

Dignity at Work Policy

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Strategic Alignment
Improving the Council's Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.

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| Consultation process | | |
| Stakeholders | Contacts identified for each service | |
| | <i>Joint Trade Unions</i> | |
| Distribution | | |

Change record

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1. Introduction

1.1 The Council recognises that, both as an employer and service provider, it has a duty to ensure there is an open and honest working environment where everyone is treated with dignity and respect. To reinforce this, the Council has established a set of organisational values which all employees are expected to follow.

1.2 The organisational values are:-

- respect – we will be open and honest in our dealings, involving and listening to others, demonstrating respect for our citizens, our partners and each other
- commitment – we are committed to our citizens and our colleagues, seeking to understand needs and delivering a quality service
- pride in the job – we take pride in the job we do for the people and communities of North Lanarkshire
- listening and learning – we will continually learn, transforming our organisation through the knowledge, capability and initiative of our workforce

2. Purpose

2.1 The purpose of this policy is to ensure everyone is aware of the standards of behaviour expected from them in terms of dignity at work. It aims to assist in the development and maintenance of a working environment in which harassment and bullying are unacceptable. The policy clarifies employees' responsibilities, while providing a clear framework which will ensure that complaints of unacceptable behaviour are dealt with promptly and fairly. Employees' rights are contained in the undernoted legislation.

2.2 Employees should be aware of the following employment policies/guidance which may be considered in conjunction with the Dignity at Work Policy:-

- Grievance Policy
- Discipline Policy
- Data Protection Guidance
- Acceptable Use of ICT Policy and Guidance
- Employee Code of Conduct
- Whistleblowing Procedure
- Equality and Diversity in Employment Policy
- Other relevant Professional Codes of Conduct

3. Legislation

3.1 The following are the principal pieces of legislation which support this policy:-

- Equality Act 2010
- Employment Equality (Age) Regulations 2006
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Disability Discrimination Act 1995 as amended
- Race Relations Act 1976 as amended
- Sex Discrimination Act 1975 as amended
- Protection from Harassment Act 1997

4. Scope

4.1 This policy applies to all Council employees.

5. Principles

5.1 The following principles apply:-

- A. Everyone has a duty and responsibility to promote a positive working environment, which incorporates the Council's organisational values, promotes openness, trust and respect, thereby developing a culture where diversity is valued.
- B. Everyone must behave in a way that will not cause offence to others, and to acknowledge that views and opinions held by others may differ from their own.
- C. Employees are expected to take appropriate action if they become aware of any act of harassment, bullying, discrimination or victimisation. Employees should bring the incident to the attention of management, Human Resources, a Trades Union representative, a member of one of the Council's employee forums or a Support Officer – Dignity at Work. However, if an employee wishes to make a formal complaint in terms of this policy, he/she must intimate this personally, using the formal procedure outlined in paragraph 8.2.3.
- D. When an employee makes a complaint against another employee, the complaint should be specific and not general accusations.

- E. All complaints will be dealt with in a confidential, sensitive and objective manner and all parties involved will be treated with due respect and protected from victimisation and have the right to an impartial investigation.
- F. If a complaint is upheld or upheld in part, appropriate remedial action will be taken.
- G. Following investigation, complaints that are found to be malicious will be viewed as a potential disciplinary offence and appropriate action may be taken against the complainant in accordance with the discipline policy.
- H. It will be considered a disciplinary offence for any employee to victimise or retaliate against an employee for bringing a complaint of harassment, bullying, discrimination or victimisation.

6. Responsibilities

6.1 Employees have a responsibility for:-

- ensuring they do not act in any way that could cause offence to another colleague
- supporting colleagues who may be subjected to harassment, bullying, discrimination or victimisation, including providing information to assist an investigation or being called as a witness

6.2 In addition, Managers and Supervisors, as an essential part of their role, have a responsibility for:-

- promoting a positive work culture by setting an example of appropriate conduct and behaviour and ensuring employees are aware of the standards of behaviour expected of them
- implementing this policy
- responding quickly and effectively to any complaint of alleged harassment, bullying, discrimination or victimisation
- all managers have the responsibility to manage staff, therefore, firm, fair, consistent management will not constitute harassment, bullying, discrimination or victimisation.

