



# **Dignity at Work Policy**

**25 February 2016**

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## Part 1 Policy Statement

This Policy sets out Orkney Islands Council's aim to be an environment where everyone is treated with dignity and respect, equality is promoted, and diversity is valued. The policy also outlines the rights and responsibilities associated with this commitment.

A positive working and learning environment which supports dignity at work is vital to the success of the Council. Dignity and respect should underpin our day to day behaviours, and everyone has rights and responsibilities under this Policy. All Council staff have a right to:

- Be treated with dignity and respect.
- Work and learn in an environment free from discrimination, bullying and harassment.
- Be valued for their skills, abilities and contribution.

All staff at the Council have a responsibility to:

- Behave in an appropriate manner, and in ways that are not derogatory to others.
- Play their part in ensuring we create a positive working environment that is tolerant and supportive through treating each other with dignity and respect.
- Tactfully challenge inappropriate behaviour with confidence.

Adherence to this policy is essential so that these rights and responsibilities are mainstreamed into the core of Council business.

The following are features of a respectful working environment:

- All staff are respected and treated politely and with courtesy.
- Actively seeking staff views where appropriate in order to contribute to the development and/or improvement of Services.
- A collaborative atmosphere and systems/forums which help to promote ongoing participation of staff in all levels of service business.
- An ethos of 'distributed', or shared leadership which enables people to feel safe to:
  - Take on roles and responsibilities.
  - Develop their skills.
  - Support colleagues.
  - Take forward initiatives.

Positive outcomes from the above features would be that staff:

- Can actively contribute and see that their efforts make a difference.
- Feel a sense of engagement; people are motivated and they have a sense of belonging to and a pride in Orkney Islands Council.

- Feel they are trusted to take responsibility to act independently within their remit. There is a sense of having a meaningful role within the organisation.

## **Our Aims**

Bullying or harassment at work can have very serious consequences for all those involved.

For individuals – it may affect their morale, health, work performance, or family and social relationships, or could cause them to leave their job.

For the Council – it can adversely affect the working environment, reduce productivity, impair performance, increase absence rates and staff turnover, create legal claims and cause damage to the Council's reputation.

We therefore aim through this policy to:

- Ensure the dignity at work of all employees.
- Respect and value differences.
- Ensure that employees are aware of the types of behaviour which may constitute bullying and harassment.
- Identify individual responsibilities in preventing such behaviour.
- Provide procedures which recognise and take account of the sensitivity of the issues raised.
- Provide procedures which enable complaints to be investigated promptly and appropriately, within agreed time limits.
- Provide a framework to ensure any bullying and harassment is dealt with effectively, and that action is taken to prevent any recurrence.
- Provide a working environment in which employees feel confident to bring forward complaints of bullying and harassment without fear of victimisation.
- Provide access to mediation in appropriate circumstances.
- Provide access to confidential counselling where sought.
- Provide appropriate training and guidance for all individuals involved in the handling of bullying and harassment complaints.

## **Confidentiality**

All parties concerned will treat formal complaints of bullying and harassment in confidence as far as reasonably possible.

## **Part 2 Policy**

### **1. Introduction and Scope**

1.1. The aim of this policy is to ensure everyone is aware of the standards of behaviour expected in terms of treating their colleagues with dignity and respect. It aims to assist in the development and maintenance of a working environment in which harassment and bullying are unacceptable. The policy clarifies employees' responsibilities, while providing a clear framework which will ensure that complaints of unacceptable behaviour are dealt with promptly and fairly.

1.2. The Dignity at Work Policy and Procedure will be reviewed by the Head of Human Resources and Performance or their nominated representative in conjunction with recognised trade unions in line with the schedule for the review of all Council Human Resources Policies and Procedures, normally every three years. Should changes to employment law, best practice recommendations or schemes of Conditions of Service dictate, a review within this timescale can be carried out by agreement with the Head of Human Resources and Performance.

1.3. This policy and procedure applies to all employees of Orkney Islands Council including: Scottish Joint Council (SJC)/Single Status employees including Heads of Service, Teachers and other employees covered by Scottish Negotiating Committee for Teachers (SNCT) conditions of service, Orkney College Academic staff, Executive Directors and the Chief Executive.

1.4. The policy covers all situations both within the workplace and in any work-related setting outside the workplace, including for example, business trips, conferences and work-related social events.

Occasionally the Council may organise social events to which staff are invited. Staff may also be invited from time to time to office parties, residential training courses or gatherings for staff leaving the Council.

Although these social events usually take place away from staff's normal workplace and outside of normal working hours the Council's Dignity at Work Policy and Code of Conduct may still apply and employees should therefore be mindful of their conduct at such events and outside of work generally.

### **2. Role and Responsibilities**

2.1. Failure to deal with dignity at work allegations may expose both the Council and employees to a number of legal consequences. Complainants can cite both the employer and individual employees as respondents at Employment Tribunal and, if the case is upheld, both may be held liable.

#### **2.2. Employees**

All members of staff have a responsibility to behave appropriately in the workplace and treat each other with dignity and respect. They should be aware of the issues and the serious and genuine problems which harassment can cause.

All staff are responsible for adhering to this policy. They are required to:

- Treat all colleagues with dignity and respect and be aware of how their behaviour can or be perceived to affect other people.
- Be supportive of colleagues who are being bullied or harassed and bring it to the attention of their line manager, or other appropriate senior manager.
- Respond promptly to any feedback and advice on their behaviour, be it from a colleague or manager.
- Seek to resolve matters informally wherever possible.
- Ensure that they understand the policy and the consequences of vexatious complaints and abuse of this policy.
- Support the Council in its efforts to eradicate any such behaviour that may threaten the Council's commitment to ensuring the dignity at work of all its employees.
- Comply with the requirements of this policy when setting out a complaint, including the provision of evidence and compliance set out in this policy.

