

# DIGNITY AT WORK POLICY FOR THE DIOCESE OF ROCHESTER

## Preventing Bullying and Harassment in Rochester Diocese

### Statement of Commitment

The Word of God has much to say about how we behave and how we treat one another, for instance in Romans 12, Paul tells us to be devoted to one another, to honour one another, to live in harmony with one another. Based on these Biblical principles, the Diocese seeks to foster relationships of the utmost integrity, truthfulness and trustworthiness, and to provide a supportive, caring environment in which the wellbeing of individuals are respected and each person is treated with dignity at all times.

It is from this basis that we provide the Dignity at Work policy and a Code of Conduct as to how the policy should be lived out.

The Church is required by God to foster relationships of the utmost integrity, truthfulness and trustworthiness. Our Diocese seeks to provide a supportive, caring environment in which the rights of individuals are respected and each person is treated with dignity and courtesy at all times. Any suggestion of abuse, harassment and bullying, either within the Diocesan Office or in Parishes must be taken seriously and complaints thoroughly investigated.

Within the Diocese our commitment is to value everyone involved within church life. While UK legislation covering the protected characteristics of age, disability, race, sex, religion and belief, gender reassignment, sexual orientation, marriage and civil partnership status and pregnancy and maternity sets minimum standards, our determination in the Diocese is to respect diversity and going beyond legal compliance to seek to enhance the value of all involved with Christian ministry throughout the whole Diocese.

Harassment and bullying remain significant issues in our society despite increasing awareness of the problem. Sadly, there are many typical harassment and bullying behaviours which can and do manifest in church life, from unwanted physical contact, unwelcome remarks and offensive written communications, to shouting and persistent unwarranted criticism of volunteers, Office Holders and salaried staff. It is appropriate to record here that research shows that people who are the recipients of these behaviours are more likely to be depressed and anxious, and generally begin to feel worthless and of little value. It is always important to recognise the *perception* of an individual who feels targeted, and it is the *effect* of the harasser's behaviour on the target that is the issue, not the intention or motive of the harasser.

The Equality Act 2010 defines harassment as '*unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual*'.

Bullying is not specifically defined in law but ACAS gives the following definition:

*'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'.*

### **What are harassment and bullying behaviours?**

Harassment and bullying may be against one or more people and may involve single or repeated incidents ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It can often occur without witnesses. Examples include:

- unwanted physical contact
- unwelcome remarks about a person's age, dress, appearance, sexuality, race or marital status, jokes at personal expense, offensive language, gossip, slander, sectarian songs and letters
- posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- personal intrusion from pestering, spying and stalking
- failure to safeguard confidential information
- shouting and bawling
- setting impossible deadlines
- persistent unwarranted criticism
- personal insults.

### **Harassment**

Harassment on the basis of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation is covered by the Equality Act 2010. The Equality and Human Rights Commission has published a range of guidance on all aspects of the Equality Act on their website which Office Holders and Parishes are commended to have an awareness of. The law protects individuals from harassment while applying for a job, in employment and in some circumstances after the working relationship has ended (for example, in connection with the provision of a verbal or written reference). There is also protection for people against harassment on the basis of their membership or non-membership of a trade union.

All employers (including PCCs and the DBF/DBE) may be liable for a claim of harassment between any employees, and might also be liable for a claim of harassment which comes from a third party. Although the government has removed protection for third party harassment from the Equality Act, liability can still arise as a result of other legal duties for example breach of contract, direct discrimination, the Protection from Harassment Act 1997 and so on. These other legal duties and good practice mean that PCCs and the DBF/DBE should continue to take steps to protect any employees or volunteers from all forms of harassment.

## Bullying

The legal position with respect to bullying is more complex as there is no separate piece of legislation which deals with workplace bullying in isolation. Bullying might be part of discriminatory behaviour, or related to a myriad of different legal principles and specific laws, for example:

- breach of contract - usually breach of the implied term that an employer will provide reasonable support to employees to ensure that they can carry out their job without harassment and disruption by fellow workers
- the common law obligation for an employer to take care of workers' safety
- personal injury protection involving the duty to take care of workers arising out of the law of Tort
- Health and Safety at Work Act 1974
- Public Order Act 1986
- Trade Union and Labour Relations (Consolidation) Act 1992 - dealing with special types of intimidation
- Criminal Justice and Public Order Act 1994
- Employment Rights Act 1996 - for example, constructive unfair dismissal
- Protection from Harassment Act 1997
- protection for whistle-blowers under the Public Interest Disclosure Act 1998
- Human Rights Act 1998.

