

Dignity at Work Policy



Walsall Council

Version Control

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Purpose	To provide a framework where dignity at work is considered paramount and within which claims of bullying and harassment are addressed and resolved swiftly, in a fair, consistent and supportive manner.		

This policy links to:

- Our Council Plan
- Walsall Proud
- Appeals Policy
- Sickness Absence Policy
- Confidential Reporting (Whistleblowing) Policy
- Redundancy Policy
- Organisational Change Management Policy
- Grievance Policy
- Collective Grievance Policy
- Workforce Strategy
- Behaviour & Standards Framework
- Equality and Diversity Protocol
- Job Evaluation and Grading Policy
- Mediation Guidance
- Performance & Ill Health Capability Policy
- Disciplinary Policy
- Code of Conduct for Employees
- Grievance Guidance

This list is not exhaustive.

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1.0 Introduction

- 1.1 Walsall Council is PROUD. We are proud of our past, our present and for our future. The council is committed to reducing inequalities and ensuring all potential is maximised and its employment policies, procedures and guidelines are designed to support this vision and deliver the council's priorities.
- 1.2 The council is committed to creating an environment that provides opportunities for all individuals and communities to fulfil their potential and this policy provides a framework in which employees will be supported to deliver the council's priorities in line with the council's expected behaviours and values; professionalism; leadership; accountability; transparency and ethical.
- 1.3 The council's values and behaviours will be at the core of everything the council deliver and through a culture of continuous improvement the council will increase performance, efficiency and champion the design of services to meet the needs of customers. As a digital by design council, employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment. The council is committed to technological investment to deliver transformation in order to improve the efficiency and effectiveness of its services, both internally and externally.
- 1.4 This policy framework promotes the council's strategic priority of internal focus ensuring all council services are effective and efficient and helps embed the behaviours and values expected of all employees as part of the Behaviour and Standards Framework.
- 1.5 The council is committed to creating a working environment for all of its employees that is free from all forms of bullying and harassment, where everyone is treated fairly and with dignity and respect. Acts of discrimination or bullying and harassment of any kind, whether intentional or otherwise, will not be tolerated.
- 1.6 The purpose of this policy is to provide practical guidance to assist in the maintenance of dignity at work and the management of working relationships within the council with the aim of fairly and consistently supporting employees to reach agreed resolutions and/or taking appropriate action.

2.0 Scope

- 2.1 This policy applies to all council employees including Chief Officers;
- 2.2 With the exception of;
 - 2.2.1 School-based employees/workers where the Governing Body has delegated authority and for whom separate arrangements apply.

- 2.3 This policy covers bullying and harassment of and by managers, employees, contractors, consultants, agency workers, any self-employed individuals working for the council, individuals from partner organisations, suppliers, clients or customers. In cases involving individuals who are not directly employed by the council, this policy will apply with any necessary modifications (e.g. the end result of an investigation may not be to dismiss but an alternative contractual action may be taken for example).
- 2.4 This policy covers bullying and harassment in the workplace and in any work related setting outside of the work place e.g. business trips and work related social events (including those that take place in the employees own time).

3.0 Definitions

3.1 Discrimination

- 3.1.1 Bullying and harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief, age, pregnancy and maternity and marriage and civil partnership.

3.2 Bullying

- 3.2.1 Bullying is offensive, intimidating, belittling, malicious or insulting behaviour directed at an individual by one person or a group of people and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.
- 3.2.2 Examples of bullying behaviour include remarks that are intimidating because of content or the manner in which they are made, initiation of malicious rumours concerning a colleague or colleagues, intimidation through physical proximity or body language, pointed exclusion of an individual from conversations or discussions, allocation of work in an inappropriate manner (e.g. setting unrealistic deadlines).

3.3 Harassment

- 3.3.1 Harassment is unwanted, unreciprocated conduct or behaviour of an offensive or hostile nature with the purpose of violating a person's dignity or creating an intimidating, degrading or humiliating environment causing distress or discomfort for that person; or is reasonably considered by that person to have such an effect, even if this affect was not intended by the person responsible for the conduct. Harassment includes any act motivated by one or more of the protected characteristics (3.1) which is designed to humiliate, intimidate, belittle, degrade or harm another in any way.
- 3.3.2 Harassment may also occur where an individual is bullied or harassed because of another person with a protected characteristic whom the individual is

connected or associated, for example if their child is disabled or friend is a devout Christian. Similarly harassment could take place where an individual is perceived (mistakenly) to have a protected characteristic (e.g. they are perceived to be gay or disabled) when in fact they do not. This includes instances where protected characteristics are used as an excuse for bullying and harassing behaviour, even if the accused does not believe the individual really possesses that characteristic e.g. a manager teasing an employee about being deaf as a 'joke' on occasions when they don't action something they have been asked to do or respond to a verbal cue.

