

Archived Decisions for the Portfolio Holder for Human Resources 2010



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ARCHIVED PORTFOLIO HOLDER DELEGATED DECISION

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Decisions taken by Individual Portfolio Holders

Portfolio Holder for HR

Decisions Taken 18th February 2010

Revised HR Policies and Procedures

- 1. Flexible Working
- 2. Sickness Absence
- 3. Annual Leave

DECISION	Reason for Decision
To approve the revised policies and procedures for implementation.	To ensure the Council has up-to-date and compliant working procedures to support effective staff management and service delivery.

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CYNGOR SIR POWYS COUNTY COUNCIL

BOARD
31st December 2009

REPORT AUTHOR: Karen Williams, Interim Head of HR

SUBJECT: Revised HR Policies and Procedures

REPORT FOR: Decision

Summary

As part of the cycle of Human Resources policy development and review, three policies have been revised during the October – December 2009 period. The proposed revisions are a culmination of discussion and consultation between Heads of Service and Senior Managers, Trade Unions and members of the Human Resources Service, all of whom were represented at an HR Policy Consultation Workshop which was held on 7th October 2009.

The resulting policy proposals were published on the Intranet in November 2009 for employees to read and comment upon. During that period, a small number of employees responded by offering comments or suggestions on the draft documents.

The three policies in question are:

1. Flexible Working
2. Sickness Absence
3. Annual Leave

Proposal

To replace the previous policy documents and implement these revisions with effect from 1st February 2010 as follows:

1. Flexible Working

This was first launched as a policy in August 2007. The main changes in the revised document are:

- Clearer guidance for managers and employees, including a flow-chart to show the application procedure;
- Greater emphasis on the requirement for employees to give due regard to service implications when making requests for flexible working;
- Greater clarity on justifiable grounds for declining a request for flexible working;
- Removal of the formal career break scheme for business reasons, replaced by a facility for shorter periods of unpaid leave to be requested;

- Removal of the job-share scheme for business reasons. Other part-time arrangements have been retained;
- Removal of team-based self-rostering, which has not been taken up within service areas during the operation of the existing policy;
- The appeals process is now contained as one step to the Head of Service within this procedure and no longer refers to the Grievance Procedure, thus shortening the decision-making process.

A review of the arrangements for home/flexible workers is currently taking place and that related policy will be updated in due course.

2. Sickness Absence Procedure

This is a complete overhaul of the current policy launched in June 2006.

The policy revision is designed to provide a more logical and succinct flow, highlighting the procedural aspects of handling sickness absence matters in a shortened format.

The main changes are represented thus:

- Change of title from Policy to Procedure, with an introductory policy statement;
- Two distinct sections, showing the absence management procedures and management guidance;
- Logical process-flow of guidance through the document;
- Supplementary information as appendices for easier navigation of the main text.

Further to this, the document has been updated to take into account changes to the application of the Working Time Regulations and the effect of case law (namely “Stringer”) as it applies to the accrual of annual leave during sickness absence.

3. Annual Leave

The Council's annual leave arrangements have not been reviewed for some considerable time and therefore this policy updates and replaces the information contained within the former employee handbook.

The revisions are intended to strengthen the arrangements for booking, allocating and taking annual leave from both an employee and a managerial perspective. In addition, to support the increased use of flexible working arrangements, the leave entitlements are expressed in hours rather than days so that flexible working patterns and the taking of smaller periods of leave can be accommodated.

Corporate Improvement Plan

The revisions will contribute to the successful achievement of three elements of the priority “Improving our Corporate Health”, these being:

- Ensure we comply with our statutory duties;
- Build a better trained, motivated and healthy workforce, and consequently;
- Provide better customer focus.

Options Considered/Available

1. To not replace or review existing policy documents.
2. To update existing policy documents.

Preferred Choice and Reasons

Option 2 is the preferred choice: To ensure that the Council upholds fair and legally compliant employment practices which support service areas to manage their workforces effectively and efficiently.

Option 1 is not a viable choice as the Council would no longer be operating compliant employment practices which are responsive to business needs.

Sustainability and Environmental Issues/Equalities/Crime and Disorder/Other Policies

The revisions would ensure that the Council provides fair and equal employment practices for all staff.

Other Consultations Undertaken

Recommendation:	Reason for Recommendation:
To approve the revised policies and procedures for implementation.	To ensure the Council has up-to-date and compliant working procedures to support effective staff management and service delivery.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
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Person(s) To Implement Decision:	Karen Williams, Corporate HR Manager
Date By When Decision To Be Implemented:	1st February 2010

Contact Officer Name:	Tel:	Fax:	Email:
Karen Williams Ruth Goldwater	01597 826743 08708 510276		Karen.williams@powys.gov.uk Ruth.goldwater@powys.gov.uk

Background Papers used to prepare Report:

Flexible Working Policy
Sickness Absence Management Procedure
Annual Leave Policy

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Decisions taken by Individual Portfolio Holders

Portfolio Holder for HR

Decisions Taken 23rd July 2010

Amendment to Flexible Working Policy

DECISION	Reason for Decision
To amend Section 6.5 Unpaid Leave of the Flexible Working Policy to change the maximum period of unpaid leave which may be taken from two years to 12 months.	To ensure that the Council upholds practical employment practices which support service areas to manage their workforces effectively.

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CYNGOR SIR POWYS COUNTY COUNCIL

**BOARD
2010**

REPORT AUTHOR: Karen Williams, Interim Head of Human Resources

SUBJECT: Amendment to Flexible Working Policy

REPORT FOR: Decision

Summary

The current version of this policy has been in place since February 2010. Under Section 6.5 (Unpaid Leave), the maximum period of leave which may be taken is stated as two years. It has been proven that, under the current economic climate and because of the increasing potential for organisational change, it is not a viable option to hold a post open for someone to take unpaid leave for this period of time.

Proposal

To amend the policy to limit the scope of this arrangement to up to 12 months' unpaid leave.

Corporate Improvement Plan

The revision will contribute to the successful achievement of the priority “Improving our Corporate Health”, that is, ensuring we operate affordable and practical employment practices.

Options Considered/Available

1. To not replace or review the policy in question.
2. To update the policy in question.

Preferred Choice and Reasons

Option 2 is the preferred choice: To ensure that the Council upholds affordable and practical employment practices which support service areas to manage their workforces effectively.

Option 1 is not a viable choice as the Council would not be maintaining economically practical employment practices.

Sustainability and Environmental Issues/Equalities/Crime and Disorder/Other Policies

The revisions would ensure that the Council provides practical and realistic employment practices in order to maintain service continuity and fairness to employees.

Statutory Officers

The policy amendment has the support of both Statutory Officers.

Recommendation:	Reason for Recommendation:
To approve the policy amendment.	To limit the impact of organisational change on vacated or temporarily-filled posts.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
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Person(s) To Implement Decision:	Karen Williams, Interim Head of HR
Date By When Decision To Be Implemented:	Immediately upon approval

Contact Officer Name:	Tel:	Fax:	Email:
Ruth Goldwater	08708 510276		ruth.goldwater@powys.gov.uk

Background Papers used to prepare Report:

Decisions taken by Individual Portfolio Holders

Portfolio Holder for HR and Portfolio Holder for Finance

Decisions Taken 24th November 2010

Hay Group Job Evaluation Framework

DECISION	Reason for Decision
To engage Hay Group for the Job Evaluation process for managers.	To complete the Job Evaluation project.

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By virtue of paragraph(s) 14 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Decisions taken by Individual Portfolio Holders**Portfolio Holder for HR****Decisions Taken 8th December 2010****Policy on Politically Restricted Posts and Political Neutrality**

DECISION	Reason for Decision
To approve the new policy on Political Restrictions.	To ensure compliance with legislative requirements.

