

DIGNITY AT WORK POLICY

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DIGNITY AT WORK POLICY

1.0 INTRODUCTION

- 1.1 The Council/School is committed to creating and maintaining a positive working environment where all employees are treated with dignity and respect and are free from any form of harassment, bullying or victimisation.
 - 1.2 This policy applies to all employees and Elected Members of the Council, including those employed in Locally Managed Schools (subject to adoption by the Governing Body) and has been agreed with the recognised Trade Unions.
 - 1.3 Harassment, bullying, and victimisation are unacceptable behaviours that will not be tolerated and if proven, could lead to disciplinary proceedings, including dismissal.
 - 1.4 Each employee must take individual responsibility and accountability for the impact of their conduct and behaviour upon others
 - 1.5 It is expected that all personnel working for contractors who are engaged by the Council/School will be expected to adhere to the principles of this policy.
 - 1.6 Managers/Headteachers should ensure that this responsibility is included within any external contractual agreement.
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2.0 DEFINITIONS OF HARASSMENT, BULLYING AND VICTIMISATION

- 2.1 Bullying, harassment and victimisation includes any treatment, which a person or persons as a group knew, or ought to have reasonably known would have been intimidating or humiliating to another person(s).
 - 2.2 **Bullying**

The Advisory, Conciliation and Arbitration Service (ACAS) define bullying in general terms as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, belittle or injure the recipient.”
 - 2.3 **Harassment**

The Equality Act 2010 defines harassment as “unwanted conduct relating to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. The relevant protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
 - 2.4 In addition, bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious, or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.
 - 2.5 Examples of bullying / harassing behaviour include (this list is not exhaustive):
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- Spreading malicious rumours or insulting someone by word or behaviour (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief)
- Copying information that is confidential about someone to others who do not need to know
- Ridiculing or demeaning someone e.g. picking on them or setting them up to fail
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Making threats or comments about job security without foundation
- Deliberately undermining a competent employee by overloading and constant criticism
- Preventing employees progressing by intentionally blocking promotion or training opportunities.

2.6

Sexual Harassment

Sexual harassment is unwanted conduct of a sexual nature which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. It also covers treating someone less favourably because they have submitted to, or refused to submit to, unwanted conduct of a sexual nature or in relation to gender reassignment or sex.

2.7

Sexual harassment may be committed by a fellow member of staff, someone working for contractors, or a third party. This policy does not tolerate sexual harassment by any member of our staff against a third party.

2.8

Sexual harassment takes many forms, but whatever form it takes it is unlawful under the Equality Act 2010 (EqA) as amended. Someone may be sexually harassed even if they were not the target of the behaviour.

2.9

Examples of sexual harassment include, but are not limited to:

- Sexual comments or jokes, which may be referred to as “banter”
- Displaying sexually graphic pictures, posters or photos
- Suggestive looks, staring or leering
- Propositions and sexual advances
- Making promises in return for sexual favours
- Sexual gestures
- Intrusive questions about a person's private or sex life or a person discussing their own sex life
- Sexual posts or contact in online communications, including on social media
- Spreading sexual rumours about a person
- Sending sexually explicit emails, text messages or messages via other social media
- Unwelcome touching, hugging, massaging or kissing.

2.10

Bullying, harassment and sexual harassment does not always take place face to face. They may also occur in other forms of communications, electronic messages/email, telephone, text, or social media

2.11

Sexual Harassment will not be tolerated in any form. [Further information on sexual harassment can be found on the ACAS site.](#)

2.12 **Third-party sexual harassment**

Third-party sexual harassment occurs when a member of our staff is subjected to sexual harassment by someone who is not part of our staff but who is encountered in connection with work. This includes our service users, suppliers, members of the public. Third-party sexual harassment of our workforce is unlawful and will not be tolerated.

2.13 Employees have the option of reporting a sexual harassment incident by a third party via an online Health & Safety form that notifies their manager directly. Details of the form can be found at [H&S Online Reporting](#)

2.14 **Victimisation**

Victimisation is defined as the 'unfavourable' treatment of an individual/individuals because of any one of the following:

- Bringing a complaint of harassment, sexual harassment or bullying
- Challenging inappropriate behaviour
- Acting as a witness in a harassment, sexual harassment and bullying case
- Accompanying a colleague to a meeting about harassment, sexual harassment or bullying.

