

OADBY & WIGSTON BOROUGH COUNCIL EQUALITY AND DIGNITY AT WORK POLICY AND PROCEDURE JANUARY 2014

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PART 1: Background

Oadby & Wigston Borough Council (“the Council”) expects all its employees to behave in a manner which achieves and maintains required standards of conduct, job performance and good discipline. It is against this background that this policy and procedure has been designed.

The Council is committed to creating an environment of positive working relationships. To preserve and protect such an environment, the Council has policies and procedures that set out standards of conduct that must be observed and enable staff to raise concerns, to be provided with a response and for those concerns to be addressed in an appropriate forum and to obtain an appropriate remedy. The Council believes that every employee has the right to be treated with equality, dignity and respect in the workplace and is committed to providing a supportive working environment to foster such a culture. By addressing unacceptable behaviour and promoting positive behaviour this procedure fully underpins the Council’s vision and values.

All staff within the Council should be valued for their different skills and ways of working and be treated with dignity. It is important to ensure that discrimination does not occur in the workplace for reasons of:

Policy: the Council’s commitment to treat people fairly and to provide equal opportunities whilst respecting people’s differences.

Legality: pursuant to the Equality Act 2010, discrimination on the grounds of (1) Pregnancy and Maternity, (2) Age, (3) Disability, (4) Marriage and Civil Partnership, (5) Gender Reassignment, (6) Sex, (7) Sexual Orientation, (8) Religion or Belief and (9) Race is unlawful.

Efficiency and finance: it is good management practice to ensure that everyone is valued equally. Staff experiencing discrimination are more likely to under perform, be demoralised and absent from work, at a cost to the individual and the Council.

Reputation: as a Public Authority, discriminatory practice can undermine public confidence in the integrity of the Council.

In summary, all employees are entitled:

- To be treated with dignity, respect and courtesy.
- To a workplace free from bullying, harassment or victimisation.
- To experience no form of discrimination.
- To be valued for their skills and abilities.
- To be appointed and developed on the basis of merit.

The Council will view unfair and discriminatory behaviour as a potentially serious disciplinary offence that may lead to dismissal. The Grievance policy and procedure provides a mechanism for staff to challenge unfair treatment and to have any complaints resolved. Line Managers at all levels are ultimately responsible for upholding the standards of conduct outlined in this framework, and everyone is responsible for their own conduct.

PART 2: Objectives

The aim of the Equality and Dignity at Work policy and procedure is to ensure that all members of staff understand that they have a duty to respect all fellow workers, be they line managers, colleagues, contractors and service users, and to promote positive working relationships. They have the right to be treated with equality, dignity and respect and the right to seek redress about actions, language or behaviour that they feel contravenes this policy and does not respect their dignity at work or the dignity of fellow worker.

PART 3: Scope

The standards of behaviour outlined by this policy and procedure underpin relationships between a Line Manager and the staff they manage (including the way that a member of staff behaves towards their Line Manager) and between staff as a peer group. Behaviour that is unwanted, unwelcome and undermines a person's dignity at work is unacceptable behaviour. This includes behaviour that might unreasonably threaten a person's job security, promotion prospects or create an intimidating working environment. Behaviour may be perceived as unacceptable, even if there was no intent to cause offence. Behaviour may have overtones that a member of staff finds offensive, and may be discriminatory under the law, even if it was not directed at them personally.

Unacceptable behaviour can take many forms and can range from physical attack to more subtle conduct. It can include actions, jokes or suggestions that might create a stressful working environment. It can also include the production, distribution, display or communication and discussion of material that may give rise to offence. It includes behaviour which deliberately or inadvertently excludes individuals from normal activities in the workplace. Types of behaviour that can be seen as unacceptable are given within this policy document, see **Appendix A**.

Unacceptable behaviour excludes legitimate actions by a Line Manager to support and encourage an employee to perform against key objectives and to manage performance appropriately. It also excludes legitimate actions taken within the disciplinary or other formal procedures.

