

# Item 5

## REPORT TO STANDARDS COMMITTEE

5<sup>th</sup> APRIL 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### SBE CASE REVIEW: BULLYING

#### 1. SUMMARY

1.1 Bullying is a serious problem affecting some local authorities. Standards Board statistics show that Members in some authorities have abused their position by threatening Officers or colleagues. The Standards Board has investigated a number of cases involving bullying, some of which have resulted in Members being disqualified from office. The Standards Board have dealt with such cases under other parts of the Code of Conduct, such as disrespect, but it has been recommended that the revised Code of Conduct expressly include bullying as a failure to comply with the Code, in order to send a clear message that such behaviour is unacceptable. This report addresses the issues and consequences of bullying.

#### 2. RECOMMENDATIONS

2.1 That the Standards Committee be appraised of the report and future changes be noted.

#### 3. DETAIL

3.1 The Standards Board believe that investigations should be conducted locally, wherever possible, however, sometimes it is necessary to retain cases for investigation by Ethical Standards Officers. This applies where the allegation is so serious that it could warrant the Member's disqualification or there is a possible conflict of interest at the local level. Bullying behaviour is likely to warrant the more severe sanctions available to the Adjudication Panel, which can suspend Members for up to a year or disqualify them for up to five years.

3.2 In 2003 the Standards Board adopted a lower threshold for referring complaints about bullying for investigation, both in response to concerns from stakeholders about bullying and to demonstrate how seriously the issued is viewed.

3.3 However, it is only possible to investigate such complaints if there is clear evidence that bullying may have occurred. It is helpful that if a complainant alleging bullying can provide a detailed record of the incidents. It is also useful if information can be provided on the context in which the incidents occurred. This is because it may be difficult to

prove breaches of the Code based on general remarks. The test for whether conduct is regarded as bullying is likely to be whether a neutral third party, 'a reasonable member of the public' would regard the conduct as bullying if they had all of the relevant facts.

- 3.4 Members are in a position of power and authority, so there is clearly a risk that they could abuse their position. Conduct which is disrespectful, intimidating or demeaning but which is not undertaken from a position of power or authority may not be regarded as bullying conduct, but may still breach the Code of Conduct – for example by failing to treat others with respect.
- 3.5 In case SBE255.02, a Member of a Town Council in the South West of England publicly accused other Councillors and the Clerk of abusing their power and mismanaging finances. The Adjudication Panel found that the accusations made against the Councillors did not constitute disrespectful behaviour, even if some of the remarks were offensive, as they were part of a political debate between Members. However, it was found that the allegations against the Clerk were malicious and disrespectful, as the Clerk was unable to defend himself. The Member was disqualified for 18 months.
- 3.6 Bullying can have a significant effect on its victims and on the authority's ability to provide services. It can affect staff morale, as well as undermine morale in the authority as a whole and the culture of the organisation. It can erode trust within the authority and create a fearful and insecure working environment. Ultimately, this will effect how well Members and Officers are able to perform their duties.
- 3.7 In one case dealt with by the Adjudication Panel, case SBE8157.04, a Member of a Town Council in the East of England conducted a relentless campaign of destructive criticism against the Clerk, Councillors and the Council. This campaign included making unsubstantiated and inappropriate complaints about the Clerk in website postings, newsletters and numerous letters. The Councillor's behaviour placed a significant drain on both Council resources and Member's time, caused staff great stress and ill health, and disrupted the normal running of the Council. The tribunal decided to disqualify the Councillor for three years. In reaching this decision, the tribunal noted the "serious consequences of the misconduct in terms of the health and welfare of a number of individuals, the good governance, use of resources and effectiveness of the Council and the reputation of the Council".
- 3.8 **Bullying and the Code of Conduct:** The current Code does not contain a specific provision on bullying but the Government has proposed to add a specific provision to indicate that Members must not bully any person, i.e. that bullying of other Members, Officers or anyone else is a breach of the Code. It is to be enforced that bullying behaviour should play no part in Member's conduct.

#### **4. RESOURCE IMPLICATIONS**

4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

5.1 This report was considered by the Council's Management Team on 12 th March 2007.

#### **6. OTHER MATERIAL CONSIDERATIONS**

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

#### **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

7.1 None apply.

#### **8. LIST OF APPENDICES**

8.1 None apply.

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**Wards:** N/A

**Key Decision Validation:** N/A

### **Background Papers**

The Standards Board for England: The Case Review: Number 4  
Consultation on Amendments to the Model Code of Conduct for Local Authority  
Members

### **Examination by Statutory Officers**

	<b>Yes</b>	<b>Not Applicable</b>
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>