



**Brighton & Hove  
City Council**

**OVERVIEW & SCRUTINY  
COMMISSION  
ADDENDUM**

**4.00PM, TUESDAY, 27 APRIL 2010**

**COUNCIL CHAMBER, HOVE TOWN HALL**



# ADDENDUM

| ITEM |  | Page   |
|------|--|--------|
| 96.  | REPORT OF THE DIGNITY AT WORK SCRUTINY PANEL | 1 - 56 |



# OVERVIEW AND SCRUTINY COMMISSION

## Agenda Item 96

Brighton & Hove City Council

**Subject:** Report of the Dignity at Work Scrutiny Panel  
**Date of Meeting:** 27 April 2010  
**Report of:** Director of Strategy and Governance  
**Contact Officer:** Name: Tom Hook Tel: 29-1110  
E-mail: tom.hook@brighton-hove.gov.uk  
**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The scrutiny panel on Dignity at Work was established to support the development of the Dignity and Respect at Work Policy.
- 1.2 The panel's report and recommendations are presented here for approval by the Overview and Scrutiny Commission.

#### 2. RECOMMENDATIONS:

That members:

- 2.1 Endorse the scrutiny panel's report.
- 2.2 Agree to refer the report recommendations to the Council's Governance Committee.

#### 3. BACKGROUND INFORMATION

- 3.1 The Dignity at Work scrutiny panel was established following a report to the Overview and Scrutiny Commission as outlined in the attached paper.
- 3.2 The development of the policy was the result of concerns that despite some improvements the council did not have effective mechanisms for tackling bullying and harassment at work.
- 3.3 The panel comprised Councillor Gill Mitchell (Chair) and Councillors Paul Elgood, Vicky Wakefield-Jarrett and Brian Pidgeon.

3.4 The panel's recommendations aim to help shape the final dignity at work policy.

#### **4. CONSULTATION**

4.1 Officers have been consulted informally on the findings of the inquiry.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

5.1 The financial implications of adopting the scrutiny panel's recommendations will be considered alongside the relevant budgets.

##### Legal Implications:

5.2 The Commission has the necessary power to agree the recommendations in paragraph 2 above. It then falls to the decision making bodies to whom the recommendations are directed to decide what action, if any, to take in response.

##### Equalities Implications:

5.3 There are no equalities implications arising directly from this covering report, but equalities considerations would be taken into account when implementing the recommendations of the scrutiny review. Under council policy, Equality Impact Assessments (EIA) would be undertaken for any significant policy changes.

##### Sustainability Implications:

5.4 There are no sustainability implications arising directly from this report,

##### Crime & Disorder Implications:

5.5 None identified directly in relation to this report.

##### Risk and Opportunity Management Implications:

5.6 None identified directly in relation to this report.

##### Corporate / Citywide Implications:

5.7 The recommendations made in this report are in line with the council's priorities on growing the economy, reducing inequality and fair enforcement.

#### **SUPPORTING DOCUMENTATION**

##### **Appendices:**

1. Report of the Dignity at Work Scrutiny Panel



# **Brighton & Hove City Council**

**Report of the Dignity at Work  
Scrutiny Panel**

**March 2010**

## **Dignity at Work**

### **Panel Members**

**Councillor Gill Mitchell (Chair)  
Councillor Paul Elgood  
Councillor Brian Pidgeon  
Councillor Vicky Wakefield-Jarrett**


## **CHAIR'S FOREWORD**

This scrutiny review was established to provide a mechanism for strong Member input into the development of a Dignity at Work strategy for Brighton and Hove City Council.

Bullying and harassment have no place in the council and the commitment to eradicate them through this policy and procedure show that the council has responded to concerns raised by staff.

The panel welcome the excellent work undertaken by those officers responsible for developing the draft policy and procedure. It is clear that there has been considerable time and effort devoted to this project and that there has been extensive consultation undertaken in its development. It is hoped that the recommendations within this report can be incorporated into the final iteration of the documents.

I would like to express my thanks to my fellow panel members and to the witnesses whom gave their time and expertise to the panel; I hope they think it has been useful exercise and that our recommendations will be usefully incorporated into the final strategy.



Councillor Gill Mitchell  
(Chair, Scrutiny Panel on Dignity at Work)



## **CONTENTS**

- 1. Introduction**
- 2. Dignity at Work in the council**
- 3. Methodology**
- 4. Key Issues and Recommendations**
- 5. Conclusion**
- 6. Appendices**
  - a. OSC Dignity at Work Report
  - b. Extract from the OSC minutes
  - c. First Scoping Panel Notes
  - d. Second Scoping Panel Notes
  - e. Draft Dignity at Work Policy
  - f. Draft Dignity at Work Procedure

## **Introduction**

The Dignity at Work Scrutiny Panel was established following a report presented to the Overview and Scrutiny Commission (OSC) regarding the development of a Dignity at Work Policy (Appendices A and B). The development of the policy was the result of concerns that despite some improvements the council did not have effective mechanisms for tackling bullying and harassment at work.

These concerns were raised as part of the staff survey and were reiterated by focus groups and the council's equalities staff forums. The development of the Dignity & Respect at Work policy and associated procedure has sought to address these issues.

OSC felt that it was vital that Members played a central part in the development of the policy and once completed took ownership of it, ensuring that it is endorsed and adhered to from the very top of the council. They therefore established a cross-party scrutiny panel of four members to feed into the developmental process.

This report presents the recommendations of the panel, which it is hoped will be incorporated into the final policy and procedure.

## **Dignity at Work in the council**

Bullying and harassment within the workplace is unwelcome and undesirable for ethical reasons but also on business grounds. Bullying and harassment can have devastating effects on the individual but can also do serious damage to organisational performance, productivity and reputation through:

- low morale and employee relations
- loss of respect for managers/colleagues
- poor performance and reduced productivity
- increased sickness absence and increased staff turnover
- damage to the council's reputation as a good employer
- problems in recruiting

Employers have a legal duty to protect employees' health, safety and welfare at work and are liable for the actions of staff in the workplace. Failure to prevent bullying or harassment in the workplace may expose the council to a number of legal consequences including claims of unlawful discrimination.

There is evidence to suggest that some staff within the council have experienced bullying in the workplace. The development of improved policies and procedures is therefore a welcome step-forward for the council.

## **Methodology**

Following the establishment of the Dignity at Work Scrutiny Panel two private scoping meetings were held where the involvement of members in the development process was refined. The notes from these meetings are attached as appendix C and D.

It was agreed that the staff working group, including members of the relevant workers' forums should play a key role in the process and that Members should await the development of a draft policy and procedure, rather than be involved in ongoing detailed drafting.

The scrutiny panel reconvened therefore in February 2010 once the documents had been drafted and ready for constructive criticism. The panel invited members of the staff forums and unions to a private meeting. The meeting format allowed for round-table discussion and debate on both the content of the policy and its development.

Both panel members and staff representatives found the session extremely useful; the resulting recommendations and issues are fleshed out in the following sections.

Consideration was given to a further meeting to invite members of the public to give their views on the issues covered in the policy. The majority of the panel were however satisfied with the evidence presented. Cllr Elgood remained supportive of an additional public meeting.

## **Key Issues and Recommendations**

The draft Policy is attached to this report as appendix E, with the procedure attached as appendix F.

The key areas for recommendation are discussed below. The panel are generally very supportive of the draft documents; however there are a number of areas where improvements can be made.

A key issue raised by witnesses was that the policy will only be as successful as its implementation. Good communication across the council will be vital to ensure that the excellent work in developing the policy is not lost. To this end the panel want to make two recommendations:

- 1) Regular monitoring of the implementation of the Dignity and Respect at Work Policy and associated procedures should take place through the staff survey and at the Staff Consultative Forum.**

- 2) Careful consideration needs to be given to how staff without access to the Wave and other electronic information sources will be informed of the policy and have access to it without recourse to their line-manager.**

There was support for moves within the draft policy for establishing time-limits for how long investigations into allegations will take. However there was some concern that placing a limit of three months on the initial reporting of instances of bullying was too restrictive.

The panel agreed that often bullying will occur over a period of weeks and months and often the victim will not realise what is happening until a later date. The policy should therefore recognise the problem may have started some considerable time ago and has built up. The panel therefore recommend that:

- 3) The timelimit for reporting bullying and/or harassment should be removed.**

The panel and witnesses were very supportive of the idea of independent advisors and the use of specially trained managers to investigate allegations. It was felt that all managers could usefully be trained in identifying and dealing with the issues raised in the policy and this should be progressed as it would help to bring about a cultural shift within the organisation. To this end it was also suggested that a public declaration of support by the Leader of the Council and the Chief Executive would give the policy a higher profile and demonstrate that the issues are being taken seriously.

- 4) To ensure a cultural shift across the organisation training should be offered to all line-managers in bullying and harassment issues. Take-up of this training should be monitored.**
- 5) The Leader of the Council and Chief Executive should publicly sign-up to the policy.**

Public support by the Council's leadership will also help to address the problem communicated by a number of witnesses that at present victims are reluctant to publicly complain for fear of future victimisation. The panel were also of the opinion that the policy needs a clear anti-victimisation statement.

- 6) More emphasis needs to be given to the anti-victimisation statement within the policy to ensure victims feel confident coming forward. This should be clearly communicated when the policy is launched.**

Panel members were supportive of the idea that staff needed a variety of mechanisms through which they can raise issues. The introduction therefore of specialist advisors is very welcome. There was some discussion within the

panel meeting regard the utility of having a single point of contact such as a telephone hotline through which issues could be dealt. It was felt at the very least that this could be explored further.

