

# Employee Dispute Resolution Policy

HR Policy

HROD

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**MANCHESTER**  
**CITY COUNCIL**

# Contents

Introduction.....	2
Scope .....	2
Key Principles.....	2
Dignity at Work Statement.....	3
Definition of Bullying, Harassment and Hate Crime.....	3
Informal Resolution .....	4
Formal Process for Dealing with Complaints.....	5
Keeping Records .....	6
Dealing with Frivolous, Vexatious and Abusive complaints .....	7

## Document Control

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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.