

## Dignity at Work Procedure

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**Section:** Grievance and Dignity at Work

**Source:** Corporate Resources Ratification Committee - 15th December 1999

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**Appendices:** (1) [Examples of Harassment](#) (2) [Categories of Workers](#)

[Protected](#) (3) [Harassment Complaint Form](#) (4) [Investigation Guidance](#) (5)

[Appeal Form](#) (6) [Employee Support Workers](#) (7) Flow Chart

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### (A) Policy Statement

1. The Council is committed to the fundamental principle that ALL employees, regardless of their position, are entitled to be treated with dignity and respect when carrying out their work. It is recognised that harassment and bullying at work can cause personal distress and negatively impact on families, work groups and the organisation as a whole, leading to stress, illness, absenteeism and poor performance.
2. Bullying and harassment will not be tolerated. Complaints will be taken seriously, considered carefully, addressed speedily and, where possible, in confidence. All employees of the Council are expected to commit to the principle that everyone is entitled to be treated with dignity and respect.

### (B) Definition

3. Harassment is defined as unwanted conduct related to a relevant protected characteristic (age, disability, gender identity, race, religious belief, sex, sexual orientation) 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. Harassment is a form of discrimination which is covered by the Equality Act, 2010 (Section 26).
4. Bullying can be defined as offensive, intimidating, malicious, insulting or humiliating behaviour, and/or abuse of power or authority which attempts to undermine an individual or group of employees.
5. Specific examples of harassment and bullying can be found in Appendix 1.

### (C) Scope

6. The Dignity at Work policy covers all employees with a contract of employment with Sefton Council, including non permanent contracts and any other persons acting in the name of Sefton Council, for

example agency workers and employees on secondment from other organisations. Further information can be found in Appendix 2. This Policy is commended to Teachers and other staff in schools who are not employees of the Council.

7. The Policy covers employees in the workplace and outside the workplace both during work hours and outside normal working hours.
8. Employees can bring a complaint under the policy up to two weeks after leaving the Council's employ.

#### **(D) The Procedure**

9. An employee who believes that they have been the victim of harassment or who has witnessed harassment may choose to take either informal or formal action.
10. Irrespective of the chosen form of action, employees are advised to maintain accurate records of incidents, including dates and names of witnesses.
11. Throughout all stages of the procedure the employee has the right to be accompanied by a Trade Union Representative or colleague.
12. Under this procedure, the alleged victim of any behaviour is referred to as the **complainant**.

#### **(E) Informal Approach**

13. Where possible and appropriate, harassment and bullying complaints should be dealt with using an informal approach. Informal action provides the opportunity to resolve allegations of harassment through informal discussion or to raise an issue so it can be informally monitored.
14. If the complainant feels able to confront the employee he/she should make it clear that the form of behaviour is causing offence, and the effect of such behaviour.
15. It may be that the employee is genuinely unaware of the effect of their behaviour and may seek to change it once they realise offence has been caused.
16. Any employee who wishes to attempt to resolve a situation him/herself will be provided with advice, guidance and support to do so. Guidance and support can be obtained from:
  - Personnel Department
  - Trade Union Representative
  - Line Manager
  - Another Manager within the Department

