



**Newquay**Council

**Corporate**Service

**Name of Policy:**

**Dignity at Work**

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## STAFF POLICY DOCUMENT

This is a Staffing Policy or Procedure document of Newquay Town Council and as such must be fully adhered to by both councillors and employees.

Policy/Procedure File Status			
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# STAFF POLICY DOCUMENT

## Contents

1.0 Policy/Procedure Background.....	4
1.1 Statement .....	4
1.2 Definitions .....	4
1.3 Examples .....	5
1.4 Penalties .....	5
1.5 The Legal position .....	6
2.0 Process for dealing with complaints of Bullying and Harassment .....	7
2.1 Informal approach .....	7
2.2 Formal approach .....	7
2.2.2 Others.....	7
2.3 Grievance – Employees only .....	8
2.4 Disciplinary Action .....	8
3.0 Responsibilities .....	9
4.0 Head of Paid Service.....	9
5.0 Useful contacts .....	10

# STAFF POLICY DOCUMENT

## 1.0 Policy/Procedure Background

### 1.1 Statement

In support of our value to respect others Newquay Town Council will not tolerate bullying or harassment by, or of, any of its employees, officials, members, contractors, visitors to the Council or members of the public from the community which we serve. 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 all employees in order to protect them from bullying and harassment. It should be read in conjunction with the Council's policies on Grievance and Disciplinary handling and the Elected Members Code of Conduct.

The Council will issue this policy to all employees as part of their induction and to all members as part of their Welcome Pack. The Council may also wish to share this policy with contractors, visitors and members of the public.

The Council will not tolerate any form of bullying and reserves the right not to respond to any communication from the public which is deemed inappropriate, intimidating, bullying in nature or unacceptably confrontational towards staff or members. Officers are directed not to respond in such circumstances as there is no excuse for this

### 1.2 Definitions

Bullying is:

*"Bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse of this 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 usually covers, but is not limited to, harassment on the grounds of sex, marital status, sexual*

## **STAFF POLICY DOCUMENT**

*orientation, race, colour, nationality, ethnic origin, religion, belief, disability or age.*

These definitions are derived from the ACAS guidance on the topic.

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 Council's reputation and ultimately, legal proceedings against the Council and payment of legal fees and potentially unlimited compensation.

### **1.3 Examples**

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

Spreading malicious rumours, 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, 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 or through automatic supervision methods. It may occur on or off work premises, during work hours or non-work time.

### **1.4 Penalties**

Bullying and harassment by any employed persons can be considered examples of serious misconduct which will be dealt with through the Disciplinary Procedure at Gross Misconduct level and may result in summary dismissal from the Council. If elected Members are bullying or harassing employees, contractors, fellow Councillors, others then a referral through the Standards process in place at the time reported as a contravention of the Member's Code of Conduct could be an appropriate measure.

## **STAFF POLICY DOCUMENT**

If an employee is experiencing bullying or harassment from a third party the Council will act reasonably in upholding its duty of care towards its own employees. 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**

Councils have a duty of care towards all their workers and liability under common law arising out of:

- Equality Act 2010
- Employment Act 2002 (Dispute Resolution) regulations 2004
- Employment Rights Act 1999
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Employment Rights Act 1996
- Health and Safety At Work Act 1974
- And others

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 parishioners, 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

## **STAFF POLICY DOCUMENT**

harasser may be personally liable to pay damages if a victim complains to an Employment Tribunal on the grounds of discrimination.

The 1997 Act 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.

## **2.0 Process for dealing with complaints of Bullying and Harassment**

### **2.1 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, or an intermediary, that their conduct is unacceptable, offensive or causing discomfort. Anyone concerned about being bullied or harassed is encouraged to maintain a journal or other record of the incidents.

### **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 Personnel committee or another Councillor if more appropriate. 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 employee will be expected to provide evidence of the conduct about which s/he is complaining.

#### **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 the Council, where possible, if an informal notification to a member has been unsuccessful at eliminating the problem. The complaint should then be investigated and a meeting held to discuss the facts and recommend the way forward. A member of the public who feels s/he has been bullied or harassed by any members or officers of a Council should use the Council's official Complaints Procedure. It is important that the Member(s) being complained about do not

## STAFF POLICY DOCUMENT

prevent the Council operating impartially in its investigation and decision-making in this regard.