**7) A single point of contact should be available to staff to discuss problems/report bullying.**

The thrust within the draft policy to promote the use of mediation and dialogue to resolve problems was welcomed by all witnesses and thoroughly endorsed by the panel. It was felt however that there will be situations and circumstances where this is not possible, and therefore the policy needed to make clear that moving straight to formal action was still possible.

**8) Whilst the use of mediation within the policy is to be supported there also needs to be a clear statement that staff still have the option to go straight to formal action.**

The panel were also concerned that there was insufficient account paid to bullying and harassment relating to transgender issues (an umbrella term used to include transsexual and transgender as in "the transgender community").<sup>1</sup> It was felt there was room for these could be teased out more thoroughly in the policy and accompanying documentation.

**9) Greater reference needs to be given to transgender issues.**

The point was raised during panel debate that consideration needs to be given as to how best to ensure that the principles set out in the policy apply not just to council staff but also those legally employed through other organisations. There is clearly a possible scenario where-by staff working in the same workplace will not enjoy the same protection due to different employers. It is suggested that during the tender/procurement process it is ensured that that these issues are clarified.

**10) Thought needs to be given as to how externally employed staff relate to the policy.**

The panel are making the 10 priority recommendations outlined above; however a number of other salient points were made by witnesses. The table

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<sup>1</sup> Transsexual Person

A person who feels a consistent and overwhelming desire to transition and fulfil their life as a member of the opposite gender. Most transsexual people actively desire and complete gender confirmation surgery.

Transgender Person

A person who, like a transsexual person, transitions - sometimes with the help of hormone therapy and/or cosmetic surgery - to live in the gender role of choice, but has not undergone, and generally does not intend to undergo genital surgery.

below lists these and the panel would like these taken account of in the development of the final policy.

| <b>Page/<br/>Paragraph</b> | <b>Issue</b>   |
|----------------------------|--|
|                            | Needs to have the date it becomes live and when it will be reviewed.   |
| 4.2                        | Another sentence needs to be added for circumstances where the employee does not want to raise the issue with their line manager in the first instance.  |
| 6.1                        | Add reference that there are health impacts to unacceptable behaviour.   |
| 7.5 & 12.1                 | Many employees do not have access to the Wave, or other electronic information sources. All information and guidance needs to be made available in hard copy.  |
| 8.3                        | This may itself come across as bullying – with two staff members informally approaching a third. Wording needs to be changed.  |
| 9                          | A timeline for the mediation process should be attached to the policy to ensure that issues do not drag out unnecessarily.   |
| 10.1                       | Add a bullet point that staff have the right to immediately raise a grievance.   |
| 11.5                       | There will be occasions when the person is too ill to raise a complaint so it might be the manager or trade union representative.  |
| 11.6                       | On occasions the original bullying may have started some considerable time before and the complaint is only made after a build-up of problems. Therefore the 3 month limit should be replaced with asap. |
|                            | Access to advisors needs to be direct, and not through line-managers; consideration should be given to having a single point of contact for each service, a sort of confidential hotline they can ring?  |
|                            | There is nothing that states when there is a group issue and how this will be managed or how mediation will apply. On occasions group mediation will be needed.  |
| 6.6                        | It would be for the union to decide upon support offered and as such point 4-6 should be removed.  |
|                            | Implementation will be key in moving this agenda forward. Training for managers vital.   |
|                            | Support keeping records but need to be a small diary note, as could be seen as bullying/intimidation itself.   |
|                            | Mediation is good in an ideal world but the ability to go straight to formal action needs to be retained.  |
| 11.5                       | Should suggest using a friend/colleague as well as a union rep   |

|     |  |
|-----|--|
|     | Monitoring – There should be an up-front commitment to monitor the implementation through both the staff survey and regular slots at the Staff Consultative Forum  |
|     | Needs to be an anti-victimisation statement to reassure those wanting to raise issues. Is currently a reluctance to make complaints for fear of reprisals.   |
|     | Members aren't referred to in the policy statement, but are referred to in the procedure. This needs to be consistent. A statement of intent from Members needs to accompany the policy to show high level support for the policy. |
| 3.2 | Should be 'will' not 'may' – need to be sanctions for false allegations.   |
|     | The drafts are not transgender friendly. This is a gender, not sexual orientation issue. The Stonewall Index highlights that the Council is good at L&G but bad at B&T issues.   |
|     | Links to other policies need to be improved. How does this policy relate to the disciplinary policy – which takes preference?  |
|     | Will the policy be signed up to by agencies/contractors the council employs – otherwise you could have staff in the same locations being under having different policies apply.  |
| 6.7 | Need to ensure that sufficient time if guaranteed for representatives.   |
|     | Care needs to be taken that this policy is sufficiently linked into and cross referenced with other relevant policies e.g. disciplinary policy   |

## Conclusion

The panel are extremely supportive of the draft Dignity and Harassment at Work policies. They have been developed through an inclusive process that has help develop an excellent end result. The panel are making ten further recommendations to the draft policy:

- 1. Regular monitoring of the implementation of the Dignity and Respect at Work Policy and associated procedures should take place through the staff survey and at the Staff Consultative Forum.**
- 2. Careful consideration needs to be given to how staff without access to the Wave and other electronic information sources will be informed of the policy and have access to it without recourse to their line-manager.**
- 3. The time-limit for reporting bullying and/or harassment should be removed.**

- 4. To ensure a cultural shift across the organisation training should be offered to all line-managers in bullying and harassment issues. Take-up of this training should be monitored.**
- 5. The leader of the Council and Chief Executive should publicly sign-up to the policy.**
- 6. More emphasis needs to be given to the anti-victimisation statement within the policy to ensure victims feel confident coming forward. This should be clearly communicated when the policy is launched**
- 7. A single point of contact should be available to staff to discuss problems/report bullying.**
- 8. Whilst the use of mediation within the policy is to be supported there also needs to be a clear statement that staff still have the option to go straight to formal action.**
- 9. Greater consideration needs to be given to transgender issues.**
- 10. Thought needs to be given as to how externally employed staff relate to the policy.**



# OVERVIEW & SCRUTINY COMMISSION

## Agenda Item 63

Brighton & Hove City Council

|                         |  |  |                    |
|-------------------------|--|--|--------------------|
| <b>Subject:</b>         | <b>Dignity and Respect at Work</b>           |  |                    |
| <b>Date of Meeting:</b> | <b>2 December 2008</b>                       |  |                    |
| <b>Report of:</b>       | <b>Director of Strategy &amp; Governance</b> |  |                    |
| <b>Contact Officer:</b> | <b>Name:</b>                                 | <b>Shaun Rafferty</b>                      | <b>Tel: 291290</b> |
|                         | <b>E-mail:</b>                               | <b>shaun.rafferty@brighton-hove.gov.uk</b> |                    |
| <b>Wards Affected:</b>  | All  |  |                    |

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of the report is to update overview and scrutiny members on the council's progress in developing an effective approach to bullying and harassment at work.
- 1.2 A Dignity and Respect at Work policy will look at the issue in its widest context. By establishing some clear standards of behaviour and a toolkit of approaches that staff and managers can use, the policy would look to resolve issues at the earliest possible stage before relationships become irrevocably damaged. However where clear bullying or harassment is taking place the policy will also define a zero tolerance approach with clear processes for tackling the issue head on.

#### 2. RECOMMENDATIONS:

- 2.1 To note and comment on the content of this report and consider requesting further updates once the draft policy is complete.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The results of the last staff survey indicated that, despite some improvement since the previous survey, there was still some concern that the council does not have effective mechanisms for tackling bullying and harassment at work. Similar concerns were expressed by focus groups held following the last staff survey and the council's equalities staff forums. The development of a Dignity & Respect at Work policy and toolkit aims to address these issues.
- 3.2 In the last two years there has been a great deal of high profile work done nationally on the issue of bullying and harassment at work. A large scale research project undertaken jointly by the DTI and the Trade Union Amicus

identified a range of problems in the English workplace and a range of possible solutions. Along with approaches recommended by ACAS it is considered a dignity and respect at work policy likely to be more effective than the usual bullying and harassment procedures.

- 3.3 Following a successful session with the council's Directors and Assistant Directors in July a working group has been formed to represent the whole council. HR will lead the working group in the formulation of the policy and toolkit. The Chief Executive will be the project sponsor. The group will be supported by Dr. Karen McIvor, an academic who worked on the national research project with the DTI and Amicus. A project initiation document for the group is attached as appendix 1.
- 3.4 Next steps are that the working group will look to have a draft policy for TMT in January 2009 with a plan to launch the policy from April 2009.
- 3.5 Specifically the policy and toolkit will contain:
  - Clear standards of respectful behaviour at work
  - A process for raising concerns both informally or formally
  - A proposal to establish a network of confidential dignity and respect advisors
  - A toolkit of approaches such as mediation or behavioural contracts to try and head issues off early
  - A clear process for tackling bullying and harassment that does not put the onus on the individual to initiate and manage the process.
  - Support for witnesses of bullying and harassment and a confidential reporting route
  - Approaches for supporting staff whose dignity and respect is threatened not just by other staff but by services users, partners or elected members.
  - A scheme for monitoring and learning from breaches of dignity and respect at work
  - Access to a staff welfare helpline for support advice and counselling
  - Some high impact training for staff and managers on Dignity and respect at Work

#### **4. CONSULTATION**

- 4.1 Outline consultation has already taken place with the trade unions and the Cabinet members for Central Services. The trade unions will continue to be consulted throughout the development of this policy.
- 4.2 The project group will seek the views of a random selection of council employees and managers to help inform the development of the policy, toolkit and behaviour protocols.
- 4.3 All staff equality forums will also be consulted as the policy is developed.

