

## CHIEF EXECUTIVE'S OFFICE

### REPORT OF THE HEAD OF HUMAN RESOURCES – S.REES

1<sup>st</sup> June, 2015

#### SECTION B - MATTER FOR DECISION

WARDS AFFECTED: All

#### Dignity at Work Policy

##### 1. Purpose of report

The purpose of this report is for Members to approve the new Dignity at Work Policy which has been developed to set out the Council's commitment to promote dignity and respect in the workplace, and the Council's expectation that all employees will behave responsibly in supporting the Council's position in establishing and maintaining a non hostile working environment.

##### 2. Background Information

The current policy which deals with complaints of harassment and bullying is the Harassment at Work Policy. However, as a result of a feedback from various stakeholders, it was decided to change the focus of the policy, review it and rename it the Dignity at Work Policy.

Neath Port Talbot County Borough Council is committed to creating and promoting a safe working environment free from harassment and bullying.

The key legislation which provides protection from harassment is the Equality Act 2010. Harassment relating to a protected characteristic (age, disability, gender reassignment, race, religion or belief, sex and sexual orientation) is unlawful and is covered by the Equality Act 2010. The legal definition of harassment is:

*Unwanted conduct related 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.'*

Bullying behaviour often has the effect of undermining and humiliating, and is usually classified as behaviour that is **intended** to hurt someone either physically or emotionally and which is repeated.

All employees are responsible for their own behaviour, both individually and collectively and any behaviour that may be viewed by others as harassment or bullying must not be practiced, encouraged or allowed.

Managers and Supervisors have a responsibility to ensure that employees within their service areas are aware of the policy. If an instance of harassment/bullying is reported to them, they must make every effort to resolve the issue informally as part of their day to day managerial responsibility.

Conflict Resolution Officers (CRO) are recruited and trained from within the Council and are available to assist in the resolution of conflicts arising from dignity at work complaints. However, they do not replace the support offered to employees by their Trade Union representatives.

The CROs will be provided with training in relation to this Policy, if approved by this Committee. Following this, the policy will be publicised throughout the Council.

### **3. Process for Creating the New Policy.**

This Policy was developed by HR in conjunction with a representative from UNISON and GMB and has been approved by the Local Government Services Forum.

### **4. Recommendation**

It is **RECOMMENDED** that Members approve the Dignity at Work Policy attached as **Appendix 1**.

### **5. Officer Contact**

For further information on this report item, please contact:

Sheenagh Rees, Head of Human Resources on Ext 3315 or email [s.rees5@npt.gov.uk](mailto:s.rees5@npt.gov.uk)

**6. Background Papers**

None.

**NEATH PORT TALBOT**  
**COUNTY BOROUGH COUNCIL**

**DIGNITY AT WORK**

## **1.0 Introduction**

Neath Port Talbot County Borough Council is committed to creating and promoting a safe working environment free from harassment and bullying. This document sets out the Council's commitment to promote dignity and respect in the workplace, and it is expected that all employees will behave responsibly in supporting the Council's position in establishing and maintaining a non hostile working environment.

## **2.0 Scope**

This policy applies to all employees of the Council, other than those staff employed by schools operating under fully delegated personnel powers.

## **3.0 Principles**

People do not thrive in an environment where bullying, aggressive behaviours, low praise and criticisms exist. The Council has a duty of care towards its employees and intends to apply that duty in order to ensure dignity and respect at work for all employees.

Allegations of harassment and/or bullying will be dealt with sensitively and in confidence, and support will be available for employees who believe their dignity at work has been breached. **The Council expects all staff to commit to and maintain a supportive non hostile working environment, and be responsible for their own behaviour.**

It is important to note that legitimate management of issues such as performance or unacceptable behaviour is not a form of harassment or bullying, if it is undertaken with respect. For example, Managers and Supervisors should be mindful that if they need to reprimand a member of staff, they should do so in a private setting rather than in front of others.

Whilst the Council's position on harassment and bullying is that it is wholly unacceptable, it should be made clear that false allegations, whether frivolous or malicious, are also wholly unacceptable. The Council places a value on all employees and it is critically important that employees are protected from any false allegations which may be made against them (see point 10.0).

It is quite possible that an employee causing upset may be completely unaware of how a behaviour has upset another employee.

## 4.0 Definitions

### 4.1 Harassment

The key legislation which provides protection from harassment is the Equality Act 2010. Harassment relating to a protected characteristic (age, disability, gender reassignment, race, religion or belief, sex and sexual orientation) is unlawful and is covered by the Equality Act 2010. The legal definition of harassment is:

*Unwanted conduct related 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.'*

### 4.2 Bullying

There is no single legal perspective which deals with bullying. Bullying behaviour often has the effect of undermining and humiliating, and is usually classified as behaviour that is **intended** to hurt someone either physically or emotionally and which is repeated.

