

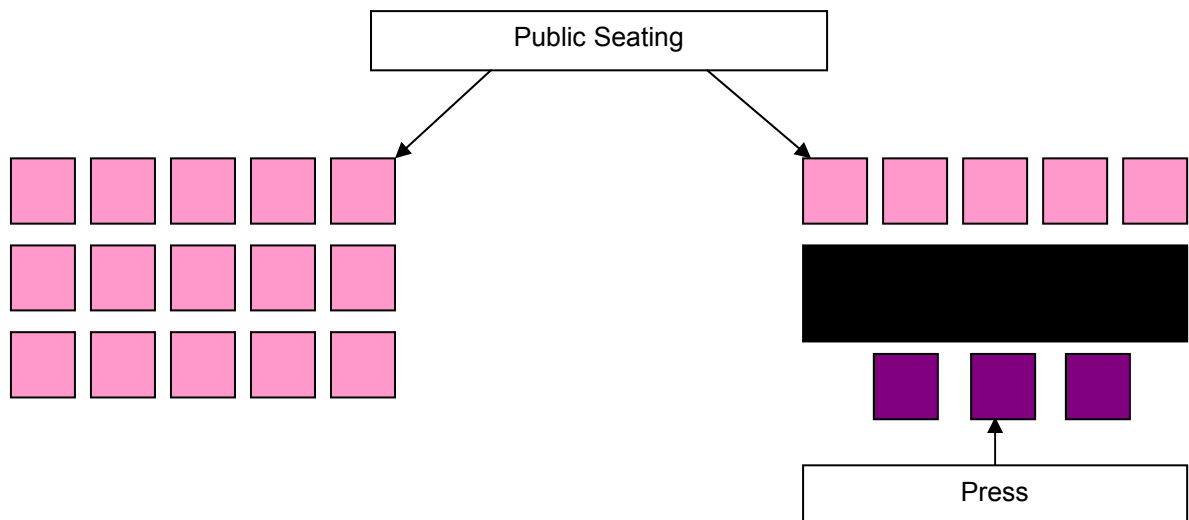
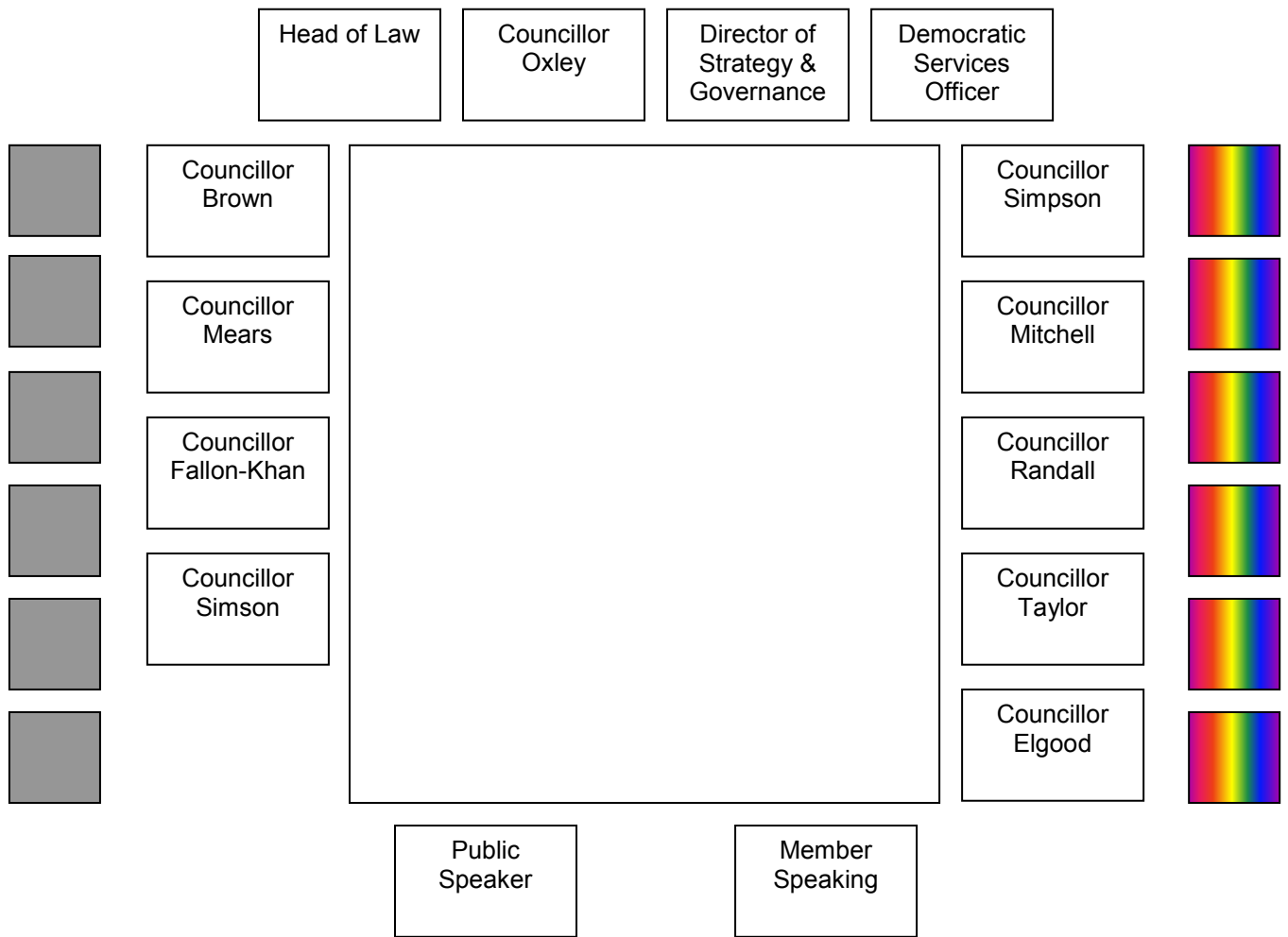
Brighton & Hove
City Council

Governance Committee

Title:	Governance Committee
Date:	13 July 2010
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Oxley (Chairman), Simpson, Brown, Elgood, Fallon-Khan, Kennedy, Mears, Mitchell, Randall and Simson
Contact:	Tanya Massey Senior Democratic Services Officer 29-1227 tanya.massey@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

1. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

2. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 27 April 2010 (copy attached).

3. CHAIRMAN'S COMMUNICATIONS

4. CALLOVER

NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.

5. PETITIONS

No petitions received by date of publication.

6. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 6 July 2010)

No public questions received by date of publication.

GOVERNANCE COMMITTEE

7. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 6 July 2010)

No deputations received by date of publication.

8. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

No written questions, letters or Notices of Motion were submitted by Councillors for the meeting.

9. UPDATE ON IMPLEMENTATION OF GOOD GOVERNANCE RECOMMENDATIONS 9 - 16

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Abraham Ghebre-Ghiorghis *Tel:* 29-1500

Ward Affected: All Wards;

10. STRENGTHENING COMMUNITIES REVIEW – PROGRESS UPDATE 17 - 20

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Nicky Cambridge *Tel:* 29-6827

Ward Affected: All Wards;

11. DIGNITY & RESPECT AT WORK POLICY 21 - 126

(a) Report of the Director of Strategy & Governance (copy attached).

(b) Draft extract of the Cabinet meeting held on 17 June 2010 (copy attached).

Contact Officer: Charlotte Thomas *Tel:* 29-1290

Ward Affected: All Wards;

12. PETITIONS 127 - 148

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Elizabeth Culbert *Tel:* 29-1515

Ward Affected: All Wards;

13. CIVIC AWARENESS COMMISSION: TERMS OF REFERENCE 149 - 152

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Mark Wall *Tel:* 29-1006

Ward Affected: All Wards;

14. SOUTH DOWNS NATIONAL PARK AUTHORITY - DELEGATION OF DEVELOPMENT CONTROL FUNCTION TO CONSTITUENT AUTHORITIES 153 - 178

GOVERNANCE COMMITTEE

Report of the Director of Environment (copy attached).

Contact Officer: Rob Fraser

Tel: 01273 292380

Ward Affected: All Wards;

15. MANDATORY DEVELOPMENT FOR PLANNING COMMITTEE 179 - 186

Joint report of the Director of Environment and the Director of Strategy & Governance (copy attached).

Contact Officer: Caroline Banfield,
Jeanette Walsh

Tel: 29-1126, Tel: 29-
2995

Ward Affected: All Wards;

16. REPLACEMENT BOARD MEMBER FOR BRIGHTON & HOVE SEASIDE COMMUNITY HOMES LTD. 187 - 190

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Oliver Dixon

Tel: 29-1512

Ward Affected: All Wards;

17. PART TWO MINUTES OF THE PREVIOUS MEETING 191 - 192

Part Two Minutes of the meeting held on 27 April 2010 (copy attached).

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Tanya Massey, (29-1227, email tanya.massey@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 5 July 2010

GOVERNANCE COMMITTEE

Draft Governance Committee Work Plan – 2010-11

	Agenda Item	Lead Officer
	Meeting Tuesday 21 September 2010	
	Chairman's Communications	
1	Administrative Boundary Review - Saltdean	Oliver Dixon
	Meeting 16 November 2010	
	Chairman's Communications	
1		
2		
	Meeting 1 February 2010	
	Chairman's Communications	
	Future reports – dates to be decided	
1	Byelaws – detailed report following publication of regulations	Oliver Dixon
2	Whistleblowing – progress report	

BRIGHTON & HOVE CITY COUNCIL**GOVERNANCE COMMITTEE****4.00PM 27 APRIL 2010****COMMITTEE ROOM 3, HOVE TOWN HALL****MINUTES**

Present: Councillors Oxley (Chairman), Simpson (Deputy Chairman), Brown, Fallon-Khan, Mears, Simson, Taylor, Kitcat, Marsh and Watkins

PART ONE**91. PROCEDURAL BUSINESS****91a Declaration of Substitutes**

91a.1 Councillor Marsh declared that she was present as a substitute for Councillor Mitchell.

91a.2 Councillor Watkins declared that he was present as a substitute for Councillor Elgood.

91b.3 Councillor Kitcat declared that he was present as a substitute for Councillor Randall.

91b Declarations of Interest

91b.1 There were none.

91c Exclusion of Press and Public

91c.1 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

91c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of items 104 onwards.

92. MINUTES OF THE PREVIOUS MEETING

92.1 **RESOLVED** - That the minutes of the meeting held on 11 March 2010 be approved as a correct record.

93. CHAIRMAN'S COMMUNICATIONS

- 93.1 The Chairman reported that Councillor Fallon-Khan, Cabinet Member for Central Services, had been invited to attend a recent meeting of the Civic Awareness Commission to discuss extending civic awareness exhibits and displays into civic buildings other than Hove and Brighton Town Halls and Kings House. Councillor Fallon Khan agreed to take forward a number of ideas and officers had begun work on the plans.
- 93.2 The Chairman advised that he had been approached by a Member of the Older People's Council (OPC) regarding the upcoming review of its Constitution. In the past, changes had been agreed with the Monitoring Officer and the OPC would proceed from that point. However, given the changes in the council's own Constitution and the creation of the Governance Committee, it had been suggested that such matters should be considered by the Committee. The Chairman had discussed the issue with officers and would report back in due course.
- 93.3 The Chairman echoed the Leader of the Council's call at Cabinet for people to exercise their vote at the General Election on 6 May.

94. CALLOVER

- 94.1 **RESOLVED** – That all the items be reserved for discussion.

95. PETITIONS

- 95.1 There were none.

96. PUBLIC QUESTIONS

- 96.1 There were none.

97. DEPUTATIONS

- 97.1 There were none.

98. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

- 98.1 A letter was received from Councillor Kitcat seeking clarification around the operation of council meetings and powers of the Mayor. The Committee also considered an accompanying report of the Director of Strategy & Governance.
- 98.2 Councillor Kitcat thanked the Chairman for the information provided in the report and stated it was vital that Members and officers understood the procedural rules at council meetings and that the relevant guidance was always to hand and up to date.
- 98.3 The Chairman advised that the council's standing orders could not be expected to deal with every possible situation; the powers of any Mayor were wide-ranging and providing that there was an intention to do the right thing and to fairly judge the sense of the

meeting, the Mayor's rulings would be final and binding. The Chairman added that the Mayor had behaved appropriately at the last Council meeting and exercised her powers correctly.

- 98.4 Councillor Kitcat stated that Members had to place their trust in the Mayor in relation to issues that were not addressed in the Constitution, but that the Green Group had felt that a number of the decisions made at the Council meeting were prescribed for in the Constitution.
- 98.5 The Chairman advised that the Mayor could have used her powers to withdraw the item in question herself, but chose to let the Full Council decide by putting the motion to the vote.
- 98.6 The Head of Law confirmed that copies of the constitutions available at the town halls would be updated shortly. He explained that the council's standing orders cannot be exhaustive and are therefore supplemented by a mixture of national legislation, common law and custom and practice; as with other committees, the Chairman must be relied on to use their discretion appropriately.
- 98.7 Councillor Marsh stated that the Full Council was responsible for choosing the Mayor and that they had always been very experienced councillors. She advised that Members needed to understand that it was a challenging task and that the Mayor must be permitted to use their discretion to manage difficult situations. She added that she was content that the Mayor judged the situation correctly at the recent Council meeting.
- 98.8 Councillor Mears explained that the Conservative Group was careful to ensure that new councillors understood council procedure rules and to always be respectful towards the Mayor.
- 98.9 Councillor Watkins stated that Members should not challenge the Mayor at Full Council meetings. He advised Members to utilise other methods for challenging decisions, but to never forced the Mayor to defend his or her position in the Council Chamber.
- 98.10 Councillor Taylor agreed that the role of Mayor was a challenging one, but that he felt that the certain Members of the Full Council had failed to support the Mayor during the meeting in question by instructing her to take the Sustainable Community Strategy in two parts, when it was intended to be considered as one whole document, without discussing it with opposition groups.
- 98.11 The Chairman explained that the Conservative Group allowed for the will of the Full Council to be carried without preventing Groups from registering concerns in relation to specific parts of the strategy.
- 98.12 Councillor Simson advised that the Sustainable Community Strategy had been compiled in sections by each family of partnerships and that it was therefore acceptable for Groups to decide which sections they supported.
- 98.13 Councillor Taylor stated that it was disappointing that the Cabinet Member for Environment could not support the Sustainable Transport section of the strategy.

98.14 **RESOLVED** –

- (1) That the letter be noted.
- (2) That the report be noted.

99. CALL-IN REQUESTS

- 99.1 The Committee considered a report of the Director of Strategy & Governance concerning an annual report detailing the number of call-in requests and whether any changes to the call-in process should be made.
- 99.2 Councillor Kitcat remarked that most of the call-in requests had been in relation to consultations and that this should be fed back to the relevant directorates.
- 99.3 The Chairman advised that the Committee's role was not to reconsider the reasons for the call-in requests, but to comment on the operation of the process itself.
- 99.4 The Director of Strategy & Governance confirmed that there was a council-wide consultation approach, but that each consultation would be tailored dependant on the prevailing legislation.
- 99.5 Councillor Marsh commented that the consitutional arrangements were still relatively new, and that it would be necessary to keep procedures under review and make changes if required.
- 99.6 The Chairman confirmed that the constitution would continue to be reviewed regularly to provide opportunities for amendments.
- 99.7 **RESOLVED** – That the information be noted.

100. STRENGTHENING COMMUNITIES REVIEW - PROGRESS UPDATE

- 100.1 The Committee considered a report of the Director of Strategy & Governance updating Members in relation to the Strengthening Communities Review, which was now underway.
- 100.2 Councillor Simpson advised that she remained concerned about the review and particularly that it would be duplicating work previously undertaken by the council. She requested that the consultation for the consultation to include not only existing groups, but also groups that had recently been dissolved as a result of changes to funding and structures.
- 100.3 In response to comments from Councillor Simpson, Councillor Simson confirmed that the Public Service Board had agreed to fund £10,000 towards the cost of the review and that the total cost would be approximately £20,000. She advised that the cross party working group would consider what groups should be included in the consultation.

- 100.4 The Head of Equalities and Inclusion explained that the priority was for the working group to begin its work and that the intention was for the review to look wider than existing providers.
- 100.5 Councillor Mears reported that the review had been discussed in length at the Public Service Board, where members highlighted its importance and fully endorsed the work to be undertaken.
- 100.6 Councillor Taylor stated that he supported the need for a cross party working group and advised that Member involvement would be key throughout the review.
- 100.7 Councillor Oxley moved an amendment to the recommendations proposing that the Committee agree to establishing a cross-party working group consisting of four Members and chaired by the Cabinet Member of Community Affairs, Inclusion and Community Safety.
- 100.8 Councillor Mears formally seconded the amendment and opposition Members confirmed their support for it (see 100.9 (3)).
- 100.9 **RESOLVED –**
- (1) That the Committee notes that the review is underway.
 - (2) That the Committee note the content of this written update.
 - (3) **That the Committee agrees to establish a cross party working group consisting of four Members (with one Member from each of the Political Groups) and chaired by the Cabinet Member for Community Affairs, Inclusion and Community Safety.**

101. PETITIONS

- 101.1 The Committee received a verbal update from the Managing Principal Lawyer to the council concerning changes to the council's duties in relation to petitions as a result of Government legislation.
- 101.2 The Managing Principal reported that the new provisions in relation to petitions had now come into force. The intention was to draw up one scheme to tackle both paper and e-petitions to be brought before the Governance Committee and the Full Council. The legislation provided four main changes:
1. the scheme must include a range of steps to be considered by the council on receipt of a petition.
 2. the council must set thresholds and processes for the triggering of a debate at Full Council and holding a senior officer to account.
 3. the scheme must include an appeal process for petitioners to use if they do not find the response to be satisfactory
 4. there would be a single scheme to deal with both paper and e-petitions in the same way.

