

CYNGOR SIR POWYS COUNTY COUNCIL

Fairness & Dignity at Work Policy

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Cyngor Sir Powys County Council

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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/>