### **2.3. Managers and Head Teachers**

All managers and supervisors have a responsibility to implement this policy and to bring it to the attention of staff in their work area, in order to establish and maintain a work environment where everyone is treated with dignity and respect. They can do this by:

- Ensuring that their own behaviour is beyond reproach at all times.
- Attending appropriate Dignity at Work training.
- Ensuring that their staff know how to deal with issues of bullying and harassment and attend appropriate training.
- Creating an environment where everyone is treated with respect and dignity.
- Ensuring that the work environment is non-threatening and supportive and take steps to prevent bullying or harassment.
- Ensuring good communication with staff and between staff by operating an open door policy.
- Setting a good example by treating all staff with dignity and respect and ensuring that their staff act in a similar way, correcting any unacceptable behaviour promptly.
- Treating complaints of harassment seriously, sensitively and confidentially.
- Supporting staff who may feel they are being harassed and bullied.
- Dealing with any complaints fairly, thoroughly, quickly and confidentially, respecting the feelings of all concerned.
- Working to find solutions to bullying and harassment cases.
- Ensuring that there is no retaliation against the person who made the complaint or any witness involved.
- Consulting with HR and Performance at any time for advice and support

## **2.4. Executive Directors, Heads of Service**

Executive Directors and Heads of Service have a specific duty to set a model example of positive and appropriate behaviour for all to follow by treating everyone with dignity and respect and are responsible for ensuring that all staff in their service are aware of the standards and values of behaviour that are encompassed within the Dignity at Work policy.

Executive Directors and Heads of Service are responsible for taking complaints of harassment made to them seriously, ensuring that appropriate action is taken to address the matter promptly and as sensitively and confidentially as possible.

## **2.5. Appointment of Investigating Officer**

Heads of Service are responsible for allocating a manager to investigate any formal complaint made under this policy.

In the interest of a fair and transparent process, the officer appointed to investigate a complaint should not be directly line managed by that person nor compromised through personal friendship. In this regard, to ensure impartiality and integrity of the process, the Investigating Officer should be appointed from outwith the immediate service area and depending on the circumstances, it may be appropriate to appoint an officer from another service entirely.

## **2.6. Orkney Islands Council**

The Council will:

Accept its legal and moral responsibility to deal effectively with bullying and harassment in the workplace using this policy in conjunction with the guidelines for investigators and, if appropriate, the disciplinary procedure.

Ensure that all employees are aware of this Dignity at Work Policy and Procedure – for example by including it in induction and management training programmes.

Provide guidance and training to all employees responsible for dealing with complaints under the Dignity at Work policy.

## **2.7. HR and Performance**

Human Resources and Performance shall be informed of any cases that require formal investigation.

Human Resources shall be available to provide advice, support and guidance throughout all stages of this policy.

A representative from Human Resources shall act as the adviser to the Investigating Officer during the formal stage of this procedure.

## **2.8. Trade Unions**

Trade Unions recognised within the Council will:

- Support the Council in its efforts to provide a working environment free from bullying and harassment.
- Help inform the workforce of this Dignity at Work policy and encourage employees who may have a problem to use the procedures available to them.
- Advise members of their rights and responsibilities under the policy and to represent members as and when appropriate.
- Advise members accordingly in cases where they appear to be making malicious claims.

2.9. At all formal stages of this procedure (with the exception of agreed mediation) the employee must be given the opportunity to be accompanied by either a work colleague or a trade union representative/official employed by a trade union.

2.10. There is no right to be accompanied or represented by a Solicitor or other legal representative at any stage of the Dignity at Work procedure and the Council does not consider that such representation is appropriate under internal Council procedures.

## **2.11. Dignity at Work First Contact Officers**

The Council recognises that there may be difficulties in raising the issue of bullying or harassment, particularly if:

- The immediate line manager is the alleged perpetrator.
- The employee is too embarrassed or reluctant to raise the matter with their line manager, or feels the manager may lack the skills, knowledge or sensitivity to deal with complaints of harassment.
- The employee finds the prospect of using the formal complaints procedures intimidating.

It is important that such potential difficulties are overcome, and that allegations of bullying and harassment are raised and acted upon. To help ensure this, the Council will have available suitably trained nominated First Contact Officers. These advisers are volunteers from a variety of services. They will receive appropriate training to enable them to provide guidance and support to any employee who feels they are being harassed or victimised. (For a list of their roles and contact details refer to Appendix 4).

## **3. Definitions**

3.1. The following paragraphs give the general principles of harassment, bullying and fair and effective management. More detailed guidance to bullying, harassment, victimisation and fair and effective management is included in Appendix 1 of this Policy.

### **3.2. Harassment, in general terms is:**

Unwanted conduct affecting the dignity of individuals in the workplace. It may be related to age, gender reassignment status, race, disability, religion or belief, pregnancy or maternity status, sexual orientation, marriage or civil partnership status, gender 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.

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

### **3.3. Bullying may be characterised as:**

Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

\*The above definitions of harassment and bullying are defined by the ACAS “bullying and harassment at work” guidance leaflet.

### **3.4. Cases of Assault arising out of Bullying or Harassment**

Physical assault is a criminal offence and, for your own protection and the safety of others, you can, as an individual, report any assault to the police as well as report the matter within the Council.

### **3.5. Fair and Effective Management**

Managers have the right to manage staff effectively, giving reasonable instructions when required and this does not constitute bullying and / or harassment. This includes dealing appropriately with shortcomings in performance, conduct, attendance and behaviour when fair to do so.

It is therefore important to differentiate between management and bullying and/or harassing behaviour. Within the Council there is an expectation that managers fulfil their duties and responsibilities. It is reasonable to expect a manager to carry out their function in a fair, firm and consistent manner.

Managers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of an employee’s behaviour or job performance does not therefore constitute bullying or harassment.

Carrying out these functions in a fair, firm and consistent manner does not constitute an act of bullying or harassment, although it is recognised that some staff may feel

stressed or anxious while the procedures are ongoing. It is in the interests of the Council that managers should be able to carry out their duties without threat of ill intended, malicious or vexatious complaints. An investigation will determine whether a manager has bullied or harassed an employee or managed them fairly, but firmly.

## **4. General Procedures**

4.1. The following general procedures apply:

4.2. Everyone must behave in a way that will not cause offence to others, and to acknowledge that views and opinions held by others may differ from their own.

4.3. Any employee who feels they are being harassed or bullied can seek confidential advice and support from one or more of the following sources:

- Their Line Manager.
- HR and Performance.
- Dignity at Work First Contact Officers.
- Their Trade Union representative.