- 3.3.3 Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended by one person as a 'joke' may offend another person. Different people have different levels of acceptability and offence. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them e.g. sexual touching. It may not be so clear in advance that some other forms of behaviour would be unwelcome, or could offend a particular person e.g. certain 'banter', flirting or asking someone for a private drink after work. In these cases, first time conduct that unintentionally causes offense will not usually be considered harassment but it would become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to them.
- 3.3.4 Examples of harassment include unwelcome sexual advances or touching, unwelcomed jokes relating to a protected characteristic, unwanted nick names relating to a person's age or race, questions about a person's sex life, excluding an individual because they are related to or associated with someone with a protected characteristic, ignoring an individual because they are perceived to be transgender, openly displaying pictures or objects with sexual or racial overtones, even if these are not directed at any particular person e.g. pin-up calendars.

3.4 Forms of bullying and harassment

- 3.4.1 Bullying and harassment may be of a physical nature, verbal or non-verbal (e.g. hand gestures, stance and proximity, blatantly and intentionally ignoring an individual), in written or visual form via email or through posting on social media.

3.5 What employees should do if they are being bullied or harassed

- 3.5.1 Depending on the circumstances employees who feel bullied or harassed may be able to sort the matter out informally by having a discussion with the accused. They may not know that their behaviour is impacting on another person's dignity at work and may not realise that their actions are unwelcome or upsetting. An informal discussion may help them to understand the effects of their behaviour and agree to change it. Where employees do feel able to approach the person who is making them feel uncomfortable or upset themselves, then this would be

encouraged in the first instance as matters are more easily resolved where they can be addressed swiftly and at the lowest possible level. Employees may find it helpful to ask for support in this meeting from a trade union representative, member of HR or an appropriate work colleague. Alternatively an initial approach could be made on behalf of the employee by one of these people to facilitate a supportive, informal approach aimed at early resolution.

- 3.5.2 The employee should tell the accused that their behaviour has made them feel uncomfortable, and/or has offended/upset them and is unwelcome. The employee should tell the person that they would like their behaviour to stop immediately, they may also want to say, that if the behaviour continues they intend to raise the matter under the formal dignity at work procedure with a manager or HR. The employee should keep a note of the date of the discussion and what was said and agreed. This will be useful evidence if the unacceptable behaviour continues and the employee wishes to raise the matter more formally.
- 3.5.3 Employees are advised to keep notes of all bullying and harassment targeted at them, writing down what has been done or said to them, the time and date of the incident, any witnesses present and how the action(s) made them feel. This will be useful information to assist any future investigations into claims of bullying and harassment.
- 3.5.4 Where employees have attempted to address instances of bullying and harassment informally themselves and this has not resolved matters or the employee does not feel able or willing to do this, or where the matter is deemed too serious for informal resolution, the matter should be progressed further in accordance with this procedure (6.0).

3.6 What employees should do if they are accused of bullying or harassment

- 3.6.1 If an employee is approached by another, claiming that they feel bullied or harassed, notably they may not use these specific phrases, they may use words like upset, embarrassed, intimidated, belittled, offended, distressed, insulted, etc. the employee being approached should not dismiss the claims out of hand because they were not intended that way, were only a joke or because they feel the other person is being too sensitive.
- 3.6.2 Employees are reminded that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. An employee may have offended someone without intending to and where this is the case the offended person may be content with being given the opportunity to explain their feelings and be given an explanation and/or apology from the accused.
- 3.6.3 Providing an explanation and/or apology together with an assurance that the accused will be careful in future not to behave in a way they now know may cause offence, maybe all that is required to informally resolve the matter, provided the behaviour that caused offence is not repeated.