This policy and procedure is to be read in conjunction with all other appropriate policies of the Council including and not limited to the Disciplinary policy and procedure, Capability policy and procedure, Grievance policy and procedure etc.

The Council reserves the right to change the terms of this policy from time to time in order to comply with legislative requirements or as otherwise necessary, following appropriate consultation with the Trade Union in cases of substantial variation.

PART 4: Equal Opportunities

The Equality Act 2010 provides the legal framework to combat unlawful discrimination and provides Public Authorities with general and specific duties relating to equality. The Council will do its utmost to uphold these duties and will always have due regard for the requirement to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act.
- Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it;
- Foster good relations between persons who share a protected characteristic and persons who do not share it.

The Council is committed to having a dignified and respectful working environment which includes and encourages all staff to develop and make progress.

This policy and procedure enhances the Council's approach to equality by ensuring openness and transparency.

PART 5: Roles and Responsibilities

Line Manager	<p>Responsibility in eradicating language or behaviour that is contrary to this policy by fostering an atmosphere of dignity and respect and managing people in a professional and respectful manner</p> <p>Create an environment where we can make measurable progress on equality and diversity and where we genuinely respect people's differences.</p> <p>Responsible for ensuring that the working environment is free from harassment, bullying or intimidation of any nature. Managers should be vigilant in respect of the identification and elimination of bullying or harassment at work and to ensure implementation of, and adherence to this policy.</p> <p>Responsible for upholding the standard of conduct outlines in this policy and procedure.</p> <p>Responsible for ensuring that all their staff are aware of the behaviour expected of them and that unacceptable conduct is challenged and corrected.</p> <p>Failure by managers to enforce the policy may result in action being taken under the Council's disciplinary procedures.</p>
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	<p>to answer any questions asked of the employee in such a situation. In all cases, any Trade Union representative who is not employed must have written certification from the Union as being competent to accompany the employee.</p> <p>No external representation is permitted.</p>
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PART 6: Legal Framework

It is unlawful to discriminate directly or indirectly against someone on the grounds of their Pregnancy and Maternity, Age, Disability, Marriage and Civil Partnership, Gender Reassignment, Sex, Sexual Orientation, Religion or Belief and Race. It is also unlawful to apply pressure to discriminate or to aid discrimination by another person. The Council has an obligation to treat issues that contravene this policy seriously and enable and support employees to resolve issues through the appropriate procedure. If the complainant believes that the incident(s) constitute direct or indirect discrimination on these grounds, they should immediately report this to HR so that a formal investigation may take place. The Council will thoroughly investigate any potentially unlawful acts committed by employees in connection with and during the course of their employment.

The legal framework that supports this policy includes the following:

- Equality Act 2010
- Employment Act 2002 (Dispute Resolutions) Regulations 2004
- Employment Relations Act 1999
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Employment Rights Act 1996
- Health and Safety Act at Work 1974

PART 7: Definitions

Language or behaviour which could contravene this policy takes many forms, occur on a variety of grounds and may be directed at an individual or group of individuals. Language or behaviour which one person finds acceptable may not be acceptable to another. It includes unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Inappropriate language and behaviour can exceed examples contained within this policy and can arise from a single factor or a combination of factors. The examples given should not be deemed as either exclusive or exhaustive.

A more extensive list of examples of conduct contravening this policy is given at **Appendix A**

What is inappropriate language or behaviour?

It is unacceptable for any employee to behave or use language in a way that results in

physical, mental or psychological hurt, whether intended or not.

Inappropriate behaviour can range from extremes such as violence, to less obvious forms like ignoring someone. Whatever the form, it will be unwanted behaviour which is unwelcome and unpleasant.

Inappropriate behaviour may be direct or indirect. The main thing to consider is that it is not only the acts or words, but how the person on the receiving end perceives the behaviour. If it is behaviour which is unjustified, unwarranted, unwanted, uninvited and unreciprocated then it needs to be addressed.

