**** Cyngor Sir CEREDIGION County Council

Adnoddau Dynol | Human Resources

**Policy and Procedure**

**Dignity at Work**

**November 2017**

www.ceri.ceredigion.gov.uk

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# Policy

## Policy Statement

* 1. Ceredigion County Council is committed to promoting an environment where employees can work without fear of being intimidated, harassed or bullied. Every employee of the organisation has a responsibility to treat colleagues with dignity and respect. We want to develop a working environment where employee’s feel safe and supported in all circumstances.
  2. 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.

## Scope

2.1 This policy applies to all employees under a contract of employment with the Council, with the exception of those employees employed by School Governing Bodies.

2.2 It also applies to students on placements with the Council, trainees, voluntary and casual workers and those on supported employment schemes with the Council.

2.3 This policy is to be read and followed in conjunction with the Council’s other policies and procedures including The Code of Conduct, the Disciplinary Policy, Suspension Policy, Whistleblowing Policy, Information Technology policies, etc. Copies of HR policies are available on Ceri Net.

## Principles

3.1 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.

3.2 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.

3.3 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.

3.4 Whilst the Council’s position on harassment and bullying is that it is wholly unacceptable, it should be made clear that false allegations, whether trivial 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 11.1).

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

3.6 Members of Trade Unions may contact their Trade Union at any time for advice, guidance and support

## Definitions

### 4.1 Harassment

4.1.1 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:

4.1.2 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

4.2.1 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.

## 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

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

# 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.

## Stage One – Informal Stage

6.1 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. Where appropriate, the CRO will suggest that the Grievance Procedure is followed instead.

* **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 to 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.

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

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

## Stage Two – Formal Complaints and Investigation Procedure

7.1 **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 (if appropriate);
* 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 (if appropriate);
* the name of the Trade Union Representative or work colleague who will accompany the complainant at formal meetings (if required);
* the address to which correspondence should be sent – if this is not included all correspondence will be sent to the home address.

7.2 Please note, **if the above appropriate 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 may be returned to the complainant with a note of explanation.

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

## Formal Process

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

8.2 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.

8.3 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:

1. suspend or transfer the person being accused during the period of the investigation;
2. 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.

8.4 In the case of a suspension from work, the HR Officer will inform the Head of Human Resources.

## Investigation

9.1 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.

9.2 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. In normal circumstances the investigation should be completed as soon as possible but normally within 4 - 6 weeks. A complex investigation involving a number of individuals may take longer. If the investigation will take more than 6 weeks all parties will be informed in writing of the reason for the extended period and given a revised estimated date for completion. A HR Officer will be assigned to the investigation and monitor the progress.

9.3 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.

9.4 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.

## Conclusion of Investigation

10.1 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.

### 10.2 No Case to Answer

10.2.1 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.

10.2.2 If the complainant believes that the investigation process was flawed or there is new evidence previously unavailable that will support their case, they should write to the Head of HR outlining grounds for an appeal. The Head of HR will arrange for the appeal to be considered and if necessary further investigation, possibly by another investigating officer, will be arranged.

10.2.3 The Head of HR or a nominated representative, will arrange an appeal to reconsider the decision at the earliest opportunity, but not later than 20 working days following receipt of the form. An alternative Head of Service will reconsider the decision based on the grounds that the employee has put forward and assess whether or not the conclusion reached in the original decision was appropriate.

### 10.3 Case to Answer – Formal Disciplinary Action

10.3.1 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.

10.3.2 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.

10.3.3 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.

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

10.3.5 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.

### 10.4 Case to Answer - Informal Disciplinary Action

10.4.1 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.

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

10.4.3 If the complainant believes that the investigation process was flawed or there is new evidence previously unavailable that will support their case, they should write to the Head of HR outlining grounds for an appeal. The Head of HR will arrange for the appeal to be considered and if necessary further investigation, possibly by another investigating officer, will be arranged.

10.4.4 The Head of HR or a nominated representative, will arrange an appeal to reconsider the decision at the earliest opportunity, but not later than 20 working days following receipt of the form. An alternative Head of Service will reconsider the decision based on the grounds that the employee has put forward and assess whether or not the conclusion reached in the original decision was appropriate.

## False Accusations

11.1 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.

## Anonymous Complaints

12.1 Anonymous complaints will generally not be considered by the Council. Individuals are encouraged to raise their concerns as indicated above.

## Responding to Counter Allegations

13.1 When an allegation of harassment or bullying is made it can occasionally lead to a counter allegation. In these circumstances, the investigation will be extended to deal with both complaints simultaneously by the same Investigating Officer, if practicable. Advice should be sought from Human Resources in respect of how best to deal with these situations.