4.4. When an employee makes a complaint against another employee, the complainant should list specific issues which they want to be investigated and not general accusations.

4.5. All complaints will be dealt with in a confidential, sensitive and objective manner and all parties involved will be treated with due respect and protected from victimisation.

4.6. It will be considered a disciplinary offence for any employee to victimise or retaliate against an employee for bringing a complaint of harassment, bullying, discrimination or victimisation. This is also prohibited under the Equality Act 2010.

4.7. Harassment and bullying will usually occur in the workplace but work related incidents outside the workplace can also fall within the remit of this policy, e.g. work-related functions held outside of normal working hours, either on or off the Council's premises.

## **5. Right to be accompanied**

5.1. Due to the sensitive nature of any allegation that can be made under this Policy, both the complainant and the alleged offender will be afforded the right to be accompanied by either a work colleague or a trade union representative/official employed by a trade union at any of the meetings held under this procedure.

5.2. There is no right to be accompanied or represented by a Solicitor or other legal representative at any stage of the Dignity at Work procedure.

## **6. Confidentiality**

6.1. All parties involved in an investigation are under an obligation to maintain confidentiality throughout the process. Any inappropriate sharing of information relating to the investigation could result in disciplinary action being taken.

## **7. Procedure**

7.1. Issues of bullying or harassment can be addressed using either mediation, the informal process and/or the formal process as outlined in paragraphs 8, 9 and 10.

7.2. Employees who believe they have not been treated with dignity and respect in terms of this employment policy can take action by using the following procedure. In such circumstances, employees should keep notes and diary records of any incidents which they perceive contribute to this situation, and note the presence of any witnesses.

## **8. Mediation**

8.1. At any stage in this procedure, mediation may be employed to help resolve the issue.

8.2. If both parties agree to mediation, the Dignity at Work procedure will be put on hold whilst the mediation takes place. In the event that no mutually acceptable solution is reached through the mediation process, the procedure will be reconvened from the point where it was put on hold.

8.3. The manager/head teacher should contact Human Resources for advice where it is considered that mediation could be a possible way forward.

## **9. Stage 1 – Informal**

9.1. Any member of staff who believes they are being harassed is encouraged to resolve the issue informally wherever possible. In many cases, an informal approach can resolve matters satisfactorily, particularly if action is taken quickly. Quite often, a person may be unaware that their behaviour is unwelcome, or it may be that their actions have been misinterpreted.

9.2. There are a number of steps the staff member may take to deal with the issue. He or she may:

- Approach the alleged perpetrator directly to advise them that the behaviour in question is offensive and is not welcome.
- Request a meeting with the alleged perpetrator with a manager present in an attempt to resolve the issue.
- Write to the alleged perpetrator detailing the behaviour in question which is perceived as offensive (a copy of this letter should be kept in case further action becomes necessary).
- Approach First Contact Officers for information and support as part of the informal process.
- Use the mediation procedure to attempt to resolve the issue (Mediation can only be used if both parties are agreeable).

9.3. When making an informal approach, the complainant should tell the alleged perpetrator:

- What happened.

- Where and when it happened.
- How the behaviour made them feel.
- How it affected their work.
- How they want to resolve the matter.

9.4. Dealing with the alleged bullying / harassment issue in this way can often lead to the quickest and most effective resolution. As this is an informal process, it is suggested that both the Manager and employee keep a note or record of the discussions and attempts at resolution before having to initiate the formal process.

9.5. Employees do not have to deal with the bullying or harassment informally before progressing to the formal stage of the policy. Although this is the Council's preferred method, we recognise the discomfort an employee may feel in adopting this approach and it is entirely the decision of the complainant.

9.6. The informal process should take no longer than 14 calendar days to complete unless there are exceptional circumstances.

## **10. Formal Stage 2 – Dignity at Work Procedure**

### **10.1. Formal Complaint Process**

Where the informal procedure has not brought about a change of behaviour or the allegation is of a serious nature, the employee must inform their line manager / Head Teacher (or next more senior manager if the complaint concerns their manager) of the problem in writing detailing or submitting a Dignity at Work Form (Appendix 2)

10.2. The employee will need to provide the following information:

- The name of the person accused.
- Details of the complaint including the exact nature of the complaint and the resolution that is being sought.
- Records of dates, times, witnesses and any other relevant information.
- The names of any employees who witnessed any incidents.
- Examples of any incidents of harassment you have witnessed of other employees by the same person.
- Any action that the employee has already taken to try to deal with the harassment; and any suggestions on how the matter may be resolved.
- The accused's response at the informal stage, where applicable

10.3. For reasons of confidentiality the letter or Dignity at Work form must not be copied to anyone else except those directly involved in the process which may include a trade union representative.

## **10.4. Response and investigation**

The complaint will be acknowledged by the relevant appropriate manager/ Head Teacher in writing within seven calendar days of receipt of the written complaint.

10.5. Following receipt of the complaint, the appropriate Manager / Head Teacher will convene an investigating panel, comprising an Investigating Officer and an HR adviser, to carry out an investigation. The Investigating Officer should be unconnected with the case – ideally from another Service. Wherever possible, the Investigating Officer should be independent from the situation and line management of the staff involved.

10.6. Wherever possible, steps will be taken to ensure that the selection of Investigators is sensitive to the nature of the complaint for example, in cases of sexual harassment it may be appropriate to have both a male and a female as the investigating team to ensure a balanced investigation.

10.7. As part of the investigation process, the manager will issue a written notice to the employee whom the allegations were made against informing him/her what they are alleged to have done and given the opportunity to respond.

10.8. Orkney Islands Council has a duty of care towards all of its employees; therefore depending on the nature of the allegations, and to ensure that the integrity of the investigation is not compromised, it may be difficult for both parties to continue to work in the same environment in specific circumstances.

10.9. It may be appropriate to consider temporary redeployment or suspension; however this must be done in consultation with HR and Performance or the Senior HR adviser for the Service.

10.10. In normal circumstances, if the complainant expresses concerns regarding both parties continuing to work together until a resolution has been achieved, the needs of the service will be taken into account regarding which party is redeployed.

