



# Dignity at Work Policy

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Brantham Parish Council

Sarah Keys

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## **INTRODUCTION**

**Brantham Parish Council believes that civility and respect are important in the working environment, and expect all Brantham Parish Councillors, officers and the public to be polite and courteous when working for, and with the Brantham Parish Council.**

### **Purpose**

Brantham Parish Council is committed to creating a working environment where all Brantham Parish Council employees, Brantham Parish Councillors, contractors and others who come into contact with us in the course of our work, are treated with dignity, respect and courtesy. We aim to create a workplace where there is zero tolerance for harassment and bullying

In support of this objective, Brantham Parish Council has signed up to the Civility Pledge, as a commitment to civility and respect in our work, and politeness and courtesy in behaviour, speech, and in the written word. Further information about the Civility and Respect Pledge is available from [NALC](#) & [SLCC](#)

We recognise that there is a continuum where unaddressed issues have the potential to escalate and become larger, more complex issues and this policy sets out how concerns will be managed however the emphasis of this policy is on resolution and mediation where appropriate, rather than an adversarial process.

This document:

- explains how we will respond to complaints of bullying or harassment;
- ensures that we respond sensitively and promptly; and,
- supports our employees in ensuring their behaviour does not amount to bullying and/or harassment by giving examples.

### **Scope**

This policy covers bullying and harassment of and by clerks/chief officers and all employees engaged to work at Brantham Parish Council. Should agency staff, or contractors have a complaint connected to their engagement with Brantham Parish Council this should be raised to their nominated contact, manager, or the Chair of the Brantham Parish Council, in the first instance. Should the complaint be about the chair of the Brantham Parish Council the complaint should be raised to the deputy chair.

Agency staff, or contractors are equally expected to treat Brantham Parish Council colleagues, and other representatives and stakeholders with dignity and respect, and the Council may terminate the contract, without notice, where there are suspicions of harassment or bullying.

Complaints about other employment matters will be managed under the Brantham Parish Council's grievance policy.

It is noted that the management of a situation may differ depending on who the allegations relate to (e.g. employees, contractor, Brantham Parish Councillor), however, the Brantham Parish Council will take appropriate action if any of its employees are bullied or harassed by employees, Brantham Parish Councillors, members of the public, suppliers or contractors.

### **The position on bullying and harassment**

All staff and Brantham Parish Council representatives are entitled to dignity, respect and courtesy within the workplace and to not experience any form of discrimination. Brantham Parish Council will not tolerate bullying or harassment in our workplace or at work-related events outside of the workplace, whether the conduct is a one-off act or repeated course of conduct, and whether harm is intended or not. Neither will we tolerate retaliation against, or victimisation

of, any person involved in bringing a complaint of harassment or bullying. You should also be aware that, if you have bullied or harassed someone (e.g. physical violence, harassment), in some circumstances the treatment may amount to a crime punishable by a fine or imprisonment.

We expect all representatives of the Brantham Parish Council to treat each other with respect and uphold the values of the code of conduct, civility and respect pledge, and all other policies and procedures set by the Brantham Parish Council.

We expect Brantham Parish Council representatives to demonstrate respect by listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks, and being kind.

Allegations of bullying and harassment will be treated seriously. Investigations will be carried out promptly, sensitively and, as far as possible, confidentially. See the grievance policy for further details regarding the process. Employees and others who make allegations of bullying or harassment in good faith will not be treated less favourably as a result.

False accusations of harassment or bullying can have a serious effect on innocent individuals. Staff and others have a responsibility not to make false allegations. While we will assume that all complaints of bullying and harassment are made in good faith, in the event that allegations are found to be malicious or vexatious the person raising the complaint may be subject to action under Brantham Parish Council's disciplinary procedure.

## Harassment

- Where a person is subject to uninvited conduct that violates their dignity, in connection with a protected characteristic
- Behaviour that creates a hostile, humiliating, degrading or similarly offensive environment in relation to a protected characteristic

## Bullying

- Behaviour that leaves the victim feeling threatened, intimidated, humiliated, vulnerable or otherwise upset. It does not need to be connected to a protected characteristic.

