



Personnel Committee

Date: Wednesday, 20 October 2021
Time: 2.10 pm (or at the rise of the Executive if later)
Venue: Council Chamber, Level 2, Town Hall Extension

Everyone is welcome to attend this committee meeting.

Access to the Council Chamber

Public access to the Council Chamber is on Level 2 of the Town Hall Extension, using the lift or stairs in the lobby of the Mount Street entrance to the Extension. That lobby can also be reached from the St. Peter's Square entrance and from Library Walk. **There is no public access from the Lloyd Street entrances of the Extension.**

Membership of the Personnel Committee

Councillors - Akbar, Bridges, Craig, Leese, Midgley, Rahman, Rawlins, Sheikh and White

Agenda

- 1. Urgent Business**
To consider any items which the Chair has agreed to have submitted as urgent.
- 2. Appeals**
To consider any appeals from the public against refusal to allow inspection of background documents and/or the inclusion of items in the confidential part of the agenda.
- 3. Interests**
To allow Members an opportunity to [a] declare any personal, prejudicial or disclosable pecuniary interests they might have in any items which appear on this agenda; and [b] record any items from which they are precluded from voting as a result of Council Tax/Council rent arrears; [c] the existence and nature of party whipping arrangements in respect of any item to be considered at this meeting. Members with a personal interest should declare that at the start of the item under consideration. If Members also have a prejudicial or disclosable pecuniary interest they must withdraw from the meeting during the consideration of the item.
- 4. Minutes** 5 - 6
To approve as a correct record the minutes of the meeting held on 17 March 2021.
- 5. New and Revised Policies** 7 - 80
The report of the Director of Human Resources and Organisational Development (HROD) is attached.

Information about the Committee

The Personnel Committee is made up of the Leader of the Council, the other nine Members of the Executive, the Assistant Executive Member (Finance and Human Resources), and the Leader of the Opposition.

Amongst its responsibilities, the Personnel Committee considers department staffing and organisational reviews; determines collective and corporate terms and conditions of staff and 'market rate' supplements. The Committee also determines the assignment and re-grading of certain posts and policies relating to local government pensions.

The Council is concerned to ensure that its meetings are as open as possible and confidential business is kept to the strict minimum. When confidential items are involved these are considered at the end of the meeting at which point members of the public are asked to leave.

The Council welcomes the filming, recording, public broadcast and use of social media to report on the Committee's meetings by members of the public. Agenda, reports and minutes of all Council Committees can be found on the Council's website www.manchester.gov.uk.

Smoking is not allowed in Council buildings.

Joanne Roney OBE
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Further Information

For help, advice and information about this meeting please contact the Committee Officer:

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This agenda was issued on **Tuesday, 12 October 2021** by the Governance and Scrutiny Support Unit, Manchester City Council, Level 3, Town Hall Extension (Lloyd Street Elevation), Manchester M60 2LA

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Personnel Committee

Minutes of the meeting held on 17 March 2021

Present: Councillor Bridges – in the Chair

Councillors: Akbar, Craig, Leech, Murphy, Rahman, and Stogia

Apologies: Councillors Leese and Ollerhead

PE/21/06 Appointment of a Chair for the meeting

In the absence of the Chair the committee appointed a member to chair the meeting.

Decision

To appoint Councillor Bridges as Chair for the meeting.

PE/21/07 Minutes of the previous meeting

Decision

To approve the minutes of the meeting held on 20 January 2021 as a correct record.

PE/21/08 Draft Pay Policy Statement 2021/22

In line with requirements of the Localism Act (2011), the Committee considered a report of the Director of Human Resources and Organisational Development (HROD) which presented the draft Manchester City Council Pay Policy Statement for 2021/22 for approval prior to its submission to Council.

The report included the Statement's organisational context, the impact of the 2021/22 budget as well as the direction of travel in relation to staff pay for the year ahead in line with the organisational priorities. Information on the Council's 'Gender Pay Gap' and work to proactively promote workforce equality, in accordance with the requirement to carry out Gender Pay Reporting set out within The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 was also included.

The Director of HROD introduced the report, and gave particular emphasis to the ratio between the pay of the highest and lowest earners which had not increased significantly, and the gender pay gap which was reportedly significantly lower than the national average.

Trades Union comments had been included in the report for the committee to consider. In essence they urged Council to consider reporting on any race pay gap issues, despite this not currently being a required component of the Statement. The Director of HROD confirmed that this was something that the Council was seeking to

complete, but was dependent on 100% ethnicity disclosure across the workforce. She added that once this information gathering exercise was complete work could be progressed. The Chair welcomed the commitment to gather the required data and referenced the wider ongoing work across the Council to strengthen race equality across the organisation

Noting this, the committee agreed the recommendation.

Decision

To note the organisation's Pay and Grading Structure for the financial year 2021/22 appended to the Pay Policy Statement and recommend it for approval by the Council at its meeting on 31 March 2021.

**Manchester City Council
Report for Resolution**

Report to: Personnel Committee – 20 October 2021

Subject: New and revised HROD policies

Report of: Director of Human Resources and Organisational Development

Purpose of Report:

To outline new and revised employment policies for the Committee's consideration: the new Third-Party Harassment and Abuse Policy and the revised Disciplinary and Employee Dispute Resolution Policies.

Recommendation:

The Committee is requested to approve the new policies attached to this report.

Wards affected: All

Contact Officers:

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Background reports and policies (available for public inspection)

None.

1. Summary

- 1.1 The new Third-Party Harassment and Abuse Policy and revised Disciplinary and Employee Dispute Resolution Policies have been developed in response to the recommendations of both the 2019 Race Equity Review, and the subsequent Race Equality Working Group which highlighted the need to be more explicit within the Council's workforce policies about the organisational stance on race discrimination.

2. Context for the Review

- 2.1 The review of the Council's Approach to Workforce Race Equality in 2019 highlighted the need for the Council to update and strengthen the racial equality aspects of some of our core employment policies. In consultation with Trade Unions, the Disciplinary and Employee Dispute Resolution (EDR) Policy have been prioritised for review given the significant role of disciplinary and EDR processes in Employee Relations. This has also provided opportunity to review all equality, diversity and inclusion (EDI) aspects of these policies to ensure these sections are up to date and reflect our current EDI priorities.
- 2.2 Research undertaken by the Race Equality Working Group and HROD indicates that some staff and managers find our existing policies inaccessible due to unnecessarily lengthy documents and complex language/ terminology. In response to this feedback, and research into best practice and readability scores, the Disciplinary and EDR Policy are as simple and succinct as possible. Guidance documents that will sit alongside the new policies will provide the comprehensive detail on specific points that can be consulted by users as and when needed. The roll out of both the policy and guidance will be supplemented with a revised training offer, including specific investigating and hearing officer training.
- 2.3 The review of the Council's Approach to Workforce Race Equality also highlighted that there was a policy gap and that the issue of third-party racial harassment was not addressed within the existing policy framework. A recommendation was made that a third-party harassment policy should be developed. We have met this recommendation by developing a third-party harassment and abuse policy that covers both harassment and general abuse of workers.

3. New policy - Third Party Harassment and Abuse Policy

3.1 Policy development context:

There are several imperatives for the Council to develop this policy at this time. These include:

- The review of the Council's Approach to Workforce Race Equality in 2019 outlined how both Black Asian Minority Ethnic staff and Unite raised the issue of staff experiencing racial harassment by members of the public when carrying out their duties. The report recommended developing a policy

framework to protect staff from harassment by members of the public and service users.

- The issue of third-party abuse by service users or members of the public has been raised in other forums, for example at staff engagement events on the Employee Code of Conduct (2019), colleagues raised general abuse of employees while carrying out their duties as a concern.
- The Trade Union Congress recommended in 2019 that organisations put in place a Third-party abuse and harassment policy to ensure dignity at work for all staff.
- The Council carried forward a motion to end harassment against women and girls and become a 'white ribbon' employer at the end of March this year and the new policy covers sexual harassment of staff by third parties.
- In July of this year, the Government published its response to the consultation on workplace sexual harassment which was launched in 2019 to determine how to deal with sexual harassment in the workplace. The outcome of this consultation was that The Government will introduce a new duty for employers to prevent sexual harassment and third-party harassment in the workplace. These will both be introduced when Parliamentary time allows (there is no commitment to a specific implementation date).

3.2 Policy engagement:

- Given that this is a new policy, significant engagement has taken place to ensure that the policy (and the guidance and training that will follow), meet the needs of staff, managers, and services.
- Online and face to face confidential workshops have been held with circa 30 front line managers and 40 staff and equality group members to gather intelligence on the experiences of staff in relation to third party abuse.
- Questionnaires to draw out the experiences of front-line staff were completed by a number of services where staff were unable to attend workshops.
- A feedback group with mid and senior level Managers from front line services has been run to obtain feedback on policy and guidance as it is developed. Managers have provided positive and detailed feedback in relation to this policy.
- All equality groups have been given opportunity to comment on the policy.
- Trade Union consultation has taken place and the unions are fully supportive of the policy.

3.3 Policy Content:

- The policy covers abuse and harassment by third parties which is a broad term and covers abusive, harassing, and bullying behaviours by people that staff come into contact within their work who are not employed by the Council.
- A clear message emerging from staff engagement is that abuse of staff by service users or members of the public has become 'normalised' in many service areas. Abuse and harassment are such a frequent part of working life in some services that staff report becoming desensitised to it. This is consistent with the under-reporting of abuse and harassment using the Health

and Safety reporting tool (the Violent Incident Form). The policy outlines the benefits for staff of reporting abuse to encourage reporting.

- The expertise of the Council's Anti-Social Behaviour Action Team has been central to the development of the policy. The actions that can be taken against perpetrators (where appropriate) are outlined in high level within the Policy, with greater detail to be provided within policy guidance.
- Through engagement, staff have reported an inconsistency in management responses to abuse and harassment. There is a focus in the policy on the proactive steps that can be taken by Managers, ensuring that the victim of the abuse remains in control of any actions that are taken to protect them. The policy also stresses that there must be no detriment to staff because of arrangements that are put in place.
- The policy also reinforces the importance of Health and Safety preventative measures such as effective risk assessments and safer lone working arrangements.
- The current Violent Incident Form has been revised to more strongly emphasis non-violent forms of abuse and harassment as well as to provide enhanced recording of harassment linked to protected characteristics.
- The data fields in the Fig Tree system that holds the data extracted from Violent Incident Forms is in the process of being adapted to support this and the Third-Party Abuse and Harassment Policy will be launched to coincide with the completion of the changes to the system. This will enable Health and Safety to provide data that reflects the occurrence of all types of third-party abuse to support Corporate oversight and scrutiny.

3.4 Approach to Implementation:

- It is recognised that the policy should be the foundation of a broader strategy to ensure that third party abuse is effectively prevented or reduced and responded to robustly and efficiently.
- Detailed guidance will be provided to staff and managers with the aim of increasing understanding of the types of abuse and harassment that can occur, the impact of discriminatory abuse and the options that managers can take to prevent and respond to abuse.
- There will also be an awareness campaign designed to help change the culture of acceptance of abuse in some service areas and ensure that the message of 'zero tolerance' of third-party abuse is embraced.
- Expected standards of behaviour will be communicated to service users and the public, and an effective communication campaign will be key to ensuring that service users and the public accept the 'zero tolerance' to abuse message.
- Training options are being explored to ensure that staff and managers have a clear understanding of how to report abuse. Management training will be designed with the aim of increasing management competence in supporting staff who are victims of abuse, understanding discrimination and harassment and taking effective action against perpetrators where appropriate.
- Given the evidence suggests that third-party abuse and harassment is under-reported, following policy launch it may be that there will be a significant increase in requests for support from key services who support Managers

and/or staff in this area; the Anti-Social Behaviour Action Team and Health and Safety. The impact on resources will be closely monitored.