## **11. Investigation Process**

11.1. The purpose of the investigation is to establish what happened and whether it constitutes bullying and harassment. If it does then the seriousness of the case will be evaluated and appropriate action recommended.

11.2. The Investigating Officer will be responsible for carrying out a thorough investigation of the complaint.

11.3. There should not be any unreasonable delay in investigating complaints and it is expected that all alleged bullying and harassment complaints will be submitted promptly and then investigated without unreasonable delay.

11.4. The appointed Investigating Officer will arrange a formal meeting with the complainant, normally within 14 calendar days from receipt of the complaint. Where it is not possible to hold the meeting within the 14 calendar days timescale a mutually agreed alternative date should be made with the employee or their trade

union representative. Confirmation of this should be sent to the employee or their trade union representative in writing.

11.5. At the start of the investigation, both parties will be advised how long the investigation is likely to take and the name of the Investigating Officer. The Investigating Officer will keep both parties informed if the indicative timescale will not be met, advising both parties of an anticipated revised completion date, giving reasons for the revised timescale.

11.6. An investigation into a formal complaint through the Dignity at Work Policy should normally be completed within 28 calendar days, where possible and reasonable. Completion within this timescale will be dependent on the extent and complexity of the investigation and the sensitivity of the matter being investigated.

11.7. The Investigating Officer accompanied by the HR Adviser will interview the complainant and also separately any witnesses considered relevant, where applicable, ensuring that all meetings are recorded and witness statements signed.

11.8. Witnesses must be advised that should the matter proceed to a formal process i.e. disciplinary or employment tribunal, their statement may be referred to or they may be called to give evidence.

11.9. Interview the alleged harasser based on the complaint and subsequent meeting with potential witnesses.

11.10. All individuals involved in the investigation should be reminded of the Council's expectations in terms of confidentiality.

11.11. An investigation aide memoire flow chart can be found in Appendix 3.

## **12. Responding to Counter Allegations**

12.1. When a complaint of harassment or bullying is made, sometimes a counter complaint is also made. In these circumstances, both complaints will be investigated simultaneously by the same Investigating Officer, if practicable. Advice should be sought from Human Resources in respect of how best to deal with these situations.

## **13. Investigation Outcome**

13.1. The Investigating Officer will produce a report of their findings, and recommendations to the initiating manager with his/her findings and recommendations within 14 calendar days of the completion of the investigation unless there are exceptional circumstances preventing this.

13.2. The report will take into account the findings of the investigation and the following recommendations for the initiating manager to consider could include:

- On the balance of probabilities there is a case to answer and therefore disciplinary action is appropriate regarding the alleged harasser.
- The allegations are unfounded and no further action should be taken.
- Both parties partially responsible therefore recommend support through training.

- To make arrangements for training.
- To make arrangements for mediation or any other appropriate remedial measures.
- Complainer raised a vexatious claim and therefore should be subject to disciplinary proceedings.

13.3. If, at the end of the investigation, it is decided that bullying or harassment may have occurred, a disciplinary hearing will be convened as soon as is reasonably practicable in accordance with the Council's Disciplinary Procedure.

13.4. Where there is no case to answer, all records of the matter will be disregarded. The appropriate manager will advise both parties in writing on the outcome of the investigation report within 14 calendar days of receiving the report.

13.5. Individual meetings should also be held with both parties to share the outcome of the investigation report as soon as possible and no later than 14 calendar days of receipt of the report. Written confirmation outlining the discussions at this meeting must be forwarded to both parties no later than seven days after the meeting.

13.6. In all cases, the individuals concerned will be treated sensitively, with confidentiality being maintained at all times. This is subject to the right of the employee who is the subject of the complaint being able to access information relevant to the complaint, and having the opportunity to respond to the allegations.

13.7. Records will be kept detailing the nature of the complaint raised, documents relating to the investigation, relevant information, any action taken and the reasons for it.

13.8. These records will be kept confidential and retained in accordance with the Data Protection Act 1998 (DPA) which requires the release of certain data to individuals upon their request. In certain circumstances, however, and in accordance with the DPA, it may be appropriate to withhold some information. However where information is required to be released then the report and appendices will be redacted in accordance with the DPA.

## **14. Disciplinary / Grievance Hearing**

14.1. Should a formal disciplinary hearing or grievance hearing arise as a result of the Dignity at Work investigation, a separate investigation will not normally be required under these policies. The original Dignity at Work investigation will form the investigatory stage of these processes. The Investigating Officer will present management's case at any relevant hearing.

14.2. The manager who instigated the investigation will chair a formal disciplinary or grievance hearing unless there is the potential for dismissal. In such cases, the appropriate manager will be appointed to chair the disciplinary outcome.

## **15. Malicious Allegations**

15.1. All complaints will be taken seriously. However, if after investigation any complaint is found to have been made maliciously, this will be viewed as a very

serious matter and may result in disciplinary action being taken against the complainant.

## **16. Support**

The Council recognises the need to offer support to employees who feel they have suffered harassment, victimisation or bullying.

It is important that employees realise that the investigation of a complaint of bullying or harassment is not a presumption of guilt. The purpose of an investigation is to gain information surrounding the complaint, the background and any other facts supporting or contradicting the complaint. It is also important to note that suspension (if appropriate) is a neutral act which can serve to protect either the complainant or the alleged harasser and allow for a fair investigation to be undertaken.

Orkney Islands Council provides an independent Stress counselling service for all employees. The service is confidential and may help the complainant /alleged harasser and witnesses if appropriate to:

- Identify problems directly resulting from harassment.
- Think about what has happened.
- Reach a decision on positive steps that you can take.

Counselling sessions allow employees to air their views and feelings with a qualified counsellor, who will help them to get to the root of the problem (for contact details please contact Human Resources for further information).

### **16.1. Staff Welfare Officer**

The Staff Welfare Officer can offer help and guidance to anyone affected by personal or work-related problems by exploring the issue and the impact on the individual. In particular, the Staff Welfare Officer will ask the employee about the nature of the problem and what steps have already been taken to resolve it. They will then suggest possible options to help the employee progress the issue or arrive at a resolution.