PART 8: Fair Management

Firm but fair management is not to be confused with behaviour that contravenes this policy and procedure. Line Managers are expected to deal with employees fairly and consistently through appropriate procedures. Line Managers are expected to raise concerns with employees about competence, ill health or conduct in appropriate circumstances and manage these in a positive and supportive way, using the appropriate procedure (for example the Capability policy and procedure, Disciplinary policy and procedure, Absence Management policy and procedure etc). Equally, employees are expected to co-operate with their Line Manager in addressing and taking appropriate action to improve areas of concern.

What is Firm, Fair Management?

It is important to differentiate between management and bullying and/or harassing behaviour.

Line Managers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of an employee's behaviour or job performance does not therefore constitute bullying or harassment.

Carrying out these functions in a fair, firm and consistent manner does not constitute an act of bullying or harassment, although it is recognised that some staff may feel stressed or anxious while the procedures are ongoing. It is in the interests of the Council that Line Managers should be able to carry out their duties without threat of ill intended, malicious or vexatious complaints. An investigation will determine whether a Line Manager has bullied or harassed an employee or managed them fairly, but firmly.

Further detail and examples of bullying, harassment and firm, fair management are included at **Appendix B**.

PART 9: Effects

The effect of actions, language, or behaviour which contravenes this policy and procedure can be extremely damaging not only to the individual but to everyone involved. The subject of such conduct may suffer from physical and/or emotional symptoms, e.g. disturbed sleep or loss of confidence. Individuals may be personally affected and their performance may deteriorate, thus impacting on service delivery. This can also impact

upon an individual's self esteem and family relationships.

As an employer, the Council is legally responsible for individuals' health and safety at work. This obligation extends to employees' mental and emotional health, where events and attitudes in the workplace may be detrimental.

PART 10: Stage 1 – Informal Procedure

Wherever possible, employees who feel that they have been the subject of harassment or bullying should be supported in trying to resolve the problem informally if they wish to do so. This can often be done effectively by the employee raising the issue directly with the person who is creating the problem, either orally or in writing. If this is not appropriate or it would be difficult or embarrassing to pursue the complaint, e.g. the alleged harasser/bully is their direct Line Manager, or for whatever reason, they may seek support from their Line Manager or HR.

How an employee raises the subject with the alleged harasser/bully depends on themselves and their situation. It can be done face-to-face, by letter or with support from one of the sources listed above but the harasser/bully needs to be informed that their conduct is unwelcome, offensive and/or interfering with work.

If the above preliminary measures prove to be ineffective or the employee feels them to be inappropriate or serious bullying or harassment occurs, then the employee should be supported and encouraged to take formal action. However, it is recognised that this requires courage and determination and despite the support offered, the employee has the right to pursue their complaint formally if they so wish. In such instances, under its duty of care obligations, the Council reserves the right to investigate the situation and to initiate formal action to deal with the harasser/bully if supporting evidence is available, e.g. witnesses.

In all cases, any Line Manager or member HR who is approached in this way will:

- a) discuss the employees' concerns in confidence,
- b) make discreet investigations into the subject matter of the complaint and
- c) attempt to resolve the matter informally
- d) discuss with the employee whether they think mediation may be appropriate to resolve matters

Dealing with the alleged bullying / harassment issue in this way can often lead to the quickest and most effective resolution. As this is an informal process, it is suggested that both the Line Manager and employee keep a note or record of the discussions and attempts at resolution before having to initiate the formal process.

The informal process should not take any longer than 10 working days unless there are exceptional circumstances.

Wherever possible to do so, the option of using mediation to resolve matters should be encouraged by all parties, see Part 6 of the [Disciplinary policy and procedure](#).

There are guidelines appended to this policy and procedure at **Appendix C, D, E** which set out guidance for all those affected for example the alleged perpetrator, the Line Manager managing the process, witnesses and the aggrieved.

PART 11: Stage 2 – Formal Procedure

Refer to the Grievance policy and procedure

Investigation

An investigation will be necessary to establish the facts and should be in accordance with investigation section in the Disciplinary policy and procedure.

