

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.