2.15 Victimisation may also be because of unfavourable treatment on the grounds of an individual's gender; sexual orientation; race; disability; religious or political convictions; ethnic origin; nationality or colour; age; status as an ex-offender; membership or non-membership of a trade union; medical condition. This list is not exhaustive.

2.16 Any victimisation of an individual will not be tolerated and may lead to disciplinary action.

2.17 **What to do if you witness bullying, harassment or victimisation**

If members of staff witness bullying, harassment or victimisation, they are encouraged to take appropriate action to address it. They should not take any action that may put them at risk of harm. If they feel able, employees should intervene to prevent the matter continuing. If they are not able to do this, their action may include offering support to the person who has been bullied, harassed or victimised.

2.18 **Circumstances which are covered**

This policy covers behaviour which occurs in the following situations:

- a work situation occurring outside of the normal workplace or normal working hours which is related to work e.g. a working lunch, a business trip or social functions
- outside of a work situation but involving a colleague or other person connected to the council, including on social media
- against anyone outside of a work situation where the incident is relevant to your suitability to carry out the role.

3.0 COUNSELLING SERVICES

3.1 A complaint of bullying, harassment, or victimisation can cause fear, stress and anxiety for all those involved, and it can be useful to enlist the services of a trained counsellor. Access

to counselling support can be found within the Employee Hub, [Be Heathy - health and wellbeing](#).

- 3.2 If employees require additional support during this process, please refer to our [Employee Assistance Programme](#) which provides confidential access to a complete support network, expert advice and compassionate guidance covering a wide range of issues. Employees can also call the free 24-hour confidential helpline on 0800 783 2808.
- 3.3 Employees can also approach a trained [Mental Health First Aider](#)
- 3.4 Further details on wellbeing and all the support that the council offers can be found within [Be Heathy - health and wellbeing](#).
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4.0 INFORMAL PROCESS

4.1 Early Resolution

It is the aim of this policy to attempt to resolve any complaint of alleged bullying, harassment or victimisation quickly as a means of preventing the problem becoming more serious over time and provide an opportunity for an early resolution to avoid prolonged stress to both parties.

- 4.2 Where an employee feels they have been bullied, harassed, or victimised there are a number of options available to them:

- **Speak directly to the person(s) responsible for the incident**

The employee feeling bullied, harassed or victimised can choose to address the situation directly with the person(s) responsible and explain that their behaviour is unwelcome and unacceptable.

- **Consider talking over their concerns with their immediate Line Manager/Headteacher**

Sometimes employees are unsure as to whether the way they are being treated is acceptable. In this situation employees should consider talking over their concerns with their immediate Line Manager / Headteacher to hear their perspective.

- **Consider talking over their concerns with the next highest level of management or another Manager within the Directorate/Department**

If employees are unable to discuss the matter with their Line Manager/ Headteacher or if their Line Manager / Headteacher are the cause of the complaint, then the employee may wish to raise the issue at a higher level. In the case of a school-based employee from a locally managed school they should discuss the matter with the Chair of Governors.

- **Enlist the support of a colleague(s) or friend(s)**

If the employee feeling harassed, bullied, or victimised does not wish to speak directly to the perpetrator(s), they may enlist the support of a colleague(s) or friend(s) who could speak to the person on their behalf.

- **Seek advice from a Trade Union Representative**
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If the employee is a member of a Trade Union or Professional Association, they may also wish to seek advice from their local representative.

- **Arrange mediation for both parties**

Managers/ Headteachers can arrange for mediation if both parties agree to attempt to resolve the issues that have been raised (see the Mediation Facilities section below).

- 4.3 If the employee is dissatisfied with the outcome of the early resolution process, they can follow the formal process below.
- 4.4 If it is found that the complaint is vexatious or malicious then the disciplinary process may be invoked, see [Disciplinary Procedure](#).
- 4.5 An employee may want to raise concerns of wrongdoing involving the actions of the council's employees, its councillors, contractors or any aspect of the council's activities via the [Confidential Reporting \(Whistleblowing\) Policy](#). As such the council is committed to a policy which seeks to protect those individuals who make certain disclosures regarding any instance of malpractice or wrongdoing and to investigate them in the public interest. It is important to stress that any concern raised through the Confidential Reporting (Whistleblowing) Policy will be treated confidentially and with the utmost seriousness.
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5.0 MEDIATION FACILITIES