4. Existing Policies: Disciplinary and Employee Dispute Resolution

Disciplinary Policy

Context

The drivers for the review of the Disciplinary Policy are:

- The Racial Equality Report (2019) recommended that the policy was reviewed to ensure that policy scope and application did not result in unequal outcomes for Black, Asian and Minority Ethnic staff.
- The Race Equality Working Group (2020) recommended that the content of the policy be strengthened to include specific zero tolerance to discrimination commitments.
- The modernisation of the policy to ensure accessibility through condensing and simplifying the language

Policy Content

This is a summary of the notable changes in the policy:

- Strengthening of equality commitments by including a zero-tolerance statement on discriminatory behaviour and an assumption that misconduct of this nature will be heard as gross misconduct
- Raising the seniority of managers hearing any appeal
- Where the reported misconduct includes discriminatory behaviour, only senior managers who will have attended mandatory Inclusive Leadership and Let's Talk About Race training, will investigate or hear the case.
- Encouragement of informal resolution as part of normal day to day management practice for minor misconduct matters
- Appeals will move from a full rehearing to specifically on the grounds of appeal
- A statement setting out the Council's position in relation to audio or visual recording of meetings that form part of proceedings, to ensure that consent is sought prior to any recording taking place.
- Improved record keeping to maintain records on the individual centrally so that it is easier to pick up patterns of behaviour

Policy Guidance and Training

There will be detailed guidance to accompany the policy which describes in more detail how to operationalise the policy. In addition, the following training will be rolled out:

- Revised Disciplinary Policy training for all managers
- New training for Investigating Officers
- New training for Hearing Officers

Employee Dispute Resolution Policy

Context

The drivers for the review of the Employee Dispute Resolution (EDR) policy are:

- The Racial Equality Report (2019) recommended that the policy was reviewed to ensure that appropriate measures were put in place to improve responses to complaints related to racial discrimination, including effective training for Hearing Officers.
- The forthcoming legislation in relation to sexual harassment and the new duty to prevent sexual harassment in the workplace as outlined earlier in this report.
- The modernisation of the policy to ensure accessibility through condensing and simplifying the language

Policy Content

This is a summary of the notable changes to the policy:

- Raising the seniority of managers hearing any appeal
- Where the complaint relates to discriminatory behaviour, only senior managers who will have attended mandatory Inclusive Leadership and Let's Talk About Race training, will investigate or hear the case.
- A commitment to train Investigating and Hearing Officers to improve knowledge and skills, and further embed equality awareness.
- Inclusion of hate incidents and hate crime as an example of abusive behaviour that employees are strongly encouraged to report through the formal Employee Dispute Resolution Process (in addition to the Police as appropriate).
- Greater emphasis on the benefits of third-party mediation as an informal route that can result in early resolution of conflict
- Additional information in relation to after care for employees who have gone through the EDR process.
- A statement setting out the Council's position in relation to audio or visual recording of meetings that form part of proceedings, to ensure that consent is sought prior to any recording taking place.

Policy Guidance and Training

There will be detailed guidance to accompany the policy which will include:

- Examples of the categories of abuse set out in the Dignity at Work section of the policy including harassment related to protected characteristics, bullying, hate incidents and hate crime and victimisation.
- Comprehensive information about mediation including the approach and steps involved for both parties.

A training package to support understanding and competency in applying the policy is currently in development, and an Investigation skills package has been designed to improve skills in this area. This training will be launched shortly after implementation of the Employee Dispute Resolution Policy.

5. Comments from Trade Unions

5.1 Unison:

- We are supportive of the changes to policies presented at Committee today as we have been closely involved in the development of them. We believe they are now aligned with council priorities and behaviours. We note that if at any point in the future the policies are not delivering what we have anticipated from this piece of work, then we reserve the right to come back to Committee for approval to amend. We welcome the introduction of the third-party harassment policy as this gives employees the protections that are needed whilst undertaking the duties for Manchester.

5.2 Unite the Union welcomes the collaborative atmosphere between the trade unions and HR/OD over the development of these policies. Unite the Union would also like to thank the employee specialist involved for their hard work. The training underlying these policies will be key to the success of their delivery.

- **Disciplinary Policy:** Unite the Union hopes that this revised policy will be more inclusive and will help reduce the disproportionality against Black, Asian and Minority Ethnic staff when it comes to disciplinaries. The training element of this policy will be vital to its success.
- **Employee Dispute Resolution Policy:** Unite the Union hopes that this revised policy will help to resolve more employee disputes at an earlier stage. Unite the Union also welcomes the new emphasis on reconciliation as employee disputes can have a serious affect on relationships.
- **Third Party Abuse Policy:** Unite the Union welcomes the development of this policy and praises the victim centred approach of this new policy. No staff member should have to tolerate abuse from service users or other parties while undertaking their roles for the council.

6. Comments from the Director of HR/OD

6.1 No further comments to add

7. Conclusion

- 7.1 Personnel Committee are requested to approve the Third-Party Harassment and Abuse, Disciplinary and Employee Dispute Resolution Policies.

THIRD PARTY ABUSE AND HARASSMENT POLICY

AUTHOR	Human Resources and Organisational Development
SCOPE	<p>This policy applies to:</p> <ul style="list-style-type: none"> • All workers including agency staff, casual staff and staff deployed to the Manchester Local Care Organisation (MLCO) • All employees
PURPOSE	<p>The purpose of this policy is to:</p> <ul style="list-style-type: none"> • outline the Council's approach to tackling incidents of third-party abuse against workers, including harassment, bullying and hate crime
APPROVAL	
REVIEW	<p>The policy will usually be reviewed every 3 years but may be reviewed sooner if there are changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.</p>

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- 1. Policy Aims**
- 2. What is third party abuse/harassment?**
- 3. Equality**
- 4. Roles and Responsibilities**
- 5. Why Report Incidents?**
- 6. Responding to Incidents**
- 7. Support for staff**
- 8. Training**

1. POLICY AIMS

We have a zero-tolerance approach to any incident involving harassment or abuse against our staff. Any form of abuse is unacceptable, and the Council is committed to taking the strongest possible action to tackle any incidents and protect staff. In line with the [Employee Code of Conduct](#), the Council is responsible for ensuring that the working environment for staff is one in which all staff are treated with respect, and any abuse or harassment by third parties is not tolerated. 'Third party' means someone that workers interact with as part of their role but who are not employed by the Council, for example service users, contractors, shareholders and anyone else we are connected to or do business with.

All staff have the right to work in a safe environment where they are protected from abuse or harassment. The Council has a responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all staff, in line with the Health and Safety at Work Act (1974).

Third party abuse or harassment can have a severe impact on staff and can lead to feelings of anxiety or fear in the workplace as well as undermine an individual's self-confidence. This in turn can lead to a wide range of issues including physical and/or mental health problems, and in some cases result in staff leaving the Council. Whilst Managers have a responsibility to take action to prevent abusive incidents or harassment, this policy is victim centred to ensure that victims have a high degree of control over what type of actions are taken to protect them in their role.

We will ensure the safety, protection and welfare of our staff at all times by:

- reducing the risk of harassment or abuse of staff
- making sure arrangements are in place to assess the risk of harassment or abuse against our staff
- taking appropriate action against the third party who perpetrated the harassment or abuse
- providing appropriate training and information for staff
- making sure our management standards are applied consistently
- making sure staff are aware of their responsibilities
- providing appropriate support to staff following an abusive or harassment incident

- maintaining robust recording and management systems for all abuse or harassment incidents
- making sure staff who have experienced or witnessed incidents feel able to report them and have the matter treated seriously and dealt with effectively

2. WHAT IS THIRD PARTY ABUSE OR HARASSMENT

This policy covers any kind of unwanted behaviour from third parties that humiliates, victimizes or threatens any of our staff, for example:

- Verbal and physical abuse
- Racial slurs
- Sexual advances
- Violence or threat of violence
- Facial expressions or mimicry
- Discrimination
- Bullying
- Harassment
- Imagery or graffiti
- Jokes or banter
- Acts affecting a person's surroundings
- Physical behaviour towards a person or their property

Abuse or harassment can take place online, face to face or over the phone. This list is not exhaustive. Abuse or harassment by a third party can be just as devastating for a worker as incident/s perpetrated by a colleague.

In line with the Equalities Act 2010, 'Harassment' also has a specific legal definition which is included as part of the Equality section.

Any incidents of abuse involving other Council employees should be dealt with through the [Employee Dispute Resolution Policy](#) and for incidents involving domestic abuse the [Domestic Abuse Policy](#) should be consulted. [The Complaints Policy and Procedure Manual](#) (Section Seven Unreasonably Persistent Complainants) is in place to guide staff in how to manage third parties who behave unreasonably when complaining about Council services.

3. EQUALITY

The Council employs staff from a diverse range of backgrounds and all staff should be treated with respect regardless of protected characteristics. It is recognized that discriminatory abuse is a specific type of abuse that has a particular impact on staff from certain groups, that includes but is not limited to groups with protected characteristics as outlined in the Equalities Act 2010. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, faith or belief, sex, and sexual orientation.

As a public sector employer, we must comply with the Public Sector Equality Duty which means we must take steps to prevent third party harassment which may help to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations.

The Council is committed to taking robust actions to oppose any incidents of workplace harassment and recognizes that staff who do not have a 'protected characteristic' can still experience discriminatory third-party harassment, for example people belonging to an alternative subculture (defined as appearance and lifestyle).

In addition, the Equality Act makes three types of harassment unlawful

- Harassment related to a 'relevant protected characteristic'
- Sexual harassment
- Less favourable treatment of a worker because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment

1) Harassment related to a 'relevant protected characteristics'

The 'relevant protected characteristics' are

- Sex
- Age
- Disability
- Gender reassignment
- Race
- Religion, faith, or belief
- Sexual orientation

Unlike other forms of discrimination, pregnancy and maternity are not included, however harassing somebody because of pregnancy or maternity would be harassment related to sex.

Harassment arises when a worker is subject to 'unwanted conduct' that is related to one of the protected characteristics (or perceived characteristic) listed above which has the purpose or effect of

- Violating the worker's dignity
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for that worker

Unwanted conduct covers a wide range of behaviours and can include all the types of behaviours describing abuse listed in section two of this policy. Unwanted means 'unwelcome' or 'uninvited'.

The Protection from Harassment Act 1997 states that an individual who causes fear or distress to another individual on more than one occasion is guilty of a criminal offence. This applies to instances where the same member of staff is harassed by the same person on more than one occasion. Managers must take robust action in response to all incidents of harassment.

2) Sexual harassment

Sexual harassment occurs when a worker is subjected to unwanted conduct, and which is of a sexual nature. All incidents of sexual harassment by third parties should be dealt with swiftly and robustly by Managers.

3) Less favourable treatment of a worker because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment

Managers should ensure that they are not treating workers who report third party harassment any less favourably than any other worker.

Victimisation

Victimisation is defined in the Equalities Act 2010 as:

Treating someone badly because they have done a 'protected act' (or because it is believed that a person has done or is going to do a protected act).

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.

- Making an allegation that you or someone else has breached the Act.
- Doing anything else in connection with the Act.

If a worker is treated less favourably because they have taken such action, then this will be unlawful victimisation.

Hate Crimes and Hate Incidents

The police and Crown Prosecution Service have agreed a common [definition](#) of hate crime as any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's race or perceived race; religion or perceived religion, faith or belief; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender.

Hate incidents are incidents that the victim or anyone else thinks was motivated by hostility or prejudice based on the protected characteristics listed above, and can also include other characteristics such as such as being female (misogyny or hatred of women), older age or belonging to a subculture (defined as appearance and lifestyle). The key word is 'hostility'. There is no legal definition for 'hostility' but the everyday understand of the word can be used as a guide and includes: ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment, and dislike. A hate incident or hate crime can include verbal abuse, intimidation, threats, harassment, assault, and bullying.

4. ROLES AND RESPONSIBILITIES

Manager Responsibilities:

- Ensuring [risk assessments](#) are done to determine whether any measures can be put in place to avoid or reduce the risk of harassment or abuse happening. Risk assessments should be recorded and regularly reviewed, for example when there has been a significant change to the work activity, workplace or there is new information
- Workers may not always feel comfortable reporting abuse or harassment, so it is important that managers are open to disclosures in a range of settings such as one to

ones, or 'About You' meetings, sickness or return to work meetings, informal or formal capability meetings or exit interviews

- Listening and supporting the victims of abuse or harassment without judgement
- Ensuring that staff are trained and aware of how to keep themselves safe in the workplace and that they are aware of existing guidance to support them for example the Personal Safety and [Lone Workers](#) guidance
- Ensuring effective regular and effective reporting of abusive incidents or harassment to Senior Management to ensure they have oversight over numbers, types and frequency of abusive incidents and harassment
- Responding robustly to any incidents of abuse or harassment by third parties. More information on this is in section five.

Workers Responsibilities:

- Taking reasonable care of themselves and others who may be impacted by their actions
- Dynamically assessing risks where appropriate (e.g. at a home visit)
- Attending any relevant training provided
- Discussing any concerns regarding identified risks of violence, abuse or harassment with their manager
- Reporting all incidents of violence, abuse and harassment to their manager following any local procedures and reporting the incident using the third-party abuse and harassment reporting process

5. WHY REPORT INCIDENTS?

It is critical that staff report incidents. It is understood that in some service areas third party abuse or harassment can be common and become normalized. In addition, staff can become 'desensitised' to it, and it can be viewed as 'part of the job'. However, staff are not expected to tolerate this abuse and it is crucial that it is reported for the following reasons:

- It allows managers to take steps to protect staff and their colleagues
- It ensures that managers are sighted on abuse or harassment across a team or service area
- It helps managers to take further actions to prevent abuse or harassment from happening
- It provides managers with the information they need to take appropriate action against third parties where this is agreed with the member of staff

- It helps ensure that relevant services can support managers to act on serious abuse or harassment
- It allows the Council to have an overview of areas of concern so that this can be managed by DMTs

6. RESPONDING TO AN INCIDENT

An overview of the steps to respond to an incident are the following:

- 1) If anyone is at immediate risk steps need to be taken to protect the individual and anyone else at risk, including calling the Police (999).
- 2) If the worker's Manager was not present at the incident the worker should contact their Manager as soon as it is safe to do so
- 3) The Manager should have a debrief with the worker and complete the [third party abuse and harassment form](#) (*title and content is being reviewed*) and submit it to [Health and Safety](#). If the incident/s are connected to protected characteristics, the seriousness and specific impact should be recognized by managers and recorded on the form.
- 4) The Manager should also contact the [Anti-Social Behaviour Team](#) (Or the [Community Safety Team](#) for Northwards staff) and the Police (if not previously contacted) where there has been use or threat of violence, hate incident or crime and targeted harassment (i.e. happened more than once) and the member of staff consents to their involvement. If the incident could be classified as a hate incident or hate crime, and the staff member is uncomfortable reporting it directly to the Police, provide information about [True Vision](#) as staff may feel able to report hate incidents or hate crime to the police online.

