

DRAFT DIGNITY AT WORK POLICY

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Policy Statement

Monmouthshire County Council is committed to its obligations in relation to all aspects of equality. All colleagues have the right to a working environment, in which each of us has a responsibility to create a safe environment where we are all encouraged to meet our full potential. This is achieved by being able to work in a non-threatening environment, free of harassment and/or bullying and which in turn encourages harmonious, considerate and dignified working relationships which is in line with our values of;

Openness: we aspire to be open and honest to develop trusting relationships.

Fairness: we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.

Flexibility: we aspire to be flexible in our thinking and action to become an effective and efficient organisation.

Teamwork: we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

The Council recognises its responsibilities under the following legislation:-

- Health and Safety at Work Act 1974
- Trade Union Reform and Employment Rights Act 1993
- Employment Rights Act 1996
- Human Rights Act 1998
- Equality Act 2010

Policy Scope

This Policy applies to all employees other than those employed in schools and the policy should be read in conjunction with the Council's:-

- Equalities Policy
- Code of Conduct Policy
- Whistleblowing Policy
- NJC Terms and Conditions Local Government Employees

The Council is determined to eliminate all forms of harassment, bullying and victimisation within the working environment.

This policy is designed both to help prevent any harassment, bullying and victimisation and to offer support to any colleague who feels that they are being harassed, bullied or victimised. It aims to assist in developing and encouraging a working & learning environment and culture in which harassment and bullying are understood and are known

to be unacceptable, and where individuals have the confidence to report harassment, bullying or victimisation without fear or intimidation.

In its application, this policy seeks to ensure that there is no discrimination against employees either directly or indirectly on grounds prohibited by the Equality Act 2010 which covers age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation This policy is inclusive of partners of the opposite or same sex.

Definitions of Harassment, Bullying and Victimisation

Harassment

Harassment is defined under the Equality Act 2010 as:

“Unwanted conduct related to a relevant protected characteristic, 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”.

The Equality Act 2010 makes it unlawful to harass an individual or group for a reason related to a relevant protected characteristic shown overleaf.

- age
- disability
- race
- sex
- gender reassignment
- religion or belief
- sexual orientation
- Pregnancy/Maternity¹ see note below
- Marriage/Civil Partnerships
- Welsh Language² see note below

¹ *Pregnancy/maternity and marriage/civil partnerships are not included in the standard definition of harassment provided by the Equality Act 2010 however harassing someone because they are pregnant or on maternity leave is likely to constitute direct discrimination in any event and therefore will be covered by this Policy. Pregnancy/maternity and marriage/civil partnerships **are** included in the protection from victimisation.*

² *There is currently no specific legal protection on the grounds of Welsh language under the Equality Act or legal protection against harassment on the grounds of Welsh language for individuals under the Welsh*

Conduct that is acceptable to one person may prove to be unwanted, unwelcome or uninvited by another and the test applied must be that the conduct, whether unwitting or deliberate, is unacceptable to the recipient.

In addition to the Act making it unlawful for individuals to harass others on grounds relating to the protected characteristics listed, the Act also makes it unlawful for an employer to harass employees and people applying for employment.

In order to amount to Harassment under the Equality Act 2010 the behaviour must be for a reason related to a relevant protected characteristic (see list above) including the perception that a person has a protected characteristic even if this is not true (e.g. a person is harassed because he is perceived to be disabled even though he is not).

Bullying

ACAS have provided the following definition:-

“Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient”.

Behaviour that is considered bullying by one person may be considered firm management by another. However, inappropriate behaviour that leads to employees becoming stressed, demotivated or frightened is unacceptable.

There is also wider protection from bullying under this policy where the behaviour may not be related to a protected characteristic. The Protection from Harassment Act 1997 also provides a legal protection against harassment (as a criminal offence) in the form of a course of behaviour (not a single event) that causes alarm or distress (e.g. stalking).

Victimisation

Victimisation is defined in the act as

“Where one person treats another less favourably because he or she has asserted their legal rights in line with the Act or helped someone else to do so”.

Victimisation occurs where there is unfair treatment of a person as a result of them making or supporting a complaint related to discrimination or harassment. Victimisation can constitute unlawful discrimination, and result in disciplinary action, regardless of the outcome of the original complaint.

The Act provides protection against victimisation for all the protected characteristics.

Language Measure however behaviour that is deemed offensive, intimidating, malicious or insulting to an individual may amount to bullying under this policy.