### What Type of Treatment amounts to Bullying or Harassment?

'Bullying' or 'harassment' are phrases that apply to treatment from one person (or a group of people) to another that is unwanted and that has the effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person.

Examples of bullying and harassment include:

- Physical conduct ranging from unwelcome touching to serious assault
- Unwelcome sexual advances
- The offer of rewards for going along with sexual advances e.g. promotion, access to training

- Threats for rejecting sexual advances
- Demeaning comments about a person's appearance
- Verbal abuse or offensive comments, including jokes or pranks related to age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Unwanted nicknames, especially related to a person's age, disability, gender re-assignment, marriage, civil partnership, pregnancy, maternity, race, religion, belief, sex or sexual orientation
- Spreading malicious rumours or insulting someone
- Lewd or suggestive comments or gestures
- Deliberate exclusion from conversations, work activities or social activities.
- Withholding information a person needs in order to do their job
- Practical jokes, initiation ceremonies or inappropriate birthday rituals
- Physical abuse such as hitting, pushing or jostling
- Rifling through, hiding or damaging personal property
- Display of pictures or objects with sexual or racial overtones, even if not directed at any particular person
- Isolation or non-cooperation at work
- Subjecting a person to humiliation or ridicule, belittling their efforts, whether directly and / or in front of others
- The use of obscene gestures
- Abusing a position of power

Bullying and harassment can occur through verbal and face to face interactions, but can also take place through sharing inappropriate or offensive content in writing or via email and other electronic communications and social media.

It is important to recognise that conduct which one person may find acceptable, another may find totally unacceptable and behaviour could be harassment when the person had no intention to offend. We all have the right to determine what offends us. Some behaviour will be clear to any reasonable person that it is likely to offend – for example sexual touching. Other examples may be less clear, however, you should be aware that harassment will occur if behaviour continues after the recipient has advised you that the behaviour is unacceptable to them.

Harassment can also occur where the unwanted behaviour relates to a perceived characteristic ( such as offensive jokes or comments based on the assumption someone is gay, even if they are not) or due to their association with someone else (such as harassment related to their partner having a disability for example

All employees must, therefore, treat their colleagues with respect and appropriate sensitivity and should feel able to challenge behaviour that they find offensive even if it is not directed at them.

It is important to recognise that bullying does not include appropriate criticism of an employee's behaviour or effective, robust performance management. Constructive and fair feedback about your behaviour or performance from your manager or colleagues/Councillors is not bullying. It is part of normal employment and management routines and should not be interpreted as anything different.

## **Victimisation**

Victimisation is subjecting a person to a detriment because they have, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because they have made a complaint or giving them a heavier or more difficult workload.

Provided that complainants have acted in good faith, i.e. genuinely believe that what they are saying is true, they have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and Brantham Parish Council will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised another.

Making a complaint that is known to be untrue, or giving evidence that is known to be untrue, may lead to disciplinary action being taken against the complainant.

## **Reporting Concerns**

### **What employees should do if they feel they are being bullied or harassed by a member of the public or supplier (as opposed to a colleague)**

If a BPC employee is being bullied or harassed by someone they into contact at work, this should be raised with their nominated manager in the first instance or, with the clerk/or a Brantham Parish Councillor. Any such report will be taken seriously, and BPC will decide how best to deal with the situation, in consultation with the victim.

### **What BPC Representatives should do if they feel they are being bullied or harassed by a Brantham Parish Councillor:**

If a representative of Brantham Parish Council is being bullied or harassed by a Brantham Parish Councillor, this should be raised this with the clerk/chief officer or the chair of Brantham Parish Council in the first instance. The Parish Council will then decide how best to deal with the situation, in consultation with the relevant representative. There are two possible avenues for this; informal or formal. The Informal Resolution is described below. Formal concerns regarding potential breaches of the Parish Councillors Code of Conduct must be investigated by the Monitoring Officer.

The Council will consider reasonable measures to protect health and safety. Such measures may include a temporary change in duties or change of work location, not attending meetings with the person about whom the complaint has been made etc.