- Occupational Health Team
- Employee Support Worker

## **(F) Formal Approach**

17. If a situation cannot be resolved through the informal approach the complainant should submit a formal complaint. Formal complaints of bullying or harassment should be submitted in writing on the Harassment Support Form (Appendix 3) to the Assistant Director or, if the allegations are against the Assistant Director, to a nominated Chief Officer, if against the nominated Chief Officer to the Chief Executive or Deputy Chief Executive. In serious cases of harassment it may be appropriate to suspend the alleged harasser however advice **MUST** be obtained from Personnel before progressing
18. The Assistant Director/Nominated Chief Officer, in conjunction with Personnel, will assign an appropriate manager to the task of resolving the issue.
19. The Manager, accompanied by a representative from Personnel, will arrange a Hearing with the Complainant to clarify the allegations in the Harassment Report Form.
20. At the Hearing, the Manager will:
  - (a) Define the allegation(s) to be the subject of the process
  - (b) Gain the Complainant's expectations and if necessary seek a resolution
  - (c) If (b) is not applicable then appoint an Investigating Officer to investigate the allegation(s). A timescale and appropriate witnesses to be interviewed will be decided and the matter will be scheduled for a further Hearing at which the Investigating Officer will present his/her finding(s).
21. The Investigating Officer will conduct a thorough investigation, assisted by Personnel, in accordance with the guidance provided in Appendix 4. The investigation will be conducted in a timely manner and, where possible, will be concluded within 6 weeks. A full report will not be produced however the Investigating Officer will present summary findings and explain his/her reasoning.
22. The complainant will be interviewed first in accordance with the defined allegations at the hearing to obtain comprehensive details of the complaint and to identify witnesses.
23. The Investigating Officer will interview all witnesses and gather appropriate evidence and documentation. The Investigating Officer will make a recommendation based on the findings which will normally be one of the following:

(a) No case to answer

(b) Action not involving the disciplinary procedure – the Investigating Officer may recommend, for example, conciliation, mediation, training, issue a written instruction or other appropriate action.

(c) Disciplinary action

(d) Vexatious complaints – if the Investigating Officer concludes that the complaint is vexatious or malicious the result will be discussed with the Assistant Director/Nominated Chief Officer. Vexatious complaints are taken very seriously and, in most cases, disciplinary action will be taken.

24. The Investigating Officer's findings will be tabled at the reconvened hearing and the Manager will decide whether to accept the recommendation, investigate further or to decide a different outcome in accordance with a) – d). Witnesses will not normally be called at the hearing with the exception of the complainant and the Investigating Officer.

### **(G) Appeals**

25. If a complainant is dissatisfied with the manager's investigation or the findings other than disciplinary action he/she may appeal against them using the following procedure:

26. An appeal must be submitted to the Assistant Director/Nominated Chief Officer on the prescribed form (Appendix 5) within 10 days of the receipt of the manager's letter confirming the decision.

27. The Assistant Director/Nominated Chief Officer will acknowledge the letter and convene an appeal hearing.

28. The Assistant Director/Nominated Chief Officer will hear the appeal and decide on the matter and that decision will be final. The complainant will be notified of the decision in writing.

### **(H) Monitoring and Review**

29. The operation of this policy and procedure will be monitored and reviewed by the Personnel Department as appropriate in consultation with the Trade Unions and other appropriate bodies.

# Appendix 1

## Examples of Harassment

The following list is not intended to be exhaustive but merely to provide examples of what may be considered to be harassment.

### Sexual Harassment

Can be defined as 'unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of men and women at work'. Examples of sexual harassment includes:

- Unnecessary touching, patting, pinching or brushing against a person's body;
- Physical assault;
- Demands for sexual favours, propositions or pressure for sexual activity;
- Continued unwelcome invitations to social activities outside the workplace;
- Leering, rude gestures, whistling, catcalls;
- Pornographic pin-ups or other offensive visual material;
- Unwanted personal comments about appearance, body size, clothes etc;
- Suggestive remarks, jokes and innuendoes or other verbal abuse.

### Sexuality Harassment

Can be defined as unwanted conduct or actions towards a person because of his/her sexuality. Examples of sexuality harassment include:

- Use of inappropriate language and gestures, verbal abuse and innuendo, homophobic comments;
- Making open and public judgements about a person's character or lifestyle;
- Threatening to make public that a colleague is lesbian, gay or bisexual;
- Excluding lesbian, gay or bisexual colleagues from workplace talk and activities;
- Preventing lesbian, gay or bisexual employees access to peer support and networking.

