

## **Agenda Item 15 Bullying and Harassment Policy**

### **Summary**

This is a proposal to adopt as a policy to manage issues relating to bullying and harassment

### **Background**

The Council was prevented from completing its business at its meeting on the 11<sup>th</sup> December 2019, when the Chair sought to pass a motion to exclude the press and public, so that confidential matters could be discussed, in accordance with the requirements of the Public Bodies (Admission to Meetings) Act 1960. Subsequently two Members had their car “keyed” and two other Councillors had some windows smeared with excrement and a bag of excrement left on their doorstep and two other Councillors had garden ornaments destroyed. In addition there has been bullying and abuse on social media including from relatives of Councillors. It is inevitable that they link these instances to the last Council meeting.

The Council allows members of the Public to ask questions during a period of time set aside for public participation. Under the Council’s Standing Orders this is for a period of 15 minutes only and questions may not be asked on confidential matters. Each person asking a question shall be permitted a maximum of two minutes to speak. At our last meeting control was impossible such that the two minute rule was not respected.

It is a fact of law that Members of the public have no legal right to speak unless the Parish Council Chairman authorises them to do so and the Chair does so only during the public participation part of the evening. Public participation is not, in law, part of a Council meeting.

Under the Council’s Standing Orders any person acting in an unacceptable manner can be excluded from a meeting.

As a result of the Council being prevented from transacting its full business, at its meeting on the 11<sup>th</sup> December 2019, and subsequent vandalism on the property of certain Councillors it is considered appropriate for the Council to consider the adoption of a formal policy which may then, if necessary, be enforced including references to the Police.

### **Legal Requirements**

Health and Safety at Work etc Act 1974; Equalities Act 2010; Public Meeting Act 1908; Employment Rights Act 1996; Public Order Act 1906 and Protection from Harassment Act 1997

### **Details**

In any work place, and a Council meeting is a place of work, Councillors, employees and the Public are entitled to be treated with respect and courtesy. Rules of debate and of the meeting itself need to be observed to ensure that business is properly conducted.

If any person or persons prevent a Council from conducting its business a criminal offence may have been committed contrary to s. 1 of the Public Meeting Act 1908. The maximum sentence for which is a term of imprisonment for up to six months and/or an unlimited fine.

There may be instances whereby an employee may feel bullied and their rights need to be respected and protected as well as those of Councillors.

A draft policy is set out at Appendix One to this report detailing just when bullying or harassment may arise and its characteristics. It is commended for adoption to ensure that Members, Officers and the public operate in an environment of mutual trust and respect.

### **Budget Implications**

None

### **Risk Management Implications if any**

This proposed policy will assist as a reference point for employees, Councillors and the public in understanding their respective obligations and hopefully ensure harmonious relations and the avoidance of risk.

### **Recommendation**

1. That the Policy be adopted
2. That the Clerk (the Chair until such time as a Clerk is appointed) be authorised to refer to the Police any party who prevents the Council from transacting its business

### **Appendix One**

#### **Parton Parish Council Anti-Bullying and Harassment Policy**

##### **1. Purpose and scope**

###### **1.1 Statement:**

In support of its value to respect others Parton Parish Council will not tolerate bullying or harassment of or by, any of its employees, officials, members, contractors, visitors to the Council or members of the public. 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 in order to protect any person from bullying and harassment. The Council will issue this policy to all employees as part of its induction and to all members upon election or co-option to the Council. The Council may also wish to share this policy with contractors, visitors and members of the public.

##### **Elected Members**

Councillors undertake on accepting office to comply with the provisions of the Parton Parish Council Code of Conduct. The Code contains certain obligations (such as the requirement to treat people with respect and to do nothing to bring the Council or the Councillors' office into disrepute). Breach of these obligations renders the Councillor liable to investigation by the Copeland Borough Council's

Standards and Ethics Committee. If a breach of the Code is found sanctions may be imposed. Elected Members will carry out some of their duties in Council meetings or by attending meetings at other venues or with the public. Elected Members will be expected to conduct themselves in a way that is consistent both with the provisions of their Code and, where applicable, the contents of this Policy.

## **1.2 Definitions Bullying**

Bullying may be characterized as a pattern of offensive (including swearing), intimidating, malicious, insulting or humiliating behaviour; an abuse of the 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 can lead to poor morale, low productivity and poor performance, sickness absence, lack of respect for others, turnover, damage to the Council's reputation and ultimately, Employment Tribunal or other court cases and payment of compensation.

## **1.3 Examples of unacceptable behaviour**

This list is not exhaustive but it can include spreading malicious rumours, insulting someone, ridiculing or demeaning someone, exclusion or victimisation, unfair treatment, the use of foul and/or abusive language, members of the public approaching the table at which Councillors are sitting holding their meeting when uninvited, overbearing supervision or other misuse of position or power, disorderly conduct in meetings seeking to undermine the Council or Councillors or its employees, 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, damage to property because the property owner is a Councillor or employee of the Council. Bullying and harassment may occur face-to-face, in meetings, through written communication, including e-mail, by telephone or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

False or malicious allegations of harassment or bullying which damage the reputation of a fellow employee/Member will not be tolerated

## **1.4 Penalties:**

S1 of the Public Meeting Act 1908 (as amended) provides that any person who acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called shall be guilty of an offence and shall on summary conviction be liable to imprisonment for a term not exceeding six months or to an unlimited fine.