Post Incident steps for Managers

Managers should be led by the staff perception as the victim of abuse or harassment. Even if the Manager does not consider it to be a 'serious' incident/s the distress to the staff member should be taken seriously. The below are steps for Managers to take as soon as possible following an abusive incident.

- Meet with the worker/s to discuss the incident and offer support. There is more information on the types of support available in section eight.

- Consult the Post-Incident checklist for guidance on the steps that must be taken to ensure a thorough investigation of the incident. This guidance will also help Managers ensure the safety of the member of staff and (where it applies) their family/relatives, as well as other workers who could be at risk
- Notify senior managers about risks to staff in relation to a particular member of the public, service-user or member of staff as appropriate
- In consultation with Heads of Service, where appropriate, follow any local procedures, in relation to acting against third-parties such as issuing a warning or applying service access restrictions against service users who have harassed or abused a member of staff.
- Consult the Anti-Social Behaviour Action Team or Community Safety Team (where required) for further advice about the range of options available to respond to incidents including acceptable behavior agreements and Anti-Social Behaviour Civil Injunctions.
- Review all risk assessments associated with any incident and work activity and take steps to identify and implement actions that will minimize the risk of similar incidents happening again.
- Work with staff to identify and put in place any additional training or support required following any incident.
- Ensure that the incident is included in regular reporting to Senior Management on the numbers, types, and frequency of incidents.
- Make a record of the abuse or harassment against the service user's name on relevant information systems as appropriate to the service area.
- Where complaints of abuse or harassment relate to an workers of another organisation, an appropriate senior manager of that organisation should be informed, and any relevant information shared with them to enable action to be taken against their workers where appropriate.

7. WITHDRAWING SERVICES

Depending on the type of service being provided, it may not be possible to withdraw services. Where this is an option, the decision to withdraw services can only be made by a Head of Service and only after all other options to manage the situation have been considered. Services could be withdrawn when there has been:

- Abusive or threatening behaviour towards staff
- Persistent intimidation, bullying or harassment of staff or other service-users despite warnings; and/or

- An actual physical assault on a member of staff or another service-user

The list is not exhaustive. Managers should speak to their Health and Safety Lead where this is the case to discuss additional measures that may need to be put in place.

Staff and managers should always work towards a resolution that maintains staff safety while continuing to provide necessary services. Heads of Service should manage any service that is withdrawn in conjunction with advice from Legal Services as appropriate.

8. SUPPORT FOR STAFF WHO HAVE EXPERIENCED HARASSMENT OR ABUSE AT WORK

In all cases Managers should have a regular 'check in' or 'one to one' for a period of time to check on the staff members wellbeing and give them the opportunity to raise any worries or concerns. The impact of abuse or harassment can last a long time.

Managers should also offer access to a range of [mental health support](#) including the [Employee Assistance Programme \(EAP\)](#) and refer the staff member to [Occupational Health](#) if the member of staff feels they would benefit from this support.

In addition, Managers should consider offering the follow support options to staff who experience harassment or abuse at work. It is recognized that not all options will be appropriate depending on the circumstances. Managers should be led by workers' feedback and their view of what will support them in their situation:

- Discuss the incident with the workers to ensure they feel in control of the steps that will be taken and the full circumstances of the incident and impact on the victim are understood.
- Remove the workers from situations where repeat occurrences of abuse or harassment are likely to take place, where possible. This should be arranged in a way that does not negatively impact the workers being abused.
- Ensure the worker does not have to work alone for a period if visits/duties can be carried out with another team member.
- Discuss reasonable adjustments such as flexible working – this could be adjusting start and finish times or incorporating some home working. Where the workers are based on site, it could mean changing the location from where staff work on a temporary or permanent basis.

- Amend caseload/duties to avoid contact with the service user responsible for harassment or abuse. This may include Managers undertaking some duties for the workers where appropriate.
- Where abuse or harassment has impacted across a whole team or service, consider implementing the approach adopted by some NHS Services: '[Schwartz Rounds](#)'. This involves reflecting on a particular incident/s and discussing the emotional impact as a whole group who have been impacted. This takes place in a safe environment, supported by an independent facilitator.
- Suggest staff seek support from their [Trade Union](#) if they are a member
- Where discrimination has occurred, Managers can suggest staff seek peer support through our [Equality Networks](#)
- If the incident involved a crime taking place, discuss reporting the incident to Greater Manchester Police and provide information about [Victim Support](#) - an independent charity that can provide emotional and practical support
- The [Equality Advisory and Support service](#) are also available for victims of abuse for advice on equality and human rights

9. TRAINING

Whilst workers are never responsible for any abuse they receive from third parties, the Council has a legal responsibility to provide staff with adequate health and safety information, induction, and training to address and/or manage foreseeable risks associated with their work and the environment they work in. There are several training options available including:

- Personal safety e-learning
- De-escalation / restraint training (team teach) for staff who work in Residential Units
- Dynamic risk assessment training

Contact the [Health and Safety Team](#) for more information about the training options available.

DISCIPLINARY POLICY

AUTHOR	Human Resources and Organisational Development
SCOPE	<p>This policy applies to:</p> <ul style="list-style-type: none"> • employees of Manchester City Council • employees deployed to the Manchester Local Care Organisation (MLCO) • employees on secondment outside of the council but who remain on Manchester City Council terms <p>This policy does not apply to:</p> <ul style="list-style-type: none"> • employees in their probationary period • agency workers, consultants, self-employed or casual workers • school employees • Head of Paid Service, Monitoring Officer, Chief Finance (s.151) because a separate Disciplinary Procedure applies • health related absences • concerns about capability • dismissal in a redundancy situation
PURPOSE	<p>The purpose of this policy is to:</p> <ul style="list-style-type: none"> • provide direction and support to colleagues with poor conduct • explain when disciplinary action may be appropriate • set out a fair and consistent approach to the management of misconduct
APPROVAL	N/A - document in consultation only
REVIEW	The policy will usually be reviewed every 3 years, but may be reviewed sooner if there are changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

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1. POLICY AIMS

The Council is committed to providing a working environment where all employees are treated fairly and with dignity and respect. The aim of this policy is to ensure that there are fair and objective arrangements in place to deal with concerns about conduct and to encourage improvement where conduct is believed to have fallen below acceptable standards, either informally or through the formal stages of the process.

Employees should be aware that some conduct outside of work can be subject to disciplinary action if a connection to their employment by the Council can be made.

This policy is designed to:

- Support colleagues in meeting the Council's standards of conduct;
- Provide a framework for establishing whether misconduct has occurred; and
- Support managers in managing misconduct issues.

This Disciplinary Policy and Guidance must be followed when a potential misconduct issue has been identified and has not been resolved through normal day to day supervision arrangements, or where more serious allegations arise. No disciplinary outcome will be decided until the appropriate steps outlined in this policy have been followed and the facts have been established.

This policy relates to conduct and behaviour only. Concerns about performance should be managed through the Capability Policy.

2. EQUALITY

Manchester City Council is committed to becoming a fair and inclusive employer with a workforce that is representative of the communities we serve.

The Council takes a zero tolerance approach to discrimination of any kind and is committed to appropriately training and supporting investigating and hearing officers. Disciplinary cases will be regularly monitored to understand the equality impact and to make sure all are being dealt with in a consistent way.

The Council will offer reasonable adjustments during the disciplinary process to support disabled employees.

3. ROLES AND RESPONSIBILITIES

All employees are required to comply with the Employee Code of Conduct and the council's policies and procedures, as well as any arrangements that apply in their service or department.

Employee Responsibilities:

- Fully cooperate with the disciplinary process
- Maintain confidentiality (employees can share information with their representative and emotional support)
- Attend meetings at the notified time and place
- Give as much notice as possible when they or their representative cannot attend formal meetings and be reasonable when suggesting alternative dates
- Follow the terms of any suspension

Manager's Responsibilities:

- Tell the employee when they have any concerns about unsatisfactory conduct and behaviour
- Act reasonably in applying the policy
- Maintain confidentiality
- Try to resolve minor issues informally with the employee through informal discussion and advice
- In all other cases, establish the facts quickly and decide whether formal investigation is required
- Consult the Employee Relations Team before proceeding to formal stages of the Policy
- Consult the Employee Relations Team before any suspension.

Representative responsibilities:

- Maintain confidentiality
- Present at meetings on behalf of an employee (with the employee's express permission), including putting forward their case, summing up and conferring during the meeting. This does not include answering questions on behalf of an employee.
- Should not prevent the Investigating Officer or Hearing Officer from fulfilling their duties.
- Make themselves available to attend meetings and be reasonable when suggesting alternative meeting dates.

Human Resources responsibilities:

- Provide advice on the reasonable application of the disciplinary policy and circumstances where informal resolution may be appropriate
- Advise on the fair and consistent application of the disciplinary policy
- Support Investigating Officers to scope and deliver a reasonable and timely investigation
- Provide support at meetings and interviews where necessary (HR Officers may ask questions at the investigating officers discretion)
- Provide procedural support to hearing officers to ensure the fair application of the disciplinary policy and consistent and reasonable outcomes

Investigating Officer responsibilities:

- Attend Investigating Officer training
- Ensure that there are no surprises by clearly explaining allegations being investigated to the employee and make sure that they are kept updated where these allegations change during the investigation.
- Undertake a thorough but timely investigation
- Offer reasonable adjustments to the process to support disabled employees
- Produce a hearing pack including an investigation report and all evidence collected.

Hearing Officer responsibilities:

- Attend Hearing Officer training
- Take ownership of the management of the hearing and note taking
- Inform the employee of the outcome of the hearing either on the day or explain when they will be able to reach a decision.
- Confirm their decision in writing to the employee and (where represented) to their representative

4. EXPECTATIONS OF CONDUCT

The [Employee Code of Conduct](#) sets out the professional and reasonable standards of behaviour expected of all Council employees.

Some occupations have additional rules and professional standards of conduct set by external regulatory bodies which are also expected standards of behaviour. Where employees do not

meet and maintain these standards of behaviour disciplinary action may be taken, up to and including dismissal.

The Council has a statutory duty to notify some external registration bodies and professional bodies when misconduct has taken place or when disciplinary action has been taken. These external bodies include:

- The Police
- DBS (Disclosure and Barring Service)
- Social Work England
- Other regulatory bodies.

If you think you need to contact a regulatory body about disciplinary action that's been taken, you should contact the Casework Team.

What is Misconduct?

Misconduct is behaviour that is considered unacceptable at work. It can also include unacceptable behaviours outside work if it impacts on your contract of employment.

What is Gross misconduct?

Gross misconduct is behaviour and/or conduct that is so serious that your employment with the Council will normally be brought to an end without notice or pay in lieu of notice (summary dismissal). Gross misconduct can also occur outside the workplace.

The Council has a zero tolerance approach to discrimination of any kind so discriminatory conduct will usually be considered to be gross misconduct.

There is more information about misconduct and gross misconduct in the [Policy Guidance \[LINK TO BE INSERTED\]](#), including examples of each.

Normal disciplinary standards apply to trade union officials in relation to their conduct as employees. If allegations are raised which are likely to result in disciplinary action under the disciplinary policy this should be discussed with a senior trade union representative or a full-time trade union official before any action is taken.

5. REPRESENTATION

Employees can be accompanied to formal meetings by a Trade Union Representative, a workplace colleague, or friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional.

In exceptional circumstances the Council can reject an employee's choice of friend or relative.

6. INFORMAL RESOLUTION

Managers should always consider whether it is possible to resolve minor conduct issues informally. Often a confidential conversation between the employee and the line manager is all that's necessary to resolve an issue. On other occasions, it may be appropriate to hold a series of conversations, which could form part of regular one-to-one meetings, to ensure the necessary support and review is in place. The purpose of these discussions is to make sure that the employee understands the nature of the concerns, has the opportunity to respond and, where appropriate, the manager can explain the improvement expected of them. Managers may also write to an employee explaining the conduct that needs to change, which is called a management instruction.

As informal resolution is not formal disciplinary action, employees do not have the right to be accompanied by a work colleague or trade union representative although requests would be considered in some circumstances where it is agreed that their attendance would be beneficial to informal resolution. Further information on achieving informal resolution can be found in the [Policy Guidance](#).