The Council's Staff Welfare Officer can be contacted through HR and Performance on extension 2250.

### **16.2. Occupational Health**

A referral to occupational health can be requested, through the manager, by any member of staff who feels their health may potentially be adversely affected by circumstances at work.

### **16.3. Dignity at Work First Contact Officers**

These advisers are volunteers from a variety of services. They will receive appropriate training to enable them to provide guidance and support to any employee who feels they are being harassed or victimised.

## **17. Appeals**

17.1. There is no right of appeal under this policy however the employee can raise a grievance under the appeal stage of the grievance policy.

## **18. Harassment or Bullying by Non Employees**

18.1. Orkney Islands Council recognises that employees may be subjected to bullying and harassment from third parties such as non-council staff and/or visitors to council buildings, including contractors, service partners and customers and will take reasonable steps to protect employees if this occurs.

### **18.2. Elected Members**

Where elected Members are alleged to be bullying or harassing employees, contractors or fellow councillors, then this can be dealt with in accordance with the Council's procedure for complaints against councillors.

## **19. Anonymous Complaints**

19.1. Anonymous complaints will not be considered by the Council.

## **20. Dignity at Work complaint not concluded at the time of employment ending**

20.1. Where a Dignity at Work complaint has been raised by an employee under the formal stage of the process, but the stage has not been concluded by the time their employment with the Council ends, their complaint should be dealt with in accordance with the formal stage of this Policy and Procedure.

## **21. Dignity at Work Policy and Procedure – Former Employees**

21.1. The Dignity at Work Policy and Procedure will normally only be available to current employees of the Council. Where a former employee gives formal notification of a complaint within three months of leaving employment of the Council; their complaint should be dealt with in accordance with the formal stages of this Dignity at Work Policy and Procedure.

21.2. Where a former employee gives formal notification of a Dignity at Work complaint outwith three months of their employment ending with the Council the issues raised will be considered and dealt with in accordance with the Council Complaints procedures, rather than under the Dignity at Work Policy and Procedure.

# Appendix 1

## What is bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which is meant to undermine, humiliate or injure the person on the receiving end.

Bullying can be obvious, or it can be subtle and insidious, examples of bullying behaviour can include:

- Psychological intimidation, humiliation, excessive and/or unreasonable criticism or fault-finding of any colleague or peer.
- Being subjected to nit-picking and trivial fault finding.
- Being undermined, especially in front of others, overruled, ignored, side-lined, marginalised, ostracised, isolated and excluded from any discussion or decision making.
- Being singled out and treated differently.
- Being belittled, degraded, demeaned, ridiculed, patronised, subject to disparaging remarks.
- Regularly the target of offensive language, personal remarks, or inappropriate bad language, threatened, shouted at, humiliated.
- Obscene gestures and/or facial expressions/body language designed to demean. This could range from an invasion of space through to grabbing a person, pushing or jostling them.
- Unreasonably or unnecessarily removing areas of responsibility or imposing inappropriate tasks which are not in keeping with the duties and level of the post.
- Setting unrealistic goals and deadlines which are unachievable or are changed without notice.
- Having their responsibility increased but their authority removed.
- Denying someone the information or knowledge necessary for undertaking work and achieving objectives.
- Unfair allocation of work and responsibilities or setting unreasonable goals or targets in work.
- Undermining professional status.
- Cyber bullying is bullying or harassment which is conducted via social networking channels, often using blogs or social networking sites to post photographs or offensive or threatening comments.

## What is harassment?

Acts of harassment usually centre on unwanted, offensive and intrusive behaviour with a sexual, racial or physical component. It can take many forms, occur on a variety of grounds and may be directed at one person or a group of people. The intention of the perpetrator is irrelevant; it is the impact upon the individual which determines whether harassment has taken place. The investigation will determine whether there is reasonable interpretation of the events or events.

The following list provides some examples of harassment or discriminatory behaviour:

### **General Harassment**

Note: these are examples, not a definitive list of types of behaviour which could be found to constitute harassment.

- Shunning or deliberately excluding people from normal workplace conversations or social events, because he/she is associated or connected with someone with a protected characteristic, for example his/her child is gay, spouse is black or parent has a disability.
- Insensitive jokes and remarks (however intended).
- Offensive or threatening e-mails or telephone text messages.
- Unnecessary copying of e-mails or other communications to others.
- Placing of inappropriate, demeaning or offensive remarks or images on social networking websites (both internally and externally).
- Distribution or displaying (electronic or otherwise) offensive or obscene materials or images however intended.
- Threatening behaviour - physical or verbal including unfounded threats about job security.
- Spreading malicious rumours.
- Using a mobile phone to film, photograph or record someone.
- Asking intrusive questions about someone's personal life.
- Gossiping about colleagues with other people.

### **Sexual Harassment**

- Unwanted non-accidental physical contact ranging from unnecessary touching, patting or brushing against a colleague's body, to assault and coercing sexual relations.
- Unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity within or outside the workplace, after it has been made clear that such suggestions are unwelcome: offensive flirting.
- The display of pornographic or sexually suggestive pictures, objects or written materials.
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments.
- Conduct that denigrates or ridicules or is intimidatory or physically abusive.
- Derogatory or degrading abuse or insults which are gender related and offensive comments about appearance or dress because of his or her sex

## **Racial Harassment**

- Conduct that denigrates or ridicules a colleague because of his or her race, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical.
- The display or sending of offensive letters or publications; threatening behaviour.
- Being “frozen out” of conversations.
- Jostling or assault, or other non-accidental physical contact.
- Derogatory nicknames or racial name calling or jokes.

## **Disability Harassment**

- Mimicking the effect of a disability or speech impairment.
- Ostracising, “freezing out”, ignoring and staring.
- Making fun of a disability.
- Use of inappropriate terms.
- Inappropriate personal questions/comments about a disability.
- Belittling or patronising comments/nicknames.
- Moving a wheelchair without the user’s agreement.
- Practical jokes, e.g. hiding a disability aid.
- Touching a visibly impaired person, to annoy.

