

Dignity at Work Policy

1 The Purpose of this Policy

- 1.1 **The Council is committed to creating a positive and safe working environment**, and believes that all staff have the right to be treated with dignity, fairness and respect. Employees should also work in an environment free from threat. All forms of bullying and harassment are unacceptable and any such incidents will not be tolerated.
- 1.2 This document is intended to complement the existing Equality, Diversity and Human Rights Policy by setting out the Council's policy on the protection of the dignity of everyone at work.
- 1.3 The Council is under a legal obligation under the Equality Act 2010 to remove the threat of **harassment/ bullying/ or discrimination** in the workplace . **The Council commits to a zero tolerance approach and identifies bullying and harassment as a serious disciplinary offence.** If it is considered that bullying or harassment is taking place, the Council cannot deviate from this duty of care and will be obliged to investigate and take appropriate action (including disciplinary action) against the harasser, if circumstances justify this.
- 1.4 It is the responsibility of all employees to ensure that inappropriate behaviour is prevented or, if it occurs, is dealt with effectively. Employees have a specific duty to set and demonstrate standards of acceptable behaviour and to be vigilant in observing the behaviour of others. They are also responsible for taking steps to prevent inappropriate behaviour, if possible before it gives rise to a formal complaint. Where a complaint is made, both managers and HR should ensure that the procedural guidelines outlined below are followed.
- 1.5 Every effort will be made to maintain an employee's confidentiality under this procedure when they feel they are being bullied or harassed until a decision is made to make an informal or formal complaint. At that stage, any investigation and subsequent proceedings will be confined to those who need to know and information about the outcome of any complaint will be handled sensitively.

2 Responsibilities

2.1 Responsibility of the organisation

- **To ensure that all employees are protected from bullying, harassment and discrimination. To ensure all employees have the right to be treated with dignity and respect at all times.**
- **To adhere to the legal requirement to remove the threat of bullying, harassment and discrimination.**

- To take appropriate action to end any forms of harassment/ bullying/ discrimination as soon as it is identified as harassment/ bullying/ discrimination.

2.2 Responsibility of Assistant Directors/Directors/Managers

- To understand and comply with the policy.
- To ensure employees are aware and comply with this policy.
- To ensure that the workplace is free from harassment/ bullying/ discrimination.
- To respond sensitively and promptly to any issues raised under this policy.
- To ensure that complainants and individuals accused are not subject to any victimisation.

2.3 Responsibility of HR

- To provide support and guidance on the application of this policy.
- To ensure timescales are met and escalate where required.
- To regularly review and update this policy as required.

2.4 Responsibility of the Employees

- To comply with the policy and to ensure that colleagues are treated with dignity at all times.

2.5 Responsibility of the Trade Unions

- To respond sensitively and promptly to any issues raised under this policy.

Eligibility

This policy applies to all council employees and it is each employee's responsibility to be aware of and follow this policy. This is an internal policy and does not deal with incidents of violence or aggression from members of the public.

3 Principles of conduct

Definition of unacceptable behaviour

- 3.1 It is important to remember that it is for the recipient to define what he/she considers to be unacceptable behaviour and that this must be taken seriously by any other employee/manager with whom it is discussed. Harassment, bullying and/or discrimination can occur on a variety of grounds and may be directed at an individual or a group of individuals.

It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The

key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

The following statements describe the types of behaviour, which may be considered unacceptable and which in some cases may be unlawful, in order to provide guidance.

3.2 Harassment

This is behaviour which is unwelcomed, unreasonable and/or offensive. It may be a single act or a series of acts of inappropriate behaviour, actions or conduct.

Examples of harassment are outlined below:

- Offensive or hostile actions, causing discomfort, distress or exclusion.
- Unwanted and unreasonable actions constituting an infringement of the right of the employee.

3.3 Sexual harassment

Sexual harassment is a form of unlawful sex discrimination. Sexual harassment occurs in a variety of situations that share a common element: the inappropriate introduction of sexual activities or comments into the work environment. It frequently involves the abuse of an unequal power relationship and contains an element of coercion.

Sexual harassment is unlawful where a person's rejection of, or submission to, such behaviour may be used as the basis for decisions that affect that person's employment (including access to training, promotion, salary increases, or any other employment decision), or where such behaviour creates an intimidating, hostile, or offensive working environment.

Sexual attention becomes harassment if it is persisted in when either it has been made clear by the recipient that it is unwanted or offensive or when such would be evident to a reasonable person

Examples of sexual harassment include:

- unnecessary and unwelcome physical contact
- suggestive and unwelcome comments or gestures emphasising the sexuality of an individual or group
- speculation / comments about sexual activities
- lewd comments about dress or appearance
- unwelcome request for socio-sexual encounters/favours
- displaying sexually offensive material in the workplace
- criminal acts such as indecent exposure, sexual harassment, malicious phone calls etc

3.4 Racial Harassment

Racial harassment is a form of unlawful racial discrimination. It is an act or series of acts directed towards an individual because of his or her race, colour or ethnic origin.