Inclement Weather Policy

DECISION	Reason for Decision
To approve the proposed policy changes to the Inclement Weather Policy.	To ensure both service continuity for the public and fairness and consistency for employees during inclement weather.

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CYNGOR SIR POWYS COUNTY COUNCIL

**BOARD PORTFOLIO HOLDER FOR HUMAN RESOURCES
30th November 2010**

REPORT AUTHOR: Karen Williams, Interim Head of Human Resources

SUBJECT: Revised Inclement Weather Policy

REPORT FOR: Decision

Summary

The Council has had an Inclement Weather policy as part of the employee handbook for a number of years.

The weather events of the 2009 winter season highlighted a need to review the arrangements for service continuity across the authority, particularly in relation to:

- Managing employees requiring to be absent in response to school closures, to care for dependents, and travel difficulties;
- Co-ordination of service provision and deployment of the workforce;
- Consistency of approving alternative working and leave arrangements.

Heads of Service and Trade Unions were consulted as part of the review of the policy during March 2009 and the draft revisions were published on the Intranet for employees' comments. A review of the policy arrangements was also carried out by a Scrutiny Working Group. A follow-up consultation took place at an Employment Policy Consultation Workshop in February 2010.

A corresponding policy applicable to Schools has been developed.

Proposal

The main proposed changes are:

- Greater emphasis on cohesive decision-making within and across service areas;
- Greater emphasis on forward-planning by service areas;
- More detailed guidance on practical arrangements for alternative ways and locations of working for staff.

These revisions are in response to service continuity needs and recognition of the impact of decisions to temporarily reduce or close-down service provision.

Corporate Improvement Plan

The revision will contribute to the successful achievement of the priority "Improving our Corporate Health", that is, ensuring we comply with our statutory duties.

Options Considered/Available

1. To not replace or review the policy documents in question.
2. To update the policy documents in question.

Preferred Choice and Reasons

Option 2 is the preferred choice: To ensure that the Council upholds fair and consistent employment practices which support service areas to manage their workforces effectively and efficiently prior to, and during, spells of inclement weather.

Option 1 is not a viable choice as the Council would neither be maintaining fair and employment practices nor ensuring co-ordination of continued service provision.

Sustainability and Environmental Issues/Equalities/Crime and Disorder/Other Policies

The revisions would ensure that the Council provides fair and equal employment practices whilst maintaining service continuity.

Other Front Line Services

A review of the corresponding policy for Schools has also taken place.

Support Services (Legal, Finance, HR, ICT, BPU)

The consultation exercise included the Heads of Service from these support services.

Statutory Officers

The Strategic Director, Finance & Infrastructure, confirms that the proposals are within existing budgetary provisions.

The Strategic Director, Law & Governance, has no comment to make on the report.

Recommendation:	Reason for Recommendation:
To approve the proposed policy changes.	To ensure both service continuity for the public and fairness and consistency for employees during inclement weather.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
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Person(s) To Implement Decision:	Karen Williams, Interim Head of HR
Date By When Decision To Be Implemented:	Immediately upon approval

Contact Officer Name:	Tel:	Fax:	Email:
Ruth Goldwater	08708 510276		Ruth.goldwater@powys.gov.uk

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CYNGOR SIR POWYS COUNTY COUNCIL
Inclement Weather Policy

Status	Version 2 Final
Date of Issue	November 2010
Agreed by	
Review Date	April 2012

Cyngor Sir Powys County Council Inclement Weather Policy

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Cyngor Sir Powys County Council

Inclement Weather Policy

1. Purpose

1.1 This document sets out Powys County Council's policy in relation to the impact on services and the requirement for employees to attend work during severe or inclement weather. Its purpose is to:

- Ensure the safety and wellbeing of all employees should a building or service have to deal with severe, inclement weather;
- Ensure that all employees are clear about their roles and responsibilities in the event of severe weather.

1.2 Due to the vagaries of British weather conditions it is impossible to provide a more detailed policy which will give clear concise guidelines of what is expected of managers and employees. Each occasion of severe weather conditions will be considered on its individual impact.

2. Definition

2.1 Inclement weather can be defined as weather which is sufficiently adverse as to cause reduced visibility, where there are very high winds, where road surfaces become hazardous due to snow, ice or floods, or where there is a danger of vehicles becoming stranded in remote locations.

3. General Principles

3.1 All employees must make every reasonable effort to attend their usual place of work unless a specific announcement is made to Council staff by the Council not to do so. Staff must not interpret general radio or television announcements, announcements by other employers or generalised advice from the Police to the effect that only essential journeys should be made, as an approval to remain at home. Authorisation to remain at home may only come from the Council (e.g., line manager/Head of Service).

3.2 The decision to close a building or service should not be taken lightly. The responsibility for deciding to close because of severe inclement weather lies with Heads of Service who may refer their decision to an Executive Director to have an overview of the decisions made by other service areas which may affect others. The decision to close must be taken in light of local circumstances. In cases where service users are affected by the closing of a building, for example, a day centre, then the local manager and Service Senior Manager must forward a full risk assessment to the Executive Director for confirmation of the decision to close the building.

3.3 The Council also operates an Inclement Weather policy for Schools and due regard should be given to the provisions of both policies when dealing with inclement weather events where school-based services are affected.

3.3 This policy aims to maintain Council services for as long as is reasonably practical and a partial closure of a building or service should be considered before complete closure.

3.4 It is considered appropriate for employees to walk a reasonable distance to their place of work or nearest available transport, dependent on the nature of the route.

- 3.5 Due regard will be given to staff who are disabled or have a disabling medical condition.
- 3.6 On no account should staff place themselves at risk - The interests and safety of employees are paramount under these circumstances.

4. Practical Arrangements for Dealing with Inclement Weather Events

- 4.1 Each service area is responsible for making suitable emergency operational plans aimed at maintaining essential services in the event of minimal employee attendance. Consideration should be given to forward-planning, for example, making sure that staff have contact details of their line managers with them so that they can keep in touch if unable to attend work, or planning appropriate work which could be taken home in anticipation of possible disruption to travelling.
- 4.2 It is essential that employees who are going to be late or are unable to attend work, telephone their line manager or nominated officer as soon as reasonably practicable and no later than fifteen minutes before the start of the working day. There may be times when this is not possible and allowances will be given in circumstances when there is no access to a telephone. However contact must be made as soon as is reasonably practicable in such instances.
- 4.3 Employees are advised that, in circumstances where conditions prevent their attendance at their normal place of work, then they and their line manager must agree an appropriate course of action or suitable alternative, such as:
- working at home;
 - taking annual leave;
 - taking flexi time;
 - taking time off in lieu provided it is already owing to them;
 - if part-time, making up the time lost by working on a non-rota day;
 - any other reasonable local arrangement as agreed between employee and manager, e.g., attendance at another functioning Council office/building.
- 4.4 Employees may be allowed to go home early if there is a genuine need on the basis of their personal safety, or that of a dependent, but decisions must be made on an individual basis and sanctioned by line managers, and consideration given to adopting one of the alternative provisions stated in paragraph 4.3.
- 4.5 Employees who attend their normal place of work (or an agreed alternative place), but arrive after normal starting time because adverse conditions have delayed their journey, will be paid at their normal daily rate.
- 4.6 If the place of work has been closed as result of a management decision and all employees at that place have been sent home, they will be paid at their normal daily rate.
- 4.7 Employees who fail to notify an appropriate manager that they are unable to attend work will be regarded as having taken unauthorised absence and therefore not be paid for the period of absence.
- 4.8 In the event that the building/service remains closed and the weather conditions do not improve, resulting in absence of more than one day, employees should maintain regular contact with their line/senior manager so that appropriate arrangements can be made.

