



Dignity and Respect at Work Policy

Procedure for raising and dealing with unacceptable behaviour

1 Introduction

- 1.1 Every individual has a personal responsibility for their own behaviour and for ensuring that it is in line with the standards of acceptable conduct set out in the Dignity and Respect at Work Policy.
- 1.2 Whilst it is expected that every working relationship will be based on mutual trust, dignity and respect, it is acknowledged that there may be occasions when things go wrong and individuals experience unacceptable behaviour from people they work with.
- 1.3 The council recognises that individuals subject to bullying or harassment may be very vulnerable and are often reluctant to complain. This may be because they are too distressed or embarrassed or they may worry that if they report it they won't be taken seriously. They may also be concerned that they may be blamed for provoking the incident or suffer reprisals as a result of making a complaint.
- 1.4 However, if the council is to truly achieve its desire to have a culture based on dignity and respect for all, it is vital that anyone unfortunate enough to experience bullying or harassment makes others aware of their situation. Unless they do so the council is unable to act and the inappropriate behaviour is likely to continue.
- 1.5 The following procedures have therefore been designed to give individuals the confidence to raise any concerns they may have about the way they are being treated. They describe who they can approach for help in deciding how to tackle the situation and set out a number of options on how, with support, they can seek to stop the unwanted behaviour.

2 Aim of these Procedures

- 2.1 The primary aim of these procedures is to achieve a resolution of any complaint of bullying or harassment so that all those involved can put the matter behind them and begin to work amicably and effectively together.

3 Principles

- 3.1 Concerns raised about bullying or harassment will be:

- taken seriously and treated confidentially
- dealt with promptly, fairly, consistently and sensitively
- investigated by an independent manager where the complaint is a formal one
- handled in such a way as to minimise the stress and anxiety on those involved
- handled in a way that protects the rights of both the complainant and the alleged bully/harasser.

3.2 The council gives an assurance that:

- appropriate support will be made available to both the person raising the concerns and the individual against whom the complaint is being made
- there will be no victimisation against an employee making a complaint under this policy or against employees who assist or support a colleague in making a complaint
- bullying or harassment will be treated as a disciplinary offence and, where founded, may result in instant dismissal
- disciplinary action will be considered if a complaint is found to have been made maliciously or in bad faith.

4 Incidents involving the Council's Members

4.1 If the complaint relates to the behaviour of an Elected Member, the matter will be dealt with by the council's Standards Committee having regard to the standards of acceptable behaviour set out in the Members/Officers Code of Conduct.

4.2 Employees who wish to raise a complaint of bullying or harassment against a council Member should, in the first instance, discuss this with their line manager. If an employee feels they need support during this discussion, they can be accompanied by a member of the Human Resources team, another manager, a colleague or a trade union representative.

5 Where to go for help if you think you might be being bullied or harassed

5.1 Bullying and harassment are often not clear-cut and sometimes people are unsure whether or not the way they are being treated is acceptable. If this applies to you, you should talk over your worries with someone you feel comfortable to discuss the matter with. This could be your colleague(s), a close friend at work, your line manager (or senior manager if your concerns involve your line manager), trade union representative, Human Resources, a member of the Workers' Forums, or one of the council's Dignity at Work Advisers. This may help you identify the nature of the issue, the options available to you and the steps you may wish to take if the situation does not improve.

5.2 Following these discussions, you may decide:

- to monitor the situation including keeping notes of dates, times of any further “inappropriate” behaviour with a view to seeking further advice within an agreed timescale
- to self refer to the counselling service for appropriate personal and/or health support
- to acknowledge that the issue is not one of bullying or harassment but look at ways to raise your concerns about the way you feel you are being treated
- that the issue may be one of bullying or harassment.

6 Resolving unacceptable behaviour

6.1 If you think you have experienced inappropriate behaviour that breaches this policy you don't have to tolerate it. Indeed if you try to ignore or endure the situation, then there is a risk that matters will get worse and as a result it will become more difficult to resolve the problems.

