



Key Decision: ~~Y~~/N  
Ward: [All]

## Members Code of Conduct – Bullying Protocol

### Report by the Executive Head of Legal and Democratic Services

#### 1.0 Summary

- 1.1 To consider whether or not to propose that amendment to the Members Code of Conduct be amended to include a protocol against bullying.

#### 2.0 Background

- 2.1 At the meeting of this Committee on 25 June 2007 it resolved to recommend that the Council adopted the Statutory Code of Conduct for Members and the general principles of conduct.

- 2.2 The Council adopted the Code of Conduct at its meeting in July 2007.

- 2.3 Paragraph 3 of the Code of Conduct provides

- (1) you must treat others with respect.
- (2) you must not –
  - (a) do anything which may cause the Authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be –
    - (i) a complainant
    - (ii) a witness, or
    - (iii) involved in the administration of an investigation or proceedings,
    - (iv) in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's Code of Conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

2.4 The “dignity at work partnership” defines bullying in the following way:

“bullying can take many forms. It is generally accepted as unwanted behaviour that offends, persecutes or excludes someone. It includes treating individuals in a demeaning and unacceptable way and can be intimidating, malicious or insulting, or a misuse of power to undermine, humiliate, threaten or cause injury. Harassment is usually seen as constant interference or intimidation that violates people’s dignity or creates a hostile or degrading environment.”

2.5 Advisory Conciliation and Arbitration Service (“ACAS”) suggest that harassment and bullying are interchangeable terms and put forward the following definitions:

- (a) “harassment in general terms is:

unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning or unacceptable to the recipients.”

- (b) “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”.

- (c) bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

2.6. ACAS suggest that the following are examples of bullying/harassment in behaviour:

- (a) spreading malicious rumours, or insulting someone by word or behaviour (particularly on the grounds of a race, sex, disability, sexual orientation and religion or a belief).
- (b) copying memos that are critical about someone to others who do not need to know.
- (c) ridiculing or demeaning someone – picking on them or setting them up to fail.
- (d) exclusion or victimisation.
- (e) unfair treatment.

- (f) overbearing supervision or other misuse of power or position.
- (g) unwelcome sexual advances – touching, standing too close, the display of offensive materials.
- (h) making threats or comments about job security without foundation.
- (i) deliberately undermining a competent worker by overloading and constant criticism.
- (j) preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment are not necessarily face to face. They may also occur in written communications, email, phone and automatic supervision methods such as computer recording of down time from work.

Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration of being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self confidence and self esteem caused by harassing and bullying can lead to job insecurity, illness, absence from work and even resignation. Almost always job performance is affected and relationships in the workplace suffer.

The current definition of harassment, as applied to age, sexual orientation, religion or belief and race and ethnic origin is:

“unwanted conduct that violates people’s dignity creates an intimidating, hostile, degrading, humiliating or offensive environment.”

2.7 ACAS in their advice leaflet “Bullying and Harassment at Work: A Guide for Managers and Employers” suggests a check list of items that can be included within a policy on bullying and harassment, some of which are relevant to a policy for members and others are not.

2.8 The relevant items would be:

- (a) statement of commitment from senior members
- (b) clear statement that bullying and harassment will not be tolerated
- (c) examples of unacceptable behaviour
- (d) statement that bullying and harassment is a breach of the Code of Conduct
- (e) the method of complaint
- (f) how the policy is to be implemented, reviewed and monitored
- (g) investigation procedures, including timescales for action

2.9 The items listed which I do not believe are relevant are:

- (a) acknowledgement that bullying and harassment are problems for the organisation
- (b) the steps the organisation takes to prevent bullying and harassment
- (c) responsibilities of supervisors and managers
- (d) confidentiality for a complainant
- (e) reference to grievance procedures (formal and informal), including timescales for actions
- (f) reference to disciplinary procedures, including timescales for action counselling and support availability
- (g) training for managers
- (h) protection from victimisation

### **3.0 Proposals**

- 3.1 That the Committee consider the draft protocol in respect of bullying and harassment set out in Annex 1 to this report.
- 3.2 That the Committee agree a protocol for inclusion within the Code of Conduct.
- 3.3 That the Committee recommend to full Council the adoption of the protocol and its inclusion within the Code of Conduct.