Responsibilities

All colleagues have a responsibility to take all practical steps to prevent unwanted behaviours occurring in the workplace. This includes:

- Ensuring that colleagues are aware of the Dignity at Work policy
- Promoting a positive working environment by treating everyone with respect, dignity and consideration.
- Challenging inappropriate remarks, jokes, written or electronic and photographic material
- Attending any appropriate training
- Ensuring that colleagues know that they are approachable on bullying or harassment issues

All colleagues carry responsibility for their own behaviour under this policy and accordingly, harassment, bullying or victimisation can lead to charges of gross misconduct and where proven, disciplinary action up to and including dismissal.

Where bullying and harassment does occur, it is the manager's responsibility to ensure that it is dealt with quickly and effectively. Prompt and effective action will in itself help to prevent reoccurrence and failure to do so may result in disciplinary action being taken against the manager.

Monitoring

In line with our duty under the Equality Act 2010 the Council will monitor by the protected characteristics of sex, sexual orientation, race, religion or belief, welsh language needs, age, disability, whether married or in a civil partnership, gender reassignment, whether pregnant or on maternity and will maintain a record of complaints of harassment noting any actions taken.

Raising a Complaint

Informal Stage

Colleagues should aim to settle most complaints informally with their line manager. Many problems can be raised and settled during the course of everyday working relationships. This also allows for problems to be settled quickly. However, there may be circumstances where the concern is of such a serious nature that an informal process may not be appropriate, and in these cases, the formal procedure may be considered straight away.

The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effect of his or her behaviour and agree to change it.

Colleagues are expected to have raised issues informally prior to commencing the formal stage. When raising a complaint the colleague should do so in writing making it clear that they are raising the matter informally at this stage giving a full explanation of the nature of the behaviour(s) that is upsetting or unwelcome.

The colleague's supervisor or manager should seek to resolve the complaint having due regard to the nature of the complaint informally and respond to the employee's complaint as soon as possible, normally within 10 working days.

If the colleague feels unable to approach their line manager, they should contact People Services HR, who will discuss ways of dealing with the issue.

The colleague's supervisor or manager should seek to resolve the grievance as soon as possible, normally within 10 working days. Dealing with grievances in this way encourages speedy resolution of problems.

It is advisable for a note of the meeting to be made which both the manager and colleague should sign. For safekeeping this note, can be kept on the personnel file.

Mediation may be considered to aid resolution of the matter if other attempts to address the situation have been unsuccessful.

Formal Procedure

If it is not possible to resolve the issue informally colleagues should raise the matter formally in writing (or verbally to their line manager who will make a note of the complaint) stating that they wish to raise their complaint under the Formal stage of this process within 7 working days.

All complaints relating to harassment, bullying or victimisation should be made through the Council's existing Fairness at Work (Grievance) Policy and that policy followed to conclusion.

Confidentiality

All those involved in this policy, in the actions of this policy, should maintain strict confidentiality. Repeating accusations of harassment prior to the outcome of an informal or formal investigation itself can constitute harassment. Breaches of confidentiality may result in disciplinary action being taken. The need to observe an appropriate level of confidentiality will not prevent anyone involved in the procedure from seeking advice.

SUPPORT – contact details

People Services HR - peopleservices@monmouthshire.gov.uk on 01633 644400

External Counselling Service – contact People Services on 01633 644400

ACAS Helpline for Workplace Advice - 0300 123 1100

www.workplacebullying.co.uk Helpline 0808 800 2222

www.bullying.co.uk

Disability on the Agenda - <https://www.gov.uk/browse/disabilities>

The Equality and Human Rights Commission (EHRC) - <http://www.equalityhumanrights.com>

Appendix 1

Examples of Harassment and Bullying

- Behaviour which is racist, sexist, homophobic, trans phobic, ageist or aimed at an employee's disability
- Any behaviour or abuse which may cause distress, such as name-calling, ridicule, insults, jokes, graffiti or physical abuse/threats.
- Abuse through email, text, website or other electronic media e.g. Twitter, Facebook or any other social networking sites
- Invasion of personal space
- Displaying offensive material (on paper or electronically)
- Spreading malicious rumours or insulting someone.
- Intentional isolation or exclusion.
- Persistent unwelcome contact, which may include text messages, emails, phone calls, gifts, letters, calling at your home or place of work or study.
- Stalking
- Offensive sexual behaviour such as suggestive looks, leering and remarks, offensive flirtations and unwanted physical contact or sexual advances.
- Offers of favoured treatment in return for sex (or threats of disadvantage if refused).
- Drawing unwelcome attention to, or abusing someone's religious beliefs.

Appendix 2

Guidance notes

Specific Responsibilities

Managers

All Managers are obliged to act fully in accordance with this procedure at all times. This includes creating a work environment, which neither condones nor gives support to any kind of acts of harassment and/or bullying and ensuring that this procedure is clearly communicated to all employees.