At the same time, the alleged harasser/bully must be informed of the nature of the complaint lodged against them and of any immediate action to be taken e.g. suspension. In relation to suspension, advice should be sought from HR during the decision making process, and further guidance can be found in the Disciplinary policy and procedure.

During the investigation the Investigating Officer should consider the need to move the alleged bully/harasser. In exceptional circumstances this may not be possible and other arrangements will have to be made.

Suspension

In serious cases, the employee may be suspended on full pay. For further details on suspension please refer to the Disciplinary policy and procedure.

Outcome

Once the investigation has been concluded and a decision reached, all parties will be notified of the outcome. The Investigating Officer will devise a report which may consist of any of the following:

- No case to answer
- Refer the case to the disciplinary procedure at whatever stage is appropriate
- To make arrangements for training
- To make arrangements for mediation or any other appropriate remedial measures.

Where there is no case to answer, all records of the matter will be disregarded. The person complaining will receive feedback on the reasons for the decision.

Untrue Allegations

If an employee makes an allegation in good faith, but if it is not confirmed by the investigation, no action will be taken against that employee. If however, an employee makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against that employee. For further details on disciplinary please refer to the Disciplinary policy and procedure

PART 12: Stage 3 – Appeals

Any appeal may be lodged on three grounds as follows:-

1. The conclusion and / or recommendations to be unreasonable either because they are not supported by the findings of the report;
2. There has been a procedural error; and/or
3. New evidence, relevant to the case, has come to light.

Procedure for making an appeal

Any employee wishing to appeal against the outcome of a grievance must do so in writing to the Head of Corporate Resources within 5 working days of receiving written notification of the grievance report.

The letter of appeal must be in writing and state the reasons for the appeal. It must also attach documents that the employee wishes to be considered as part of the appeal, if any.

Documents that are not attached or referred to in the letter of appeal will not be considered as part of the appeal process, save in exceptional circumstances (for example where the existence of such documents was not known to the employee at the time of submitting the appeal).

The purpose of the appeal is, therefore, to consider whether the process of the investigation was fair and / or whether the conclusions and recommendations are reasonable in all of the circumstances. The purpose is not to reinvestigate the complaint.

Procedure to be followed after the submission of an appeal

The Appeal Panel shall be from a pool of three trained Members, as set out at Appendix D of the Disciplinary policy and procedure, who have no previous involvement in the matter.

At all times a HR advisor (or suitably trained officer from Corporate Resources) will sit with the Appeal Panel to advise on procedure only. They will have no bearing on the decision. No member of the Appeal Panel will have been involved previously with either the investigatory or disciplinary process relating to the matter being considered.

The employee should be advised in writing of his or her right to be accompanied at the appeal meeting by a Trade Union representative, a workplace colleague or an official employed by a Trade Union. In all cases, any Trade Union representative who is not employed must have a written certification from the Union as being competent to accompany the employee see Parts 18 and 19 of the Disciplinary policy and procedure in relation to the Appeal and the conduct of the Appeal Hearing.

PART 13: Disciplinary Hearing

Where it is considered that there may have been misconduct or gross misconduct by an

employee, the matter will be considered at a Disciplinary Hearing. All Disciplinary Hearings and Appeals concerning complaints of harassment and bullying will be convened under the Disciplinary policy and procedure.

PART 14: Support for Staff

The Council will not tolerate intimidation, victimisation, retaliation or discrimination against an individual for raising a complaint in good faith or assisting in an investigation – whether or not the complaint is upheld.

Malicious complaints will not be tolerated and will be pursued in order to determine whether action could be taken for a disciplinary offence. Any disciplinary offence will be dealt with in accordance with the Disciplinary policy and procedure.

Counselling

The Council recognises that bullying can affect job performance and cause stress and employees will be encouraged to seek help under the terms of this policy and procedure.

Employees who have been bullied will be offered counselling sessions with professional external advisors. This service will be confidential between the counsellor and member of staff. No details or records will be disclosed without the explicit permission of the member of staff concerned.

HR will make these referrals on behalf of the employees, on a confidential basis.

