

BARLBOROUGH PARISH COUNCIL

PROCEDURE FOR DEALING WITH COMPLAINTS OF HARASSMENT AND BULLYING AT WORK

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Introduction

- 1.1 Barlborough Parish Council recognise that harassment, discrimination, victimisation or bullying of any kind is unacceptable. In support of this, acts of bullying, intimidation, victimisation or other forms of harassment may be considered to constitute an act of misconduct. Harassment can also be unlawful under legislation covering discrimination and protection from harassment.
- 1.2 This procedure represents a formal mechanism for dealing with complaints where informal action by an individual has not resolved the matter. The aim of the procedure is to resolve complaints fairly, promptly and at the earliest opportunity.
- 1.3 An employee\elected member may pursue a complaint of harassment under the procedure where it is believed the conduct or behaviour of another individual could constitute harassment and that conduct or behaviour falls below the agreed or required standards of treatment they are entitled to expect.
- 1.4 Any employee\elected member found to have used the procedure for the purpose of making a complaint of a malicious or vexatious nature may be subject to disciplinary action.
- 1.5 It is not intended that this procedure be used for matters relating to a personal grievance or for addressing personal differences between employees, which should be resolved outside of the formal machinery.
- 1.6 The content of this document shall be regarded as supplementary to and not a substitute for any right to redress through the legal system.

Scope

- 2.1 This procedure shall apply to employees and elected members, and is to be followed in response to all formal complaints of harassment.

Responsibility and Rights

- 3.1 It is the responsibility of each employee and elected member to protect the dignity of everyone they work with and not to indulge in any behaviour that may cause an individual to feel undermined or the subject of harassment. It is the responsibility of the Council to deal with such matters speedily and consistently.
- 3.2 An employee or elected member who raises a complaint will be treated fairly and with due sensitivity, respect and understanding for their rights as an individual, employee or elected member. Any employee or elected member against whom a complaint is made will be afforded the same rights and treatment.
- 3.3 Confidentiality will be maintained by those making a complaint, those subject to a complaint and those involved in resolving the complaint.

Advice

- 4.1 It is important that claims of harassment are dealt with fairly, consistently and systematically using the procedure outlined in **Section 7** including poor morale, loss of respect for employees and elected members, poor performance, loss of productivity, absenteeism, resignation, damage to the Councils reputation and the risk of a costly tribunal.
- 4.2 The Chair or Vice- Chair should seek advice, guidance and assistance from a professional source.

Time Limits

- 5.1 Complaints should be submitted within **three months** from the date of the incident complained of, in order that any investigation is based on accuracy of facts. Recollection of details relating to the incident may be impaired if subject to time delay.

- 5.2 Consideration will not normally be given to complaint of incidents occurring outside this time unless it can be shown they form part of the overall allegation and are particularly relevant. In these instances, any decision to extend the time limit in respect of specific allegations made will be the responsibility of the Chair of Vice-chair.
- 5.3 The complainant will be notified of the course of action to be taken within **ten working days** of the complaint.

Definitions

- 6.1 Whilst by nature difficult to define, acts of bullying, harassment or intimidation will normally be based on common characteristics of behaviour. ACAS, in their guide for managers and employers on bullying and harassment at work advises that 'If individuals complain they are being bullied or harassed, then they have a grievance which must be dealt with, regardless of whether or not their complaint accords with a standard definition.
- 6.2 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.
- 6.3 Harassment is unwanted conduct relating to a 'protected characteristic' that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. 'Protected characteristics' covered by the Equalities Act 2010 are because of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation or any personal characteristics of the individual, whether the person possesses a particular characteristic. The harassment claim may arise due to persistent conduct or due to an isolated incident.
- 6.4 Such unwanted conduct does not have to be directed at a complainant for them to feel harassed. The key element is that the actions or comments are viewed as demeaning and unacceptable for the recipient and/or management.