### **4.0 Legal**

- 4.1 Section 49 and 50 empower the Secretary of State to set out general principles and a model code as regards the conduct which is expected of Members and Co-opted Members of relevant authorities in England.

Section 51 of the Local Government Act 2000 as amended places a duty on the Council to adopt the model code of conduct.

Section 51 (4) allows a Council to incorporate within the Code of Conduct provisions which are consistent with the model codes.

- 4.2 Section 52 of the Local Government Act 2000 places a duty upon Members and Co-opted Members of the Council to comply with the codes.
- 4.3 The Local Authorities (model code of conduct) Order 2007 at paragraph 3 (2) states "you must not

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or who is likely to be:-
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,  
  
in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's Code of Conduct.....

## **5.0 Financial implications**

5.1 There are no specific financial implications arising from the recommendations in this report.

## **6.0 Recommendation**

6.1 The Committee agree the protocol set out in Annex 1 to the report.

6.2 That the Committee recommend to full Council that the protocol is adopted as part of the Code of Conduct.

## **Local Government Act 1972**

### **Background Papers:**

Report and Minutes Standards Committee June 2007

Council report and minute July 2007

DTI/Unite the Union and Dignity at Work Publication "To the Role of Leaders – Beat Bullying in the Workplace"

Advisory, Conciliation and Arbitration Service (ACAS)

Advice Leaflet – Bullying and Harassment at Work: Guidance for Employee

ACAS – Advice leaflet – Bullying and Harassment at Work: A Guide for Managers and Employers

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## **Schedule of other matters**

### **1.0 Council Priority**

1.1 The recommendations in the report encourage a high standard of conduct from Members in the way they seek to meet the Council priority.

### **2.0 Specific Action Plans**

2.1 **(A)** Matter considered and no issues identified.

**(B)** Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Bullying and harassment can lead to discrimination in relation to sex, race, disability, sexual orientation, religion and belief and age. Therefore the proposals within this report seek to encourage members in their duty not to cause the Council to breach its equalities duties and not to discriminate in their own right.

### **5.0 Community Safety issues (Section 17)**

5.1 In more extreme cases bullying can lead to crime and disorder and therefore the recommendations in this report seek to reduce the risk of crime and disorder in this area.

### **6.0 Human Rights Issues**

6.1 The proposals do not impinge on anyone's human rights.

### **7.0 Reputation**

7.1 The recommendations in this report will seek to protect and enhance the Council's reputation in that it is sending a clear message that bullying is not acceptable.

### **8.0 Consultations**

8.1 **(A)** There has been no consultation with Unison or external stakeholders.

8.2 (B) Include how have you used the feedback from the consultation in this proposal

## **9.0 Risk assessment**

9.1 The risk of not implementing the proposals in this report are that there will be a lack of clarity as to the Members' position with regard to bullying.

## **10.0 Health & Safety Issues**

10.1 A failure to act on bullying can breach the Employer's responsibility for the health, safety, and welfare at work of all employees, therefore the adoption of the proposals in this report will help to meet the Council's responsibilities for the health, safety and welfare at work of all employees.

10.2 Bullying and harassment can lead to stress which is defined by the Health and Safety Executive as the adverse reaction a person has to excessive pressure or the types of demand placed on them. In tackling work related stress the Health and Safety Executive reminds employers that looking after the health of employees includes "taking steps to make sure that employees do not suffer stress-related illness as a result of work".

