

## **SUPPLEMENT – Agenda Item 5 Appendix 1**

# **Agenda**

## **Corporate and Communities Overview and Scrutiny Panel**

**Tuesday, 3 September 2019, 1.00 pm  
County Hall, Worcester**

All County Councillors are invited to attend and participate

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## DISCLOSING INTERESTS

There are now 2 types of interests:  
**'Disclosable pecuniary interests'** and **'other disclosable interests'**

### WHAT IS A 'DISCLOSABLE PECUNIARY INTEREST' (DPI)?

- Any **employment**, office, trade or vocation carried on for profit or gain
- **Sponsorship** by a 3<sup>rd</sup> party of your member or election expenses
- Any **contract** for goods, services or works between the Council and you, a firm where you are a partner/director, or company in which you hold shares
- Interests in **land** in Worcestershire (including licence to occupy for a month or longer)
- **Shares** etc (with either a total nominal value above £25,000 or 1% of the total issued share capital) in companies with a place of business or land in Worcestershire.

**NB Your DPIs include the interests of your spouse/partner as well as you**

### WHAT MUST I DO WITH A DPI?

- **Register** it within 28 days and
- **Declare** it where you have a DPI in a matter at a particular meeting
  - you must **not participate** and you **must withdraw**.

**NB It is a criminal offence to participate in matters in which you have a DPI**

### WHAT ABOUT 'OTHER DISCLOSABLE INTERESTS'?

- No need to register them but
- You must **declare** them at a particular meeting where:  
You/your family/person or body with whom you are associated have a **pecuniary interest** in or **close connection** with the matter under discussion.

### WHAT ABOUT MEMBERSHIP OF ANOTHER AUTHORITY OR PUBLIC BODY?

You will not normally even need to declare this as an interest. The only exception is where the conflict of interest is so significant it is seen as likely to prejudice your judgement of the public interest.

### DO I HAVE TO WITHDRAW IF I HAVE A DISCLOSABLE INTEREST WHICH ISN'T A DPI?

Not normally. You must withdraw only if it:

- affects your **pecuniary interests** **OR** relates to a **planning or regulatory** matter
- **AND** it is seen as likely to **prejudice your judgement** of the public interest.

### DON'T FORGET

- If you have a disclosable interest at a meeting you must **disclose both its existence and nature** – 'as noted/recorded' is insufficient
- **Declarations must relate to specific business** on the agenda
  - General scattergun declarations are not needed and achieve little
- Breaches of most of the **DPI provisions** are now **criminal offences** which may be referred to the police which can on conviction by a court lead to fines up to £5,000 and disqualification up to 5 years
- Formal **dispensation** in respect of interests can be sought in appropriate cases.

## **Corporate and Communities Overview and Scrutiny Panel Tuesday, 3 September 2019, 1.00 pm, County Hall Worcester**

### **Membership**

#### **Councillors:**

Mr A D Kent (Chairman), Mrs M A Rayner (Vice Chairman), Mrs A T Hingley, Mr R J Morris, Mr J A D O'Donnell, Prof J W Raine, Mr A Stafford, Mr R P Tomlinson and Mr R M Udall

### **Agenda**

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# Bullying and Harassment

Human Resources & Organisational Development

## 1. Introduction/Statement of Commitment

- 1.1. The County Council commits to ensure employees are treated with dignity and respect in a working environment free from bullying, harassment or discrimination. The Council will not tolerate bullying, harassment or discrimination.
- 1.2. This policy seeks to ensure all employees and managers are aware of their responsibilities and that allegations of bullying or harassment are taken seriously, dealt with promptly, confidentially and appropriate action taken. This includes potential referral to the Managing Conduct procedure for gross misconduct grounds, the outcome of which could be summary dismissal.

## 2. Scope

- 2.1. This policy applies to all employees except centrally employed teachers, school-based teachers and support staff in schools or where an employee's contractual terms and conditions provide otherwise.
- 2.2. This policy does not apply where an elected member is the subject of a bullying and harassment allegation. The concern should be raised confidentially with the Head of Democratic and Legal Services and Monitoring Officer.
- 2.3. This policy and procedure can be used by a recognised trade union to raise a bullying or harassment concern on behalf of more than one named employee (known as a collective bullying or harassment complaint) or by a spokesperson for a group of employees where they are either not members of the union or do not wish to involve the union. Form GP3 should be used.