### Racial Harassment

Can be defined as 'racially motivated actions and behaviour which are directed at a person because of his/her race, colour, ethnic or national origins. Examples of racial harassment include:

- Racist 'jokes';
- Racial abuse, racial innuendo and stereotyping;
- Racist graffiti or other visual materials;
- Excluding black and/or ethnic minority colleagues from workplace talk and activities;
- Physical assault.

### **Harassment of People with Disabilities**

Can be defined as 'less favourable treatment of a person because of a physical or mental impairment. Examples of this could include:

- 'Jokes' about disabled people;
- Unwanted or patronising comments which repeatedly draw attention to an employee's impairment, or any equipment they may use;
- Stereotyped comments about a disabled persons ability or appearance and/or persistently patronising behaviour;
- Excluding a disabled colleague from workplace talk and activities.

### **Age Harassment**

Can be defined as 'less favourable treatment of a person because of his/her age. Examples of Age Harassment include:

- Placing unjustifiable age related criteria on employment practices;
- Providing training on the basis of age rather than need;
- Stereotyping youth as inexperienced for promotion.

### **Religious Harassment**

Can be defined as inappropriate actions or behaviour directed at a person because of his/her religious beliefs. Examples of Religious Harassment include:

- Behaviour which fails to tolerate or acknowledge the rights or needs of people with different beliefs and practices;
- Mocking people who respect or practice a religion;
- Misusing or defacing a person's religious artefacts.

### **Harassment by Perception**

Example – Employee A perceives Employee B to be gay, and as a consequence displays harassing behaviour towards Employee B as described in the examples above.

### **Harassment by Association**

Example – Employee A is married to a Muslim but is not a practicing Muslim themselves. Employee A is being harassed by Employee B as a consequence of their links with the Muslim Community.

### **Bullying**

Can be defined as offensive, intimidating, malicious, insulting or humiliating behaviour, and/or abuse of power or authority which attempts to undermine an individual or group of employees. Examples of bullying include:

- Persistently picking on or ridiculing a person in public or private;
- Singling out a person and treating him/her less favourably than the rest of the team.

## Appendix 2

### **CATEGORIES OF WORKERS PROTECTED**

Through a combination of legislation and case law, the following five categories of worker are protected against harassment:

1. Job applicants
2. Employees
3. Self-employed people applying for work and carrying out work, provided their contract for service requires them to carry out the work personally (i.e. do it themselves and not delegate to a third party).
4. Contract/agency workers.
5. Ex-employees, where the harassment arises out of, and is closely connected to the employment relationship, on the basis that, during the working relationship the employee had complained about an act regarded as unlawful under the legislation (e.g. at an appeal against dismissal, an ex-employee who had previously won a discrimination claim against the employer while employed, is harassed during the appeal as a retaliatory measure, causing such humiliation that he/she walks out of the hearing).

In practice, in relation to contract and agency workers, this means that they will have legal protection from harassment by Council employees, however, as they are not employees of the Council they cannot be required to comply with the Dignity at Work Policy. The Dignity at Work Policy is therefore commended to them and any contravention of the Policy by contract or agency worker should be raised with their employer immediately.

## **Appendix 3**

**CONFIDENTIAL**

### **HARASSMENT COMPLAINT FORM**

This form has been designed to assist you in formally complaining about harassment.

**Name:**

**Job Title:**

**Department:**

**Date of Complaint:**

**What is the name(s) of the employee(s) to whom the complaint refers?**

**Was anyone else present at the time of the incident(s)?**

**Have you discussed this incident(s) with anyone else? If so who and when?**

**What happened as a result of this discussion? (Please continue on a separate sheet(s) if necessary)**



**In your own words describe the incident(s), include, dates and times, the names of persons involved including witnesses, places, your feelings concerning the incident(s), how long the situation has been going on. (Please continue on a separate sheet(s) if necessary).**

**How do you think the harassment could be stopped?**

**Are you prepared to consider Mediation to resolve the harassment? Mediation is when an impartial, trained person helps two or more people in a dispute to talk about their situation exchange their concerns and come up with ideas about how to move the dispute forward.**

**Yes/No If no please state why**

**Is there any other relevant information you wish to add?**

Completed form to be sent in an envelope, marked Private and Confidential, to (Specify contact as appropriate). Please forward a copy of the form onto Corporate Personnel.