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership working**

12.1 Matter considered and no issues identified.

## PROTOCOL FOR MEMBERS ON BULLYING AND HARASSMENT

1. The Council, and in particular the Leaders of the political groups on the Council, recognise that bullying and harassment are forms of conduct that are not acceptable and will take all steps necessary to ensure that such conduct is not acceptable among Members of Worthing Borough Council.
2. The Council accepts that it is the responsibility of all Councillors to conduct themselves in a manner that encourages the development of positive relationships between Members and Officers and that the Council has a duty to ensure that bullying and harassment are not acceptable forms of conduct.
3. To assist Members in understanding the protocol the following are a non-exhaustive list of examples of the behaviour that would not be acceptable:
  - (a) spreading malicious rumours or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation, religion or belief).
  - (b) copying memos or emails that are critical about someone to others who do not need to receive them.
  - (c) ridiculing or demeaning someone – picking on them or setting them up to fail.
  - (d) exclusion or victimisation.
  - (e) unfair treatment.
  - (f) overbearing conduct or misuse of power or position.
  - (g) unwelcome sexual advances – touching, standing too close, display of offensive materials.
  - (h) making threats or comments about job security without foundation.
  - (i) deliberately undermining a competent worker by recommending excessive work or making constant criticism, particularly in areas where they do not have the opportunity to respond.
4. The Members Code of Conduct at paragraph 3.2 provides that you must not:
  - (a) do anything which may cause the authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or likely to be
    - (i) a complainant

- (ii) a witness
- (iii) involved in the administration of any investigation or proceeding

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's Code of Conduct.

5. Complaints about the conduct of Members which are believed to amount to bullying and harassment should be made to the Monitoring Officer who will refer them to the Assessment Sub Committee for consideration.
6. The Assessment Sub Committee will determine whether or not the matter should be subject to further action. If the Assessment Sub Committee determine that no further action is justified, then the complainant may ask for a review by the Review Sub Committee. If the Review Sub Committee determines that no further action is justified then there is no further appeal, however, if either the Assessment Sub Committee or the Review Sub Committee determine that further action is required then either they will direct the Monitoring Officer to carry out work with the alleged perpetrator or they will direct the Monitoring Officer to carry out investigation which will lead to a report back to the Sub Committee and could lead to a hearing before the Determination Sub Committee.
7. If the matter leads to a hearing before the Determination Sub Committee and the Member who is the subject of the hearing is found to have failed to comply with the Code of Conduct, the Sub Committee can order:
  - a) censure of that Member
  - b) restriction for a period not exceeding 6 months of that Member's access to the premises of the authority or that Member's use of the resources of the authority, provided that the restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the person's ability to perform the functions of a Member.
  - c) partial suspension of that Member for a period not exceeding 6 months.
  - d) suspension of that Member for a period not exceeding 6 months
  - e) that the Member submits an apology in a form specified by the Standards Committee.
  - f) that the Member undertakes such training as the Standards Committee specifies
  - g) that the Member participates in such conciliation as the Standards Committee specifies.
  - h) partial suspension of the Member for a period not exceeding 6 months or until such time that the Member submits a written apology in a form specified by the Standards Committee

- i) partial suspension of the Member for a period not exceeding 6 months or until such time as the Member has undertaken such training or has participated in such conciliation as the Standards Committee specifies
  - j) suspension of the Member for a period not exceeding 6 months or until such time as the Member has submitted a written apology in a form specified by the Standards Committee or
  - k) suspension of the Member for a period not exceeding 6 months or until such time as the Member has undertaken such training or has participated in such conciliation as the Standards Committee specifies.
8. The initial complaint will be considered by the Assessment Sub Committee within 20 working days of the complaint being received and it is intended that should the Assessment Sub Committee determine that no further action is justified and the complainant seeks a review this will take place in 20 working days of receipt of the request for a review.
9. If the matter is referred to the Monitoring Officer for investigation that investigation shall be completed as soon as reasonably practicable.
10. The policy is to be implemented by being adopted as part of the Code of Conduct for Members and shall be reviewed annually by the Standards Committee who shall also receive reports on a quarterly basis on any complaints received by the Monitoring Officer.