7. DISCIPLINARY PROCESS

There are three stages to the disciplinary process:

1. Preliminary Investigation
2. Investigation
3. Hearing

Step 1 – Preliminary Investigation:

Managers should not presume that formal action is required so an initial investigation should take place to establish if there are grounds to pursue a disciplinary investigation. This part of the process might include a meeting with the employee and/or witnesses to gather relevant information before a decision is made about formal investigation. Representation may be necessary at this informal stage if the manager intends to question the employee. The manager should consider all the known circumstances including any mitigating factors.

If the manager thinks that formal investigation is needed then they should speak to the Casework Team for advice.

Step 2 – Investigation:

An Investigating Officer with a relevant skill set will be chosen to formally investigate the allegations. Their role is to establish the facts of the case, so will write to the employee explaining the allegations and invite them to an interview. Employees are entitled to bring a work colleague or trade union representative with them. The investigating officer may also invite relevant witnesses to interview, and they also have the right to be represented. The Investigating Officer is responsible for making sure that there are notes of the meeting, but they do not need to be a verbatim record. The investigating officer will usually collate other sources of information if they are relevant to the case. Where allegations change over the course of the investigation the investigating officer should make sure that they tell the employee.

The investigating officer should review the information they have gathered to make a decision about whether there is a case to answer and contact the Casework Team for advice if they believe a disciplinary hearing should be arranged.

The investigating officer should create an Evidence Pack which should include a report summarising their findings, and appendices which will usually include signed or electronically signed copies of interview notes and other information that is relevant to the case.

Suspension:

Suspension is on full pay and is a last resort and should only be used in the most serious of cases after taking advice from the Casework Team. Suspension is not a disciplinary penalty in

itself and is not an indicator of guilt. Depending upon the nature of the allegations it will often be more appropriate to identify alternative duties for the employee.

All suspensions, or decisions to move to alternative duties should be notified to the relevant Strategic Director, and will be reviewed by the Strategic Director or nominated deputy every 30 days to ensure that this is still appropriate and to ensure that investigations do not drift. This will be facilitated by the HR Casework Team.

Employees should be notified of the allegations prior to a suspension meeting. Trade Union representation is not essential for a suspension meeting to take place. Following the meeting the employee should receive a letter explaining the reasons for their suspension and the terms of the suspension.

Suspended employee's point of contact will usually be their line manager and will agree a schedule of contact so that they know when they can expect to be contacted and do not feel forgotten about. Their manager will also advise them on progress of the investigation and advise on requests to contact colleagues as part of case preparation. In some cases the employee may request that a named person who is not involved in the investigation is a point of contact for emotional support.

Suspended employees are able to book and take leave during suspension, but should check with their line manager that this does not clash with planned investigation meetings or formal hearing.

Suspended employees should not attempt to influence any colleagues involved in the disciplinary proceedings so should avoid contact during suspension unless agreed by their manager. The exception being their trade union representative.

Step 3 – Hearing

Arranging the Hearing

The Investigating Officer will write to the employee inviting them to a hearing. The letter will explain when and where the hearing will take place, and explain the allegations being made against them. The Evidence Pack will be sent to the employee (and their representative) 10 working days before the hearing date.

The employee and or representative should send any information they want to refer to at the hearing (which is not already included in the evidence pack) to the Investigating Officer at least 3 working days before the date of the hearing.

A manager with suitable training and experience will be identified to hear the case, and will be supported by a member of the Casework team.

Rescheduling the Hearing

It is in everyone's interest to avoid delays so once the date is set for the hearing (having sought to agree dates with any relevant trade union representatives) this should not change, except in exceptional circumstances.

Where a hearing needs to be rescheduled it should be within 5 working days of the original hearing in line with ACAS guidance. If the employee is persistently unable or unwilling to attend without reasonable excuse the Hearing Officer may progress in the employee's absence and make a decision on the evidence available.

If an employee decides not to attend they can either submit written statements or nominate a representative to attend on their behalf. Hearings may be conducted virtually where appropriate.

Where the employee is unable to attend due to certified sickness the Council's Occupational Health provider may be contacted to establish if the employee is fit to attend a hearing, or if any arrangements can be made that would make that possible (including virtual meetings). If an employee does not reasonably engage with the Occupational Health provider the Hearing Officer may decide to proceed in their absence.

Conducting the Hearing

The Hearing Officer is responsible for the fair management of the hearing so that a proportionate decision can be reached. This may include asking questions of any party at any time during the hearing. The Hearing Officer can also agree to HR Officers in attendance asking questions for clarification.

The Hearing Officer may also adjourn the proceedings at any stage where necessary. If the adjournment is for the purpose of enabling further information to be obtained, the Hearing Officer will specify the scope of the information to be obtained. The Hearing Officer will ensure that all such information is shared with both parties with reasonable time to review.

The Hearing Officer is responsible for making management notes of the pertinent points of the meeting although these do not need to be verbatim. Sometimes by agreement between all parties, a note taker may support the Hearing Officer. The employee and their representative are free to take their own notes at any point.

Confirming the Decision

The Hearing Officer will usually make a decision on the same day and invite the employee and, where represented, their representative back into the hearing for a verbal outcome. Where the Hearing Officer cannot make a decision on the day they will tell the employee when they will be

able to reach a decision. If the employee does not wish to return to hear the verbal outcome, or is unavailable then the decision will be communicated in writing. All decisions will be communicated in writing within 3 working days of the verbal outcome. The decision letter will detail the allegations, employee response, mitigation given, the outcome, clearly explain the reason for the decision, and explain the right of appeal. Both the employee and their representative will receive a copy.

Sanctions

The penalties for misconduct will normally follow incrementally, i.e. Stage 1; Stage 2; Stage 3. However, there may be some circumstances that require a higher stage of disciplinary action that will not follow the incremental stages.

The following formal sanctions may be applied:

Stage	Sanction	Live period for sanction
One	Verbal Warning	6 months
Two	Written Warning	6 months
Three	Final Written Warning	6 months
Dismissal	Dismissal – with or without notice	N/A

A Hearing Officer may decide that no sanction is required, or that instead of a formal sanction a management instruction describing expected future standards of behaviour is more appropriate.

Alternatives to Dismissal

When an allegation is found proven and results in a decision to dismiss, the Hearing Officer must consider whether there is an alternative which is short of dismissal, such as demotion or reassignment to a different post.

Where demotion or reassignment is appropriate this decision will be accompanied by a final warning. If no alternative post can be found, or the employee rejects the offer of an alternative the employee will be dismissed.

8. APPEAL PROCESS

Lodging an Appeal

Employees have a right of appeal against any disciplinary sanction to the Head of Service / Strategic Director (or their nominated representative). All appeals (including those against dismissal) must be made, in writing, stating the reason for the appeal, within 10 working days of the outcome letter being received.

Grounds for appeal can be:

1. The sanctions applied were too harsh
2. New evidence to be considered at appeal
3. Points of contention or dispute regarding the original findings.

The Appeal Hearing

The Appeal Hearing Officer will be of the appropriate seniority and impartiality.

All appeals will be based on the written grounds for appeal stated. The Appeal Hearing Officer will be provided with a hearing pack which includes the original hearing bundle, the investigating officer's report and the original hearing outcome letter. They will then consider the grounds for appeal as set out in writing.

The employee may request a paper review of their case if they do not wish for the appeal to be considered in a hearing.

In cases of dismissal (summary or with notice) there is a further right of appeal to a panel of Elected Members called the Employee Appeals Committee. This appeal is based on the grounds raised by the employee. Further information about the Employee Appeals Committee process is in the Policy Guidance, and the pro-formas which are required to request an Employee Appeals Committee are available on the Intranet.

All appeals invitations will be notified in writing.

Outcome of the Appeal

The Appeal Officer or Employee Appeals Committee can make the following decisions:

- allow the appeal and revoke the disciplinary sanction or substitute other formal or informal action instead;
- allow the appeal in part and substitute a lesser disciplinary sanction;
- disallow the appeal and uphold the original disciplinary sanction;

The Appeal Officer will ensure that adequate notes are taken of the appeal hearing, although they do not need to be verbatim. The employee and their representative are free to take their own notes at any point.

All decisions will be confirmed in writing by the Appeal Officer or Chair of the Employees Appeals Committee, usually within 3 working days of the end of the appeal hearing or at a later date by agreement. The letter will set out the main points made by the employee, the outcome and reasons for arriving at this decision.

9. RECORD KEEPING

Clear records should be taken throughout a disciplinary process. This will include all correspondence sent at all stages of the process which make it clear what action is being taken and the reasons why.

Some records presented as part of a disciplinary process will need to be redacted by the Investigating Officer. Personal information of service users should be redacted. In exceptional circumstances (e.g. whistleblowing) it may be necessary to use anonymous witness data.

In all cases the detailed outcome letter, letters and correspondence and relevant case records will be kept confidentially and retained in accordance with GDPR (General Data Protection Regulation) requirements and the Council's published retention strategy. A record of outcomes will be added to SAP which will include the expiry date of sanctions.

The Council does not allow audio or visual recording of meetings without express permission sought in advance of the meeting. This would usually be agreed as a reasonable adjustment to support a disabled employee. Any attempt to covertly record a meeting may be treated as a disciplinary matter.

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EMPLOYEE DISPUTE RESOLUTION POLICY

AUTHOR	Human Resources and Organisational Development
SCOPE	<p>This policy applies to:</p> <ul style="list-style-type: none"> • employees of Manchester City Council • employees on secondment outside of the council but who remain on Manchester City Council terms • Employees deployed to the Manchester Local Care Organisation (MLCO) <p>This policy does not apply to:</p> <ul style="list-style-type: none"> • employees in their probationary period • agency workers, consultants, self-employed or casual workers • school employees • Issues in relation to Income Tax, National Insurance or Pension schemes (addressed through those procedures) • Pay and grading of posts or VS/VER (dealt with through relevant schemes)
PURPOSE	<p>The purpose of this policy is to:</p> <ul style="list-style-type: none"> • Provide a framework to ensure any bullying and harassment is dealt with effectively, and that action is taken to prevent it happening again • Help ensure employees feel confident to bring forward any issues without fear of victimisation. • Provide a process which enables disputes to be dealt with appropriately and in a timely manner • Enable employees to raise any grievances in relation to their workplace
APPROVAL	
REVIEW	The policy will usually be reviewed every 3 years, but may be reviewed sooner if there are changes to legislation or statute; agreement of new national terms

	and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.
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1. POLICY AIMS

The purpose of the Employee Dispute Resolution Policy is to ensure that, as far as possible, employee's complaints are resolved informally.

Complaints may be problems or concerns about employment (for example working conditions) or may relate to working relationships with colleagues. The policy aims to ensure that both types of complaint are resolved where possible, through discussion between the parties involved.

This policy is also in place to ensure that any bullying/harassment or hate crime is dealt with and action is taken to prevent it happening again.

This procedure takes into account the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on grievance procedures and will be reviewed regularly in line with good practice.

2. EQUALITY

Manchester City Council is committed to becoming a fair and inclusive employer with a workforce that is representative of the communities we serve.

The Council takes a zero-tolerance approach to discrimination of any kind and is committed to appropriately training and supporting investigating and hearing officers. Employee Dispute Resolution cases will be regularly monitored to understand the equality impact and to make sure all are being dealt with in a consistent way.

The Council will offer reasonable adjustments during the Employee Dispute Resolution process to support disabled employees.

3. DIGNITY AT WORK

Every employee has the right to be treated with dignity and respect in the workplace and the Council is committed to providing a supportive working environment where employees are free from bullying, harassment and hate crime or hate incidents.

It is recognised that threatening or intimidating work environments can cause stress and impact on job performance and security.

4. DEFINITIONS OF HARASSMENT, BULLYING, HATE INCIDENTS, HATE CRIME AND VICTIMISATION

Bullying, harassment and hate incidents or hate crime may happen once, occasionally or regularly. It is behaviour which can undermine, patronise, humiliate, intimidate or demean an individual /group

The following descriptions are a guide and are not intended to cover all examples of unacceptable behaviour. There is more information in the Employee Dispute Resolution Guidance about these behaviours and the steps employees and managers are encouraged to take in these circumstances .

Harassment

The Equality Act 2010 defines harassment as happening when someone engages in unwanted conduct which has the purpose or effect of violating someone else’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Unwanted means ‘unwelcome’ or uninvited’.

The act protects against three types of harassment:

- Harassment related to the specific protected (or perceived) characteristics of race, disability, gender, gender reassignment, age, sexual orientation and religion, faith or belief
- Sexual harassment and/or
- Less favourable treatment of an employee because they submit to or reject sexual harassment or harassment related to sex or gender reassignment

Examples included in the Equality Act are:

- verbal and physical abuse
- facial expressions or mimicry
- discrimination
- harassing and bullying behaviours
- imagery or graffiti
- mimicry or jokes
- banter
- acts affecting a person’s surroundings
- physical aggressions
- physical behaviour towards a person or their property

A single serious act of harassment can lead to a complaint – harassment should always be considered in terms of the impact it has on an individual.