CYNGOR SIR POWYS COUNTY COUNCIL

**BOARD PORTFOLIO HOLDER, HUMAN RESOURCES
2010**

REPORT AUTHOR: Karen Williams, Interim Head of HR

SUBJECT: Policy on Politically Restricted Posts & Political
Neutrality

REPORT FOR: Decision

Summary

The Local Government & Housing Act 1989 (Section 2) controls the direct activities of Local Government employees in politics, both national and local. Reviewed provisions under the legislation were introduced in January 2010 and an updated policy has been prepared.

The provisions of the Act are contained in the Local Government Officers (Political Restrictions) Regulations 1990. Generally, the law restricts the political activities of the Authority's Chief Executive, Strategic Directors and their Deputies and the Monitoring Officer.

This provision also used to apply to officers in posts above scp 44, but from January 2010 has been removed under the Local Democracy, Economic Development and Construction Act 2009. Instead, restrictions now apply as described below:

As well as those most senior officers stated above, political restrictions now apply to those local government officers whose posts entail giving advice on a regular basis to the executive of the authority, or a committee or member of the executive.

Further, posts that are considered to be regularly involved in providing advice to Members and those employees speaking on behalf of the authority to journalists or broadcasters may be considered to be politically sensitive. Employees in such posts may be entitled to exemption by applying to the Independent Adjudicator if their duties do not require political neutrality.

Officers in such posts mentioned above, may not, at the same time, canvass for elections or stand for office as:

- Local Councillors
- Members of Parliament
- Members of European Parliament
- Members of the Welsh Assembly

Local Government employees serve the Council as a whole and not individual members or groups. They must respect the rights of all, follow every lawful expressed Council policy and not allow their personal or political views to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

Existing local policy on political neutrality is contained within the Code of Conduct for Powys County Council Employees. It is important to have a policy on this subject for two main reasons: It is essential to the functioning of the democratic system that members of a local authority should be able to receive impartial advice from its officers, and that its officers should not be influenced by any political bias in the implementation of the authority's policies. It is also vital that members and those who have elected them should have complete confidence that their officers will give impartial advice and will act impartially in implementing the authority's policies.

Proposal

It is proposed to bring the policy in line with the legislative requirements mentioned above and to introduce a more comprehensive document for local use.

The proposed policy will require Heads of Service to identify politically restricted posts within their structures in order for revised employment contracts and job descriptions to be issued.

Contracts of employment and job descriptions for employees occupying posts covered by the legislation will contain a restriction clause.

A log of such posts will be maintained by Human Resources.

Options Considered/Available

This policy is determined by legislative requirements as described above, therefore this is the only viable option.

Statutory Officers

The Strategic Director, Finance & Infrastructure, confirms that the proposals in this report are within existing budget.

The Strategic Director, Law and Governance confirms that the Revised Policy to which this report refers is acceptable from a legal perspective.

Recommendation:	Reason for Recommendation:
To approve the new policy on Political Restrictions	To ensure compliance with legislative requirements.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
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Person(s) To Implement Decision:	Karen Williams, Interim Head of HR
Date By When Decision To Be Implemented:	Immediately upon approval

Contact Officer Name:	Tel:	Fax:	Email:
Ruth Goldwater	08708 510276		ruth.goldwater@powys.gov.uk

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CYNGOR SIR POWYS COUNTY COUNCIL

Political Neutrality & Restricted Posts Policy

Status	Version 1 final
Date of Issue	November 2010
Agreed by	
Review Date	November 2012

Cyngor Sir Powys County Council
Political Neutrality & Restricted Posts

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Cyngor Sir Powys County Council

Political Neutrality & Restricted Posts

Policy Statement

Local Government employees serve the Council as a whole and not individual members or groups. They must respect the rights of all, follow every lawful expressed Council policy and not allow their personal or political views to interfere with their work. They should in addition follow any codes of conduct of professional bodies where employees are members of those professional bodies. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

This policy is important for two main reasons: It is essential to the functioning of the democratic system that Elected Members of a local authority receive impartial advice from officers, and that its officers are not influenced by any political bias in the implementation of the authority's policies. It is also vital that Members and those who have elected them have complete confidence that officers give impartial advice and will act impartially in implementing the authority's policies.

1. Politically Restricted Posts

The Local Government & Housing Act 1989 (Section 2) ("the Act") controls the direct activities of all Local Government employees in politics, both national and local.

The provisions of the Act are implemented in the Local Government Officers (Political Restrictions) Regulations 1990 and apply to all employees.

The law specifically restricts the political activities of the Authority's Chief Executive, Strategic Directors, Heads of Service and the Monitoring Officer.

Political restrictions also apply to those local government officers whose posts entail giving advice on a regular basis to the executive of the authority, or a committee or member of the executive.

Further, holders of posts that are considered to be regularly involved in providing advice to Members and those employees speaking on behalf of the authority to journalists or broadcasters may be considered to be politically sensitive. Employees in such posts may be entitled to exemption by applying to the Independent Adjudicator if their duties do not require political neutrality (see Section 8 for contact details).

Officers in such posts mentioned above, may not, at the same time, canvass for elections or stand for office as:

- Local Councillors
- Members of Parliament
- Members of European Parliament
- Members of the Welsh Assembly

If there is any doubt whether or not a political activity is permitted, the Strategic Director, Law & Governance should be consulted in the first instance.

This policy forms part of the Code of Official Conduct; breaches of this policy, therefore, may be subject to disciplinary action.

Contracts of Employment for employees employed in posts covered by the relevant legislation will contain a restriction clause and to perform the Council's obligations to the Act. A log of such posts will be maintained by the Head of Human Resources.

2. Support Services to Political Groups

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Elected Members is to assist them in discharging their role as members of the Council.

Such support services must therefore only be used on Council business. Support services should never be used in connection with party political or campaigning activity or for private purposes.

Assistance will, however, be given to all political groups in connection with the booking of rooms in Council buildings for political group meetings and the provision of photocopies of documents which officers have requested the political groups to consider.

3. Assistants for Political Groups

Under legislation, local authorities may appoint political assistants for the purpose of providing assistance in the discharge of functions of members of any particular group as members of the authority. Powys County Council has not appointed political assistants under this legislation.

4. Officer Support for Political Groups

Whilst maintaining political neutrality at all times, the Chief Executive, Strategic Directors, Heads of Service and authorised senior managers may provide support to political groups in the nature of providing briefings confined to providing information and clarification on matters or functions relating to the Council, but shall not make any recommendation or provide advice to any political group. A detailed protocol in this respect is included under Part 5 of the Council's Constitution.

5. Relationships between Officers and Political Groups

Whilst recognising the benefit to Officers and Councillors of informal discussions on different topics, care must be taken so that Council Officers operate in a non-political way and independent of political group politics.

In order to provide protection for both Members and Officers from allegations of impropriety, the guidelines below are proposed for attendance at political group meetings.

- The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman prior to a Board or Committee meeting, to a presentation to a full political group meeting.
- The political neutrality and impartiality of all officers should be respected by Members at all times.

- Officers cannot be compelled to attend political group meetings; the overriding principle is that any presentation that will be of benefit to members will be available to all political groups equally.
- Consideration should first be given as to whether there is a more appropriate forum for the presentation e.g. County Council seminar, scrutiny committee.
- The role of officers is to give information to Members and assist them in making a decision. The focus will be on conveying information and facts rather than giving an opinion. Information which is essentially service based will be relayed to Members via appropriate committees or meetings; only major issues such as those concerning the policy framework, budget or strategic matters will normally be the subject of officer briefings to the Groups.
- Officers will not be involved in advising on matters of political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed.
- Where Officers provide information to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Council, Board, Committee or Sub-Committee when the matter in question is considered.
- Special care needs to be exercised whenever Officers are involved in providing information to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information as they would to a Members' only meeting.
- Officers must respect the confidentiality of any political group discussion at which they are present and not relay the content of any such discussion to another political group.
- Any particular cases of difficulty or uncertainty in this regard should be referred to the Strategic Director, Law & Governance who will raise the matter with the relevant political group leader(s).

