

DIGNITY AT WORK POLICY AND PROCEDURE

Contents

- **Introduction**
- **Aims of the Dignity at Work Policy** (section 2, page 1)
- **A Positive Workplace** (section 3, page 2)
- **Positive Management or Bullying?** (section 4, page 2)
- **Identifying Unacceptable Behaviour** (section 5, page 3)
 - Unacceptable Behaviour
 - Unacceptable Language
 - Bullying
 - Harassment
- **Resolving Complaints Informally** (section 6, page 5)
- **Mediation** (section 6, page 6)
 - Process for Mediation
- **Possible Informal Outcomes** (section 7, page 6)
- **Formal Procedure** (section 9, page 7)
- **Guidance for Investigating Officers** (section 10, page 9)
- **Guidance for Employees** (section 11, page 12)
- **Framework for Dealing with Alleged Complaints of Inappropriate Behaviour, Bullying or Harassment** (section 12, page 14)
- **Procedure for the Conduct of an Appeal Hearing** (section 13, page 15)

Introduction

- 1.1 All staff have the right to be treated with dignity and respect in the workplace. We are all individuals and we each bring different qualities and attributes which make a positive contribution to the diversity of our workplace.
- 1.2 Unacceptable behaviour, harassment and bullying can lead to illness, absenteeism, poor performance, poor morale, high turnover and divided teams.
- 1.3 Any behaviour by a member of staff which leaves a colleague feeling disrespected, threatened or isolated will not be tolerated. The Council is committed to creating a positive and safe working environment and that means protecting employees from unwanted behaviour, harassment and bullying. It is the responsibility of all employees to ensure that bullying and harassment has no place in the workplace.

Aims of the Dignity at Work Policy

- 2.1 The aim of this policy is to:
- Promote a positive and friendly atmosphere where Arun's employees feel respected and valued
 - Define unacceptable behaviour, harassment and bullying
 - Promote a "zero tolerance" approach to harassment and bullying
 - Explain the formal and informal processes for dealing with complaints by staff

A Positive Workplace

- 3.1 We are all responsible for promoting a positive work environment, which means treating colleagues with respect and in the same way we would like to be treated.
- 3.2 It means taking a stance when we see someone who is suffering at the hands of others and not ignoring the situation. People who suffer bullying, harassment or unacceptable behaviour are sometimes reluctant to come forward because they don't believe they will be taken seriously or that complaining will only make things worse.
- 3.3 Making a complaint against someone takes courage, knowing your colleagues are supportive and that something will be done can make a big difference.
- 3.4 We all need to adopt a "zero tolerance" attitude to unacceptable behaviour, harassment and bullying and back this up with action when we become aware of violations. There is great strength in numbers and we all have the power to foster a positive working environment.
- 3.5 This policy also applies to work related functions held outside of normal working hours such as Christmas parties, leaving celebrations etc.
- 3.6 Any member of staff found guilty of bullying, harassment or other unacceptable behaviour may face disciplinary action and potentially dismissal.

Positive Management or Bullying?

- 4.1 Managers are within their rights to manage staff in a firm, fair and reasonable manner. It is important for staff to recognise that a manager has an absolute right to point out to an employee that standards expected in a job are not being achieved; as long as this is carried out in a firm, fair and reasonable way that does not constitute bullying.
- 4.2 The fine line between positive management and bullying is crossed when an employee is persistently undermined by an individual in a position of power, with the result that the employee begins to show signs of being distressed, becoming either physically, mentally or psychologically hurt.

- 4.3 Where managers or staff are unsure about the boundaries between positive management and bullying they may wish to discuss this informally with their manager, Human Resources or their Union Representative. Section 11 gives useful guidance on where to go for support in this situation.
- 4.4 The Council has comprehensive guidance on how to deal with performance management issues and this can be found in the Council's Capability procedure.

Identifying Unacceptable Behaviour

5.1 Unacceptable Behaviour

- 5.2 We are all the judges of what represents unacceptable behaviour. If the way someone acts or speaks to us leaves us feeling insulted, upset, threatened or isolated, their behaviour is unacceptable.
- 5.3 Employees come to work to do their jobs and serve the public. We do not expect and will not tolerate being insulted, offended, bullied or harassed by colleague(s), either directly or indirectly.
- 5.4 We may be on the receiving end of unwanted behaviour through a one-off incident or through repeated exposure to unwanted behaviour, neither is acceptable.
- 5.5 A one-off incident of unacceptable behaviour may be so serious that the formal procedure should be instigated immediately. Alternatively, the incident could be an out of character one-off that makes us feel bad. You will decide whether to allow your colleague the opportunity to apologise informally or pursue the matter on a more formal basis.