4.0 Principles

- 4.1 This policy aims to create a positive working environment where everyone is treated with dignity and respect and where the council and its employees have zero tolerance for any form of bullying and harassment. Bullying and harassment can have very serious consequences for individuals and the council. Bullying and harassment may make people unhappy, may cause them stress and affect their health and family/social relationships, may affect their work performance and could cause them to leave their job. Severe cases of bullying and harassment could even lead to severe mental distress.
- 4.2 This policy is operated on the express understanding that it is the responsibility of all employees to implement measures relating to dignity at work.
- 4.3 Where it is believed that an employee may have been bullying or harassing another employee, whether or not there has been a formal complaint, management will initiate an investigation into the alleged bullying or harassment. All claims of bullying and harassment will be investigated and where appropriate, disciplinary action will be taken. Where it is considered that bullying behaviour or harassment has been malicious or intentional leading to a complaint under this policy, the matter will be managed under the council's disciplinary policy where disciplinary action may be taken up to and including dismissal.
- 4.4 Employees found guilty of bullying and harassment should be aware that in addition to action that maybe taken under the disciplinary policy, they could also be personally liable to pay compensation in legal claims. Employees should be aware that serious harassment may also be considered a criminal offence.
- 4.5 Any employee who believes that another employee's or individual's conduct amounts to bullying or harassment has the right to raise this with their line manager in the first instance, where this is not practicable (because they are the accused) the employee should raise the matter with the next tier line manager. Such matters can also be raised directly with HR, who will facilitate a conversation with the most appropriate manager to take the matter forward depending on the nature of the concern. Furthermore employees have the right to complain if they believe they have been bullied or harassed by a third party, such as a client or customer.
- 4.6 Bullying or harassment of customers, clients, suppliers, vendors, visitors or others by an employee will be investigated and should there be a case to answer will be dealt with under the council disciplinary policy.
- 4.7 Employees are encouraged to report any incidents of bullying or harassment that they experience or witness so that the council can investigate and resolve the matter. All such matters will be taken seriously and an employee who makes a genuine complaint or raises a genuine concern relating to bullying and harassment will be protected from victimisation under this policy.

- 4.8 Victimization of any individual who has reported matters relating to bullying or harassment, or who has had action taken against them for bullying or harassing behaviour will not be tolerated and will constitute misconduct potentially leading to disciplinary action.
- 4.9 All complaints or concerns raised under this policy will be investigated promptly. Where it is deemed necessary and usually as a last resort, the council may decide that an individual or individuals be removed from direct contact with each other whilst the complaint is being investigated/resolved. Where a different working arrangement is required, these will be discussed sensitively with those involved to seek a volunteer (where management can accommodate this) otherwise every effort will be made to remove the person against whom the complaint has been made. This may involve identifying different work locations, temporary relocation to another office, building or site, home working, alternative work or in some serious situations suspension from work whilst the matter is being investigated. Such suspensions will be for as short a time as possible and will be on full pay. Work relocation or suspension in these circumstances does not constitute disciplinary action, nor imply guilt.
- 4.10 Concerns raised during this procedure will be shared at the earliest appropriate opportunity with other involved parties (e.g. the subject of the complaint) to ensure open and transparent communication and promote active resolution. In certain circumstances where appropriate the employer may withhold some information if for example they believe there to be a further or additional risk of intimidation or harassment.
- 4.11 During the formal investigation process employees shall be given at least 5 working days written notice of formal investigation meetings and are entitled to be accompanied at these meetings by their recognised trade union representative or a Walsall Council work colleague.
- 4.12 Where a dignity at work issue has already been raised and dealt with under this policy, the same matter will not be reconsidered unless there have been repeated incidents since the issue was last considered, the issue is similar but not the same or new information or evidence has come to light.
- 4.13 The council reserves the right not to pursue any dignity at work concerns which it reasonably believes to be repetitive, frivolous, vexatious or malicious. Managers should consult HR in such cases.
- 4.14 Where it is believed that an issue / concern has been raised in bad faith to make deliberately false accusations as a form of bullying, harassment or intimidation (towards management or work colleagues), the matter will be progressed further and will be managed under the council's disciplinary policy.
- 4.15 At any stage in the policy, investigations may result in it being appropriate to invoke other alternative policies such as the disciplinary policy or performance policy where for example, the complaint has raised capability issues or alleged misconduct.

