



## HUMAN RESOURCES POLICY

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Title: <b>DIGNITY AT WORK POLICY</b>			

CONTENTS	
<b>1</b>	<a href="#">SCOPE</a>
<b>2</b>	<a href="#">AIMS</a>
<b>3</b>	<a href="#">PRINCIPLES</a>
<b>4</b>	<a href="#">WHO TO CONTACT FOR MORE INFORMATION</a>
<b>5</b>	<a href="#">PURPOSE AND INTENT</a>
<b>6</b>	<a href="#">ACCEPTABLE BEHAVIOUR</a>
<b>7</b>	<a href="#">UNACCEPTABLE BEHAVIOUR</a>
<b>8</b>	<a href="#">PRINCIPLES</a>
<b>9</b>	<a href="#">STANDARDS</a>
<b>10</b>	<a href="#">COMPLAINTS</a>
<b>11</b>	<a href="#">DIGNITY AT WORK: COMPLAINTS PROCEDURE</a>
	<a href="#">APPENDIX 1: Complaints Procedure- Examples of Behaviour Which May Offend Against The Dignity Of Men And Women At Work</a>

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## REVISION TABLE

Version No	Date issued	Reason for revision

## HUMAN RESOURCES

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### Title of policy or procedure:

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#### 1 SCOPE

This policy is applicable to all employees of Cheshire East including employees who have TUPE transferred into the Authority. It is not applicable to school based staff. There are specific policies for schools staff which can be accessed via the Schools Intranet Site ( link below ).

<http://www/Services/Corporate/Personnel/Education/CSPIS/index.htm>

#### 2 AIMS

To ensure all staff are aware of their responsibilities towards other staff and understand the impact their behaviour may have on other people

To enable an employee to raise a complaint where they feel that they are being treated to harassment or bullying in the workplace.

To enable managers to deal effectively with any complaints about unacceptable behaviour in the workplace.

#### 3 PRINCIPLES

To deal fairly and effectively with employees should they complain about the behaviour of another employee, or if they are complained about.

Each individual has to respect and personal dignity within the workplace. Individual employees have a responsibility to recognise and preserve this right, to uphold the personal dignity of others, and to recognise and that other people's beliefs and culture differ.

#### 4 WHO TO CONTACT FOR MORE INFORMATION

Human Resources Policy and Strategy Team.

### 5 PURPOSE AND INTENT

5.1 The Council recognises the complex personal and interpersonal relationships that exist amongst a large and diverse workforce. It also recognises that organisational culture and tensions can contribute to an atmosphere in which unacceptable forms of behaviour are tolerated. The Council believes that all men and women at work are entitled to be treated with dignity and respect at all times. It understands the need for acceptable standards of behaviour in the workplace to enable all employees to fulfil their maximum potential and to protect their health, safety and welfare. These standards of behaviour should apply in all relationships involving Members, Managers, employees and others e.g. Service Users, Consultants, contractors

and volunteers.

5.2 The Council regards any form of bullying and harassment as unacceptable and will deal seriously with instances of such behaviour should they arise. The Council will give effect to its position on dignity at work by:-

- adopting this Policy statement;
- providing a clear process for dealing with complaints;
- setting standards of behaviour for employees through induction and appraisal;
- providing training for managers and investigating officers involved in handling complaints;
- providing access to support and counselling to individuals who consider that their dignity at work is compromised by the behaviour of others.

5.3 In formulating this policy account has been taken of other relevant legislation and policies including the Human Rights Act and the Council's Whistleblowing Procedure (When agreed).

## **6 ACCEPTABLE BEHAVIOUR**

6.1 The fundamental principle underpinning this policy is the right that each individual has to respect and personal dignity within the workplace. Individual employees have a responsibility to recognise and preserve this right, to uphold the personal dignity of others, and to recognise and that other people's beliefs and culture differ.

## **7 UNACCEPTABLE BEHAVIOUR**

7.1 The most common descriptions of unacceptable behaviour in the workplace are harassment and bullying, although the lack of a label should not deter an employee from asserting their right to be treated in an acceptable manner. The terms bullying and harassment are used in this Policy to describe any form of behaviour that offends against an individual's dignity.

