

# Brixham Town Council

## Anti-Bullying and Harassment Policy



### Review History:

Adopted November 2011, Reviewed May 2012, July 2013, May 2014, October 2015

## 1. PURPOSE AND SCOPE

**1.1 Statement:** In support of its value of respect for others Brixham Town Council will not tolerate bullying or harassment of or by, any of its:

- Employees
- Officials
- Members
- Contractors
- Visitors to the Council
- Hirers
- Tenants
- Members of the public
- or any other user of the premises.

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 and all those listed above in order to protect them from bullying and harassment. It should be read in conjunction with the Council's policy on Grievance handling.

The Council will issue this policy to all employees as part of its 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.

### Elected Members

Councillors undertake on accepting office to comply with the provisions of the Local 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 (either locally by the Standards Committee or, in more serious cases, by an Ethical Standards Officer appointed by the Standards Board for England). If a breach of the Code is found, sanctions may be imposed, which can include disqualification from office.

In 2006, following consultation by the Standards Board, the Government decided to amend the statutory Code to make bullying an express breach of the Codes' provisions. The Government agreed with the Standards Board that bullying behaviour should play no part in the local government world.

Elected Members will carry out some of their duties in the workplace and will come into contact with the Council's employees. Elected Members will be expected to conduct themselves in a way that is consistent both with the provisions of the Code and, where applicable, the contents of this Policy.

## 1.2 Definitions

**Bullying** “Bullying may be characterized 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.” (Characteristics of a bully Appendix 1)

**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 in the workplace can lead to poor morale, low productivity and poor performance, sickness absence, lack of respect for others, staff turnover, damage to the Council’s reputation and ultimately, Employment Tribunal or other court cases and payment of unlimited compensation.

**1.3 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, deliberately undermining a competent worker by overloading work and/or constant criticism, preventing an individual’s promotion or training opportunities. Bullying and harassment may occur face-to-face, in meetings, through written communication, by telephone, all forms of electronic communications 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 are considered examples of serious misconduct which will be dealt with through the Grievance Procedure at Gross Misconduct level and may result in summary dismissal from the Council for employees or through referral to the Standards Board for England, as a contravention of the Members’ Code of Conduct which may result in penalties 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:** 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. Under the following laws bullying or harassment may be considered unlawful discrimination; The Equality Act 2010, Employment Equality (Sexual Orientation) Regulations 2003, Employment Equality (Religion or Belief) Regulations 2003, Employment Equality (Sex Discrimination) 2005, Employment Equality (Age) Regulations 2006.

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. In addition, a harasser may be personally liable to pay damages if a victim is successful with a complaint to an Employment Tribunal for discrimination on the grounds of age, belief, civil partnership, colour, disability, ethnic origin, marital status, nationality, pregnancy, race, religion or sexual orientation.

## **2. 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 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 Chairperson 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 the formal Grievance Procedure to be invoked.

**2.2.2 Others** - Any other person connected 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 the following should use the Council's official Complaints Procedure.

- Employees
- Officials
- Members
- Contractors
- Visitors to the Council
- Hirers
- Tenants
- Members of the public
- or any other user of the premises.

**2.3 Grievance** – As covered in the adopted Town Council Grievance Policy.

**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/behaviour.

For an Employee found to have been bullying/harassing others the Council's Disciplinary Procedure will be followed, under the Employment Act 2002 provisions and will 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 the action taken must be reasonable and in some cases counselling or training in appropriate skill areas e.g. interpersonal communication, assertiveness, chairmanship etc., may be more appropriate than a penalty. The range of disciplinary sanctions available to the Council, where a member has been involved in bullying/harassment include; 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, a

referral to the Standards Board (or equivalent) by the Council and/or the aggrieved victim. There may also be a referral to the Police under the Protection from Harassment Act 1997, in the most extreme cases. This list is not exhaustive.

**2.5** 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 as serious misconduct under the Disciplinary Procedure and/or a referral to the Standards Board.

### **3. RESPONSIBILITIES**

All Councillors and officers 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. The Council undertakes to share its policy with all members and employees 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 employees are trained in the processes required by this policy as deemed appropriate.

### **4. USEFUL CONTACTS**

- ACAS [www.acas.org.uk](http://www.acas.org.uk) tel: 0845 7 47 47 47
- Standards Board for England [www.standardsboard.co.uk](http://www.standardsboard.co.uk) or tel: 0845 078 8181
- Andrea Adams Trust, a charity committed to tackling workplace bullying in the UK [www.andreaadamstrust.org](http://www.andreaadamstrust.org) or tel: 01273 704 900
- SLCC [www.slcc.co.uk](http://www.slcc.co.uk) Advisory Note 24
- "Just Fight On" - a website set up to combat workplace bullying and abuse <http://www.jfo.org.uk/>

### **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.

**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:

- o humiliating or ridiculing others about their work
- o spreading rumours or gossip
- o shouting
- o pointing your finger, invading personal space, shoving, blocking or barring the way
- o suggesting that others should leave the organisation
- o being hostile to others
- o constantly criticising others work and efforts

- o ignoring the views of others
- o setting unreasonable tasks or deadlines
- o making false allegations against others
- o engaging in excessive monitoring of the work of others
- o unreasonably obstructing an individual's progress at work by blocking promotion or training opportunities without a genuine business reason
- o causing embarrassment by disciplining staff in public