A detailed protocol in this respect is included under Part 5 of the Council's Constitution.

6. Presentations / Advice to Non-Affiliated Members of the Council

It is likely that there will be Members of the Council who choose not to be affiliated with any political group which is formed. In such cases Officers will provide advice to those Members in the same manner as they would to the political groups.

7. Scrutiny Committees "Scrutinising" Officers of the Council

Scrutiny committees may require the attendance of senior officers at meetings when dealing with a scrutiny or a policy review. The committee should provide the officer in advance of the meeting with either questions on a subject area or / and terms of reference as to the issues which the committee wishes to discuss with the officer.

The committee should be mindful that when questioning officers, it should confine its questions to fact and explanations relating to policies and decisions. In addition officers may be asked to explain or justify advice they had given to the Board or Board Portfolio Holders, or decisions they had taken under delegated authority.

Committees should also avoid asking questions of officers which would draw that officer into making a political judgement as officers are required to be politically neutral in any advice they give to the Council.

8. The Independent Adjudicator

The Independent Adjudicator is appointed to undertake certain prescribed duties under the Local Government & Housing Act 1989 in relation to politically restricted posts. These duties are:

- To consider applications from local government employees for exemption from political restriction in relation to their posts;
- Where appropriate to issue direction requiring a local authority to include a post in the list of politically restricted posts it maintains; and
- To give general advice, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post.

The contact details are:

Independent Adjudicator for Local Authorities in Wales
c/o Welsh Assembly Government Policy Division
Cathays Park
Cardiff
CF10 3NQ

Tel. 02920 823094

Decisions taken by Individual Portfolio Holders**Portfolio Holder for HR and Portfolio Holder for Corporate Policy and Performance****Decisions Taken 9th December 2010****Policy on Revised Fairness and Dignity at work Policy**

DECISION	Reason for Decision
To approve the changes to the Fairness and Dignity at work Policy.	To ensure that employees are supported in the workplace and that there are procedures in place for raising and resolving matters relating to harassment and bullying at work.

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CYNGOR SIR POWYS COUNTY COUNCIL

**BOARD PORTFOLIO HOLDER FOR HUMAN RESOURCES
2010**

REPORT AUTHOR: Karen Williams, Interim Head of Human Resources

SUBJECT: Revised Fairness & Dignity at Work Policy

REPORT FOR: Decision

Summary

The Council last reviewed its Fairness & Dignity at Work policy in June 2007.

A revision has now been produced, following consultation with Heads of Service, Senior Managers, Trade Unions and Elected Members.

The review of this policy and procedure has coincided with a review of the training which supports this policy. The training is mandatory for all employees and is delivered by the Council's Equalities Officer.

Proposal

The main proposed revisions to the policy are:

1. Two distinct sections, describing the accepted standards of conduct for a fair and dignified workplace, and the procedural aspects of reporting and dealing with cases of harassment or bullying at work.
2. An updated definition of harassment and bullying.
3. Reference made to workplace mediation in the resolution of issues relating to fairness and dignity at work.

Corporate Improvement Plan

The revision will contribute to the successful achievement of the priority "Improving our Corporate Health", that is, ensuring we comply with our statutory duties.

Options Considered/Available

1. To not replace or review the policy in question.
2. To update the policy in question.

Preferred Choice and Reasons

Option 2 is the preferred choice: To ensure that the Council upholds fair and consistent employment practices which support service areas to manage their workforces as they are affected by issues relating to fairness and dignity at work.

Option 1 is not a viable choice as the Council would not be maintaining up-to-date and fair employment practices.

Sustainability and Environmental Issues/Equalities/Crime and Disorder/Other Policies

The revisions would ensure that the Council provides fair and equal employment practices in order to maintain service continuity.

Statutory Officers

The Strategic Director, Finance & Infrastructure confirms that the contents of this report are within existing budget.

The Strategic Director, Law & Governance confirms that the Revised Policy to which this report refers is acceptable from a legal perspective.

Recommendation:	Reason for Recommendation:
To approve the policy changes as described.	To ensure that employees are supported in the workplace and that there are procedures in place for raising and resolving matters relating to harassment and bullying at work.

Relevant Policy (ies):			
Within Policy:	Y / N	Within Budget:	Y / N

Relevant Local Member(s):	
----------------------------------	--

Person(s) To Implement Decision:	Karen Williams, Interim Head of HR
Date By When Decision To Be Implemented:	Immediately upon approval

Contact Officer Name:	Tel:	Fax:	Email:
Ruth Goldwater	08708 510276		ruth.goldwater@powys.gov.uk

CYNGOR SIR POWYS COUNTY COUNCIL

Fairness & Dignity at Work Policy

Status	Version 2 Final
Date	November 2010
Date of Previous Issue	Version 1 June 2007
Agreed by	
Review Date	November 2012

Cyngor Sir Powys County Council
Fairness and Dignity at Work Policy

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Cyngor Sir Powys County Council

Fairness and Dignity at Work Policy

Policy Statement

Powys County Council recognises that all employees have a right to be treated with dignity and respect at work.

An adverse working environment and culture can have a hugely detrimental effect on the physical and psychological well-being of the individual(s) concerned and resulting in an increase in absenteeism levels, lower performance and reduced efficiency. Evidence shows that those who experience bullying or harassment are more likely to be depressed and anxious, less satisfied with their work, to have a low opinion of their managers and senior managers and to want to leave their organisation. (Source: CIPD)

The Council deplores all forms of discrimination, harassment, victimisation or bullying under any circumstance and all Council employees are required to behave in such a way that does not cause offence to others, regardless of who they are.

Differences in attitude, background and culture can mean that what is perceived as unfair treatment or unacceptable behaviour by one person may not seem so to another. There will be no tolerance of unwanted conduct which is intended to, or creates the effect of, violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. The lack of intent to use unacceptable behaviour is no defence.

Further, there are a number of legislative measures in place that mean that such behaviour is unlawful: Failure to deal effectively with allegations or incidents may lead to legal action against the Council as well as individual employees. The Council has a legal responsibility to ensure a healthy and safe working environment that is free from unlawful discrimination. In some cases, under the Protection from Harassment Act 1997, harassment can be a criminal offence punishable by a fine of up to £5,000 and/or a prison sentence of up to six months.

The purpose of this policy and procedure is to assist in developing an environment and culture in which discrimination, harassment, victimisation and bullying are known to be unacceptable and also to provide procedures to deal with such incidents should they occur.

SECTION 1 – Council Policy and Ground rules

1. General Principles

1.1 It is the Council's policy to seek to provide a working environment:

- Which is free from discrimination, harassment, victimisation or bullying and the negative impact of such behaviour on the well-being and performance of employees, visitors, customers and clients.
- In which the dignity of individuals is clearly respected, and where all employees take responsibility for ensuring that this dignity is not abused.
- Where any employee who feels she / he has not been treated with dignity in the course of his / her work is able to raise a complaint without fear of ridicule, reprisal or victimisation, and in the knowledge that it will be treated seriously.
- Where a means of resolution in an immediate, discreet and confidential way is available to prevent repetition, with the option of pursuing a complaint formally.
- Where it is clearly understood by all staff that a breach of the relevant policy could lead to disciplinary action, which could result in dismissal from the Council.

1.2 The Council considers that discrimination, harassment, victimisation or bullying will amount to misconduct which will be dealt with under the Council's Disciplinary Procedure and may amount to gross misconduct which could lead to dismissal.

1.3 The Council prohibits the display of material which might cause offence to other employees or members of the public. If offending material is found to be on display, the material will be removed and destroyed and the individual responsible for displaying the material will be subject to disciplinary action.

1.4 Complaints of bullying or harassment against staff from members of the public should be dealt with in the first instance in accordance with the Council's Complaints Policy. If the investigation into the complaint identifies evidence of bullying or harassment, then action may be taken under the Disciplinary Procedure.