The provisions included a separate order stating the matters excluded from being the subject of a petition with the main exclusions relating to planning and licensing applications.

101.3 In response to questions from Members, the Managing Principal Lawyer that the council would not introduce triggers for all petitions, they would only apply for a petition to be debated at Full Council; most petitions would continue to be dealt with as they were under existing arrangements. She advised that the e-petitions facility would not preclude people from initiating a separate paper petition and that the council would provide assistance for those wishing to access the online facility. The petition scheme would be published both online and in other easily accessible places.

101.4 The Chairman confirmed that the council had discretion to set thresholds at a rate that it felt to be achievable.

101.5 Councillor Marsh commented that the new provisions appeared to give greater weight to petitions.

101.6 **RESOLVED** – That the update be noted.

102. UPDATE ON HR PAYROLL AND RECRUITMENT SYSTEM IMPLEMENTATION

102.1 The Committee considered a report of the Director of Strategy & Governance updating Members on the latest progress in relation to implementation of the new HR payroll and recruitment system.

102.2 In response to concerns from Members, the Head of HR Operations made the following comments:

- Line managers would have access to information relating to the staff they manage only and individual employees would be able to change their own personal details.
- The security protocols had been signed off by the council's internal auditors and external auditors (Deloitte), and officers were confident that the new system offered improved security.
- Training on the new system would be given to specific groups of staff before rolling out the system as a whole.
- It was hoped that staff would opt in to receive their payslips by email, but paper copies would still be available to those who preferred them and provided as a matter of course to groups of employees without internet access.
- The new HR helpline was ready and would be launched when migration to the new payroll system took place; it was hoped that this would be possible for the payroll run in May and the helpline number would be printed on payslips.

102.3 Councillor Fallon Khan advised that in addition to the efficiency savings that would be achieved by the new system, the council would also benefit from positive sustainability implications.

102.4 RESOLVED –

- (1) That the Committee notes the current position in regards to the implementation of the new HR/Payroll and Recruitment System.
- (2) That a further update to be provided to the Governance Committee after the new system goes live.

103. DEVELOPMENT OF THE NEW DIGNITY AND RESPECT AT WORK POLICY

- 103.1 The Committee considered a report of the Director of Strategy & Governance providing Members with a position statement on the development of the new Dignity and Respect at Work Policy.
- 103.2 Councillor Mears commented that it would have been helpful for the Committee to have been provided with a copy of the draft policy. She stated that Members needed assurances that the whole organisation was signed up to the policy.
- 103.3 Councillor Fallon-Khan stated that it was important for the council to pursue the creation of the policy and that it would set new parameters that would be clear for all Members and staff.
- 103.4 The Assistant Director for Human Resources explained that officers had consulted with all key groups within the council and that a scrutiny panel had also worked on the policy; it was the need to engage effectively with staff that had prolonged the process.
- 103.5 The Director of Strategy & Governance confirmed that following consideration at the Overview & Scrutiny Commission, the finalised draft policy would be considered by the Committee in July. He added that the policy would become part of the HR framework and that all staff would have to abide by it.
- 103.6 Councillor Simpson stated that the work done by the scrutiny panel had resulted in an improved policy and that she looked forward to considering it in July.
- 103.7 **RESOLVED** - That the Committee notes the contents of the report and the intention to bring the final draft of the policy to the Governance Committee for consideration at its next meeting to be held on 13 July 2010.

PART TWO SUMMARY

104. PART TWO MINUTES OF THE PREVIOUS MEETING

104.1 **RESOLVED** - That the Part Two minutes of the meeting held on 11 March 2010 be approved as a correct record.

105. SINGLE STATUS UPDATE

105.1 The Committee received a verbal update from the Assistant Director for Human Resources updating Members on the latest position with regard to Single Status.

105.2 **RESOLVED** – That the update be noted.

106. PART TWO ITEMS

106.1 The Committee considered whether or not any of the above items should remain exempt from disclosure to the press and public.

106.2 **RESOLVED** – That items 104 onwards, contained in Part Two of the agenda, remain exempt from disclosure to the press and public.

The meeting concluded at 5.23pm

Signed

Chairman

Dated this

day of

Subject: Update on Implementation of Good Governance
Review Recommendations

Date of Meeting: 13 July 2010

Report of: Director of Strategy & Governance

Contact Officer: Name: **Abraham Ghebre-Ghiorghis** Tel: **29-1500**
E-mail: abraham.ghebre-ghiorghis@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT

- 1.1 At its meeting on 12 January 2010, the Governance Committee received a report of the Audit Commission on Corporate Governance in the Council with recommendations and agreed action points. Members asked for a progress report in July 2010. This report provides the update as requested.

2. RECOMMENDATIONS

- 2.1 That Members note the Contents of this Report.

3. BACKGROUND INFORMATION

- 3.1 The Audit Commission report made recommendations for action in 7 areas (community focus, Member-Officer relations, Standards, decision-making, Overview & Scrutiny, Member capacity and partnership working). The Council's response proposed certain steps which were agreed with the Commission. The following paragraphs provide Members with a summary of the actions taken under each head since the last report.

4. Community Focus

- 4.1 The Audit Commission report suggested that, at the time the survey was done, our partners were unclear about the long term vision of the Council.
- 4.2 Since the report, the Council adopted a new Sustainable Community Strategy on 18 March 2010 that clearly sets out the shared vision and priorities for the City. The Strategy had the support of all partners and was adapted by the Council unanimously.
- 4.3 The process followed in developing the strategy was thorough, inclusive and reflected the shared aspirations of all stakeholders. The Council continues to

work with the LSP and the Public Services Board to deepen the shared ownership of the vision for the City and translate it into concrete practical steps that will make difference to the residents, businesses and visitors to the City.

- 4.4 The Council's Communication Strategy aims to achieve effective communication of the Council's vision and priorities with the wider community and, by definition, our partners.
- 4.5 The Council has therefore succeeded in bridging any perceived gaps in the understanding of the Council's visions, values and priorities.

5. Member-Officer Relations

- 5.1 Although the report made certain observations, by the time that the review was concluded, improvements had already taken place. Since then, the appointment of the new Chief Executive, coupled with key initiatives he has undertaken (including around the theme of "a Council the City Deserves") has given Members, Officers and Partners a greater sense of purpose and direction.
- 5.2 The Chief executive has worked and continues to work with Group Leaders, Cabinet Members, Groups and individual Councillors, including visiting wards. The Corporate Management Team also work closely with the Cabinet, including having joint meetings every 2 weeks. These have contributed to improving the understanding of each other's perspectives.
- 5.3 The Council made enquiries of the Audit Commission for a good practice checklist for Councillors and managers as our understanding (when the recommendations were made) was that these would be available. But we have been unable to get a copy and been supplied with the names of one or two authorities that we are considering for purposes of identifying good practice.
- 5.4 A report was submitted to the last meeting of the Standards Committee which agreed to set up a working group consisting of Councillors and Independent Members to review existing protocols on Member/Officer relations and identify areas for improvement.

6. Promoting and Demonstrating Values of Good Governance Through Behaviour

- 6.1 The Audit Commission recommended raising the profile of the Standards Committee and the Council agreed to take this forward. Since then:
 - The Annual Reports of the Standards Committee was submitted to full Council for information on 18th March 2010.
 - As part of the 12 months review of the Council's constitution, a sub-committee was established to deal with the granting of dispensations.

- Key Members of the Committee will be attending the Annual National Standards Conference in September.
- The Chairman and Independent Members have already met group Leaders and all Political Groups. It is proposed to hold similar sessions in the future.
- The complaints process is publicised through the Council's website and by making leaflets on how to complain about Member conduct available in all main offices of the Council.
- The Standards Committee is considering issuing a publication summarising its roles, the standards expected of Members and the work of the Committee for use by Members, Officers and the public.
- The Committee continues to benefit from very able leadership of its Independent Chairman and input from 2 other Independent Members.
- Training for Members of the Standards Committee on the complaints process and for Members of the Planning Committee on areas around bias and pre-determination have taken place in addition to a range of Member Development Programmes that the previous report acknowledged as excellent.

7. Taking Proper Decisions and Managing Roles

- 7.1 The Audit Commission report made a number of comments on the decision-making process with a view to making it more efficient.
- 7.2 In addition to changes that had already been implemented before the conclusion of the Audit Commission review, we have had two further detailed reviews of the constitution. The first, which was part of the 12 month review, resulted in a number of changes, including a decision to cease 2 Cabinet Member Meetings and agreement to review the others. A further report looked at meetings of full Council and resulted in agreement to implement significant changes including:
- limiting the duration of full Council by introducing an automatic closure motion;
 - limiting the number of notices of motion;
 - reducing the length of speaking times; and
 - introducing a more meaningful Member question time.

7.3 All these changes, taken together, will result in a more effective and efficient despatch of Council business as well as making Council proceedings more relevant and interesting to the people the Council represents.

8. Overview & Scrutiny Arrangements

8.1 The Audit Commission report made comments and recommendations about continuing improvements to the scrutiny function. Much progress has taken place since then, including the following:

- The Overview & Scrutiny Team is now fully staffed and resourced. A review of good practice from other authorities was undertaken and its recommendations implemented.
- Tripartite meetings between Scrutiny Committee Chairs, Cabinet Members and Directors have been implemented to improve flows of information between Scrutiny and the Executive.
- The budget scrutiny has been improved from 2008/9 to 2009/10. Draft proposals were published over a month earlier, 5 scrutiny committees considered the proposals which resulted in changes to the final budget proposals presented to Cabinet.
- Challenge to Executive decisions has increased with 4 call-in meetings between February 2009-February 2010. The number of member requests/questions/letters to scrutiny has also increased.
- The number of items for noting at scrutiny committees has been significantly reduced. Meetings are more focused with items placed on the agenda where their consideration will add value.
- The number of items being tabled at O&S Committees in draft form has increased providing an opportunity for pre-decision input and comment.
- The selection of topics for scrutiny panel review has become more sophisticated with Members understanding the need to target interventions.
- Responding to the need to become more place-based and externally focused a protocol has been agreed with the LSP. The Chair of the LSP has attended and answered questions at the Commission and the LSP and its themed groups will play an important role in developing the future work programme for scrutiny reviews. Relationships with individual partner organisations are developing and can be seen in the engagement of partners in the work of scrutiny panels.

- External expertise is informing scrutiny work with co-option of experts onto scrutiny panels and the use of expert witnesses in all investigations. Co-opted members have chaired scrutiny panels, for example Prof Gordon MacKerron from the University of Sussex is chairing the Climate Change Adaptation review.
- OSC has agreed that an annual trawl for suggestions for scrutiny panels, this will give OSC an increased coordinating role in agreeing a panel programme for all committees.
- Performance reports are presented to all committees and are increasingly being used to inform future priorities and areas of investigation.
- Seven scrutiny panels have completed their reviews during 2009/10, the vast majority of recommendations being accepted by the Executive. A further 8 panels are currently undertaking or have completed work. The full list of panels is:
 - Dual Diagnosis of mental health and substance misuse issues
 - Students in the Community
 - GP Led Health Centre Procurement
 - Older People and Community Safety
 - Children and Young People Alcohol Related Harm
 - Dignity at Work
 - Street Access Issues
 - Climate Change Adaptation
 - Environmental Industries
 - School Exclusions
 - 20 miles per hour speed limits
 - Support services for victims of sexual Violence
 - Staff Disabilities
 - Cultural Provision for Children
- Scrutiny is showing it can respond to important events and residents concerns. Following criticisms of the Council's response to severe winter weather a single all day meeting was held to look at how to improve the Council's Winter Service Plan.
- All O&S Committees now have cross party pre meetings two weeks before the actual meeting. This allows for agendas to be refined, all parties to raise concerns and ongoing work-planning to occur.

- Member training on scrutiny is being offered on a 1-2-1 basis. Additional training from the Centre for Public Scrutiny has been provided to some Committee Chairs and Deputies.

8.2 It is clear from the above that the scrutiny function in the Council is in a much stronger and improved position.

9. Developing the Capacity and Capability of Councillors

9.1 The Council has a Member Development Programme that has received the South East Employers Charter. The Cross-Party Member Development Working Group, chaired by a Cabinet Member, co-ordinates Member development supported by a Senior Officer. The development programme enables individual training needs to be identified and a mixture of development opportunities offered.

9.2 The Council is working towards the Member Development Plus Standard which would involve performance management.

9.3 There is a plan to make some core training (such as code of conduct and rules regarding planning) compulsory, but relying on working with the Leaders, Groups and Individuals to keep levels of attendance high. This however has to be seen in the context of the number of development activities, the variety of such activities and the targeting. The more programmes are included the more selective Members have to be which means it would be neither practicable or desirable to have 100% attendance on all sessions.

10. Partnership Working and Engaging with Stakeholders

10.1 The issue about ensuring the Community is better informed about the Council's priorities and performance is begin taken forward as part of the Corporate Communications Strategy. The adoption of the Sustainable Communities Strategy will also contribute to the understanding of the shared vision and priorities.

10.2 The Council launched a Community Engagement Framework in 2008, which is shared with our partners, and it is already showing results in influencing the way that we consult and engage with communities.

10.3 A report looking at existing community engagement arrangements was submitted to the Governance Committee on 12 March and a further review is being undertaken with a view to reporting back in September.

10.4 The Council has robust arrangements governing all the partnerships it is involved in. They range from formal, contractual legal agreements (such as

the ones with Health partners) to looser, less formal arrangements with smaller voluntary organisations.

11. General

- 11.1 Overall, the Council has excellent governance arrangements that ensure legality, high standards of conduct, clear decision-making processes, clear vision and priorities and effective partner, stakeholder and community engagement.
- 11.2 The Council has adopted a Code of Corporate Governance, updated recently, and publishes an Annual Governance Statement which is approved by the Audit Committee and reported to the Governance Committee and full Council for information.
- 11.3 There is a process for continually reviewing all the component parts of our governance arrangements to ensure that we maintain the highest standards of conduct and governance and reflect best practice.
- 11.4 The progress update given above is not intended to be exhaustive, but to give Members a broad indication of the progress made.

12. CONSULTATION

- 12.1 The Chair of the Governance Committee and relevant Officers were consulted on any comments incorporated.

13. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 13.1 This report is for information only and there are no financial implications arising directly from this report.

Finance Officer Consulted: Anne Silley

Date:30/06/2010

Legal Implications:

- 13.2 There are no legal implications arising from this report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 30/06/2010

Equalities Implications:

- 13.3 None arising from this report.

Sustainability Implications:

- 13.4 None arising from this report.

Crime & Disorder Implications:

13.5 None arising from this report.

Risk and Opportunity Management Implications:

13.6 None arising from this report.

Corporate / Citywide Implications:

13.7 None arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms

1. None

Background Documents

1. Report to Governance Committee and Minutes of Meeting of 12 January 2010.

Subject:	Strengthening Communities Review – Progress Update		
Date of Meeting:	13 July 2010		
Report of:	Director of Strategy and Governance		
Contact Officer:	Name:	Nicky Cambridge	Tel: 29-6827
	E-mail:	nicky.cambridge@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 At the Governance Committee meeting of 9 March 2010, Members agreed to the implementation of a strategic Review of neighbourhood and community engagement (now called the 'Strengthening Communities Review'). It was agreed that the Review would test existing models and provide recommendations for a range of public engagement activities into the future.
- 1.2 It was also agreed that:
 - Written updates be provided to the Committee at every meeting between March and September 2010 and where appropriate, Governance Committee attendance and involvement be requested in key aspects of the Review process.
 - That a cross party working group be established to ensure Member involvement in the work.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the content of this written update.
- 2.2 That the Committee notes that the first meeting of the cross party working group was held on 29 June 2010.

3. RELEVANT BACKGROUND INFORMATION / CHRONOLOGY OF KEY EVENTS:

- 3.1 Since the last Governance Committee meeting extensive research and consultation has commenced to map the wide variety of public engagement activity that exists in the city.
- 3.2 A package of additional funding has been identified to enable the purchase of independent evaluation which will focus on direct consultation with residents and third sector organisations involved in decision making. An experienced organisation has been appointed and will shortly commence work.

- 3.3 The first meeting of the cross party Members group took place on 29th June 2010 and Members present gave some useful insights into their experiences of engagement activity.
- 3.4 The first meeting of the newly formed Local Engagement Officers Working Group took place on 2nd June and it was agreed that the group would work towards greater joint working across the Council's engagement approaches (for example looking at where this is duplication of arrangements). A key outcome was an agreement that all departments should undertake a short self assessment exercise to map and evaluate their engagement work.
- 3.5 There have been constructive conversations with other public sector organisations with regard to the joint commissioning of engagement activity. This included a recent discussion at the Public Service Board at which it was agreed that this should be high priority.
- 3.6 The review was also presented to the Members Advisory Group, who oversee the grants and commissioning processes of the Communities Team. The review was met with interest and Members were keen to have ongoing involvement linked to the new cross party working group.
- 3.7 Equalities Impact Assessments are now being initiated with regard to commissioned community development activity to understand the impact of the work for individuals from minority communities.