## **Appendix 4**

### **Investigation Guidance**

#### **1. Assigning an Investigating Officer**

The Manager will assign an Investigating Officer to the task of investigating and resolving the issue. The Investigating Officer will have:

- the necessary skills, experience and training
- an appropriate position in the organisation bearing in mind the potential for formal action in the future if the matter is not resolved

The Investigating Officer will be provided with appropriate guidance and support from a Personnel Adviser.

#### **2. Representation**

Throughout all stages of the procedure the complainant and the witnesses have a right to be accompanied or represented by a person of their choice, i.e. TU representative, colleague or family member. An Employee Support Worker can accompany the complainant/witness to meetings but it is not part of their role to act as a representative.

Employees do not have an absolute right to representation if their Trade Union considers that a potential conflict exists, however this maybe discussed with the relevant Trade Unions.

The co-operation of all representatives and people accompanying staff, will be requested to ensure, as far as possible, that there is no undue delay, e.g. dates for investigatory interviews to be agreed at the beginning of the process.

#### **3. Consideration of Precautionary Suspension or Relocation**

Depending on the circumstances and seriousness of the complaint, the Manager should consider if it will be necessary to relocate the respondent or undertake a precautionary suspension. Advice **MUST** be obtained from Personnel before undertaking a suspension or relocation.

If it is considered that the complaint, if proven, would constitute gross misconduct and potentially dismissal, a precautionary suspension meeting should be convened.

If the nature of the complaint and/or the feelings of the complainant will affect the working relationship and potentially service delivery, consideration should be given to the temporary relocation of any employee involved in the complaint. In exceptional cases, when relocation is not possible, consideration can be given to home working or Special Leave with pay. It must be stressed to all concerned that the relocation or suspension of an

employee is not a presumption of guilt or otherwise and all such arrangements should be kept to an absolute minimum.

#### **4. Interviewing the Complainant**

The Investigating Officer will meet with the complainant initially to gain a thorough understanding of the problem and any action that may have been taken to date in accordance with the defined allegations at the hearing.

Unless information provided dictates otherwise, these meetings will be informal and should be conducted in a relaxed atmosphere to minimise the stress to all concerned.

The complainant should have completed a Harassment Complaint Form which, alongside the defined allegation from the hearing, will form the basis of an interview with the Investigating Officer to enable him/her to gain a thorough understanding of the complaint and clarify any aspects which are unclear.

The Investigating Officer should take notes of the meeting to include the following:

- relevant dates, times, places, witnesses, etc.
- use the complainant's own words and be precise. If unfamiliar words are used they should be recorded with their meaning in brackets. Avoid general terms such as 'offensive language', where possible examples of exact words used should be included
- make reference to other supporting information, e.g. letters, e-mails etc. which should be collated as background information where possible
- state the date and time of the investigatory interview and who was present.

The Investigating Officer should advise the complainant that if the outcome of the complaint is disciplinary action then the notes of the meeting will be formed into a statement which the complainant will be asked to sign.

Any information that is shared by the complainant which is not directly related to the complaint will be held in confidence.

#### **5. Interviewing the Witnesses**

Witnesses should be spoken to as quickly as possible while events are fresh in their minds, they should be asked not to discuss the matter with colleagues and all discussions should be conducted in a low key and relaxed manner to minimise the stress on all concerned.