1.5 Harassment, victimisation, unwelcome behaviour or bullying towards employees from members of the public will be dealt with by the service area concerned.

1.6 The Council recognises that allegations may be lodged by an employee with mischievous or malicious intent. Such action will be viewed seriously and may result in disciplinary action against the employee through the Disciplinary Procedure.

2. Defining Harassment and Bullying

- 2.1 Bullying or harassment may either involve an individual against an individual or involve groups of people. It may be obvious or it may be very subtle in its delivery.
- 2.2 Harassment and bullying can range from extremes such as physical violence to less obvious forms like ignoring someone. It can be delivered in a variety of ways – with or without witnesses - and be persistent behaviour over a period of time, or a one-off act.
- 2.3 Unwanted behaviour may be progressive in nature or effect, so that what may seem initially to one person to be a harmless joke or act may progress into harmful behaviour over time in the view of the recipient.
- 2.4 **Harassment:** 'Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.' (ACAS). The conduct may be intended to cause harassment or may occur in circumstances where it would appear to a reasonable person that it would amount to harassment .

Such behaviour can include, but not be exclusive to:

- physical contact which is unwanted
- unwelcome remarks about a person's age, dress, appearance, race or marital status
- jokes, offensive or abusive language, gossip, slander, sectarian songs and letters
- posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation, ignoring and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- intrusion by pestering, spying and stalking
- failure to safeguard confidential information
- frightening someone with physical or other threats

- 2.5 **Bullying:** Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which has the effect of undermining, humiliating, denigrating or injuring the recipient.

Bullying is to be distinguished from the actions of a manager making reasonable (but perhaps unpopular) requests of employees including the need to manage performance effectively.

Bullying behaviour can include, but not be exclusive to:

- shouting at or humiliating an individual in front of colleagues or in private

- setting impossible deadlines
- unreasonably removing areas of responsibility
- undermining by overloading and / or persistent criticism
- picking on one person where there is a common problem
- preventing individuals progressing by intentionally blocking promotion or training opportunities
- personal insults

- 2.5 **Sexual harassment** specifically can include (but not be limited to) actions such as unnecessary and unwanted physical contact; unwelcome advances, attention or propositions; displaying sexually explicit material; sexual comments; persistent, demeaning or offensive jokes; sexual innuendo or expletives; unwanted comments about appearance; degrading text / messages on computer screens or elsewhere; indecent demands or requests for sexual contact; or actual sexual assault.
- 2.6 **Racial harassment** specifically can include (but not be limited to) actions such as derogatory name-calling; insults and racist jokes; racist graffiti; verbal abuse and threats; physical threats or attacks; ridicule of an individual for cultural differences; deliberate exclusion.
- 2.7 **Personal harassment** specifically can include (but not be exclusive to) any vindictive, cruel, malicious, threatening, abusive or humiliating behaviour against another person such as insulting remarks based on the grounds of personal appearance, personal circumstances, religious beliefs, socio-economic status, etc.
- 2.8 **Cyber-bullying** refers to the abuse of ICT systems which has the effect of bullying or harassment. The Council has specific policies on the acceptable use, and the consequences of abuse, of ICT in connection with the workplace.

3. Individual Responsibilities

- 3.1 All employees have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues. They should feel prepared to challenge inappropriate behaviour and take action if they observe or have evidence that someone is being harassed. Individuals can be personally liable to pay compensation and can be prosecuted under criminal as well as civil law.
- 3.2 Differences in culture, attitudes and experience, or misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. Employees should be aware that they may need to modify their behaviour in response to the feelings and sensitivity of others.
- 3.3 All employees are responsible for complying with this policy, co-operating with those who are responsible for carrying out associated duties and for ensuring that they do not incite, condone or commit any form of discrimination, harassment, victimisation or bullying within the Council.
- 3.4 Everyone should be aware that their responsibilities may extend to any environment where work-related activities take place. These can include social gatherings organised by work such as work parties or outings. Harassment can take place on

these occasions for which the employee may be responsible unless they can show they took reasonable steps to prevent harassment

- 3.5 If an individual employee becomes aware of an incident of discrimination, harassment, victimisation or bullying, they are encouraged to report it to their line manager as and when it occurs.
- 3.6 All employees have a duty of care to not condone inappropriate behaviour and to ensure that others are treated in an acceptable manner as described within this policy. This includes co-operating in any investigations and acting as a witness when requested by an investigating officer. Anyone who is asked to take part in any such investigation and subsequent hearing will be given support and guidance. Victimisation of witnesses will not be tolerated and will be addressed through this policy together with the Disciplinary Procedure.

4. Managers' Responsibilities

- 4.1 Managers have a responsibility to ensure that employees perform their roles effectively and to acceptable standards. Managers also have a responsibility to issue reasonable instructions and expect them to be carried out. The legitimate management of employees should be distinguished from bullying or harassing behaviour. Crucially managers and supervisors should:
- foster a climate that discourages the occurrence of harassment by educating staff in relation to behaviour that might be deemed as inappropriate;
 - pay attention to style of dealing with people, ensuring that employees are treated with dignity and respect;
 - act upon potential breaches of this policy and unacceptable behaviour despite the absence of a formal complaint;
 - ensure that members of staff have an understanding of this policy and know where to seek help.
- 4.2 Where a manager becomes aware of discrimination, harassment, victimisation or bullying, whether or not a formal complaint has been made, they must take appropriate action after discussing it with the victim. Failure to do so may be considered to be a disciplinary offence and the Council reserves the right to consider disciplinary action.

5. Confidentiality

- 5.1 All employees involved in a complaint of bullying or harassment will be reminded of the need to respect confidentiality, and that failure to do so may be regarded as a disciplinary offence in itself.

- 5.2 The complainant can be assured that any information divulged will be kept confidential within the system. Failure to do so by any party privy to the information will be deemed to be misconduct and they may be subject to disciplinary action.
- 5.3 The only exception to this rule of confidentiality will be if the person with whom the complainant discusses the matter honestly believes that there is an unacceptable risk to the complainant, another person or to the Council (e.g. if there is a danger of violence from the alleged perpetrator). In these circumstances they will be enabled to take necessary action to notify the Head of Human Resources who may commence an investigation even if the complainant does not agree.
- 5.4 Where the complainant is clear about his/her options but does not wish to take action, the complainant's decision must be accepted unless there is an unacceptable risk (see paragraph 4.2 above). The investigating officer should, in these circumstances, record the complainant's wishes and write to the complainant confirming the situation and making clear that the responsibility for taking no action rests with the complainant.

SECTION 2 - Procedure for Reporting and Dealing with Bullying and Harassment

1. Dealing with a Complaint Informally

- 1.1 It is preferable for all concerned that complaints of harassment are dealt with informally wherever possible. This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality.
- 1.2 However, informal solutions should not be used to discourage employees from recourse to formal procedures where they are the preferred option. Furthermore there will be some instances where the seriousness of the complaint warrants formal action, and possibly criminal proceedings. Formal procedures may also be appropriate where a previous attempt at informal resolution has proved unsuccessful.
- 1.3 The general principle should be that the decision to progress a complaint rests with the individual. There may, however, be situations in which the principle has to be balanced against the employer's responsibilities to ensure the general welfare of employees – particularly where serious complaints are made which the complainant is unwilling to pursue.
- 1.5 In many cases of harassment the recipient may wish to raise the problem informally with the alleged perpetrator pointing out that their conduct is unwelcome, offensive or interfering with their work. A written request that the behaviour stops may be effective.
- 1.6 The employee who finds it difficult or embarrassing to raise the problem directly with the person creating the problem may wish to seek the support of their line manager, trade union representative, Human Resources or another colleague.
- 1.7 Where the complaint is about an employee's line manager, the complaint may be raised with a more senior manager. The manager will meet the alleged perpetrator and may arrange a meeting of that individual with the complainant. If a meeting is arranged, the complainant and the alleged perpetrator may be accompanied by a trade union representative or colleague
- 1.8 Where the person against whom the complaint has been made indicates that she/he was unaware that the behaviour was unwelcome and unwanted, or offensive and constituted discrimination, harassment, victimisation or bullying, but acknowledges that there is a problem, then with the agreement of the complainant, steps will be taken where possible to put matters right and prevent a recurrence.
- 1.9 This may include a reminder/explanation of what constitutes unacceptable behaviour, the policy and procedure to be followed should a formal complaint be made and the possible outcome of any formal procedure.