- 5.1 Mediation is a structured and facilitated conflict resolution strategy used where employees are unable to resolve their disputes without assistance. It is a voluntary process and can only be arranged if both parties agree to this course of action and are willing to resolve the matter and reach a solution.
- 5.2 The Mediator will not have had any previous involvement with the disputants or have any prior knowledge of their conflict situation. This is to ensure objectivity on the part of the Mediator and avoid any perceived bias.
- 5.3 The Mediator is not empowered to make a decision about the conflict. Their role is to facilitate the process and enable a dialogue to take place between the disputants. The aim of mediation is for the disputants to find a mutually acceptable agreement.
- 5.4 Mediation focuses on agreeing what will happen now, and in the future, rather than what has happened in the past with an emphasis on the disputants agreeing how they will behave towards each other in the future.
- 5.5 Mediation can be accessed by contacting your Strategic People Partner in the first instance. Further details regarding mediation facilities can also be found on the Manager and Employee Hubs.
- 2.6 It must be noted that Services/Schools will be recharged for any associated costs of mediation.
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6.0 REDEPLOYMENT

- 6.1 If the working relationship is deemed untenable between employees who have been involved in a complaint of bullying, harassment or victimisation and steps for early resolution and/or mediation have been exhausted, then redeployment of either employee irrespective of their status/seniority may be considered.
- 6.2 In this type of situation, it is expected that the employee would normally be redeployed within their own Service or School in the first instance subject to there being an appropriate redeployment opportunity.
- 6.3 The employee who is to be redeployed will be afforded “At Risk” status and will be entitled to apply for suitable alternative positions as an “At Risk” candidate with Priority 3 status, meaning they will be expected to seek an alternative post that matches their current contractual earnings.
- 6.4 Managers/Headteachers are asked to seek further advice from their Strategic People Partner if they consider redeployment to be the last resort.

7.0 FORMAL PROCESS

- 7.1 Where the complaint cannot be resolved informally, the complainant is required to submit their issues/concerns in writing to their Head of Service/Headteacher or next level of management if the issue/complaint is about the Head of Service by completing a [Dignity at Work Notification Form \(DWN1\)](#). This should include as much detail as possible about the issues/concerns raised and the outcome the employee is seeking to remedy the situation.
- 7.2 The Head of Service/Headteacher must inform the person against whom the allegation has been made, and this should be confirmed in writing. This must indicate who has raised the complaint and when, with brief details of the nature of the complaint.
- 7.3 Should any employee require additional support during this process, the Head of Service/Headteacher should refer to our support services such as counselling and the [Employee Assistance Programme](#). These are detailed above in the Counselling Services section.
- 7.4 On receipt of the DWN1 form, the Head of Service/Headteacher should confirm receipt and where necessary an Investigator identified. The Investigator should be independent and sufficiently senior/appropriate Governor to enable them to carry out a thorough assessment of the situation and make recommendations to a panel on their findings. Account should be taken of the level of the officer raising the issue and any other parties involved to allow appropriate questioning. It is recommended that the Investigator refers to the Investigation Guidance and/or seeks advice from their People Partner.
- 7.5 It is important that the investigation is carried out without unreasonable delay in a timely manner. The remit of the manager undertaking the investigation is to ascertain the appropriate evidence whilst maintaining an unbiased position. This usually requires the holding of investigatory meetings with the employee, alleged perpetrator and where appropriate any witnesses.
- 7.6 Following completion of the investigation process the Investigator should provide the complainant with a summary of findings and any recommendations. The employee can

confirm if they wish to accept the full findings from the Investigator or, should the employee be dissatisfied with the findings, they can proceed to a formal meeting.

7.7 The investigator should also provide a summary of findings and any recommendations to the person against whom the complaint has been lodged, to inform them of whether the complaint has been upheld and the next steps, if any. A copy should also be provided to the Head of Service.

7.8 **Initiating the Formal Dignity at Work Meeting**

Where the employee submits a formal Dignity at Work Notification Form and following receipt of the investigation findings and any recommendations wishes to proceed to a formal meeting, the Investigator should:

- Notify the employee in writing of date, time and location of the formal meeting and details of panel members.
- Send the employee all documentation they intend to refer to during the Meeting, along with an overview of the case. These will be provided to the employee/representative not less than 10 working days in advance of the date of the Meeting
- Send the panel all documentation they intend to refer to during the meeting, along with an overview of the case.