6.2 There is an expectation within these procedures that, except in exceptional circumstances, you will attempt to resolve your concerns informally at a local level in the first instance before resorting to the formal procedure.

6.3 A flow chart showing how you can seek to resolve any concerns you may have is set out at Appendix 1.

7 Dignity at Work Advisers

7.1 These are individuals who have been fully trained and equipped to deal with queries about the Dignity at Work Policy. The role of a Dignity at Work Adviser is to listen and understand your situation. It is not to advise you what to do but simply to provide you with impartial information that will enable you to decide for yourself on the course of action that best suits you. Examples might be:

- giving guidance to enable you to deal with the matter yourself. This may include exploring ways of addressing the issue with the perpetrator through an informal process. It might also include suggestions such as logging incidents of harassment
- suggesting that you contact the OH counselling service
- suggesting that you contact your trade union representative
- giving you information on mediation and explaining how it works, and where you can get access to further information and support.

- 7.2 Whilst they are able to provide you with support and assistance during a potentially stressful period, they have no formal role within Disciplinary and Grievance Procedures and are not expected, or trained, to fulfil a professional counselling role.
- 7.3 The Advisers are bound by strict rules of confidentiality. However, should they consider that the law has been breached, they are bound to tell you this and they are duty bound to report the matter accordingly. This action is essential to ensure legal protection for the adviser and the council.
- 7.4 The Dignity at Work Advisers are available to provide support to both individuals who feel they are being bullied or harassed as well as those against whom allegations are being made. However, the same adviser should not support both the individual raising the complaint and the alleged bully/harasser.
- 7.5 A list of the council's trained Dignity at Work Advisers and contact details can be found on the HR intranet site, "People First". You may contact an adviser from a different area of the council from the one you work in if you would prefer.

8 Informal action – Self help

- 8.1 If you feel comfortable enough, seek to resolve the matter through speaking to the alleged perpetrator. The aim here is to stop the behaviour that is causing the problem and agree more acceptable ways of behaving. An approach at this early stage can be very successful in resolving the problem quickly particularly if the behaviour is unintentional or the individual is unaware that their behaviour is causing offence and distress.
- 8.2 So if you feel able to:
- invite the individual whose behaviour is inappropriate to an appropriate and private place to talk
 - make it clear that the discussion is to be treated in strict confidence on both sides
 - describe the behaviour and explain, calmly and politely, why the behaviour offends you, how it makes you feel and that you would like it to stop
 - seek an agreement from the individual that the behaviour will stop.
- 8.3 If you feel unable to make this approach on your own you could ask someone to accompany you or to make the approach on your behalf. This could be a trusted friend or colleague, a trade union representative, a member of the Human Resources team, your line manager or another manager.

- 8.4 It is advisable that all parties to any discussion should immediately prepare and keep a detailed note of the nature of the behaviour, the details of the discussion and how it was agreed to resolve the situation.
- 8.5 Although the best way to raise awareness and understanding in any difficult relationship is to talk directly to one another, it is recognised that you may not feel able to do this. If this is the case, you may wish to write a letter to the person concerned setting out:
- your perception of the behaviour and how it made you feel
 - when and where it occurred
 - why you objected to it
 - that you want it to stop and
 - how you expect to be treated in future.
- 8.6 If you decide to adopt this approach, you are encouraged to follow your letter up with an informal meeting wherever possible. You may want to ask someone to accompany and support you in that meeting.

9 Mediation

- 9.1 If the situation cannot be, or is not, resolved through “self-help”, mediation will be offered to the parties concerned. Mediation is an essential part of the informal procedure and will normally be used before resorting to the formal stage unless the council believes that it would not be helpful in resolving the situation.
- 9.2 Mediation can be an effective way of resolving all types of workplace dispute in a confidential and informal way. The process works by an approved, trained, impartial mediator facilitating discussions between the parties and encouraging them to reach a mutually acceptable agreement that will resolve their issues.
- 9.3 Both parties have an obligation to make every effort to try to resolve the issues at this informal stage. This means that they must approach mediation with a positive attitude and participate fully and constructively in the process.
- 9.4 Requests for the Mediation Service should be made to Human Resources. See Appendix 2 for an explanation of the mediation process and Appendix 3 for the model Mediation Procedure.
- 9.5 If mediation is successful in dealing with the issues, the situation should be monitored by the manager (or the line manager’s manager if the complaint is against the line manager) to ensure there is no recurrence of the problem and that the complainant does not suffer victimisation for having raised concerns.