## 3. Equality and Diversity

- 3.1. Equality and diversity underpin all County Council employment policies, procedures and practices. The Council actively promotes equality of opportunity and values diversity among its employees. The potential equality impact of this policy has been assessed.

## 4. Principles

- 4.1. The ethos of this policy, that employees are treated with dignity and respect in the workplace free from bullying and harassment, applies to all employees in scope irrespective of their position or status.
- 4.2. All managers and employees are required to familiarise themselves with the provisions and expectations of this policy, supporting a positive work environment free from harassment and bullying and responsible for ensuring they meet their responsibilities (see below).

- 4.3. This policy applies not only to behaviour in the workplace but also those activities undertaken outside the workplace e.g. business trips, training courses, work related social activities and social media e.g. Facebook, WhatsApp.
- 4.4. Employees who make a complaint under this policy in good faith will not suffer any less favourable treatment, retaliation or victimisation. Any employee who feels that they have suffered such treatment should raise this with an appropriate manager or HR Operations Case Team - allegations will be dealt with under the Managing Conduct Policy.
- 4.5. It may not always be appropriate for a line manager to be involved with specific complaints.
- 4.6. Given the seriousness of an accusation of bullying or harassment, if a complaint has been falsely made or has been made in bad faith, the employee making the complaint may be subject to action under the Council's Managing Conduct Policy.
- 4.7. Where an investigation is necessary, in the interest of both parties and working relationships during a difficult time, consideration may be given to either party transferring to alternative role or, if absolutely necessary, suspension from work during the investigation. Advice should be sought from the HR Operations Delivery Manager.

## 5 Definitions

The words bullying and harassment are often used interchangeably in the workplace. The impact on the individual can however be the same. Harassment and bullying which amounts to conduct defined as harassment in the Equality Act 2010, could ultimately result in a complaint to an Employment Tribunal.

### 5.1 **Harassment:** Under the Equality Act 2010, harassment is

‘... unwanted conduct which is related to a relevant protected characteristic which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile or degrading, humiliating or offensive environment for that individual’.

5.2 The relevant protected characteristics in respect of harassment are age, disability, gender reassignment, race, religion or belief, sex, sexual orientation. (Note: Whilst marriage and civil partnership, pregnancy and maternity are not protected characteristics directly under the harassment provisions of the Equality Act, pregnancy and maternity harassment would amount to harassment related to sex, and harassment related to civil partnership would amount to harassment related to sexual orientation).

5.3 To make a complaint of harassment, the complainant doesn’t need to possess the relevant characteristic themselves; it can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do.

### 5.4 **Bullying:** ACAS defines bullying as

‘...offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient’.

## **6 When does bullying and harassment occur?**

6.1 A single incident may amount to bullying or harassment - It does not have to be a series of events.

6.2 Bullying and harassment may not necessarily be face to face but may occur through written communications, visual images, email, phone, through social media and by exclusion.

6.3 The following are examples of behaviour that may constitute bullying or harassment:

- Any form of unjustifiable discrimination harassment, threatening or bullying behaviour on the grounds of race, sex/gender, sexual orientation, marital status, disability, age, religion or belief, whether or not the subject of current legislation
- Picking on or regularly undermining someone; setting them up to fail.
- Denying or preventing someone's training or promotion opportunities.
- Copying memos/emails that are critical about someone to others who do not need to know.
- Offensive, abusive or intimidating comments, insensitive jokes or pranks, derogative or stereotypical remarks.
- Sexual jokes, comments or gestures.
- Displaying or distributing pornographic material, abusive literature or graffiti or other material that some people may find offensive.
- Deliberately excluding or victimising someone from conversations, work activities or activities outside work.
- Unwelcome sexual advances or suggestive behaviour.
- Unwanted physical contact including touching, kissing, pinching, grabbing.
- Ridiculing, humiliating or belittling someone.
- Inappropriate remarks about someone's performance or making threats about job security without any foundation

*Note: this list is not exhaustive*

6.4 It is the employee's perception of whether the conduct in question was unacceptable in the circumstances of the case and it is not the intention but the end impact that is important. What one employee may find acceptable, another may not and therefore all employees should ensure that they treat their colleagues with respect. Also, it is not necessarily that the behaviour in question was directed at the employee, bullying or harassment can include behaviour which creates an intimidating and offensive environment for those who witness that behaviour.