6.3 In addition, Human Resources, as an essential part of their role, have a responsibility for:-

- ensuring employees are aware of the support mechanisms available to them if they have reason to make a complaint, or are the subject of a complaint, of harassment, bullying, discrimination or victimisation

- participating as part of an investigation panel, if required
- assisting managers and supervisors to carry out recommendations arising from investigations, as appropriate
- monitoring and reporting on cases of harassment, bullying, discrimination, or victimisation

7. Recognising Unacceptable Behaviour

7.1 The main forms of unacceptable behaviour are harassment, bullying, discrimination and victimisation. The following protected characteristics are the grounds on which discrimination or harassment is unlawful:-

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

However, an individual may make a complaint in terms of this Policy for reasons, determined by that individual, which they find unacceptable or offensive and which are not linked to the protected characteristics.

7.2 The events which lead to complaints vary substantially according to all the circumstances of the individual(s) concerned. Only individual employees can determine what is offensive to them. It is the impact of the conduct which is important and not the intent of the harasser/bully.

7.3 **Bullying** is not specifically defined in law, and is the abuse or misuse of power to criticise, intimidate, insult, undermine or exclude an individual in a way which leaves them feeling hurt, humiliated, or vulnerable.

Bullying can happen by a manager or supervisor bullying a team member; team members bullying each other, or an individual or group of employees bullying a supervisor or manager. The behaviour may relate to one incident or be persistent.

This is not to be confused with firm, fair, consistent management where an employee does not agree with a reasonable management instruction.

7.4 **Harassment** is defined in terms of the Equality Act 2010 as unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of:-

- violating an individual's dignity
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

It may be:-

- an isolated incident or persistent behaviour
- deliberate or unintentional
- explicit or implicit

but as it is considered offensive / unwelcome / uninvited by the recipient, it acts in such a way as to humiliate, ridicule, or cause embarrassment.

The following are examples of harassment. This is not an exhaustive list:-

- unwelcome physical contact
- verbal and written harassment including offensive jokes, offensive language or songs, gossip, slander
- visual displays of posters, graffiti, obscene gestures
- display or circulating offensive material, comments by e-mail / mobile phone / social networking sites
- sectarianism / bigotry
- isolation or exclusion or non co-operation at work
- intrusion by pestering or stalking another employee
- misuse of confidential information
- making threats

Legislation prohibits three types of harassment:-

- harassment related to a relevant protected characteristic. Pregnancy and maternity and marriage and civil partnership are not protected directly under harassment provisions, but are protected indirectly under other characteristics.
- sexual harassment
- less favourable treatment of an individual because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment

Harassment by association means that individuals are protected if they are subjected to unwanted conduct because of their association with someone who has a protected characteristic.

Harassment by perception means that individuals are protected if they are subjected to unwanted conduct by others who wrongly perceive that individual has a protected characteristic.

7.5 **Discrimination** can be direct or indirect.

Direct discrimination is when an individual is treated less favourably than others and is generally unlawful.

Indirect discrimination occurs where the effect of certain requirements, conditions or practices imposed by an employer has a disproportionate adverse effect on a particular group.

7.6 **Discrimination by association** is direct (associative) discrimination, and applies if an employer treats an employee less favourably because of the employee's association with another person who has a protected characteristic. This does not apply to marriage and civil partnership or pregnancy and maternity.

7.7 **Discrimination by perception** is direct (perceptive) discrimination, and applies if an employee is treated less favourably because the employer mistakenly thinks that the employee has a protected characteristic. This does not apply to marriage and civil partnership or pregnancy and maternity.

7.8 **Discrimination arising from disability** only applies to disabled employees and differs from both direct and indirect discrimination. There is a duty on employers not to treat disabled employees unfavourably because of something connected with their disability.

7.9 **Victimisation** is where an individual perceives he/she receives less favourable treatment than other individuals. An employee need not have a particular protected characteristic in order to be protected against victimisation. To be unlawful, victimisation must be linked to a protected act. Examples of a protected act are:-

- bringing proceedings under the Equality Act 2010
- giving evidence or information in connection with proceedings brought under the Act
- doing anything which is related to the provisions of the Act
- making an allegation (whether or not express) that another person has done something in breach of the Act.