Where a manager becomes aware of or receives a complaint about an alleged case of harassment and/or bullying affecting one of their staff she/he should;

- Treat the complaint seriously;
- Listen and be sympathetic to the complainant;
- Try to get the offending behaviour to stop;
- Try to establish from the employee, the nature, seriousness and impact of the alleged harassment and or bullying;
- Advise the employee of the sources of support available to them;
- Consider, with advice from the People Management Advisor/Lead if the matter should be dealt with formally or informally. If the matter needs to be dealt with formally, ask the employee if they wish to make a formal written complaint.

If the behaviour could constitute misconduct, and/or is witnessed independently, it is the manager's responsibility to take action in accordance with the performance and conduct procedure, without the need for the employee to make a formal written complaint.

There may be cases where a manager believes that an employee is being harassed and/or bullied but the employee either denies it or insists that they want no action taken about it. In such cases the manager may not pressure the employee to complain or request action. However, the manager should consider other ways in which they can stop the behaviour.

Colleagues

Colleagues should:

- Be aware of the issue of harassment and/or bullying, of the forms it can take, and of the damage it can do to colleagues and the authority;
- Be aware of their own conduct and the impact it may have on other people;
- Not be afraid to stand up against harassment and or bullying or to support a colleague who is being harassed and/or bullied.

- Talk in confidence to any colleague that you believe is being harassed and/or bullied and inform them of this policy. It is possible that the colleague will be reluctant to have the matter dealt with formally. If so, be encouraging but sensitive to their wishes.

Raising a Complaint

You should tell the person what behaviour of his or hers you find offensive and unwelcome, and say that you would like it to stop immediately. You may wish to add that, if the behaviour continues, you intend to make a formal complaint to your manager. You should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and you wish to make a formal complaint.

Mediation

You may wish to consider mediation as an alternative method of informal resolution. Mediation is a process, which brings people together in the presence of an impartial third party who facilitates a resolution. The participants to the process (and not the mediator) decide on the terms of any resolution. This voluntary process encourages feelings to be aired and empowers those involved. It is most effective when both parties are willing to resolve matters and reach a solution. Mediation can be accessed via your Line Manager.

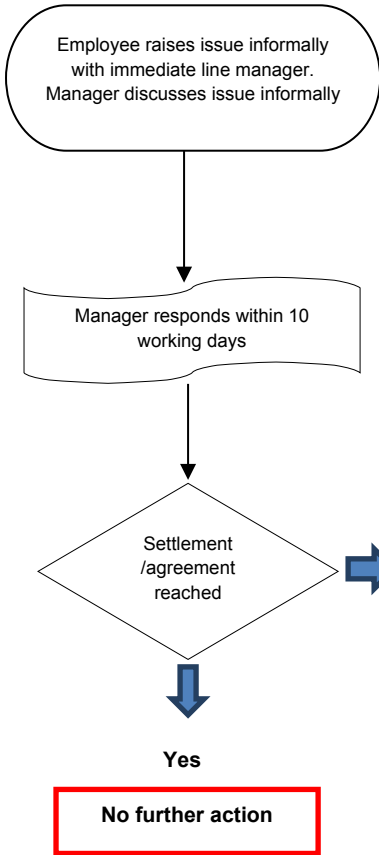
What happens if I am accused of bullying or harassment?

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him or her and to have his or her feelings respected by others.

You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. If a formal complaint is made about your behaviour, this will be investigated under the Council's Disciplinary Policy, if appropriate. The Disciplinary Policy will be followed and you will have rights as set out in that procedure.