4. CONSULTATION

- 4.1 Consultation with a huge range of stakeholders is embedded throughout the Review process and will include the cross party Member group.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The review of Strengthening Communities Commissioning activity in 2010/11 is currently funded within resources identified within the Policy Unit budget and funds available to strategic partnerships through LPSA Reward Grant (subject to any changes in funding). External funding has been identified to secure independent evaluation.
- 5.2 The longer term sustainability of this activity will need to be considered against funding available through the strategic partnership and Council for 2011/12 and beyond.

Finance Officer Consulted: Anne Silley

Date: 14 June 2010

Legal Implications:

- 5.3 The report is for noting only. The activities documented in the report are consistent with the Council's legal powers and duties.

Lawyer Consulted: Oliver Dixon

Date: 29 June 2010

Equalities Implications:

- 5.4 The Strengthening Communities Review will analyse the extent to which community engagement provides effective opportunities for a range of minority groups and deprived geographical areas to have a voice in Council decision making processes. Where possible, the Review will also analyse the integration of these people and place agendas and made recommendations for further improvement areas.

Sustainability Implications:

- 5.5 The Strengthening Communities Review will analyse the extent to which community engagement enables both minority groups and neighbourhoods to play an active part in sustainability activity. This will include a review of commissioning outcomes with a view to consider this area of work more in the future.

Crime & Disorder Implications:

- 5.6 On behalf of the Safe in the City Partnership, the Partnership Community Safety Team (PCST), Communities against Drugs and Environment Improvement Teams deliver a range of activities which engage and build cohesive communities. Some of these activities are integrated within the delivery plans of priority crime areas: facilitating the community led Racial Harassment Forum is one example of that. Other work such as supporting the network of Local Action Teams link closely with meeting the delivery requirements of Neighbourhood Policing and as such, have specific outcomes which are about identifying local policing priorities and delivering community safety solutions in partnership with local people. The PCST carries out targeted work with refugee and migrant individuals and communities and its programme of activities to 'build resilience to violent extremism ' is a specific programme of work with Muslim and other faith based communities. Performance on this programme is measured against national indicators within the LAA process.
- 5.7 The Partnership looks forward to participating within the strategic review of neighbourhood and community engagement' and achieving a consistent approach across the City

Risk and Opportunity Management Implications:

- 5.8 This will be analysed through the Strengthening Communities Review.

Corporate / Citywide Implications:

- 5.9 This will be analysed through the Strengthening Communities Review.

SUPPORTING DOCUMENTATION

Appendices

None

Documents In Members' Rooms

None

Background Documents:

None

Subject: Dignity & Respect at Work Policy
Date of Meeting: 17 June 2010 Cabinet
13 July 2010 Governance Committee
Report of: Director of Strategy & Governance
Contact Officer: Name: Charlotte Thomas **Tel:** 29-1290
E-mail: charlotte.thomas@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to brief the Committee on the council's Policy and Procedure for dealing with bullying and harassment at work and to seek approval for the implementation of the new Dignity & Respect at Work Policy and Procedure.

2. RECOMMENDATIONS

- 2.1 That Cabinet notes the report.

- 2.2 That the **Governance Committee** approves:

- (a) the new Dignity and Respect at Work Policy and Procedure.
- (b) the council adopting the core values set out in paragraph 3.3.4 of the report.
- (c) the incorporation of the core values set out in this Policy within the council's management standards and behaviours framework that is currently being developed as part of the "Creating a council the City Deserves" transformation programme.
- (d) the establishment of a network of Dignity and Respect at Work Advisers across the council.
- (e) the payment of £104 per annum to each Adviser in recognition of the important role they will be fulfilling in addition to their normal day-to-day duties.
- (f) the training of a "pool" of independent investigators to look into complaints.
- (g) the use of external, accredited mediators to maximise the chances of resolving bullying and harassment issues informally.
- (h) the development, in conjunction with the Head of Learning & Development, and subsequent implementation of a corporate learning programme for managers to support the introduction of the new Policy.
- (i) the Scrutiny Panel's recommendation that the Leader of the Council and the Chief Executive publicly endorse the Policy when it is launched to show that the council is serious about eliminating bullying and harassment from the workplace.
- (j) monitoring the impact of the Policy as described in paragraph 3.3.21.

3. BACKGROUND INFORMATION

3.1 Project drivers:

- 3.1.1 Bullying and harassment within the workplace is unwelcome and undesirable not only for ethical and moral reasons but also on business grounds.
- 3.1.2 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
 - loss of management time in dealing with issues.
- 3.1.3 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.
- 3.1.4 The council already has in place a number of policies, including a Harassment at Work Policy, that support the health, safety and well-being of our employees at work.
- 3.1.5 However, despite having a Harassment at Work Policy, there is evidence from a number of sources to indicate that some staff have experienced unacceptable behaviour in the workplace. These sources include:
- feedback from previous Staff Surveys
 - 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.
- 3.1.6 This year's Staff Survey confirmed that some of our employees are still experiencing bullying or harassment whilst at work. Of those staff who answered the question, 15% said that they had been bullied, harassed or discriminated against at work in the past year. Whilst the majority of the unwanted behaviour derived from work colleagues and managers, in roughly equal proportions, some staff reported that they had experienced inappropriate behaviour from elected members or clients and customers.

- 3.1.7 Although it is concerning that any member of staff should experience bullying or harassment at work, it is reassuring that employees appear to feel able to come forward so their concerns can be addressed. It would be more worrying if there were apparently no instances of inappropriate behaviour in the workplace as this would suggest that staff did not feel “safe” to report them.
- 3.1.8 The level of confidence amongst staff that the council would take action to tackle any complaints of alleged bullying or harassment remains about the same (67% in 2009 as against 66% in 2007). However, this leaves a third of staff who do not appear to have confidence in the council taking action.

3.2 Approach to the project

- 3.2.1 In view of the evidence referred to in paragraph 3.1.5 and the findings in paragraph 3.1.8, it was felt that the council could improve its approach to bullying and harassment in the workplace. Council Members were involved through the Overview and Scrutiny function.
- 3.2.2 The aim was to establish some clear standards of behaviour for staff and to develop a range of approaches that staff and managers could use to resolve conflict in working relationships when they arose. The policy would look to resolve the concerns, as far as possible, informally and at the earliest possible stage before relationships become irrevocably damaged. However, where clear bullying or harassment was taking place the policy would provide a clear procedure for tackling the issue.
- 3.2.3 It was recognised, that to be successful, this work needed to be actively supported and driven by senior management at the top of the organisation. It was also considered essential for ultimate success to engage staff in the work at an early stage by asking the recognised trade unions and Staff Forums to participate. This would enable any shortcomings of the current policy to be identified and addressed so that the revised approaches would be fit for purpose.
- 3.2.4 A working group was therefore set up with senior representatives from each directorate and a member from each of the council’s minority Workers’ Forums. Although invited, the trade unions chose to work closely with us but outside the confines of the formal working group.
- 3.2.5 Dr Karen McIvor, an academic with a background of research and training in bullying and harassment in the workplace was also engaged to provide specialist expertise and act as a critical friend for the group. Dr McIvor had been a Research Fellow at the University of Portsmouth. In this role she had worked on a DTI/Amicus Dignity at Work Partnership sponsored project identifying effective interventions for bullying and harassment in the workplace.
- 3.2.6 The aims of the working group were to:
- gain an understanding of bullying and harassment

- gain an understanding of the current culture of the organisation as there is a strong link between organisational culture and the level of workplace bullying and harassment
- facilitate the council's leadership to identify core values which would define and develop the right workplace culture across the council
- define clear standards of respectful behaviour at work
- develop a policy that would enable the council to develop and maintain a workforce culture in which all staff are respected and treated with dignity. Key elements were to include:
 - processes to enable staff to raise concerns with confidence, either informally or formally
 - support mechanisms for employees experiencing or witnessing bullying or harassment
 - a clear process for tackling inappropriate behaviour with particular emphasis on early informal interventions to prevent matters escalating and becoming more difficult to resolve.

3.3 Project outcomes

Change of culture and embedding new behavioural core values

- 3.3.1 Given the link between an organisation's culture and the incidence of bullying and harassment, a cultural web exercise was carried out to identify how the council's culture was perceived by staff.
- 3.3.2 Whilst there were a number of very positive aspects to the ways in which staff worked together and were managed across the council, there were also some features of our workplace cultures that gave cause for concern including:
- poor communication within and across directorates
 - an emphasis on meeting targets
 - inconsistent treatment of staff.
- 3.3.3 None of these features are conducive to creating a happy and productive working environment in which staff can thrive and deliver high-quality customer service.
- 3.3.4 Therefore, to ensure a consistent culture in which everyone can expect to be treated with dignity and respect, it is recommended that consideration be given to the council, as an employer, adopting the following core values within the workplace:

Recognise and reward achievement

Ensure we communicate with integrity, honesty and openness

Strive to be the best we can

Put people first

Embrace diversity, respect difference and allow individuality to flourish

Collaborate and work cooperatively with colleagues and provide mutual support

Treat people fairly and equitably.

- 3.3.5 However, these values 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 them and personally enacts acceptable standards of behaviour in their day-to-day working relationships.
- 3.3.6 To help staff understand how they are expected to behave in their dealings with one another, a set of acceptable behaviours has been developed to accompany the Dignity and Respect at Work Policy (see Appendix 1 of the Policy).
- 3.3.7 However, these standards of behaviour can only be embedded effectively within the workforce if every employee's performance is assessed not only on what they achieve but how they go about achieving it in terms of the quality of their working relationships with others. It is, therefore, proposed that these desired standards of behaviour are reflected in the management standards and behaviours framework that is currently being developed as part of the "Creating a council the City Deserves" transformation programme.

The new Dignity & Respect at Work Policy

- 3.3.8 A number of key changes from the existing policy have been made. These are:
- clearly setting out roles and responsibilities under the policy
 - creating a network of Dignity and Respect at Work Advisers across the organisation to encourage staff to come forward to discuss their concerns in confidence and to find out the options available to them to stop the unwanted behaviour
 - using independent, trained investigators to look into complaints
 - ensuring that outcomes of investigations are communicated, subject to the constraints of confidentiality, to individuals working closest to those involved in the complaint
 - using trained, accredited external mediators to try to resolve conflict in working relationships at a very early stage before matters escalate, positions become entrenched and relationships irretrievably break down.
- 3.3.9 These changes, reflecting best practice of other employers, have also been made in direct response to the feedback received from the trade unions and the Staff Workers' Forums on the current policy and the issues often faced by staff who had been the subject of bullying or harassment. They are specifically designed to improve matters by:
- encouraging staff to come forward if they have concerns rather than suffering in silence
 - giving confidence to complainants that their concerns will be taken seriously and properly investigated
 - building confidence in the council's processes for dealing with bullying and harassment issues
 - reducing, as far as practicable, the stress on individuals by attempting to resolve these sensitive and complex issues quickly and informally wherever possible.

3.3.10 A copy of the new policy is attached at Appendix 1. It consists of 2 parts. The first part is a Policy Statement setting out the aims of the policy, the roles and responsibilities within it as well as examples of acceptable and unacceptable behaviour. The second part details the various approaches the council intends to take when dealing with bullying and harassment issues.

Implementing the new policy

3.3.11 The Dignity and Respect at Work Advisers (approximately 12-15) will be “recruited” from across the organisation and will take on this role in addition to their normal day to day work. As far as practicable, those selected will be representative of the workforce as a whole. It will be necessary for these individuals to be properly trained for the role and it is intended to engage an external provider to deliver that training and to provide on-going support for these staff.

3.3.12 It is proposed to pay the Dignity and Respect at Work Advisers a nominal sum of £104 per year for taking on this important role for the organisation. This figure is in line with the allowance paid to qualified first aiders who similarly voluntarily take on an important additional role to their normal work.

3.3.13 The new policy places greater emphasis on the use of mediation to try to resolve conflict in working relationships at an early stage before relationships deteriorate too far.

3.3.14 It is crucial to the ultimate success of the mediation process that the participants feel comfortable in discussing their issues with the chosen mediator and have confidence in their independence and impartiality.

3.3.15 To avoid any perception of possible bias from those participating in the mediation process, it is proposed to use external, accredited mediators. Although there are a number of trained, accredited mediators within our HR team, it is proposed not to use them as it is quite likely that they will be called upon to mediate in situations where they have had previous professional dealings with the individual(s) concerned.

3.3.16 In order to effect the desired change in workplace culture, it is crucial that managers model the right standards of behaviour and have the skills and confidence to manage, and where necessary, challenge inappropriate behaviour by their staff. It is also important that when recruiting, they select individuals who not only have the necessary skills and experience but also display the behaviours we expect from our staff.

3.3.17 To this end, the ethos of dignity and respect has been incorporated within the corporate learning and development offer that is currently being developed for staff by the Head of Learning & Development. The training will give participants amongst other things:

- an understanding of bullying and harassment and how to recognise it
- the knowledge and skills to lead and manage diverse teams and to be sensitive to individuals’ needs

- the opportunity to develop and improve their skills and confidence in challenging inappropriate behaviour within their teams in an acceptable way
- practical skills they can use to resolve conflict or instances of bullying or harassment as soon as they arise.

3.3.18 To maximise its effectiveness, the training will be delivered using a mix of e-learning packages, facilitated skills workshops and work-based activity such as action learning sets, work shadowing and mentoring.

3.3.19 It is also proposed within the draft Performance Agreement for the new organisation design that employee performance will be managed and reviewed against agreed objectives and the council's management standards and behaviours framework. The Core Values stated within the Dignity at Work Policy will be embedded into these behaviours.

3.3.20 The new policy will be publicised widely to staff when it is launched. In addition to using the normal communication channels such as the intranet and The Channel magazine, it is proposed to include a message on employee payslips and distribute posters within council buildings, particularly in those workplaces where employees do not have access to the council's intranet.

Effectiveness of the new Policy

3.3.21 The impact of the Policy and Procedure will be assessed through:

- monitoring incidents of bullying and harassment and reporting findings to DMTs/TMT/Staff Consultation Forum on a regular basis
- reviewing the results of the Staff Survey on the incidence of staff feeling bullied or harassed
- monitoring the number of referrals to the Occupational Health Service as a result of bullying or harassment
- monitoring the number of approaches made to the network of Dignity and Respect at Work Advisers
- monitoring the usage of mediators
- auditing the return rate and content of exit interviews/exit questionnaires to identify cases of alleged inappropriate behaviour and to report these to the appropriate Head of Service for possible further action.

3.3.22 It is imperative to preserve the anonymity and confidentiality of those who may come forward with concerns and therefore it should be stressed that any monitoring will focus solely on the number and type of cases and will not identify the individuals concerned.

4. CONSULTATION

4.1 The trade unions and the Staff Forums have been extensively consulted on the new policy by management and through the scrutiny process. The Scrutiny Panel's report is attached at Appendix 2.

4.2 Comments made by staff side representatives and the Scrutiny Panel have been taken into account, wherever possible, when finalising the policy. Management's

response to the recommendations made by the Scrutiny Panel are attached at Appendix 3.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There will be a small one-off cost of approximately £5,000 relating to the recruitment of and training for the Dignity and Respect at Work Advisers, with on-going allowances for these staff of approximately £1,500 in total. Other costs are estimated at £1,200 relating to the training of a small number of independent investigators and a poster campaign to launch the policy. These will be met from existing resources.
- 5.2 It is expected that external mediator costs (approx £60 per hour) will be recharged to departments making use of the service.
- 5.3 An effective Dignity and Respect at Work Policy reduces the risk and associated cost of litigation in future employment tribunals.

Finance Officer Consulted: Anne Silley

Date: 04/06/10

Legal Implications:

- 5.4 All existing anti-discrimination laws (race, sex, gender reassignment, disability, religion, age,) cover bullying and harassment and there are also general laws on harassment where no particular motive need be attributed. Our policy is 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.
- 5.5 Existing provisions on bullying and harassment contained in separate pieces of anti-discrimination legislation will be repealed, then harmonised and re-stated in the Equality Act 2010. Provisions in the Act prohibiting discrimination (including harassment) in the workplace are expected to come into effect in October 2010. The Government Equalities Office intend to issue a draft code of practice in June, covering employment issues in the Act. The council will need to have regard to the final version of the code, once published.

Lawyer Consulted:

Oliver Dixon

Date: 07/06/10

Equalities Implications:

- 5.6 The Policy aims to ensure that all employees, including those from minority groups, are protected from suffering bullying, harassment or discrimination in the workplace. The Policy clearly sets out standards of acceptable behaviour and gives examples of unacceptable behaviour towards staff from minority groups.
- 5.7 The Policy is also designed to remove any potential barriers that may prevent staff coming forward with concerns about the way they are being treated. Individuals can raise their concerns through a number of routes including via a

network of Dignity and Respect at Work Advisers that is, as far as practicable, representative of the workforce.

- 5.8 Once concerns are raised, the Policy aims to give employees, especially those from minority groups, confidence that their issues will be treated seriously and handled objectively. Individuals will not be victimised for raising concerns in good faith. Where cases of bullying or harassment are founded, disciplinary action, including the possibility of dismissal, will be taken.
- 5.9 The effectiveness of the Policy will be monitored using a number of metrics analysed by equality strand.

