



# PROTOCOL ON BULLYING & HARASSMENT

Stotfold Town Council

Guidance & Policy

July 2009

## **GUIDANCE**

An analysis of complaints made against Councillors (previously assessed by the Standards Board for England and now dealt with by local standards committees) indicates that there is a significant problem of bullying and harassment occurring at parish level between Members and Officers. It may be that this is caused in part because of the lack of clarity between the respective roles of Officers and Members and of the relatively isolated nature of the position of the Clerk. Other factors that may contribute to a breakdown in relations between Members and Officers includes the absence of authoritative Member/Officer protocols, proper disciplinary and grievance procedures and (in some cases) written contracts of employment.

Bullying is specifically prohibited in the Member Code of Conduct (paragraph 3(2)(b) of the Model Code). Councillors must not bully any person, including other Councillors, Officers or members of the public.

The following Protocol is therefore commended for adoption to ensure that Members and Officers operate in an environment of mutual trust and respect. It should assist in the development of a culture of clear and honest communication between Officers and Members.

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## **PROTOCOL ON BULLYING AND HARASSMENT**

### **1. BACKGROUND**

- 1.1 The relationship between Councillors and Officers is an essential ingredient that should contribute to the successful working of the organisation. This relationship within the authority should be characterised by mutual respect, informality and trust. Councillors and Officers must feel free to speak to one another openly and honestly. Nothing in this protocol is intended to change this relationship. This protocol gives guidance on what to do on the rare occasions when things go wrong.
- 1.2 Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace.

### **2. WHAT IS BULLYING AND HARASSMENT?**

- 2.1 Examples and definitions of what may be considered bullying and harassment are provided below for guidance. For practical purposes, those making a complaint usually define what they mean by bullying and harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain that 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.

### **3. HOW CAN BULLYING AND HARASSMENT BE RECOGNISED?**

- 3.1 There are many definitions of bullying and harassment. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means to undermine, humiliate, denigrate or injure the recipient.
- 3.2 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 and unacceptable to the recipient.
- 3.3 Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the 'grey' areas that cause most problems. Examples of what is unacceptable behaviour include:
- 'Inappropriate behaviour'
  - Intimidation/humiliation
  - Excessive criticism
  - Autocratic/dictatorial behaviour
  - Shouting
  - Browbeating

- Haranguing
- Swearing
- Ridiculing
- Expressions of intolerance
- General discourtesy

3.4 Bullying and harassment are not necessarily face to face; they may be written communications, email and telephone.

#### **4. WHY DOES THE COUNCIL NEED TO TAKE ACTION ON BULLYING AND HARASSMENT?**

4.1 There is an implied term of mutual trust and confidence in every contract of employment. Where the Parish Council is aware of a situation of bullying or harassment of an employee by one of its Councillors, but fails to act to stop it, it will be in breach of that implied term of employment contract and may be held liable for constructive dismissal of that employee.

4.2 It is in every employer's interest to promote a safe, healthy and fair environment in which people can work.

4.3 A Parish Council's duty of care to an employee relates to all forms of personal injury, which will include mental as well as physical health. If a risk to health was foreseeable but no action was taken then the Parish Council could be at fault and compensation could be sought.

#### **5. THE MEMBERS' CODE OF CONDUCT**

5.1 Bullying is expressly forbidden under paragraph 3(2)(b) of the Model Code of Conduct. There are, in addition, complementary obligations to:

- Not do anything which may cause the authority to breach equality laws;
- Treat others with respect;
- Not intimidate any person who is or is likely to be a complainant, a witness or involved in an investigation relating to a breach of the Code; and
- Not compromise or attempt to compromise the impartiality of those who work for, or on behalf of, the authority.

5.2 A proven allegation of bullying or harassment will always be a breach of the Code of Conduct and the Council involved is liable to be reported to the Local Standards Committee. Councillors are invited to challenge Officers as to why they hold their views. However, if criticism amounts to a personal attack or is of an offensive nature, the Councillor is likely to have crossed the line of what is acceptable behaviour.

5.3 If there are instances of bullying or harassment by Councillors towards Officers or other Councillors, then those Councillors who are aware of the incident should consider reporting it to the Standards Committee of the relevant principal authority. It is also open to Officers who are either the subject of bullying or harassment or who witness such an incident to similarly report it to the standards Committee (which is likely to have

established an Assessment Sub-Committee to decide whether to investigate such complaints).

- 5.4 If Members or Officers are unsure what to do now or how to report the matter, they should seek the advice of the Monitoring Officer.

## **6. GRIEVANCE AND DISCIPLINARY PROCEDURES**

- 6.1 Obviously it is best to try to avoid things getting to a state where an employee considers themselves dismissed or issues a personal injury claim against the Council. This can be done through having an accessible and useable grievance procedure.
- 6.2 Since October 2004 all employers have been required by law to have disciplinary and grievance procedures. These cover disciplinary rules and procedures for handling discipline, grievance and appeals. Details must be included in the employee's written statement of employment particulars or reference made to a separate document which is readily accessible to the employee.
- 6.3 A grievance procedure enables individual employees to raise concerns, problems or complaints with management about their employment. It should allow for both an informal and formal approach.

A grievance procedure provides an open and fair way for employees to make known their concerns, problems or complaints. It enables such grievances to be resolved quickly before they fester and become major problems. An employee who fails to raise a grievance with their employer using the statutory procedure may be prevented from taking a claim relating to that grievance to employment tribunal.

Grievance procedures should allow grievances to be dealt with fairly, consistently, speedily and should include:

- How and with whom to raise the issue
- Whom next to appeal to if not satisfied
- Time limits for each stage
- The right to be accompanied by a fellow worker or trade union representative
- The statutory grievance procedure

## **7. WHISTLE -BLOWING**

- 7.1 Protection for employees, contractors or staff is relevant to allow any bullying or harassment to be reported without fear of victimisation or further harassment.

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