7.2 Bullying and harassment are complex and sensitive issues because they can take so many different forms. They can be isolated or repetitive behaviour and can be directed at individuals or groups. Standards of behaviour are inevitably very personal things and what is acceptable to one person may be deemed harassment or bullying by another. It is often, although not always, the case that the alleged harasser or bully is in a position of power which enables them to undermine another individual. Whatever judgements are made about the validity of one individual's perception of another's behaviour, the Council's underlying principle is that the feelings of all individuals should be respected and solutions sought which maintain personal dignity.

7.3 There are a number of definitions of harassment and bullying which could be adopted. None of these is definitive nor will they provide prescriptive descriptions of what constitutes unacceptable behaviour. They do however

describe in general terms the types of behaviour which the Council believes to be unacceptable.

Harassment is defined as:

Any unwanted attention or behaviour that a person finds objectionable or offensive and which makes him or her feel threatened or uncomfortable leading to a loss of dignity and self-respect.

Bullying is a distinct and specific form of harassment which has been recognised in employment law under Health and Safety and other legislation. It is defined as:

Offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or use of unfair sanctions, which is persistent and makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self confidence and which may cause them to suffer stress.

7.4 The Council accepts that the key to feelings of harassment and bullying are that the behaviours encountered by the individual are unwanted and /or unwarranted, viewed as demeaning by, and unacceptable to, them as individuals. However it also recognises that in a large and diverse organisation, behaviours which one individual finds unacceptable may be considered justified and acceptable by others. In some circumstances the Council may apply the test of reasonableness in determining the acceptability of particular behaviours. However in responding to and managing complaints under this procedure, the Council will seek to promote outcomes which recognise the feelings and respect the dignity of all those involved.

7.5 Some of the reasons why harassment and bullying takes place and examples of behaviours which offend against peoples' personal dignity are given in Annex 1 of the Complaints Procedure. This list is not exhaustive.

## **8 PRINCIPLES**

8.1 The Council expects all its Members and employees, whatever their position, to respect each individual's entitlement to dignity at work. The Council will maintain a safe and healthy working environment and will ensure that any allegation of bullying or harassment is taken seriously, is properly investigated and dealt with effectively.

8.2 This procedure incorporates and supports the rights of an employee to be accompanied at meetings, have access to relevant information, have an opportunity to explain their position, and have a right of appeal if they are not satisfied with the outcome. Managers are provided with guidance on the relevant legislation and a clear understanding of their roles and responsibilities.

8.3 Complaints will be investigated swiftly and confidentially, while ensuring that the rights of individuals are protected. Matters can often be handled without the need for a formal investigation and this procedure recognises and

provides for both formal and informal channels of resolution. It is preferable for complaints to be handled internally and informally as solutions can often be reached speedily with minimum embarrassment and risk to confidentiality. Such an approach is likely to be less stressful for all parties and result in outcomes with a high degree of mutual acceptability. In cases where there is a need for formal proceedings these will be kept confidential and any witness statements and records will be kept confidential to those proceedings.

8.4 Any incident that is perceived to be racist will be recorded and investigated.

8.5 The Council also recognises that employees subject to Grievance, Disciplinary and Workforce Performance Management procedures will be under great pressure. It recognises the potential for such staff to interpret the actions of their managers as bullying or harassing. The Council expects all its managers to apply these procedures appropriately and adopt sensitive and professional behaviours towards staff subject to proceedings. It also expects employees to take responsibility for contributing to the resolution of performance and conduct issues and to reflect on the causes of the stress they will be feeling.

If an employee is being taken through Disciplinary or Workforce Performance Management procedures, the Dignity at Work Procedure cannot be used to register concerns about action under those procedures. Any concerns must be made formally, in writing, and will then be appropriately dealt with as part of those procedures. Where appropriate, consideration may be given to the suspension of proceedings whilst such concerns are addressed.