Sustainability Implications:

- 5.10 The policy will be published on our intranet and hard copies will be circulated only to those staff who are not connected to the intranet. Posters publicising the policy will similarly be targeted at those workplaces without intranet access.

Crime & Disorder Implications:

- 5.11 None.

Risk & Opportunity Management Implications:

- 5.12 The new policy will help protect the council from legal action taken by staff, or former staff, because they have been subjected to bullying or harassment in the workplace.

Corporate / Citywide Implications

- 5.13 Having an effective Dignity and Respect at Work Policy will enable the council to create and maintain a culture in which all staff can thrive and work productively. By reducing the incidence of bullying and harassment in the workplace, the council will be able to improve its efficiency and, by doing so, its level of service to customers.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Evidence from a number of sources has indicated that some staff are experiencing bullying and harassment at work which suggests that the council's approach to tackling these issues could be improved.
- 6.2 If the council is serious about wishing to eliminate bullying and harassment and to creating a working environment in which everyone is treated with dignity and respect, there is no option other than to introduce this policy.

7. REASONS FOR REPORT RECOMMENDATIONS:

- 7.1 The implementation of the Dignity and Respect at Work Policy should:

- protect the council from legal claims, including those of unlawful discrimination, from current and former employees
- help to improve the organisation's performance by reducing sickness absence and staff turnover and improving staff morale and productivity. In turn this will have a positive impact on the level of customer service provide by our staff.

SUPPORTING DOCUMENTATION

Appendices:

1. Dignity and Respect at Work Policy
2. Report of the Dignity at Work Scrutiny Panel
3. Management's formal response to the Scrutiny Panel's recommendations

Documents In Members' Rooms

1. Dignity and Respect Policy

Background Documents

None



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:

Recognise and reward achievement

Ensure we communicate with integrity, honesty and openness

Strive to be the best we can

Put people first

Embrace diversity, respect difference and allow individuality to flourish

Collaborate and work cooperatively with colleagues and provide mutual support

Treat 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.
- 5.3 Concerns about inappropriate behaviour by Elected Members should be reported and dealt with under the council's Code of Conduct for Member/Officer Relations.

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 and Staff Consultation Forum 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, partners/ex-partners.

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
Domestic Violence Policy

Appendix 1

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 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. leave, 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, gender identity 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 harassment on the grounds of gender identity or expression include:

- conduct that belittles or ridicules or is intimidating or physically abusive because of an employee's gender identity or expression such as derogatory or degrading abuse or insults
- derogatory remarks, name-calling, teasing, jokes, innuendo or gossip aimed at transgender employees, or those who identify with a particular gender or who have undergone, are undergoing, or intend to undergo gender reassignment
- use of transphobic language
- unwelcome discussion of an individual's gender identity or expression
- publicising, or threatening to publicise, any details in relation to transsexual, transgender or gender diverse individuals without their permission
- the display or sending of offensive letters or publications

- shunning individuals because of their gender identity or expression
- offensive actions and physical attack

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 or biphobic 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
- removing/displacing aids such as a walking stick or wheelchair without the person's agreement or consent

NB This list is not exhaustive



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 will 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.

6.3 A flow chart showing how you can seek to resolve any concerns you may have is set out at Appendix 1.

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 2 for an explanation of the mediation process and Appendix 3 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 4) 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, in cases where the person supporting you considers that there may have been a breach of the law, they will tell you that this is their view and that in view of the seriousness of the

matter they have a responsibility to report the complaint even though you may decide you do not wish to do so.

- 11.6 The formal complaint should be made as soon as possible after the issue(s) that have given rise to the complaint have occurred.
- 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 synopsis of the original complaint (without disclosing details of witnesses or other third parties) 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 it looks as though the investigation will not be completed within this time limit the Head of HR must be notified and the complainant advised of this with 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

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.

(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. The outcome of the hearing will depend upon the circumstances of the case and could include:

- mandatory training for the perpetrator
- the issuing of a written warning (first, second or final)
- instant dismissal where the bullying or harassment is found to constitute gross misconduct.

The outcome of the hearing will be notified to the complainant and the alleged bully/harasser's line manager.

(c) Unfounded or malicious complaints

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.

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 Employees who are experiencing bullying or harassment from partners or ex-partners can find additional sources of support (local and national) in the council's Domestic Violence Toolkit.

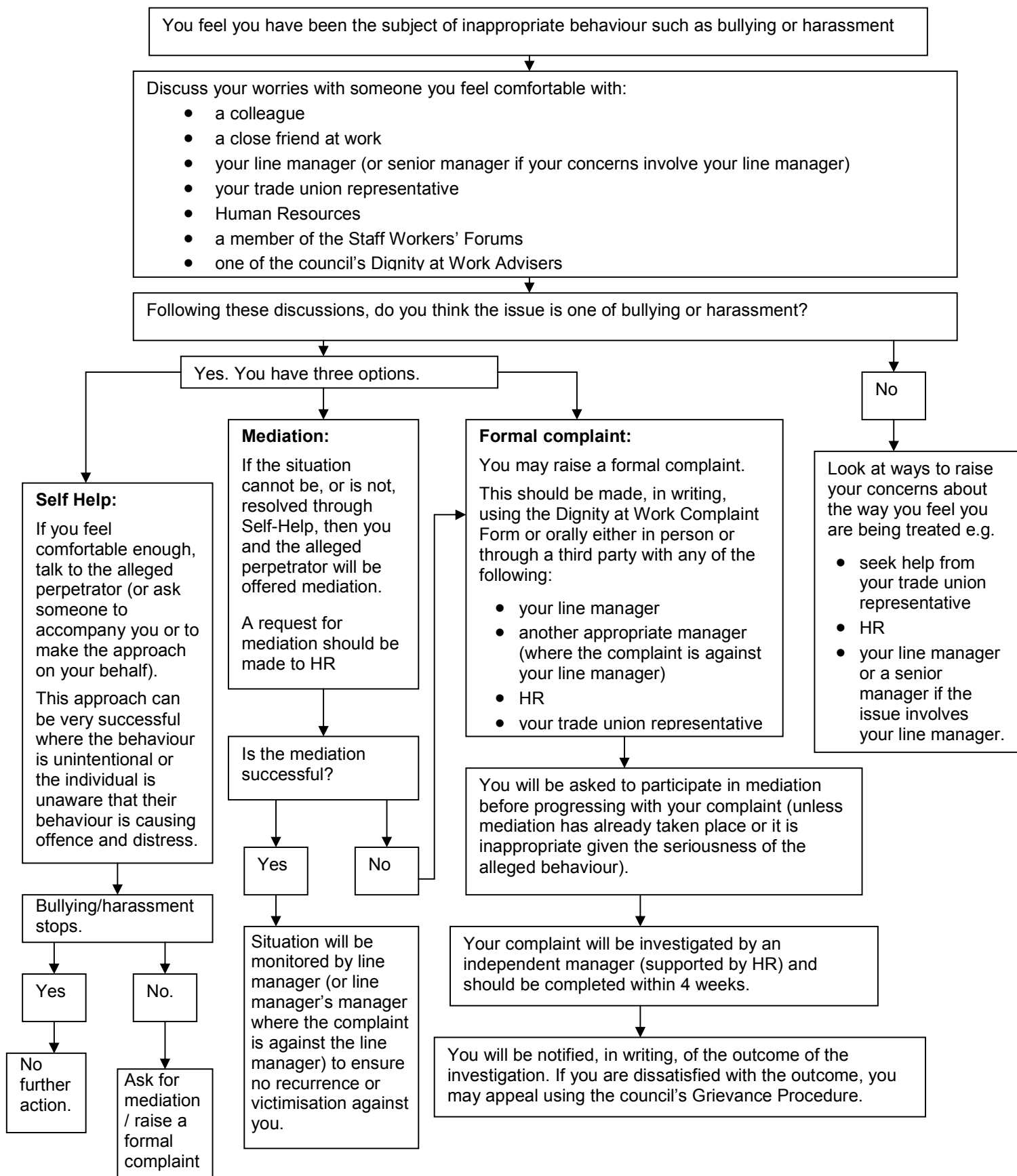
20 Confidentiality

- 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.

How to resolve concerns about inappropriate behaviour Appendix 1



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.



Dignity at Work Complaint Form

Directorate:		
Job title:		
Line manager:		Work location:
Address for correspondence:	e-mail address:	Work telephone:
		Home telephone:
Name of the person to whom the complaint is being made e.g. manager		
Name of the individual(s) against whom you are making the complaint		
Name and contact details of the individual who is supporting you and will accompany you to meetings etc.		
Please give specific details about your complaint. Use additional sheets if necessary		

You **do not** need to have taken steps to try to resolve the issue before raising a formal complaint. However if you have done so, please give details of the action you have taken including dates where possible.

Please note we will not be able to investigate your complaint unless you sign this form.

Employee's signature:

Print name here:

Date signed:

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



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").¹ 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

¹ 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.

Page/ Paragraph	Issue
	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

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

Recognise and reward achievement

Ensure we communicate with integrity, honesty and openness

Strive to be the best we can

Put people first

Embrace diversity, respect difference and allow individuality to flourish

Collaborate and work cooperatively with colleagues and provide mutual support

Treat 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, 4th Floor, King's House, Grand Avenue, Hove, BN3 2LS.

DRAFT

**Management’s response to the Dignity at Work
Scrutiny Panel’s Recommendations**

Scrutiny Panel’s Recommendation	Formal Response	Recommended Decision
<p>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 Consultation Forum.</p>	<p>Although not expressly stated in the Policy, it is proposed to assess its impact through:</p> <ul style="list-style-type: none"> • monitoring incidents of bullying and harassment and reporting findings to DMTs/TMT on a regular basis • reviewing the results of the Staff Survey on the incidence of staff feeling bullied or harassed • monitoring the number of referrals to the Occupational Health Service as a result of bullying or harassment • monitoring the number of approaches made to the network of Dignity and Respect at Work Advisers • monitoring the usage of mediators • auditing the return rate and content of exit interviews/exit questionnaires to identify cases of alleged inappropriate behaviour and to report these to the appropriate Head of Service for possible further action. 	<p>Agreed to add Staff Consultation Forum to the proposed monitoring mechanisms.</p>
<p>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.</p>	<p>We are mindful that some of our employees do not have access to the Wave. Therefore, in addition to the intranet, it is intended to raise awareness of the new policy through:</p> <ul style="list-style-type: none"> • The Channel magazine • messages on payslips • distribution of posters within council buildings, particularly in those workplaces where employees do not have access to the council’s intranet. 	<p>Agreed. We had already proposed to do this.</p>
<p>2) The time limit for reporting bullying and/or harassment should be removed.</p>	<p>We are agreeable to removing the time limit and have amended paragraph 11.6 in the procedure to read:</p>	<p>Agreed.</p>

	<p><i>“The formal complaint should be made as soon as possible after the issue(s) that have given rise to the complaint have occurred.”</i></p>	
<p>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.</p>	<p>It is proposed to offer training for managers to support the implementation of the new policy. Whilst such training will be available to all managers, we consider it is particularly important to identify and target those managers whose people management skills are deemed to need improvement.</p>	<p>Agreed. We had already proposed to do this and have had discussions with the Learning & Development Team to identify how best to deliver this.</p>
<p>5) The Leader of the Council and Chief Executive should publicly sign-up to the policy.</p>	<p>We feel that this would be very helpful in sending the right message to our staff – namely that the council is genuine in its commitment to developing and maintaining a workplace culture in which all staff, whatever their role or level of seniority, will be treated with dignity and respect.</p>	<p>Agreed.</p>
<p>a. 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.</p>	<p>The Policy Statement makes it clear that one of the responsibilities of senior managers, line managers and supervisors is to:</p> <p><i>“ensure that there is no retaliation or victimisation against employees making a complaint or those supporting colleagues to make a complaint”.</i></p> <p>This is also one of the fundamental principles that underpins the way in which complaints would be handled. Paragraph 3.2 of the “Procedure for raising and dealing with unacceptable behaviour” gives further reassurance to staff on this point.</p> <p>We therefore feel that there are sufficient assurances on this point this within the policy as it is currently drafted.</p>	<p>Agreed in part. We will make it clear to staff at the time the policy is launched that they will be protected from victimisation or retaliation.</p>
<p>7) A single point of</p>	<p>There are plans for HR to introduce a</p>	<p>Agree to</p>

<p>contact should be available to staff to discuss problems/report bullying.</p>	<p>dedicated phone line that will provide staff and managers with a single point of access to the service. Under this new arrangement, it would be feasible to route calls relating to bullying and harassment to an appropriate member of the HR team to log and provide initial advice.</p> <p>Whilst we are happy to explore this option, we are not sure how effective this facility would be as there will be some staff who will not wish to approach HR in the first instance as they perceive the service to be aligned with management.</p> <p>For this reason we feel it is very important to give staff as many routes as possible through which they can raise concerns. By doing so, we increase the chances of staff coming forward.</p>	<p>consider.</p>
<p>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.</p>	<p>A key and fundamental part of the new policy is to try to resolve issues informally in the first instance through mediation. This provides the best chance of resolving the situation and rebuilding working relationships.</p> <p>Once a complaint is raised under a formal procedure, the relationship between the parties tends to become more strained and adversarial in nature and positions are likely to become entrenched making successful resolution much less likely.</p> <p>There is nothing in the procedure that prevents an employee from raising a formal complaint in the first instance. However, if they did so, they would be strongly encouraged to participate in mediation, if appropriate given the circumstances, before proceeding with their complaint under the formal procedure.</p> <p>Given the above, we do not feel that the procedure should be revised.</p>	<p>Not agreed.</p>
<p>9) Greater reference needs</p>	<p>The draft policy and procedure are</p>	<p>Agreed in part.</p>

<p>to be given to transgender issues.</p>	<p>designed to provide a general framework within which complaints of bullying or harassment should be raised and addressed.</p> <p>However, this does not mean that specific needs/issues that may affect a particular individual or group of individuals would not be taken into account when dealing with a complaint in practice.</p> <p>Given this, we feel that it would not be appropriate to include a number of references within the policy that apply to one specific group only. However, we are agreeable to add examples of harassment on grounds of gender identity in Appendix 2 of the Policy Statement.</p>	
<p>10) Thought needs to be given as to how externally employed staff relate to the policy.</p>	<p>This is a BHCC employment policy only and as such cannot be imposed on employees of other employers who may be working alongside council employees.</p> <p>However, when out or insourcing services, the council takes into account, through the tendering process, how a prospective contractor looks after its workforce.</p> <p>The council not only satisfies itself that the other organisation it might work with meets all statutory employment obligations, including those relating to equalities, but it also asks specific questions relating to harassment in the workplace.</p> <p>The questions included on the current Pre-Qualification Questionnaire used in the tendering process are:</p> <ul style="list-style-type: none"> • Does your organisation have systems in place to monitor harassment in the work place? • Does your organisation have a policy or procedure in place to deal with alleged harassment incidents? 	<p>This is already catered for in the council's tendering documents.</p>

	<ul style="list-style-type: none">• Does your organisation have policies in place relating to equal opportunities, discrimination and harassment?• Are your staff with supervisory/managerial responsibilities required to receive training on equal opportunities, discrimination and harassment issues?	
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**DRAFT EXTRACT FROM THE PROCEEDINGS OF THE CABINET MEETING HELD
ON THE 17 JUNE 2010****CABINET****4.00PM 17 JUNE 2010****COUNCIL CHAMBER, HOVE TOWN HALL****DRAFT MINUTES**

Present: Councillors Mears (Chairman), Alford, Brown, Caulfield, Fallon-Khan, Simson, Smith, G Theobald and Young

Also in attendance: Councillors Mitchell (Opposition Spokesperson), Kitcat (Opposition Spokesperson) and Watkins (Opposition Spokesperson)

Other Members present: Councillors Bennett, Davis, Kemble and Oxley

26. DIGNITY & RESPECT AT WORK POLICY

- 26.1 The Cabinet considered a report of the Director of Strategy & Governance concerning council's Policy and Procedure for dealing with bullying and harassment at work and the new Dignity & Respect at Work Policy and Procedure.
- 26.2 The Chairman welcomed Councillor Oxley to the meeting and invited him to present the report in his capacity as Chairman of the Governance Committee, which would make the final decision on the policy at its meeting on 13 July.
- 26.3 Councillor Oxley explained that the policy before the Cabinet represented a substantial piece of work involving both Members and officers. It was vital for the council to have mechanisms in place to tackle bullying and harassment effectively and the proposed policy would address the perceived weaknesses in the current approach. The operation of the policy would be closely monitored and reviewed through the annual Staff Survey and the work of the Staff Consultation Forum.
- 26.4 The Chairman invited Councillor Mitchell, who had chaired the scrutiny panel that considered the proposed policy, to comment on the scrutiny process.
- 26.5 Councillor Mitchell explained that issues around bullying and harassment had been highlighted during the council's final Comprehensive Performance Assessment and that the scrutiny panel had been set up to run in tandem with the workshop tasked with reviewing the policy. The scrutiny panel had called upon representatives from the council's staff forums to comment on the draft policy and the extent of their

input, and it was clear that staff comments had been incorporated. Councillor Mitchell advised that the Dignity and Respect Advisors would have a positive effect, providing they received appropriate training. She added that the commitment to monitoring the policy would be key to its success and that she hoped the new policy would make a difference to future staff survey results.