**What employees/representatives should do if they witness an incident they believe to harassment or bullying:** Any such behaviour/incident should be reported in confidence to the clerk/chief officer or a Brantham Parish Councillor. Such reports will be taken seriously and will be treated in strict confidence as far as it is possible to do so.

**What employees/representatives should do if they are being bullied or harassed by another member of staff:** In the instance of bullying or harassment by a colleague or contractor, there are two possible avenues, informal or formal. These are described below.

### Informal resolution

If an employee or representative are being bullied or harassed, they may be able to resolve the situation by explaining clearly to the perpetrator(s) that their behaviour is unacceptable, contrary to Brantham Parish Council's policy and must stop. Alternatively, they may wish to ask the clerk/chief officer, their nominated manager or a colleague to represent them or to be with them when confronting the perpetrator(s).

If the above approach does not work or if they do not want to try to resolve the situation in this way, or if they are being bullied by their own nominated manager, they should raise the issue with the chair of Brantham Parish Council. (If their concern relates to the chair, this should be raised with the Vice-Chair of the Council). The chair (or another appropriate person) will discuss with them the option of trying to resolve the situation informally by telling the alleged perpetrator, without prejudicing the matter, that:

- there has been a complaint that their behaviour is having an adverse effect on a member of Brantham Parish Council staff
- such behaviour is contrary to our policy
- for employees, the continuation of such behaviour could amount to a serious disciplinary offence

It may be possible for this conversation to take place with the alleged perpetrator without revealing the identity of the victim, if this is what they want. The person dealing with it will also stress that the conversation is confidential.

In certain circumstances the Parish Council may be able to involve a neutral third party (a mediator) to facilitate a resolution of the problem. The chair (or another appropriate person) will discuss this with the victim if it is appropriate.

If a complaint is resolved informally, the alleged perpetrator(s) will not usually be subject to disciplinary sanctions. However, in exceptional circumstances (such as extremely serious allegation or in cases where a problem has happened before) the Parish Council may decide to investigate further and take more formal action notwithstanding that the matter was raised informally. The Council will consult with the complainant before taking this step.

#### Raising a formal complaint

If informal resolution is unsuccessful or inappropriate, a formal complaint about bullying and harassment can be made through Brantham Parish Council's grievance procedure. This should be raised with the clerk/chief officer or the chair of Brantham Parish Council. A formal complaint may ultimately lead to disciplinary action against the perpetrator(s) where they are employed.

The clerk/chief officer or the chair of Brantham Parish Council will appoint someone to investigate these complaints in line with the grievance policy. The Complainant will need to co-operate with the investigation and provide the following details (if not already provided):

- The name of the alleged perpetrator(s),
- The nature of the harassment or bullying,
- The dates and times the harassment or bullying occurred,
- The names of any witnesses and
- Any action taken by you to resolve the matter informally.

The alleged perpetrator(s) would normally need to be told the name of the complainant and the details of their grievance in order for the issue to be investigated properly. However, the Parish Council will carry out the investigation as confidentially and sensitively as possible. Where the complainant and the alleged perpetrator(s) work in proximity to each other, the Parish Council will consider whether it is appropriate to make temporary adjustments to working arrangements whilst the matter is being investigated.

Where a complaint relates to potential breaches of Brantham Parish Councillors Code of Conduct, these will need to be investigated by the Monitoring Officer. Brantham Parish Council will consider any adjustments to support staff in their work and to manage the relationship with the Brantham Parish Councillor the allegations relate to, while the investigation proceeds.

Investigations will be carried out promptly (without unreasonable delay), sensitively and, as far as possible, confidentially. When carrying out any investigations, the Parish Council will ensure that individuals' personal data is handled in accordance with the data protection policy.

The Council will consider how to protect the health and wellbeing of staff whilst the investigation is taking place and will discuss this with the complainant. Depending on the nature of the allegations, the Investigator may want to meet with the complainant to understand the complaint (see the grievance policy for further information, and details of the right to be accompanied).

After the investigation, a panel will meet with complainant to consider the complaint and the findings of the investigation in accordance with the grievance procedure. At the meeting the complainant may be accompanied by a fellow worker or a trade union official.