10 Formal action

10.1 The following procedure will apply if:

- the unwanted behaviour continues after mediation has taken place or
- the council considers that the informal approach, including using mediation, is inappropriate because of the due to the seriousness/exceptional nature of alleged behaviour.

11 Reporting the matter formally

11.1 The council acknowledges that it may be difficult for you to raise a formal complaint and that this is likely to be a very stressful time for you. However, please be reassured that your complaint will be taken seriously and you will be given appropriate support throughout the process.

11.2 You may raise the matter formally, in writing (using the Dignity at Work Complaint Form – see Appendix 4) or orally, either in person or with or through a third party, with any of the following:

- your line manager or
- another appropriate manager (where the complaint is against your line manager) or
- Human Resources or
- your trade union representative.

11.3 If you make the complaint verbally in the first instance you will be asked to put your complaint in writing as soon as possible.

11.4 So that the issue can be dealt with promptly and efficiently you are asked to provide the following information:

- the name(s) of those you are raising the complaint about
- the dates, times of the incident(s) of inappropriate behaviour (where known)
- the specific nature of the alleged harassment/bullying
- a factual description of events
- how each incident made you feel
- the name(s) of any witnesses to any of the alleged incidents
- details of any action that you, or others, have taken to try to stop the behaviour.

11.5 It is your personal responsibility to raise the formal complaint and not the person who you may have turned to for help and support. However, in cases where the person supporting you considers that there may have been a breach of the law, they will tell you that this is their view and that in view of the seriousness of the

matter they have a responsibility to report the complaint even though you may decide you do not wish to do so.

- 11.6 The formal complaint should be made as soon as possible after the issue(s) that have given rise to the complaint have occurred.
- 11.7 You need to be aware that if you raise a complaint, the alleged “bully/harasser” will be informed about it. This may be difficult for you but a complaint cannot be fully investigated without this happening.

12 Acknowledgement of the complaint

- 12.1 Anyone receiving a complaint of bullying or harassment must notify Human Resources immediately. The completed Dignity at Work Complaint Form should also be forwarded to HR as soon as it has been received. HR will then write to the complainant to confirm its receipt **within seven calendar days.**
- 12.2 HR will contact the individual(s) against whom the complaint has been made, and their manager(s), by telephone, to let them know that a complaint has been made and that it is proposed to carry out an investigation into the allegations. This will then be followed up by a letter advising them who will be investigating the matter and who they can approach for help and support throughout the process. A synopsis of the original complaint (without disclosing details of witnesses or other third parties) will be sent with the letter so that they can see the nature of the allegations against them.

13 Investigators

- 13.1 Given the sensitive and sometimes complex nature of such cases, only managers who have had specific training in investigating bullying and harassment cases will be chosen by HR to carry out the investigation.
- 13.2 To ensure independence and impartiality, the investigator appointed will be of an appropriate level of seniority from a different service area within the council and will be someone who is not known to either the complainant or the alleged bully/harasser. The investigator will be supported by a member of HR who, wherever practicable, does not provide dedicated support to that particular service area.

14 Investigation

- 14.1 To minimise the stress and anxiety on all those concerned, investigations will be conducted as quickly as possible taking into account the seriousness and complexity of the case. Depending upon the circumstances of the case, the matter

will be investigated under either the council's Disciplinary or Capability Procedure. The investigation should be **completed within four weeks** of the complaint being received by HR. If it looks as though the investigation will not be completed within this time limit the Head of HR must be notified and the complainant advised of this with an explanation.