5.6 Unacceptable Language

- 5.7 No one should swear in the office because we all have different tolerance levels as to what kind of language we find offensive. Err on the side of caution and don't use language which could give rise to a complaint by one of your colleagues.
- 5.8 For many people the use of e-mail is a key part of how they work. It is important to be aware that this can be as offensive as spoken language if used inappropriately
- 5.9 It doesn't matter whether you are directing your swearing or derogatory comments at an inanimate object, colleague or describing anyone not actually present. Any colleague who is exposed to your language is entitled to complain if they find your attitude and language unacceptable.
- 5.10 Similarly, generalising about groups of people or customers in a derogatory way could be unacceptable to a colleague. So could certain terms of address like "Love" or "Mate".
- 5.11 It is impossible to list every example of unacceptable language or behaviour. If you are unsure if your language will cause offence, do not use it.

5.12 Bullying

5.13 ACAS defines Bullying as 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'.

5.14 Bullying/unacceptable behaviour can take many forms and ACAS give examples of this which can include:

- spreading malicious rumours, or insulting someone (particularly on the grounds of race, sex, disability, sexual orientation and religion or belief)
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone - picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances - touching, standing too close, display of offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

5.15 Harassment

5.16 Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it recurs once it has been made clear that it is regarded by the victim as offensive. However, just one incident may constitute harassment if it is sufficiently serious. Harassment is unlawful and the organisation, together with any managers who fail to take steps to prevent harassment or investigate complaints, may be held liable for their unlawful actions and be required to pay damages to the victim, as may an employee who has committed the act of harassment.

5.17 The ACAS definition of harassment is: -

5.18 "Unwanted conduct related to a relevant protected characteristic (as defined in the Equality Act 2010), 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'.

5.19 Examples of harassment include:-

- Verbal Harassment - crude language, offensive jokes, suggestive or rude comments, malicious gossip etc.
- Physical Harassment – unnecessary touching, pinching, brushing up against someone, intimidating behaviour, assault and physical coercion
- Coercion – pressure for sexual favours, pressure to participate in political or religious groups etc.
- Intrusion – stalking, pestering, spying etc.

5.20 Each person has the right to decide what behaviour is acceptable or unacceptable; if an individual finds certain behaviour unacceptable and they feel damaged by it, then that individual has every right to say so, and their right to do so will be respected.

- 5.21 Where it cannot be established that there was an intention to offend, conduct may be regarded as violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment, if taking all the circumstances into account, particularly the recipients views, it would be reasonable to come to that conclusion.
- 5.22 Unacceptable behaviour, bullying or harassment may be by an individual against an individual or involve groups of people. It may be obvious or insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. Physical assault of whatever nature should not be handled under this procedure but reported to the appropriate Manager and to the police without delay.

Resolving Complaints Informally

- 6.1 Complaints about unacceptable behaviour, bullying or harassment should be acted upon immediately. A swift reaction can sometimes help to resolve problems informally and prevent a situation from deteriorating into something more serious.
- 6.2 If someone's words or behaviour make you feel uncomfortable, try and let them know at the earliest opportunity. Sometimes, people are not aware that their behaviour is unwelcome and informal discussion can lead to greater understanding and agreement that the behaviour will cease.
- 6.3 If you find it difficult or embarrassing to raise the issue directly with the person, you may choose to have this discussion in the presence of another colleague, Line Manager or a Human Resources Officer.
- 6.4 Alternatively, you can put your views in writing to the individual explaining how their actions make you feel and that you would like their behaviour to stop. A meeting can then be arranged with Human Resources to allow the person to respond and to discuss the way forward. Both parties will be entitled to have either a trade union representative or work place colleague present at this meeting.
- 6.5 If you are not confident that you will get a positive reaction or you believe the confrontation would make things worse, speak to your Manager and/ or your Human Resources Officer. Your complaint will be taken seriously and you will be advised of the options open to you.
- 6.6 Confidentiality will be maintained as far as possible. Only those who need to be involved in the investigation will be made aware of the minimum of facts necessary to enable them to answer any questions. However, if an employee decides not to take any action to deal with the problem and the circumstances described are very serious, the Council reserves the right to investigate the situation because it has an overall duty of care to ensure the safety of all employees who may be adversely affected by the alleged behaviour.
- 6.7 Confidentiality will extend to any witnesses, managers or third parties who become involved. Anyone failing to maintain confidentiality may face disciplinary action.
- 6.8 Whichever route you decide to pursue, the following advice may be helpful.
- Keep a written record of the incident(s) which have led to your complaint. Include the date, time and location of the incident and a description of the unacceptable behaviour which took place. Make a note of any colleagues who witnessed the event.