- 4.16 Where dignity at work matters are related to and/or overlap with other ongoing or commenced employment procedures (e.g. organisational change management, performance, disciplinary, grievance or sickness absence etc.), the progression of such cases will be made at managements discretion as it may be appropriate to deal with both issues concurrently or alternatively wait for a process to be exhausted before another continues / commences. This will be a decision for the manager.
- 4.17 This policy is designed to complement existing council policies and procedures and does not impinge upon a manager's right to manage poor performance in an appropriate manner and in line with agreed council processes.
- 4.18 Consideration will be given within this process to any reasonable adjustments required in accordance with the Equality Act 2010 to enable employees to fully participate.
- 4.19 The council recognises that a dignity at work procedure can be a stressful and upsetting experience for all parties involved. Everyone involved in the process is entitled to be treated calmly and with respect. The council will not tolerate abusive or insulting behaviour from anyone taking part in or conducting dignity at work processes and will treat any such behaviour as misconduct under the disciplinary policy.
- 4.20 At any point in the dignity at work process the manager may choose to recommend mediation where it is felt this would be beneficial to help resolve any matters raised under the dignity at work policy. Mediation could take place (if appropriate) during any point in the formal stage of the procedure or subsequently as a management recommendation following a dignity at work outcome. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
- 4.21 Employees are reminded of the council's confidential (counselling) Employee Assistance Programme that is available to provide support and advice to any employee involved in a dignity at work matter. Details of which can be found on the HR intranet pages.
- 4.22 The council processes personal data collected during informal complaints and formal procedures in accordance with its information governance policies. In particular, data collected as part of informal complaints and the dignity at work process is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting a dignity at work investigation. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection arrangements immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary policy. Managers will retain their own notes relating to any informal discussions and HR will retain records on any formal procedures or investigations.

- 4.23 Any matters discussed as part of a grievance process including minutes and witness statements should be kept confidential and only those directly involved in the process will be advised of any details relating to the case.

5.0 Accountabilities

5.1 Managers are accountable for the following;

- Applying this policy and procedure consistently, fairly and objectively in accordance with the council's vision and purpose and clearly demonstrate the council's management behaviours and values, seeking further advice and guidance from HR where necessary;
- Ensuring that there is a supportive and open working environment and intervene to stop any incidents of bullying or harassment they witness or are made aware of by a third party;
- Treating all colleagues with dignity and respect to help create and maintain a working environment free from bullying or harassment;
- Act on any issues or concerns brought to their attention in a timely manner;
- Commit to engaging with the policy to actively encourage resolution at the earliest possible opportunity;
- Ensuring no victimisation takes place against any complainant for raising any claims of bullying or harassment;
- Ensuring that employees are aware of their responsibilities in accordance with this policy and that they are made aware of the standards of behaviour expected of them.

5.2 Employees are accountable for the following;

- All employees should support the delivery of the council's vision and purpose, clearly demonstrating the council's behaviours and values;
- Actively engage in employment practices and processes in which they are involved and ensure they understand this procedure, seeking further advice and guidance from managers where necessary;
- Treating all colleagues with dignity and respect to help create and maintain a working environment free from bullying or harassment;
- Being aware of how their own behaviour may affect others and changing it if necessary, offence can still be caused even if the employee was 'only joking' and says such;
- Intervening and/or reporting any concerns when witnessing bullying or harassment of others to management or HR;
- Making it clear to others where their behaviour is unacceptable, unless it should be obvious in advance that this would be the case e.g. sexual touching;
- Raise any personal concerns as soon as possible with their line manager and take responsibility for actively being part of the resolution or seeking to find a resolution;

- Ensuring no victimisation takes place against any complainant for raising any claims of bullying or harassment;
- Comply with the requirements of this policy and procedure which includes reporting all incidents of bullying or harassing behaviour of which you have either been subject to or witness to and providing accurate statements to that effect.

6.0 Procedure

- 6.1 If an employee believes that they are the target of behaviour which impacts upon their dignity at work they should first discuss the situation with their line manager. Where the line manager is the accused they should raise the matter with their next tier line manager and when this is not possible for a particular reason, advice should be sought from HR.
- 6.2 Employees should be made aware that the council has a legal duty of care to investigate all matters raised, therefore whilst personal preferred outcomes are acknowledged the manager will need to take appropriate action depending on the nature of the concern or complaint.
- 6.3 The aim at this stage of the process is for the manager to gather enough facts to enable a decision to be reached regarding the best way forward. How the investigation is taken forward will depend on the initial fact find and the circumstances of the particular case.
- 6.4 It may be appropriate at this initial stage for the manager to facilitate an informal meeting between the complainant and the accused, or for the manager to approach the accused on behalf of the complainant. Some simple cases are often misunderstandings or caused by communication errors and this maybe all that is required to resolve the matter.
- 6.5 More complex cases will require a thorough and more in-depth investigation, normally conducted by the complainant's line manager, or in some cases another investigating manager (where appropriate the investigator maybe external to the council).
- 6.6 Where matters are serious enough at this stage, even for a first incident or suspected offence, the manager may choose to refer the matter straight to the council's disciplinary policy without further investigation under the dignity at work procedure.