6.5 Where an employee has been subjected to legitimate and reasonable feedback on their performance or conduct, this in itself will not amount to bullying or harassment.

## **7 Complaints by or against Third Parties**

7.1 Bullying or harassing of employees by visitors to the council will not be tolerated and managers are expected to address any concerns should they arise in accordance with the operational service standards/risk assessments and processes set for that area of the council.

7.2 Where there is an allegation of bullying or harassment against a third party e.g. a customer, supplier or visitor. In this case, the complaint should be made to their line manager who will then discuss with the employee how best to deal with the situation. The Council will act to provide full support to the employee in this situation.

## **8 Right to be accompanied**

- 8.1 Employees have the right to be accompanied by a work colleague or trade union representative at a formal meeting and/or appeal meeting to discuss a bullying and/or a harassment complaint.
- 8.2 The companion is allowed to address the formal meeting, to put and sum up the employee's case, respond on their behalf to any views expressed at the formal meeting and confer with them during the formal meeting. They may also request an adjournment and ask questions of anyone present. The companion does not have the right to answer questions on the employee's behalf, address the formal meeting if the employee does not wish it or prevent the employer from explaining their case.
- 8.3 A formal meeting and/or appeal should not be unreasonably delayed because their chosen companion is unavailable. If an employee's companion is not available at the time a meeting is scheduled, the meeting can be postponed to a time proposed by the employee providing the alternative time is reasonable and not more than five working days after the date originally proposed. If the companion is not available for more than 5 working days afterwards, the County Council may ask the employee to choose someone else.
- 8.4 Consistent with the fact that formal meetings and hearings are internal proceedings, external representatives such as solicitors or family members will not usually be permitted to attend.
- 8.5 Whilst there is no formal right to be accompanied where an employee is interviewed as part of an investigation into any concerns, the council will support an employee's request that they are accompanied by a work colleague or trade union representative providing their availability does not unreasonably delay the interview.
- 8.6 Companions should not have had any prior involvement in the case.

## **9 Managers' Responsibilities**

- 9.1 Every manager:
  - must ensure all employees reporting to them understand this policy and that it is adhered to in order to prevent bullying or harassment
  - must deal with behaviours that are in breach of this policy, with advice from the HR Operations Case Team, ensure they take sensitive and prompt action once it has been identified, whether or not a complaint has been made formally or informally.
  - be responsive and supportive to any employee who raises a complaint of harassment or bullying with appropriate support from HR Operations Case Team
- 9.2 It is important that managers recognise that sexual harassment is any unwanted sexual advance or behaviour which causes offence to the recipient. Similarly, racial harassment is behaviour which is racially offensive to the recipient. Managers must take care to ensure that they do not pre-judge situations.

## **10 Employees' Responsibilities**

- 10.1 All employees are expected to treat their colleagues with respect and adhere to this policy
- 10.2 Every employee has a personal responsibility not to bully or harass other members of staff.
- 10.3 An employee who becomes aware of bullying or harassment occurring should bring the matter to the attention of their manager as soon as possible after it has happened before memories fade.

## **11 Procedure - Informal action**

- 11.1 An employee who feels that they are being subjected to bullying, harassment, discriminating or unfair treatment, may attempt to resolve the matter informally in the first instance. This might include explaining clearly to the person(s) engaged in the unwanted activities that their behaviour is unwelcome, unacceptable, or is causing offence, or makes them uncomfortable and request that the behaviour stops.
- 11.2 It is recognised that sometimes an individual may not be aware how their behaviour or conduct is impacting on another individual. Making that individual aware may be sufficient to stop the bullying or harassment.
- 11.3 An employee can choose to raise the matter informally and directly with the offending employee. If the employee finds this too difficult or embarrassing, they may wish to be accompanied by a friend/colleague, or who may make representations to the offending employee on their behalf.
- 11.4 Alternatively, the employee may seek advice and/or support from HR Operations Case Team representative, a manager or a trade union representative on other possible approaches.
- 11.5 The employee may wish to seek counselling, advice or seek mediation support via the HR Operations Case Team.