- Act as soon as possible after the incident. Allowing too much time to pass may make you more reluctant to do something and lead to further incidents of unacceptable behaviour.
 - Your colleague may be unaware that you are unhappy and the complaint may come as a shock to them. They may retaliate with counter accusations about your behaviour. Remain calm and stop the conversation if you feel it may deteriorate into an argument. You need to accept that your colleague has a right to respond and to be treated fairly.
 - Consider how you would like to see the issue resolved. This may include the other person agreeing to change their behaviour or refraining from using certain language.
 - Use the Employee Assistance Programme. Contact details are available from either Human Resources or the intranet.
- 6.9 Trying to resolve allegations of unacceptable behaviour, bullying or harassment informally does not mean the organisation or the employee concerned is not treating the allegation seriously. An informal approach can be less intimidating and confrontational and should always be considered.
- 6.10 If the informal approach does not lead to an improved working environment for you, it may be worth considering mediation before pursuing a formal complaint.

Mediation

- 7.1 Mediation is the involvement of a neutral third party who can help to improve communication and understanding between the two parties and encourage an agreement which is acceptable to everyone concerned.
- 7.2 Any of the parties may request the assistance of a “mediator” to assist in the resolution of issues arising from perceived bullying and harassment however both parties must agree to mediation before it can be used.
- 7.3 The mediator will usually be a manager from an unrelated service or another Local Authority and both parties should be happy with the choice of person. If mediation can be agreed, the complaint may still be resolved informally.
- 7.4 Process for Mediation**
- 7.5 The mediator will meet with both parties within 10 working days of the complaint first being raised to facilitate a discussion about the alleged unacceptable behaviour, bullying or harassment. Both parties will have the opportunity to speak at the meeting and offer possible ways to resolve the situation. The mediator will encourage the meeting to end with an agreed action plan and will provide a summary of the meeting and agreed action to each party.

Possible Informal Outcomes

- 8.1 If you are prepared to try and resolve the situation informally, there are several possible outcomes.
- Your colleague agrees to refrain from the behaviour you find unacceptable
 - The possibility of re-organising the team you work with is explored
 - The alleged incident or behaviour is considered so serious by your line manager or Human Resources that the formal procedure is initiated by them.
 - Your colleague refutes the allegations and does not agree to any recommended action

Formal Procedure

- 9.1 Where informal methods fail, or the employee chooses not to use them or the matter is considered sufficiently serious, a formal complaint can be made.
- 9.2 The employee should put their complaint in writing, following the advice given under the informal procedure. This includes providing as many details as possible, including witnesses and the time and nature of the complaint.
- 9.3 The details of the complaint should be sent to the Head of Human Resources specifying that the complaint is to be considered under the formal procedure. The written complaint should be clear as to what the allegations are and against whom they are made.
- 9.4 A Manager will be appointed to investigate the complaint (known as the Investigating Officer). This is likely to be a manager from an unrelated service area.
- 9.5 The person(s) against whom the allegations have been made will be contacted and advised of the allegations made against them. The allegations will be confirmed in writing.
- 9.6 The Investigating Officer (accompanied by an HR Officer) will carry out separate interviews with the complainant, the person(s) against whom the allegation is made and any witnesses. The interviews will be carried out in confidence and all those involved may be accompanied by a workplace colleague or a union representative.
- 9.7 In instances where the complainant or the person against whom the allegation is made feels that they cannot attend an investigatory interview due to sickness absence, they will be referred to Occupational Health to establish when they will be well enough to be interviewed. Subject to the Occupational Health Physician's report, the investigation can be suspended for up to three months. However, if after this time, the individual is still unable to be interviewed then the investigation will proceed and the Investigating Officer will reach a conclusion based on the balance of probabilities and the evidence available at that time. If the complainant wishes to exercise their right to appeal and the complainant or the person against whom the allegation is made is then well enough to be present at the appeal, the Investigating Manager has the right to seek an adjournment to the appeal if new information/evidence is presented that may have

altered their conclusion. The Investigating Manager should consider the new evidence, interviewing staff if necessary and revise their conclusion accordingly.

