

Sheffield City Council

Dignity and Respect at Work Procedure

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DIGNITY AND RESPECT AT WORK

PROCEDURE

Our Policy Statement

Sheffield City Council (SCC) is committed to providing a safe environment for all employees, free from harassment, discrimination, victimisation or bullying. Sheffield City Council will treat all incidents seriously, and investigate all allegations promptly. An employee who has harassed, discriminated, victimised or bullied another employee may face disciplinary action, up to and including dismissal from employment.

1 HOW TO RAISE AN ISSUE OR MAKE A COMPLAINT

- 1.1 It is the intention of this procedure for issues and complaints to be resolved informally, quickly and at an early stage in order to prevent problems becoming more serious over time. Some allegations however may be of such a serious nature that an informal investigation may not be appropriate and it will have to be dealt with formally.
- 1.2 Informal issues or complaints can be made verbally or in writing to the appropriate Manager or an HR Adviser. More than one person or third parties can also raise an issue or make a complaint. **Where an HR Adviser receives a complaint, an appropriate Manager will be identified to manage the complaint within three working days.**
- 1.3 A formal complaint may be made where informal attempts at resolution have been unsuccessful, or where the seriousness of the incident(s) is such that the informal route is inappropriate. Formal complaints should be in writing to the Head of Service / Director copied to an HR Adviser. In the event that the complaint is against the Head of Service / Director then the complaint should be addressed to the appropriate Executive Director or Chief Executive, copied to the Director of Human Resources and Customer Services.
- 1.4 Both the complainant and the subject of the complaint have the right to be accompanied at all stages of the procedure by their trade union representative or other Council employee or chosen representative.

Information and Support on the Dignity and Respect Policy and Procedure can be obtained from Contact Advisers and Trade Union representatives.

See Appendix 1 How to get Information and Support

2 INITIAL VERIFICATION

- 2.1 The Manager, advised by an HR Adviser, will complete an initial verification of the complaint and determine and make a decision as to whether or not the allegations have some substance. **This should take place within 5 working days of the initial complaint.**
- 2.2 The Manager will complete the Accident and Incident Report Form and, if appropriate the Hate Incident form (where the incident is allegedly motivated by prejudice or hate).
- 2.3 If there is substance to the allegations then a discussion will take place with the Manager advised by an HR Adviser and the Complainant about options for resolution. An invitation to this discussion will be put in writing. The complainant will be able to have a Trade Union representative or colleague with them if they wish. **This should take place within 5 working days of determining the substance of the complaint.** An Informal Investigation will take place unless the seriousness of the incident(s) is such that the informal route is inappropriate. Formal Resolution will only be used where the Informal route is inappropriate or unsuccessful.
- 2.4 Where the Manager has decided there is not a case to answer or no further investigation is required **a written explanation will be given to the complainant within 5 working days of determining the lack of substance of the complaint. The complainant may, within 10 working days of being told of this decision, raise any objections through the Council's Grievance Procedure.** A Trade Union representative will be able to help with advice and support.
- 2.5 In the event of a counter complaint being made by the subject of the complaint – the counter complaint will be dealt with after completion of the investigation of the original complaint.
- 2.6 If a complaint is found to have been made for vexatious or malicious reasons then the complainant may be dealt with under the council's disciplinary procedure.

3 INFORMAL RESOLUTION

- 3.1 It may be sufficient for the Manager to speak to the subject of the complaint to explain the situation, the impact of the behaviour and future action should this continue and report back to the complainant. **This should take place within 5 Working Days of determining the substance of the complaint.** The complainant and the subject of the complaint will be able to have a Trade Union representative or colleague with them if they wish. A record of this discussion should be maintained on file and should only be referred to if

a formal or further information or complaints are initiated. The length of time any records can be kept will be checked with legal services.