The Council is committed to taking robust actions to oppose any incidents of workplace harassment, and recognizes that staff who do not have a ‘protected characteristic’ can still

experience discriminatory harassment, for example people who belong to an alternative subculture (defined as the way someone dresses and their lifestyle).

Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour towards another individual or group of people. It is typically an abuse or misuse of power which is meant to undermine, humiliate or injure the recipient.

Bullying can be obvious, or it can be indirect, it does not necessarily happen face to face. Bullying may also occur over email, social media or on the phone. It can apply to practices such as computerised recording of downtime from work or monitoring of calls if these are applied unfairly.

Bullying and harassment can make an individual feel a range of emotions including demotivation, anxiety, fear and humiliation. Stress and loss of self-confidence caused by bullying and harassment can lead to job insecurity, illness, absence from work, and even resignation. Job performance is usually affected and relationships in the workplace suffer.

Where a manager is carrying out their responsibilities in an appropriate and reasonable manner this will not constitute bullying.

Hate Crimes and Hate Incidents

The police and Crown Prosecution Service have agreed a common [definition](#) of hate crime as any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's race or perceived race; religion or perceived religion, faith or belief; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender.

Hate incidents are incidents that the victim or anyone else thinks was motivated by hostility or prejudice based on the protected characteristics listed above, and can also include other characteristics such as being female (misogyny or hatred of women), older age or belonging to a subculture (defined as appearance and lifestyle). The key word is 'hostility'. There is no legal definition for 'hostility' but the everyday understand of the word can be used as a guide and includes: ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment, and dislike. A hate incident or hate crime can include verbal abuse, intimidation, threats, harassment, assault, and bullying.

Employees should be supported to report any type of hate incident or hate crime committed by another employee to the Police as well as reporting it internally through the [Employee Dispute Resolution Process](#). The Employee Dispute Resolution Policy Guidance provides more information on the steps that should be taken to respond in these circumstances. A hate

incident or hate crime can include verbal abuse, intimidation, threats, harassment, assault, and bullying.

Victimisation

Victimisation is defined in the Equalities Act as treating someone badly because they have done a 'protected act' (or because it is believed that a person has done or is going to do a protected act).

A 'protected act' is:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that you or someone else has breached the Act.
- Doing anything else in connection with the Act.

If an employee is treated less favourably because they have taken such action, then this will be unlawful victimisation.

Any abuse from a third-party (someone who the employee comes into contact with but who is not employed by us) should be dealt with through the Third-Party Abuse Policy.

5. ROLES AND RESPONSIBILITIES

All employees are required to comply with the Employee Code of Conduct and the council's policies and procedures, as well as any arrangements that apply in their service or department.

Employee Responsibilities:

Any employee involved in a dispute have the following responsibilities:

- Fully cooperate with the Employee Dispute Resolution process
- Maintain confidentiality
- Attend meetings at the notified time and place
- Give as much notice as possible when they or their representative cannot attend formal meetings and be reasonable when suggesting alternative dates

Manager's Responsibilities:

- Support employees to have open discussions with them about any disputes or difficulties they may have
- Maintain confidentiality
- Act reasonably in applying the policy

- Where the dispute involves them, try to resolve minor issues informally through informal discussion and advice
- Support employees in making a formal complaint through the Employee Dispute Resolution Process where appropriate
- Seek advice from the Casework Team where appropriate

Representative responsibilities:

- Maintain confidentiality
- Present at meetings on behalf of an employee (with the employee's express permission), including putting forward their case, summing up and conferring during the meeting. This does not include answering questions on behalf of an employee.
- Should not prevent the Investigating Officer from fulfilling their duties.
- Make themselves available to attend meetings and be reasonable when suggesting alternative meeting dates.

Human Resources responsibilities:

- Provide advice on the reasonable application of the EDR policy and circumstances where informal resolution may be appropriate
- Advise on the fair and consistent application of the EDR policy
- Support Investigating Officers to scope and deliver a reasonable and timely investigation
- Provide support at meetings and interviews where necessary (HR Officers may ask questions at the Investigating Officers discretion)
- Provide procedural support to Investigating Officers to ensure the fair application of the EDR policy and consistent and reasonable outcomes

Investigating Officer responsibilities:

- Attend Investigating Officer training
- Undertake a thorough but timely investigation
- Offer reasonable adjustments to the process to support disabled employees
- Inform the employee of the outcome of the investigation on the day or explain when they will be able to reach a decision.
- Confirm their decision in writing to the employee and (where represented) to their representative

6. REPRESENTATION

Employees can be accompanied to formal meetings by a Trade Union Representative, a workplace colleague, or friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional.

In exceptional circumstances the Council can reject an employee's choice of friend or relative.

7. INFORMAL RESOLUTION

Where appropriate, attempts should be made to resolve the issues raised informally in the first instance. This can be achieved by employees raising issues as early as possible to their Line Managers, who should support staff to achieve a resolution. In many situations, an informal approach helps to resolve any work-based issues that are raised and/or restore good working relationships more quickly and effectively than a formal approach. Disputes involving two parties can also have a negative impact on the health and wellbeing of both individuals. Employees are encouraged to raise any issues through any channel they feel comfortable with, including one to one's, 'about you', or supervision meetings.

In certain circumstances, where the nature of the complaint is very serious, a formal procedure may be necessary to deal with the issue. In addition, any crime or complaint involving actual or suspected sexual, physical, or emotional abuse against children and/or vulnerable adult/s by staff should be raised immediately with a relevant Senior Manager, service Safeguarding Lead or with the HR/OD Casework team so that it can be fully investigated.

If an employee has a complaint that involves another employee(s)/employees, they may wish to try to resolve the matter by a direct approach. Employees who feel they are being harassed, bullied or made to feel uncomfortable within the team and who feel comfortable to do so, may choose to meet to explain to the individual(s) carrying out any of the above actions, that it is unwelcome and offensive, and ask for it to cease.

8. MEDIATION

Third party mediation is another option that can be considered to help resolve relationship difficulties or conflict. Mediation can help resolve conflict early by providing a safe space for two parties to work together to find mutually agreeable solutions to the conflict, avoiding the need for a formal process which can affect the well-being of both parties. There are fully trained [internal mediators](#) available within the Council who can provide confidential, non-judgmental, and neutral support to both parties.

Mediation is a fully voluntary process, and anyone engaging with the process is free to withdraw at any time. Mediation should only be undertaken when both parties are comfortable with this approach and there should be no negative consequences of choosing not to engage with the process. It is most effective when used at an early stage of any conflict, however it can be used at any stage, even if a formal complaint has been made. Engaging in mediation does not prevent either party from taking a formal route at a later stage. The aim of third-party mediation is to establish better ways of working together and the development of an agreement which outlines how the two parties will work together in the future (formed through discussion at the mediation meeting).

As the mediation process sits outside any formal process, it encourages open and honest discussion with both parties being supported by the mediator. The formal Employee Dispute Resolution process is paused whilst the parties undergo mediation. This helps both parties to find solutions. As this is a fully confidential process, parties are not required to share the agreement with anyone outside the meeting, however if both parties agree it can be shared with the relevant Line Manager/s.

Representation is not appropriate as part of the mediation process as it is most effective when there is direct interaction between those involved in the conflict.

9. FORMAL PROCESS

Formal Meeting

On receiving a formal complaint, the manager should arrange to meet the employee as soon as possible. Details of the meeting should be communicated to the employee within 5 working days. Rights to representation are covered in section 6.

The purpose of the meeting will be to clarify the employee's complaint and any issues in relation to information submitted in the [Employee Dispute Resolution Form](#). If the manager feels that further investigation is required, then this should be explored and an estimated and realistic date for the investigation communicated to the employee. Consideration should be given to adjourning the meeting for any investigation that may be necessary.

Notes of the meeting should be taken by the Manager summarising the key points that were discussed. It should be explained to the employee that where complaints are made against another employee this will need to be shared with that person in order to get their response.

Investigation

The Investigating Officer dealing with the complaint should undertake a full investigation. This may include conducting interviews with other employees. These should be held privately, and notes taken with all details kept confidential. Where disputes are raised by the other party the Investigating Officer should take this into consideration when making his/her decision

Some records presented as part of the process will need to be redacted (for example the personal information of a service user involved in the complaint). In some circumstances it may be necessary to use anonymous witness data.

Outcome

When considering an appropriate outcome, a manager may wish to consider several viable options focusing on how best to resolve the complaint considering the impact on the individual, team and working environment. The employee should be notified of the outcome as soon as possible and within the timescales agreed with the employee - ordinarily within 21 working

days. The decision may be given verbally but should always be confirmed in writing, along with the reasons for the outcomes reached. All written outcomes should contain the following:

- Whether the complaint is found to be substantiated/part substantiated/not found
- What action should be taken to resolve the issues if they are found
- The right of appeal against the outcome (to a nominated more senior Manager)

Appeal

If the employee is dissatisfied with the outcome, the employee has a right of appeal to a nominated more senior manager as detailed in the outcome letter. The appeal should be dealt with impartially, and wherever possible by a manager who has not previously been involved in the case. Detailed grounds for appeal should be submitted in writing by the employee within 10 working days of receipt of the outcome letter.

The appeal should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance. The Appeal Hearing Officer will invite the employee to an appeal meeting to discuss the grounds of appeal and identify the areas of enquiry that need looking at. They will carry out an investigation and issue a letter with the appeal outcome. There is no further right of appeal after this stage.

Employees have the right to be accompanied at the appeal hearing by a colleague, trade union representative or a friend.

Re-forming positive relationships

As a final step in handling disputes, managers should consider any action that will re-establish positive working, learning and relationships for all parties. It may be helpful to consider mediation where there are still difficulties in the relationship between two parties.

Support for employees

It is recognized that employee disputes can have a significant impact on health and wellbeing. An open dialogue should be encouraged with employees who have been through the process and Managers should offer a range of [mental health support options](#) that employee can take if they decide it would be helpful for them.

10. VEXATIOUS AND ABUSIVE COMPLAINTS

‘Vexatious’ is a legal term which means bringing an action without sufficient grounds, purely to cause annoyance.

In the vast majority of cases, complaints are genuine. However, occasionally employees may make vexatious or abusive complaints. These can be very distressing for the employee they are directed against, and time consuming to respond to. These types of complaints will be dealt

with robustly with disciplinary consequences where it has been determined that it is an abusive or vexatious complaint.

Employees may often feel frustrated or angry and have other reasons for their behaviour and, therefore, the focus must be on details of the complaint. Managers should take care when identifying anyone making this type of complaint to ensure that genuine concerns are not dismissed even if vexatious or abusive complaints have been made in the past. Where the outcome of a complaint is that it was not found, this does not in any way imply that the complaint was not genuine.

11. DISCIPLINARY PROCEEDINGS

Where an employee raises an employee dispute during a disciplinary process the disciplinary process may be suspended in order to deal with it. Where the EDR and disciplinary cases are related, it may be appropriate to deal with both issues at the same time.

12. RECORD KEEPING

Records should be kept detailing the nature of the complaint raised, the response, any action taken and the reasons for it in line with the Data Protection Act 1998 which allows the release of data held about individuals on their request ([subject access requests](#)).

All relevant correspondence and case records should be retained and kept confidential in accordance with GDPR (General Data Protection Regulation) requirements and the Council's [retention schedule](#).

It may be necessary to refer details gathered during the investigation to the Police, DBS (disclosure and barring service), Social Work England or other regulatory bodies if there are safeguarding or other concerns regarding an individual.

The Council does not allow audio or visual recording of meetings without express permission sought in advance of the meeting. This would usually be agreed as a reasonable adjustment to support a disabled employee. Any attempt to covertly record a meeting may be treated as a disciplinary matter.

Disciplinary Policy

A process for dealing with employee misconduct.

HR & OD Final version 1 June 2012

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Disciplinary Policy

1. Purpose

The City Council strives to provide the best possible service to its residents. In order to achieve this high standards of behaviour are required from its staff. Managers are responsible for communicating these standards and employees for maintaining them.

This policy provides a framework for dealing with incidents of improper behaviour and misconduct.

2. Key Principles

The following key principles underpin the disciplinary policy and all parties must act in accordance with them -

- The principle of natural justice (procedural fairness) should be implicit in all actions taken under this policy. An employee must be informed of allegations made against them and the detail; they should be given the opportunity to challenge this before decisions are made; they should be allowed representation (at all stages of the formal process) and the right of appeal.
- Managers will act reasonably, pairing a fair procedure with sensible and fair decision making. There should be a reasonable belief following a thorough and open minded investigation that an offence has been committed before any case proceeds to hearing. Decisions made in the process will be made by an appropriate person and be reasonable based on the evidence available and circumstances of the case (i.e. they will not be unduly harsh / lenient or obviously inconsistent).
- The use of the disciplinary process is necessary in some cases, however it should not be a substitute for good day to day management of staff whereby expectations are clearly communicated and minor issues quickly dealt with.
- Employees are required to cooperate with this policy and any subsequent requirements on them personally (for example complying with investigatory process, acting as a witness or attending proceedings).
- Timeliness in application of this process is crucial, procrastination or delay caused by any party involved needs to be addressed in the interests of a fair outcome which is in everyone's interests.