7.9 The alleged perpetrator should also be invited to the meeting, the Investigator should:

- Notify the alleged perpetrator in writing of date, time and location of the formal meeting and details of panel members.
- Send the alleged perpetrator all documentation they intend to refer to during the Meeting, along with an overview of the case. These will be provided to the employee/representative not less than 10 working days in advance of the date of the Meeting

7.10 The investigator should attend the meeting to present the case and answer any questions where appropriate.

7.11 The employee/representative and the alleged perpetrator/representative must also provide the Investigator and panel members with copies of all documents which they intend to rely on together with an overview of their case no less than 5 working days in advance of the date of the Meeting.

7.12 If the employee's or alleged perpetrator's representative is unable to attend on the specified date, they may request that the Meeting be postponed. They may then offer a reasonable alternative date without unreasonable delay. This will only be accommodated once.

7.13 Where the employee is unable to attend the rescheduled Meeting without a justifiable reason then the Investigator will assume the employee no longer wishes to progress their complaint.

7.14 In normal circumstances the Panel conducting the formal meeting should consist of:

- **Non Schools** - An appropriate level of Manager. For meetings where the issues/concerns are of a complex nature this should be a Head of Service or above and a People Partner should also be available to advise the panel.

- **Schools** - The Headteacher or appropriate Panel of Governors who have been delegated this function in accordance with the School Staffing Regulations 2009 (refer to Section 3 and point 10.3) and who have not been involved in the investigation and are impartial to the process.

7.15 The Panel should also consider whether any reasonable adjustments are necessary for the attendees.

7.16 **The role of the Panel/Manager reviewing the case**

A recommended protocol for use when an employee wishes to attend a meeting is [available on the Manager Hub](#)/from People Services.

7.17 At the outset of the Formal Meeting the Panel will need to consider whether to grant any request made by an interested party, which may include a witness, to attend for the duration of the Meeting. Each request should be considered on its own merits and in the circumstances of the complaint.

7.18 The Panel, having consulted with either the Executive Director, Core Services or Service Director, People, Communications and Intelligence, will then confirm its decision and reasoning to the interested party and the employee bringing the complaint.

7.19 It is expected that all witnesses attend the Meeting to be questioned. However, in some circumstances it may be impracticable or unacceptable for the witness to be present at the Meeting and in which case a copy of the signed written statement may be provided.

7.20 Where witnesses are unable to attend, the circumstances for their non-attendance should be assessed and other methods may be utilised to ensure their evidence is considered i.e., written questions, video links etc. These alternative methods should be discussed on a case-by-case basis with the Strategic People Partner. Witnesses can be accompanied but not represented by a Trade Union representative or Professional Association Representative or work colleague. Trade Unions have rules regarding representation/accompaniment which may prohibit a witness being accompanied at the Dignity at Work meeting as the witness is not subject to the allegations. Therefore, it is important that a witness consults their Trade Union at their earliest opportunity.

7.21 Where external witnesses do not attend for whatever reason, it is for the panel to determine the weight placed on the evidence presented in the witness statement.

7.22 The Panel/Manager will consider the evidence gathered by the Investigator and make a determination of the issues based on the evidence.

7.23 The Panel will fully consider the evidence and decide whether to uphold none/some/all elements of the complaint and then consider and make any necessary recommendations.

7.24 The decision should be given to the complainant and the alleged perpetrator in writing, within 5 working days.

7.25 **Outcomes**

If the complaint has been upheld:

- The matter will be referred to the line manager who will take appropriate action which may include training or commencement of the Disciplinary Procedure with the person

who perpetrated the bullying or harassment. The written report will constitute the Investigation Report for any Disciplinary Hearing.

7.26 If the complaint has not been upheld:

- If the case was raised in good faith, the manager/s must now arrange for support for all parties to work together and maintain a professional relationship at work. This can include arranging for mediation, counselling, or training.
- Where a normal return to work is impossible, the possibility of changes to work times or locations should be considered to limit contact. However, this should only take place with their consent and these actions must not be done to victimise or undermine any parties in the case.
- If it is found that the employee who raised the complaint, or any witnesses who gave evidence, did so vexatiously or with malicious intent, then they will be subject to the disciplinary procedure.

7.27 **Right of Appeal**

The employee who raised the complaint may appeal against the decision following a Formal Meeting, to do so they should inform the Chair of the Panel, setting out in writing, the grounds for their appeal and the resolution the employee wishes to achieve. This should be submitted within 10 working days of receipt of the letter notifying them of the decision of the panel. The right of appeal only applies to the complainant.