4.4 The draft policy will be presented to directorate DMTs and TMT. The council's Employment Lawyer will sit on the working group and comments from any other specialist stakeholders will also be sought at this stage. In the light of the feedback, the project group will produce a final draft. Formal consultation on the final draft will then take place with representatives of the recognised trade unions, the council's scrutiny committees, the appropriate cabinet members and the council's Staff Consultation Forum.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

There are no direct financial implications arising from this report. However, an effective Dignity and Respect at Work policy could reduce the cost and risk of litigation in employment tribunals.

*Finance Officer Consulted: Anne Silley/Peter Francis*      *Date: 28/10/08*

### **5.2 Legal Implications:**

All existing anti-discrimination laws (race, sex, religion, age, disability) cover bullying and harassment and there are also general laws on harassment where no particular motive need be attributed. Our policy will need to be compliant with those laws and also reflective of case decisions and codes of practice thus ensuring the policy is effective at the grass roots level

*Lawyer Consulted: Ian Yonge*      *Date: 27/10/08*

### **5.3 Equalities Implications:**

The policy will be subject to a full Equality Impact Assessment before it is launched.

### **5.4 Sustainability Implications:**

None

### **5.5 Crime & Disorder Implications:**

None

### **5.6 Risk and Opportunity Management Implications:**

None

### **5.7 Corporate / Citywide Implications:**

None

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. HR Project - Development and implementation of a Dignity & Respect at Work Policy

### **Project context**

The council seeks to prevent all forms of bullying and harassment by, or towards, any employee and is committed to creating and maintaining a culture in which all staff, irrespective of how senior they are and where they work, are treated with dignity and respect. Although, the council has had a Bullying and Harassment Policy since December 2003, this is now in need of review.

### **Project drivers**

Bullying and harassment within the workplace is unwelcome and undesirable not only for ethical and moral reasons but also on business grounds. The effect of bullying and harassment on the individual can be devastating but, perhaps less immediately obvious, is the significant damage it can do to organisational performance, productivity and reputation through:

- poor morale and employee relations
- loss of respect for managers/colleagues
- poor performance
- reduced productivity
- increased sickness absence
- increased staff turnover
- damage to the council's reputation as a good employer
- difficulty in recruiting

The Council also has a legal duty to protect employees' health, safety and welfare at work and is liable for the actions of its staff whilst at work. Failure to prevent bullying or harassment in the workplace may expose the council to a number of legal consequences including claims of unlawful discrimination.

Despite having a Bullying and Harassment at Work Policy, there is evidence to suggest that some staff have experienced bullying or harassment in the workplace. Evidence has come from a number of sources:

- feedback from the Staff Surveys carried out in 2005 and 2007
- externally facilitated employee focus groups
- grievances raised by individuals
- anecdotal evidence provided by the Staff Forums
- a report commissioned by TMT "Perspectives of Bme Staff" in December 2006
- exit questionnaire data
- the Audit Commission's report in October 2006 following the annual Comprehensive Performance Assessment.

## **Project Objectives**

The objectives of the project are to:

- facilitate the council's leadership to identify the core values which will define and develop the right workplace culture across the organisation
- clearly define and introduce a set of behavioural norms for staff that will underpin the core values .
- link the defined behavioural norms to performance management and personal development frameworks to embed the desired workplace culture
- determine and implement an effective support network for staff experiencing bullying or harassment
- identify and introduce informal intervention mechanisms to enable bullying and harassment issues to be resolved at an early stage without the employee having to resort to formal procedures
- implement successfully a Dignity & Respect at Work Policy that will enable the council to develop and maintain a workforce culture in which all staff are respected and treated with dignity
- secure a written commitment from TMT and Assistant Directors/Heads of Service to actively support the policy and endorse the behavioural norms for staff
- develop a learning and development programme to support the implementation of the policy
- develop a mechanism for monitoring objectively the effectiveness of the policy following implementation.

## **Project Methodology**

A project group of key stakeholders and chaired by the AD, Head of Human Resources, will be established to undertake the project in accordance with the Project Plan.

## **Project Group membership**

### **The project will be championed by Alan McCarthy**

The project group will comprise:

- Shaun Rafferty, AD, Head of HR (chair)
- Liz Boswell, Policy & Projects Manager Equalities Officer
- Caroline Bottrell, Head of Learning & Development
- Ian Yonge, Employment Lawyer
- Janita Bagshawe, Head of Museums & Royal Pavilion
- Brigid Day, Interim Head of Adult Social Care (Operational)
- Liz Rugg, AD Specialist Services
- Richard Butcher-Tuset, Head of Cabinet Support
- Judith Macho, AD Public Safety
- Dr Mclvor, specialist consultant

## **Project Group Terms of Reference**

The remit of the project group will be:

- to develop and draft a Dignity & Respect at Work Policy and associated toolkit. The work will include:
  - researching the issues relating to bullying and harassment including the legal framework and best practice
  - developing/adopting a definition of bullying and harassment
  - seeking the views of staff, including those who have experienced or witnessed bullying or harassment at first hand, in order to:
    - help identify the key issues
    - define what the essential elements of a good workplace culture are
    - identify what aspects of the current culture need to change within the organisation and how this might best be achieved
  - facilitating TMT to identify the council's core values and from this to identify the standards of behaviour expected of all staff and to clearly define what these behavioural norms mean in practice
  - carrying out an Equalities Impact Assessment on the draft Policy and toolkit.
- to look at ways to encourage and support staff who consider they have been bullied or harassed to raise the issue – in particular to consider the benefits and practicalities of introducing a network of trained, confidential harassment advisers to provide that practical support
- to identify how informal intervention methods, such as mediation, could be used to resolve bullying and harassment issues effectively at an early stage without the employee having to resort to using formal procedures
- to examine, in conjunction with I&OD, how best to incorporate the new behavioural norms for staff and managers into the PDPS process/paperwork
- to develop, in conjunction with I&OD, a development programme to support the implementation of the policy and toolkit
- to develop a strategy for communicating the new policy and toolkit to the workforce.
- to examine how the effectiveness of the policy can be objectively measured
- to explore the feasibility of involving a specialist in this field and identify what role, if any, they could usefully play in the development of the policy.

## **Communication and Consultation**

The project group will seek the views of a random selection of council employees and managers to help inform the development of the policy, toolkit and behaviour protocols.

The draft policy will be presented to directorate DMTs and TMT. Comments from the Council's Employment Lawyer and any other specialist stakeholders will also be sought at this stage. In the light of the feedback, the project group will produce a final draft. Formal consultation on the final draft will then take place with representatives of the recognised trade unions, the council's scrutiny committees, the appropriate cabinet members and the council's Staff Consultation Forum.

The new policy will be launched and publicised to all employees.

**Decision-making arrangements**

Following the conclusion of the consultation process, the Director of Strategy & Governance will sign off the new policy and toolkit under delegated powers.

DRAFT

**Appendix B – Extract from the Minutes of the OSC Meeting 02/12/2008**

**BRIGHTON & HOVE CITY COUNCIL**

**OVERVIEW & SCRUTINY COMMISSION**

**4.00PM 2 DECEMBER 2008**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mitchell (Chairman); Pidgeon (Deputy Chairman), Alford, Mrs Cobb, Meadows, Morgan, Older, Randall, Rufus and Watkins

**63. DIGNITY AND RESPECT AT WORK**

63.1 The Head of Human Resources introduced the report on progress in developing an effective approach to bullying and harassment at work. He said the first meeting of the working group was due shortly.

63.2 Answering questions, the Head of Human Resources said this was a low-level issue for the council but where it happened it was not necessarily dealt with effectively. There had been 17 cases this year; two of which had been proven and the employee dismissed. One employment tribunal had taken place, which found in favour of the Council.

63.3 The Chairman said she was disappointed not to see a draft policy at this stage and would like to follow up the matter.

63.4 Noting the proposed consultation process for developing the policy [report paragraph 4.4], the Commission agreed it would be appropriate for Members to be involved at an earlier stage in drafting the policy.

63.5 Following discussion it was agreed that the Commission would establish a short-term scrutiny panel as part of its policy development role. The Head of Human Resources welcomed this.

**63.7 RESOLVED** – (1) That a 4-Member scrutiny panel be established to make recommendations regarding the Draft Dignity and Respect at Work Policy.

(2) That the Acting Head of Scrutiny be notified of group nominations, and progress the establishment of the Scrutiny Panel.