- 9.8 It is usual practice to record all interviews so that there is an accurate record of the discussion. Interviewees may request a copy of the transcript if they so wish. If an individual does not want to be recorded, written notes of the meeting will be taken. The employee will be asked to sign the notes, agreeing that the notes are an accurate record of the interview, and return a copy to Human Resources.
- 9.9 The investigation should be concluded within 20 working days of the complaint first being received by Human Resources. If this time limit is likely to be exceeded, all those involved will be advised and a revised date will be given for when the investigation will be concluded.
- 9.10 The Investigating Officer will keep a detailed written record of the investigation and the findings. The complainant and person(s) against whom the allegation has been made must be told of the findings by the Investigating Officer. These findings must also be made in writing within 10 working days of the investigation being concluded.
- 9.11 If the recommendation of the Investigating Officer is that disciplinary action should be taken, the individual(s) against whom the complaint was made will be formally informed in writing and a date will be set for the disciplinary hearing. Human Resources will provide the individual with a copy of the Council's disciplinary procedure and explain the process in detail.
- 9.12 If the employee making the complaint is not satisfied with the decision they may request an appeal to the Head of Human Resources. This must be done within 10 working days of receiving the Investigating Officer's decision stating the grounds for appeal.
- 9.13 A Director/Assistant Director from another Directorate will be nominated to hear the appeal unless he/she made the original decision in which case another Director/Assistant Director will be nominated. The appeal will be arranged within ten working days of receipt of the written request to appeal. Both parties will be informed if there are any delays in arranging the appeal.
- 9.14 The appeal will be conducted in a manner that allows both sides to explain their cases. This may be carried out in two separate meetings if it is considered appropriate to do so or at the request of either party, if they feel intimidated by the presence of the other party. Both parties are entitled to have a work place colleague or union representative present at this meeting. The Investigating Officer will be invited to explain his/her findings. The Director/Assistant Director may wish to seek further clarification from witnesses or from any other person connected with the case. Where all parties are to be present at an appeal meeting the procedure for the conduct of an Appeal Hearing will be as set out in section 13.0.
- 9.15 The complainant and person(s) against whom the allegation has been made must be told of the appeal decision by the Director/Assistant Director. Any recommendations/actions should be implemented as soon as possible following the decision. The decision must be made in writing within 10 working days of the appeal being concluded. The letter must include the complainant's right to appeal to Members.
- 9.16 If the complainant wishes to appeal against the Director's/Assistant Director's decision they must state the grounds of the appeal in writing to the Head of Human Resources within ten working days of the appeal written decision.

- 9.17 An appeal to a Appeals Panel consisting of three Councillors will be arranged within 20 working days from the receipt of the request for appeal. The employee will be informed if there are any delays in arranging the appeal.
- 9.18 The employee making the complaint and the employee(s) against whom the allegation has been made must submit any paperwork/evidence that they wish to present at the appeal, to the Head of Human Resources, at least 8 days prior to the appeal date.
- 9.19 All employees are entitled to have a work place colleague or union representative present at the Appeal.
- 9.20 The Member Panel will consider the evidence presented and shall interview the complainant and the person/s against whom the complaint was made separately. Witnesses may not be required to attend unless at the request of the Member panel, the Investigating Officer or the complainant.
- 9.21 The Investigating Officer will be invited to present his/her findings to the Member Panel. The Director/Assistant Director may also be called to present any additional information ascertained at the original appeal.
- 9.22 Following the appeal, the complainant and person(s) against whom the allegation has been made will be advised in writing of the decision. Any recommendations/actions should be implemented as soon as possible following the decision.
- 9.23 This is the final stage of the internal formal procedure.
- 9.24 Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting in making a complaint, even if it is not upheld, as long as it is made in good faith.
- 9.25 All parties will be expected to work together towards re-establishing a positive working environment. Refusal to implement recommendations as suggested by either the Investigating Officer or Appeal Panel may result in disciplinary action, for example, refusing to attend a suggested training course.
- 9.26 **Malicious Complaints**
- 9.27 Where a complaint is blatantly untrue and has been brought for some unacceptable motive, the complainant will be subject to disciplinary action, as will any witnesses who have deliberately misled the Council during its investigations.
- 9.28 **Continuing to Work Together**
- 9.29 Whether a complaint is upheld or not, the Council recognises that it may be difficult for the employees concerned to continue to work in close proximity to one another during the investigation or following the outcome of the proceedings. If this is the case the Council will consider a voluntary request from either party to transfer to another job or work location. However, a transfer cannot always be guaranteed.
- 9.30 **Complaints against Councillors**
- 9.31 If a member of staff feels that they have been subject to unacceptable behaviour, bullying or harassment by a Councillor they may raise the matter through the Council's Dignity at Work procedure by writing to the Head of Human Resources. The employee will then meet with a member of Corporate Management Team who will advise the employee of the process to be followed. The Procedure for Criticisms/Complaints which may arise between Members and Officers is set out in paragraph 10, section 3 of