26.6 In response to a question from Councillor Kitcat, Councillor Oxley confirmed that funding for the initiatives within the policy was secure.

26.7 Councillor Watkins stated that the work on the new policy was linked to the forthcoming scrutiny reports on staff disabilities and sexual violence, and that the emphasis on this area of work was encouraging.

26.8 **RESOLVED** - That having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendation:

(1) That the report be noted.

Subject:	Petitions	
Date of Meeting:	13 July 2010	Governance Committee
	15 July 2010	Council
Report of:	Director of Strategy and Governance	
Contact Officer:	Name: Elizabeth Culbert	Tel: 29-1515
	E-mail: elizabeth.culbert@brighton-hove.gov.uk	
Wards Affected:	All	

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Local Democracy, Economic Development and Construction Act 2009 ("the Local Democracy Act") sets out new statutory requirements for councils in relation to handling petitions, including a requirement to adopt a Petitions Scheme. This report explains the new provisions and makes recommendations for the adoption of a Petitions Scheme for Brighton & Hove City Council.
- 1.2 The Petitions Scheme proposed for Brighton & Hove goes much further than the minimum requirements of the legislation. The introduction of the Scheme has been taken as an opportunity to support the Council's work on improving customer engagement and to offer the public as wide access as possible to influence council decision making.

2. RECOMMENDATIONS:

2.1 That Governance Committee recommends to Council:-

- (1) That the Petitions Scheme attached as Appendix One be adopted as the Council's scheme for handling petitions pursuant to S11 Local Democracy Act 2009;
- (2) That the Council's constitution be amended in accordance with the draft amended Procedure Rules attached at Appendix Two.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 22nd September 2009 Governance Committee approved the launch of a trial e-petitions scheme and agreed the guidance which would govern the scheme. This was reviewed and extended in April 2010.
- 3.2 There has been a good level of demand for the e-petitions facility which is likely to increase as, during the trial period, the availability of the online facility has not

been strongly marketed to allow time for the software and management of the system to be tested.

- 3.3 One of the drivers for introducing e-petitions for the Council was the anticipation of new statutory duties in relation to petitions. These new duties are contained in the Local Democracy Act 2009 and set minimum standards for councils in relation to handling petitions, including a requirement to have an e-petitions facility by December 2010.

The Petitions Scheme

- 3.4 Councils must now publish a petitions scheme, setting out the detail of how they handle both e-petitions and paper petitions and the scheme must be available on the Council's website. Statutory Guidance has been published - "Listening to communities: Statutory Guidance on the duty to respond to petitions" which includes a model petitions scheme.
- 3.5 The proposed Petitions Scheme for Brighton & Hove City Council is attached at Appendix One. The Scheme covers all of the detail required by the Act and goes further - taking the opportunity to enable maximum use of petitions by the public as a means of engaging with the Council. A full scheme is required. In addition it is proposed that we communicate key messages and a summary of the Scheme which will be easier to pick up and use. The proposed communications plan is set out under 'Next Steps' at paragraph 4.1 below.

The key features of the new Petitions Scheme are:-

Who can petition?

- 3.6 The Local Democracy Act requires that, as a minimum, anyone of any age who lives, works or studies in the authority's area can organise and/or sign a petition.
- 3.7 In Brighton & Hove it is proposed that the Council opens up the process further and allows a wider number of people to petition. Therefore the draft Petitions Scheme proposes that any person of any age who lives, works, studies or uses services in Brighton & Hove can petition the Council.
- 3.8 To be clear, this will also now include Members, who were previously not able to petition the Council on the basis that elected Members were able to engage directly in other ways.

E-Petitions

- 3.9 The Act requires authorities to provide a facility for people to submit petitions electronically. The Council is only required to respond to electronic petitions that are submitted using the Council's e-petition facility and that comply with the requirements of the Petitions Scheme.
- 3.10 The legal requirement to provide an e-petitions facility does not come into force until December 2010. However, as the Council has already been trialling the e-

petitions facility, it is proposed to bring e-petitions and paper petitions together in the Petitions Scheme and bring the whole Scheme into force immediately following Council in July.

Responding to Petitions

- 3.11 The Act allows flexibility for Councils to set a threshold for signatories that will receive a response. The proposed Scheme for Brighton & Hove does not include a threshold for signatories, meaning that any petition that complies with the guidelines set out in the Petitions Scheme will be acknowledged and will have the opportunity to be presented at a council meeting.
- 3.12 When considering a petition, the Act requires Councils to consider the following steps:
- Agreeing the action requested in the petition;
 - Referring the petition for consideration to a relevant decision-making meeting of the authority;
 - Holding an enquiry;
 - Holding a public meeting;
 - Commissioning research;
 - A written response to the petition organiser setting out the authority's views on the request in the petition;
 - Referring the petition to an overview and scrutiny committee

Exclusions

- 3.13 The Petitions Scheme applies to petitions which relate to a function of the Council or relate an improvement in the economic, social or environmental well-being of the Council's area.
- 3.14 Petitions which are considered by the Monitoring Officer to be vexatious, abusive or otherwise inappropriate will not be accepted. The Statutory Guidance gives specific guidance on determining whether a petition should be excluded. In any case where the petition does not follow the guidelines in the Petitions Scheme, the petition organiser will receive a letter explaining the issues.
- 3.15 Consideration of petitions may also be refused if the issue is the subject of legal proceedings; relates to individual members of the community or is an excluded matter. Excluded matters are defined as:-
- Any matter relating to a planning decision;
 - Any matter relating to a licensing decision;
 - Any other matter relating to an individual or entity where there is a statutory right of recourse or appeal.

Petitions debates

- 3.16 The Local Democracy Act requires that petitions which receive a significant level of support should be debated at a meeting of the Full Council. The debate would

result in a decision of the Full Council or a recommendation to Cabinet, whichever is appropriate depending on the issue.

- 3.17 Each local authority has the flexibility to set a threshold for the number of signatures required to trigger a Full Council debate, subject to a maximum threshold of 5% of the local population. In Brighton & Hove it is proposed that the threshold is set significantly lower at 1,250 signatories (approximately 0.5% of the population). The intention is to ensure that the threshold is achievable and that the power to trigger a Full Council debate is engaged. The Council can revise its thresholds at any time if either no debates or an unmanageable quantity are triggered. Any revision would require the approval of Full Council.

Petitions calling officers to account

- 3.18 The Council's Petition Scheme must also allow for petitions to trigger a senior member of staff to attend a meeting of the Council's Overview and Scrutiny Committee and answer questions about their work. Again, each council has the flexibility to set an appropriate threshold for the minimum number of signatures required to trigger this action.
- 3.19 The Petitions Scheme for Brighton & Hove is proposing a threshold of 750 signatories to trigger an officer being called to account. The requirement is for this type of petition to apply to senior officers responsible for delivering council functions. In Brighton & Hove the Petitions Scheme includes the Chief Executive and Directors for this purpose. Following the implementation of the Intelligent Commissioning structure, it is proposed that the relevant officers would be the Chief Executive, Strategic Directors, Lead Commissioners and Heads of Delivery, Support and Resource Units.

Petition reviews

- 3.20 An important new provision in the Petitions Scheme is the power to ask Overview and Scrutiny to review the Council's response if the petition organiser is not satisfied with it. If the Overview and Scrutiny Committee reviewing the matter is concerned about the adequacy of the response, it will have the power to carry out a full review or arrange for Full Council to do so. The Council will be required to inform the petition organiser of the outcome of the review and post the results on the council website.

4. Next Steps

- 4.1 Subject to the approval of the draft Petitions Scheme by Full Council, it is proposed that the new arrangements come into effect immediately. There will be a communications plan to ensure that there is awareness of the new Scheme in the City. This will include:
- Press releases;
 - City News
 - Information on the Council's website

- An accessible summary of the scheme and key messages produced for the website and other media;
- Communication using our Community Development links and forums including attendance at meetings and use of community newsletters;
- Ongoing promotion of the scheme at Get Involved events taking place in the City.

4.2 In order to assess the impact of the scheme and its success in increasing opportunities to engage with the Council, it is proposed that a review of the scheme is considered by Governance Committee in June 2011.

5. CONSULTATION

5.1 Consultation has taken place internally with Democratic Services, the Communications Team, the Head of Scrutiny and the Head of Equalities and Inclusion. A review of the operation of the scheme will be considered by Governance Committee in June 2011.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The costs associated with managing petitions and e- petitions is currently covered within the democratic services budget. If there was a significant increase in petition activity following completion of the trial additional resources would need to be identified as part of the budget process.

Finance Officer consulted: Anne Silley Date: 28/06/10

Legal Implications:

5.2 As set out in the body of the report there is currently no legal requirement for the Council to provide an e-petitions facility. However, the provisions of the Local Democracy, Economic Development and Construction Act 2009 require this to be in place by December 2010. The provisions of the draft Petitions Scheme comply with the requirements of the Act.

Lawyer Consulted: Elizabeth Culbert Date: 25/05/10

Equalities Implications:

5.3 The proposals increase accessibility to Council decision makers and the communications plan will ensure that awareness of the scheme is specifically targeted at harder to reach groups.

Sustainability Implications:

5.4 The use of an on-line facility is likely to decrease the amount of paper petitions that are submitted.

Crime & Disorder Implications:

- 5.5 There are no Crime and Disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 The risks involved are that the demand for e-petitions is so high that the Modern.Gov system is not able to cope with the volume or that the number becomes unmanageable for Council meetings. The scheme includes the option of receiving a response direct from the Director which may assist in managing high numbers of petitions. To date the volume has been manageable and this will be kept under review. The scheme can be reviewed at any time with the approval of Full Council.

Corporate / Citywide Implications:

- 5.7 The initiative supports the "Get Involved" programme which is seeking to promote the Council, local democracy and active citizenship.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Petitions Scheme for Brighton & Hove City Council
2. Extracts from Constitution with proposed amendments

Documents In Members Rooms

None

Background Documents

None

DRAFT Brighton & Hove City Council Petitions Scheme

Petitions

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions should be sent to Democratic Services, King's House, Grand Avenue, Hove, East Sussex BN3 2LS at least 10 days before the meeting at which you would like the petition to be presented.

Petitions can also be created, signed and submitted online by following this link [submit a new e petition](#)

Once submitted, you will be offered the choice as to whether you wish the petition to be:-

- (i) Presented at the next full council meeting; or
- (ii) Referred directly to the appropriate public decision-making meeting for a response; or
- (iii) Responded to by the relevant Director.

If you wish to refer the petition to a full council meeting or directly to the relevant decision-making meeting, you will be invited to attend the meeting and will be offered the opportunity to either present the petition yourself or for a councillor or someone else to present it on your behalf. Dates and times of all council meetings can be found here [council meeting dates 2010](#). Alternatively, you may prefer to receive a response from the relevant Director without the petition being presented at a meeting, in which case a response will be sent to you within 21 working days of the closure of the petition and will be posted on the Council's website.

If your petition has received 1250 signatures or more it will be scheduled for a [full council debate](#) and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the council. If your petition has received 750 signatures or more and is calling for a senior council officer to give evidence about something for which the officer is responsible as part of their job then it will be scheduled for a meeting of the relevant Overview and Scrutiny Committee – see [Officer Evidence](#) below.

If you would like to present your petition to the Council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 01273 291006 at least 10 working days before the meeting and they will talk you through the process.

What are the guidelines for submitting a petition?

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take; and
- the name and address and signature of any person supporting the petition.

Petitions can be signed by any person of any age who lives, works or studies in or uses services provided by Brighton and Hove City Council.

Petitions must relate to a function of the Council or relate to an improvement in the economic, social or environmental well-being of the Council's area to which any of our [Partner Authorities](#) could contribute.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

What will the council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here:

[Influence council decisions – make your voice heard](#)

We will not take action on any petition which considered by the Council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will discuss with the

petition organiser the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it. Among the options that the council may consider are:-

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council's overview and scrutiny committee*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners (see [here](#)) and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [Council services](#).

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full council debates

If a petition contains more than 1,250 signatures, and is not a petition requesting [officer evidence](#), it will be debated by the full council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given 3 minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. If your petition contains at least 750 signatures, [the relevant senior officer](#) will give evidence at a public meeting of the council's overview and scrutiny committee.

You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Tom Hook, Head of Scrutiny up to three working days before the meeting. For all overview & scrutiny committees please email scrutiny@brighton-hove.gov.uk or call Tom Hook, Head of Scrutiny on 291110. The overview and scrutiny meeting does not have power to make or change decisions but may make a report or recommendations to the relevant decision making meeting. A copy of the overview and scrutiny report or recommendations will be sent to you.

E-petitions

The council welcomes e-petitions which are created and submitted through our website [e-petition](#). E-petitions must follow the same [guidelines](#) as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for 4 months, but you can choose a shorter or longer timeframe, up to a maximum of 6 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgement within 10 working days confirming what we plan to do with the petition and when you can expect to hear from us again. It will also be published on our website. If you would like to present your e-petition to a meeting of the council, or would like a Councillor to present it, please contact Democratic Services at least 10 working days before the meeting and they will talk you through the process.

How do I start an e-petition?

On the [e-petitions](#) homepage, select the 'submit a new e-petition' option. You will be prompted to enter a title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently. There is also a drop down box which allows you to associate your e-petition with any existing issue in the Council's Forward Plan. The [Forward Plan](#) details all of the key decisions to be taken by the council in the coming months. You will then need to fill in the online form. This will be submitted to the Democratic Services team who may contact you to discuss your e-petition before it goes live.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [current email petitions](#).

You can only sign an e-petition once. When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible. From time to time, the Council may also submit an e-petition itself to gauge public feeling on a particular issue.

Can I still submit a paper petition?

You can submit petitions in both forms - you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the adequacy of the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate. Your requests for review should be sent to the Head of Scrutiny, Kings House, Grand Avenue, Hove, East Sussex BN3 2LS or by email to tom.hook@brighton-hove.gov.uk

The committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

Alternative formats and languages

If you would like information published by Brighton & Hove Council in large print, braille, audio tape, in pictures and symbols, or in a community language please call Democracy Service on 01273 291006.

Partner Authorities

For the purpose of this scheme, each of the following is a partner authority:-

- East Sussex Fire and Rescue Authority;
- South Downs National Park Authority;
- East Sussex Police;
- a chief officer of police;

- a joint waste authority established under section 207(1);
- NHS Brighton & Hove;
- The South East England Development Agency (SEEDA);
- Surrey and Sussex Probation Trust;
- South Downs NHS Trust
- the Arts Council of England;
- the English Sports Council;
- the Environment Agency;
- the Health and Safety Executive;
- the Historic Buildings and Monuments Commission;
- the Learning and Skills Council for England;
- the Museums, Libraries and Archives Council;
- Natural England;
- the Secretary of State, but only in relation to—
- his functions under section 2 of the Employment and Training Act 1973 (c. 50) (arrangements with respect to obtaining etc employment or employees);
- functions which he has as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66); and
- functions which he has as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).

Senior officers who may be called to give evidence in response to a petition

- Chief Executive
- Director Children's Services
- Acting Direct Adult Services
- Director Strategy and Governance
- Direct of Finance
- Director of Culture
- Director of Environment

PART 3.2 COUNCIL PROCEDURE RULES

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 - [10.4: Action following Petitions](#)
 - [10.5: Debate on Petitions](#)
 - [10.9: Officer evidence](#)

Deleted: 10.1: Preliminary Requirements¶
10.2: Notice of Petition¶
10.3-10.4: Presentation of Petition¶
10.5: Action following Petition

- Rule 11: Deputations
 11.1-11.2: Procedural Requirements
 11.3: Relevance

Rule 10: Petitions

Presentation of Petitions

10.1 At a meeting of the Council any Member of the Council or a Member of the public may present a petition which is, submitted in accordance with the Council's scheme for handling petitions.

10.2 The presentation of the petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition and indicating the number and description of the signatories.

10.3 Petitions shall be presented in the order in which notice of them is received by the Mayor.

10.4 Action following petitions

A petition with less than 1250 signatories presented to the Council meeting shall be received without discussion and shall be included on the agenda for the next available meeting of the Cabinet or relevant Cabinet Member, Committee or Sub-Committee. The Member of the Council or member of the public presenting the petition shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme.

Debate on petitions

10.5 A qualifying petition with 1250 or more signatures will trigger a debate at full council, except where the petition is asking for a senior officer to give evidence.

10.6 A petition meeting the criteria set out at 10.5 above may be debated at the meeting at which it is presented or at a later meeting.

10.7 There shall be a quillotine on the debate on the petition of 15 minutes, after which the vote will be put, unless the Mayor at his or her discretion extends the debate.

10.8 The Council will decide how to respond to the petition and shall decide either:-

- To take the action the petition requests;
- Not to take the action the petition requests for reasons stated in the debate;

Deleted: Preliminary Requirements¶

Deleted: signed by persons other than Members of the Council, which is relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of the

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Deleted: The Member presenting the petition shall satisfy himself/herself that the petition is proper to be received.

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Deleted: Notice of Petition¶

Deleted: A Member wishing to present a petition shall give notice of his/her intention to do so to the Mayor before the beginning of the meeting at which he/she wishes to present it. ¶

¶ **Presentation of Petition¶**

¶ 10.3

Deleted: The presentation of a petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition and indicating the number and description of the signatories. ¶

¶ 10.4 . Petitions shall be presented in the order in which notice of them is received by the Mayor.