2. Making, and Dealing with, a Formal Complaint

- 2.1 The formal procedure will be necessary in those instances where the informal route has proved ineffective or where the allegation of harassment is of such a serious nature that it is necessary to invoke the formal procedure from the outset. The individual who is claiming harassment has the right to proceed straight to the formal procedure if they wish.
- 2.2 To make a formal complaint of harassment or bullying, the complainant needs to be prepared to:
- Provide details of what has happened, including the time, date, place and any other relevant information;
 - Recount details of any witnesses, or persons in the immediate neighbourhood who may not have witnessed the event but may at least be able to corroborate that the persons involved were at the location at the time stated;
 - Recount details of any steps taken to stop the unacceptable behaviour, including any previous (informal) action;
 - Recount details of any other staff who have been treated in the same way;
 - Provide details of any former complaint made about the incident or linked incidents, including details about where and to whom that complaint was made.
- 2.3 The employee should inform the Head of Human Resources of their complaint of bullying or harassment in person or in writing.
- 2.4 Upon notification of a complaint, an investigating officer will be nominated and they will arrange for the complaint to be formally investigated. Procedural guidance on conducting investigations is available within the Council's Disciplinary Procedure.
- 2.5 The nature of the complaint will be explained to the alleged perpetrator in writing in order that he/she has a reasonable opportunity to defend or explain his or herself with respect to each concern.
- 2.6 During the investigation, the Council, where appropriate to do so, may take steps to separate the alleged perpetrator from the complainant either by temporarily re-allocating work or line management responsibilities, or by transferring the alleged perpetrator to another department / office, or by suspending the alleged perpetrator with pay until the complaint has been resolved. Any suspension will be carried out in accordance with the procedure described within the Disciplinary Procedure.
- 2.7 The investigation will be conducted sensitively and as soon as practicable after the complaint has been received.

- 2.7 Both the complainant and the alleged perpetrator may be accompanied by a colleague or trade union representative when interviewed during the course of the investigation.
- 2.8 In most cases, the complainant will be interviewed in the first instance so that a full account of the complaint can be recorded. The complainant may also cite witnesses who can verify the complaint. Written records of each interview will be made by the interviewers and certified by the interviewees. Guidance for witnesses is contained within the Council's Disciplinary Procedure.
- 2.9 Anyone making, or helping a colleague to make, a complaint will be supported in achieving the principles of the policy. Any witness who feels they have become the subject of victimisation by another person (e.g., the alleged perpetrator) as a result of the investigation is also covered by this policy and the reporting of such behaviour will be taken seriously.
- 2.10 Investigations will be carried out as promptly as possible. Where this is not possible, or a delay is anticipated, all parties involved will be kept informed of the progress of the investigation.
- 2.11 On completion of the investigation, the Investigating Officer will present a report of their findings to the Head of Service who will determine the next steps. The Head of service will write to the complainant and the alleged perpetrator to notify them of the next steps.

3. Possible Outcomes

- 3.1 **Formal Action** - Where it is deemed that the actions of the alleged perpetrator warrant formal disciplinary action, the action must be carried out in accordance with the Council's Disciplinary Procedure.
- 3.2 If a complaint is not upheld, consideration may be given where appropriate and practicable, to the voluntary transfer of one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party. In such cases, the person against whom the complaint was lodged should be given first choice as to whether they want to be transferred. It must be appreciated that separation will only be possible if there is a vacant job or if another employee is willing to swap roles.
- 3.3 **Informal Action** - The individuals concerned may be able to attempt to resolve the issue between themselves, or with the help of their manager.
- 3.4 **Mediation** - Where the individuals have not been able to resolve the matter informally between them, they will be encouraged to refer to an independent mediator provided through the Council's Workplace Mediation Scheme. Mediation may also be useful in restoring working relationships after both informal and formal outcomes.
- 3.5 In the event of the complainant not being satisfied with the outcome, she/he will have the right to refer the matter in accordance with Stage 2 of the Council's Grievance Policy.

APPENDIX 1

Where to get Further Support and Advice

In addition to the support and advice provided by management to employees who feel affected by this policy in any way or who feel discriminated against, harassed, victimised or bullied, support and advice is also available from a number of other sources:

- The confidential Counselling Service is available to employees by ringing these direct lines:

South of the County: Christine Turnbull: 01497 821258

North & Centre of the County: Sally Mackenzie: 01691 670505

- DirectGov provides advice and guidance, which can be found on the following links:

http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670

<http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/index.htm>

CYNGOR SIR POWYS COUNTY COUNCIL

Fairness & Dignity at Work Policy

Status	Version 2 FINAL
Date	November 2010
Date of Previous Issue	Version 1 June 2007
Agreed by	Board Portfolio Holder for HR and Board Portfolio Holder for Equalities
Review Date	November 2012

Cyngor Sir Powys County Council

Fairness and Dignity at Work Policy

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Cyngor Sir Powys County Council

Fairness and Dignity at Work Policy

Policy Statement

Powys County Council recognises that all employees have a right to be treated with dignity and respect at work.

An adverse working environment and culture can have a hugely detrimental effect on the physical and psychological well-being of the individual(s) concerned and resulting in an increase in absenteeism levels, lower performance and reduced efficiency. Evidence shows that those who experience bullying or harassment are more likely to be depressed and anxious, less satisfied with their work, to have a low opinion of their managers and senior managers and to want to leave their organisation. (Source: CIPD)

The Council deplores all forms of discrimination, harassment, victimising or bullying under any circumstance and all Council employees are required to behave in such a way that does not cause offence to others, regardless of who they are.

Differences in attitude, background and culture can mean that what is perceived as unfair treatment or unacceptable behaviour by one person may not seem so to another. There will be no tolerance of unwanted conduct which is intended to, or creates the effect of, violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. The lack of intent to use unacceptable behaviour is no defence.

Further, there are a number of legislative measures in place that mean that such behaviour is unlawful: Failure to deal effectively with allegations or incidents may lead to legal action against the Council as well as individual employees. The Council has a legal responsibility to ensure a healthy and safe working environment that is free from unlawful discrimination. In some cases, under the Protection from Harassment Act 1997, harassment can be a criminal offence punishable by a fine of up to £5,000 and/or a prison sentence of up to six months.

The purpose of this policy and procedure is to assist in developing an environment and culture in which discrimination, harassment, victimisation and bullying are known to be unacceptable and also to provide procedures to deal with such incidents should they occur.

Training will be provided to all employees so that they are clear about the policy, the procedures and their own responsibilities.

SECTION 1 – Council Policy and Ground Rules

1. General Principles

1.1 It is the Council's policy to seek to provide a working environment:

- Which is free from discrimination, harassment, victimising or bullying and the negative impact of such behaviour on the well-being and performance of employees, visitors, customers and clients.
- In which the dignity of individuals is clearly respected, and where all employees take responsibility for ensuring that this dignity is not abused.
- Where any employee who feels she / he has not been treated with dignity in the course of his / her work is able to raise a complaint without fear of ridicule, reprisal or victimisation, and in the knowledge that it will be treated seriously.
- Where a means of resolution in an immediate, discreet and confidential way is available to prevent repetition, with the option of pursuing a complaint formally.
- Where it is clearly understood by all staff that a breach of the relevant policy could lead to disciplinary action, which could result in dismissal from the Council.