Following the conclusion of the hearing the panel will write to the complainant to inform them of the decision and to notify them of their right to appeal if they are dissatisfied with the outcome. The appeal should be made in writing explaining the reasons why they are dissatisfied with the decision. The appeal will be heard under the appeal process that is described in the grievance procedure.

### **The use of the Disciplinary Procedure**

If at any stage from the point at which a complaint is raised, the Parish Council believe there is a case to answer and a disciplinary offence might have been committed, the Council will instigate using the disciplinary procedure. The Parish Council will keep complainants informed of the outcome.

*This is a non-contractual policy and procedure which will be reviewed from time to time.*

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## **GUIDANCE FOR USING THE DIGNITY AT WORK POLICY**

This is an example of an employment policy designed for Brantham Parish Council adhering to statutory minimum requirements and does not constitute legal advice. As with all policies it should be consistent with your terms and conditions of employment.

This guidance is provided to support understanding of the policy, and its application, as well as where local adaptations may be required. The guidance is not part of the policy and should be removed from the policy adopted and shared with Brantham Parish Council employees.

The Dignity at Work Policy will replace a previous 'Bullying and Harassment' Policy, to create a policy that is focussed on encompassing behaviours beyond simply bullying and harassment, and zero tolerance with the aim of dealing with concerns before they escalate. It is important that any commitment made in the policy is applied in practice.

Wording has been suggested to demonstrate Brantham Parish Council's commitment to promoting dignity and respect where they have signed up to the NALC, SLCC and OVW Civility and Respect Pledge.

The policy is drafted with consideration of employment language and terminology that is reflective of a modern working environment, setting a tone that is engaging, collaborative and inclusive. A Brantham Parish Council may want to update references where relevant to reflect local terminology and structure, however should be considerate of equality, diversity and inclusion.

The examples of bullying and harassment are just that – examples. This should not be considered an exhaustive list.

### **Notes:**

#### **Protected Characteristics**

A 'protected characteristic' is defined in the Equality Act 2010 as age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is unlawful to discriminate against an individual because of any of the protected characteristics.

Discrimination includes treating people differently because of a protected characteristic. Employees can complain of harassment even if the behaviour in question is not directed at them. This is because the complainant does not actually need to possess the relevant protected characteristic. An employee can complain of unlawful harassment if they are related someone with a protected characteristic, or because a colleague believes they have a protected characteristic.

Examples of harassment related to a protected characteristic could include;

- Making assumptions about someone's ability due to their **age**, or denying development opportunities to someone based on their age. This could also include assumptions about their lifestyle or making inappropriate jokes related to age.
- Making fun or mimicking impairments related to a health condition, or using inappropriate language about disabilities. Constantly selecting social activities that make it impossible for a colleague with a **disability** to participate in.



- Refusing to treat a person as their new gender, or disclosing information about their gender identity could be harassment on the grounds of **gender reassignment**.
- **Pregnancy/Maternity** harassment could include refusing opportunities due to pregnancy or maternity leave, or inappropriate touching and invasion of personal space such as unwanted touching of a pregnant person's stomach.
- Harassment based on **race** could include derogatory nicknames, or stereotyping based on ethnicity. It could include racist comments or jokes, or assumptions about someone's lifestyle based on their ethnicity.
- **Gender** harassment could include not considering people for a job based on gender stereotyping roles, or implementing practices that disadvantage one gender over another. Rude, explicit jokes, even if not directed at an individual, or comments on individuals' dress or appearance.
- Regularly arranging team meals over periods of fasting or religious occasions or failing to adjust a dress code to accommodate religious dress could be examples of harassment based on **religion/belief**.
- Excluding same sex partners from social events could be both **sexual orientation** and **marriage/civil partnership** discrimination, as could not offering the same work-related benefits.

A person does not need to be employed or have 2 years qualifying service to make a discrimination claim at a tribunal.

- Job applicants who believe they have not been appointed because of a 'protected characteristic' can make a claim.
- New or established employees who are dismissed, or treated unreasonably because of a health condition can make a discrimination claim.
- An employee subjected to harassment can make a discrimination claim at a tribunal.
- An employee asked to retire can make a discrimination claim at a tribunal.