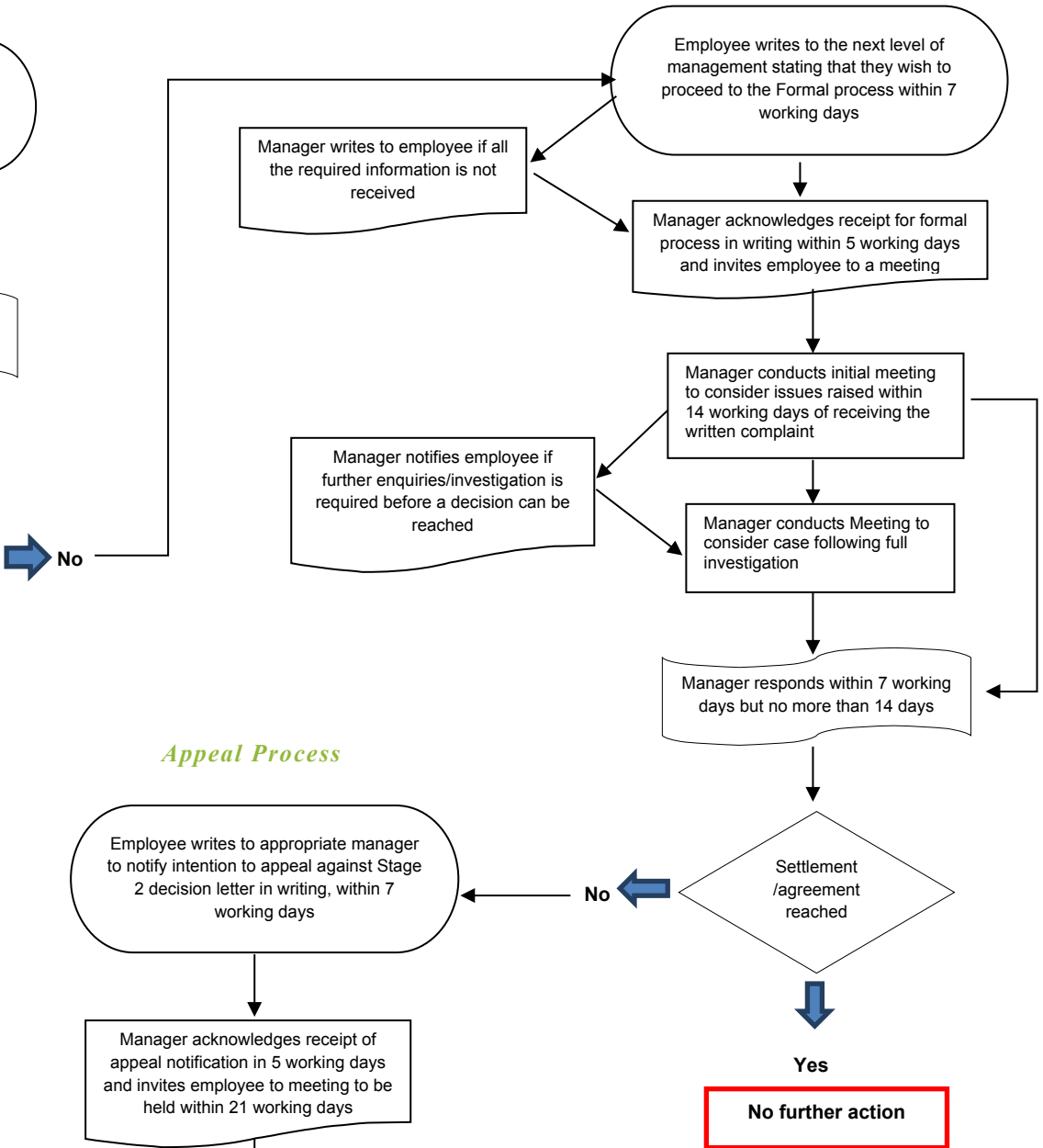
You will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied at formal meetings by a trade union representative or work colleague. The Disciplinary Policy will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct, which, if proved, could lead to dismissal without notice.

Informal Process

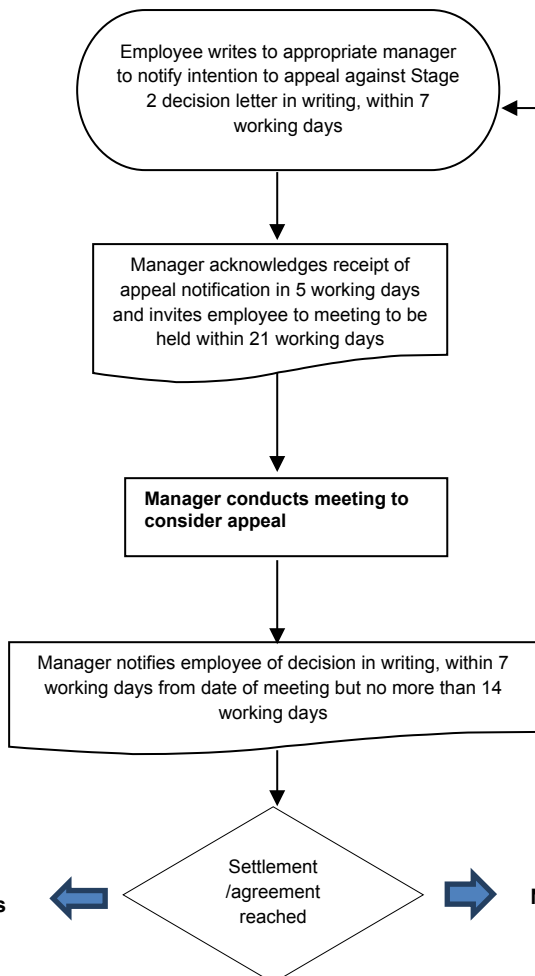


Flowchart

Formal Process (Fairness at work(Grievance))



Appeal Process



The decision of the Manager at Stage 3 of the Formal Procedure will be the final stage of the Grievance Procedure and there will be no further right of appeal internally.

Version Control

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