Part 8 (Codes and Protocols) of the Constitution. This section refers to complaints both from Officers about Members and also complaints from Members about Officers.

Guidance for Investigating Officers

- 10.1 As a manager, there may be occasions when you are asked to investigate an allegation of unacceptable behaviour, bullying or harassment.
- 10.2 The complaints will be unrelated to your service area because a key part of your role is to investigate the situation objectively. If you have close ties or relationships with any of the people involved in a complaint of this nature, you must advise Human Resources and another manager will be appointed to the case.
- 10.3 When you are approached by Human Resources, you will be given an outline of the case and the procedure you should follow. The length of time needed to carry out the investigation will depend on the number of people involved and the witnesses who need to be interviewed.
- 10.4 Before the Investigation Starts**
- 10.5 Before you start your investigation, you may find it useful to call the free Employee Assistance Programme (contact details available from HR or the intranet). Experienced consultants will be able to offer you additional guidance and support.
- 10.6 You may find the following advice useful: -
- 10.7 Preparation:-**
- Start the investigation with an open mind.
 - Examine the basis of the complaint to identify the issues being raised.
 - Examine any written documentation provided by the complainant in support of the complaint. Make a record of details of incidents, informal approaches to stop the behaviour, and statements from other employees.
- 10.8 Arranging Interviews:-**
- Contact the complainant to arrange a time to meet to discuss the complaint. Stress the confidentiality of the meeting and the sensitivity of the circumstances and assure the complainant that they will not be interviewed in the presence of the person(s) against whom the complaint was made.
 - Establish that the complainant is fully prepared for the interview.
 - Arrange for any witnesses the employee would like to call to be interviewed, again stressing the confidentiality of the situation.
 - If the complainant is disabled, consider what reasonable adjustments may be required to ensure a fair hearing.
 - Make sure the location for the interview is appropriate and that there are no interruptions.
 - Contact the person(s) against whom the complaint was made and arrange an interview. Confirm that the matter will be treated as confidential and that the accused will be given every opportunity to state their case and that no discussions

regarding the complaint should be entered into with the complainant or any potential witnesses in the meantime.

- Ensure that everyone who is called to interview is advised of their right to have a work place colleague or union representative present at the interview before the interview takes place.

10.9 Interviewing the complainant:-

- Start by explaining the purpose of the interview, how it will be conducted and stress the sensitivity and confidentiality of the situation.
- Introduce all those present and their roles at the interview. This should include the Investigating Officer, the HR Representative, the Complainant and his/her representative. There may be an occasion when a note taker is required to be present. The complainant will be advised in advance if this is the case.
- Ask the complainant to state the nature of the complaint.
- Once the basis of the complaint is understood, ask objective, open questions to establish the details of the complaint, how the employee feels and how they view the behaviour.
- Establish if the behaviour was unwanted and offensive or has created an intimidating hostile or humiliating environment.
- Look for indirect signs of unacceptable behaviour such as blocking annual leave requests, exclusion from meetings etc.
- Establish if the employee has any documentary evidence to support the complaint and ask any necessary questions to establish its validity.
- Summarise the key points of the complaint so there is no misunderstanding about the basis on which the complaint has been made.
- Explain that the next stage is to interview the person(s) against whom the allegations have been made and any witnesses.
- Advise that you may wish to seek further clarification once the witnesses and the accused person(s) have been interviewed.
- Explain that the complainant will be contacted once the investigation is complete and the expected timescales. The complainant will be advised if disciplinary action is to be taken against the person(s) against whom the allegations have been made but will not be advised of the outcome of that disciplinary hearing.