## **12 Procedure - Raising Complaints Formally**

- 12.1 Where it hasn't been possible to resolve issues informally or where the employee is uncomfortable raising it informally, they should raise their complaint in confidence with their manager, or a member of the HR Operations Case Team or their trade union representative for advice and assistance. If their manager is the subject of their complaint, or they would be more comfortable raising the matter with someone else (e.g. someone of the same sex), employees should raise their complaint with a more senior manager.
- 12.2 The employee should set out the details of the complaint in writing confirming (using Form BH1 in the Staff Handbook on Our Space):
  - the name of the alleged bully/harasser,
  - the nature of the behaviour and if possible outlining specific examples
  - the dates and times of when the bullying or harassment took place,
  - the names of any witnesses or other individuals they believe to have been subject to the same behaviour
  - what action, if any, they have taken to date to seek to address the issue.
  - what outcomes they might be looking for.
- 12.3 The manager must notify the HR Operations Case Team so appropriate support can be provided and the appropriate senior officer (e.g. Chief Executive, Director or Head of Service) made aware of the situation to ensure that all appropriate action is taken to address the particular circumstances. Where an allegation is made against an elected member, the Head of Legal and Democratic Services will be informed.
- 12.4 The manager should arrange a meeting to discuss the matter without unreasonable delay and usually within 5 working days in line with the Formal Meeting Guide. The purpose of this meeting is for the employee to explain their complaint in more detail and what outcome they are seeking and how they think it should be resolved. The invitation to the meeting should confirm the employee's right to be accompanied.
- 12.5 Where management considers that there may be evidence of bullying or harassment, they may need to undertake a full investigation. Investigations will be dealt with as confidentially

and sensitively as possible and will involve meeting with the alleged bully or harasser to give an opportunity to respond to the allegation. The nature and complexity of the complaint and the number of interviews that need to be conducted will impact on the length of time required to undertake an investigation. Due reference will be made to the Investigation Guide.

- 12.6 The employee must be assured that they will not be discriminated against or victimised for raising the complaint. Confidentiality will be observed throughout the investigation and the need for any disclosure of the details of the case will be discussed and agreed.
- 12.7 The manager must keep the employee informed of the progress of the investigation.
- 12.8 Once the investigation has been completed, the manager will call a further meeting with the employee to discuss the outcome and what action, if any, will be taken as a result. The outcome will be confirmed in writing within 5 working days.
- 12.9 A separate meeting will also be arranged with the alleged bully/harasser to advise them of the outcome of the investigation.
- 12.10 Where it is believed that bullying or harassment has taken place, the matter will usually be referred to the Council's Managing Conduct Policy.
- 12.11 Parties involved should be offered support, counselling and/or mediation as appropriate to accommodate 'continuance' of working relationships or a return to work.

### **13 Procedure - Appeals Process**

- 13.1 Employees who feel their bullying or harassment complaint has not been satisfactorily resolved have the right to appeal. Appeals will be heard by a more senior manager (i.e. the next level up). Appeals should be raised with the next level of manager (i.e. the manager's manager) within 5 working days of receiving the letter confirming the outcome.
- 13.2 The appeal must be in writing to the HR Operations Delivery Manager using form AP1 and set out grounds of the appeal.
- 13.3 The Appeal Manager will arrange a meeting to discuss the matter as soon as possible in line with the Formal Meeting Guide.
- 13.4 On the basis of the information provided in the appeal meeting, the Appeal Manager will consider the grounds for the appeal and whether the outcome of the original bullying or harassment investigation was appropriate. The outcome of the appeal may be to overturn or confirm the original decision or apply a different resolution. The outcome of the appeal meeting will be confirmed in writing within 5 working days.
- 13.5 A decision at this stage of the internal procedure is final.

### **14 Further Advice**

- 14.1 For further advice, please contact the HR Operations Case Team.

<b>Policy history:</b>	
Issued:	10 September 2018
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