1.2 The Council considers discrimination, harassment, victimising or bullying will amount to misconduct which will be dealt with under the Council's Disciplinary Procedure, and may amount to gross misconduct which could lead to dismissal.

1.3 The Council prohibits the display of material which might cause offence to other employees or members of the public. If offending material is found to be on display, the material will be removed and destroyed and the individual responsible for displaying the material may be subject to disciplinary action.

1.4 All Council premises will display notices making it clear that harassment of any sort either by employees or other users of the premises will not be tolerated.

1.5 Complaints of bullying or harassment against staff from members of the public should be dealt with in the first instance in accordance with the Council's Complaints Policy. If the investigation into the complaint identifies evidence of bullying or harassment, then action will be taken under the Disciplinary Procedure.

1.6 Harassment, victimising, unwelcome behaviour or bullying towards employees from members of the public will be dealt with by the service area concerned. Third party harassment is viewed as unacceptable by the Council and all reports of this will be investigated and appropriate action taken wherever possible

1.7 The Council recognises that complaints may be orchestrated with mischievous or malicious intent. These will be viewed seriously and may result in disciplinary action against the complainant through the Disciplinary Procedure.

2. Defining Harassment and Bullying

- 2.1 Bullying or harassment may be either an individual against an individual or involve groups of people. It may be obvious or it may be very subtle in its delivery.
- 2.2 Harassment and bullying can range from extremes such as physical violence to less obvious forms like ignoring someone. It can be delivered in a variety of ways – with or without witnesses - and be persistent behaviour over a period of time, or a one-off act.
- 2.3 Unwanted behaviour may be progressive in nature or effect, so that what may seem initially to one person to be a harmless joke or act may progress into harmful behaviour over time in the view of the recipient. Failure to make an initial objection is not grounds for any such complaint to be dismissed in the future.
- 2.4 **Harassment:** 'Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.' [ACAS]

The legal definition of harassment also requires the behaviour to have 'the purpose or effect of violating people's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.'

Such behaviour can include, but not be exclusive to:

- physical contact which is unwanted
- unwelcome remarks about a person's age, dress, appearance, race or marital status
- jokes, offensive or abusive language, gossip, slander, sectarian songs and letters
- posters, graffiti, obscene gestures, flags, bunting and emblems
- isolation or non-cooperation, ignoring and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- intrusion by pestering, spying and stalking
- failure to safeguard confidential information
- frightening someone with physical or other threats

- 2.5 **Bullying:** 'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which has the effect of undermining, humiliating, denigrating or injuring the recipient.' [after ACAS]

Bullying is to be distinguished from the actions of a manager making reasonable (but perhaps unpopular) requests of employees including the need to manage performance effectively.

Bullying behaviour can include, but not be exclusive to:

- shouting at or humiliating an individual in front of colleagues or in private
- setting impossible deadlines
- unreasonably removing areas of responsibility
- undermining by overloading and / or persistent criticism
- picking on one person where there is a common problem
- preventing individuals progressing by intentionally blocking promotion or training opportunities
- personal insults

2.6 **Victimising** someone means to treat them in an intentionally unfair or detrimental way. **Victimisation** in law means that a person who has made a complaint which falls under the grounds of a characteristic protected under the Equality Act 2010 [gender, race, disability, sexual orientation, religion or belief, age] is then protected against being subjected to further detriment because of that complaint.

2.7 **Sexual harassment** specifically can include (but not be limited to) actions such as unnecessary and unwanted physical contact; unwelcome advances, attention or propositions; displaying sexually explicit material; sexual comments; persistent, demeaning or offensive jokes; sexual innuendo or expletives; unwanted comments about appearance; degrading text / messages on computer screens or elsewhere; indecent demands or requests for sexual contact; or actual sexual assault.

2.8 **Racial harassment** specifically can include (but not be limited to) actions such as derogatory name-calling; insults and racist jokes; racist graffiti; verbal abuse and threats; physical threats or attacks; ridicule of an individual for cultural differences; deliberate exclusion.

2.9 **Personal harassment** specifically can include (but not be exclusive to) any vindictive, cruel, malicious, threatening, abusive or humiliating behaviour against another person such as insulting remarks based on the grounds of personal appearance, personal circumstances, religious beliefs, socio-economic status, etc.

2.10 **Cyber-bullying** refers to the abuse of ICT systems which has the effect of bullying or harassment. The Council has specific policies on the acceptable use, and the consequences of abuse, of ICT in connection with the workplace.

3. Individual Responsibilities

3.1 All employees have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues. They should feel prepared to challenge inappropriate behaviour and take action if they observe or have evidence that someone is being harassed. Individuals can be personally liable to pay compensation and can be prosecuted under criminal as well as civil law.

3.2 Differences in culture, attitudes and experience, or misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. Employees should be aware that they may need to modify their behaviour in response to the feelings and sensitivity of others.

- 3.3 All employees are responsible for complying with this policy, co-operating with those who are responsible for carrying out associated duties and for ensuring that they do not incite, condone or commit any form of discrimination, harassment, victimising or bullying within the Council.
- 3.4 Everyone should be aware that their responsibilities may extend to any environment where work-related activities take place. These can include social gatherings organised by work such as work parties or outings. Employers could be liable for incidents which take place on these occasions unless they can show they took reasonable steps to prevent harassment. Employers and individuals can be ordered to pay unlimited compensation where discrimination-based harassment has occurred, including the payment of compensation for injury to feelings.
- 3.5 If an individual employee becomes aware of an incident of discrimination, harassment, victimising or bullying, they are encouraged to report it to their line manager as and when it occurs.
- 3.6 All employees have a duty of care to not condone in appropriate behaviour and to ensure that others are treated in an acceptable manner as described within this policy. This includes cooperating with any investigations and acting as a witness when requested by an investigating officer. Anyone who is asked to take part in any such investigation and subsequent hearing will be given support and guidance. Harassment or bullying of witnesses will not be tolerated and will be addressed through this policy together with the Disciplinary Procedure

4. Managers' Responsibilities

- 4.1 Managers have a responsibility to ensure that employees perform their roles effectively and to acceptable standards. Managers also have a responsibility to issue reasonable instructions and expect them to be carried out. The legitimate management of employees should be distinguished from bullying or harassing behaviour. Crucially managers and supervisors should:
- foster a climate that discourages the occurrence of harassment by educating staff in relation to behaviour that might be deemed as inappropriate;
 - pay attention to style of dealing with people, ensuring that employees are treated with dignity and respect;
 - act upon potential breaches of this policy and unacceptable behaviour despite the absence of a formal complaint;
 - ensure that members of staff have an understanding of this policy and know where to seek help
- 4.2 Where a manager becomes aware of discrimination, harassment, victimising or bullying, whether or not a formal complaint has been made, they must take appropriate action after discussing it with the alleged recipient.

5.0 The Council's Responsibilities

- 5.1 Where possible all Council premises will display notices making it clear that harassment of any sort either by employees, visitors or other users of premises will not be tolerated.
- 5.2 The Council will take all possible preventative action including training and support for all employees to ensure their understanding of and protection from harassment and bullying.
- 5.3 Monitoring of the operation of this policy will be carried out as part of planned reporting of the Council's Equal Opportunities and Managing Diversity Policy.
- 5.4 The monitoring will be aimed at measuring the number and gender / occupation / staff and nature of complaints, assessing trends and identifying any areas of concern. A means of monitoring whether individual complaints have been resolved, with no subsequent victimisation, will also be sought. Staff surveys may also be carried out to ensure that this policy is appropriate and effective.