Despite increasing awareness of the problems of bullying and harassment, these behaviours are still a significant workplace issue. (*The term "workplace" is used broadly here and incorporates all areas where the Office Holder and laity are required to perform duties*). Parishes are advised to have in place a robust and well communicated policy that clearly articulates its commitment to promoting dignity and respect at work. Importantly, all individuals, be they clergy or laity, also have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues. PCCs should play their part in making their church's policy a reality and be prepared to challenge inappropriate behaviour and take action if they observe or have evidence that someone is being harassed. PCCs should be mindful that individuals can be personally liable to pay compensation and can be prosecuted under criminal as well as civil law.

Both at Diocesan level and within Parishes, responsibilities may extend to any environment where work-related activities take place. These can include social gatherings organised by the "employer" such as working parties or outings. It is important to note that an employer could be liable for events which take place on these occasions unless they can show they took reasonable steps to prevent harassment. In managing dignity at work Parishes and Office Holders are advised to be especially aware of 'cyber bullying'. Detrimental texts sent via mobiles or images of work colleagues posted on external websites following Parish events could amount to bullying. Employers and individuals can be ordered to pay unlimited compensation where discrimination-based harassment has occurred, including the payment of compensation for injury to feelings.

## **Dealing with Complaints**

It is vital that any complaints should be dealt with promptly. Some may be dealt with internally and informally. The agreement of the complainant needs to be obtained as to how the complaint will be addressed.

In minor cases, it may be sufficient for the potential complainant to raise the problem with the alleged perpetrator, pointing out the unacceptable behaviour. But if someone finds this difficult or embarrassing, procedures should enable support from a Parish, Office Holder or Diocesan colleague. A choice of contact should be available in case the person's manager is the alleged harasser.

## **Mediation**

Mediation helps improve relationships between people, reduce or eliminate the stress involved in more formal processes and avoid the costs involved in defending employment tribunal claims. Mediation is an additional tool to deal with disagreements between individuals in the workplace. It is often described as a form of alternative dispute resolution as it's less formal than grievance and discipline procedures and employment tribunals.

Mediation seeks to provide a speedy solution to individual workplace conflict, and can be used at any stage of a disagreement or dispute. The process is flexible and voluntary, and any agreement is morally rather than legally binding. The process aims to provide a safe, confidential space for those involved (the 'parties') to find solutions that are acceptable to each side. Specifically, mediation provides the potential to:

- help parties involved in conflict to understand and empathise with each other's emotions and situations
- explore the issues and concerns of all parties and use joint problem-solving to find a solution that each side feels is fair
- encourage communication and establish workable relationships
- help participants develop the skills to resolve workplace difficulties for themselves in future.

A professional or trained mediator's role is to act as an impartial third party who facilitates a meeting between two or more people in dispute to help them reach an agreement. Although the mediator is in charge of the process, any agreement comes from those in dispute. If necessary, the Diocese can provide details of a professional mediator who Parishes might employ should the need arise. It is important to remember that mediation is preferable to more formal legalistic processes in a number of ways:

1. It makes parties less, rather than more, entrenched in their views and thus more open to compromise.
2. It is less stressful for those involved.
3. It avoids the costs involved in defending employment tribunal claims.

Parishes should have a clear formal policy to deal with all types of grievances and disciplinary issues, including bullying and harassment and this should comply with the ACAS Code of Practice on disciplinary and grievance matters.

## **Standards of behaviour**

Those with pastoral responsibilities for clergy in this Diocese, the Bishop and Suffragan Bishop, Archdeacons and Area Deans, recognise the importance of setting a good example and undertake to participate in any training provided in support of this policy.

The Diocese recognises the importance of setting a good example by all leaders, both clerical and lay, in the life of the Diocese. It undertakes to provide training to support this policy if required.

Office holders, including Self Supporting Ministers, recognise the importance of setting a good example and undertake to participate in any training provided in support of this policy.

Licensed Lay Ministers recognise the importance of setting a good example and undertake to participate in any training provided in support of this policy.