## 5.0 Roles and Responsibilities

5.1 All employees are responsible for their own behaviour, both individually and collectively. Behaviour that may be viewed by others as harassment or bullying must not be practiced, encouraged or allowed.

5.2 Managers and Supervisors are responsible for ensuring proper implementation of the policy, particularly for those they manage or supervise. When an instance of harassment/bullying is reported to them, it is expected that every effort will be taken to resolve the issue informally as part of their day to day managerial responsibility.

5.3 Conflict Resolution Officers (CRO) are recruited from within the Council and trained to assist in the resolution of conflicts arising from dignity at work complaints. CROs are employees who have volunteered for this role, and have been selected and trained to support staff. ***CROs do not replace the support offered to employees by their Trade Union representatives.*** A list of CROs is available on the Intranet, and on posters within Council buildings

During the informal stage of this procedure, the CRO will work without bias in order to assist in the process of conflict resolution.

## 6.0 The Procedure

In the case of a dignity at work complaint the first point of contact will, where practicable, be the relevant manager or supervisor (or their direct manager where the complaint relates to the manager). If the manager is not able to resolve this issue, or the complainant feels it is inappropriate to discuss this with their manager, a CRO should be contacted. Where possible the employee should contact a CRO from within their own Directorate.

The complainant should complete FORM 1 (appendix 1) prior to meeting with their CRO, this will assist the process and help them focus on and communicate their complaint.

### 6.1 Stage One – Informal Stage

Initially the CRO will follow one of the following informal routes, and the decision on which course of action to take remains with the person making the complaint.

- **Option A** – the complainant can speak directly to the person who they claim has violated their dignity at work, either on their own or in the company of a CRO.
- **Option B** – the complainant can request their immediate manager/supervisor speak on their behalf to the person they believe to have violated their dignity at work. Or the next level of management if the complaint is against the manager/supervisor.
- **Option C** – the complainant may ask a CRO to speak to the other person on their behalf.
- **Option D** – after speaking with the CRO the complainant may decide to take no further action.

The complainant has the right to proceed to the formal stage rather than go to one of the options above, if:

- a. the complaint is of such a serious nature the informal options are insufficient; **or**
- b. an attempt to resolve the issue informally has already been unsuccessful.

### 6.2 Stage Two – Formal Complaints and Investigation Procedure

When to Use the Formal Procedure – If the informal stage outlined above has been followed and the behaviour continues or where the complaint is of such a serious nature that the informal process is not appropriate, the complainant may choose to continue to the formal stage.

How to Register a Formal Complaint – A Stage 2 formal complaint is registered by completing and submitting FORM 2 (appendix 2) to the relevant Head of Service. Where the Head of Service is the subject of a complaint, the FORM2 should be sent to the Head of Human Resources. The FORM2 **must** include the following information:

- a summary of the complaint;
- details of actions taken in relation to the informal stage;
- the name of the person against whom the allegation has been made;
- the specific outcome the complainant is seeking;
- the names of any potential witnesses;
- the name of the Trade Union Representative or work colleague who will accompany the complainant at formal meetings;
- the address to which correspondence should be sent – if this is not included all correspondence will be sent to the home address.

*Please note, if the above information is not included the FORM2 will be returned to the complainant for completion. This is likely to result in the process being delayed. Additionally, the redress being sought must be reasonable, if it is not considered to be reasonable the FORM2 will be returned to the complainant with a note of explanation.*

Acknowledgement of a Complaint – The Head of Service will respond to your FORM2 within 7 calendar days acknowledging receipt.

### 6.3 Formal Process

The Head of Service will consider the seriousness of the complaint and take appropriate action to resolve as follows.

An Investigating Officer will be appointed by the Head of Service of the complainant, the Head of Human Resources will be informed and a HR Officer will be appointed to provide advisory support to the Investigating Officer.

The appropriate Head of Service **must** arrange for a risk assessment to be undertaken, to assess the working arrangements during the course of the investigation. Following which it may be necessary for the Head of Service to:

- a suspend or transfer the person being accused during the period of the investigation;
- b temporarily transfer the complainant during the period of the investigation, at the request of the complainant. If the complainant does not request a transfer, and if it is deemed appropriate to do so, the Head of Service may *offer* the complainant a temporary transfer.



In the case of a suspension from work, the HR Officer will inform the Chair of the Personnel Committee and Head of Human Resources.

#### 6.4 Investigation

The purpose of the investigation is to investigate and not to prosecute. Both the complainant and the person against whom the allegations are being made will be treated in a fair and reasonable manner.

All relevant persons will be interviewed as part of the investigation, and both the complainant and person who is accused must fully cooperate in this process. Failure to cooperate may result in disciplinary action. Where it is not possible for a witness to attend for interview or where the Investigating Officer considers their attendance is not necessary, written attested statement can be accepted. *Please note character witness statements are not considered appropriate.*

Once the Investigation has been concluded, the Investigating Officer will produce a report addressing each allegation made, and conclude whether the evidence is capable of substantiating the allegation.