## **9 STANDARDS**

9.1 Managers are expected to:-

- Demonstrate respect for staff as individuals in all managerial/supervisory matters;
- Reflect on their own approach and style, recognising the inherent power their position bestows;
- Undertake relevant training in people management skills (appraisal, performance management, recruitment and selection) as part of their management /supervisory development;
- Ensure that all employees are aware of the Council's policies on Valuing Diversity and Dignity at Work and that they know how to complain if they become victims of harassment and bullying;
- Deal with complaints of harassment and bullying promptly, sensitively, confidentially and in accordance with the Procedure;
- Invite and encourage constructive feedback from subordinates and within

teams about standards and styles of behaviour to promote an open and honest culture of respect for diverse opinions;

- Ensure that matters of conduct and performance are dealt with sensitively and professionally, recognising the stress experienced by employees in these situations and the potential for feelings of victimisation to emerge;
- Give sensitive consideration to external and domestic influences which might be affecting an employee's performance or behaviour at work e.g. caring responsibilities, health or bereavement, relationship difficulties or domestic violence.

## **9.2 Employees are expected to:-**

- Behave towards each other and their managers with respect at all times;
- Help prevent harassment and bullying by challenging and reporting Colleagues whose behaviour appears to be causing distress to others;
- Encourage colleagues to be open with each other and to resolve differences informally and at an early stage to avoid excessive stress being experienced;
- Recognise that managers often have a difficult job to do which will sometimes involve making decisions and giving instructions and feedback which are not always popular but which cannot necessarily be construed as harassment or bullying;
- Avoid making judgements and taking sides in the course of a complaint being investigated.

## **9.3 Members are expected to:-**

- Promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They will respect the impartiality and integrity of the authority's statutory officers, and its other employees;
- Uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them;
- Not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority;
- Promote and support these principles by leadership and by example and will act in a way that secures or preserves public confidence.

These obligations are in accordance with the Members Code of Conduct and regulations made under the Local Government Act 2000.

## **10 COMPLAINTS**

10.1 The Council has adopted a specific Dignity at Work: Complaints Procedure to recognise the particular nature of complaints of bullying or harassment or other forms of unacceptable behaviour. This Procedure provides for both formal and informal resolution of complaints. While every employee has the right to ask for a formal investigation to be undertaken, the Council recognises the considerable strain such investigations can in themselves generate and would wish to promote and facilitate informal resolution as much as possible.

10.2 A Modified Dignity at Work: Complaints Procedure has been developed for use in limited circumstances.

10.3 Allegations involving employees having acted contrary to this Policy will be dealt with under the Dignity at Work: Complaints Procedure.

10.4 Allegations involving Members will not be channelled through the Council's formal Complaints Procedure but will be dealt with in accordance with the Council's Code of Conduct for Members and in accordance with the relevant provisions of Part III of the Local Government Act 2000.

10.5 Allegations involving Service Users, Consultants, contractors or volunteers will be dealt with under the Council's Complaints Procedure or any Service specific arrangements agreed for this purpose.

### **Relevant policies and procedures are under development and include:**

Valuing Diversity (Under development)  
Disciplinary Procedure (Policy number HR6)  
Grievance Procedure (Policy number HR7)  
Dignity at Work: Complaints Procedure (Policy number HR8)  
Managing Attendance (Policy number HR4)  
Workforce Performance Management (policy number 11)  
Code of Conduct for Employees (Under development)  
Code of Conduct for Members (Under development)

Whistle blowing policy (under development)

## **11 DIGNITY AT WORK: COMPLAINTS PROCEDURE**

### **11.1 OBJECTIVE**

To enable an employee to raise a complaint and receive a timely and appropriate response from management, with a view to reaching a satisfactory outcome. Complaints which do not relate to bullying or harassment are dealt with under the Grievance Procedure.

## **11.2 ADVICE AND SUPPORT**

The Council recognises that making and dealing with such complaints can be distressing in itself and the Council will ensure that all employees involved are supported throughout the process. Employees may seek support from HR who can give informed advice in confidence\* and without pressure. The objective of this is to help an employee to decide which course of action to take, and to support employees during both informal and formal action.