## **Appendix C Dignity at Work ad hoc panel – note of first scoping meeting**

**Panel members:** Cllrs Mitchell (Chairman: **GM**), Elgood (**PE**), Pidgeon (**BP**) and Wakefield-Jarrett (**VW**)

**Also present:** Mark Green (Acting Head of HR: **MG**), Giles Rossington (Scrutiny: **GR**)

- 1.1 PE stated that he was formerly Chair of the Equalities Forum and that the forum had carried out a major piece of work in 2005 Re: bullying in BHCC. This had included interviewing a number of staff members who believed that they were the subject of bullying. A report was presented to P&R and a number of recommendations accepted. However, it's not clear what has subsequently happened to these recommendations in terms of their implementation.
- 1.2 PE noted that the focus of the Equalities Forum report had been relatively narrow, but Cllr Oxley (when leader of the council) suggested that it be broadened to become a Dignity at Work strategy.
- 1.3 GM added that the council's most recent Comprehensive Performance Review had marked the organisation down because of a perceived culture of bullying (or ineffective systems to deal with allegations of bullying). There was therefore a need for Scrutiny members to be assured that the correct remedial steps were being taken.
- 1.4 BP noted that bullying issues sometimes came up at Personnel Appeals and he was concerned that this might be indicative of a systemic problem in the organisation.
- 1.5 GM noted that the Dignity at Work strategy had to be well-communicated to all staff and built in to staff induction. There was a danger that a well-thought out policy could be let down by ineffective communication. VW commented that a key aim of the strategy must be to ensure that the council effectively implements its policies with regard to bullying and harassment.
- 1.6 BP asked why the formation of a Dignity at Work strategy had taken so long? MG promised to come back with an answer.
- 1.7 PE requested that members receive a copy of the 2005 Equalities Forum review + the confidential evidence taken in compiling the review. GR promised to pass these documents on to members.
- 1.8 Members determined to hold a second scoping meeting before going on to collect evidence in public from witnesses. Members also expressed an

eagerness to again take evidence from staff who felt they were being bullied. Such evidence might need to be taken in confidential session.

**1.9** Members requested the following documentation for the second scoping meeting:

- A** A paper on the **development of the Dignity at Work strategy**
- B** Information relating to the 2005 **Equalities Forum** report (i.e. how its recommendations were implemented)
- C** Information on **Personnel Appeals** (i.e. how commonly do allegations of bullying/harassment feature in these appeals?)
- D** Information on **Exit Interviews** (i.e. how does BHCC go about conducting exit interviews? Do the interviews show a pattern Re: bullying allegations?)
- E** Information on **Attrition Rate** (i.e. do we have a large number of staff leaving within a year of taking up a post, and if so, can this be linked to issues relating to bullying?)
- F** Information on **Employment Tribunals** (i.e. do we collate stats on employment tribunals and on the percentage of cases including bullying allegations – especially those where the council is found to be at fault?)
- G** The 2005 **Equalities Forum report + background information** relating to this report (including **confidential evidence**) + details from **P&R** consideration of this issue (2006)

**1.10** Members were also eager to hear from the consultant employed to help with the development of the Dignity at Work Strategy (preferably at the second scoping meeting), and, in due course, from the Cabinet Member for Central Services (who is leading on this initiative).

## Appendix D Dignity at Work: Second Scoping Meeting 21.04.09

### Notes of Meeting

**Present:** Cllr Gill Mitchell (Chair), Cllrs Brian Pidgeon, Vicky Wakefield-Jarrett, Charlotte Thomas (Head of HR), Karen McIvor (consultant for the Dignity at Work strategy), Felicity Scanlon (HR), Giles Rossington (Scrutiny)

**Apologies:** Cllr Paul Elgood

- 1 The Strategy.** Ms McIvor gave a presentation on Dignity at Work.
  - 1.1** Ms McIvor explained that stress can have a major negative impact upon workers, with potentially severe cognitive, behavioural, psychological and physiological effects.
  - 1.2** There is a strong correlation between stress and incidences of bullying and harassment (e.g. workers who experience serious stress-related problems are much more likely to report bullying problems than other workers – esp. so for staff who take sick leave for stress-related reasons).
  - 1.3** Bullying and Harassment, across organisations, is not fundamentally caused by a few ‘bad apples’ or by clashes of personality: it is essentially a structural issue – and can only be improved by focusing on organisational structures. A topical focus on the personality of particular individuals may be effective in terms of resolving isolated cases, but will not lead to improvements across the organisation in the same way that a more systemic approach can.
  - 1.4** Brighton & Hove City Council is currently developing a Dignity at Work strategy which will seek to identify and redress weaknesses in the council’s working structures which can lead to undue stress and bullying/harassment.
  - 1.5** All organisations are different, and a strategy suited to one body will not always be appropriate for others. It is therefore essential for the council to develop its own strategy which is sensitive to the nature of the organisation and its unique pressures.
  - 1.6** A B&H Working Group has been established to develop the B&H strategy. The group includes senior officers from each of the council’s directorates and also has member involvement (Cllr Fallon-Khan).
  - 1.7** The Group will seek to develop the strategy and will then ‘champion’ it, ensuring that it becomes embedded in the council’s working practices. (Without influential figures as champions, the danger is that the strategy is never fully incorporated into the day to day working of the organisation.)

- 1.8** As it develops, the Working Group will involve staff from all parts of the council, and at all levels of seniority. Representatives of 'minority' groups (e.g. BME/LGBT/Disabled) will also be extensively involved in the formation of the strategy, as will the relevant Trade Unions.
- 1.7** The Working Group has used a 'cultural web' to define the shared beliefs, assumptions and behaviours of the council. From here, the Group will begin to establish levels of acceptable behaviour for the organisation and to develop strategies for ensuring that these levels are achieved, and to ensure that any problems are addressed at an early stage.
- 1.8** It is important to identify and intervene in potential bullying/harassment problems at a nascent stage rather than when problems have escalated to become formal complaints, as late intervention can be damaging for the individuals concerned, and also for the organisation (in terms of financial cost from court settlements etc; in terms of negative publicity; and in terms of the impact on other staff of ongoing bullying issues).

## **2 Discussion.**

- 2.1** Members were generally impressed with what they had learnt of the strategy, particularly in terms of its inclusiveness and the fact that it was to be bespoke to the council.
- 2.2** Members agreed that it would be sensible to postpone further ad hoc panel meetings until the council's Dignity at Work strategy had been progressed to a stage where there was a written draft to be considered. This is anticipated to be around October 2009. The Panel will reconvene around this time to consider and comment on the draft strategy.
- 2.3** Members recommended that a number of subjects should be covered by the strategy. These included: involving workers in satellite offices in the development of the strategy; involving the Disabled Workers' Forum; addressing the issue of workers with mental health problems; looking at member/officer protocols. The Head of HR promised to bring these subjects to the attention of the Working Group (there were already plans in place to include all of them in the development of the strategy).

## Appendix E – Draft Dignity and Respect at Work Policy

### Policy Statement

#### 1 Introduction

- 1.1 Brighton & Hove City Council is dedicated to providing a safe, healthy and fulfilling working environment in which everyone feels valued and is treated with consideration, fairness, dignity and respect.
- 1.2 To help us achieve this type of culture, free from bullying and harassment, the council has developed a set of core values. These describe the way we expect people within the council to behave in their everyday dealings with one another.

#### 2 Core Values

- 2.1 The council, as an employer, aspires to the following core values within the workplace:

**R**ecognise and reward achievement

**E**nsure we communicate with integrity, honesty and openness

**S**trive to be the best we can

**P**ut people first

**E**mbrace diversity, respect difference and allow individuality to flourish

**C**ollaborate and work cooperatively with colleagues and provide mutual support

**T**reat people fairly and equitably.

- 2.2 However, these standards alone cannot create and maintain the desired culture. This can only be achieved if everyone, regardless of their role, position, grade or level of seniority within the organisation embraces and personally enacts these behaviours in their day-to-day working relationships.

#### 3 Why have a Policy

- 3.1 There are strong moral, ethical and business reasons for having a policy which encourages positive behaviour and aims to minimise the incidence of bullying and harassment in the workplace.
- 3.2 Bullying and harassment if undetected or allowed to go unchecked can have a devastating effect on the individuals concerned. It can cause fear, stress, anxiety and a range of other physiological and psychological health

issues, low morale and self-esteem. This in turn can have a major impact on the organisation's ability to deliver excellent customer service through:

- reduced individual performance
- increased sickness absence
- increased tension and conflict leading to a decline in team performance
- loss of respect for managers and colleagues
- low morale
- higher staff turnover leading to the loss of productive, skilled and committed people
- difficulty in recruiting
- damage to the council's reputation as a good employer.

3.3 Failure to prevent bullying or harassment in the workplace may also expose the council to a number of legal consequences including breaches of health and safety legislation and claims of unlawful discrimination, unfair dismissal and constructive dismissal. Cases which go to an Employment Tribunal are often time consuming, can be costly and bring widespread bad publicity.

## **4 What are the aims of the Policy**

4.1 The main aims of this policy are to:

- promote a culture where everyone is treated with professionalism, dignity and respect
- encourage positive behaviours (see Appendix 1)
- support a working environment and culture in which bullying and harassment will not be tolerated
- raise awareness of the types of behaviour that may constitute bullying and harassment and the likely consequences of displaying such behaviour
- ensure managers and employees are aware of their responsibilities under this policy to prevent such behaviour
- promote a climate in which employees have the confidence to raise any concerns they may have and know that they will be treated seriously
- provide mechanisms for dealing with incidents when they occur as speedily as possible so as to "nip them in the bud" before matters are allowed to fester and grow.

## **5 Who is covered by the Policy**

5.1 This policy applies to:

- all council employees including those based in schools (with the exception of Faith Schools)
  - casual workers, apprentices, volunteers, work experience placements.
- 5.2 This policy does not apply to instances of bullying or harassment by members of the public, visitors or contractors. These should be reported and dealt with under the council's Violence at Work Policy.