### Legal risks

Successful unfair dismissal claims are limited to a compensation cap, whereas those for unlawful discrimination have no cap.

A positive employment culture, and swift action if conduct falls beneath acceptable standards will help mitigate the risks. An unhealthy culture will make it difficult to defend claims.

The time to defend and the cost of defending tribunal claims can be significant, irrespective of the outcome.

### Culture and behaviour

We work in eclectic communities and working environments, and a positive culture within the Brantham Parish Council enables employees with different backgrounds and beliefs to share ideas and shape how the Brantham Parish Council achieves its objectives for their community.

It is important to recognise that different individuals may find different behaviours bullying or harassing so while there is not always intent to offend or cause harm, that does not mean that the effect of the behaviour has not caused harm or offence.

It can take people a period of time to decide to raise their concerns, as they worry about consequences (perhaps from peers by complaining about a colleague who is popular, or they fear victimisation from the perpetrator or others). Brantham Parish Council should consider whether there are opportunities (such as 121s to offer opportunity to reflect on relationships/morale) to identify issues earlier and address negative behaviours. Individuals can often mention

concerns they are experiencing but not want to take it further. The Brantham Parish Council should remind the complainant that it has a zero tolerance to bullying and harassment and remind them of the policy in place to address concerns. If the allegations mentioned are significant, Brantham Parish Council may want to suggest that it will need to investigate further, even if a 'grievance' is not raised, so as to ensure that any concerns and risks are managed, and the Brantham Parish Council is meeting its responsibilities and duty of care as an employer.

Whilst both staff and Brantham Parish Councillors jointly determine the working culture, Brantham Parish Councillors are key in demonstrating what is and isn't acceptable behaviour. This is apparent from how Brantham Parish Councillors behave with each other in Brantham Parish Council meetings and also in how standards of behaviour are applied through the use of informal discussion and formal policies.

### **Scope**

All Brantham Parish Council representatives are expected to uphold the values of the Dignity at Work Policy, however this policy sets out how allegations from employees will be managed. As indicated in the policy, concerns from a contractor, agency worker etc. should be raised to the identified person, and an appropriate approach will be considered based on the situation and relationship of the complainant with the Brantham Parish Council.

Likewise, concerns raised about the behaviour of a contractor or agency worker would not generally be managed via the full process (such as the disciplinary process) but appropriate action would be considered based on the situation. To treat people (such as contractors, or a casual worker) engaged by the Brantham Parish Council the same as an employee could blur the status of the employment relationship, so consider seeking professional advice if needed.

### **Managers**

Recognising that Councils are of varying sizes, where the term manager/nominated manager is used it is recognised this could be the clerk/chief officer, another employee of the Brantham Parish Council, or a Brantham Parish Councillor depending on the situation. It is good practice to have a clearly identified person who is the responsible 'line manager' or equivalent contact for an employee so that there is clarity on how the employee should report concerns to, who they notify if they are sick or to request leave etc. For Brantham Parish Council employees this may be the clerk/chief officer, and for the clerk/chief officer this could be the chair/deputy Chair.

### **Bullying and harassment & performance management**

The policy sets out that bullying and harassment does not include appropriate criticism of an employee's behaviour or effective, robust performance management. It is not uncommon for an employee, when receiving critical feedback, to claim that this is bullying and/or harassing. It is the role of the nominated manager to provide effective and constructive feedback to encourage performance at the required standard.

Even when the feedback is not positive it should be fair, communicated in a professional and reasonable manner and shared with the objective of aiding understanding and achieving an improvement to overcome the shortfalls. There is no absolute definition of when the feedback may not be appropriate. Often it will be for the person/panel hearing the dignity at work complaint/grievance to determine whether the performance management has upheld the standards expected in terms of respect and civility and any feedback has been shared in a fair and professional way.

### **Responsibilities**

All staff and representatives of Brantham Parish Council are responsible for their own behaviour in the workplace and for taking steps to revise unacceptable behaviour and appropriately challenge that of others.