- 3.2 Where appropriate the Manager, advised by an HR Adviser may bring the two parties together to discuss the complaint and agree a way forward to resolve the situation and prevent it from escalating. Options, solutions and actions will be discussed. This will depend on the circumstances of the case and the wishes of the complainant. The complainant and the subject of the complaint will be able to have a Trade Union representative or colleague with them if they wish. Appropriate records of the discussion and agreement reached should be maintained on file. They will be reviewed by the manager to ensure that agreed actions are being adhered to. If agreed actions are not being adhered to the manager will need to manage this with advice from an HR adviser. Records should be maintained securely and only referred to if a formal or further informal complaints are initiated. The length of time any records can be kept will be checked with legal services.
- 3.3 The Manager will hold a Review meeting with the Complainant and the Subject of the Complaint **within 4 weeks of the meeting to discuss the way forward**. It may also be necessary to hold another Review meeting depending on the success of the last one and this should take place **within 2 weeks of the last meeting**. Records will be kept.
- 3.4 If the informal resolution is unsuccessful then it may be necessary to proceed to a formal investigation.

Further information on investigations can be found in the [Investigations Guidance](#) in the HRPoint Library in Conduct and Work relationships under the Topic: Investigations.

4 FORMAL RESOLUTION

- 4.1 A formal complaint may be made where informal attempts at resolution have been unsuccessful, or where the seriousness of the incident(s) is such that the informal route is inappropriate.
- 4.2 If there has been an informal investigation - on receipt of a formal complaint the Head of Service / Director or Executive Director advised by an HR Adviser will consult the records made in the informal investigation to ensure that appropriate approaches have been used to resolve the issues. The Head of Service / Director or Executive Director may then want to make further suggestions for the manager to address as part of an informal resolution before deciding whether or not to go ahead with a formal procedure.
- 4.3 If there has not been an informal investigation - on receipt of a formal complaint the Head of Service / Director or Executive Director will appoint an Investigating Manager (this may be a manager from a different service) and an Investigation Team, including a Manager from another Service Area or

Portfolio, to conduct an investigation into the allegations made. **The complainant and the subject of the complaint will be informed of the appointment of an Investigation Team in writing within 5 working days and have the opportunity to raise objections, in writing, to the choice of Investigating Team within 5 working days.**

- 4.4 In the event that an objection is received the Head of Service / Director or Executive Director will have discretion to consider appointing alternative team members or confirm their original choice.
- 4.5 The Investigation Team will have access to an HR Adviser who will provide professional advice on the conduct of the investigation and procedural issues.
- 4.6 **Within 10 working days the Investigating Manager will inform both parties of the specific complaint being investigated, the parameters of the investigation and the timetable for carrying this out.**
- 4.7 The Investigation Team will only interview those witnesses relevant to the complaint under investigation. Witnesses may request a trade union representative or other chosen Council employee to attend the interview with them - excluding the complainant or subject of the complaint.
- 4.8 Witnesses must be informed that the statements taken during the investigation may be included in the management statement of case and, therefore, shared with both parties and their representatives. Witnesses must also be informed that in the event that the case is later presented to Employment Tribunal or other Court of Law their statements may be shared and they may be called as witnesses to attend a public hearing in person. However, where possible, efforts should be made to support and protect witnesses during the process.
- 4.9 On completion of the investigation, the Investigating Manager will produce a short written report that will outline the nature of the complaint, the process of investigation, a summary of the findings of the team and recommendations for action. **This report will be provided to both the complainant and subject of the complaint within 10 working days of the end of the investigation.**
- 4.10 **The investigation report will be discussed with the Head of Service / Director or Executive Director, who will inform both parties of their final decision on the action to be taken, within 5 working days.**
- 4.11 **Where a decision to convene a disciplinary hearing has been made, a hearing will be established and a full management statement of case will be produced and shared with the subject of the complaint at least 10 working days before the hearing.**
- 4.12 The complainant needs to know that their complaint has been taken seriously and that issues relating to the complaint will be dealt with. They do not have a right to know the outcome of any disciplinary hearing. If the complainant

feels the complaint has not been dealt with appropriately at this stage they may discuss their concerns with the appropriate Head of Service / Director.

5 THE RIGHT OF APPEAL ABOUT THE DIGNITY & RESPECT INVESTIGATION

5.1 The Subject of the Complaint

If disciplinary action is to be taken, the disciplinary and appeal process set out in the disciplinary procedure will apply. The subject of the complaint may raise any concerns about the investigation process as part of their statement of case.