- 14.2 It may be necessary during the course of the investigation for the parties of the complaint to refrain from working together. This may involve suspending and/or transferring a member of staff to protect them, protect others or to aid the investigation.
- 14.3 Decisions on the appropriate course of action to take will be made by the investigator and HR having regard to the circumstances of the case. Any decision to suspend or move an individual will be without prejudice to the investigation or any further formal action that may be taken as a result of the complaint. Neither party will suffer a loss of pay or detriment to other terms and conditions as a result.
- 14.4 Everyone involved including the complainant, the alleged harasser and any witnesses will be entitled to the same degree of support and fair, impartial and respectful treatment during the course of the investigation.
- 14.5 Throughout the process the complainant, alleged harasser or witnesses will have the right to be accompanied by a trade union representative. Where they are not in a trade union they may be accompanied by a work colleague.
- 14.6 The matter will be dealt with in complete confidence and both the alleged perpetrator(s) and the complainant will be kept informed throughout the process on what is happening and the likely timescales involved.

15 Outcome of the investigation

- 15.1 Upon completion of the investigation, the investigating manager and HR will come to a view as to whether the complaint is founded or not. They will give a detailed response in writing to the complainant, the alleged bully/harasser and the latter's line manager outlining the results of the investigation and what action, if any, it is proposed to take in respect of the complaint.
- 15.2 Examples of possible outcomes are as follows:

(a) No case to answer

If the investigation finds that there is no case to answer the complainant and alleged perpetrator will be given a copy of the investigation report and

provided with verbal feedback on the outcome of the complaint that will later be confirmed in writing. Normally this feedback meeting will be chaired by the investigating manager with HR present.

(b) A case to answer

If the investigation finds evidence to support the allegation(s), then a disciplinary hearing will be convened under the council's Disciplinary Procedure. The outcome of the hearing will depend upon the circumstances of the case and could include:

- mandatory training for the perpetrator
- the issuing of a written warning (first, second or final)
- instant dismissal where the bullying or harassment is found to constitute gross misconduct.

The outcome of the hearing will be notified to the complainant and the alleged bully/harasser's line manager.

(c) Unfounded or malicious complaints

Where the investigating manager decides that the allegations in the complaint are unfounded or malicious, the complainant will be subject to action under the council's Disciplinary Procedure.

16 Follow up action

- 16.1 In order to ensure staff have confidence in these procedures for dealing with bullying and harassment issues, consideration should be given, subject to the constraints of confidentiality, to informing those with whom the individuals work of the outcome of the complaint.
- 16.2 In addition, the appropriate line manager (provided they were not personally involved in any allegations) must make sure that the situation in the workplace has been resolved. This is particularly important in cases where the alleged perpetrator remains in employment.
- 16.3 This means keeping in regular contact with the individuals involved to see how they are coping and making sure that there has been no victimisation against the complainant and/or witnesses. Victimisation against a complainant and/or witness will result in formal disciplinary action.
- 16.4 The manager may also wish to discuss with HR whether a team building programme, further mediation or other action might be helpful in facilitating a return to amicable and effective working relationships between those involved.

16.5 If the matter is still causing concern, then the manager should discuss the situation further with HR on how best to resolve the issues. Consideration could be given to:

- further mediation
- moving one of the parties to a different location or redeploying them to another job – this would normally be the perpetrator but in some instances it may be necessary to move the complainant. Wherever practicable the complainant should be given first choice.
- training or counselling for either or both parties or
- in some instances, further formal action.

17 Appeal Procedure

17.1 If the complainant is dissatisfied with the outcome of the investigation, there is a right of appeal against the decision through the council's Grievance Procedure.

17.2 Appeals must be made **within seven calendar days** of receiving written confirmation of the outcome of the investigation.

17.3 If the alleged harasser wishes to appeal against disciplinary action taken as a result of any subsequent Disciplinary Hearing, the appeals procedure under the Disciplinary Procedure should be used.