PART 15: Mediation

Wherever it is possible to do so, the option of using mediation to resolve matters should be encouraged by all parties.

It is recognised that mediation may not be the best solution to every alleged bullying / harassment issue and each case will be determined on its own set of circumstances.

Wherever mediation is contemplated as a way of resolving the issue without formal action being taken, the use of an internal or external independent third party who has not already been involved in the process will be considered.

Mediation involves an independent and impartial Mediation Officer assisting two or more individuals or groups reach a solution that is acceptable to everyone. The Mediation Officer will talk to both sides separately and together, where possible. The Mediation Officer can also talk with third parties, i.e. other staff members, in order to triangulate the information provided if required. Mediation Officers are not there to make judgements or determine outcomes necessarily but are there to ask questions, ascertain information and help to uncover underlying problems with the hope that it will assist the parties to understand any issues or concerns the other may have and help them to clarify the options for resolving such issues.

Neither the Council nor the employee can be compelled to undergo mediation. Mediation

is a voluntary process, which does not determine which party is right and which party is wrong but is aimed at facilitating and encouraging resolution as an alternative to formal action being taken.

For further details on mediation please refer to the Grievance policy and procedure, particularly with regards to the mediation involving the ascertaining of facts, where both parties to the mediation are in agreement to the involvement of third parties being approached.

PART 16: Harassment by Third Parties, Chief Officers and Elected Members

Third parties (e.g. clients, contractors or external providers)

Wherever bullying and harassment complaints are raised against third parties not directly employed by the Council (for example clients or external agencies), these will still be investigated in accordance with this policy and procedure.

Whenever necessary, the external third party will be advised by the Council that complaints raised by Council employees will always be taken seriously and action will be taken if necessary to protect employees.

Chief Officers / Monitoring Officer/ Section 151 Officer

This policy and procedure does not apply to the three Statutory Officers, namely the Chief Executive Officer, Monitoring Officer and the Chief Finance Officer (section 151 Officer). Reference should be made to the Constitution of the Council and the appropriate Standing Order pursuant to the Local Authorities (Standing Orders) (England) Regulations 2001 in respect of these Officers.

Elected Members

Complaints against Elected Members should be raised with the Council's Monitoring Officer or Deputy Monitoring Officer. The Monitoring Officer or Deputy will deal with this complaint under the Member Code of Conduct.

PART 17: Review and Monitoring

This policy and procedure will be reviewed jointly by Trade Unions (on behalf of the employees) and management team on an annual basis.

PART 18: Communication

For the purpose of this policy and procedure where assistance from HR is unavailable or not permissible a substitute from Corporate Resources will be nominated to assist.

At all times those who have access to email facilities will receive all communication under

this policy and procedure marked "Private and Confidential" through this means.

For those employees who do not have access to email facilities or who are absent from work through sickness or otherwise, communication under this policy and procedure, marked "Private and Confidential" will be delivered by first class post.

Appendix A

Examples of conduct contravening the Equality and Dignity at Work policy

Please note: the examples given are not intended to be an exhaustive list, and under the law, discriminatory behaviour can potentially occur on the basis of actual or perceived group membership or affiliation, whether or not a person is in or identifies themselves as a member of a particular group, and in cases where discriminatory conduct is known about or witnessed.

Bullying

Bullying is different from an effective management style. It is destructive rather than constructive. It is criticism of a person rather than constructive criticism about their mistakes. It can publicly humiliate and results in the individual feeling threatened or compromised.

Bullying often results from a misuse of management power, but is also the misuse of any form of individual power, such as physical strength, personality or age, or collective power through strength of numbers (e.g. belonging to a particular gender or ethnic group).

Bullying can also be carried out by peers or staff less senior.