7.28 **For Non Schools employees**, an appeal will be to the next level of Management. The only exception being a decision issued by an Executive Director. In such cases the Executive Director of another Directorate/ Department should hear the appeal. The Panel will include a Trade Union representative and People Partner who has had no previous involvement in the case.

7.29 **For Schools based employees**, the rights of the employee and the procedure for the convening an appeal shall be the same as for the initial Formal Meeting.

7.30 The Appeal shall consider the matters and may include new evidence applicable to the issues/concerns raised but NOT relating to any new issues/concerns.

7.31 It is recommended that the Investigator should make arrangements for the Appeal Meeting. The Investigator should inform any interested party of the appeal. The Appeal Panel should give the same considerations to such a request as in the above paragraph – Initiating the Formal Dignity at Work Meeting.

7.32 A recommended protocol for use at the Appeal Meeting is [available from the Manager Hub](#)/from People Services.

7.33 The decision should be given in writing to the employee who made the appeal within 5 working days of the conclusion of the Appeal Meeting.

7.34 The Appeal Panel may confirm or revoke the original outcome or substitute its own decisions and recommendations.

8.0 COMPLAINTS JUST BEFORE OR DURING AN EMPLOYEE'S NOTICE PERIOD

- 8.1 The Council will agree on a case-by-case basis how the investigation would be undertaken. It is likely that a written response will be provided, with no formal Dignity at Work Meeting held and no right of appeal.
- 8.2 In line with the Exit Strategy Policy and Procedure, employees are sent an exit survey to complete, this can be used as an opportunity to raise any issues via a meeting with the People Advisory Service

9.0 **COMPLAINTS AFTER EMPLOYMENT HAS ENDED**

- 9.1 Complaints after employment has ended, will not usually be considered. A complaint would only be considered in exceptional circumstances, if the Council felt that it was appropriate to do so. In the event a complaint is considered, a written response only, will be provided with no right of appeal.

10.0 **BULLYING OR HARASSMENT BY MEMBERS OF THE PUBLIC**

- 10.1 The procedure for dealing with cases where an employee is bullied or harassed by a member of the public (including users and clients of Council services) is included in the Council's Code of Practice [Personal Safety and Violence and Aggression at Work](#). This covers any incident in which an employee is verbally abused, threatened or attacked by a member of the public in the course of their employment.
- 10.2 Employees can report incidents of violence, aggression & harassment by a third party via an online Health & Safety form that notifies their manager of the incident directly. Details of the form can be found at [H&S Online Reporting](#)

11.0 **MONITORING**

- 11.1 It is the Council's/School's statutory duty under the Equality Act 2010 to collate and analyse statistics in respect of the ethnicity of the employee that feels that they have been bullied, harassed, or victimised.
- 11.2 It is essential to record and monitor all complaints of bullying, harassment, sexual harassment, and victimisation regardless of the reasons for it, to continually assess the effectiveness of this policy. The outcome will be recorded by the People Advisory Service on an internal recording tracker. Health and Safety also record third party harassment incidents by members of the public via an internal H&S tracking system.
- 11.3 It is the Council's/School's statutory duty under the Amendment of Equality Act 2010 to take reasonable steps to prevent sexual harassment of their workers (the 'preventative duty'). The Council's/School is proactive in assessing risk, identifying action and regularly reviewing processes in relation to sexual harassment.
- 11.4 Violence/aggression and sexual harassment risks are assessed by managers using the RA2 Occupation Group Risk Assessment Form. There is a legal obligation for all managers to complete the RA1 Risk Assessment and The RA2 Occupation Group Risk Assessment for their members of staff. The risk assessments can be found here within [Managing Health & Safety](#).

- 11.5 The Investigator must ensure that all documents/evidence relating to the investigation are placed on the employee’s electronic record. Guidance is available in the Employee Record Policy which also includes advice on the retention of documents [Employee Record Policy inc Retention Schedule.docx](#)
- 11.6 In respect of Schools, the collation and reporting of incidents under this procedure shall be in accordance with your service level agreement.

12.0 **EQUALITY AND DIVERSITY**

- 12.1 This policy has been impact assessed by the People Advisory Service, if on reading this policy you feel there are any equality and diversity issues, please contact your Strategic People Partner who, if necessary, will ensure the policy is reviewed.

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