The laity of this Diocese should recognise the importance of setting a good example and be willing to participate in any training provided in support of this policy. This would apply particularly to Churchwardens and PCC members.

## **Communication and training**

Working together, the Director of Formation and Ministry and the Chair of the Diocesan HR Group are responsible to the Bishop's Staff for encouraging and monitoring the implementation of this policy. They will ensure that it is included in the Bishop's Guidelines and that suitable resources to facilitate discussion and promote understanding are available for use by PCCs, Deaneries and other groups.

## **Support and guidance**

The Diocese is committed to providing appropriate support and guidance to members of clergy or laity who feel that they have been in receipt of unacceptable behaviour. If you would like to identify appropriate support please contact, in the first instance, the Diocesan Secretary.

## **Confidentiality**

It is Diocesan policy that these matters are to be treated with confidentiality and that no action will be taken without the knowledge and consent of the person who feels he or she has been subject to unacceptable behaviour.

## **Fair procedures**

It is possible to follow either an informal route or formal route if wishing to make a complaint of bullying or harassment. The informal route normally involves making it clear to the alleged perpetrator that the behaviour offends and that the potential complainant wants it to stop. This could be done by letter or email, if a face-to-face confrontation is too difficult in the first instance, and professional support would be available. This route may stop any offensive behaviour quickly and effectively.

However, there is also the choice of the formal route, which is likely to involve setting out details of the complaint in writing with specifics as to dates and times and an account of what the bullying or harassment is alleged to consist of. The complaint should then be investigated by the PCC as promptly as possible.

When both the alleged perpetrator and the potential complainant are Office Holders under common tenure, complaints of bullying or harassment may, with the potential complainant's consent, be brought under the Grievance Procedure detailed in the Bishop's Guidelines.

However, when the alleged perpetrator is an Office Holder, it may be more appropriate if the potential complainant, or an Archdeacon, make a complaint under the Clergy Discipline Measure 2003. These actions should, however, only be pursued once all other routes have been explored.

When the alleged perpetrator is a lay person and the potential complainant is either ordained or lay, complaints of bullying or harassment should be dealt with in the most appropriate way according to the circumstances.

In any case resulting in a formal complaint the appropriate body may undertake a full investigation. A process for this investigation is outlined in Appendix 1.

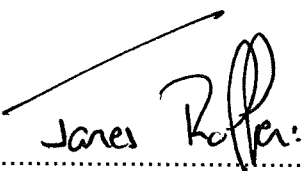
### **False accusation**

False accusations are a serious matter. The behaviour of anyone who is found to have made an unfounded, deliberately malicious complaint or allegation will be regarded with the utmost seriousness and where possible formal action taken. In the case of a clergy person this may be a complaint under the Clergy Discipline Measure 2003. An Office Holder or member of the laity could be subject to an action for defamation if they have made false accusations against someone else.

*This policy was approved by Bishop's Council on 18 May 2017 and adopted by Diocesan Synod on 17 June 2017, and will be reviewed on an annual then triennial basis.*

*Date of next review: June 2018*

Signed:

+  James Roffe

James, Bishop of Rochester

Dated:

29<sup>th</sup> June, 2017

**Recommended Process for Dealing with Allegations of Breach of the Dignity at Work Policy**

In any case resulting in a formal complaint, the applicable organisation may undertake a full investigation which will involve:

1. talking in confidence to any colleagues who may have evidence relating to the alleged perpetrator's behaviour;
2. endeavouring to persuade any colleagues who may have been witness to the alleged perpetrator's bullying or harassment, or who may have knowledge of it, to give a written statement to that effect;
3. setting up an interview with the alleged perpetrator, allowing him/her the right to be accompanied at the interview;
4. allowing the alleged perpetrator a full and fair opportunity to answer any allegations against him/her and/or explain his/her conduct;
5. assessing objectively whether the alleged perpetrator's conduct appears to have amounted to bullying or harassment;
6. adopting an objective and balanced approach to the information gained as a result of the investigation;
7. avoiding allowing personal views about the complainant or the alleged perpetrator to influence the overall assessment of the conduct under review;
8. checking whether the person suspected of bullying or harassment has received previous warnings for similar misconduct (or other types of misconduct) and, if so, whether any earlier warnings remain active; and
9. keeping confidential records of the investigation and ensure that these are handled in accordance with the Data Protection Act 1998.