- 6.5 Bullying and harassment may not be necessarily face to face, it may be written communications, email, phone or supervision methods if they are not universally applied to all employees. However, additional supervision methods FOR underperforming employees do not form a basis for a claim of bullying and harassment.
- 6.6 Typical bullying behaviour might include verbal or physical threats, humiliating someone in front of others. Making offensive or abusive personal remarks about people or levelling false allegations against them. It might also be found in undermining people, freezing them out or making it impossible for them to do their job. This could be brought about by setting unattainable targets, withholding information, persistent criticism of a person's work in front of others or removing areas of responsibility.
- 6.7 Examples of unacceptable behaviour which may give rise to a complaint of harassment may therefore include:
- Spreading malicious rumours or insulting someone (particularly on protected characteristic grounds as defined in paragraph 6.3).
 - Copying\emailing memos that are critical about someone to others who do not need to know.
 - Ridiculing or demeaning someone – picking on them or setting them up to fail.
 - Exclusion or victimisation.
 - Overbearing supervision or other misuse of power or position.
 - Unwelcome sexual advances – touching, standing too close or display of offensive material.
 - Making threats or comments about job security without foundation.
 - Deliberately undermining a competent worker by overloading and\or constant criticism.
 - Preventing individuals progressing by intentionally blocking promotion or training opportunities.

6.8 If a complaint of harassment or similar is raised by an individual during the course of a disciplinary matter or associated procedure, action should be as follows:

- Where a complaint is raised and the issues relate to the disciplinary matter or associated procedure, these will be considered during and as part of, the disciplinary or other process.
- Where a complaint is raised which is separate and unrelated to the matter in hand, this will be considered separately at the conclusion of the disciplinary or other process.

However, it should be noted that conducting an investigation under the disciplinary procedure where there is a genuine belief that misconduct may have occurred, or raising performance or attendance issues with an individual in accordance with agreed procedures, these are legitimate complaint of harassment.

7. Harassment Complaints Procedure (See Flowchart – Appendix 8)

Employee\Elected Member Action – Stage 1

- The individual should, in the first instance, should make it clear that the alleged harassers behaviour is inappropriate and ask the harasser to stop.
- In circumstances where it is too difficult for the individual to do this, an initial approach may be through the Chair\Vice-chair or trade union representative, who may act on behalf of the employee.
- If informal action does not resolve the situation, the employee should raise the matter formally with a parish councillor in accordance with Stage 2 of the procedure.

Management Action – Stage 1

- When dealing with complaints of harassment, the primary focus should be on attempting to resolve the matter at the earliest opportunity.
- Initial steps should be taken to resolve through face-to-face discussion and mediation to determine the most appropriate course of action, with someone trained in mediation skills, to facilitate early resolution.

- The emphasis of any action should be to achieve early conciliation between those involved.
- Where informal mediation techniques have failed, consideration should be given to formal mediation to resolve the issue – refer to the guidance on mediation in Appendix 2.

Stage 2 – Formal Complaint

Employee\Elected Member Action – Stage 2

- Written details of the complaint should be submitted to the Chair\Vice-chair as promptly as possible. This should be within the maximum period of **three months** from the date of the incident(s) complained of. Where an individual has difficulty in expressing themselves because of language or other difficulties they may seek help from a trade union representative.
The statement of complaint should include the following information:
- Name of the individual(s) concerned
- Details of the allegation(s), including dates, locations and nature of incidents
- Names of any potential witnesses
- Details of any previous actions undertaken by the complainant to address the matter

Management Action – Stage 2

- If the complaint is raised formally under Stage 2, consideration should be given to the following questions to determine the course of action:

Potential Misconduct

Does the nature of the allegation constitute a potential act of misconduct according to the Councils disciplinary procedure?

If so, the matter should be investigated and addressed as appropriate, in accordance with the disciplinary procedure and the individual informed accordingly.

Allegation of a General Nature – Further Investigation Required

Is the allegation of a more general nature, based upon personal behaviours which at face value does not appear to constitute misconduct?