Whilst the Public is entitled to attend meetings the Council may, in the case of any person offending against this policy exclude that person from a meeting until such time as he or she has signed an agreement to conduct themselves in accordance with this policy and the law.

Bullying and harassment are considered examples of serious misconduct and may, in the case of an employee, result in summary dismissal from the Council or through Code of Conduct procedure a referral to Monitoring Officer of the Copeland Borough Council, as a contravention of the Members' Code of Conduct which may result in sanctions against the member concerned. In extreme cases harassment can constitute a criminal offence and the Council should take appropriate legal advice, sometimes available from the 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 Equality Act 2010 and the Health and Safety at Work Act 1974. In addition, the Public Order Act 1906 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. In addition, a harasser may be personally liable to pay damages if a victim complains to an Employment Tribunal for sexual, racial, disability or age discrimination.

## **2. Process for dealing with complaints of bullying and harassment**

**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 Council 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 a formal reference to full Council for a decision.

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 a Councillor, where possible, 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 he/she has been bullied or harassed by any member or officer(s) of the Council should use the Council's official Complaints Procedure or the Code of Conduct procedure of the Copeland Borough Council.

2.2.3 In a Council meeting if the bullying or harassment is from a member of the Public he/she will be dealt with in accordance with the Council's Standing orders and which may

lead to the person being required to leave the meeting. It may also result in a referral to the police for it to consider whether a prosecution may be appropriate.

2.3 Employee complaint or complaint against an employee. A meeting of the Council to discuss the complaint with the complainant will normally be arranged as soon as possible after a written complaint has been received and will be held in confidence with press and public excluded. 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 representative of their choosing at this meeting. A full investigation of the complaint will be held by the Council or by individual Councillors appointed for this purpose and the issues reported back to Council for a decision. It may be appropriate for an external investigator to be involved in order to maintain objectivity and impartiality. The Council 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 Council may contact CALC or ACAS to this effect or the Council may offer counselling. The employee will have a right of appeal. 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 others. The Council will commit not to victimize the complainant for raising the complaint once the appropriate grievance/disciplinary process has been concluded.

2.4 Disciplinary Action - Following a 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 if that is an employee. Such conduct may be treated as Gross Misconduct. For Members, who the Council reasonably believe have been bullying or harassing another person(s) whilst undertaking Council activities, the Councillor will be referred to the Monitoring Officer of the Borough Council under the terms of the Code of Conduct.

### **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. Members of the Public are also expected to observe these requirements. If unacceptable behaviour is observed then each individual can challenge the perpetrator and ask them to stop. A review of the policy shall be undertaken each year (or as appropriate) and necessary amendments will be undertaken by the Clerk and reported to the full Council for approval. The Council will undertake to ensure that its Members and employees are trained in the processes required by this policy as deemed appropriate.

3. **USEFUL CONTACTS** • ACAS [www.acas.org.uk](http://www.acas.org.uk) tel: 0300 123 1190; Monitoring Officer for complaints under the Code of Conduct

[https://www.copeland.gov.uk/sites/default/files/attachments/code\\_of\\_conduct\\_complaints\\_for\\_m.pdf](https://www.copeland.gov.uk/sites/default/files/attachments/code_of_conduct_complaints_for_m.pdf)

### **4. Examples of Bullying & Harassment**

This list is included to indicate some examples of bullying or harassment covered by this Policy (it is not an exhaustive list)

Physical: unwanted physical contact or intimidation, including unnecessary touching, patting or brushing against a person, assault, coercing sexual behaviour, physical threats, insulting or abusive behaviour or gestures.

Verbal: remarks about appearance, derogatory or lewd comments, innuendoes, persistent name calling, statements which are suggestive, unwelcome, abusive and offensive, constant interference in a Council meeting including shouting out.

Behaviour: that denigrates or ridicules; intimidation or physical abuse; making threats; attempts to stir up hatred against an individual or group.

Other: display or circulation of material which are sexually or racially offensive or degrading.

The following list gives more specific examples of behaviour which may amount to bullying or harassment, it is not exhaustive:

- humiliating or ridiculing others about their work
- spreading rumours or gossip
- shouting or pointing your finger, invading personal space, shoving, blocking or barring the way
- suggesting that others should leave the organisation
- being hostile to others
- constantly criticising others' work and efforts
- ignoring the views of others or setting unreasonable tasks or deadlines
- making false allegations against others
- engaging in excessive monitoring of the work of others
- unreasonably obstructing an individual's progress at work by blocking promotion or training opportunities without a genuine business reason
- causing embarrassment by disciplining staff in public
- Abuse of Councillors or employees
- Refusal to desist from interrupting meetings