## **Homophobic Harassment**

- Conduct that denigrates or ridicules a colleague because of his or her actual or presumed sexuality, such as derogatory remarks, graffiti, jokes. Such conduct can be physical or verbal.
- The display or sending of offensive letters or publications; threatening behaviour.
- Being “frozen out” of conversations.
- Jostling or assault, or other non-accidental physical contact.
- Derogatory nicknames or homophobic name calling or jokes.
- Intrusive or inappropriate comments about someone’s personal life or family circumstances.

## **Gender Re-assignment**

- Transphobic comments, ‘jokes’ and name calling.
- Verbal or physical abuse or intimidation.
- Refusing to treat a person as of their new gender when they transition.
- Failing to address a person by their preferred name and correct gender pronouns.
- Denying people access to the appropriate single sex facilities such as toilets/changing rooms.
- Outing a person as transgender without their consent or spreading rumours (this may also be a criminal offence).
- Excluding a person from conversation or activities.
- Sexual harassment.
- Intrusive questions.

## **Age Discrimination**

- Ridiculing or demanding behaviour focused towards people because of their age

## **Religious Discrimination**

- Discriminatory behaviour which fails to acknowledge the rights or needs of people with different beliefs or practices.

## **Victimisation**

- Where a person is treated less favourably than other people because, for example, that person has brought proceedings, given evidence, or complained about the behaviour of someone who has been harassing or discriminating against them.

## **Aids/HIV**

- Harassment, ridicule or exclusion of people, due to their real or suspected infection with Aids/HIV.

## **Associated discrimination**

- Whereby a person also directly discriminates against a person if they treat them less favourably than they would treat another person by reason of the disability of another person.

## **Upward Bullying**

Note: this occurs when a junior person bullies a more senior person, such as when an employee bullies their line manager.

Examples of Upward Bullying:

- Attempting to undermine a manager in front of his/her team.
- Sabotaging initiatives or ideas.
- Disruptive behaviour such as during team meetings.
- Not passing on important messages.
- Unnecessary escalation of issues or copying of e-mails.
- Public criticism.
- Refusal to carry out legitimate requests.
- Hostile or aggressive communication style.

## **Electronic bullying**

Note: is a term used to refer to bullying through electronic media, usually through instant messaging, emails (so called 'flame-mail'), or text messages. In sending emails employees should consider the content, language and appropriateness of such communications.

The use of online social networking sites for appropriate purposes has grown considerably over the last few years.

- Avoid using language which would be deemed to be offensive to others in a face-to-face setting as the impact on individuals will be much the same.
- Avoid the use of provocative or inappropriate images.
- Avoid forming or joining an online group that isolates or victimises fellow colleagues or students.
- Ensure that you never use such sites to access or share illegal content.
- If online bullying or harassment is reported it will be dealt with in the same way as if it had taken place in a face-to-face setting.

### **Fair and Effective Management**

Because of differences in perception it is not always easy to differentiate between firm, fair management and bullying and harassment. It is accepted that the examples below represent extremes of behaviour. In practice, things will not be so clear and perpetrators may display characteristics which fall somewhere in the middle. Some suggestions are:

<b>Fair and Effective Manager.</b>	<b>Bully and Harassing Manager.</b>
Consistent and fair.	Aggressive, inconsistent and unfair.
Leads by example.	Dominates, sets a poor example.
Decisive.	Random, impulsive.
Has a good appreciation of short, medium and long term needs and goals.	Is rigidly short-term, often no more than 24 hours.
Learns from experience and applies knowledge gains from experience to improve business, communication and interpersonal skills.	Cannot apply knowledge gained from experience except by being devious, manipulative and how to evade accountability.
Allows and trusts people to get on with the job.	Constantly interfering, dictating and controlling.
Applies management techniques appropriate to the individual.	Treats all staff the same despite abilities and work needs.
Shares information freely.	Withholds information, releases selectively.
Only addresses genuine performance and behaviour issues which can be evidenced	Makes false claims about alleged underperformance and focuses on the person, not behaviour or performance.

## Appendix 2



### Notification of Formal Dignity at Work Complaint (Stage 2)

#### Employee Details.

Name.	
Job Title.	
Line Manager.	
Contact Address.	
Contact Phone Number.	

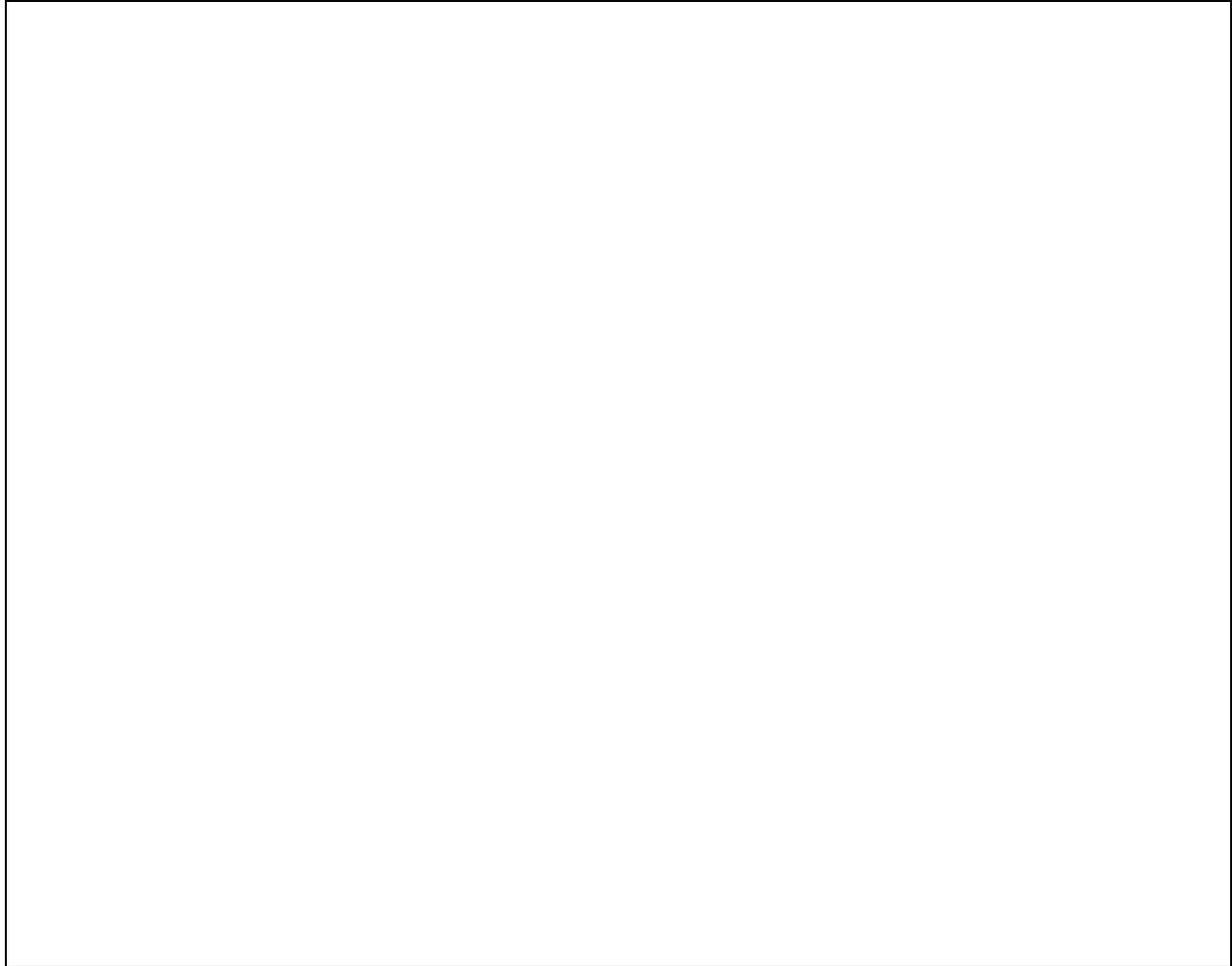
**Detail of Concerns raised** (please fully outline the matter/s with which you are aggrieved).