This procedure takes account of the ACAS (Advisory, Conciliation and

Arbitration Service) code of practice on disciplinary procedures and will be reviewed periodically in line with developments in good practice.

3. Scope

This document applies to all staff employed by the Council. This policy does not apply to school based staff.

The Procedure will not apply to:-

- Unsatisfactory performance during a probationary period. These issues are addressed under Procedure for Managing Employees During Probation;
- Where an employee's work or omission is such as to call into question his or her competence or capability. These issues are addressed under the Capability Procedure. (Unsatisfactory work performance which is willful or caused by deliberate omission / inaction or carelessness will however be classed as misconduct and dealt with under the disciplinary policy).
- Non-attendance due to long term sickness which will be dealt with under the 'Managing Attendance Policy and Procedure'.
- Dismissal in the event of redundancy which will be dealt with under the appropriate arrangements.

Overlapping Issues

Issues raised about treatment under the Disciplinary Policy should be dealt with within this policy. If issues are raised under the Grievance / Dignity at Work Policy; which the employee feels are separate to the live disciplinary process; then the Hearing Officer / Appeal Hearing Officer will review the complaint. They have the discretion to decide if they should deal with the issues raised as part of the Disciplinary process or if there is a need to temporarily hold the proceedings whilst the complaint is dealt with separately.

4. Sources of support for managers

There are high expectations of managers for the role they take in this policy and they must be accountable for the steps they take. This is a necessary part of a management role and professionalism. Managers should make use of available support in developing their skills and conducting their role.

Examples of support can be accessed on the intranet.

5. Setting Standards of behaviour

Informal action is fundamental to effective management. Setting clear standards about expected behaviour, and being open about what is acceptable or otherwise is a key part of a manager's role. Publicising policies, continually reinforcing standards and taking immediate informal action to manage minor infringements is vital as it may negate the need to resort to formal disciplinary action later.

Misconduct

Where an employee will not respond to reasonable requests to modify their behaviour or where they conduct acts of more serious misconduct then a manager will need to use the disciplinary policy to enforce improvement. Breaches of the disciplinary rules classed as misconduct are outlined in the appendix on Disciplinary Rules; such instances can result in disciplinary warnings at Stages 1, 2 or 3 of the Disciplinary Procedure. Previous interventions or warnings which do not lead to a sustained improvement will influence the perceived seriousness of subsequent misconduct (and hence result in an escalation of warning issued). Repeated breaches of the disciplinary rules or acts of misconduct may result in an employee's dismissal. Individual Departments may supplement these corporate rules with service-specific rules and guidelines in agreement with trade unions via the Directorate joint consultative committees.

Expunged warnings may not be used for the "totting-up" process.

Gross Misconduct

Gross misconduct is regarded as an incident or incidents of misconduct so serious, that the action fundamentally breaches the contractual relationship between the employee and the City Council and justifies that the Council in no longer accepting the employee's continued employment.

In the case of any act committed which is considered by the Hearing Officer to constitute gross misconduct, and after due regard has been given to any mitigating circumstances put forward, the employee may be summarily dismissed (without notice and irrespective of whether the employee has any previous warnings) i.e. with effect from the time the decision of the Hearing Officer is given.

Breaches of the disciplinary rules normally classed as gross misconduct that may result in summary dismissal are outlined in the appendix on Disciplinary Rules. Directorates may supplement these corporate rules with service-specific rules and guidelines.

6. Disciplinary process

The stages of the procedure are as follows:

Step 1 - Investigation

Conducting an Investigation

Before any decision is made to hold a disciplinary hearing a full investigation will be carried out by an appropriate manager (the Investigating Officer). The employee should be advised of the nature, and as it becomes available, the detail of the allegation/complaint in writing. If there are any alterations made to the allegations as the investigation progresses, then the employee should be informed accordingly.

The investigating officer will meet with as many witnesses as is appropriate and practicable. This will include holding an investigatory meeting with the employee against whom allegations are being made. The employee and witnesses have a right to be accompanied at interview. The investigating Officer will ensure that adequate notes are taken of investigatory meetings.

Other sources of information and data should be collated and analysed if they are relevant to the case.

Suspension

Suspension can arise at the start of the investigation or during the investigation if subsequent evidence comes to light which justifies it.

Suspension from duty with contractual pay is a precautionary measure which the Investigating Officer may apply if they feel it is warranted. This should not be considered a disciplinary sanction and is not an indication of guilt.

Considerations which may lead to suspension are given below.

- Where it is believed not to be in the interests of the Council's service users, employees or stakeholders that an individual should continue to work pending completion of a disciplinary investigation.
- Where it is believed that the continued presence of the employee might prejudice enquiries or influence witnesses.
- Where there has been physical violence (or threats of it) or a heated outburst. If there are risks to property or other parties by continued presence.
- Where there is a possibility that the allegations, if proven, may constitute gross misconduct.

- Management should consider the possibility of the employee working in another area/role temporarily or in a more supervised environment and determined by a balanced risk assessment.

The employee's right to be accompanied at the point they are suspended, should not delay affecting the suspension where opportune representation cannot be arranged.

Immediately following suspension, the Investigating Officer will prepare a letter to the individual concerned outlining the reason for the suspension; the terms of the suspension and the consequences of breaching those conditions; as well as details of any appropriate administrative arrangements that have been made at that time.

Where any employee has been suspended and following an investigation, the Investigating Officer believes that the issue is not a disciplinary matter or suspension is no longer necessary then the suspension will be lifted at the earliest opportunity, the individual will return to work and this will be confirmed in writing.

Outcome of the Investigation

If following investigation, the Investigating Officer believes that there is proven behaviour which potentially warrants a disciplinary sanction then he/she will initiate a disciplinary hearing. At this hearing the Investigating Officer will present the findings of their investigation and their conclusion. The case will be heard by a different officer (the Hearing Officer) who will be a more senior grade and will not have been directly involved in the investigation so as to make them impartial.

Where the Investigating Officer believes that the issue is not a disciplinary matter or should be dealt with out of the formal policy the employee will be informed of this at the earliest opportunity.

Step 2 - Hearing

Arranging the Hearing

The rights of representation and the role the representative can play are the same as outlined in the investigation section. A letter will be sent to the employee confirming the arrangements for the hearing and a statement of the final form of the allegations being made against the employee. All documents to be referred to by the Investigating Officer (the evidence pack) will be sent to the employee with enough time for them and their representative to prepare for the hearing. A period of 10 working days must be allowed before the date of the hearing. A copy of the evidence pack should also be sent to the nominated representative at the same time as the employee.

The employee/their nominated representative will send any information to which they intend to refer (which is not already included in the evidence pack) to the Investigating Officer to arrive at least three working days before the date of the hearing.

Rescheduling the Hearing

It is in everyone's interest to avoid delays and hence it is not expected that once the date is set for the hearing (having sought to agree dates with any relevant trade union representatives) that this should change; except in exceptional circumstances. If hearings need to be rescheduled this should be done within a week of the original hearing unless there is a compelling reason that this cannot happen. If the employee is persistently unable or unwilling to attend without good cause the employer should make a decision on the evidence available although other options should be offered as appropriate (for example submit written statements, nominate another to attend on their behalf or offer an offsite location). Where the employee is unable to attend due to certified sickness the Occupational Health Unit (OHU) may be contacted to establish if the employee is fit to attend a hearing, or if any arrangements can be made that would make that possible. If an employee fails to reasonably engage with the OHU for this purpose the manager may decide to offer other options as mentioned above or to proceed in their absence.

Where agreement is not reached, the Hearing Officer will make a decision regarding the need to change the date taking account of all factors

Conduct of the Hearing

The Hearing Officer will be responsible for the conduct of the Disciplinary Hearing, the order of which is set out below. The Hearing Officer will outline the process and set out any ground rules, they will take all steps necessary to reassure themselves that it is a fair hearing and that all information they need is provided to them in order they can make a sound decision. For clarification purposes the Hearing Officer may ask questions of any party at any time during the hearing, they may also adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained the Hearing Officer will specify the nature of that information to be obtained, by what method and any bearings on the proceedings to both parties. The Hearing Officer will ensure that all such information is shared with both parties with an opportunity to comment.

1. Investigating Officer presents the case and calls witnesses if applicable (where witnesses are required they will only attend that part of proceedings where they are giving their evidence and answering questions).
2. Employee (or his/her representative) questions the Investigating Officer and witnesses.
3. Hearing Officer questions Investigating Officer and witnesses.

4. Employee (or his/her representative) presents his/her case and calls witnesses if applicable.
5. Investigating Officer questions employee and witnesses.
6. Hearing Officer questions employee and witnesses.
7. Investigating Officer sums up.
8. Employee (or his/her representative) sums up.
9. Both parties withdraw and the Hearing Officer deliberates (a HR rep may be present) in order to reach a decision. If it is necessary to recall one of the parties for further information or consider any further documents before a decision is taken, both parties shall be recalled.

The Hearing Officer will ensure that adequate notes are taken of the disciplinary hearing. Notes of meetings are management notes of the pertinent points of the meeting and are not required to be verbatim minutes. The employee and their representative are free to take their own notes at any point. Notes made by the Hearing Officer should be shared with the employee if an appeal is lodged.

Confirming the Decision

A decision will be given by the Hearing Officer as soon as possible, and ordinarily within 3 working days of the conclusion of the hearing. All decisions will be confirmed in writing detailing the allegations; response of the employee and any mitigation given, together with the reasons for arriving at the decision. It is vital that the comprehensive logic followed in reaching a decision is clearly explained within this letter so that it is understandable to all parties. The letter will be produced by the Hearing Officer and a copy will be forwarded to the employee and their representative.

Sanctions

The following formal sanctions may be applied under the Disciplinary Procedure:

Stage	Sanction	Live period for sanction
One	Verbal Warning	6 months
Two	Written Warning	6 months
Three	Final Written Warning	6 months
Final	Dismissal - Summary or with notice	n/a

The penalties for misconduct will normally follow incrementally, i.e. Stage 1; Stage 2; Stage 3. There will be instances, however, where specific circumstances dictate a higher stage of disciplinary action without proceeding through this sequence. The penalty for Gross misconduct is normally summary dismissal.

Gross misconduct – consideration of alternatives to dismissal.

When an allegation which constitutes gross misconduct is found proven, as part of the process of ensuring that a dismissal is fair in terms of employment law, there is a need to consider whether there is an alternative response which is short of dismissal from the City Council. When it is concluded that the circumstances of the case may allow consideration of the potential to assign the employee to a different post it must be as an alternative to dismissal from the City Council (rather than a free-standing disciplinary sanction) and accompanied by a final warning. In the event that such an offer of an alternative post is accepted this offer will not be subject to appeal.

Step 3 - Appeal

Lodging an Appeal

An employee has a right of appeal against any disciplinary sanction to the Head of Service / Strategic Director (or their nominated representative). All appeals (including those against dismissal) must be made, in writing, within ten working days of the confirmation letter being received. The reason for the appeal must be stated in writing at the time the appeal is submitted.

The Appeal Hearing

The appeal hearing officer will be of the appropriate seniority and impartiality and will conduct a full rehearing of the case. If an employee has a preference for a paper review of their case, or for an appeal based on their stated grounds (rather than a full rehearing) they can request this in writing and if all parties are agreeable they can proceed on this basis.

In cases of dismissal, summary or with notice, the right of appeal will in addition be to a panel of Elected Members called the Employee Appeals Committee. This appeal is based on the grounds raised by the employee, the process for Employee Appeals Committee including the pro-formas which need completing should this process be utilised are available on the intranet.

Outcome of the Appeal

The range of decisions open to the Appeal Body will be as follows:

- allow the appeal and revoke the disciplinary sanction or substitute other informal action instead;
- allow the appeal in part and substitute a lesser disciplinary sanction;
- disallow the appeal and uphold the original disciplinary sanction;

The Appeal Officer will ensure that adequate notes are taken of the appeal hearing in order that they may refer back to them in making their decision. Notes of meetings are management notes of the pertinent points of the

meeting and are not required to be verbatim minutes. The employee and their representative are free to take their own notes at any point.

All decisions will be confirmed promptly in writing by the Appeal Officer ordinarily within 3 working days of the conclusion of the appeal hearing. The letter will detail the main points made by the employee together with the outcome and the reasons for arriving at this decision. It is vital that the comprehensive logic followed in reaching a decision is clearly explained within this letter so that it is understandable to all parties.

Representation

The employee can be accompanied by a Trade Union Representative, a workplace colleague or a friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional. The representative can submit evidence; make a case; ask questions and respond to views expressed on behalf of the employee. They cannot however respond to questions asked directly to the employee though they may explain and clarify prior to the questions being answered. They also cannot prevent the employer from making their case.