Examples of bullying behaviour

Non-Verbal

- Ostracising / freezing out
- Withholding essential information, resources, training
- Setting impossible tasks
- Changing priorities or objectives unreasonably
- Unreasonable allocations of duties or work
- Isolating, excluding behaviour
- Deliberate wrongful attributions of blame
- Using information in a threatening way

Verbal

- Shouting, swearing, abuse
- Nicknames, malicious gossip
- Public reprimand / humiliation
- Belittling, patronising comments
- Persistent reminders of past failures
- Unnecessary phone call to someone's home

Physical

- Striking / hitting
- Grabbing a person
- Pushing / jostling
- Inappropriate practical jokes
- Initiation ceremonies
- Damaging / stealing a person's property

Harassment

Harassment is the act of systematic and/or persistent, unwanted and offensive by one employee or group of employees towards another employee or group of employees. It may involve threatening behaviour, including but not limited to threats to the security of an employee's continued employment. The purposes may include, but are not limited to, harassment pertaining to one of the nine protected characteristics as contained in the Equality Act 2010.

Examples of harassment

Non-Verbal

- Mimicking / inappropriate facial expressions
- Gestures
- Ignoring wishes and feelings
- Ostracising
- Isolation / 'freezing out'
- Staring / threatening behaviour
- Exclusion (either inadvertent or intentional)
- Making unwarranted, harmful and inappropriate assumptions about lifestyle / interests
- Not providing training / development opportunities
- Offensive correspondence (letters, memos, emails, etc)
- Displaying offensive / obscene objects in the workplace which cause offence or harm or which may cause offence or harm to a particular individual or group of individuals
- Unfair expectations
- Not providing work / sufficient work
- Delegation of inappropriate tasks

Verbal

- Making fun of and/or mimicking an impairment
- Using inappropriate terms / language
- Belittling or patronising comments or nicknames
- Questions and comments of a personal / intrusive / invasive nature
- Verbal threats
- Patronisation
- Making rude / personal joke or comments
- Suggesting that someone is not "pulling their weight" or "letting their colleagues down"
- Stereotyping

Physical

- Inappropriate practical jokes
- Hiding / moving equipment or items which an individual relies on
- Unsolicited touching
- Deliberate and/or inappropriate body contact
- Setting unrealistic challenges / targets
- Starting fights
- Jostling
- Assault / physical attacks

Sexual harassment

Unwelcome sexual advances, requests for sexual favours, or other conduct of sexual nature, which result in the individual feeling threatened or compromised. This is not restricted to attempts to initiate sexual relations. Sexual harassment is any harassing conduct based on the gender, gender identity or sexuality of the recipient. Most sexual harassment is experienced by women, but men also experience harassment. Sexual harassment can also happen between women or between men. Transgender people may also experience sexual harassment based on perceptions or assumptions about them in relation to their appearance, sexuality or the gender re-assignment process.

Examples of behaviour that may be sexual harassment

Non-Verbal

- Pin-ups
- Offensive publications
- Offensive letters / memos
- Unsolicited / unwanted gifts
- Gestures
- Staring / Leering
- Getting too close

Verbal

- Inappropriate use of affectionate names
- Personal questions / comments
- Innuendoes
- Comments which exclude because of gender
- Sexual / explicit jokes
- Suggestive, explicit language
- Stereotyping

Physical

- Unnecessary touching
- Indecent exposure
- Deliberate body contact

Victimisation

This is where one person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them.

Appendix B Firm, Fair Management of People

It is not always easy to differentiate between firm, fair management and bullying and harassment. It is accepted that the examples below represent extremes of behaviour. In practice things will not be so clear and perpetrators may display characteristics which fall somewhere in the middle. Some suggestions are:

Firm, Fair Line Manager	Bullying / Harassing Line Manager
Consistent and fair	Aggressive, inconsistent and unfair
Leads by example	Dominates, sets a poor example
Decisive	Random, impulsive
Has a good appreciation of short, medium and long term needs and goals	Is rigidly short-term, often no more than 24 hours
Learns from experience and applies knowledge gains from experience to improve business, communication and interpersonal skills	Cannot apply knowledge gained from experience except by being devious, manipulative and how to evade accountability
Allows and trusts people to get on with the job	Constantly interfering, dictating and controlling
Applies management techniques appropriate to the individual.	Treats all staff the same despite abilities and work needs.
Shares information freely	Withholds information, releases selectively
Only addresses genuine performance and behaviour issues which can be evidenced.	Makes false claims about alleged underperformance and focuses on the person, not behaviour or performance
Listens, coaches	Instructs
Acknowledges failings and any mistakes	Denies failings, always blames others