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- To commission further investigation into the matter prior to consideration at a future meeting of the Council, which may include holding an inquiry or public meeting, commissioning research or reference to a particular committee or body for their views;
- To refer the petition to Cabinet or the relevant Cabinet Member Meeting where the matter relates to an executive function, in which case the Council may make recommendations to the relevant executive decision making body.

Officer evidence

10.9 The officers to be called to give evidence at a public meeting under section 16 Local Democracy, Economic Development and Construction Act 2009 and pursuant to the Council's scheme for handling petitions are:-

- The Chief Executive
- Directors

PART 4.3 CABINET PROCEDURE RULES

How are Cabinet Meetings Conducted?

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, one of the Deputy Leaders shall preside. In the absence of both the Leader and Deputy Leaders, a person appointed to do so by those present shall preside.

In the case of Cabinet Committees (if any) the Leader shall appoint the person to preside at the meeting.

The relevant Cabinet Member shall preside at individual Cabinet Member decision-making meetings.

2.2 Who may attend and speak?

(a) All meetings of the executive are usually open to the public. The details are set out in the Access to Information Rules in part 8 of this Constitution.

(b) In addition to the rights Members may have as members of the public:

- i) the Leader/Convenor of the opposition parties or his/her nominee shall be entitled to attend and speak at the meeting of the Cabinet, its Committees and individual Cabinet Member meetings.
- ii) any other Member of the Council may, subject to the agreement of the chairman of the meeting, attend and speak at meetings of the Cabinet, its Committee and Cabinet Member meetings.
- iii) the provisions of the Council Procedure Rules regarding Member questions, presentation of petitions, deputations and Members' letters shall apply to meetings of the Executive. A Councillor or a member of the public wishing to present a petition, question or deputation shall have the option of presenting them at Full Council or the Cabinet, a Committee of the Cabinet or a Cabinet Member meeting.
- iv) where a person presents a question, petition or delegation but does not specify the forum at which he/she wishes it to be presented, the Head of Democratic Services may refer the same to the most appropriate

forum having taken reasonable steps to ascertain the wishes of the originator. There will be a presumption that any question, petition or deputation relating to an executive function shall be referred to the Cabinet meeting.

v) the protocol for public questions in Part 9 of the Constitution shall apply to meetings of the Executive.

vi) The Council's Petitions Scheme shall apply to meetings of the Executive. This includes the requirement that when deciding how to respond to the petition, the Executive will include in its consideration the following options:-

- agreeing the action requested in the petition
- not agreeing the action requested and a written response to the petition organiser setting out the authority's reasons
- referring the petition for consideration to a relevant decision making meeting of the authority
- holding an inquiry
- holding a public meeting
- commissioning research
- referring the petition to an overview and scrutiny committee

2.3 What business?

At each meeting of the Executive the following business shall be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) public and Member questions;
- iv) petitions and deputations from the public;
- v) Members' letters;
- vi) matters referred to the Cabinet, Cabinet Committee or Cabinet Member (whether by an overview and scrutiny committee or by Full Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules set out in Part 6 of this Constitution, or the Budget and Policy Framework Procedure Rules set out in Part 4;

- vii) consideration of reports from overview and scrutiny committees;
and
- viii) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 8 of this Constitution.

2.4 Consultation

All reports to the Cabinet, a Cabinet Committee or a Cabinet Member relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters shall set out the details and outcome of consultation as appropriate. The level of consultation required shall be appropriate to the nature of the matter under consideration.

PART 6.1 OVERVIEW AND SCRUTINY TERMS OF REFERENCE AND PROCEDURE RULES

1. The number and arrangements for Overview and Scrutiny Committees

- 1.1 The Council will appoint the Overview and Scrutiny Commission and five further Overview and Scrutiny Committees as set out in Article 6. The Overview and Scrutiny Commission will co-ordinate the Overview and Scrutiny function and work programme. The Commission will approve the appointment of Sub-Committees to carry out in depth reviews (Select Committees). Short, sharply focussed scrutiny reviews (Ad Hoc Panels) may be carried out by each Committee at its own instigation.

2. Terms of Reference of Committees

2.1 Overview and Scrutiny Commission – Resources and Corporate Performance

- 2.1.1 To co-ordinate the work of the Overview and Scrutiny Committees as set out under “Functions” below.

- 2.1.2 To review and scrutinise all matters, Executive decisions and service provision relating to the specific functions of Leader of the Council as set out under Part 4.2 of the constitution.

- 2.1.3 To review and scrutinise all matters, Executive decisions and service provision relating to the Finance function, including

- Council’s annual budget; and
- the Council’s performance in relation to overall budgetary management.

- 2.1.4 To review and scrutinise all matters, Executive decisions and service provision relating to Central Services, in particular;-

- to review and scrutinise the delivery and performance of the Council’s support services including:

- Finance
- Property
- ICT
- Customer Services
- Corporate Procurement
- Legal Services
- Democratic Services
- Policy
- Communications
- Human Resources

□ Improvement & Organisational Development

- to review and scrutinise the establishment of joint working with other authorities, including the effectiveness of any shared services arrangements
- Overview and Scrutiny of council wide performance monitoring, relationships with Auditors and Regulators, Comprehensive Performance Assessment, Local Area Agreement etc.

2.1.5 To review and scrutinise all matters, Executive decisions and service provision relating to Community Affairs, Equalities and Inclusion and sustainability.

2.1.6 To review and scrutinise any other Council function not otherwise addressed by any other Overview and Scrutiny Committee.

2.1.7 To scrutinise the effectiveness of the arrangements for partnership working including the local strategic partnership and the Local Public Service Boards and the Council's contribution to them and specifically in relation to the Local Area Agreement.

2.1.8 To scrutinise the effectiveness of the Council's representation in regional/sub regional and national forums.

2.1.9 To review and scrutinise all matters relating to corporate policy and methodology for public consultation and involvement undertaken by the Council.

2.1.10 To review and scrutinise the Council's corporate communications strategy.

2.1.11 In accordance with the Council's Petitions Scheme, to receive, or refer to the appropriate Overview and Scrutiny Committee, petitions containing 750 or more signatories asking for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job.

2.1.12 The officers who may be called to give evidence are:-

- The Chief Executive
- Directors

2.1.13 In accordance with the Council's Petitions Scheme, to consider requests, or refer them to the appropriate Overview and Scrutiny Committee, for a review of the Council's response to a petition under s21(2)(a) Local Government Act 2000 (or to arrange, pursuant to s21(3)(b) for a meeting of the full council to do so).

Subject: Civic Awareness Commission: Terms of Reference
Date of Meeting: 13 July 2010
Report of: Director of Strategy and Governance
Contact Officer: Name: Mark Wall Tel: 29-1006
E-mail: mark.wall@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Civic Awareness Commission has been acting as a steering group with the remit to promote civic engagement and understanding within the city.

2. RECOMMENDATIONS:

- 2.1 That the Committee approves the establishment of a Civic Awareness Commission in accordance with the terms of reference outlined in paragraphs 3.1 to 3.3 of the report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Steering Group was initially set up to consider the promotion of civic engagement and the history of the authority in the city and included Councillors Oxley, Older, Randall and Watkins, together with Adam Trimmingham (Freeman), Andy Durr (Ex Brighton & Hove Councillor) and Jim Buttimer (Ex Hove Borough Councillor).
- 3.2 The Steering Group appointed Adam Trimmingham as its Chairman and has met on 7 occasions since October 2009.
- 3.3 Having identified a role for the Commission, it is proposed that it be formally recognised by the Governance Committee and its terms of reference approved as set out below:

Civic Awareness Commission Terms of Reference

Membership

The membership of the Civic Awareness Commission will be as follows:-

- The Chairman of the Governance Committee and a Member from each of the other Groups represented on the council;
- Freeman, Aldermen and ex-councillors with an interest in civic awareness nominated by the Chairman of the Governance Committee;

- Any other members co-opted by the Commission.

Role

- To promote civic awareness and civic engagement in the city and to encourage a greater appreciation of the civic history of Brighton and Hove.
- To seek appropriate resources from all avenues to assist with the promotion of civic awareness.
- The Commission will be supported by the city council and this will include project management and secretariat support.
- Lead Officers for the city council will be the Director of Housing, Culture & Enterprise and the Head of Royal Pavilion & Museums who will be in attendance at meetings in order to support the Commission.
- The Commission will engage with the various Directorates, Partner Organisations and community.
- There will be an initial scoping meeting to determine the work programme.
- The Commission will have both private and public meetings.

Reporting

- The Civic Awareness Commission is not a decision making body.
- Regular updates will be presented to the Governance Committee for the duration of the Commission on a six monthly basis.
- The Commission will engage with all Directorates, partner organisations and citizens.

4. CONSULTATION

- 4.1 The creation of the Commission as a steering group was raised with Group Leaders by the Chairman of the Governance Committee. Having received agreement from all Group Leaders the Civic Awareness Commission was set up as a steering group by the Head of Democratic Services and is supported by the Democratic Services Team.
- 4.2 The Members of the Civic Awareness Commission have agreed to the proposed terms of reference as have the Group Leaders.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The establishment of the Commission has no direct financial implications, however, any actions resulting from the work of the Commission and in the promotion of civic awareness will either need to have new resources identified or carried out from within existing budgets.

Finance Officer Consulted: Anne Silley

Date: 21 June 2010

Legal Implications:

- 5.2 There are no legal implications arising from the report. The Commission is not a decision making body and any recommendations will be considered at the Governance Committee with full legal and financial implications at that stage.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 17 June 2010

Equalities Implications:

- 5.3 There are no equalities implications arising from the establishment of the Commission.

Sustainability Implications:

- 5.4 The work of this Commission will take into consideration any sustainability issues affecting the council and the city.

Crime & Disorder Implications:

- 5.5 There are no crime & disorder implications arising from the establishment of the Commission.

Risk and Opportunity Management Implications:

- 5.6 There are no risk and opportunity management implications arising from the establishment of the Commission; and any such implications arising from the work of the Commission will be taken into consideration.

Corporate / Citywide Implications:

- 5.7 The establishment of the Commission will provide a specific focus for the promotion of civic engagement and civic history of Brighton and Hove.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

Subject:	South Downs National Park Authority – Delegation of Development control function to constituent authorities		
Date of Meeting:	13 July 2010	Governance Committee	
	15 July 2010	Council	
Report of:	Director of Environment		
Contact Officer:	Name: Rob Fraser	Tel: 29-2380	
	E-mail: rob.fraser@brighton-hove.gov.uk		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The new South Downs National Park Authority (SDNPA) came into being on the 1 April 2010 but will have a year to prepare itself before it becomes fully operational. The SDNPA will assume planning powers for the area of the National Park on 1st April 2011. The SDNPA is seeking Local Authority agreement to a proposal to delegate back (at least in the short term) development control powers to the Local Authorities currently exercising those powers. The proposal includes a 'Joint working agreement to providing planning services from 1st April 2011' (Appendix 1) binding local authorities to providing planning services from 1st April 2011 and a 'Draft proposal for funding a scheme of planning delegation' (appendix 2). These anticipate a section 101 agreement with participating authorities. A Draft scheme of delegation (appendix 3) is included for information but is subject to change.

The Joint working agreement makes clear that this is an interim agreement for three years whilst the SDNPA considers how best to deliver its planning services. In the event that this is extended the financial agreement makes reference to a review after 3 years.

- 1.2 This report therefore seeks the agreement of the Governance Committee to accept the proposal on the terms proposed and amend the constitution to accommodate the proposed delegation of development control functions.

2. RECOMMENDATIONS:

- 2.1 Note the scheme of delegation agreed by the SDNPA; the draft Joint working agreement under Section 101 of the Local Government Act 1972 and the Draft funding proposals as set out in appendices 1 & 2 and 3 attached.
- 2.2 That Governance committee recommend that Council agrees the delegation of development control functions from the SDNPA to the Council on the temporary basis proposed, subject to any review.

- 2.3 That the Head of Law be instructed to make any necessary amendments to the Constitution to reflect the interim delegation to the Council of SDNPA development control powers.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On the 12th November 2009 the creation of the South Downs National Park was confirmed by Hilary Benn, Secretary of State for Environment, Food and Rural Affairs. The South Downs National Park came into being on 31 March 2010 and the Sussex Downs and East Hampshire Areas of Outstanding Natural Beauty (AONBs) were revoked. Designation as a National Park is a formal recognition of the special qualities of the South Downs in terms of natural beauty and opportunities for open-air recreation. The famous South Downs Way, loved by walkers, cyclists and horse riders, stretches the entire 160 km length of the Park from Winchester in Hampshire to the white chalk cliffs of Beachy Head, near Eastbourne.
- 3.2 The South Downs National Park Authority is the lead organisation responsible for promoting the purposes of the National Park. The Authority has 27 Members appointed from Local Authorities covering the Park, Parish Councillors plus National Members appointed by the Secretary of State. It came into being on the 1 April 2010 but will have a year to prepare itself before it becomes fully operational in April 2011, including becoming the statutory Planning and Access Authority. In the meantime the existing respective planning authorities will continue to decide applications within the National Park.
- 3.3 Covering an area over 1600 square kilometres it is not the largest National Park but it is the most populated. The SDNPA would nonetheless be geographically one of the largest planning authorities and have one of the busiest caseloads in the country. An in-house planning service would require setting up a very large planning system and recruiting over 100 staff before April 2011.
- 3.4 Options for the administration of the National Park were considered by DEFRA and CLG in discussion with the affected Local Authorities in the lead up to the announcement of the National Park. The Shadow Authority has therefore built upon this work and is now proposing a scheme of delegation closely relating to that suggested by the affected authorities.
- 3.5 During the shadow year (April 2010 to April 2011) the South Downs National Park Authority will not be the planning authority, its role in planning will be consultative / advisory (if it chooses to take on this role, which is discretionary during the shadow year). Whilst the South Downs National Park Authority will have planning duties from April 2011 it has decided that at least initially it would prefer to concentrate on its plan making (policy) functions and delegate back to the 15 constituent local authorities some of its planning services (particularly some of the smaller development control functions that they were previously carrying out). The SDNPA would work with Local Authorities to complete their LDF documents as co signatory as an interim policy arrangement.

- 3.6 The delegation option is an interim arrangement. It allows the SDNPA to monitor how this arrangement works and to set up an in house system if this proves not to be satisfactory.
- 3.7 Any functions carried out by participating authorities would be carried out in the name of, and using the logo of, the SDNPA.
- 3.8 There are certain types of decision the SDNPA is not legally allowed to include in this arrangement so the SDNPA would hold back for decision certain major planning applications.
 Additionally the scheme of delegation allows for the SDNPA to call in any application decision it considers to be 'significant' regardless of the size of the application.
 The proposed threshold for decisions to be taken by the national park is the normal 'large application' threshold of 10 dwellings, 100 sq m of commercial floor space, or a site of over 0.5 hectares.
 Local Authorities will continue to provide all necessary functions (ecology, historic buildings etc. advice) to support the development control function.
- 3.9 The Joint working agreement makes clear that this is an interim agreement. The agency agreements should initially operate for three years whilst the SDNPA considers how best to deliver its planning services. There will be a 1 year notice to terminate on either side.
 The draft funding proposals indicate that the intention is to create a scheme which is cost neutral to those participating. In the event that the agreement is extended a review in year three is proposed in the draft agreement for implementation in year 4.
 The SDNPA anticipates funding from DEFRA of £4.5 M transferred from a top slice of the National Revenue support grant.

4. CONSULTATION

- 4.1 The proposal now in front of the committee follows lengthy consultation with the affected Local Authorities facilitated by DEFRA and CLG in the lead up to the establishment of the SDNPA.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The draft funding proposals indicate that the intention is to create a scheme which is cost neutral to those participating. In the event that the agreement is extended a review in year three is proposed in the draft agreement for implementation in year 4.
 During the review in year three the financial implications will be investigated in full

Finance Officer consulted: Patrick Rice

Date: 01/07/10

Legal Implications:

- 5.2 Section 101 of the Local Government Act 1972 provides that a local authority may arrange for the discharge of certain of its functions by another local authority. Development control functions can be so discharged.

As currently drafted the Council's Constitution does not provide for Planning Committee nor the Director of Environment, exercising delegated powers, to carry out planning functions on behalf of the South Downs National Park. In order to allow Planning Committee and the Director of Environment to carry out those functions which it is intended to delegate to the Council under the terms of the proposed Joint Working Agreement with the South Down's National Park it is therefore necessary to amend the Constitution to enable such functions to be carried out.