6.0 Confidentiality

- 6.1 All employees involved in a complaint of bullying or harassment will be reminded of the need to respect confidentiality, and that failure to do so will be regarded as a disciplinary offence in itself.
- 6.2 The complainant can be assured that any information divulged will be kept confidential within the system. Failure to do so by any party privy to the information will be deemed to be misconduct and they will be subject to disciplinary action.
- 6.3 The only exception to this rule of confidentiality will be if the person with whom the complainant discusses the matter honestly believes that there is an unacceptable risk to the complainant, another person or to the Council (e.g. if there is a danger of violence from the alleged perpetrator). In these circumstances they will be enabled to take necessary action to notify the Head of Human Resources who may commence an investigation even if the complainant does not agree.
- 6.4 Where the complainant is clear about his/her options, but does not wish to take action, the complainant's decision must be accepted unless there is an unacceptable risk (see paragraph 4.2). The investigating officer should, in these circumstances, record the complainant's wishes and write to the complainant confirming the situation and making clear that the responsibility for taking no action rests with the complainant.

SECTION 2 - Procedure for Reporting and Dealing with Bullying and Harassment

1. Dealing with a Complaint Informally

- 1.1 It is preferable for all concerned that complaints of harassment are dealt with informally wherever possible. This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality.
- 1.2 However, informal solutions should not be used to discourage employees from recourse to formal procedures where they are the preferred option. Furthermore there will be some instances where the seriousness of the complaint warrants formal action, and possibly criminal proceedings. Formal procedures may also be appropriate where a previous attempt at informal resolution has proved unsuccessful.
- 1.3 The general principle should be that the decision to progress a complaint rests with the individual. There may, however, be situations in which the principle has to be balanced against the employer's responsibilities to ensure the general welfare of employees – particularly where serious complaints are made which the complainant is unwilling to pursue.
- 1.5 In many cases of harassment the alleging recipient may wish to raise the problem informally with the alleged perpetrator pointing out that their conduct is unwelcome, offensive or interfering with their work. A written request that the behaviour stops may be effective.
- 1.6 The employee who finds it difficult or embarrassing to raise the problem directly with the person creating the problem may wish to seek the support of their line manager, trade union representative, Human Resources or another colleague.
- 1.7 Where the complaint is about an employee's line manager, the complaint may be raised with a more senior manager. The manager will meet the alleged perpetrator and may arrange a meeting of that individual with the complainant. If a meeting is arranged, the complainant and the alleged perpetrator may be accompanied by a trade union representative or colleague
- 1.8 Where the person against whom the complaint has been made indicates that she/he was unaware that the behaviour was unwelcome and unwanted, or offensive and constituted discrimination, harassment, victimising or bullying, but acknowledges that there is a problem, then with the agreement of the complainant, steps will be taken where possible to put matters right and prevent a recurrence.

This may include a reminder/explanation of what constitutes unacceptable behaviour, the policy and procedure to be followed should a formal complaint be made and the possible outcome of any formal procedure.

2. Making, and Dealing with, a Formal Complaint

- 2.1 The formal procedure will be necessary in those instances where the informal route has proved ineffective or where the allegation of harassment is of such a serious nature that it is necessary to invoke the formal procedure from the outset. The individual who is claiming harassment has the right to proceed straight to the formal procedure if they wish, although they are encouraged to explore informal solutions initially.
- 2.2 To make a complaint of harassment or bullying, the complainant needs to be prepared to:
- Provide details of what has happened, including the time, date, place and any other relevant information;
 - Recount, where possible, details of any witnesses, or persons in the immediate neighbourhood who may not have witnessed the event but may at least be able to corroborate that the persons involved were at the location at the time stated;
 - Recount details of any steps taken to stop the unacceptable behaviour, including any previous (informal) action;
 - Recount details of any other staff who have been treated in the same way;
 - Provide details of any former complaint made about the incident or linked incidents, including details about where and to whom that complaint was made.
- 2.3 The employee should inform the Head of Human Resources of their complaint of bullying or harassment in person or in writing.
- 2.4 Upon notification of a complaint, an investigating officer will be nominated and they will arrange for the complaint to be formally investigated. Procedural guidance on conducting investigations is available within the Council's Disciplinary Procedure.
- 2.5 The nature of the complaint will be explained to the alleged perpetrator in writing in order that he/she has a reasonable opportunity to defend or explain his or herself with respect to each concern.
- 2.6 During the investigation, the Council, where appropriate to do so, may take steps to separate the alleged perpetrator from the complainant either by temporarily re-allocating work or line management responsibilities, or by transferring the alleged perpetrator to another department / office, or by suspending the alleged perpetrator with pay until the complaint has been resolved. Any suspension will be carried out in accordance with the procedure described within the Disciplinary Procedure.
- 2.7 The investigation will be conducted sensitively and as soon as practicable after the complaint has been received.

- 2.8 Both the complainant and the alleged perpetrator may be accompanied by a colleague or trade union representative when interviewed during the course of the investigation.
- 2.9 In most cases, the complainant will be interviewed in the first instance so that a full account of the complaint can be recorded. The complainant may also cite witnesses who can verify the complaint. Written records of each interview will be made by the interviewers and certified by the interviewees. Guidance for witnesses is contained within the Council's Disciplinary Procedure.
- 2.10 Anyone making, or helping a colleague to make, a complaint will be supported in achieving the principles of the policy. Any witness who feels they have become the subject of victimising by another person (e.g., the alleged perpetrator) as a result of the investigation is also covered by this policy and the reporting of such behaviour will be taken seriously.
- 2.11 Investigations will be carried out as promptly as possible. Where this is not possible, or a delay is anticipated, all parties involved will be kept informed of the progress of the investigation.
- 2.12 On completion of the investigation, the Investigating Officer will present a report of their findings to the Head of Service who will determine the next steps. The Head of service will write to the complainant and the alleged perpetrator to notify them of the next steps.

3. Possible Outcomes

- 3.1 **Formal Action** - Where it is deemed that the actions of the alleged perpetrator warrant formal disciplinary action, the action must be carried out in accordance with the Council's Disciplinary Procedure.
- 3.2 If a complaint is not upheld, consideration may be given where practicable, to the voluntary transfer of one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party. In such cases, the person against whom the complaint was lodged should be given first choice as to whether they want to be transferred.
- 3.3 **Informal Action** - The individuals concerned may be able to attempt to resolve the issue between themselves, or with the help of their manager.
- 3.4 **Mediation** - Where the individuals have not been able to resolve the matter informally between them, they will be encouraged to involve an independent mediator. Mediation may also be useful in restoring working relationships after both informal and formal outcomes.
- 3.5 **Appeal** - In the event of the complainant not being satisfied with the outcome, she/he will have the right to refer the matter in accordance with Stage 2 of the Council's Grievance Policy.

SECTION 3 - Where to get Further Support and Advice

3.1 In addition to the support and advice provided by management to employees who feel affected by this policy in any way or who feel discriminated against, harassed, victimised or bullied, support and advice is also available from a number of other sources:

- The confidential Staff Counseling Service is available by ringing these direct lines:

South of the County: Christine Turnbull: 01497 821258

North & Centre of the County: Sally Mackenzie: 01691 670505

Leaflets containing information about this service are available through line managers or the HR Department

- The Council's Corporate Equality & Diversity Officer can advise on some situations, particularly those regarding discrimination

Based at County Hall: Heather Ross 01597 826247

- DirectGov provides advice and guidance, which can be found on the following links:

http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/DG_10026670

<http://www.direct.gov.uk/en/Employment/ResolvingWorkplaceDisputes/DiscriminationAtWork/index.htm>

- ACAS [Advisory, Conciliation and Arbitration Service] have a number of relevant guides on Bullying & Harassment at Work

<http://www.acas.org.uk/index.aspx?articleid=794>

- EHRC [Equality & Human Rights Commission] have advice on guidance on discrimination related matters

<http://www.equalityhumanrights.com/>