Appendix C

Guidelines for staff accused of inappropriate conduct contravening the Equality and Dignity at Work policy

If someone believes that you have used inappropriate language or behaved inappropriately, they or a friend may approach you about this. If following their approach, they believe your conduct remains inappropriate then they may raise their complaint formally. They may, however, formally raise their complaint or report directly without first raising the matter informally with you. HR are available to advise on any processes that might follow.

1. Informally

1.1 The aim of an informal approach is to resolve the situation quickly, with the least distress to either party. The individual who approaches you about your language or behaviour may be anxious and nervous, and your reaction, whether at the time or after, will be important. Try not to over-react. Be prepared to listen and discuss matters rationally and sensibly and to try and find a way forward together, for example with mediation.

1.2 Look and reflect on the conduct in question and ask yourself why the complaint has been made and whether someone could perceive your actions, language or behaviour as inappropriate and in contravention of this policy.

2. Formally

2.1 If a complainant feels that dealing with the matter informally is not appropriate, he/she has the right to make a formal complaint or report.

2.2 The complaint or report will be investigated under the Grievance policy and procedure. An appropriate investigator will conduct the investigation.

2.3 You must be prepared to be interviewed about the allegations. You may be accompanied in interviews by a workplace colleague or Trade Union representative.

2.4 A member of HR will be allocated to you to advise you on the process to be followed.

2.5 If in the course of the investigation, it is believed that there have been actions of misconduct or gross misconduct then the matter will be heard in accordance with the Disciplinary policy and procedure.

3. Throughout the procedure

3.1 There will be no repercussions against the person making the complaint or report, the person against whom the complaint is being made or any of the witnesses involved. Intimidation, victimisation, retaliation or discrimination towards a complainant is in itself a serious disciplinary matter.

3.2 The result of any complaint will not mean that the complainant is absolved of any proven disciplinary offence.

3.3 If any persons in connection with the investigation require advice or support they may contact HR or their Trade Union representative.

Appendix D

Guidelines for Line Managers in implementing the Equality and Dignity at Work policy

These guidelines should be read in conjunction with the Equality and Dignity at Work Policy. They are intended to equip Line Managers to deal sensitively, fairly and effectively with complaints made under this policy. Where possible it is recommended that Line Managers use informal procedures to resolve complaints.

1. Line Managers should:

- listen to the problems faced by staff and the effect it may be having on their well-being;
- recognise that the 'perception' of what has been reported is often as important as the fact and will be 'real' to the aggrieved;
- be sensitive to the fact that making a complaint is likely to be a distressing experience and only made after considerable thought;
- understand that for this reason, it may be difficult for a complainant to discuss a complaint direct with management;
- accept that the first approach may come from a third party, e.g. colleague, Trade Union representative or other Line Manager.; and explore whether the management action complained of could be a legitimate attempt to manage performance.

2. When complaints or reports of inappropriate language or behaviour are brought, either formally or informally, they must be dealt with immediately, thoroughly and fairly to both parties.

3. Depending on circumstances and the facts of the complaint or report, judgement should be used to determine events on the balance of probability and thus enable a decision to be made on the best course of action. HR is available to give advice.

4. As far as possible, confidentiality will be respected. However, in accordance with the Data Protection Act, subject access will be granted to personal information except where the duty of confidentiality is established and the third party refuses consent to disclosure of the information requested and that the reasons for such refusal are reasonable within the terms of the Act.

5. Do not make pre-judgements. Care should be taken to avoid unjustifiable damage to the individual and reputation of either party.

6. Where possible, records should be kept of all incidents of the conduct, language or behaviour that is considered to be inappropriate. This should include date(s) time(s) and details of any witnesses. It will be difficult to investigate any allegations made without specific examples.