8. Procedure

8.1 Employees who believe they have not been treated with dignity and respect in terms of Section 7 of this employment policy, can take action by using the

following procedure. In such circumstances, employees should keep notes and diary records of any incidents which they perceive contribute to this situation, and note the presence of any witnesses. This will assist any subsequent investigations. Employees should also seek support from one or more of the following, who will assist the employee to decide on the course of action to follow:-

- their line manager
- other manager (if it is impractical to seek support from their own line manager)
- a Support Officer – Dignity at Work
- Trades Union representative
- a member of the Employee Equality Forum (EEF)
- Human Resources representative

8.2 If an employee does not wish or feel able to take action personally or wishes from the outset to seek support from an independent person, then he/she should speak to a Support Officer – Dignity at Work who will be impartial and can outline all the options available to the employee, to assist them in deciding on the best course of action. Employees are encouraged to take responsibility for dealing with their own case and to challenge the unacceptable behaviour. However, it is acknowledged that there may be occasions when the Support Officer – Dignity at Work will contact the individual the complaint is against directly, and on the employee's behalf. However, this should not detract from the employee's ownership of the issue. Contact details of current Support Officers – Dignity at Work are available on ConnectNL. Alternatively, an employee can obtain contact details from their Human Resources team.

There are three options available to employees:-

8.2.1 Personal Action

An employee could speak to, or write to the individual to let that person know their behaviour is unacceptable, the effect it has had, and that it should stop. The person who has been contacted must respond appropriately.

8.2.2 Informal Procedure

It should be acknowledged that the individual whose behaviour has caused distress may be unaware of the distress they have caused and that another employee finds it unacceptable. Following the informal process can allow

matters to be raised and resolved without the need to use the formal procedure.

Discussions on a suitable course of action, together with support and advice, are also available from the following sources (these discussions will be dealt with promptly in a confidential, sensitive manner):-

- their line manager
- other manager (if it is impractical to seek support from their own line manager)
- Trades Union representative
- A member of the Employee Equality Forum
- Human Resources representative

Employees should be aware that by raising a concern with their line manager or other manager, the manager may consider the complaint serious enough to invoke the formal procedure.

Discussions may be held, if appropriate, between the employee and the individual who has caused them distress, and the employee may be supported by one of the above sources during such discussions.

8.2.3 Formal Procedure

If the employee is unable to resolve a complaint through the informal route or if the employee considers it sufficiently serious from the outset, then the formal route can be used.

In such circumstances the complaint must be submitted in writing specifying the basis of the complaint, to the appropriate Assistant Chief Executive (normally the Assistant Chief Executive from the same Service as the complainant), who will appoint appropriate officers to conduct a thorough and impartial investigation.

Both parties will be advised in writing of the outcome of the investigation. The outcome of the investigation may result in action, including possible disciplinary action, being taken against the employee who is the subject of the complaint.

In all cases, the individuals concerned will be treated sensitively, with confidentiality being maintained at all times. This is subject to the right of the employee who is the subject of the complaint being able to access information relevant to the complaint, and having the opportunity to respond to the allegations.

The employee raising the complaint must also be aware that if, after investigation, the complaint is found to be malicious or false then he/she may be subject to disciplinary action.

If the allegation made is serious, a manager may choose to initiate an investigation and take the matter through the Council's Discipline Policy, even if the employee has chosen not to use the formal procedure in the Dignity at Work Policy.