If so, efforts should be made to identify and clarify the issues to establish the essence of the problem and actions taken should be:

- Using the complainants written statement of case, separate meetings should be conducted with both the complainant and the alleged harassment, in accordance with the Councils Grievance procedure.
- If further information is required, it may be necessary to interview witnesses or any other person(s) who may have relevant or corroborative information. This should assist in distinguishing the facts which have a direct bearing on the case.
- At this stage a professional should be consulted for advice and Trade Union or work colleague representation will be afforded to both parties.
- Where the relationship between the parties creates an unworkable situation alternative working arrangements can be considered. This should be a short-term temporary arrangement and subject to regular review. **It is envisaged that this course of action should only be used in rare instances.**
- Having concluded the interviews, and taking a balanced view of the information that emerges, consideration should be given to the most appropriate course of action to be followed.
- If the allegation is found to be to be unsubstantiated, consideration should be given as whether further mediation between the parties would resolve the situation. The

complainant will have a right of appeal against the decision in accordance with the Grievance Procedure.

- Where the claim is apparently substantiated, there are two courses of action:
 1. If the matter could constitute an act of misconduct, the complaint should be pursued under the formal disciplinary procedure.
 2. If the matter does not constitute misconduct, management recommendations should be put in place.
- All parties involved should be informed precisely what has been decided and what action is to be put in place, including timescales.

It is anticipated that Stage 2 interviews will not normally exceed 15 working days. The responsible professional should set out reasons to the parties if this time period is to be exceeded.

Employee\Elected Member Action – Stage 3

The complainant has a right to appeal against the outcome of their complaint. This must be submitted to the responsible professional, within **10 working days** of receipt of the written response.

There is no further right of appeal beyond Stage 3.

Management Action – Stage 3

The professional representative should follow the management actions set out in Phase 2.

8. Harassment by People Met In The Course of Business' and Elected Members

8.1 People met in the course of business

An individual who believes they are the subject of harassment by a person met in the 'course of business should submit a written complaint to the Chair of the Parish Council. If after investigating

the complaint is upheld, consideration should be given to reasonable steps to prevent it happening again. In 'the course of business includes meetings, networking events and dealings with external s Where the individual feels they are at risk from the person concerned, and where there have been any specific incidents of harassment, bullying or violence etc., the individual should report this in writing to the Chair or Vice-chair.