In the case of any person raising a grievance during the investigation process, the HR Officer providing the support will advise on whether:

- there is a need to temporarily suspend the investigation in order to deal with the grievance;
- the grievance should be ‘parked’ until the process has been completed;
- the grievance can run alongside the process (refer to the Grievance Procedure for further guidance).

#### **7.0 Conclusion of Investigation**

The Investigating Officer will present the prepared report to the Head of Service outlining each allegation, the evidence and whether the evidence is capable of substantiating the allegation or not, and their conclusion, with recommendations on whether a disciplinary hearing should be convened.

If the Investigating Officer recommends the disciplinary procedure is invoked, there will be no requirement for a separate investigation, the investigation carried out under the Dignity at Work investigation will suffice. The Investigating Officer will present the management case at any relevant disciplinary hearing, and will continue to be supported in an advisory capacity by the HR representative.

The Head of Service will write to the person accused of misconduct/gross misconduct to advise them of:

- the outcome of the investigation, specifically the details of the allegations against them which have been upheld;
- the date, time and venue of the hearing;
- the identity of the officer who will hear the allegation and the identity of the HR adviser;
- their statutory right to be accompanied by a work colleague or Trade Union representative.

A copy of the management papers should be sent in line with the Disciplinary Procedure.

The Investigating Officer will invite the complainant to a meeting to disclose the outcome of the investigation. It is vitally important that at this stage to make the complainant aware of any further involvement required of them. This may include advising them:

- that in reporting the allegations to the Head of Service, their involvement has concluded;
- they may be called as a witness in the disciplinary hearing.

#### 7.1 No Case to Answer

If the finding is that there is no case to answer, the Investigating Officer will invite the complainant to a meeting to disclose the outcome to them.

#### 7.2 No Disciplinary Action Taken

In some instances, complaints may be upheld but no formal disciplinary action recommended. In such cases, informal action may be recommended (e.g. training). If this is the outcome, the complainant will be invited to meet with the Head of Service to disclose.

Any recommendations made in respect of '*no disciplinary action taken*' should be progressed by the appropriate manager with no unnecessary delay.

#### 7.3 False Accusations

If an employee makes a complaint in good faith which is not found to be a breach of their dignity at work, no further action will be taken. If however an employee makes a complaint frivolously or maliciously which has no grounds, substance or evidence in order to cause upset or distress, the complainant may be subject to disciplinary action.

FORM1  
Written Record – Dignity at Work Policy  
Informal Stage\*  
*(use a separate FORM1 to record each incident reported)*

Name of person against whom the allegation/s is made:

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Date/time/place of incident:

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Outline of what took place

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Names of people who may have witnessed behaviour relating to the allegation  
**(under no circumstances should you give these names to the person who has caused you offence)**

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\* - to be attached to FORM2 if the Formal Stage is instigated.

FORM2  
Written Record – Dignity at Work Policy  
Formal Stage\*  
(attach all relevant, completed *FORM1s*)

Summary of concerns:

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Details of actions taken at informal stage:

*I attach a total of \* FORM1s to outline details of actions taken to date.*

(\* insert number of FORM1s)

Name of person against whom the allegation/s is made:

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Specific outcome you are seeking:

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Names of potential witnesses:

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Name of Trade Union representative or work colleague who will accompany you at any formal meeting:

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Address to which you wish correspondence to be addressed:

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*Please note, if the necessary information is not included the FORM2 will be returned to you for completion. This is likely to result in a delayed process, which in turn may mean a continuation of the behaviour you find unacceptable.*

*Additionally, the redress being sought must be reasonable, if it is not considered to be reasonable the FORM2 will be returned to the you with a note of explanation, at which point you may reconsider your redress and resubmit your FORM2.*

Monitoring Form – Formal Stage

Investigating Officer name: \_\_\_\_\_

**Nature of alleged unacceptable behaviour:**

- Sexual
- Racial
- Disability
- Sexuality
- Religious Belief
- Age
- Bullying
- Other  *Details:* \_\_\_\_\_

**The Complainant:**

- Directorate: Chex ELLL Env SSH&H Fin
- Sex: Male Female
- From black/ethnic minority group: Yes / No
- Disabled: Yes / No
- Age band: 16-19 20-24 25-34 35-44  
45-54 55-64 65-74 75+

**The Alleged Perpetrator:**

- Directorate: Chex ELLL Env SSH&H Fin
- Sex: Male Female
- From black/ethnic minority group: Yes No
- Disabled: Yes No
- Age band: 16-19 20-24 25-34 35-44  
45-54 55-64 65-74 75+

Dates of Meetings with complainant:

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What was the decision of the Investigating Officer:

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\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Return to Head of Human Resources, The Quays**

*DIGNITY AT WORK POLICY*