## **6 What are the Roles and Responsibilities under the Policy**

- 6.1 **The council** has a legal duty to create and maintain a safe and healthy working environment for its employees and to protect them from bullying and harassment.
- 6.2 **TMT** is responsible for promoting and championing an organisational culture in which employees can excel at work and fulfil their potential free from any form of bullying, harassment or other unacceptable behaviour.
- 6.3 It is also the responsibility of TMT to ensure that senior managers of the council personally endorse and actively implement this policy within their areas of responsibility.
- 6.4 **Senior managers and line managers/supervisors** are responsible for:
- ensuring that they implement this Policy within their teams and that it is properly communicated and explained fully to all their staff
  - setting standards of appropriate behaviour within their area of responsibility
  - leading by example by displaying positive, professional behaviours in line with the organisation's core values
  - creating and maintaining an inclusive working environment in which bullying, harassment or other unacceptable behaviour will not be tolerated
  - being proactive in preventing bullying and harassment at work by personally challenging inappropriate behaviour
  - ensuring that an individual's behaviour is considered as important as the other competencies required for the job when assessing performance in supervision/appraisal processes
  - being approachable, ensuring regular 1-2-1's and supervision sessions are held with staff to ensure any problems that may be arising within the team are brought to their attention
  - ensuring that all allegations of bullying and harassment are taken seriously and are promptly and properly dealt with in accordance with this policy
  - supporting staff who may feel they are being harassed and bullied

- ensuring that there is no retaliation or victimisation against employees making a complaint or those supporting colleagues to make a complaint under this policy
- investigating complaints when appointed and competent to do so
- conducting facilitated or mediated meetings between staff in conflict when competent to do so.

**6.5 Individual employees** are responsible for:

- making sure they familiarise themselves with the policy and understand it
- their own personal behaviour and for displaying a positive, professional and cooperative attitude in line with the council's core values and the standards set out in this policy
- developing competence in their inter-personal and communication skills to a level appropriate for their role
- not participating in, encouraging, condoning or supporting the bullying or harassment of another person or covering up for, or protecting, an individual who is behaving inappropriately
- challenging inappropriate behaviour whenever it occurs if they feel able
- responding constructively to feedback and advice on their behaviour whether this is from a manager or a colleague
- reporting to their line manager (or senior manager), trade union representative, or Human Resources any incidents of bullying, harassment or other inappropriate behaviour that they experience or witness
- supporting colleagues who may be experiencing bullying or harassment if they feel able
- participating fully in any investigations that may be undertaken
- not bringing claims of unacceptable behaviour maliciously or vexaciously.

**6.6 Trade union representatives** are responsible for:

- making sure they familiarise themselves with the policy and understand it
- accepting that they have an important role to play in helping the council achieve the stated objectives of this policy
- championing respectful and equitable behaviour which will help to create a climate of fairness and cooperation
- assisting their members who have been bullied or harassed, including supporting them in taking their complaints forward
- representing their members who are the subject of a complaint



- highlighting to their members when their behaviour falls short of the standards outlined in this policy.

**6.7 BHCC Workers' Forums** are responsible for:

- making sure they familiarise themselves with the policy and understand it
- accepting that they have an important role to play in helping the council achieve the stated objectives of this policy
- supporting their members who have been bullied or harassed including helping them raise their complaints

**6.8 Human Resources** is responsible for:

- advising staff who believe that they are being bullied or harassed
- advising staff who may be distressed after witnessing bullying or harassment
- advising managers who need to take action on becoming aware that bullying or harassment might be taking place
- appointing and advising investigating managers
- appointing expert mediators as required
- ensuring the effective, fair and consistent implementation of the policy
- monitoring incidents of bullying and harassment and reporting findings to DMTs/TMT on a regular basis
- providing training for managers to equip them with the knowledge and skills to address bullying and harassment issues effectively
- auditing the return rate and content of exit interviews to identify any claims of bullying and harassment and to report these to the appropriate Head of Service for possible further action
- assessing the effectiveness of the policy through reviewing the results of the staff survey on the incidence of staff feeling bullied and/or harassed
- reviewing and amending the policy as necessary.

## **7 What is bullying and harassment**

**7.1** Bullying is defined as:

*“offensive, abusive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, provoke, frighten, intimidate, denigrate or bring discomfort to the recipient.” (ACAS)*

**7.2** Harassment is defined as:

*“unwanted physical, verbal or non-verbal conduct that violates the dignity of people in the workplace or creates an intimidating, hostile, degrading, humiliating or offensive environment.” (ACAS)*

- 7.3 The perception that some forms of behaviour are harmless fun or compliments is not acceptable when they are unwelcome, offensive or not returned.
- 7.4 Key to understanding whether either bullying or harassment has occurred is not whether the conduct was intended on the part of the perpetrator, but whether it was unwanted on the part of the recipient.
- 7.5 The council will not tolerate bullying or harassment at work or outside work if it has an impact on working relationships and any such behaviour may result in disciplinary action which could lead to dismissal.
- 7.6 Examples of the types of behaviour which may constitute bullying and harassment are set out in Appendix 2. This is not an exhaustive list of all behaviour that may be offensive or unacceptable.

## **8 Who can experience bullying or harassment**

- 8.1 Unacceptable behaviour can be experienced by anyone regardless of their gender, age, ethnicity, disability, sexual orientation, religious belief, physical appearance, background or position within the council. Additionally, some people will suffer bullying /harassment because of these factors.
- 8.2 It can occur at any level within the organisation and up, down and across the management structure.
- 8.3 Perpetrators (defined as those people alleged or accused of behaving in unacceptable ways) can be anyone with whom an individual can come into contact at work be it subordinates, peers, colleagues, managers, supervisors, members of the public.

## **9 Performance management**

- 9.1 Line managers are responsible for ensuring that employees who report to them perform to an acceptable standard. Therefore the legitimate, justifiable and appropriate actions taken by a manager in accordance with council policies and procedures to improve an individual's behaviour, attendance, work performance etc. does not constitute bullying or harassment. However, it is acknowledged that some staff may feel anxious or stressed while the procedures are going on.

**10 What is the status of the policy**

10.1 The policy is not contractual but a breach of the policy may lead to disciplinary action.

**11 What is the mechanism for review**

11.1 This policy will be reviewed in 3 years time unless there is a business need to review it earlier.

**12 Links to other policies**

Stress Management Policy  
Disciplinary Procedure  
Code of Conduct for Employees  
Grievance Procedure  
Violence at Work Policy

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### Examples of acceptable behaviour that promote dignity at work

Everyone has a duty to see that dignity and respect are promoted in their dealings with **all** their colleagues, irrespective of whether those colleagues are managers, peers or staff they manage.

The value that is most clearly linked to the promotion of dignity is “respect”. This means staff should display the following behaviours when dealing with one another. The list is not exhaustive.

- use ordinary everyday courtesy and politeness, including using the names that people prefer
- treat people as they would like to be treated
- act with sincerity, integrity, honesty, fairness, impartiality and diligence
- work positively on a collaborative and co-operative basis with others
- give honest feedback based on evidence
- be open to constructive criticism
- do your job to the best of your ability
- do what is reasonably asked of you even if you disagree
- give people encouragement, help and support when they need and want it
- trust and be open with your colleagues
- respect the diversity of cultures, backgrounds, lifestyles and beliefs that people bring to the workplace
- listen to, respect and value the diverse ideas, contributions and opinions of colleagues
- be sensitive to the needs of others
- respect the privacy, confidentiality and personal space of others
- be aware of the effect your behaviour has on others and only make reasonable and manageable demands
- appreciate and praise good work
- actively seek to build productive working relationships and partnerships with people across and outside the council
- challenge inappropriate or unacceptable behaviour in an appropriate manner
- aim to deliver a first class service to customers both internal and external

## Appendix 2

### Examples of the types of behaviour which may constitute bullying and harassment

#### **BULLYING**

Bullying is regarded as a form of harassment and the overlap between the two is significant. They are both an abuse of power, both can have a devastating effect on the recipient and both are completely unacceptable in the workplace.

Bullying is about intimidation – both in public and in private – that undermines competence, effectiveness, confidence and integrity of the individual or group of individuals, gradually wearing them down and possibly making them feel inadequate in their domestic life as well as at work.

Whilst bullying is most commonly associated with an abuse of power, it can occur at any level within the organisation both up and down the management line as well as across the management structure.

The following list is not intended to be exhaustive but it provides some examples of bullying behaviour which the council considers to be unacceptable:

**(a) Undermining an individual's professional ability in front of other staff, for example:**

- spreading malicious rumours/making malicious allegations to undermine the victim's reputation
- persistent negative and inaccurate attacks on a colleague's personal or professional performance
- inaccurate accusations about quality of work
- persistent and undue criticism
- removing responsibilities and stealing credit for work
- setting an employee up to fail and then repeatedly reminding them of blunders
- public humiliation including being shouted at in front of other staff
- devaluing with reference to age, gender, race, disability, religion or belief or sexual orientation
- hurtful verbal comments and name-calling
- teasing which makes employee feel uncomfortable/insulted
- aggressive behaviour e.g. direct verbal or physical threat

- insulting, unco-operative attitude or insensitive jokes or pranks
- unreasonable refusal of requests e.g. leaves, training etc.