### 2.3 Grievance – Employees only

A meeting to discuss the complaint with the aggrieved party will normally be arranged within five working days of a written complaint being received and will be held under the provisions of the Council's Grievance Procedure. This meeting will be to discuss the issues raised and a way forward for the member(s) of staff involved.

Please see the Grievance Procedure contained within the Staff Handbook for more information.

### 2.4 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/behavior.

For an **Employee** found to have been bullying/harassing others this will follow the Council's Disciplinary procedure under the ACAS Code of Practice on Dispute Resolution and would normally be treated as Gross Misconduct.

For **Members** who the Council reasonably believe have been bullying or harassing another person(s) whilst undertaking Council activities or where they have brought into scope their role as Councillor (by their actions or by stating such), then the Staffing Committee shall submit a complaint/referral under the Members Code of Conduct to Cornwall Council for investigation. During such period, the Council will be obliged to manage the situation to ensure any interaction between the member(s) and the officers concerned are limited and managed. This may mean members can only access certain services or staff in a stated way or at stated times. This will be established on a case by case basis.

Should Cornwall Council confirm the complaint is upheld under the Code of Conduct, the range of disciplinary sanctions available to the Council, where a member has been involved in bullying/harassment will be advised/agreed with Cornwall Council but can include sanctions such as; admonishment and an undertaking not to repeat the process, removal of opportunities to further harass/bully, banning from committees of the Council and representation on any outside bodies (this list is not exhaustive).

There may also be a referral to the Police under relevant legislation, or a claim to an Employment Tribunal for Third Party harassment (for harassment relating to one of the protected characteristics under the Equality Act) in the most extreme cases.



## **STAFF POLICY DOCUMENT**

False or malicious allegations of harassment or bullying which damage the reputation of an employee/member will not be tolerated and will be dealt with as serious misconduct under the Disciplinary Procedure and/or a referral to the code of conduct investigations process.

### **3.0 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. If unacceptable behaviour is observed then each individual can challenge the perpetrator and ask them to stop.

There needs to be agreement about how “robust people management” and “bullying” differ; effective management of performance will usually include feedback based on objective evidence, delivered by a committee specifically designated and often trained to manage and appraise staff, with dialogue occurring on a face to face basis in confidential surroundings.

Bullying is more likely to be complained about when individual Members criticise staff, often without objective evidence, without the mandate from the corporate body of the Council and in environments which are open to the public or other employees or by way of blogs, Facebook comments, or in the pub or local playground.

The Council undertakes to share its policy with all members and workers and request that each party signs to demonstrate acceptance of its terms. All new members and employees will be provided with a copy of this policy.

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 workers are trained in the processes required by this policy as deemed appropriate.

### **4.0 Head of Paid Service**

The Town Clerk as Head of Paid Service will be responsible for ensuring any matters raised are dealt with as soon as possible in-line with policies and procedures or brought to the attention of the relevant members/committee.

## **STAFF POLICY DOCUMENT**

The Town Clerk is also delegated to direct staff as deemed appropriate to avoid any situations where they are exposed to bullying, harassment or any form of unacceptable behaviour. In relation to the public, this may be by authorising the removal of a member of the public from the Council's premises and banning them for any amount of time. It also includes reporting the member of the public to the police or other such bodies for their unacceptable behaviour and progress this matter further if needed.

Should a situation be caused by a member of the council, then the Town Clerk is authorised and expected to submit a code of conduct complaint to relevant authorities including the Police, Cornwall Council and the Staffing Committee/Mayor/Deputy Mayor in order for the matter to be fully investigated and dealt with. This is to protect all parties concerned and the Town Clerk will not be penalised for undertaking such action. Such a complaint should be submitted following consultation with either the Mayor or Deputy Mayor or relevant Committee Chair or Vice Chair in that order.

In extreme cases, the Town Clerk is authorised to put in place any processes or systems to further protect staff, members and the Council. This is to be based on their best judgement of the situation and possible risks or repercussions that may arise as a result.

### **5.0 Useful contacts**

- ACAS [www.acas.org.uk](http://www.acas.org.uk) tel: 0845 7 47 47 47
- Local Government Ombudsman for Wales [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk) tel:0845 601 0987
- Local Government Ombudsman for England [www.lgo.org.uk](http://www.lgo.org.uk) 0300 061 0614
- Equalities and Human Rights Commission [www.equalityhumanrights.com](http://www.equalityhumanrights.com)
- SLCC [www.slcc.co.uk](http://www.slcc.co.uk)
- DirectGov website  
[www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG\\_10026670](http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670)