18 Incidents involving the council's customers

18.1 Where a customer or supplier makes a complaint of bullying or harassment against an employee, the employee's line manager should make enquiries in the first instance in line with the Council's Complaints Procedure. As a result of enquiries made, action may be taken under the Council's Disciplinary Procedure.

18.2 An employee who experiences bullying or harassment by a member of the public, contractor or supplier should notify their line manager immediately and record the incident on the Violence at Work form. The matter should then be investigated under the Violence at Work Policy.

19 Counselling and other sources of support

19.1 Facilities for counselling are available through the council's occupational health service. Employees may either self refer or ask their line manager or HR to refer them. Counselling is available both for employees who feel they have been harassed and those against whom harassment has been alleged.

- 19.2 Employees who are experiencing bullying or harassment from partners or ex-partners can find additional sources of support (local and national) in the council's Domestic Violence Toolkit.

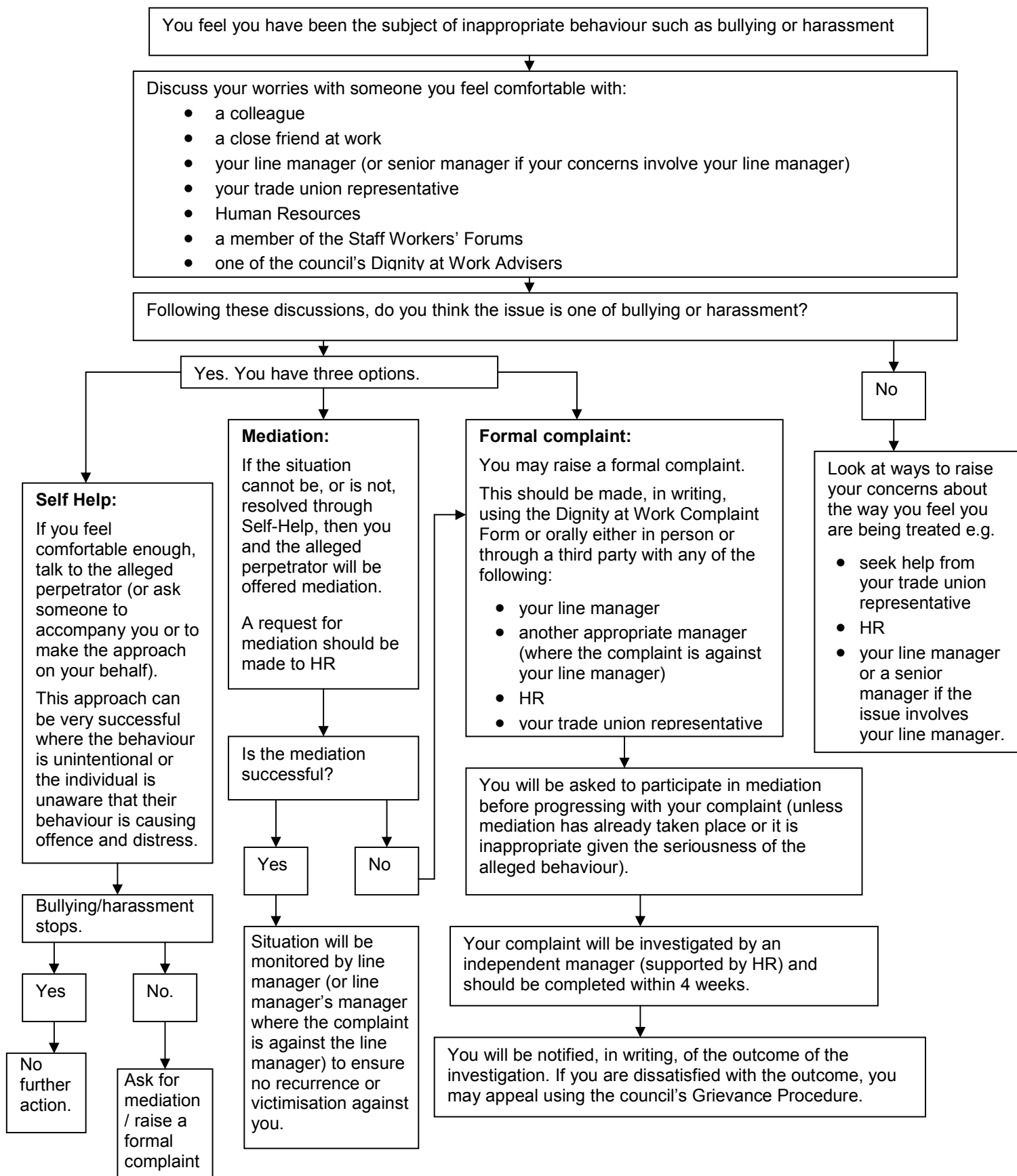
20 Confidentiality

- 20.1 It is absolutely essential that anyone involved in making or dealing with a complaint respects its strictly confidential nature. All complaints will be handled and investigated in a confidential manner and information about the allegation(s) will only be released to those people directly involved in the matter. This includes the person about whom the complaint has been made. Any breaches of confidentiality by any party involved will be dealt with under the council's Disciplinary Procedure.

21 Data Protection

- 21.1 The Data Protection Act 1998 sets out certain requirements for the protection of personal information against unauthorised disclosure. The council fully complies with this Act and any personal information provided will be used solely for the reasons stated in this policy and will be kept in accordance with the requirements of the Act.

How to resolve concerns about inappropriate behaviour Appendix 1



Workplace Mediation

What is workplace mediation?

Workplace mediation is a confidential and informal way to resolve disagreements or disputes between people who work together. The process is assisted by a trained mediator who acts as a facilitator. The process works by encouraging the parties to speak to each other and reach a mutually acceptable agreement that will sort out their problems. It gives the parties a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. The dispute could be between two or more people.

Mediation is:

Voluntary – It cannot work unless all parties agree to mediation. It is therefore essential that the parties are not put under pressure to attend mediation or feel that it will count against them if they decide not to participate.