11.3 Employees who are the subject of allegations may also seek advice from HR.

11.4 Employees may also seek advice from their line manager or trade union representative.

\* It should be noted that complete confidentiality cannot always be guaranteed as the Council has an obligation to investigate serious concerns/allegations.

## **11.5 TIMESCALES**

11.6 It is appreciated that employees who consider that they are subject to any form of bullying, harassment or intimidating behaviour may feel anxious, distressed and potentially reluctant to raise a complaint at the time that it occurs for a variety of reasons.

11.7 It is important that complaints are raised on a timely basis in order that they can be investigated and resolved swiftly, avoiding unnecessary stress and anxiety for all involved. Not doing so may affect the weight that it is given or even the ability to consider it.

11.8 Whilst employees are encouraged to raise complaints within 3 months of the event occurring, or final event where there is a sequence of events, this should not deter them from highlighting issues which occurred prior to this timescale which form a sequence or pattern of events and give substance to the complaint.

11.9 Time limits are specified for each stage of the procedure. These are intended to ensure the speedy resolution of complaints and to avoid delays. There is a specific requirement for managers to provide a written response to a complaint within a timescale of up to 28 days from initial receipt of the complaint. Such timescales should be followed unless both management and the employee (or their representative), mutually and exceptionally agree that speed is not essential. This may be necessary in cases where further investigation is required.

11.10 If a complaint is not dealt with by an appropriate manager within a specified time limit, the employee shall have the right to proceed to the next stage of the procedure. Where an employee fails to comply with a time limit the procedure will cease and the complaint will be considered settled or withdrawn,

unless it is agreed that the failure was not the fault of the employee. (NOTE: there may be some cases where action is required by management even if the employee decides not to proceed with their complaint). This will not apply if the Head of Service and the employee agree that the time limits should be extended.

11.11 The timing and location of meetings should be reasonable and the employee must take all reasonable steps to attend. If the person accompanying the employee cannot attend on a proposed date, the employee can suggest a suitable alternative date/location. This must not be more than 5 days after the date originally proposed by the Head of Service.

11.12 Any complaint that is perceived to be racist by the employee, their colleagues or management, must be recorded as a racist incident under that procedure. The Head of Service will then use this procedure to investigate the matter.

### **11.13 VICTIMISATION**

11.14 Action will be taken to protect employees from intimidation, victimisation or discrimination for filing a complaint or assisting an investigation. Retaliating against an employee for complaining under this Procedure or assisting in an investigation is a disciplinary offence

### **11.15 ABUSE OF THE PROCEDURE**

11.16 Employees found to have knowingly made false allegations may themselves be subject to disciplinary proceedings. This will be for the Head of Service to decide. Care will be taken in this respect particularly in relation to complaints arising in the course of disciplinary or workforce performance management proceedings.

### **11.17 INFORMAL ACTION**

11.18 If possible, an employee who believes he or she has been the subject of bullying or harassment should, in the first instance, ask the person to stop the bullying or harassing behaviour and make it clear what aspect of their behaviour is offensive, intimidating or in any other way unacceptable and explain the effect it is having on them. It is recognised that this is in itself a difficult thing to do and if the employee feels unable to make this approach on their own, it can be made with the support of a Trade Union representative or work colleague employed by the Council.

11.19 If an employee feels unable to adopt the above approach they may contact HR, who will advise them on the options available to them.

11.20 An employee may report any incident of unacceptable behaviour to their line manager, or if the behaviour involves their line manager, to the next tier of management. Complaints concerning Members of the Council should be reported to the Council's Monitoring Officer. Employees may also approach a

HR Officer or a manager of their own gender if preferred. A group of employees with the same or similar complaints may be represented by a member of the group or through their trade union.

11.21 Employees should identify at this stage the outcome they are seeking. They should also be advised of the options for both formal and informal resolution.

11.22 The manager will undertake some initial enquiries including discussing the complaint with the employee against whom the allegation has been made.