Witnesses should be informed in writing that they are required to attend a meeting to discuss a complaint which is being investigated formally under the Dignity at Work Policy. Brief details of the complaint should be included. They should be given a reasonable amount of notice of the meeting and be informed of their right to be represented or accompanied, who will be conducting the meeting and its purpose. Witnesses should be informed of the support that can be offered by an Employee Support Worker. They should also be sent a copy of the Dignity at Work Policy.

At the meeting it must be explained to the witness that an investigation is being conducted under the Dignity at Work Policy and the purpose of the meeting is to obtain any information he/she may have in relation to the complaint. The witness must be informed that a note will be taken of the meeting.

The Investigating Officer should advise the witness that if the outcome of the complaint is disciplinary action then the notes of the meeting will be formed into a statement which the witness will be asked to sign.

Witnesses should be given sufficient information to enable them to comment on the situation or respond to specific questions; however they should not be given a copy of the whole complaint or informed what other witnesses have said.

At the end of the meeting the witness should be reminded to keep all the information he/she has discussed strictly confidential.

If a witness wishes to remain anonymous for a genuine reason, e.g. a genuine and reasonable fear of reprisal or an adverse effect on his/her working relationship with a colleague/s, he/she must make it clear in the meeting so that this/her identity is not revealed within the investigation.

## **6. Outcome**

The Manager will reconvene the hearing at which the Investigating Officer will present the findings of the investigation and make a recommendation. Any documents to be tabled at the hearing must be circulated to all parties 7 days before the hearing.

Witnesses will not normally be called at the hearing with the exception of the complainant and the Investigating Officer. The complainant may question the findings of the Investigating Officer in order to support his/her case.

The Manager will then decide whether to accept the recommendation, investigate further or to decide a different outcome in accordance with a) – d).

### **(a) No further action**

If no further action is required all notes of the incident must be removed

from the complainant's and witnesses files and confidentially destroyed.

## **(b) Action not involving the disciplinary approach**

### **(i) Conciliation/Mediation**

The aim of conciliation/mediation is to enable, via a third party or 'facilitator', complainants and witnesses to agree an acceptable way forwards.

The complainant and witness must both agree to participate in mediation for it to be successful.

### **(ii) Training/Coaching**

#### **(ii) Written instruction about behaviour**

To be issued to the witness and/or complainant (as appropriate) and to include expected changes in behaviour with timescales. This does not constitute formal action or disciplinary action but will be placed on the individual's personal file for six months after which time it will be removed.

### **(iv) Counselling**

The Health Unit has the facility to refer employees to a counselling service. Counselling can help employees explore their difficulties and concerns, and provide support to pursue their chosen option and, hopefully, come to terms with and resolve the problems they face.

## **(c) Recommendation for Disciplinary Action**

**(d) Vexatious complaints** – if the Investigating Officer concludes that the complaint is vexatious or malicious the result will be discussed with the Assistant Director/Nominated Chief Officer. Vexatious complaints are taken very seriously and, in most cases, disciplinary action will be taken.

The Manager, with support from Personnel, will then write to the complainant, within a reasonable time period, to inform them of the outcome. The letter should document the reason for the outcome and inform the employee of his/her right of appeal.

Feedback will be provided to witnesses as appropriate.

**Appendix 5**

**DIGNITY AT WORK POLICY**

**APPEAL FORM**

This form should be completed if you wish to appeal against a decision following a complaint made through the Dignity at Work procedure.

It will not be possible to consider your appeal until this completed form is returned to your Assistant Director within 10 working days of the date upon which you received written or verbal confirmation of the outcome of your complaint.

Please provide the following information:

Name of Employee: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department: \_\_\_\_\_

Tel. No. Work: \_\_\_\_\_ Home/Mobile: \_\_\_\_\_

Name of Representative: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Tel. No. \_\_\_\_\_

Is your appeal against the

Manager's investigation /action

Manager's decision

Name of Manager: \_\_\_\_\_

Manager's decision: \_\_\_\_\_

When did you receive written or verbal confirmation of this decision

\_\_\_\_\_