Please outline the main points of your concern/issue below.

Continue on separate sheet if necessary.

Please give fuller details such as times, dates, comments, actions etc.

N.B. If there is more than one event, please set out in date order. Attach an additional sheet if necessary.

A large, empty rectangular box with a thin black border, intended for the user to provide the details requested in the instructions above. The box is currently blank.

Please provide the details of any action(s) either you or your line manager have already taken to try and informally resolve your complaint (include the name of the manager(s), dates and why the actions taken were not successful in resolving the complaint):

A large, empty rectangular box with a thin black border, intended for the respondent to provide details of actions taken to resolve a complaint. The box is currently blank.

Please state what resolution you seek.

--

Please continue on a separate sheet if required.

**Name of Individual who will accompany me to any Investigation meeting.** (Work Colleague or Trade Union representative or Official only).

Name.	
Contact Address.	
Contact Phone Number.	
Status.	Work Colleague/Trade Union Representative/Official (delete as appropriate).

I would like all arrangements made with and correspondence and papers sent to my Trade Union representative rather than to me:

- Yes/ No (delete as appropriate).

(If this question is not answered arrangements and correspondence will be made with the employee).

**Witnesses.**

You can, should you wish, ask for witnesses to attend the hearing. The Chair of the hearing is responsible for making arrangements to ask witnesses to attend, please detail below the names of witnesses that you would wish to attend, or indicate that you do not intend to call witnesses.

I intend to call witnesses as part of my complaint:

- Yes/No (delete as appropriate).

I will submit details of witnesses to the Chair in advance of the hearing:

- Yes/No (delete as appropriate).

Please list the names of any individuals who have witnessed any incidents, or who themselves may have been subject to this type of behaviour by the same person:

**Documentation in Support of your Dignity at Work concern.**

You can, should you wish, submit information or documentation for consideration as part of your complaint. Please indicate below if you intend to do so.

I enclose this documentation with this form:

- Yes/No (delete as appropriate).

**Employee Declaration.**

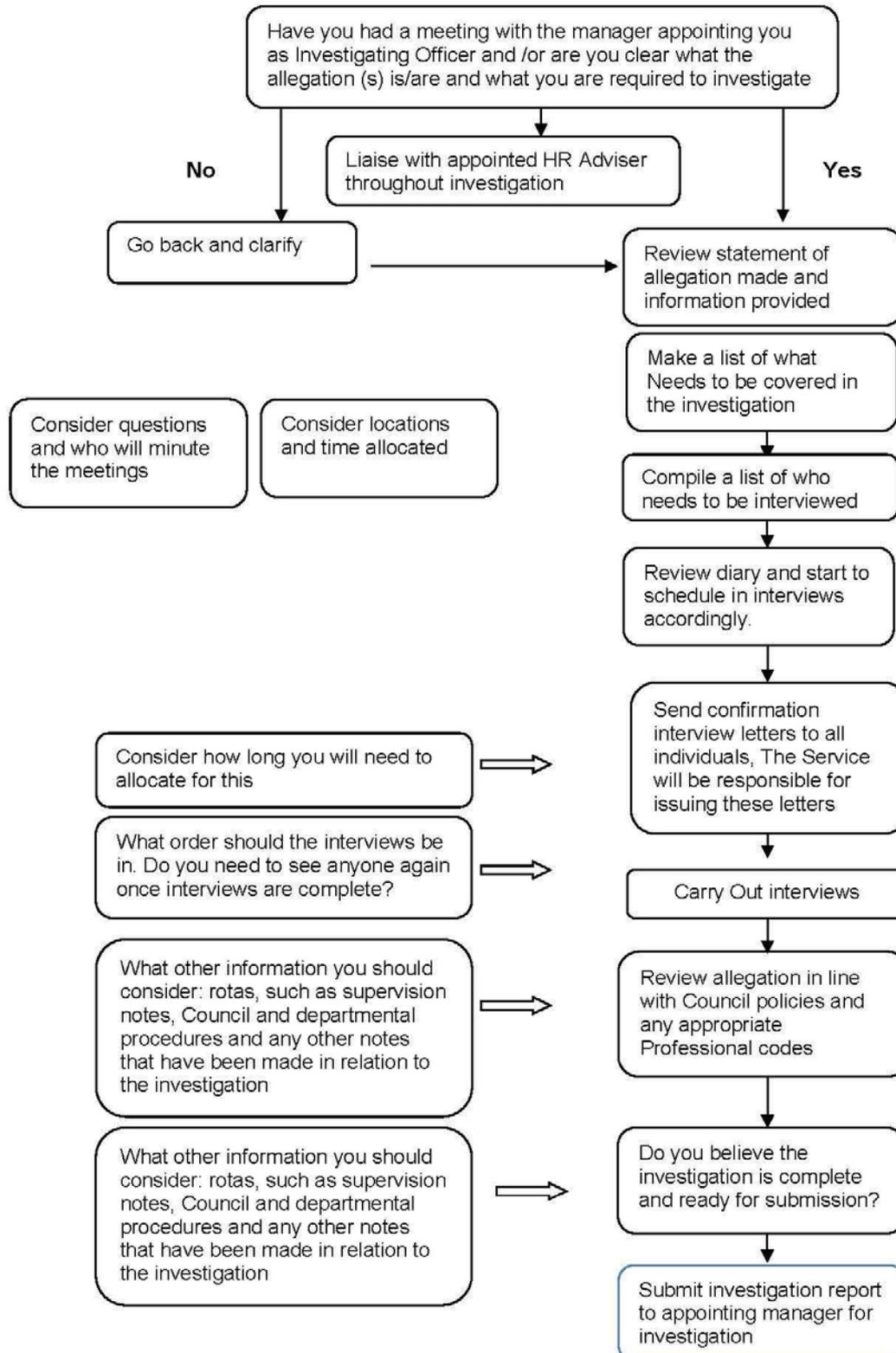
I confirm that the information provided as part of this Dignity at Work Complaint is accurate and truthful. I am aware that raising malicious grievances is a matter that could lead to action being taken against me under the Council Disciplinary Policy.