Lawyer consulted: Elizabeth Culbert

Date: 30/06/10

Equalities Implications:

- 5.3 There are no identified adverse Equalities implications to the proposal that Brighton and Hove continue to undertake the planning control service for the area included within the National Park

Sustainability Implications:

- 5.4 None identified.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 A range of alternative options were discussed and investigated during the lead up to designation of the National Park and these were considered by the Shadow Park Authority since April this year. The proposed scheme is anticipated to be broadly acceptable to all authorities. A number of Authorities (notably Lewes and Chichester) have significant parts of their local Authority area incorporated into the National Park. This has significant implications for their provision of an affordable and efficient planning service within those areas. Consequently the most affected authorities have sought to persuade the new SDNPA to give the maximum level of delegation.
- 6.2 In comparison the number of applications dealt with by Brighton and Hove City Council is considered to be insignificant.
- 6.3 A number of variations of delegation arrangement and a number of thresholds, at which the SDNPA will determine the application themselves, have been considered.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The proposed delegation arrangements are considered to be workable, likely to be widely acceptable to all affected authorities, not unduly onerous and achievable within the resources available within the planning division. The delegation arrangements and financial proposals will both be subject to review.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 'Joint working agreement to providing planning services from 1st April 2011'

Appendix 2 'Draft proposal for funding a scheme of planning delegation'

Appendix 3 Draft scheme of delegation (for information only)

Documents In Members' Rooms None

Background Documents None

FRAMEWORK FOR DEVELOPMENT OF PREFERRED SCHEME OF DELEGATION FOR PLANNING APPLICATIONS AND ASSOCIATED WORK FOR CONSIDERATION BY SDNPA

	Preferred Approach	Comment
<p>1 Overall description</p>	<p>NPA determines significant applications itself and exercises an appropriate degree of influence over other applications delegated to LAs, in order to ensure that NP purposes are met. NPA supports all decision making with advice and expertise as appropriate</p> <p>NPA has an active role in pre-and post-application procedures where it is the determining authority, but otherwise this is delegated as for the decisions.</p> <p>NPA has a policy and co-ordinating role in other associated planning functions (enforcement, conservation, trees etc), adding value/resources as appropriate to achieve SDNP objectives</p>	
<p>2 Delegation Scheme</p>	<p>NPA to determine “significant” applications (as set out in delegation scheme), and to retain “call in” power for any other applications which it may wish to determine. All applications submitted to LAs initially, subject to any requirement for the NPA to receive applications itself. Validation and initial consultation undertaken by LA in accordance with standards to be agreed by NPA, including validation training.</p> <p>All apps also entered onto NPA database, with links to LA handling the app for case tracking purposes NPA apps passed to NPA to determine unless agreed that LPA should process it on NPAs behalf.</p> <p>The NPA will need an adequate case handling capacity to deal with applications of NPA significance but there might be some NPA applications which are best dealt with by the LAs</p> <p>Applications initially dealt with under current LA policies, until NP LDF is sufficiently far advanced to be a material</p>	<ul style="list-style-type: none"> • Major/minor (GDPO) split to be used as basis for significance, with call-in for more significant minors, and some less significant majors to be delegated. Implied caseload for NPA c150 apps/year, remainder of c4,000 to be delegated. Less significant majors only likely to apply in urban areas. Same principle applies to M&W and reg 3 apps. • minimum validation and consultation standards to be agreed from April 2011 • Agreed programme to further converge validation and consultation standards and procedures over three years from April 2011

	Preferred Approach	Comment
	<p>consideration</p> <p>Consider possibility of preliminary statement of policy approach by Shadow Authority early in shadow year, eg broadly supporting Core Strategies, and identifying any policies where there might be differences, for the LPAs to consider as they progress CSs.</p> <p>Work during shadow year on LDS for adoption early in first operative year, possibly including an early 'reconciling' LDD to reconcile significant policy inconsistencies on a shorter timescale than the SDNP Core Strategy</p> <p>NB the last 3 points are policy issues really, not delegation issues, but are clearly relevant to the delegation approach.</p>	<ul style="list-style-type: none"> • Draw together LA policies and review potential for preliminary statement of policy approach by NPA early in shadow year • Draw up draft LDS, including early 'reconciling' LDD to reconcile any significant policy inconsistencies
3 Application processing responsibilities		
Pre app discussions	<p>NPA likely to advocate DM approach, and to add value by promoting pre-app discussion</p> <p>Pre-app discussions held by LA or NPA depending on determination.</p> <p>NP link officer to play a role in ensuring consistent approach</p>	<p>Pre-application discussions to be required – specific arrangements to be agreed with each LA, and may vary. Charging regimes also to be agreed with NPA and may vary.</p> <p>NPA to establish charging regimes for NPA pre-app discussions</p>
EIA screening and scoping	<p>LA role. Link officer will have a key role in screening, and may need specific authority to decide whether EIA applies. Training of LA staff in EIA scoping and screening to be agreed by NPA</p>	
Reference numbering	<p>LA role</p>	<p>Application referencing system</p> <p>Scheme to be agreed – eg NPA suffix. May be problems of consistency due to variety of systems (<i>interim solution already agreed</i>)</p>

	Preferred Approach	Comment
Validation	LA role	NPA to agree minimum validation standards (not necessarily uniform at outset) Officer training to be subject to NPA approval
Registration	LA role	
Online posting	NPA/LA joint role. Preference for applications to be received by LAs, but may be legal requirement for NPA to be recipient, in which case apps would need to be transferred back to LA for validation, or else NA would need validation capacity	Need to develop SDNPA Planning IT System
Consultations	LA role. Protocol to provide for any additional consultations required by NPA to be carried out by either NPA or LA	Minimum consultation standards to be agreed by NPA at outset, with convergence to common standard over time NPA/LA protocol for consultations
Processing (<i>administration, not professional assessment/advice</i>)	LA/NPA role according to determination , but LA to process NPA applications where they retain the professional role	Explore option of LAs processing all applications, even where NPA is determining.
Professional assessment and advice and negotiations	Normally LA/NPA role according to determination but LA may retain professional role for NPA apps by agreement for specific applications, with full involvement of NPA link officer, particularly for transitional period, and lesser minors which are 'significant'	
S.106 agreements	LA/NPA role according to determination Applications initially dealt with under current LA s106 policies, until NPA s106 policy is sufficiently far advanced to be a material consideration	Review current s106 (/CIL)policies and develop NPA s106 (/CIL)policy Explore legal consequences of LAs signing agreements on NPAs behalf Monitoring and publication of s106 agreements to be required, and subject to NPA approval.
Officer Report	LA/NPA role according to determination (but where by agreement the LA is handling an NPA application the NPA report may be drafted and presented by LA officers with full involvement of NPA link officer. This may apply, particularly for the transitional period, and lesser minors which are 'significant')	

	Preferred Approach	Comment
Determination	LA/NPA role according to determination	Detailed delegation scheme
Appeals	LA/NPA role according to determination (but if LA substantially process an NPA application, they might also deal with any appeal, with full NPA involvement)	Opportunities for NPA to add value Protocol for appeal (and other legal) costs

<p>Compliance</p>	<p>LAs to take lead on compliance, with NPA providing overview to ensure consistency in meeting NPA objectives. M&W compliance to continue with M&W authorities</p>	<p>Review systems and resources for compliance monitoring and procedural and resource implications of pan-NP compliance standards, noting that charging for compliance/discharge of conditions can raise income</p>
<p>4 Officer procedures and staffing</p>	<ul style="list-style-type: none"> • Use existing LPA systems and procedures including officer delegation to process and determine most applications, except insofar as standardisation is necessary to meet minimum NPA standards. • Separate teams (in LAs having significant NP workload) or nominated officers (in LAs having small NP workload) (<i>these are intended as options for discussion</i>) • Competency standards to be agreed by NPA • Key role for NPA Link Officers for LAs, or groups of LAs to ensure system effectively meets NP purposes • NPA branding and identification for all applications in NP area. • NP Induction training and regular training afterwards 	<ul style="list-style-type: none"> • Systems and procedures for in-house NP planning team • Review LPA procedures and protocols including current delegation arrangements and establish baseline standards for discussion • Need to agree how NPA/LA procedures will inter-relate • Develop options for procedures for delegated applications for discussion with LAs • Competency standards including induction and training requirements to be developed for discussion.
<p>5 Decision Making</p>	<ul style="list-style-type: none"> • NPA/LA Scheme of delegation to officers. Some NPA matters might be officer-delegated • Use existing LPA format for officer reports on delegated applications subject to agreement of format/content by NPA. • Reports to NPA committee to be to an agreed format • NPA applications referred to NPA planning committee • Delegated Committees, either Part A (NP) and Part B (non-NP) agendas, or two separate committees within the LA, one for NP and one for non-NP. (<i>NB this might be a menu of alternative options for discussion/agreement</i>) • 'Cooling off' period to be agreed where LA overturns officer recommendation – authority to intervene to be used exceptionally • Appropriate branding of decision procedures and documents • Training/induction for councillors on NP matters. • Forum of NP Committee chairs 	<ul style="list-style-type: none"> • Review existing LPA schemes of delegation to officers, agree 'minimum' delegation requirements • NPA likely to require PAS best practice standards • Develop NPA officer delegation scheme • Report formats – review and agree core components • NPA standards for Committee operation. • Explore legality of co-option on regulatory committees • Review LPA committee formats for delegated items, and agree format for NPA committee items • Develop options for SDNPA Planning Committee structure • Develop menu of committee structure options for delegated decisions for discussion • Develop training/induction programmes for Councillors • Establish forum of NP planning committee chairs

	<ul style="list-style-type: none">• Co-opted NPA members for LA Committees?	
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<p>6 IT Systems</p>	<ul style="list-style-type: none"> • New NPA IT-system required to monitor all applications and handle NPA applications • SDNPA website to link with planning pages on LA website(s), particularly for on-line viewing of planning applications. • Separate pages for NP applications on LA websites? • IT protocol for all LAs handling delegated applications. 	<ul style="list-style-type: none"> • Specification for NP IT system for planning. • Develop system to link all relevant planning pages at NPA and in LPAs . • IT protocol for all LPAs handling delegated applications.
<p>7 Finance & Performance Review</p>	<ul style="list-style-type: none"> • CLG to transfer funds to SDNPA via Defra – LAs lose only small amount of RSG • LAs to be paid for services provided on an ‘open book’/ trading account basis, with costs and standards converging over a three year period. • Planning application fees retained by LA, as payment on account. • Financial protocol for non-application processing work (both pre-application and post determination) between NPA and LAs • Service Level Agreement between NPA and LA, setting performance standards , and providing mechanisms for reviewing and achieving agreed standards. • Scrutiny of LA performance by NPA Committee/Panel • Peer Review 	<ul style="list-style-type: none"> • Funding working group developing funding options • Financial protocol between NPA and LAs • Service Level Agreement • NPA likely to require quality assurance mechanisms eg monitoring/reviewing outcomes of delegated decisions • Arrangements for exercise of NPA Scrutiny role • Develop options for Peer Review – between SDNPA member authorities, and with other NPAs

<p>8 Ancillary planning services</p> <p>(a) Conservation Areas/ Listed Buildings/Archaeology/Ecology advisers</p>	<ul style="list-style-type: none"> • Specialist NPA officers input to planning application process • Local authority specialist officers continue to provide input to the mainstream planning application process • NPA provide policy framework for CA designations, CA Character Appraisals, CA enhancement schemes, CA and LB grant schemes and other conservation work eg BPNs – possibility of ‘Heritage at Risk’ strategy with EH • LA staff carry out CA/LB work in accordance with NPA policy, making recommendations as appropriate. 	<ul style="list-style-type: none"> • Opportunities for NPA to add value. • NPA to establish key objectives, and resources appropriate to achieve them, including specialist officers who can then support the planning function – delegated or otherwise • Interim agreement on policy framework for CA designations, CA Character Appraisals, CA enhancement schemes, CA and LB grant schemes, pending development of NPA policy – information/policy database required • Liaise with EH to develop Heritage at Risk strategy • Protocol for role of NPA/LA advisers • Review existing resources and establish resource input from NPA
<p>(b) Trees and Landscape</p>	<ul style="list-style-type: none"> • Specialist NPA officers input to planning application process • Local authority specialist officers continue to provide input to the mainstream planning application process • NPA provide policy framework for TPO designations, TPO works applications, tree works in conservation areas, tree planting schemes; Dutch Elm Disease control etc. • LA staff carry out other tree and landscape work, in accordance with NPA policy, making recommendations as appropriate. 	<ul style="list-style-type: none"> • Opportunities for NPA to add value • NPA to establish key objectives, and resources appropriate to achieve them, including specialist officers who can then support the planning function – delegated or otherwise • Interim agreement on policy framework for TPO designations, TPO works applications, tree works in conservation areas, tree planting schemes, Dutch Elm Disease control etc pending development of NPA policy – information/policy database required. • Protocol for role of NPA/LA specialists • Review existing resources and establish resource input from NPA

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<p>(c) Planning Enforcement</p>	<ul style="list-style-type: none"> • LA enforcement teams carry out investigation of alleged breaches of planning control (reactive). • LA enforcement staff to undertake compliance monitoring. NPA to set minimum standards, with possibility of convergence over time • NPA to establish policy on enforcement, and to provide any additional resources necessary to achieve it • M&W authority enforcement staff to undertake M&W compliance and enforcement work including site monitoring • Specialist Planning Enforcement team(s) supplement LA enforcement resources • Protocol on formal enforcement action to establish roles of LA/NPA enforcement teams • 	<ul style="list-style-type: none"> • Opportunities for NPA to add value • Protocol for planning enforcement roles of LA/NPA enforcement teams. • Review current approach to compliance monitoring and establish minimum standards • Develop enforcement policy for NPA
<p>(d) Reg 3 applications</p>	<p>LA/NPA role depending on NP significance, as for core delegation principles (<i>see row 2 – delegation principles</i>)</p>	<ul style="list-style-type: none"> •
<p>(e) Customer Care/Complaints</p>	<ul style="list-style-type: none"> • LAs use existing Customer Care standards for planning service in NP for functions delegated to them, subject to agreement of minimum standards by NPA, with convergence over time • LA/NPA handle complaints relating to cases they have handled • Periodic complaint review to identify opportunities for service improvement, jointly between NPA and LAs. NPA to establish Customer Care standards for its own services, taking into account existing LA standards 	<ul style="list-style-type: none"> • Review current LPA customer care standards and complaints procedures, establish baseline standards and procedures for delegated NPA matters and programme for convergence. • Develop NPA Customer Care standards for NPA matters, taking into account existing LPA standards and procedures • Establish procedures for joint NPA/LA review of customer service (cross-cutting, ie not just planning) Opportunities for NPA to add value
<p>(f) Stakeholder Engagement</p>	<ul style="list-style-type: none"> • Continue existing User Groups, Design Panels, Conservation Area Advisory Committees run by LAs in the NP area, subject to NPA agreement. Additional NPA representation to be included as appropriate. NPA to consider establishing NP design panel, and to encourage LAs to establish CAACs. • NPA to review stakeholder engagement and 	<ul style="list-style-type: none"> • Opportunities for NPA to add value. • Planning stakeholder engagement procedures for NP and for

	supplement as appropriate	each LA to be reviewed
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DATED 2010

SOUTH DOWNS NATIONAL PARK AUTHORITY (1)

EAST SUSSEX COUNTY COUNCIL (2)

HAMPSHIRE COUNTY COUNCIL (3)

BRIGHTON AND HOVE CITY COUNCIL (4)

WEST SUSSEX COUNTY COUNCIL (5)

ADUR DISTRICT COUNCIL (6)

ARUN DISTRICT COUNCIL (7)

CHICHESTER DISTRICT COUNCIL (8)

EASTBOURNE BOROUGH COUNCIL (9)

EAST HAMPSHIRE DISTRICT COUNCIL (10)

HORSHAM DISTRICT COUNCIL (11)

LEWES DISTRICT COUNCIL (12)

MID SUSSEX DISTRICT COUNCIL (13)

WEALDEN DISTRICT COUNCIL (14)

WINCHESTER CITY COUNCIL (15)

WORTHING BOROUGH COUNCIL (16)

JOINT WORKING AGREEMENT

relating to

**The provision of planning services
in the South Downs National Park from 1st April 2011**

THIS AGREEMENT is made the day of 2010

BETWEEN

- (1) South Downs National Park Authority of Rosemary's Parlour, North Street, Midhurst, West Sussex, GU29 9SB
- (2) East Sussex County Council of County Hall, St Anne's Crescent, Lewes, East Sussex, BN7 1UE
- (3) Hampshire County Council of The Castle, High Street, Winchester, Hampshire, SO23 8ZB
- (4) West Sussex County Council of County Hall, West Street, Chichester, West Sussex, PO19 1RQ
- (5) Brighton and Hove City Council of King's House, Grande Avenue, Hove, BN3 2LS
- (6) Adur District Council of Civic Centre, Ham Road, Shoreham-by-Sea, West Sussex, BN43 6PR
- (7) Arun District Council of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF
- (8) Chichester District Council of East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY
- (9) Eastbourne Borough Council of Town Hall, Grove Road, Eastbourne, BN21 4UG
- (10) East Hampshire District Council of Penn's Place, Petersfield, Hampshire, GU31 4EX
- (11) Horsham District Council of Park Street, Horsham, West Sussex, RH12 1RL
- (12) Lewes District Council of 32 High Street, Lewes, East Sussex, BN7 2LX
- (13) Mid Sussex District Council of Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS

(14) Wealden District Council of Vicarage Lane, Hailsham, East Sussex, BN27 2AX

(15) Winchester City Council of City Offices, Colebrook Street, Winchester, Hampshire, SO23 9LJ

(16) Worthing Borough Council of Town Hall, Chapel Road, Worthing, West Sussex, BN11 5ND

It is hereby agreed as follows:-

1. Recitals

- 1.1 With effect from 1st April 2011, the SDNPA becomes sole statutory planning authority for the South Downs National Park further to the South Downs National Park Authority (Establishment) Order 2010.
- 1.2 The SDNPA and the Authorities have agreed that they will enter into discussions with regard to the discharge by the Authorities of the Planning Services, further to an agency arrangement under Section 101 of the Local Government Act 1972, for a period of three years from 1st April 2011.
- 1.3 Pending those discussions, the SDNPA wishes to ensure that, as a minimum, the Authorities who wish to enter into such agency arrangements are bound to provide the Planning Services as the SDNPA's agents for a minimum period of 12 months from 1st April 2011.
- 1.4 The Authorities have a duty to provide the SDNPA with such assistance and information as the SDNPA may reasonably request for the purpose of discharging any of its functions pursuant to Schedule 4 of The South Downs National Park Authority (Establishment) Order 2010.