11.23 The manager will consider the following options for informal resolution:-

i) Arrange a meeting with all the people involved with the aim of establishing understanding, recognition and acceptance of:

- the alleged unacceptable nature of the behaviour.
- the impact on the employee to whom the behaviour is directed.
- the feelings of the complainant and the person against whom the allegation is made.
- the motivation or lack of it of the alleged bully/harasser.
- the expected standards of behaviour.
- how the employees involved will work together following the meeting
- what steps the manager will put in place to monitor and review the situation

(A confidential written record of the meeting and outcomes should be kept.)

ii) Act as mediator or appoint an independent mediator to conduct further discussions with the complainant and the person against whom the complaint has been made individually, with the aim of improving understanding and establishing common ground from which to agree a practical resolution.

iii) Consider whether it is practical or desirable for either party to voluntarily move to another job or location.

11.24 Acknowledgement, recognition and agreement on a resolution strategy between the parties at this stage will preclude the need for further investigation.

## **11.25 FORMAL PROCEDURE**

11.26 Formal Action under the Procedure will be taken where:-

- informal action does not result in the offending behaviour ceasing.
- either employee is dissatisfied with the informal action taken.
- an employee wishes to make a formal complaint in the first instance.
- the complaint is so serious that informal action is inappropriate.

11.27 The complainant or the person against whom the allegation has been made (in the case that they are dissatisfied with the outcome of informal action), will need to outline in a written statement to the appropriate Head of

Service the following details:-

- that they are not satisfied with the informal action/that they wish to move directly to the formal procedure;
- the name of the alleged bully/harasser(s);
- the nature of the unacceptable behaviour;
- where possible details of specific incidents;
- names of witnesses to any incidents;
- any action already taken by the complainant to stop the behaviour;
- what would be an acceptable outcome to the complainant.

NB: The employee must provide this information in full to enable the manager to respond within the 28 day timescale.

11.28 The Head of Service will immediately acknowledge receipt of the letter confirming that an investigation will take place, the name of the Investigating Officer and reminding the employee of the support available to them. If the Investigating Officer determines, either at the outset or during the investigation, that the investigation is likely to take longer than the 28 day timescale, this should be communicated to the employee and any extension should be mutually agreed with them.

11.29 A Complaint Monitoring Form should be completed by the manager and sent to the HR Delivery Manager.

11.30 Where no informal action has been undertaken, the Investigating Officer will interview separately both the complainant and the person against whom the complaint has been made in order to establish the issues, the seriousness of the complaint and whether informal resolution is still possible.

11.31 The Investigating Officer will conduct a full formal investigation. If at any time the Head of Service considers that the circumstances constitute gross misconduct they should move to the Disciplinary Procedure. The employee against whom the allegation has been made may be suspended for the duration of the investigation if their continued presence at work is likely to impede the investigation, or where it is deemed necessary for the protection of other employees. In accordance with the Disciplinary Procedure they will be notified in writing of the reasons for the suspension and the conditions attached to it. The employee must be advised that any breach of the conditions of their suspension may of itself be a disciplinary matter and pay may be stopped.

11.32 Alternatively it may be necessary to consider relocation of either employee for the duration of the investigation.

11.33 The Investigating Officer will prepare a report of their findings including notes of interviews with any witnesses. The report should include a summary of the issues, the evidence available, where appropriate an assessment of the alleged unacceptable behaviour, and the impact on the complainant.

## **11.34 RESOLUTION**

11.35 The Head of Service will consider the report and make it available to both employees and their representatives.

11.36 The Head of Service will arrange a hearing and invite the complainant and the person against whom the complaint has been made to attend in order to consider the contents of the Investigating Officer's report. The employees will be advised of their right to be represented at the hearing. At the meeting the complainant will be given an opportunity to explain their complaint and how it should be settled.

11.37 The Head of Service may decide that:

i) there is sufficient evidence of unacceptable behaviour of a serious nature to require that a disciplinary hearing be held in accordance with the Disciplinary Procedure. The Disciplinary Hearing will be chaired by another Head of Service.

ii) unacceptable behaviour has occurred but that in all the circumstances it is not considered serious enough to warrant disciplinary action. In this case an action plan and monitoring arrangements should be agreed to ensure the behaviour stops. A record should be kept of these arrangements.

iii) there is no evidence of unacceptable behaviour. The Head of Service Manager will discuss this outcome with all parties and ensure that continued personal support is available to them.