9. Investigation

- 9.1 Where an investigation is undertaken using this policy, the investigating panel will comprise a minimum of two people, one of whom should be an HR officer. Consideration should always be given to the composition of the panel in light of the circumstances of the investigation, i.e. taking into account all relevant equality strands. The investigating officer will be drawn from outwith the immediate section of the person(s) involved.
- 9.2 An investigation into a formal complaint through the Dignity at Work Policy should normally be completed within 12 weeks, where possible and reasonable. Completion within this timescale will be dependent on the extent and complexity of the investigation and the sensitivity of the matter being investigated. At the start of the investigation, both parties will be advised how long the investigation is likely to take and the name of the lead investigating officer undertaking the investigation. The lead investigating officer will keep both parties informed if the indicative timescale will not be met, advising both parties of an anticipated revised completion date, giving reasons for the revised timescale.
- 9.3 The investigation report will be submitted to the nominated senior officer who will decide whether the complaint is upheld, not upheld or upheld in part. The nominated senior officer will write to both parties within 14 days of receiving the report, informing them of the outcome. Human Resources have a responsibility for assisting managers and supervisors to carry out recommendations arising from investigations, as appropriate.

Full details on the investigation process are in the Dignity at Work Guidance Note.

10. Outcome

- 10.1 The appropriate action taken in any case will be dependent on all of the circumstances of the case and the individuals involved. An objective decision

should be made on whether harassment, bullying, discrimination or victimisation has taken place having given consideration to the findings of the investigation panel. It is not possible to provide the definitive course of action to be adopted in each case. As a general guide, the nominated senior officer should consider one or more of the following potential outcomes:-

10.1.1 **Allegations which are upheld / upheld in part**

- issue an informal caution and provide appropriate counselling / training;
- consider a transfer to another workplace within the Service of the employee who is the subject of the complaint and provide appropriate counselling / training;
- review the existing working practices to minimise contact between both employees and provide appropriate counselling / training, or
- invoke the formal disciplinary procedure.

In situations where relocation or transfer of the employee who is the subject of the complaint, takes place after a complaint is upheld, consideration may also be given to relocation of the complainant if circumstances determine that relocation may be in their best interests, and if agreed by the complainant. This may be progressed if appropriate and practicable.

At the end of this procedure, both parties will be advised of the outcome, in writing.

10.1.2 **Allegations which are not upheld**

- where, having considered the findings of the investigation panel, the nominated senior officer decides no further action is required, he/she will advise both parties in writing within 14 days of receiving the investigation report.

11. Right of Appeal

11.1 If, following the investigation, the complainant is unhappy with the decision of the nominated officer not to uphold a formal complaint, or uphold it only in part, he/she will have the opportunity to exercise their one right of appeal against the decision, which will be considered at Service level.

11.2 In such circumstances the employee must write to their Assistant Chief Executive within 14 days of receiving the decision of the nominated senior officer, detailing the reasons why they are dissatisfied. In general an appeal may be submitted where:

- The complainant has not received enough information about the findings of the investigation;
 - The complainant disagrees with the findings of the investigation.
 - The complainant feels that procedural errors occurred in the investigation.
- 11.3 The Assistant Chief Executive will acknowledge receipt of the appeal letter, in writing, within 7 days of receiving it.
- 11.4 The appeal process will not re-investigate the original complaint. The appeal will consider whether the outcome of the original investigation was carried out in a comprehensive and thorough manner, and the conclusions reached were logical and based on all available evidence. The appeal will consider:
- Were the findings appropriate and based on evidence? Was any evidence missed?
 - Was the information supplied to the employee sufficient to allow them to understand the outcome and the reasons why?
- 11.5 When an appeal letter has been received, the Assistant Chief Executive will inform all parties involved in the investigation that an appeal has been received and will nominate a senior officer to conduct an independent, paper based review of the findings, with a representative from Human Resources. The review will normally be undertaken within a further 21 days.
- 11.6 The nominated senior officer will make recommendations following their review, and pass these back to the Assistant Chief Executive within a further 7 days. The Assistant Chief Executive will then confirm in writing to the complainant the outcome of the appeal within 7 days and will also confirm that there is no further right of appeal.

12. Support Mechanisms

- 12.1 Counselling can be a useful support mechanism when dealing with complaints of harassment, bullying, discrimination or victimisation. The Time for Taking service is available to both the complainant and the employee who is the subject of the complaint during any stage of the process and on completion of the process.
- 12.2 Support Officers – Dignity at Work, Trades Union representatives, members of the Employee Equality Forum, Line Managers and Human Resources representatives can also offer support and advice to both parties, both during and after the process.

12.3 Further information is available in the Dignity at Work Guidance Note or from the Human Resources team.