Differences of attitude or culture and the misinterpretation of social signals can mean that what is perceived as racial harassment by one person may not seem so to another.

The defining features of racial harassment however, are that the behaviour is offensive or intimidating to the recipient and would be regarded as racial harassment by any reasonable person.

Examples of racial harassment include:

- derogatory name-calling, verbal abuse and threats
- offensive insults and racist jokes
- ridicule of an individual for cultural differences
- hostility / exclusion from normal workplace conversations or social events
- unfair allocation of work and responsibilities
- racist graffiti or insignia
- physical assault

3.5 Bullying

Examples of bullying could include:

- Persistent, offensive, abusive, intimidating, malicious or insulting actions.
- Abuse of authority
- Unfair treatment
- Perceived threatening or humiliating actions
- Undermining self-confidence (potentially resulting in stress)

3.6 Discrimination

Discrimination is where an employee's conduct, behaviour or actions are perceived by the recipient to be:

- Unwarranted, illogical and based upon personal prejudice
- Seriously detrimental or damaging to the receiver

Reasons for which employees may be subject to discrimination may be a result of a characteristic which is protected by the Equality Act 2010 these are:

- Age
- Disability
- Gender reassignment
- Marriage and Civil Partnership
- Pregnancy/Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

If an employee is responsible for discriminating against an individual due to the above characteristics they could face criminal prosecution.

3.7 Other forms of inappropriate behaviour

There are other forms of behaviour that can equally cause misery for the recipient. These may include:

- unfounded criticism of the performance of work tasks or deliberately undermining
- Persistent teasing, pranks and practical jokes because of personal characteristics or traits.
- persistent pressure to become involved in anti-social or criminal behaviour
- Isolating or excluding a colleague
- Shouting, or making threats /adverse comments without foundation
- Victimisation
- ridiculing, demeaning or humiliating another employee
- Stalking

4 General Principles

- 4.1 It is a distinguishing characteristic of harassment that recipients are often reluctant to complain. Sometimes they think that there is no point complaining, because nothing will be done, or because it will be trivialised, or that they will suffer ridicule or reprisal. However, any form of harassment is recognised as a serious issue and will be treated as such by the Council.
- 4.2 Harassment in any form will not be permitted or condoned either at work or at any social gatherings outside the workplace if the social event is connected with work, for example a farewell party, a Christmas or similar social event.
- 4.3 Any employee who considers that they are being subjected to bullying or harassment should keep a detailed written record of incidents, which should include dates, the nature of the behaviour being complained of and names of witnesses, if any.
- 4.4 Staff will be protected from victimisation or discrimination for raising a complaint or for assisting in an investigation. Such victimisation will be regarded as a serious disciplinary offence.
- 4.5 Whilst complaints will be taken seriously by the Council, the making of false or malicious complaints of bullying or harassment will be regarded as a serious disciplinary offence.
- 4.6 Employees have the right to be accompanied at all formal stages of the process by their trade union representative, a full-time trade union official or a work colleague. They may not have legal representation or be accompanied by their line manager (as the assistant director may refer the case back to the line manager).

5 Procedures

- 5.1 An employee who considers they are being bullied or harassed can seek guidance or make a complaint, either informally or formally, using the procedures outlined below. Confidential help and advice can also be obtained at any stage from HR or from a trade union representative.

If the organisation has grounds to believe or receives information which suggests that an employee may have been bullying or harassing another employee, the organisation may commence any of the procedures outlined below.

5.2 Support

The Council will ensure that it offers appropriate support for any employee who are experiencing any form of harassment, bullying or discrimination.

The Council will also offer appropriate support for any employee has been accused of harassment, bullying or discrimination as it can be a distressing time for them also.

This may include;

- An Occupational Health referral
- Counselling
- Mediation

5.3 Informal Procedure

The informal procedure is a way of resolving complaints quickly and with confidentiality maintained. Many incidents of bullying or harassment can be dealt with effectively in an informal way, as often the harasser is unaware of the effect their behaviour is having on others.

5.4 Informal option 1:

In many cases, it will be sufficient for the person being harassed to speak with the harasser to advise them of how their behaviour is being perceived and to ask them to stop.

A clear indication that the behaviour is objectionable will often prove effective. The request to stop should be made face to face as part of an informal meeting wherever possible. However, the request could alternatively be made in writing, or through a third party (e.g. line manager, colleague, HR or trade union representative). If employees are uncertain about who to contact, they are advised to either contact HR in the first instance.

Informal option 2:

If the behaviour continues or the employee doesn't feel comfortable raising the matters with the individual they should raise the matter with their direct line manager (If the complaint is about the direct line manager the employee should raise the matter with either the next senior manager or the HR department).

The manager will then arrange an informal meeting with the employees concerned. The purpose of the meeting is to discuss the nature of the complaint and to arrive at a solution. A record of the meeting will be kept and the manager will write to all parties involved within 5 working days of the meeting confirming the outcome.