Leaders – Brantham Parish Councillors, clerks, chief officers, managers - are responsible for ensuring that these standards of treating people with civility, respect and courtesy are upheld, both through their own example, and by

communicating and promoting these expectations to all employees. They are also responsible for ensuring that concerns raised are treated seriously and addressed in line with this policy in a timely manner.

### **During the investigation**

Employers have a duty of care to provide a safe place of work. If a complaint is made, discuss how to manage working relationships whilst the allegation is being investigated and until the outcome is disclosed. This is as much for the protection of the alleged perpetrator as for the aggrieved.

Consider whether a neutral person should be offered as a 'listening ear' for both parties in the investigation. This could be a Brantham Parish Councillor or nominated manager who is not involved in the investigation or allegations and can be a point of check in as raising, or being subject to allegations can be stressful.

Offer other support that may be appropriate to the situation such as signposting to support groups, time off for counselling etc. If you have suspended a staff member, your duty of care continues and it is important to consider their wellbeing and mental health.

Ensure that you communicate regularly with both parties.

The investigation and any subsequent hearing should be completed in accordance with the grievance policy which sets out a process for dealing with concerns. You should ensure that the grievance policy adopted adheres to any local policies and procedures, with consideration of any timescales and escalation routes in your locally adopted policy.

### **Confidentiality**

It may be possible for concerns to be raised with the perpetrator without disclosing the name of the complainant however in a small Parish Council it is likely that it will be clear that the accused will know where the accusation has come from. The Brantham Parish Council representative (clerk/chief officer/Brantham Parish Councillor) speaking to the alleged perpetrator must be clear that the discussion is confidential and the individual would be at risk of formal disciplinary action if there is any sort of victimisation or retaliation for the individual raising their concern.

During any formal investigation it may be necessary to disclose the nature of the allegations and where they came from to ensure a fair and balanced investigation and process. This should be discussed with the person raising the concerns to understand any issues and how they may be mitigated. In some situations it may be appropriate to provide anonymised witness statements however this would be a last resort, and could compromise the fairness of the process. Where there is a genuine fear of consequences and this may need to be considered, it is recommended that professional advice is sought. For the same reason it can be difficult for a Parish Council to consider an anonymous complaint, however if the concerns are significant and compromise the Parish Council in their duty of care to employees, then consideration of how to deal with the matter may be required.

### **Victimisation**

All employees have the right to raise genuine concerns without the fear of reprisals. If the aggrieved (or a witness) is treated differently / less favourably because they have raised a complaint, then this is victimisation. This would include isolating someone because they have made a complaint, cancelling a planned training event, or giving them a heavier or more difficult workload. Victimisation can lead to a claim to an employment tribunal.

### **False allegations**

If an employee makes an allegation that they know to be untrue, or gives evidence that they know to be untrue, the Brantham Parish Council should consider the matter under the disciplinary procedure. Such an allegation would be potentially be gross misconduct.

### **Complaints against Brantham Parish Councillors**

Following the Ledbury case, the law is clear that any formal complaint about a Parish Councillor regarding a breach of the code of conduct must be referred to the Monitoring Officer for investigation (either by the complainant, or Brantham Parish Council with agreement of the complainant). During the investigation, it is critical to ensure that where an employee of Brantham Parish Council has made the complaint, that Brantham Parish Council agrees reasonable measures with the employee to protect their health and safety. Such measures may include a temporary change in duties, change of work location, not attending meetings with the person about whom the complaint has been made etc.

Careful consideration is required where a grievance is raised against Brantham Parish Council as a whole due to lack of support related to Brantham Parish Councillor behaviours. The specific allegations will need to be considered to determine whether the allegations can be addressed by Brantham Parish Council, or require exploration of Brantham Parish Councillors behaviour in order to respond, in which case the Monitoring Officer may be required to investigate the alleged behaviours of a/any Brantham Parish Councillors where this may relate to the code of conduct. It is a matter of fact whether the complaint is against Brantham Parish Council and can therefore be dealt with by Brantham Parish Council's grievance procedure or against a Brantham Parish Councillor and can only be dealt with by the Monitoring Officer.