A means for reaching agreement – The parties will be asked to identify their issues and concerns and from this an agenda will be set to help them jointly work towards an acceptable agreement. The mediator will encourage open communication and will help the parties to generate options and ideas that will improve the situation. The aim of mediation is to achieve a win/win outcome with the parties taking responsibility for making changes and agreeing a more positive way of working for the future.

Confidential – The process is carried out on the basis of agreed confidentiality between the parties and the mediator. The exception to this would be if a party raised issues of harm to self or other issues of serious misconduct. The content of mediation is not fed back to Human Resources or managers, nor is it recorded on an employee's personal file. However, the parties may find it helpful to share some or all details of their agreement with people outside of the process.

Quick – The aim of mediation is to resolve issues at the earliest opportunity. Mediation will be arranged as soon as practicable and the process can usually be completed in one or two days.

What types of disputes can be resolved through Workplace Mediation?

Mediation can be an effective method of resolving all types of workplace disputes. These could include:

- Communication issues
- Personality clashes
- Unresolved or ongoing grievance issues

- Perceived discrimination, harassment or bullying
- Difference of working style or approach
- Inappropriate use of power, status or position

What is the mediator's role?

The mediator's role is to act as an independent and impartial facilitator. They will not take sides or judge what is right or wrong. They will coordinate the process by making sure that each party has an equal voice, is heard and is able to respond. They will obtain an agreement of willingness to undergo the mediation from each party before the process begins and will also establish the ground rules and ensure that all parties comply with these.

The mediator will encourage the parties to discuss their issues of concern and help them look for realistic solutions. Where appropriate, the mediator will assist the parties to draw up a mutually acceptable agreement that can be signed by all parties.

The parties can talk to the mediator openly because he or she will not pass on anything said without the agreement of the person who said it.

How is a mediator allocated

The council will normally be using external mediators to help resolve its workplace issues.

The Model Mediation Procedure

Stage One

The mediator will meet with the parties individually to:

- explain the mediation process, including confidentiality, and the role of the mediator and
- explore the core issues and identify the ideal outcome for both parties.