# Appendix 1

|  |  |
| --- | --- |
| **Informal Stage – Form 1**  **Dignity at Work – Written Record** | |
|  | |
| ***NOTE: Use a separate FORM1 to record each incident reported***  ***To be attached to FORM2 if the formal stage is instigated.*** | |
|  | |
| Name of person against  whom the allegation is made: |  |
|  |  |
| Date/Time/Place of incident: |  |
|  |  |
| Outline of what took place: |  |
|  |  |
| 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): |  |
|  |  |
| Specific outcome you are seeking: |  |

# Appendix 2

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Formal Stage – Form 2**  **Dignity at Work – Written Record** | | | | | |
|  | | | | | |
| ***NOTE: Attach ALL completed Form 1s*** | | | | | |
|  | | | | | |
| Summary of concerns: |  | | | | |
|  |  | | | | |
| Details of actions taken at informal stage |  | | | | |
|  |  | | | | |
| I attach a total number of \_\_\_\_\_ Form 1’s to outline details of actions taken to date. | | | | | |
|  | | | | | |
| Name of person against whom the allegation has been made: | | |  | | |
|  | |  | | | |
| Specific outcome you are seeking: |  | | | | |
|  |  | | | | |
| Names of potential witnesses |  | | | | |
|  | | | |  | |
| Name of Trade Union representative or work colleague who will accompany you at any formal meeting | | | | |  |
|  | | | |  | |
| Address to which you wish correspondence to be addressed: |  | | | | |
|  |  | | | | |
| *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 you with a note of explanation, at which point you may reconsider your redress and resubmit your FORM2.* | | | | | |

# Appendix 3

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| --- |
| **Dignity at Work – Monitoring Form** |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Dignity at Work – Monitoring Form – Formal Stage** | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Investigating Officer’s Name** | | | | | | | | | | |  | | | | | | | | | | | | | | | | |
| **Nature of Alleged Unacceptable Behaviour:** | | | | | | | | | | | Sexual | | | | | | | | | | | | | | |  | |
| Racial | | | | | | | | | | | | | | |  | |
| Disability | | | | | | | | | | | | | | |  | |
| Sexuality | | | | | | | | | | | | | | |  | |
| Religious Belief | | | | | | | | | | | | | | |  | |
| Age | | | | | | | | | | | | | | |  | |
| Bullying | | | | | | | | | | | | | | |  | |
| Other | | | | | | | | | | | | | | |  | |
| **If Other Please Specify** | | | | |  | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **The Complainant** | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Service** |  |  |  | | | | |  |  | | | | | | |  |  | | | | |  | |  | | |  |
| **Sex** | Male | | | | | | | | |  | | | Female | | | | | | | | | | | | | |  |
| **From Black Ethnic Minority Group** | | | | | | | Yes | | | | | | | | | |  | No | | | | | | | | |  |
| **Disabled?** | Yes | | | | | | | | | | | | |  | No | | | | | | | | | | | |  |
| **Age Group** | 16-19 | | |  | | 20-24 | | | | | |  | | 25-34 | | | | | |  | 35-44 | | | | | |  |
| 45-54 | | |  | | 55-64 | | | | | |  | | 65-74 | | | | | |  | 75+ | | | | | |  |
|  | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **The Alleged Perpetrator** | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Service** |  |  |  | | | | |  |  | | | | | | |  |  | | | | |  | |  | | |  |
| **Sex** | Male | | | | | | | | |  | | | Female | | | | | | | | | | | | | |  |
| **From Black Ethnic Minority Group** | | | | | | | | | | | | | | | | | | | Yes | | | |  | | No | |  |
| **Disabled?** | Yes | | | | | | | | | | | | |  | No | | | | | | | | | | | |  |
| **Age Group** | 16-19 | | |  | | 20-24 | | | | | |  | | 25-34 | | | | | |  | 35-44 | | | | | |  |
| 45-54 | | |  | | 55-64 | | | | | |  | | 65-74 | | | | | |  | 75+ | | | | | |  |
|  | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Dates of Meetings with the Complainant** | | | | | | | | | | | |  | | | | | | | | | | | | | | | |
| **What was the Decision of the Investigating Officer?** | | | | | | | | | | | |  | | | | | | | | | | | | | | | |
| **Signed** |  | | | | | | | | | | | **Date** | | | | |  | | | | | | | | | | |

**Return to Head of Human Resources, Canolfan Rheidol Aberystwyth**

# Appendix 4

**Dignity at Work Flow Chart**

Employee feels he/she has been subject to harassment or has been bullied.

Employee to complete a FORM1 (appendix 1) and arrange to meet with a CRO.

With the assistance of the CRO the employee attempts to resolve informally, as outlined in *Stage 1 Informal Stage* of policy.

CRO will facilitate the informal stage and will keep written notes of the meetings.

**No**

**Yes**

No further action required.

Employee completes a FORM2 (appendix 2) which is submitted to the Head of Service.

Head of Service to acknowledge receipt of the FORM2 within 7 calendar days.

Investigating Officer appointed and Head of HR informed.

Risk assessment undertaken in relation to working arrangements during the investigation

**Investigation**

Complaint not upheld

Complaint upheld

Return to normal work, if necessary mediation may be recommended.

Informal action taken e.g. training

Disciplinary procedure invoked