5.2 The Complainant

The person making the complaint has the right of appeal against the **outcome of the investigation** on the following grounds.

- The investigation was conducted in an unfair manner or was in some way inadequate;
- That the conclusion was unfair based on the evidence.

5.3 Appeals should be submitted in writing within 10 working days of receipt of the Investigation Report. Appeals should be sent to the Director of Human Resources and Customer Services, setting out the grounds of the appeal and the reasons for the appeal.

A Head of Service / Director or Executive Director will hear the appeal, with appropriate HR advice.

The appeal panel will consider the facts, and make one of three decisions:

- to uphold the original conclusion
- to substitute a different conclusion
- to instigate further investigation, either in whole or part as necessary

The decision of the appeal panel will be notified to both parties and will be final.

6. SUSPENSION OR TRANSFER OF THE SUBJECT OF THE COMPLAINT

- 6.1 Harassment, discrimination, victimisation or bullying have the potential to constitute gross misconduct. Therefore Managers must always seek advice from Human Resources and consider the seriousness of the nature of the complaint before making a decision whether or not to suspend the subject of the complaint.
- 6.2 Where the Manager seeks to suspend the subject of the complaint they will do so in accordance with the Council's disciplinary procedure and with the authority of an Authorised Manager.
- 6.3 Where there is the potential for gross misconduct to have occurred, temporary transfer of the subject of the complaint must not be used as an alternative to suspension.
- 6.4 The Manager should not normally transfer the subject of the complaint and/or the complainant to a different worksite unless either party specifically requests transfer for themselves. Any transfer must be able to be easily facilitated by the service and supported by the advice of Human Resources.
- 6.5 In the event that a transfer is agreed, the transferring employee must be informed in writing that the transfer arrangement will normally continue for the duration of the investigation and any formal proceedings that may follow it. It is important that this arrangement is reviewed regularly and the transferring employee is updated on work issues within their substantive post.
- 6.6 It is acknowledged that the re-integration of a complainant or the subject of the complaint is a difficult process for Managers and Employees alike. However every effort should be made to support all parties and Managers should consider how this could be facilitated. This may include plans for relocation, induction, phased return, counselling support, and training.
- 6.7 In exceptional circumstances, following an investigation, redeployment may be considered where the complainant requests this and feels unable to continue in their role as a result of their complaint. Redeployment is an option not a right, and will not be considered where an employee has made false allegations.

The request for redeployment will be dealt with under the Redeployment Policy and Procedure under "other circumstances" within the Eligibility Criteria. The possible outcomes, timescales and arrangements must be discussed and understood by all parties before proceeding. If the request for redeployment is accepted and the employee enters the Talent Pool, they should not face dismissal for a reason associated with this situation.

7. TIMESCALES

- 7.1 Timescales have been set so that complaints, problems and issues are dealt with and resolved as quickly as possible. This is important in terms of reducing the impact of stress and possible long term sickness that may be caused to individuals involved in the resolution process.
- 7.2 It is accepted that timescales may not always be easy to adhere to and this will need to be discussed throughout the process between managers, HR advisers and trade union representatives.

8. MONITORING THE USE OF THE PROCEDURE

- 8.1 The Human Resource Advisers are responsible for collecting information about the use of the procedure. The monitoring processes do not identify individuals.
- 8.2 Contact Advisers are also responsible for producing monitoring reports to submit information on a quarterly basis to Human Resources.
- 8.3 Human Resources will produce information gathered from these reports on a half yearly basis.

APPENDIX 1

9 HOW TO GET INFORMATION AND SUPPORT

Contact Advisers

- 9.1 Employees who feel they are experiencing harassment, discrimination, and victimisation or bullying at work can access the City Council Contact Advisers for information and support. Details of the Contact Advisers will be promoted and people can contact them also by contacting Human Resources or through the staff Forums.
- 9.2 The Contact Advisers are employees of the City Council from all levels and all Portfolios. They undertake this role on a voluntary basis and can offer support to colleagues experiencing difficulties. The Contact Adviser will arrange to meet the complainant at an agreed venue unless the situation can be handled on the telephone at the time of the initial contact.