**(b) Creating extra work or disrupting an employee's ability to work including:**

- unreasonable over-scrutiny of work
- persistently setting objectives with impossible deadlines or unachievable tasks
- over-monitoring a colleague's performance
- undervaluing a colleague's contribution
- withholding information from an employee so he or she is less able to do the job

**(c) Isolating staff including:**

- being treated as non-existent
- preventing access to opportunities such as training
- being physically isolated from other staff
- excluding colleagues by talking solely to third parties to isolate another.

## **HARASSMENT**

Harassment can be carried out by individuals or groups and can equally be directed at individuals or groups, whether colleagues or subordinates, managers or supervisors. It can refer to an isolated incident or repeated actions.

The unwanted conduct is based on distinguishable 'grounds' such as race, gender, gender reassignment, sexual orientation, age, nationality, ethnic origin, disability, religious/ political beliefs, social background, physical appearance, trade union membership, HIV/AIDS status etc.

Harassment may be deliberate and conscious, but it can also be unintentional. It is possible that someone may not be aware that their behaviour is offensive to others. The essential characteristic of harassment is that it is unwanted, unreasonable and offensive to the recipient and not reciprocated. Broadly speaking it is the recipient's perception that determines what harassing behaviour is to them. It is the effect of the behaviour and not the motives of the perpetrator that is the determining factor. Intention is irrelevant.

Harassment can take the form of:

- physical contact ranging from touching to serious assault

- verbal and written harassment through jokes, offensive language, gossip and slander, songs, letters, based on an assumption or knowledge of a person's sexuality or race, religious, political conviction etc
- visual display of posters, graffiti, inappropriate text or email communications (e.g. "cyber bullying")
- obscene gestures
- coercion ranging from pressure for sexual favours to pressure to participate in political/religious and social groups
- exclusion or isolation (e.g. from normal workplace conversation).

**Specific examples of sexual harassment include:**

- unwanted non-accidental physical contact ranging from unnecessary touching, patting, pinching or brushing against a colleague's body, to assault and coercing sexual relations
- unwelcome sexual advances, propositions or pressure for sexual activity
- continued suggestions for social activity, within or outside the workplace, after it has been made clear that such suggestions are unwelcome
- offensive flirting
- suggestions that sexual favours may further a colleague's career or refusal may hinder it e.g. promotions, salary increases etc
- the display of pornographic or sexually suggestive pictures, objects or written materials e.g. pin-ups, calendars
- leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments
- conduct that belittles or ridicules or is intimidating or physically abusive because of the employee's gender, such as derogatory or degrading abuse or insults which are gender-related and offensive comments about appearance or dress. This may include inappropriate forms of address e.g. 'Love', 'My Dear'
- speculation about an individual's private life and sexual activities.

**NB This list is not exhaustive**

**Specific examples of racial harassment include:**

- insensitive jokes or pranks related to race
- use of threats, abuse, insults, taunts and gibes relating to race
- shunning people because of their race, nationality or ethnic background
- deliberate exclusion from conversations
- making racist insinuations

- being condescending or deprecating about the way ethnic minorities dress or speak
- derogatory remarks, graffiti, jokes
- the display or sending of offensive letters or publications
- use of derogatory nicknames or name-calling
- substituting responsible tasks with menial or trivial ones

**NB This list is not exhaustive**

**Specific examples of harassment based on an individual's actual or perceived sexual orientation:**

- homophobic comments or jokes
- the asking of intimate questions about someone's personal or sexual life
- assumptions that everyone is heterosexual
- assumptions that gay men are HIV positive
- excluding people because of sexual orientation or perceived sexual orientation
- gossip and speculation about someone's perceived sexual orientation
- homophobic graffiti or the displaying or circulating of anti-gay or anti-lesbian material
- offensive actions and physical attack
- making assumptions that any illness experienced by gay men is HIV related

**NB This list is not exhaustive**

**Specific examples of harassment of disabled people:**

- uninvited touching
- exclusion from social events
- speaking to others rather than to the disabled person directly
- asking intimate questions about a person's impairment
- making assumptions about disabled people e.g. that they don't have a social, sexual or private life
- physical abuse or intimidation



- questioning a disabled person's work capacity and/or ability by making inappropriate demands or requirements e.g. over zealous scrutiny of sickness records
- making assumptions or speculating about someone's impairment
- mimicking the effect of a disability or speech impairment
- ostracising, ignoring and staring
- making fun of a disability
- use of inappropriate terms (e.g. cripple, spastic)
- inappropriate personal questions/comments about a disability
- belittling or patronising comments or nicknames

**NB This list is not exhaustive**

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## **Appendix F – Dignity and Respect at Work Policy**

### **Procedure for raising and dealing with unacceptable behaviour**

#### **1 Introduction**

- 1.1 Every individual has a personal responsibility for their own behaviour and for ensuring that it is in line with the standards of acceptable conduct set out in the Dignity and Respect at Work Policy.
- 1.2 Whilst it is expected that every working relationship will be based on mutual trust, dignity and respect, it is acknowledged that there may be occasions when things go wrong and individuals experience unacceptable behaviour from people they work with.
- 1.3 The council recognises that individuals subject to bullying or harassment may be very vulnerable and are often reluctant to complain. This may be because they are too distressed or embarrassed or they may worry that if they report it they won't be taken seriously. They may also be concerned that they may be blamed for provoking the incident or suffer reprisals as a result of making a complaint.
- 1.4 However, if the council is to truly achieve its desire to have a culture based on dignity and respect for all, it is vital that anyone unfortunate enough to experience bullying or harassment makes others aware of their situation. Unless they do so the council is unable to act and the inappropriate behaviour is likely to continue.
- 1.5 The following procedures have therefore been designed to give individuals the confidence to raise any concerns they may have about the way they are being treated. They describe who they can approach for help in deciding how to tackle the situation and set out a number of options on how, with support, they can seek to stop the unwanted behaviour.

#### **2 Aim of these Procedures**

- 2.1 The primary aim of these procedures is to achieve a resolution of any complaint of bullying or harassment so that all those involved can put the matter behind them and begin to work amicably and effectively together.

#### **3 Principles**

- 3.1 Concerns raised about bullying or harassment will be:

- taken seriously and treated confidentially
- dealt with promptly, fairly, consistently and sensitively
- investigated by an independent manager where the complaint is a formal one
- handled in such a way as to minimise the stress and anxiety on those involved
- handled in a way that protects the rights of both the complainant and the alleged bully/harasser.

3.2 The council gives an assurance that:

- appropriate support will be made available to both the person raising the concerns and the individual against whom the complaint is being made
- there will be no victimisation against an employee making a complaint under this policy or against employees who assist or support a colleague in making a complaint
- bullying or harassment will be treated as a disciplinary offence and, where founded, may result in instant dismissal
- disciplinary action may also be considered if a complaint is found to have been made maliciously or in bad faith.

## 4 Incidents involving the Council's Members

4.1 If the complaint relates to the behaviour of an elected member, the matter will be dealt with by the council's Standards Committee having regard to the standards of acceptable behaviour set out in the Members/Officers Code of Conduct.

4.2 Employees who wish to raise a complaint of bullying or harassment against a council Member should, in the first instance, discuss this with their line manager. If an employee feels they need support during this discussion, they can be accompanied by a member of the Human Resources team, another manager, a colleague or a trade union representative.

## 5 Where to go for help if you think you might be being bullied or harassed

5.1 Bullying and harassment are often not clear-cut and sometimes people are unsure whether or not the way they are being treated is acceptable. If this applies to you, you should talk over your worries with someone you feel comfortable to discuss the matter with. This could be your colleague(s), a close friend at work, your line manager (or senior manager if your concerns involve your line manager), trade union

representative, Human Resources, a member of the Workers' Forums, or one of the council's Dignity at Work Advisers. This may help you identify the nature of the issue, the options available to you and the steps you may wish to take if the situation does not improve.

## 5.2 Following these discussions, you may decide:

- to monitor the situation including keeping notes of dates, times of any further "inappropriate" behaviour with a view to seeking further advice within an agreed timescale
- to self refer to the counselling service for appropriate personal and/or health support
- to acknowledge that the issue is not one of bullying or harassment but look at ways to raise your concerns about the way you feel you are being treated
- that the issue may be one of bullying or harassment.

## 6 Resolving unacceptable behaviour

6.1 If you think you have experienced inappropriate behaviour that breaches this policy you don't have to tolerate it. Indeed if you try to ignore or endure the situation, then there is a risk that matters will get worse and as a result it will become more difficult to resolve the problems.

6.2 There is an expectation within these procedures that, except in exceptional circumstances, you will attempt to resolve your concerns informally at a local level in the first instance before resorting to the formal procedure.