5.5 Formal Procedure

If the complainant wishes to make a formal complaint, either straightaway or because the informal procedure has failed to resolve the problem they should write to their Assistant Director stating:

- details of the issues or problem;
- the reasons why they wish to use the formal complaint procedure;

5.6 Depending on the reasons given, the Assistant Director may refer the issue back to the line manager to make a new attempt to resolve the issue informally. The Assistant Director will notify the employee of this decision in writing. The new attempt to resolve it must be within five working days of the decision to refer it back to the line manager.

5.7 If the line manager cannot resolve it, or the Assistant Director decides that it is not appropriate to refer it back to the line manager, the Assistant Director will notify the HR Manager who will appoint an Investigating Officer. The Assistant director will then write to any parties involved to notify them of the formal complaint and outline the procedures which will follow.

5.8 The investigation will be conducted in line with the Councils disciplinary policy. Investigations should be concluded within 4 weeks except in unavoidable circumstances. Employees must be advised promptly if a delay is likely. Throughout the investigation, every attempt will be made to maintain the confidentiality of the parties involved and names will not be divulged other than to those who are necessary for the investigation. The investigation will be carried out in order to establish the full facts of the case. This will include both the complainant and the alleged harasser being interviewed who are entitled to be accompanied by a Trade Union representative or work colleague during the interview. Relevant witnesses will also be interviewed. These interviews will be held separately and will be conducted in a sensitive, non-confrontational style.

5.9 At the completion of the investigation, a report, summarising the details of the complaint and the results of the investigation, will be presented to the Presiding Officer who will determine the outcome of the complaint. The Presiding Officer will feedback the outcome to the complainant in person.

5.10 **Possible Outcomes following an investigation:**

There are a number of outcomes that can follow an investigation into bullying, harassment and/or discrimination. They could be:

- There is evidence of bullying, harassment and/or discrimination with intent, and therefore there is a case to answer. In these circumstances a disciplinary hearing will be arranged in accordance with the Disciplinary Policy which could lead to formal warnings up to and including dismissal.
- There was evidence of bullying/harassment but it was not intentional.
- There may be no evidence of bullying and harassment with no case to answer.

- Mediation may be recommended as an outcome to which involves an independent, impartial person helping two or more people to reach a solution that's acceptable to all parties involved.

6. **Appeal Procedure**

- 6.1 If the complainant feels that the process of investigation has been unfairly or improperly carried out, they are entitled to appeal. The complainant should submit an appeal, in writing, to the HR Manager within five working days of the date of the decision. There is no right of appeal against the perceived severity or leniency of any action taken.

If the alleged harasser feels that the process of investigation has been unfairly or improperly carried out, they are entitled to appeal. The alleged harasser may also appeal against any disciplinary sanction awarded (with the exception of the fast track oral warning) in line with the disciplinary policy.
Any appeal must be submitted in writing, to the HR Manager within five working days of the date of the decision.

- 6.2 The HR Manager will acknowledge receipt of the appeal and arrange for the appeal to be heard by an Assistant Director (as Presiding Officer). The HR Manager will forward to the Presiding Officer a copy of the appeal, a copy of the original decision letter, together with a copy of this policy.
- 6.3 The Appeal will be heard within as soon as possible.
- 6.4 The employee may be accompanied to an appeal hearing by their Trade Union representative or work colleague. The Presiding Officer making the initial decision above will also be in attendance.

People attending the appeal hearing will be:

- the Presiding Officer;
- HR or legal service officer to advise the Presiding Officer on procedure and policy;
- the employee;
- their representative ;
- the Presiding Officer initially making the decision
- a minute taker

- 6.5 At this meeting everyone will be given the opportunity to state their case, starting with the employee raising the appeal. The employee will present their appeal and the Presiding Officer will explain their decision
- 6.6 At the end of the appeal meeting, or within five working days thereafter, the Presiding Officer will announce their decision. The decision should be confirmed in writing within five working days of the hearing taking place. The letter will confirm that the employee has no further right of appeal.

6.7 **Employee illness or other absence**

It is the responsibility of everyone involved in the appeal process to take it seriously and to try to resolve matters as quickly as possible.

- 6.8 Where an employee is unfit to attend a hearing, their Trade Union representative or work colleague **could (if requested)** attend the Hearing to represent the Employee's interests. The employee can elect to additionally submit written representations for consideration.
- 6.9 Alternatively, the employee can elect not to have a representative, in which instance the hearing will proceed in the employee's absence and a decision will be made by the Presiding Officer based on the available information at the time of the Hearing. The employee should be encouraged to submit written submissions for consideration in such instances.
- 6.10 The Presiding Officer will consider the submissions and will confirm their decision in writing within five working days of a hearing taking place. The letter will confirm there is no further right of appeal.

7 Monitoring

- 7.1 Anonymised details of all complaints, the outcome of the investigation and action taken will be maintained and monitored by HR. This information may be provided on an annual basis to CMT, JCC and relevant Members, to determine whether trends and/or causes can be identified and addressed.

8. Review of Policy

- 7.1 This policy will be reviewed at intervals of three years, or earlier at the request of either the management or staff side.

Human Resources
November 2017

Approving Body & Date

JCC

Executive

The Dignity at Work Procedure