Records

Correspondence is needed at all stages of the process to make it clear what action is being taken and the reasons why.

A copy of the letter containing the sanction will be retained on employee file. These records should be kept confidential and retained in accordance with the Data Protection Act 1998.

In cases involving allegations of abuse of children or vulnerable adults (or any behaviour which may indicate a pattern that they may be unsuitable to work with Children or vulnerable adults), records of the allegations, investigation, hearing and outcome must be retained until the employee reaches normal retirement age, or for 10 years, whichever is the longer.

7. Appendix 1 - Decision making guidance for Investigating Officers and Hearing Officers.

Step 1 - Investigation

The Investigating Officer is responsible for undertaking a thorough investigation of the circumstances to establish a balanced view based on facts and reasoned judgment. Full regard will be given to relevant Council Policies. The investigating officer should scope out their investigation at the start and produce a plan to complete it within a reasonable timescale. They should not allow unnecessary time delays to this plan as this can have a negative impact on the employee, service and viability of any further action taken.

Although the employee has the right to be represented, this should not slow down the investigation unduly and so requests must be reasonable. The employee can be accompanied by a Trade Union Representative, a workplace colleague or a friend; they cannot be accompanied to internal proceedings by a solicitor or legal professional. The representative can submit evidence; make a case; ask questions and respond to views expressed on behalf of the employee. They cannot however respond to questions asked directly to the employee though they may explain and clarify prior to the questions being answered. They also cannot prevent the employer from making their case.

The Investigating Officer will ensure that adequate notes are taken of investigatory meetings. The Investigating Officer will also decide if witness statements (the witnesses own statement of their version of events as they occurred) are required or if notes of meetings (for example when structured questions have been used) are more appropriate. In some cases they may decide the circumstances warrant both (for example where a witness was interviewed more than once or where it will aid the memory of the witness to produce their own statement). Any witness statements should be signed and dated – for the avoidance of any doubt as to their validity. Notes of meetings are management notes of the pertinent points of the meeting and are not required to be verbatim minutes. Any witness statements or notes of interviews should be presented and witnesses should be available to be questioned if needed by either party. The employee and their representative are free to take their own notes at any point. Any notes made by the Investigating Officer should be shared with the employee (and their rep if applicable). They should respond if they disagree with the accuracy of any points made.

Employees with disabilities should be offered any necessary support to enable them to make their case fully.

Safeguarding considerations.

In the case of allegations of abuse against children and vulnerable adults by employees engaged in regulated or controlled activity there are additional requirements necessary. Where such allegations are made, separate

procedures are followed to ensure the safeguarding of the child or adult concerned. These procedures are operated alongside the Disciplinary Procedure, and may involve the police and other agencies. The allegations may be referred to the Independent Safeguarding Authority (ISA) in line with ISA's referral process, who will decide whether or not the employee is suitable to work with children or vulnerable adults). Where allegations are made to ISA, individual's are informed and advised of the reason for the referral.

In such cases, where an employee leaves the Council e.g. through resignation, retirement or redundancy, before allegations of abuse have been investigated, the Council is nevertheless required to complete the investigation, and reach a view on whether or not disciplinary action would have been taken if the employee had not left. This decision is then referred to the ISA, who will decide if further action is necessary. The Council is not permitted to enter into a compromise agreement with the employee in these circumstances.

Safeguarding investigations shall be treated as paramount and any action under the Council's Disciplinary procedure may, therefore, have to await criminal investigations, but will be undertaken as soon as practically possible to prevent delay. If however, it is possible to conduct an investigation with a view to potential disciplinary action this should be undertaken without delay, provided this does not interfere with any criminal investigation/proceedings.

A range of investigative actions to expedite the investigation might include any or all of the following:

- Examination of documentary evidence such as files, incident reports, daily logs or medical reports (where approval has been granted by the Child's parents/guardians and or the vulnerable adult).
- Interviews with witnesses and or complainants and others who are able to provide information relating to any incident.
- Joint interviews with other agencies where it is the best interest of the investigation and in order to prevent further anxiety to the child or vulnerable adult

Criminal Offences or other external proceedings

In cases where the police are investigating a matter or court case is pending, the application of the disciplinary procedure may not have to wait the outcome of such external investigations or proceedings. The burden of proof in internal disciplinary proceedings has to be established on "a balance of probabilities" (i.e. it is more likely than less likely that an event has occurred) - whereas in criminal cases the evidence has to be proven "beyond reasonable doubt" i.e. with certainty). However criminal offences or convictions outside employment should not be considered as automatic reasons for dismissal. The main consideration should be whether the offence is one that makes employees

unsuitable for their type of work or brings the City Council into disrepute.

Trade union officials

Although normal disciplinary standards should apply to trade union officials in relation to their conduct as employees, if disciplinary action is contemplated then the case should be discussed with a senior trade union representative or a full-time trade union official before any action is initiated under the disciplinary policy.

Suspensions.

Suspension should not be carried out as an automatic action because an investigation is required, it should only be used when there has been careful consideration if it is necessary. This must be because there is a genuine belief it is needed for one of the considerations outlined in the procedure. Before suspending consideration should first be made as to whether transferring the employee to a different work area would be a suitable alternative to suspension. Care must be taken as suspension without reasonable grounds, or unnecessarily prolonged suspensions, can amount to a breach of the implied term of trust and confidence between the employer and the employee.

For suspension to be fair it should always be kept under review to ensure that it does not become unnecessarily protracted.

The letter confirming suspension will advise the employee that they must be available to attend meetings and hearings associated with the investigation and/or disciplinary process, and may not visit their workplace or other non public area of the Council without the express prior consent of the Investigating Officer. Additionally they should be informed that any attempt to pressurise, coerce or intimidate colleagues, witnesses service users and/or other work contacts may potentially be viewed as a further disciplinary matter.

In order that the suspension process may be managed effectively and that suspensions do not carry on longer than necessary the Assistant Chief Executive (People) will monitor all suspensions. For any suspensions which managers wish to continue beyond two months express permission must be sought. Only in cases where strong reasons are given to justify continuance will permission be granted, otherwise the suspension must be lifted and the employee returned to work.

Step 2 - Hearing

Arranging the Hearing

When arranging the Hearing if a nominated representative is to attend they should be contacted with the aim of setting a timely and mutually suitable date

The final allegations, as outlined in the letter, should be specific and also be clearly and precisely worded. Where possible reference will be made to the rules breached and the potential consequences.

Making a decision at a Disciplinary Hearing

Before proceeding to making their decision the Hearing Officer should feel satisfied the Disciplinary Procedure has been applied fairly and in accordance with the principles of natural justice. They must be satisfied on the following points -

- That the employee has been told what they are being accused of (in clear and unequivocal terms) and the potential implications in cases where dismissal is an option.
- That they have been given the opportunity to state their case and they have been offered representation in order to do so.

The Hearing Officer should also consider whether the investigation was sufficient to enable them to make a decision, namely -

- That the Investigating Officer carried out as thorough an investigation as was reasonable, in the circumstances.
- That sufficient regard has been paid during the investigation to any explanation put forward by or on behalf of the employee.

If satisfied on the above points the Hearing Officer considers if they feel allegations of misconduct have been proven “on the balance of probabilities” (To a standard of proof so that the hearing officer is satisfied that 'it is more likely than not'). In order to do so they must feel satisfied on the following considerations -

- That they have a genuine belief formed on an open mind that the employee committed the act (i.e. which allegations are proven if any).
- That there is reasonable evidence to sustain this viewpoint (and that the evidence is corroborated where necessary).

If the Hearing Officer does not feel they are able to make a fair decision based upon the information presented at the Hearing they may:

- Recall any witnesses for further questioning (this should be done in the presence of both parties)
- Direct further enquiries, including adjourning for a specified reason/period, if necessary. Examination of the outcome of these enquiries should be carried out in the presence of both parties at a reconvened hearing.

If equipped to reach a decision the Hearing Officer must then decide what, if any; disciplinary sanction is appropriate to the proven misconduct and the circumstances of the case. Consideration of this may be influenced by:

- Reference to any standard / policy or procedure that has been breached or reference to the relevant disciplinary rule that has been broken. This should help define the seriousness of the offence and hence give direction on treatment (though this must be taken in context of the other considerations listed here).
- Mitigating circumstances put forward by or on behalf of the employee including the individual's previous employment record.
- Whether the employee was aware of the gravity of the offence and the consequences of committing it.
- Reference to consistency and previous action taken in similar circumstances (each case must however be taken on its merits as circumstances are never identical).

The organisational view of the seriousness of the act. In order to reach this determination a range of factors should be considered such as potential to cause harm to residents or employees; to damage Council reputation; to reduce effectiveness of services or the extent to which the action is against the values or ethos of what the City Council stands for.

In cases involving allegations of abuse of children or vulnerable adults, the Hearing Officer is required to consider whether the employee's actions have posed or could pose a risk to those client groups. In order to reach this view, it will be necessary to consider any available information relating to previous similar allegations, irrespective of whether or not they were dealt with at the time by the issuing of formal warnings. This is to enable potential patterns of behaviour to be identified.

Gross Misconduct – alternatives to dismissal.

If transfer to another location/demotion emerges as a possibility, it must be made clear to the employee that any reassignment or a variation to the employee's contract must be based on the availability of a post which falls within the competence of the employee and is mindful of any circumstances peculiar to the disciplinary case; where a suitable post exists the reassignment/variation in terms and conditions must be agreed by the employee. The Hearing Officer should then also consider if a final written warning should be issued in conjunction with this acceptance of an alternative to dismissal. If no appropriate post can be identified or the alternative is not accepted then the original sanction of dismissal will apply.

Confirming the Decision in writing.

As a minimum the letter confirming disciplinary action will contain the following information:

- The date on which the hearing took place and those present and their roles
- The offence(s) to which it relates and the conclusion of the Hearing Officer in relation to that (those) offence(s) – with clear logic for the decision making;
- The disciplinary action being taken (first stage warning / second stage warning / final warning / dismissal with notice / summary dismissal/transfer / demotion);
- In the case of warnings, the duration of the warning and the consequences of any further act of misconduct within the currency of the warning;
- Right of appeal open to the employee.

For template letters please see the intranet.

8. Appendix 2 - Disciplinary Rules.

It is fundamental to the employment relationship that employees will not act in a way that harms or compromises their employer, neither will they deliberately disregard reasonable directions from management or allow negligent / careless or reckless behaviour to have a negative impact on the service the City Council provides.

The City Council also expects that its employees will adopt its values and ethos in how they conduct their duties, and that they will be good role models for delivery of public services. This is the reason that the City Council has explicit Values, Code of Conduct and Equal Opportunities Policies for example.

The purpose of this document is to make employees aware of the more common rules and standards applicable to them and the consequences of breaching those rules. The list is not exhaustive and may be revised from time to time.

It is important that the standards are clear and that employees understand them, this helps the City Council reinforce a good working environment but also protects employees from unwittingly breaching requirements.

Gross Misconduct

Breaches of the disciplinary rules contained below will normally be classed as gross misconduct, which may result in summary dismissal i.e. without prior warning or notice.

Breaches of Key Rules, Policies and Procedures.

Serious breach of City Council Rules or Policies.

Examples may include (but are not limited to) -

- Employee Code of Conduct; Equal Opportunities Policy; Recruitment and Selection Guidelines etc.
- Deliberately failing to observe the Council's confidentiality, data protection and information security policies resulting in misuse, unauthorised disclosure, loss or theft of protected information assets and potential harm to individuals, commercial/ partner organisations and/or the reputation of the Council.

Theft, Fraud and falsifying records.

Falsifying records or employee practices which lead to theft, fraud or financial dishonesty, that result in the personal or financial gain of the employee or others.

Examples may include (but are not limited to) -

- Misuse of time keeping systems or records.
- Engaging in paid work without permission when notified as absent.
- Falsifying personnel or other records (e.g. expenses, claimant fraud or council tax evasion).

- Acceptance of bribes or other corrupt practices.

Misuse or abuse of Council Property or information.

Failure to account for or to adhere to regulations and guidelines regarding the security of cash, valuables, equipment, data, information or property belonging to the Department or service users. Wilful damage to Authority property.

Discrimination.

Serious or unlawful acts of discrimination or harassment.

Breach of Safe Working Practices.

Reckless behaviour or violation of safety regulations which potentially could endanger self and/or others.

Breaches of Trust and Confidence.

Conduct inside or outside work which leads to a serious loss of trust and confidence in an individual as an employee and makes continued employment with the City Council untenable.

Any action which is likely to bring the City Council into serious disrepute.

Examples may include (but are not limited to) -

- Using his/her position as an employee to gain advantage for self or others, or allowing one's private interests or activity to conflict with the best interests of the City Council.
- Accepting inappropriate or excessive gifts from service users or other working contacts.
- Deliberately misrepresenting the City Council; or disclosing information to external organisations to this effect.
- Wilful hindering of work - self or others.

Disorderly or Abusive Behaviour.

Conduct which is clearly unacceptable and /or offensive to a degree which makes ongoing employment untenable.