10.10 Interviewing the person(s) against whom the complaint is made:-

- Start by explaining the purpose of the interview, how it will be conducted and the sensitivity and confidentiality of the situation. Emphasise that this is not a disciplinary hearing and that they have a right to be represented if they so wish.
- Introduce all those present and their roles at the interview. This should include the Investigating Officer, the HR Representative, the accused and his/her representative. There may be an occasion where a note taker is required to be present. The accused will be advised in advance if this is the case.
- If the accused person is disabled, consider what reasonable adjustments may be required.
- At the interview state the alleged incidents, remarks etc. and invite the accused to comment.
- If the accused needs more time to consider the facts and to respond, grant a reasonable amount of time in accordance with the depth and extent of the evidence.
- If more than one person is accused, the accused individuals should be interviewed separately and advised that the interview is confidential and they must not discuss the interview with any third party otherwise disciplinary action may be taken.
- If the explanation is incomplete, inconsistent with the known facts or evasive, probe the employee with further questions to see whether they can elaborate further.
- Establish whether the employee has documentary evidence to refute the complaint, examine it in detail and ask any necessary questions to establish its validity.

- Ask whether the employee wishes to call any witnesses.
- Summarise the key points of the employee's answer to the allegations so that there is no misunderstanding about the response being made.
- Explain that you will be meeting with any remaining witnesses and if any further clarification is needed then you will contact the employee again.
- Explain the formal process and the next stages in the procedure.
- Advise the employee that they will be advised of the outcome and expected timescales.

10.11 Reaching a decision:-

- Re-examine the evidence in the light of the accused responses and conduct any further investigation as necessary.
- Be sure you have all the evidence you need to make your decision.
- Maintain confidentiality about the case and do not ask colleagues for their opinions. Listening to "hear say" may spoil your objectivity and damage your credibility.
- Establish if, 'on the balance of probabilities', an act of harassment, bullying or unacceptable behaviour has been committed – that is to say whether it is more likely than not that it occurred. If so, outline the facts that have led to this conclusion.
- Try to assess the seriousness of the offence and the damage it has caused.
- If there are no grounds for upholding the complaint, then set out the facts that led to that belief in this case.
- Discuss the case with the appointed Human Resources Officer. Apportioning blame is not necessarily the aim of the investigation - but you should be prepared to recommend disciplinary action if an allegation is upheld.
- Recommend a course of action, if possible, and the reasons for the recommendation. The best outcome from a complaint of this nature is to find a resolution, agreeable to all parties, which will enable staff to better understand each other and to work together in harmony.

10.12 Communicating the outcome:-

- If the investigation upholds the complaint and the Investigating Officer recommends disciplinary action, Human Resources will arrange a disciplinary hearing. The Investigating Manager will be expected to present the case at the disciplinary hearing.
- If the complaint is not upheld, the complainant should be given a full explanation and the opportunity to appeal if they are dissatisfied with the outcome.
- The Investigating Manager will be expected to communicate the outcome to both parties in writing (please liaise with Human Resources).

Guidance for Staff

- 11.1 Most staff would be upset to know that their behaviour has caused offence to others. The informal stage of this procedure gives people the opportunity to resolve problems before they become serious enough to warrant formal action. If you are approached by a colleague and told that your behaviour is unacceptable you should respect their views and adjust your behaviour accordingly. If you are unsure what you have done to cause offence you should encourage an open discussion with the aim of resolving any misunderstanding. Remember, it is the interpretation of the individual that determines whether behaviour is unacceptable not whether you intended to cause offence. It may have taken a lot of courage for that person to approach you therefore if you wish to discuss this further with them, ensure that the conversation does not become

confrontational. You may find it useful to have your Line Manager present to act as mediator.

