This could be done by letter or face to face. They may or may not decide to involve their supervisor at this stage.
  - The complainant brings the matter to their supervisor (either orally or in writing).
11. It is also the duty of the Parish Council to take action on any harassing or bullying behaviour that it becomes aware of before it results in a complaint
12. One possible outcome may be that the supervisor is requested to speak in confidence to the offender(s). If so, it is expected that this is done within 5 working days of the complaint being received
13. All parties will endeavour to keep the matter confidential and it should be made clear by the Parish Council that open discussion about the complaint is not acceptable and may not be lawful
14. The outcome at this informal stage of the procedure may be that the complaint or allegation,
  - a) is unfounded.
  - b) is not proceeded with.
  - c) can be resolved through an apology or some other means.
  - d) is founded but is sufficiently minor that it requires no further action other than advice, guidance, training and monitoring through the normal supervisory processes. In this event a note of the action being taken will, with the offender(s)' knowledge, be placed on their personal file. The outcome of monitoring will be discussed with the alleged offender and recorded. This record may be used as evidence in the event of further harassment by the alleged offender at some subsequent stage, bearing in mind that the passage of time will reduce the 'weight' that can be attributed to it.
  - e) the records of offences concluded at the informal stage of this Procedure will be held on file for a period not exceeding 3 years after which they will be removed from the employee's record. The employee concerned will be advised. However, records may be kept indefinitely if the harassment is of a serious nature.
  - f) is founded and/or is sufficiently serious that it may require formal action in accordance with the Disciplinary Procedures.
15. In extreme circumstances the Parish Council may decide, even before the informal stage has been exhausted, either that a complaint appears sufficiently serious that there may be grounds for a formal investigation under the Disciplinary Procedure or that it is too complex to be resolved informally. In either event the complaint should proceed immediately to the Formal Complaint Stage.
16. If the Parish Council decides on action other than disciplinary action and the complainant or respondent is not satisfied with this outcome, they may raise a grievance under the Grievance Procedure within 10 days of being notified of the action the Parish Council proposes to take. Any grievance raised will not be allowed to frustrate the harassment process or the complainant's right to use the formal stage.

## **Formal Stage**

17. If the initial stage has not resolved the complaint, or if the matter appears to be of a more serious nature, then the complaint may proceed to the formal stage. The complaint should be investigated using the procedure as set out in the Disciplinary Policy.
18. The purpose of investigation is for the Parish Council to come to a decision, on the basis of the evidence and the balance of probabilities, whether there is a case to answer.
19. At the conclusion of the Investigation the Parish Council will meet separately with the complainant and the alleged offender (and any recognised representatives) and notify them of any recommendations the investigation has made. Both parties will be given the opportunity at this meeting to comment on the investigation (process and recommendations) prior to the Parish Council deciding how to proceed.
20. If the Parish Council decides on action other than proceeding with an investigation and the complainant or alleged offender is not satisfied with this outcome, they may raise a grievance under the Grievance Procedure within 10 days of being notified of the action proposed. They should set out the details of the complaint being made. Any grievance raised will not be allowed to frustrate the harassment process.

## **The Investigation**

21. The Investigator will prepare a report of his/her findings and decision as to whether or not there is a case to answer. This will be submitted to the Parish Council, who will decide what action to take in the light of the panel's decision
22. That action will include one of the following,
  - a) there is no case to answer.
  - b) although there is no case to answer, both parties share some responsibility and the matter can be dealt with through counselling and/or other support mechanisms.
  - c) although there is no case to answer there is evidence of some other inappropriate behaviour which can be dealt with through counselling and/or other support arrangements
  - d) although there is a case to answer (or there is evidence of some other inappropriate behaviour) it can most appropriately be dealt with through counselling and support or informally.
  - e) there is a case to answer formally. In this instance, the Parish Council will appoint a subcommittee and a disciplinary meeting should be convened in accordance with the Disciplinary Policy.
23. The outcome of the investigation will be communicated in writing to all the parties concerned.
24. Any complaint that is deemed to be vexatious may result in disciplinary action.
25. If the Parish Council decides on action other than disciplinary action and the complainant or alleged offender is not satisfied with this outcome, either may raise a grievance within 10 days of being notified of the action proposed. They should set out the details of the complaint being made. Any grievance raised will not be allowed to frustrate the harassment process.
26. If the outcome of the investigation is a meeting held in accordance with the Disciplinary Policy, any concerns on the part of the alleged offender about the processes associated with handling the complaint and the investigation should be raised at the disciplinary meeting and any subsequent disciplinary appeal.

27. The potentially sensitive nature of the complaint may require the normal process for the disciplinary meeting to be adapted to minimise distress. In general, any departure from the normal process of disciplinary meetings will be determined by the needs of each case and should as a general rule, be put to both sides and agreed by them. In the event of disagreement advice will be sought from the Kent Association of Local Councils
28. The alleged offender will receive written confirmation of the outcome in accordance with the provisions of the Disciplinary Policy. The Chairman should ensure that the wording of the decision taken reflects both the outcome of the decision and any sanctions to be imposed. Complainants do not have a right to know the outcome of a disciplinary hearing but should be advised that appropriate action has taken place.
29. The options open to the Parish Council at the conclusion of its deliberations are in accordance with the Disciplinary Policy.
30. The rights of appeal, as set out in the Disciplinary Policy will apply.