7. Complaints must be made promptly and in writing as allegations that took place some time ago are difficult to investigate. All cases will be considered on their merits and investigated accordingly.

8. To minimise further conflict and to protect the interests of all parties, the Council may consider, in consultation with HR, suspending the alleged perpetrator from work or moving him/her to a new work location pending investigation resolution of the complaint, under the terms of the Disciplinary policy and procedure. Note however, that suspension is not a neutral act and so would only be used as absolutely necessary.

9. The Investigation Officer is empowered to investigate all aspects of the complaint, to report and to make recommendations about what actions should be taken to resolve the matter. The Investigation Officer will ensure that HR is aware to enable them to advise either party on the process to be followed. HR support will be allocated to both parties to advise staff on the process to be followed. The investigation process will be initiated as quickly as possible, and completed as promptly as thorough investigation of the issues will allow.

10. A confidential investigation report will be produced, summarising the complaint, the result of the investigations, including conclusions and recommendations and will be submitted to the Head of Service and Head of Corporate Resources.

11. The report will recommend one of the following courses of action. Once the investigation has been concluded and a decision reached, all parties will be notified of the outcome. The Investigating Officer will devise a report which may consist of any of the following:

- No case to answer
- Refer the case to the disciplinary procedure at whatever stage is appropriate
- To make arrangements for training
- To make arrangements for mediation or any other appropriate remedial measures.

Where there is no case to answer, all records of the matter will be disregarded. The person complaining will receive feedback on the reasons for the decision

12. In all cases, records of reported incidents will be kept for monitoring purposes by HR. Where further action is not required, all information will be held anonymously, for statistical purposes only.

Appendix E

Guidelines for staff who are affected by inappropriate conduct contravening the Equality and Dignity at Work policy

If you feel you are the subject of language or behaviour which may contravene this policy, or have witnessed this, there are a number of things that you can do, informally and formally.

1. Informally

You are encouraged to try and resolve your complaint informally, unless its nature is such that informal action would be inappropriate and formal action is required. Informal action can be taken in the following ways: -

1.1 Approach the person you feel is behaving inappropriately and explain why you find their language or behaviour unacceptable.

- Ask them to stop.
- Refer to this policy.
- Keep a note of when you made this approach and what happened.

1.2 If you feel unable to talk to the person you could write to them, covering the same points. Keep a copy of the letter.

1.3 Ask someone else, such as your Line Manager or Trade Union representative, to approach the person on your behalf or come with you. Again keep notes of any approach being made.

1.4 Request advice from HR or your Trade Union representative.

2. Formally

2.1 If you believe that none of the above actions would bring about a satisfactory resolution to your complaint or you feel unable to act yourself, HR will ensure that an appropriate investigator will investigate your complaint, under the Council's Grievance policy and procedure. There are some legal requirements which may result in wider investigation e.g. criminal activity. Your complaint will nevertheless be treated professionally, with sensitivity, fairness and effectiveness.

2.2 You must be prepared to be interviewed about the alleged behaviour or incidents and to make a statement. As far as it is possible, this will be in confidence except in the event that criminal activity is exposed.

2.3 If there are witnesses to such language or behaviour they too are likely to be interviewed. Again, as far as it is possible, confidentiality will be maintained.

2.4 HR will keep you informed of the progress of the investigation throughout.

2.5 If in the course of the investigation, it is believed that there have been actions of misconduct then the matter will be concluded under the Disciplinary policy and procedure and you may be asked to participate as a witness

2.6 Where matters are felt to be best resolved by mediation you should be prepared to engage with this approach.

2.7 In a situation where you believe that wrongdoing results in:

- a criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage of the environment; or
- deliberate concealment of information tending to show any of the above.

You may alternatively raise your concerns through the Whistleblowing policy and procedure. This should not, however be used to reconsider any matter that has already been addressed through the Grievance policy and procedure or Disciplinary policy and procedure, which should be read in conjunction with this policy and procedure.