



# St Stephen in Brannel Parish Council

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## DIGNITY AT WORK POLICY<sup>1</sup>

### Purpose and Scope.

St Stephen in Brannel Parish Council will not tolerate bullying or harassment of any of its employees by elected members, other employees, contractors, visitors to the Parish Council or members of the public. 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.

The Parish Council will make this policy available to all employees as part of their induction and to all elected Members via the website.

Everyone who comes into contact with the Parish Council has 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.

Bullying and harassment is most likely to be complained about when individual elected members or members of the public criticise Parish Council employees, often without objective evidence and in environments which are open to the public such as Parish Council meetings or social media ("cyber bullying") in addition to private contact such as emails, phone calls or text messages.

### Definitions.

#### Bullying:

*"Persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power or unfair penal sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress."*

#### Harassment:

*"unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment."*

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<sup>1</sup> Adopted by Full Council at the meeting held on Wednesday 15 July 2020 under minute number FPC168/20. Due for review in July 2023.

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.

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.

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, turnover, damage to the Parish Council's reputation and ultimately, legal proceedings against the Parish Council including payment of legal fees and potentially unlimited compensation.

#### Examples.

Examples of unacceptable behaviour are as follows (this list is not exhaustive):

- spreading malicious rumours,
- release of confidential information,
- 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, and
- 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 including text messages or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

#### 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 corporate employer, the council and the perpetrator(s) as individual named respondents.

The legal definition of "Third Party Harassment" has been introduced which makes the employer vicariously liable for harassment from other parties such as residents, contractors etc and it must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or member of 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.

The Protection from Harassment Act 1997 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.

#### Process for dealing with complaints of Bullying and Harassment.

##### Informal approach -

Someone who feels she/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 record of the incidents.

##### Formal approach-

###### Employees.

Where an employee of the Parish Council feels unable to resolve the matter informally any complaint about harassment or bullying can be raised confidentially and informally, initially with the Clerk. In the case of bullying or harassment of the Clerk, she/he should raise this with the Chairman of the Staffing committee and/or the Chairman of the Parish Council in the first instance. 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 member of staff will be expected to provide evidence of the conduct about which s/he is complaining.

Others.

Anyone else who has business with the Parish Council, other than an employee, who feels she/he is being bullied or harassed should raise their complaint with the Clerk. The complaint will be investigated and a meeting held, if necessary, to discuss the facts and recommend the way forward.

At all times the confidentiality of the complaint will be of paramount importance in order to maintain trust in the process. The Parish Council will undertake not to victimise the complainant for raising the complaint once the appropriate dispute resolution process has been concluded.

**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.

For members whom the Staffing committee reasonably believe have been bullying or harassing another person(s) whilst undertaking Parish Council activities, the action taken must be reasonable, in line with case law, and may include a referral under the Code of Conduct to the Monitoring Officer.

There may also be a referral to the Police under the Protection from Harassment Act 1997.

This list is not exhaustive.

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 under the Disciplinary Procedure and/or a referral to the Monitoring Officer.

**Penalties.**

Bullying and harassment by any employed persons of one another can be considered examples of serious misconduct which will be dealt with through the Disciplinary Procedure at the appropriate level and may result in summary dismissal from the Parish Council.

If elected members are bullying or harassing Parish Council employees, contractors, fellow councillors, or members of the public, a referral to the Monitoring Officer as a contravention of the Code of Conduct may be an appropriate measure.

If an employee is experiencing bullying or harassment from a member of the public the Parish Council will act reasonably in upholding its duty of care towards its own employees. Such complaints will be taken seriously and will be pursued with the third party concerned, exercising whatever sanctions are available. In some cases harassment can constitute a criminal offence and the Parish Council will take appropriate legal advice and action if such an issue arises.