8.2 Elected Members

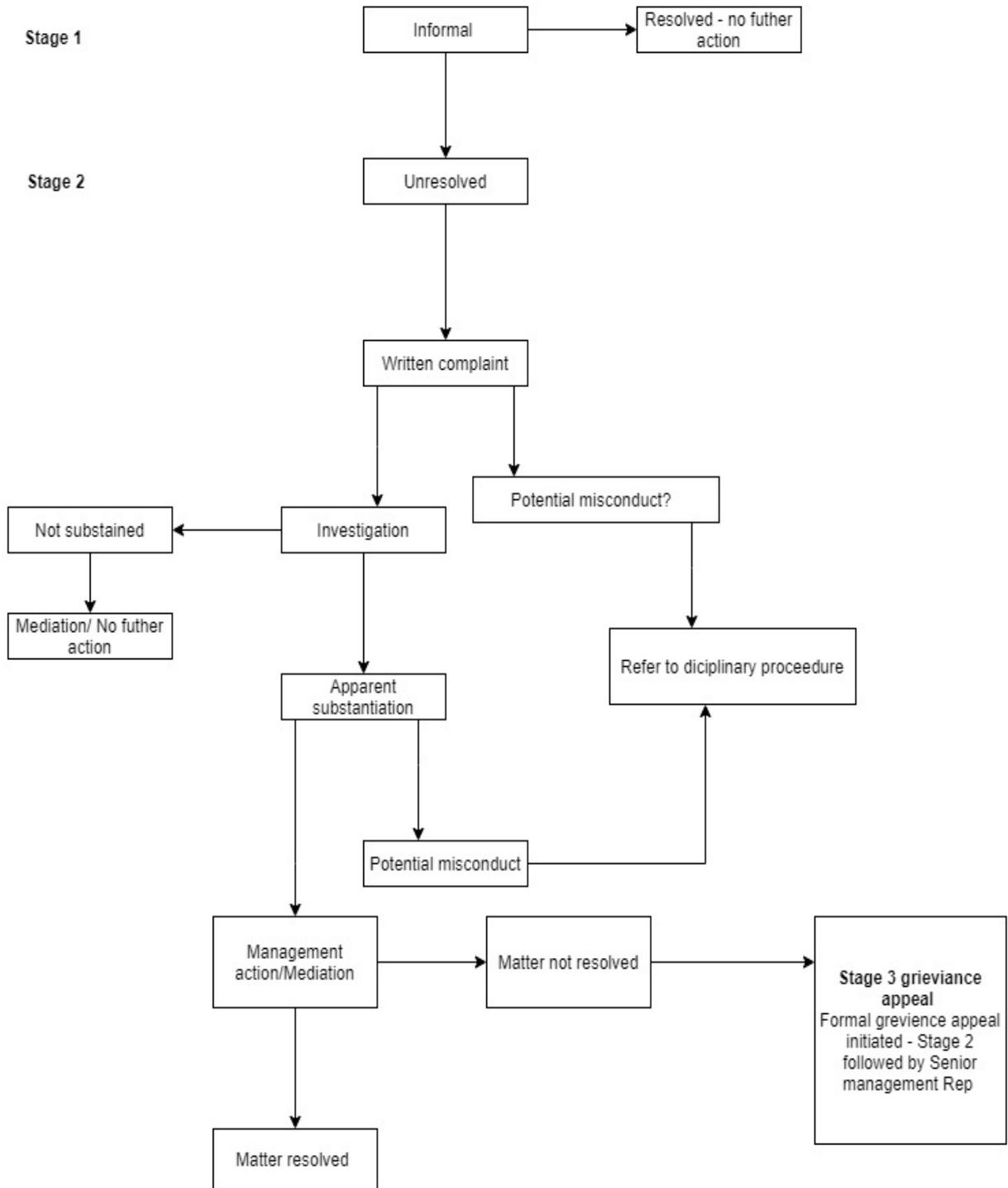
Complaints against Elected Members should initially be raised with the Chair or Vice-chair.

If the complaint is against the Parish Council Chair, then the Vice-chair should be contacted.

If the complaint is against the Vice-chair then the Chair should be contacted.

Where the individual feels they are at risk from the person concerned, and where there have been any specific incidents of harassment, bullying or violence etc., the individual should report this in writing to the Chair or Vice-chair.

Procedure for dealing with complaints of Harassment



Using Mediation

An independent mediator can sometimes resolve grievance issues. Mediation is a voluntary process where the mediator helps two or more people in a dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not the mediator.

The mediator is not there to:

- Judge, to tell one person they are right and the other is wrong
- Tell those involved in mediation what they should do

The mediator is in charge of the process of seeking to resolve the problem, but not to the outcome.

There are no hard and fast rules for when mediation is appropriate but it can be used:

- For conflict involving colleagues of a similar job or grade, or between a line manager and their employees
- At any stage in the conflict as long as any other form procedures are put in abeyance
- To rebuild relationships after a formal dispute has been resolved
- To address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment

Cases Unsuitable for Mediation

- Used as a first resort – because employees should be encouraged to speak to each other and talk to the manager before they seek a solution
- It is used by a manager to avoid managerial responsibilities
- A decision about right or wrong is needed
- The individual bringing a discrimination or harassment case wants an investigation
- The parties do not have the power to settle the issue
- One side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome

For more information about mediation see the ACAS website at www.acas.org.uk and the ACAS\CIPD guide **Mediation: An Employers Guide which can be downloaded from the website.**