11.38 The Head of Service will confirm his/her decision in writing to both parties within 28 days of the initial receipt of the complaint, or within the mutually agreed extended timescale.

## **11.39 APPEAL RIGHTS**

The following appeal rights apply:

11.40 If the Head of Service's decision is to convene a disciplinary hearing, the employee against whom the complaint has been made will be entitled to exercise rights of appeal as set out in the Disciplinary Procedure. The employee making a complaint has no rights of appeal against the outcome of a formal disciplinary process.

11.41 If the Head of Service's decision is that unacceptable behaviour has occurred but that no disciplinary action should be taken, either employee can appeal against this. The complainant may appeal against the lack of disciplinary action, the employee against whom the complaint has been made may appeal against the decisions that unacceptable behaviour has occurred.

11.42 If the Head of Service's decision is that there is no evidence of

unacceptable behaviour, the employee who made the complaint may appeal against this finding.

### **11.43 APPEALS PROCEDURE**

11.44 In appeals under either 9.2 or 9.3, the employee may appeal to the Staffing Appeals Special Sub-Committee. The employee should set out their decision to appeal in writing to their Director stating why they are dissatisfied, detailing any aspect of the process they feel has been defective, why they feel the evidence does not support the decision made and what outcome they are hoping to achieve. The appeal should be lodged within 10 working days of the outcome being advised in writing to both parties

11.45 The procedure for the conduct of these appeals will be that determined for appeals under the Grievance Procedure, and the decision of the Sub-Committee will be final; there are no further appeal rights.

### **11.46 MODIFIED DIGNITY AT WORK: COMPLAINTS PROCEDURE**

11.47 This procedure will be followed in limited circumstances when the complainant is no longer employed by the Council or where it is not reasonably practical to apply the full procedure.

11.48 The complainant must outline in writing the nature of the alleged grievance, the evidence to support it, and the outcome which they are seeking in a written statement to the Head of Service.

11.49 The Head of Service must respond in writing within 28 days of receipt of the complaint.

### **11.50 MONITORING ARRANGEMENTS**

11.51 All formal complaints will be recorded on a Complaint Monitoring form and sent to the HR Delivery Manager.

11.52 The Head of Service responsible for the work area will hold a meeting with both the complainant and the employee against whom the allegation was made, 3 months (or other period as agreed) after the outcome to review the situation and determine whether further action is necessary.

## **APPENDIX 1**

### **DIGNITY AT WORK : COMPLAINTS PROCEDURE**

### **EXAMPLES OF BEHAVIOUR WHICH MAY OFFEND AGAINST THE**

## **DIGNITY OF MEN AND WOMEN AT WORK**

- unwelcome physical contact or invading a person's personal space
- suggestive comments or innuendo
- persistent unwelcome attention
- singling out or victimisation
- consistently undermining someone and their ability to do their job
- inappropriate detailed checking of work, times of coming and going or excessive supervision
- unreasonably withholding information, resources or training
- setting impossible objectives
- changing priorities or objectives unreasonably
- shouting at an individual to get things done
- humiliating an individual in front of their colleagues
- belittling or patronising comments
- display or issue of offensive, sexist or racist literature and images
- practical jokes or initiations
- behaviour which is intimidating, physically abusive or threatening
- isolation or non-cooperation
- intrusion by pestering, spying or stalking
- other forms of harassment can include the use of e-mails, the sending of faxes or making telephone calls within the working environment or to a person's home invading their privacy.

## **HARASSMENT OR BULLYING MAY OCCUR BECAUSE OF A PERSON'S**

- Race, nationality, skin colour or ethnic background
- Gender
- Disability
- Age
- Social background
- Sexuality
- Religious or political convictions
- Suspected or actual HIV/AIDS status
- Trade union membership or activity
- Assertion of contractual rights as an employee
- Status as an ex offender
- Willingness to challenge harassment or bullying, and therefore being victimised themselves.
- Reporting of a breach of the Standards of Conduct of the Council and suffering victimisation

NOTE: These lists are not exhaustive.