- 11.2 Sometimes the complainant may feel that they cannot approach the individual(s) whose behaviour is unacceptable. This may be because they have lost their confidence or the relationship has broken down to such an extent that communications are difficult. In these instances, the individual may feel that the formal procedure is the only option available to them. Using the formal stages of this procedure does not necessarily mean that relationships cannot be restored and all parties should be committed to resolving any conflict in the workplace.
- 11.3 At all stages of dealing with the alleged misconduct it is important that the employee accused of the unacceptable behaviour, harassment or bullying is treated fairly. No matter how serious an employee's misconduct might appear to be they still retain the right to be treated fairly and allowed to explain their side of the matter to the employer.
- 11.4 As an organisation, we recognise that the investigation of a grievance of this nature is stressful for all of the individuals concerned and this procedure has been put in place to ensure that everyone involved has a fair hearing and the opportunity to present their case. Any staff wishing for additional support should either contact their local Union Representative or their Human Resources Officer.

11.5 Employee Assistance Programme

- 11.6 All staff can access the 24-hour, confidential telephone helpline to get support and advice on a range of issues. The service is staffed by professionally qualified staff who will be able to recommend additional support for you if appropriate.
- 11.7 The Employee Assistance Programme is there to help and is totally confidential. Just talking things over with someone who is not involved in the case can provide you with objective advice.
- 11.8 Contact details are available on the intranet or from HR.

12.0 Procedure for the Conduct of an Appeal Hearing

Those to be present:-

The Director **or** 3 Members comprising the Appeals Panel
Employee and Employee's Representative
Investigating Officer and Representative
HR Advisor or Solicitor to the Council

Procedure

1. If the appeal is being heard by a Members panel then the Members of the Panel should appoint a Chairman.

2. The Chairman/Director introduces those present and states:-

- That the meeting will deal with the Appeal within the scope of the Council's Dignity at Work Policy and Procedure.
- That the HR Advisor/Solicitor to the Council is present to advise on points of law and procedure only. If a note taker is present it should be explained that their role is to keep an accurate record of events only and will not take part in the hearing. In the absence of an independent note taker the HR Advisor/Solicitor to the Council will record notes of the meeting. The proceedings will also be tape recorded and a copy of the tape will be made available to both parties.
- That adjournment may be sought by either side if necessary and the Chairman/Director will give consideration to such requests.
- That the Chairman/Director may ask questions/seek clarification at any time during the hearing of the Appeal.
- That the introduction of new information/evidence that has not been presented at least 8 days prior to the appeal will not be permitted.

3. Witnesses shall be present only when giving evidence. The employee who made the original complaint and the Investigating Officer will be present throughout the hearing.

4. The Employee or his/her representative will state the grounds for the appeal, provide any supporting evidence where appropriate and call any relevant witnesses. Each witness in turn:-

- Gives evidence.
- May be questioned by the Investigating Officer.
- May be questioned by the Director/Members of the Panel.
- May, if necessary, be re-questioned by the Employee/Employee's representative.

5. The Investigating Officer states his/her response to the appeal, provides any supporting evidence and, where appropriate, calls any relevant witnesses. Each witness in turn:-

- Gives evidence.
- May be questioned by the Employee/Employee's representative.

- May be questioned by the Director/Members of the Panel.
- May, if necessary, be re-questioned by the Investigating Officer.

6. The Investigating Officer sums up his/her case.

7. The Employee/Employee's representative sums up his/her case.

8. The Director/Members of the Panel may ask the parties or any witnesses for clarification on any issues raised.

9. The parties, their representatives and any witnesses withdraw whilst the Director/Members consider the issues and reach a decision. The HR Advisor/Solicitor to the Council will remain in the room to provide advice upon points of law and procedure. The note taker may also remain in the room to make notes, however, the hearing notes will not include the notes taken whilst the Director/members consider the issues in private. Any discussion during this private consideration will not be tape recorded.

10. If the Director/Members require further clarification from either party, both parties and their representatives will be called.

11. The Director/Members will recall both parties to inform them of the decision which will also be confirmed in writing. In exceptional cases the time needed to consider evidence presented may make it impractical to recall parties on the day and both parties will agree alternative arrangements in this case.

12. Where appropriate the Director/Chairman will inform the Employee/Employee's representative that this is the final stage of the internal Grievance Procedure.

13. The hearing closes.

Please note that the order of the proceedings may only be altered by the Director/Chairman with the agreement of the HR Advisor/Solicitor to the Council and the Employer and Employee.

Contacts: Head of Human Resources
 Unison Branch Secretary

Agreed at Local Joint Staff Panel: 7 November 2006

Agreed at Full Council: 3 January 2007

Version 2 Revised on 31.3.12 Amendments to ACAS definitions.