2. Interpretation

- 2.1 In this Agreement unless the context otherwise requires the following expressions have the following meanings:-

"the Agreement" means this agreement;

"the Authorities" means such of the 15 local planning authorities which are currently the planning authorities for the national park area who are parties to this Agreement;

"the Commencement Date" means the date on which this Agreement is executed by the Authorities;

"the SDNPA" means the South Downs National Park Authority;

"Planning Services" means those planning functions exercisable by the SDNPA as sole planning authority from 1st April 2011 which the SDNPA decided at its meeting on 15th June 2010 could be delivered by the Authorities;

3. Term

- 3.1 Subject to clause 3.2, this Agreement shall commence on the Commencement Date and continue in force until 31st March 2012.
- 3.2 Where an agency agreement pursuant to Section 101 of the Local Government Act 1972 is entered into by the SDNPA and any of the Authorities further to clause 4.1 of this Agreement, and such agreement takes effect, this shall terminate that Authority's interest in this Agreement.

4. General Principles

- 4.1 The SDNPA and the Authorities agree that they will use their best endeavours to discuss and agree the terms of an agency agreement, further to Section 101 of the Local Government Act 1972, whereby the Authorities will discharge the Planning Services on behalf of the SDNPA for a period of three years from 1st April 2011.
- 4.2 Pending the discussions referred to in clause 4.1, each of the Authorities agrees that, as a minimum, they will discharge the Planning Services on behalf of the SDNPA, in respect of such part of the South Downs National Park Area as falls within that Authority's normal administrative area, for a period of one year from 1st April 2011.
- 4.3 Where a formal decision is required to be taken by the Authorities in order to accept the offer by the SDNPA of acting as agent for the SDNPA the Authorities will use their best endeavours to pursue such formal decision by 31st July 2010.
- 4.4 The SDNPA agrees to reimburse all costs reasonably incurred by each of the Authorities in discharging the Planning Services on its behalf further to clause 4.2.

5. Status of the Agreement

5.1 This Agreement is entered into further to Section 101 of the Local Government Act 1972. It gives rise to a legally binding relationship and mutual commitments are created by this Agreement.

In witness hereof the SDNPA and the Authorities have executed this Agreement as a Deed the day and year first written

The Common Seal of SOUTH DOWNS NATIONAL PARK AUTHORITY was affixed hereto in the presence of the undersigned authorised signatory for and on behalf of SOUTH DOWNS NATIONAL PARK AUTHORITY

..... Authorised signatory

The Common Seal of East Sussex County Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of East Sussex County Council

..... Authorised signatory

The Common Seal of Hampshire County Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of Hampshire County Council

..... Authorised signatory

The Common Seal of West Sussex County Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of West Sussex County Council

..... Authorised signatory

The Common Seal of Brighton and Hove Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of Brighton and Hove Council

..... Authorised signatory

The Common Seal of Adur District Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of Adur District Council

..... Authorised signatory

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..... Authorised signatory

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..... Authorised signatory

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..... Authorised signatory

The Common Seal of Worthing Borough Council was affixed hereto in the presence of the undersigned authorized signatory for and on behalf of Worthing Borough Council

..... Authorised signatory

Draft funding proposals for funding a scheme of planning delegation

Overarching principles

There will one funding scheme for the three counties and another one for the 11 districts and the one single tier authority. However the overarching principles will be the same, as follows:

- funding agreements for the provision of planning services to the SDNPA from April 2011 will be as fair and transparent as possible, and will aim to ensure that initially there are no 'winners or losers'.
- the objective will be to improve Development Management performance, quality and value for money over a three year period

Methodology Year 1 (2011/12)

- The SDNPA will fund the Councils providing development management on its behalf for the gross cost of that part of this service which relates to the SDNPA area
- Payments in 2011/12 will reflect actual costs incurred in 2008/9 and 2009/10 with adjustments as follows:
 - to remove non-cash costs such as pension liabilities calculated under FRS 17
 - to ensure that overhead charges are reasonable
 - to take into account both the impact of inflation and national government efficiency saving requirements

The aim is to reach estimated 2011/12 costs for predicted levels of activity

- Councils will collect fee and other relevant income (for example compliance fees for counties and condition discharge fees where appropriate) on behalf of the SDNPA and retain it as a payment on account
- Mechanisms will be developed for dealing with significant variations in workload volume and types of application and extraordinary costs
- There will be a process for negotiation between the SDNPA and each Council in relation to dealing with appeals and for agreeing the action to be taken by the SDNPA and the Councils and how costs will be met
- Quarterly returns will be provided by the Councils to SDNPA providing agreed information on activity levels, fee income, performance and other relevant information to support payments to the Councils
- All planning policy and LDF costs incurred by the Councils before April 2011 will continue to be borne by them. For LDFs not adopted by April 2011 costs will also continue to be borne by the Councils, but the SDNPA will consider sharing specific additional costs such as the costs of Environmental Assessments, enquires, legal costs etc. where appropriate. These will each be the subject of negotiation and agreement between the SDNPA and each Councils
- The SDNPA will fund the costs of preparing its own Core Strategy and any other LDD it decides to include in its LDS
- The SDNPA will meet identified and agreed transition costs where appropriate

Methodology Years 2 and 3

- During Year 1 each Council will collect actual cost information in an agreed format to facilitate open book accounting and this will involve trading accounts for the larger authorities
- The cost information will be reviewed to provide a revised funding methodology for year 2 with the intention of reaching a fair and consistent tariff scheme for given types and levels of activity by year 3
- During year three, the SDNPA will review how its planning service is to be provided, and decide on the charging basis for any continued delegation scheme

Subject:	Mandatory Development for Planning Committee		
Date of Meeting:	13 July 2010	Governance Committee	
	15 July 2010	Full Council	
Report of:	Director of Environment		
	Director of Strategy and Governance		
Contact Officer:	Name:	Jeanette Walsh	Tel: 29-2195
		Caroline Banfield	29-1126
	E-mail:	jeanette.walsh@brighton-hove.gov.uk	
		caroline.banfield@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The council's Constitution specifies at Part 5.1 that Planning Committee exercises the council's functions in relation to development control matters. It also specifies that the council may approve a restricted pool of councillors to serve as members or substitute members of the committee, in which case any meeting of the committee must comprise only councillors from the pool and no substitution by non-pool councillors will be allowed.
- 1.2 The Council (since its inception) has required any member of that pool to undergo mandatory training prior to attending their first Planning Committee meeting, whether they do so as a full member or a substitute member. This training is organised and delivered by the Head of Development Control in conjunction with the Senior Solicitor on an as required basis. The mandatory training currently needs to be refreshed every two years. The training is essentially a three (3) hour session. Records of attendance are kept by Development Control and these are shared with Democratic Services.
- 1.3 On 27 April 2010, the Overview and Scrutiny Commission was asked to comment on a proposal that any member of the Planning pool must undertake mandatory training every six months in order to retain his/her ability to sit on the Planning Committee. This proposal was made to ensure that all members who make planning decisions remain up to date with fast changing legal and policy considerations that they need to apply when making those decisions.
- 1.4 The Overview and Scrutiny Commission welcomed and approved the proposal.

2. RECOMMENDATIONS:

2.1 That the Governance Committee:

- (i) Supports the proposal that:
 - (a) mandatory training for all members of the Planning pool be introduced on a six-monthly basis;
 - (b) the training be open to all other members to attend on a non-mandatory basis
 - (c) any mandatory development sessions should be offered on at least two different timeslots to take account of members' other commitments.
- (ii) Recommends to Council that the proposal be approved.
- (iii) Agrees that, subject to Council approval, the changes come into force immediately after the Council meeting of 15 July 2010.

2.2 That full Council:

- (i) Approves the proposals as set out in paragraph 2.1 (i) above.
- (ii) Authorises the Head of Law to amend the constitution to reflect the above, including making consequential drafting amendments.
- (iii) Agrees that the requirement for ongoing mandatory planning training every six months should come into force with effect from 16 July 2010 and that the first mandatory session be arranged as quickly as possible following its meeting.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Brighton & Hove City Council supports its Members through the provision of an annual development programme that is commissioned by the Member Development Working Group and organised by Democratic Services. The Working Group comprises Councillor Ken Norman (Chair), Councillor Gill Mitchell, Councillor Ian Davey and Councillor David Watkins.
- 3.2 In addition to the annual development programme produced by the Member Development Working Group, committee and/or role specific training is arranged by a number of other council teams. In relation to Planning Committee, the Head of Development Control organises a programme of events each year which all members of Planning Committee are invited to attend.
- 3.3 The Planning Committee has a duty to determine planning applications in accordance with adopted policy and relevant legislation and case law. Decisions made by the Planning Committee can be the subject of appeal and legal challenge on the basis that the Committee has or has not followed the correct procedure or has not taken into account matters that it should have or has taken

into account matters which it should not. In either case, this could leave the Council open to challenge and to the risk of costly legal action and result in decisions being quashed.

- 3.4 The Planning Committee meets every three weeks and as such is the most frequently convened meeting in the council diary. It attracts significant interest from residents, who follow its proceedings in person at meetings or via web casts of those meetings. As well as being legally and procedurally correct, it is important, therefore, that its proceedings are seen to be conducted effectively and efficiently in order to contribute to enhancing the council's reputation in the eyes of the people it represents.
- 3.5 As part of the work being undertaken by the department for Communities and Local Government (CLG) through the Killian Pretty Review there has been a significant amount of change to legislation and the way the planning policy framework is constructed. In addition there is a cultural change programme which expects planning divisions across the country to move to a model of Development Management. Essentially, this has been and will continue to be a move towards a spatial planning and partnership working.
- 3.6 As part of the ideas behind a move to Development Management there is a very real recognition of an increased role for Members to play in getting involved in pre-application discussions about development and thus having a real hand in the place shaping agenda.
- 3.7 The rationale for bi-annual, and mandatory, training for members of Planning Committee is based on the fact that planning is a fast changing area of public policy and law and will continue to be the subject of significant scrutiny in the future. Coupled with this there is a real need to include elected members into the realm of pre-application discussions. In order to do this members need to have the support of up to date training which will give them the skills to ensure they can carry out their roles to the best of their abilities.
- 3.8 In order to ensure that Members have a reasonable opportunity to attend these workshops, a choice of two sessions will be offered wherever possible, one during the day and another at a suitable time for those councillors who work or who have other day time commitments. This may not always be possible where there are external providers, but all endeavours will be made to meet members' requirements. Spare places will be offered to members who do not sit on Planning Committee but who are interested in building on their understanding of planning matters.
- 3.9 Therefore it is proposed that:
 - a) mandatory training for all members of the Planning pool be introduced on a six-monthly basis;
 - (b) the training be open to all other members to attend on a non-mandatory basis
 - (c) any mandatory development sessions should be offered on at least two different timeslots to take account of members' other commitments.

- 3.10 The Head of Development Control and the Democratic Services Manager will both keep records of the training attended by each member of Planning Committee. In the event of any non-attendance of the proposed mandatory training, the Head of Democratic Services would liaise with the relevant Group Leader to ask him/her to nominate an alternative who has completed all such training.

4. CONSULTATION

- 4.1 This matter was considered by the Member Development Working Group and the Chairman of Planning Committee on 20 April 2010, when all indicated that they would support the introduction of mandatory training for Planning Committee members.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There would be two sessions once every 6 months. We would ask the Planning Advisory Service or another organisation to support this training. The training would be managed and arranged by officers but with support. It is likely that each day (two sessions on the day) would cost in the region of £1,000.00. The more regularly the sessions are arranged the more likelihood that the cost would go down.

Finance Officer Consulted: Derek Mansfield Date: 01/04/10

Legal Implications:

- 5.2 Training and development of members of Planning Committee is essential in ensuring that those members are up to date regarding legal and policy considerations relevant to the planning decisions that they are asked to make. A mandatory rolling development programme will assist members with an appreciation of the relevant legal issues and assist the Council in discharging its obligations fully and in limiting potential legal challenges.

- 5.3 The decision-making route to get these changes approved is via Governance Committee to Full Council.

Lawyer Consulted: Hilary Woodward Date: 24/03/10

Equalities Implications:

- 5.4 This report does not have any specific impact on equalities.

Sustainability Implications:

- 5.5 This report does not have any specific impact on sustainability.

Crime & Disorder Implications:

- 5.6 This report does not have any specific impact on Crime & Disorder.

Risk & Opportunity Management Implications:

- 5.7 There is a risk to the council if proper training is not undertaken and challenges are made to planning committee decisions as a result.

Corporate / Citywide Implications:

- 5.8 Demonstrating to prospective councillors that there is a robust framework of relevant training and development in place will encourage more people to stand as councillors.

SUPPORTING DOCUMENTATION

Appendices

1. Extract from the proceedings of the Overview & Scrutiny Commission meeting held on 27 April 2010.

Documents in Members' Rooms

None

Background Documents

None

**DRAFT EXTRACT FROM THE PROCEEDINGS OF THE OVERVIEW & SCRUTINY
COMMISSION MEETING HELD ON THE 27 APRIL 2010**

OVERVIEW & SCRUTINY COMMISSION

4.00PM 27 APRIL 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Mitchell (Chairman); Alford, Elgood, Meadows, Older, Peltzer Dunn, Pidgeon (Deputy Chairman), Wakefield-Jarrett and Kennedy

94 MANDATORY DEVELOPMENT FOR PLANNING COMMITTEE

- 94.1 The Head of Development Control and Democratic Services Manager introduced the report on Mandatory Development for the Planning Committee. Until now, mandatory development had been once per two years with a refresher course if requested. The proposed mandatory training would be twice per year in view of the new roles of Members in pre-application discussions. Potential dates would be brought forward once the proposals had been agreed.
- 94.2 Members referred to Continuing Professional Development for the Professions and so welcomed the proposal for additional training. Even further development sessions could be arranged, some members said.
- 94.3 Members agreed with proposals set out at report para 3.8 and noted that the decision-making route for approval is via Governance Committee and Full Council.
- 94.5 **RESOLVED;** that the proposed approach to mandatory development for Planning Committee be agreed.

Subject:	Replacement Board Member for Brighton & Hove Seaside Community Homes Ltd		
Date of Meeting:	13 July 2010		
Report of:	Director of Strategy & Governance		
Contact Officer:	Name:	Oliver Dixon	Tel: 291512
	E-mail:	oliver.dixon@brighton-hove.gov.uk	
Wards Affected:	All		

1. SUMMARY AND POLICY CONTEXT:

- 1.1 In light of Councillor Geoff Wells' election as Mayor, this report seeks the Committee's authority to give notice to Brighton & Hove Seaside Community Homes Ltd to remove Councillor Wells as a Board Member and to appoint a replacement.

2. RECOMMENDATIONS:

That the Committee –

- (1) Authorises the Head of Law to serve notice on Brighton & Hove Seaside Community Homes Ltd that the council wishes –
 - (a) to remove Councillor Geoff Wells as a Council Board Member; and
 - (b) to appoint a replacement, as nominated by the Committee
- (2) Nominates a replacement Council Board Member on the terms set out in paragraph 3.6

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 On 18 November 2008 the Governance Committee resolved to appoint four Members as Council Board Members of the Housing Local Delivery Vehicle, now incorporated as a company called Brighton & Hove Seaside Community Homes Ltd. The appointment comprised two Conservative Members (one of whom was Councillor Wells), one Labour Member and one Green Member.
- 3.2 Councillor Wells' election as Mayor makes it inappropriate from him to continue to serve as a Council Board Member with the company.

- 3.3 Under the company's Articles of Association, the council is entitled by notice in writing to remove a Council Board Member and to appoint another person to take their place.
- 3.4 It is proposed that Councillor Wells be replaced by a Conservative Member in order to maintain the political balance among the four Council Board Members.
- 3.5 The replacement Board Member will be subject to the company's Memorandum and Articles of Association, as well as company legislation generally.
- 3.6 To mirror the terms under which Council Board Members were first appointed to the company Board in November 2008, it is proposed that the replacement Board Member be appointed for a term of three years, providing that their terms of office shall terminate if:
- (a) the Member in question ceases to be a Member of Brighton & Hove City Council; or
 - (b) they are disqualified by the First-tier Tribunal (Local Government Standards in England) for breaching the Code of Conduct for Members; or
 - (c) the council removes them from their position as Board Member.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications arising from this report

Finance officer consulted: Anne Silley

Date: 25 June 2010

5.2 Legal Implications:

These are incorporated in the body of the report

Lawyer Consulted: Oliver Dixon

Date: 25 June 2010

5.3 Equalities Implications:

There are no equalities implications

5.4 Sustainability Implications:

There are no sustainability implications

5.5 Crime & Disorder Implications:

There are no crime and disorder implications

5.6 Risk and Opportunity Management Implications:

There are no risk and opportunity implications

5.7 Corporate / Citywide Implications:

Replacing Cllr Wells ensures that his replacement can take a full and active part in decisions taken by the company Board.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents In Members Rooms

None

Background Documents

None

Document is Restricted