## 7 Dignity at Work Advisers

7.1 These are individuals who have been fully trained and equipped to deal with queries about the Dignity at Work Policy. The role of a Dignity at Work Adviser is to listen and understand your situation. It is not to advise you what to do but simply to provide you with impartial information that will enable you to decide for yourself on the course of action that best suits you. Examples might be:

- giving guidance to enable you to deal with the matter yourself. This may include exploring ways of addressing the issue with the perpetrator through an informal process. It might also include suggestions such as logging incidents of harassment
- suggesting that you contact the OH counselling service
- suggesting that you contact your trade union representative

- giving you information on mediation and explaining how it works, and where you can get access to further information and support.
- 7.2 Whilst they are able to provide you with support and assistance during a potentially stressful period, they have no formal role within Disciplinary and Grievance Procedures and are not expected, or trained, to fulfil a professional counselling role.
- 7.3 The Advisers are bound by strict rules of confidentiality. However, should they consider that the law has been breached, they are bound to tell you this and they are duty bound to report the matter accordingly. This action is essential to ensure legal protection for the adviser and the council.
- 7.4 The Dignity at Work Advisers are available to provide support to both individuals who feel they are being bullied or harassed as well as those against whom allegations are being made. However, the same adviser should not support both the individual raising the complaint and the alleged bully/harasser.
- 7.5 A list of the council's trained Dignity at Work Advisers and contact details can be found on the HR intranet site, "People First". You may contact an adviser from a different area of the council from the one you work in if you would prefer.

## **8 Informal action – Self help**

- 8.1 If you feel comfortable enough, seek to resolve the matter through speaking to the alleged perpetrator. The aim here is to stop the behaviour that is causing the problem and agree more acceptable ways of behaving. An approach at this early stage can be very successful in resolving the problem quickly particularly if the behaviour is unintentional or the individual is unaware that their behaviour is causing offence and distress.
- 8.2 So if you feel able to:
- invite the individual whose behaviour is inappropriate to an appropriate and private place to talk
  - make it clear that the discussion is to be treated in strict confidence on both sides
  - describe the behaviour and explain, calmly and politely, why the behaviour offends you, how it makes you feel and that you would like it to stop

- seek an agreement from the individual that the behaviour will stop.
- 8.3 If you feel unable to make this approach on your own you could ask someone to accompany you or to make the approach on your behalf. This could be a trusted friend or colleague, a trade union representative, a member of the Human Resources team, your line manager or another manager.
- 8.4 It is advisable that all parties to any discussion should immediately prepare and keep a detailed note of the nature of the behaviour, the details of the discussion and how it was agreed to resolve the situation.
- 8.5 Although the best way to raise awareness and understanding in any difficult relationship is to talk directly to one another, it is recognised that you may not feel able to do this. If this is the case, you may wish to write a letter to the person concerned setting out:
- your perception of the behaviour and how it made you feel
  - when and where it occurred
  - why you objected to it
  - that you want it to stop and
  - how you expect to be treated in future.
- 8.6 If you decide to adopt this approach, you are encouraged to follow your letter up with an informal meeting wherever possible. You may want to ask someone to accompany and support you in that meeting.

## **9 Mediation**

- 9.1 If the situation cannot be, or is not, resolved through “self-help”, mediation will be offered to the parties concerned. Mediation is an essential part of the informal procedure and will normally be used before resorting to the formal stage unless the council believes that it would not be helpful in resolving the situation.
- 9.2 Mediation can be an effective way of resolving all types of workplace dispute in a confidential and informal way. The process works by an approved, trained, impartial mediator facilitating discussions between the parties and encouraging them to reach a mutually acceptable agreement that will resolve their issues.
- 9.3 Both parties have an obligation to make every effort to try to resolve the issues at this informal stage. This means that they must approach mediation with a positive attitude and participate fully and constructively in the process.

- 9.4 Requests for the Mediation Service should be made to Human Resources. See Appendix 1 for an explanation of the mediation process and Appendix 2 for the model Mediation Procedure.
- 9.5 If mediation is successful in dealing with the issues, the situation should be monitored by the manager (or the line manager's manager if the complaint is against the line manager) to ensure there is no recurrence of the problem and that the complainant does not suffer victimisation for having raised concerns.

## **10 Formal action**

- 10.1 The following procedure will apply if:
- the unwanted behaviour continues after mediation has taken place or
  - the council considers that the informal approach, including using mediation, is inappropriate because of the due to the seriousness/exceptional nature of alleged behaviour.

## **11 Reporting the matter formally**

- 11.1 The council acknowledges that it may be difficult for you to raise a formal complaint and that this is likely to be a very stressful time for you. However, please be reassured that your complaint will be taken seriously and you will be given appropriate support throughout the process.
- 11.2 You may raise the matter formally, in writing (using the Dignity at Work Complaint Form – see Appendix 3) or orally, either in person or with or through a third party, with any of the following:
- your line manager or
  - another appropriate manager (where the complaint is against your line manager) or
  - Human Resources or
  - your trade union representative.
- 11.3 If you make the complaint verbally in the first instance you will be asked to put your complaint in writing as soon as possible.
- 11.4 So that the issue can be dealt with promptly and efficiently you are asked to provide the following information:
- the name(s) of those you are raising the complaint about

- the dates, times of the incident(s) of inappropriate behaviour (where known)
- the specific nature of the alleged harassment/bullying
- a factual description of events
- how each incident made you feel
- the name(s) of any witnesses to any of the alleged incidents
- details of any action that you, or others have taken to try to stop the behaviour.

11.5 It is your personal responsibility to raise the formal complaint and not the person who you may have turned to for help and support. However, you should be aware that in cases where the person supporting you considers that there may have been a breach of the law, they have a responsibility to report the complaint should you decide not to do so.

11.6 The formal complaint should normally be made within three months of the issue(s) that have given rise to the complaint.

11.7 You need to be aware that if you raise a complaint, the alleged “bully/harasser” will be informed about it. This may be difficult for you but a complaint cannot be fully investigated without this happening.

## **12 Acknowledgement of the complaint**

12.1 Anyone receiving a complaint of bullying or harassment must notify Human Resources immediately. The completed Dignity at Work Complaint Form should also be forwarded to HR as soon as it has been received. HR will then write to the complainant to confirm its receipt **within seven calendar days.**

12.2 HR will contact the individual(s) against whom the complaint has been made, and their manager(s), by telephone, to let them know that a complaint has been made and that it is proposed to carry out an investigation into the allegations. This will then be followed up by a letter advising them who will be investigating the matter and who they can approach for help and support throughout the process. A copy of the original complaint will be sent with the letter so that they can see the nature of the allegations against them.

## **13 Investigators**

13.1 Given the sensitive and sometimes complex nature of such cases, only managers who have had specific training in investigating bullying and harassment cases will be chosen by HR to carry out the investigation.



13.2 To ensure independence and impartiality, the investigator appointed will be of an appropriate level of seniority from a different service area within the council and will be someone who is not known to either the complainant or the alleged bully/harasser. The investigator will be supported by a member of HR who, wherever practicable, does not provide dedicated support to that particular service area.

## 14 Investigation

14.1 To minimise the stress and anxiety on all those concerned, investigations will be conducted as quickly as possible taking into account the seriousness and complexity of the case. Depending upon the circumstances of the case, the matter will be investigated under either the council's Disciplinary or Capability Procedure. The investigation should be **completed within four weeks** of the complaint being received by HR. If this time limit is exceeded, the complainant should be advised of this and given an explanation.

14.2 It may be necessary during the course of the investigation for the parties of the complaint to refrain from working together. This may involve suspending and/or transferring a member of staff to protect them, protect others or to aid the investigation.

14.3 Decisions on the appropriate course of action to take will be made by the investigator and HR having regard to the circumstances of the case. Any decision to suspend or move an individual will be without prejudice to the investigation or any further formal action that may be taken as a result of the complaint. Neither party will suffer a loss of pay or detriment to other terms and conditions as a result.

14.4 Everyone involved including the complainant, the alleged harasser and any witnesses will be entitled to the same degree of support and fair, impartial and respectful treatment during the course of the investigation.

14.5 Throughout the process the complainant, alleged harasser or witnesses will have the right to be accompanied by a trade union representative. Where they are not in a trade union they may be accompanied by a work colleague.

14.6 The matter will be dealt with in complete confidence and both the alleged perpetrator(s) and the complainant will be kept informed throughout the process on what is happening and the likely timescales involved.

## **15 Outcome of the investigation**

15.1 Upon completion of the investigation, the investigating manager and HR will come to a view as to whether the complaint is founded or not. They will give a detailed response in writing to the complainant, the alleged bully/harasser and the latter's line manager outlining the results of the investigation and what action, if any, it is proposed to take in respect of the complaint.

15.2 Examples of possible outcomes are as follows:

### **(a) No case to answer**

- i) If the investigation finds that there is no case to answer the complainant and alleged perpetrator will be given a copy of the investigation report and provided with verbal feedback on the outcome of the complaint that will later be confirmed in writing. Normally this feedback meeting will be chaired by the investigating manager with HR present.
- ii) Where the investigating manager decides that the allegations in the complaint are unfounded or malicious, the complainant will be subject to action under the council's Disciplinary Procedure

### **(b) A case to answer**

If the investigation finds evidence to support the allegation(s), then a disciplinary hearing will be convened under the council's Disciplinary Procedure. Bullying or harassment that is found to constitute gross misconduct will result in the instant dismissal of the perpetrator. The outcome of the hearing will be notified to the complainant and the alleged bully/harasser's line manager.

## **16 Follow up action**

16.1 In order to ensure staff have confidence in these procedures for dealing with bullying and harassment issues, consideration should be given, subject to the constraints of confidentiality, to informing those with whom the individuals work of the outcome of the complaint.

16.2 In addition, the appropriate line manager (provided they were not personally involved in any allegations) must make sure that the situation in the workplace has been resolved. This is particularly important in cases where the alleged perpetrator remains in employment.