9.3 The role of the Contact Adviser is to:

- Be available as a point of contact for those experiencing harassment, discrimination, victimisation or bullying at work;
- To listen, reassure and support;
- To respond in a sensitive, non-judgmental manner
- To advise the complainant of the options available under the City Council policy and procedure and the possible implications;
- To encourage the complainant to seek the advice of other relevant people.

9.4 Contact Advisers may also be a point of contact for witnesses, third party complainants, and the subject of the complaint but not both parties to the same complaint.

9.5 The Contact Adviser will complete appropriate forms to record information for statistical recording and to log details of the complaint. The forms will not identify the complainant at this stage and a reference code will be allocated to the individual concerned. Forms will be sent to Human Resources for monitoring and recording. **They will be destroyed 12 months after the last contact.**

9.6 Contact Advisers will not be involved in representation of individuals in any informal or formal investigations.

Trade Unions and Other Sources of Support

9.7 Alternatively employees can contact either their Trade Union, Human Resources or another colleague for advice and support.

Appendix 2

10. Definitions of Harassment, Discrimination, Victimisation and Bullying

10.1 Harassment/Sexual harassment

Harassment is unwelcome conduct related to a protected characteristic; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is conduct which makes an employee feel offended, humiliated or intimidated or creates such an environment. It can include behaviour which an employee finds offensive even if it isn't directed at them.

Sexual harassment can involve one or more incidents and may be physical, verbal or non-verbal. Examples of conduct or behaviour which constitute sexual harassment include;

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
- Physical violence, including sexual assault
- The use of job-related threats or rewards to solicit sexual favours

Verbal conduct

- Comments on an employee's appearance, sex (gender) age, private life, etc.
- Sexual comments, stories and jokes
- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the gender of the employee
- Condescending or paternalistic remarks
- Sexual verbal favours

Non-verbal conduct

- Display of sexually explicit or suggestive material
- Sexually-suggestive gestures
- Whistling
- Leering
- Sending sexually explicit messages (by phone or by email)

An employee can be a victim of sexual harassment, regardless of their gender and of the gender of the harasser. Sheffield City Council recognises that sexual harassment may also occur between people of the same gender. What matters is that the sexual conduct is unwelcome by the person against whom it is directed.

Anyone (including employees of Sheffield City Council, clients, customers, agency workers, contractors or visitors) who harasses another person will be investigated.

Harassment is unacceptable, whether it takes place on Sheffield City Council premises or elsewhere (including social events, business trips, training sessions or conferences) during or outside of work time.

Sexual Assault

Sexual assault is a criminal offence. It is defined as an act of physical, psychological and emotional violation in the form of a sexual act, inflicted on someone without their consent. It can involve forcing or manipulating someone to witness or participate in any sexual acts. Sheffield City Council will notify the police if it is suspected or alleged that a criminal offence may have taken place.

10.2 Discrimination

Discrimination is less favourable treatment of an individual related to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Discrimination can be direct; this is where the less favourable treatment is because of one of the protected characteristics above, or where there is an association or perception of one of these. For example if an employee is refused opportunities at work because of their age this would be direct discrimination.

Indirect discrimination is where a requirement is made which has the effect of being less favourable towards someone with a protected characteristic. It is usually less obvious and can be unintended. For example, if a job advertisement stipulated a minimum number of years' experience (which could not be justified) this would be indirect discrimination.

10.3 Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour. It can involve an abuse of power and may or may not be related to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. For example, if a manager picked on an employee because they disliked him or her this would be bullying.

10.4 Victimization

Victimization is treating an employee badly or subjecting them to a detriment because they have made a claim for discrimination or harassment, supported a colleague's complaint, or are perceived to have done so.

The protection applies if the employee did this in good faith even if the claim later proves to be wrong or proceedings are unsuccessful.

Examples where an employee is subject to bullying, ostracised in the workplace, rejected for promotion, denied training, disciplined or dismissed as a result of their complaint. This is all classed as victimisation.

It is legal protection for those who have made a complaint under the Equality Act. There is no time limit within which the victimisation must happen for an employee to be protected; it will be valid if an employee is treated badly because of their previous complaint, even if this is years later.