The mediator may need to meet with either or both parties on more than one occasion to clarify any further issues arising from Stage One.

Stage Two

This involves face-to-face mediation. The mediator will ensure that a suitable venue has been arranged where there will be no interruptions and confidentiality can be maintained.

a) *Setting the scene:*

The mediator will:

- welcome the participants
- explain that the purpose of mediation is to enable the parties to make agreements about how they will work together in the future
- outline their own role i.e. to ensure the ground rules are adhered to and to facilitate the process that enables the parties to talk together and make their own mutual agreements
- check to make sure there is a willingness to participate
- explain the ground rules. These include the following: -
 - treating each other with courtesy, dignity and respect
 - remaining seated and listening to each other's views during the session
 - ensuring that the discussions within the session remain confidential
 - being clear that the mediation session is without prejudice and may not be used in any formal proceedings
 - those participating in the mediation process will be treated on an equal basis.

b) *Uninterrupted time:*

The purpose of this session is to hear each person's perspective on the situation.

- Each person explains in turn what has been going on and how it is affecting them.
- Each person is given the opportunity to express their side of the problem fully without intimidation or challenge. It is a condition of the mediation contract that during this time, everyone listens to one another without interrupting.

At the end of the session an agreement is reached on the issues to be explored and discussed further.

c) *Exchange:*

The focus of this session is on exploring the issues with the parties and identifying each individual's concerns.

- each person may respond to the issues, accusations and questions raised by the other party(ies). The mediator will encourage:
 - open, honest communication between the parties
 - a mutual understanding of the issues
 - the development of mutual trust and confidence between the parties
 - a change of focus from the past to the future.

At the end of the session, the mediator will summarise the areas of consensus and disagreement and will identify those issues which have potential to be resolved through the mediation process.

d) *Building an agreement:*

The mediator will facilitate a discussion with a view to building specific proposals for resolving the main issues identified at the previous stage. The focus will be on ways of behaving differently in the future. This will involve encouraging the parties to:

- problem solve
- generate and assess options
- accept or acknowledge conciliatory gestures
- construct a mutually acceptable agreement for a more positive way of working for the future and create fall back arrangements and
- identify what happens next if no agreement can be reached.

e) *Closure and Follow Up:*

The mediator will support the parties to:

- clearly understand the outcome(s) of the mediation process
- write down in clear, unambiguous language any agreement (where this is reached) and both parties will be asked to sign it. A review date may be included in the agreement.
- reach an agreement about who retains copies of the agreement (e.g. the parties or some other individual) and
- remember the confidential nature of the process.

Any agreement reached through mediation is not legally binding (although it is hoped that the parties will treat the agreement as 'morally binding') and any information shared by the parties is not used in any subsequent formal procedures due to the confidential nature of mediation. Notes made by the mediator are not kept or used beyond the mediation process. The only document to leave the mediation process is the agreement.

If mediation does not resolve the issues, staff can still choose to follow the formal procedures. If mediation takes place during any formal procedure, the procedure will usually be put 'on hold' pending the outcome of mediation.

Appendix 4



Dignity at Work Complaint Form

Directorate:		
Job title:		
Line manager:		Work location:
Address for correspondence:	e-mail address:	Work telephone:
		Home telephone:
Name of the person to whom the complaint is being made e.g. manager		
Name of the individual(s) against whom you are making the complaint		
Name and contact details of the individual who is supporting you and will accompany you to meetings etc.		
Please give specific details about your complaint. Use additional sheets if necessary		
<p>You do not need to have taken steps to try to resolve the issue before raising a formal complaint. However if you have done so, please give details of the action you have taken including dates where possible.</p>		

Please note we will not be able to investigate your complaint unless you sign this form.

Employee's signature:

Print name here:

Date signed:

The person receiving this complaint should forward it immediately to: Assistant Director Human Resources, 4th Floor, King's House, Grand Avenue, Hove, BN3 2LS.