- 16.3 This means keeping in regular contact with the individuals involved to see how they are coping and making sure that there has been no victimisation against the complainant and/or witnesses. Victimisation against a complainant and/or witness will result in formal disciplinary action.
- 16.4 The manager may also wish to discuss with HR whether a team building programme, further mediation or other action might be helpful in facilitating a return to amicable and effective working relationships between those involved.
- 16.5 If the matter is still causing concern, then the manager should discuss the situation further with HR on how best to resolve the issues. Consideration could be given to:
- further mediation
  - moving one of the parties to a different location or redeploying them to another job – this would normally be the perpetrator but in some instances it may be necessary to move the complainant. Wherever practicable the complainant should be given first choice.
  - training or counselling for either or both parties or
  - in some instances, further formal action.

## **17 Appeal Procedure**

- 17.1 If the complainant is dissatisfied with the outcome of the investigation, there is a right of appeal against the decision through the council's Grievance Procedure.
- 17.2 Appeals must be made **within seven calendar days** of receiving written confirmation of the outcome of the investigation.
- 17.3 If the alleged harasser wishes to appeal against disciplinary action taken as a result of any subsequent Disciplinary Hearing, the appeals procedure under the Disciplinary Procedure should be used.

## **18 Incidents involving the council's customers**

- 18.1 Where a customer or supplier makes a complaint of bullying or harassment against an employee, the employee's line manager should make enquiries in the first instance in line with the Council's Complaints Procedure. As a result of enquiries made, action may be taken under the Council's Disciplinary Procedure.

- 18.2 An employee who experiences bullying or harassment by a member of the public, contractor or supplier should notify their line manager immediately and record the incident on the Violence at Work form. The matter should then be investigated under the Violence at Work Policy.

## **19 Counselling and other sources of support**

- 19.1 Facilities for counselling are available through the council's occupational health service. Employees may either self refer or ask their line manager or HR to refer them. Counselling is available both for employees who feel they have been harassed and those against whom harassment has been alleged.
- 19.2 Additional help and support can be obtained by ringing the **National Bullying Helpline on 0845 22 55 787**. The helpline is open Monday – Friday 10 am – 4 pm and Saturday 10 am – 2 pm.

## **20 Confidentiality**

- 20.1 It is absolutely essential that anyone involved in making or dealing with a complaint respects its strictly confidential nature. All complaints will be handled and investigated in a confidential manner and information about the allegation(s) will only be released to those people directly involved in the matter. This includes the person about whom the complaint has been made. Any breaches of confidentiality by any party involved will be dealt with under the council's Disciplinary Procedure.

## **21 Data Protection**

- 21.1 The Data Protection Act 1998 sets out certain requirements for the protection of personal information against unauthorised disclosure. The council fully complies with this Act and any personal information provided will be used solely for the reasons stated in this policy and will be kept in accordance with the requirements of the Act.

## Workplace Mediation

### What is workplace mediation?

Workplace mediation is a confidential and informal way to resolve disagreements or disputes between people who work together. The process is assisted by a trained mediator who acts as a facilitator. The process works by encouraging the parties to speak to each other and reach a mutually acceptable agreement that will sort out their problems. It gives the parties a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. The dispute could be between two or more people.

### Mediation is:

**Voluntary** – It cannot work unless all parties agree to mediation. It is therefore essential that the parties are not put under pressure to attend mediation or feel that it will count against them if they decide not to participate.

**A means for reaching agreement** – The parties will be asked to identify their issues and concerns and from this an agenda will be set to help them jointly work towards an acceptable agreement. The mediator will encourage open communication and will help the parties to generate options and ideas that will improve the situation. The aim of mediation is to achieve a win/win outcome with the parties taking responsibility for making changes and agreeing a more positive way of working for the future.

**Confidential** – The process is carried out on the basis of agreed confidentiality between the parties and the mediator. The exception to this would be if a party raised issues of harm to self or other issues of serious misconduct. The content of mediation is not fed back to Human Resources or managers, nor is it recorded on an employee's personal file. However, the parties may find it helpful to share some or all details of their agreement with people outside of the process.

**Quick** – The aim of mediation is to resolve issues at the earliest opportunity. Mediation will be arranged as soon as practicable and the process can usually be completed in one or two days.

## **What types of disputes can be resolved through Workplace Mediation?**

Mediation can be an effective method of resolving all types of workplace disputes. These could include:

- Communication issues
- Personality clashes
- Unresolved or ongoing grievance issues
- Perceived discrimination, harassment or bullying
- Difference of working style or approach
- Inappropriate use of power, status or position

## **What is the mediator's role?**

The mediator's role is to act as an independent and impartial facilitator. They will not take sides or judge what is right or wrong. They will coordinate the process by making sure that each party has an equal voice, is heard and is able to respond. They will obtain an agreement of willingness to undergo the mediation from each party before the process begins and will also establish the ground rules and ensure that all parties comply with these.

The mediator will encourage the parties to discuss their issues of concern and help them look for realistic solutions. Where appropriate, the mediator will assist the parties to draw up a mutually acceptable agreement that can be signed by all parties.

The parties can talk to the mediator openly because he or she will not pass on anything said without the agreement of the person who said it.

## **How is a mediator allocated**

The council will normally be using external mediators to help resolve its workplace issues.

## The Model Mediation Procedure

### Stage One

The mediator will meet with the parties individually to:

- explain the mediation process, including confidentiality, and the role of the mediator and
- explore the core issues and identify the ideal outcome for both parties.

The mediator may need to meet with either or both parties on more than one occasion to clarify any further issues arising from Stage One.

### Stage Two

This involves face-to-face mediation. The mediator will ensure that a suitable venue has been arranged where there will be no interruptions and confidentiality can be maintained.

#### **a) *Setting the scene:***

The mediator will:

- welcome the participants
- explain that the purpose of mediation is to enable the parties to make agreements about how they will work together in the future
- outline their own role i.e. to ensure the ground rules are adhered to and to facilitate the process that enables the parties to talk together and make their own mutual agreements
- check to make sure there is a willingness to participate
- explain the ground rules. These include the following: -
  - treating each other with courtesy, dignity and respect
  - remaining seated and listening to each other's views during the session
  - ensuring that the discussions within the session remain confidential
  - being clear that the mediation session is without prejudice and may not be used in any formal proceedings

- those participating in the mediation process will be treated on an equal basis.

**b) Uninterrupted time:**

The purpose of this session is to hear each person's perspective on the situation.

- Each person explains in turn what has been going on and how it is affecting them.
- Each person is given the opportunity to express their side of the problem fully without intimidation or challenge. It is a condition of the mediation contract that during this time, everyone listens to one another without interrupting.

At the end of the session an agreement is reached on the issues to be explored and discussed further.

**c) Exchange:**

The focus of this session is on exploring the issues with the parties and identifying each individual's concerns.

- each person may respond to the issues, accusations and questions raised by the other party(ies). The mediator will encourage:
  - open, honest communication between the parties
  - a mutual understanding of the issues
  - the development of mutual trust and confidence between the parties
  - a change of focus from the past to the future.

At the end of the session, the mediator will summarise the areas of consensus and disagreement and will identify those issues which have potential to be resolved through the mediation process.

**d) Building an agreement:**

The mediator will facilitate a discussion with a view to building specific proposals for resolving the main issues identified at the previous stage. The focus will be on ways of behaving differently in the future. This will involve encouraging the parties to:

- problem solve



- generate and assess options
- accept or acknowledge conciliatory gestures
- construct a mutually acceptable agreement for a more positive way of working for the future and create fall back arrangements and
- identify what happens next if no agreement can be reached.


e) ***Closure and Follow Up:***

The mediator will support the parties to:

- clearly understand the outcome(s) of the mediation process
- write down in clear, unambiguous language any agreement (where this is reached) and both parties will be asked to sign it. A review date may be included in the agreement.
- reach an agreement about who retains copies of the agreement (e.g. the parties or some other individual) and
- remember the confidential nature of the process.

Any agreement reached through mediation is not legally binding (although it is hoped that the parties will treat the agreement as 'morally binding') and any information shared by the parties is not used in any subsequent formal procedures due to the confidential nature of mediation. Notes made by the mediator are not kept or used beyond the mediation process. The only document to leave the mediation process is the agreement.

If mediation does not resolve the issues, staff can still choose to follow the formal procedures. If mediation takes place during any formal procedure, the procedure will usually be put 'on hold' pending the outcome of mediation.

|  |                 |   |  |
|--|-----------------|---|--|
|            |                 | <h2>Dignity at Work Complaint Form</h2> |  |
| Directorate:   |                 |   |  |
| Job Title:   |                 |   |  |
| Line Manager:  |                 | Work location:                          |  |
| Address for correspondence:  | e-mail address: | Work telephone:                         |  |
|  |                 | Home telephone:                         |  |
| Name of Person TO WHOM complaint is being made e.g. manager                                |                 |   |  |
| Name of Individual(s) AGAINST WHOM complaint is being made                                 |                 |   |  |
| Name of individual who will accompany you to meetings (if known) and their contact details |                 |   |  |
| Specific details/ nature of complaint. Please use additional sheets if necessary           |                 |   |  |

List any steps you have taken so far to try to resolve the issue together with the dates

Employee's Signature: .....

Print name here: .....

Date signed: .....

Please be aware that action can only be taken if the complaint is signed by the person making the complaint

***The person receiving this complaint should forward it immediately to: Assistant Director Human Resources, 4<sup>th</sup> Floor, King's House, Grand Avenue, Hove, BN3 2LS.***

DRAFT