Signature.	
Date.	

**You should submit your Notification of Formal Complaint to your Line Manager/Head Teacher. Where this is not appropriate then you should submit the form to the next level of management.**

## Appendix 3

### Investigating Officer's Flowchart



## **Appendix 4**

### **The role of the Dignity at Work First Contact Officers**

First Contact Officers play an important role in the Dignity at Work Procedure. They are impartial and will be fully trained and ready to help all members of staff who may be experiencing problems, or perhaps need advice.

Their role is to:

- Be a first point of contact for any employee who thinks that they are being bullied or harassed in the workplace.
- Arrange an initial meeting with the employee who feels they are being bullied or harassed at work and have asked for their assistance. This will be in a quiet, comfortable location that is acceptable to the complainant.
- Provide sympathetic and confidential information on the options available, and how they work, so that the complainant can make an informed decision about how they wish to proceed.
- Assure the complainant that no action will be taken unless he/she requests them to do so.
- Discuss cases in confidence and will not divulge information to any other person without the agreement of the employee. The only exceptions to this will be in extremely serious cases, for example, where an individual's safety is at risk.
- Refer the member of staff to the appropriate place if the individual wishes to take the matter further.
- Accompany the complainant to meet with their Manager, HR Adviser and to any subsequent meeting, if requested.
- Assist the complainant to provide a written statement for lodging a formal complaint if requested.
- Provide support as appropriate to the alleged perpetrator.

**It is not the role of the First Contact Officer to:**

- Take sides in a dispute.
- Make decisions on behalf of the person making a complaint.
- Investigate complaints of harassment or bullying or be involved in the investigation.
- Act as a representative/support person at meetings under any stage of the process.
- Discuss the matter with the manager or HR on behalf of the employee.

First Contact Officers do not provide advocacy or counselling support. Nevertheless, they will listen to concerns, provide confidential advice and information to staff on the Council's policy and outline the options they can take.

The Council will ensure that First Contact Officers all receive appropriate training to carry out their role but some basic guidance is set out below:

### **What do I do when an employee contacts me to ask for help?**

- Take down basic information about the complainant – including their name, job title, service area and a contact telephone number.
- Agree to meet with the employee as soon as reasonably possible, subject to service requirements for both of you.

### **Where should I meet the employee?**

Ask where the employee would feel comfortable meeting you. If you make a suggestion, always check that they are happy with it. Ideally the meeting should be:

- Away from the complainant's place of work.
- Somewhere comfortable where you can chat in confidence.
- In a Council building. Never visit an employee at home. If you are having difficulties finding an appropriate location, speak to a HR or Union representative, and they may be able to provide a room.

### **What to do before the meeting**

- Ask your line manager for permission to meet an employee in your role as First Contact Officer. You should not disclose any details of the employee that you are meeting or the circumstances, but you should be clear with your line manager how long you intend to be away from the workplace.
- Ensure that you are familiar with the Dignity at Work Policy.

### **What to do at the meeting**

- Introduce yourself.
- Explain what your role as a First Contact Officer is – and what it is not. Check that the employee understands this, and is still happy to proceed.
- Establish a time limit for the meeting at the outset – it is envisaged that an hour would be appropriate.
- Reassure the employee that any discussions are strictly confidential (unless you are told something of such a serious nature – for example, where someone's safety is at risk - that you are duty bound to report it). Also make it clear that any decisions are to be made by the employee – you are only there to provide information and support.
- At all times listen to what the employee has to say, keep calm and do not take sides.
- It is useful to take notes, but you are not there to take down all the facts – the Investigators will do that in due course if appropriate. Also, remember that copies of your notes may be requested at a later stage by the complainant or as part of the evidence if the case progresses.
- Provide a copy of the Dignity at Work Policy if the employee does not already have one.

- Clearly explain the different options available to the employee under the Dignity at Work Policy.
- Explain that employees may obtain assistance from a trade union representative or another colleague at any point in the process.
- Provide information on alternative sources of support where necessary – for example, the Council’s mediation service, or the counselling service.
- At the end of the meeting, check that the employee has all the information that they need to make their decision. Check that they have your contact details in case they have any further queries.

Remember – you are there to listen and advise. It is not your responsibility to solve the employee’s problems or investigate the complaint. If, at any stage, you are unsure about something, contact Corporate HR for assistance.