Examples may include (but are not limited to) -

- Fighting/assault on another employee, client or member of the public.
- Intimidation/coercion of/or threatening other employees, service users or public.
- Indecent conduct whilst undertaking official duties.

Gross Negligence.

Gross negligence in performance of duties where this behaviour may have caused detriment to the City Council or service users.

Breach of Contract.

Serious breach of contract which makes ongoing employment untenable.

- Refusal to follow reasonable management instruction or gross insubordination.
- Sleeping on duty.
- Serious breach of professional ethics or professional misconduct.

- Prolonged unauthorised absence without just cause.
- Providing false information during the recruitment process or during ongoing professional registration.
- Failure to inform the City Council of any changes in circumstances that materially effect their employment.

SECTION 2 - Misconduct

Minor infringements of work related rules, policies or standards and breaches of the disciplinary rules contained below will normally be classed as misconduct. This may result in disciplinary warnings, and if repeated ultimately dismissal.

- Lateness/bad timekeeping.
- Unauthorised absence.
- Poor attendance not related to ill health.
- Disorderly conduct or disruptive behaviour.
- Inadequate or bad work not related to incapability.
- Habitual and wilful carelessness or recklessness.
- Breach of professional ethics or professional misconduct.
- Intentional and/or deliberate waste or abuse of materials and/or equipment, including telephones.
- Abuse of normal break times (excluding flexitime - see flexitime regulations for action required).
- Interference with the work of other employees.
- Falsifying personnel or other records.
- Unacceptable behaviour likely to cause offense to others

Service Specific Rules

Breach of service-specific rules and guidelines may also be regarded as misconduct or gross misconduct, dependant upon circumstances. Service specific rules will be itemised separately by individual Services / Directorates.

There are specific requirements for staff in relation to their conduct with Children or Vulnerable adults when they are working in regulated or controlled activities (as defined in the Safeguarding Vulnerable Groups Act 2006). Breaches of these requirements will normally be classed as Gross Misconduct, examples are itemised by the relevant services.

Employee Dispute Resolution Policy

HR Policy

HROD

June 2012



MANCHESTER
CITY COUNCIL

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Introduction

- 1.1** The objective of the Employee Dispute Resolution policy is to ensure that, as far as possible, complaints are dealt with and resolved informally through discussion between the aggrieved employee and their line manager.
- 1.2** Complaints are concerns, problems or issues raised by an employee. However, before using the formal procedure it is expected that an employee will try to resolve their issue informally if at all possible. The formal stage of the procedure should only be used when the informal stage has failed to resolve the issue or is not making progress at reasonable speed.
- 1.3** This procedure takes account of the ACAS (Advisory, Conciliation and Arbitration Service) code of practice on grievance procedures and will be reviewed periodically in line with developments in good practice.
- 1.4** The Procedure will not apply to:-
- matters covered by statutory provision such as Income Tax, National Insurance or Pension Scheme rules
 - matters regarding ongoing disciplinary, attendance or capability issues which will be addressed within those procedures
 - pay and grading of posts - dealt with through pay and grading scheme
 - VS/VER - dealt with through the relevant discretionary schemes

Scope

- 2.1** This document applies to all employees employed by the Council. This policy does not apply to school based staff.
- 2.2** The policy covers all complaints made by an employee which are either:
- A grievance regarding a relevant issue arising in the workplace.
 - Any dignity at work issue involving alleged incidents of bullying and harassment.

Key Principles

- 3.1** The Council believes that every employee has the right to be treated with dignity and respect in the workplace and is committed to providing a supportive working environment where employees are free from bullying and harassment. It is recognised that threatening or intimidating work environments can interfere with job performance, undermine job security and can cause undue stress.
- 3.2** The following key principles underpin this policy:-
- Provide a framework to ensure any bullying and harassment is dealt with effectively, and that action is taken to prevent a reoccurrence.
 - Provide a working environment in which employees feel confident to bring forward any complaints without fear of victimisation.

- Ensuring that all employees are able to achieve their full potential at work by creating a working environment where everyone is treated with dignity and respect and free from bullying and harassment.
- Increase awareness of the unacceptability of any form of unfair treatment bullying and harassment.
- Every employee has a responsibility to behave in a manner which is not offensive to others; maintaining the dignity of colleagues. Additionally managers have a particular responsibility for implementing and communicating this policy and resolving any instances of unfair treatment such as bullying and harassment.
- Provide a process which enables complaints to be investigated promptly and appropriately dealt within a timely manner.

Dignity at Work Statement

- 4.1** The Council aims to eradicate all forms of unacceptable behaviours which undermine an employee's dignity at work. This includes unintentional offensive behaviour. As well as accepting its legal responsibilities, the Council is committed to broadening these principles in all aspects of Equal Opportunities including harassment on the grounds of race, ethnicity, age, gender, religion or belief, sexual orientation, marital status, pregnancy and maternity, gender reassignment and trade union membership.
- 4.2** All complaints regarding bullying, harassment and/or hate crime will be taken seriously and the recipient will not be victimised for raising the complaint. Cases will be dealt with sensitively and in the strictest confidence and the recipient's personal circumstances, including their sexuality or disability, will not be revealed to anyone, without their prior agreement.

Definition of Bullying, Harassment and Hate Crime

- 5.1** Behaviour which constitutes bullying, harassment or hate crime may occur on a single occasion, it may be sporadic or may take the form of a continuing process. It is behaviour which is intended to undermine, patronise, humiliate, intimidate or demean the individual or group of individuals.
- 5.2** The following definitions should be used as a guide to assist in understanding what may or may not be considered unacceptable, rather than an exhaustive list of types of unacceptable behaviours.

5.3 Harassment

Harassment occurs when someone engages in unwanted conduct which has the purpose or effect of violating someone else's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment

- 5.3.1** The Equality Act 2010 protects against three particular types of harassment:-
- Harassment related to the particular characteristics of race, disability, gender, gender reassignment, age, sexual orientation and religion or belief
 - sexual harassment and/or
 - less favourable treatment of an employee because they submit to or reject sexual harassment or harassment related to sex or gender reassignment

5.3.2 Unwanted conduct can include any kind of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

5.3.3 A single act of harassment which is sufficiently serious can lead to a grievance/dignity at work complaint – harassment should always be considered in terms of the impact it has on an individual.

5.4 Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour towards another individual or group of people. It is typically an abuse or misuse of power which is meant to undermine, humiliate or injure the recipient.

5.4.1 Bullying can be obvious, or it can be subtle and insidious. Bullying and harassment are not necessarily face to face. They may also occur in written communication, email, phone and automatic supervision methods such as computer recording of downtime from work or the number of calls answered if these are not applied to all employees.

5.4.2 Bullying and harassment can make an individual feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. The impact of bullying and harassment may cause individuals to become frightened and de-motivated. Stress, loss of self confidence and self-esteem caused by bullying and harassment can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

5.4.3 It is important to note that where a manager is legitimately carrying out their management responsibility in an appropriate and reasonable manner this will not constitute bullying.

Informal Resolution

6.1 Managers should be willing to deal with an employee's complaint at an early stage. It is not helpful to insist that an employee who has raised a complaint verbally should also put it in writing. Employee dissatisfaction can often be nipped in the bud and resolved most effectively by a manager at an informal level. Managers should ensure that they acknowledge and address any problems that may arise in the workplace at an early stage. It is better to focus on resolving the complaint where appropriate.

6.2 If an employee has a complaint that involves another employee or employees, they may wish to try to resolve the matter by a direct approach to the employee or employees involved. If a direct approach is considered inappropriate or if the matter remains unresolved, the employee may ask their line manager to look into matters and try to resolve the issue informally within a mutually agreed timeframe.

6.3 Third party conciliation may be a tool that is used to resolve grievance/dignity at work complaints at an informal stage with consent from both parties. Employees can seek confidential advice in relation to third party conciliation. (Contact details will be provided on the intranet).

6.4 Employees, who feel they are being harassed, bullied or made to feel uncomfortable within the team and who feel confident enough, may choose to meet to explain to the individual(s) carrying out any of the above actions, that it is unwelcome and offensive, and ask for it to cease. They may do so on their own or

ask for a third party to accompany them, for example, a colleague, who may be able to help resolve the complaint informally.

- 6.5** Employees, who choose this approach, should keep a note of the date, what was said and what was agreed. Where this approach is not possible or has been unsuccessful or where the employee feels that an informal approach has not been successful in resolving complaint then formal action may be necessary.
- 6.6** Full records should always be kept of any informal resolution, as well as the outcomes. Correspondence is needed to make it clear what action is being taken and the reasons why. As a minimum, a letter confirming the outcome of the informal action will contain the following information:
- The date on which the agreed outcomes took place and the name and title of the employee;
 - The conclusion of the outcomes in relation to complaint presented;
 - The outcome that needs to be achieved to prevent any reoccurrence of the complaint.

Formal Process for Dealing with Complaints

- 7.1** A formal complaint should be raised without unreasonable delay, normally within three months of the incident which gives rise to the complaint. Employees should normally raise this with their line manager. If the complaint is against the line manager, the employee can raise the complaint with that person's line manager or another manager of equivalent status.
- 7.2** In all cases and at all stages, the employee must detail the specific circumstance or circumstances which constitute their complaint, with dates, times, locations, witnesses, etc. as applicable using the form attached in Appendix 1. Employees should stick to the facts as far as possible and avoid insulting, inflammatory or abusive language. The employee should explain any steps they have taken to try to remedy the situation and to explain what outcome they are seeking or how they feel it should be resolved.
- 7.3** Employees who have difficulty in setting out their complaint in writing should be encouraged to seek help or advice from a work colleague or trade union representative.

7.4 Meeting

On receiving a formal complaint the manager should arrange to meet the employee as soon as possible. Details of the meeting should be communicated to the employee within 5 working days. The employee will have a right to be accompanied by a 'colleague' or trade union representative. The purpose of the meeting will be to clarify the employee's complaint and any issues in relation to information submitted in the Employee Complaints Form.

If the manager feels that further investigation is required, then the scope of that investigation should also be explored and an estimated, realistic date for the completion of the investigation communicated to the employee.

The meeting should be fully documented by the manager.

It should be explained to the employee that where complaints are made against another employee this will need to be shared with that person in order to get their response.

7.5 Investigation

The manager dealing with the complaint will undertake a full investigation into the complaint. This may include conducting interviews with other employees. These should be held privately and in confidence and be fully documented.

Where counter grievances are raised, the manager should take this into consideration when making his/her decision and determine whether any further action is required under separate procedures. All meetings conducted by the manager as part of the investigation should be fully documented by the manager.

7.6 Outcome

When considering an appropriate outcome, a manager may wish to consider a number of possible options focusing how best to resolve the complaint taking into account the impact on the individual, team and working environment.

The employee should be notified of the outcome as soon as possible and within the timescales agreed with the employee ordinarily within 21 working days. The decision may be given verbally but should always be confirmed in writing, along with the reasons for the decision reached.

- a) Whether the manager finds the complaint to be substantiated or part of the complaint is substantiated, then the manager will set out what action is to be taken or recommendations to resolve it,
- b) If the complaint is not found and the manager will set out their reasons for arriving at this conclusion.
- c) Their right of appeal against the outcome

7.7 Re-establishing positive relationships

As a final step in handling complaints, managers should consider any action that will re-establish positive working, learning and relationships for all parties to a complaint.

7.8 Appeal

If the employee is dissatisfied with the outcome, the employee has a right of appeal to a nominated more senior manager as detailed in the outcome letter. Detailed grounds for appeal should be submitted in writing by the employee within 10 working days of receipt of the outcome letter.

Keeping Records

- 8.1 Records should be kept detailing the nature of the complaint raised, the employer's response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the Data Protection Act 1998 which allows the release of certain data to individuals on their request.

Dealing with Frivolous, Vexatious and Abusive complaints

- 9.1** In making complaints most employees act sensibly and reasonably. However, occasionally complainants may act inappropriately. These types of complaints are not only distressing for the employee who they are made against, but are also time consuming and unnecessary divert valuable resources. Therefore, it is important that such complaints are properly identified and managed.
- 9.2** In identifying frivolous, vexatious and abusive complaints managers must be careful to distinguish between complainants who are raising genuine concerns and people who are abusing their right to raise an issue/complaint.
- 9.3** Complainants may often be aggrieved, frustrated or have other reasons for their behaviour and, therefore, the focus must be on careful consideration of the merits of the complaint rather than the attitude of the complainant.
- 9.4** Every complaint must be considered on its merits and, even if someone has made a frivolous, vexatious or abusive complaint in the past, it must not be assumed that any other complaints they make will also be frivolous or vexatious.
- 9.5** Where it is deemed that the complainant has made frivolous, vexatious or abusive complaints previously and it is deemed that an employee continues in this practice, then the person nominated to deal with the complaint should after considering the merits of the complaint and there is no case to answer, refer the matter to the employees line manager detailing their findings and ask that an investigation be carried out which may result in disciplinary action being taken against the complainant.