Investigation stage

- 6.7 The manager will conduct a thorough investigation which will include interviewing all parties separately, including any witnesses identified. Interviewees will be entitled to be accompanied by a trade union representative or a Walsall Council work colleague, so long as this does not prejudice the case or compromise confidentiality. Notes will be taken of all meetings and interviewees will be asked to sign the interview notes or any statements they

have disclosed. All parties interviewed as part of the investigation process should be made aware at the start of their interview that should the matter progress further then the notes of the interview or any statements provided could be used as part of disciplinary proceedings and form part of the evidence for formal disciplinary action. Witnesses should also be made aware that they may subsequently be requested to attend any such disciplinary hearing to provide evidence.

- 6.8 Confidentiality will remain paramount during the investigation / dignity at work procedure and information will only be disclosed to witnesses on a 'need to know' basis. For example, the identity of the employee making the complaint and the nature of the allegations must be revealed to the person being complained about so that they are provided with the opportunity to respond. Some details may also have to be given to potential witnesses but this will be limited as far as possible, whilst ensuring a fair and sufficiently thorough investigation. The importance of maintaining confidentiality must be emphasized to witnesses. Certain information may need to be shared with relevant managers for example in cases where a working agreement is put in place or when complaints have been upheld so that they can monitor and manage the risk of future harassment.
- 6.9 The investigation will be conducted in a sensitive and supportive manner and as swiftly as possible.
- 6.10 This stage will involve the manager making enquiries as to whether the employee suspected of bullying or harassment has had formal action taken against them previously for similar conduct and if so, whether there are any live active warnings in place.
- 6.11 Should any witnesses be identified, the manager will endeavor to persuade them to provide a witness statement where they are reluctant to be interviewed or require anonymity.
- 6.12 The manager will conduct the investigation objectively and avoid allowing personal views to influence the overall assessment of the conduct under review.
- 6.13 The employee under investigation will be given a full and fair opportunity to answer any allegations against them or explain their conduct during the investigation stage.
- 6.14 At the end of the initial investigation, the investigating manager will reach a number of conclusions on which to base subsequent action.
- 6.15 Possible outcomes of the dignity at work investigation may include;
 - That behaviour affecting a person's dignity cannot be proven to have taken place e.g. one person's word against another with no witnesses or further evidence / information, historical or otherwise for a conclusion to be reached and therefore **no further action is recommended.**

- That behaviour affecting a person's dignity has taken place but that this was unwitting on the part of the accused, in such cases **a number of management recommendations** (6.16) will be made to help resolve the situation, change behaviours and prevent reoccurrence.
 - The manager may **recommend mediation**, if appropriate and not previously attempted between the parties. Mediation can only be considered where all parties agree to partake in the process. (HR will make mediation arrangements on request however the cost of mediation will be funded by the respective service areas).
 - That behaviour affecting a person's dignity has taken place and was of a serious nature to constitute misconduct, and/or of a malicious, deliberate or intentional nature and/or repeat offences of a similar nature, in such cases the matter will be **referred to the council's disciplinary policy** and managed under that procedure.
- 6.16 An outcome of the dignity at work process might be a range of various management recommendations that are dependent on the investigation and conclusions reached, for example a manager might deem that there are requirements for behavioral changes by an individual, group of individuals or a team of colleagues, further training may be required in for example diversity or multicultural awareness. The manager may agree with the complainant that they meet with the accused to explain the impact their behaviour had on the complainant and their feelings about the incident(s). Other steps for improvement may also be set out in an action plan for the accused and this will be regularly monitored and discussed at supervision or 1 to 1 meetings. Where the manager deems that changes in the working relationship and behaviour of the individual(s) will help to resolve the situation a written working agreement will be drawn up and agreed by both parties (usually through a joint meeting facilitated by the manager), it will detail the changes required or other work specific actions agreed between the two parties regarding how they will agree to work together, communicate with each other etc. Where parties are unable to agree such a working agreement and where applicable the manager will formally instruct individual(s) to comply with the requirements and advise them of potential management actions if they do not. Any working agreement will need to be monitored and identify the period over which a review will take place. Similarly a working agreement can be used where an issue relates to a group of people and can be drawn up to cover all parties involved, refer to the Model Working Agreement template.
- 6.17 As soon as possible following the conclusion of the investigation, the manager will inform both the complainant and the alleged accused of the outcome and where necessary will arrange to discuss / follow up any recommended actions. The outcome will be confirmed to both parties in writing, usually within 5 working days by the manager (with support from HR).

- 6.18 Any actions recommended will be shared with relevant managers in confidence (if this is not the investigating manager) so that progress can be monitored and reviewed accordingly. The employee who raised the dignity at work issue will be informed of whether the manager has requested consideration of further actions against the accused, but will not be informed of any detail or subsequent outcomes that relate directly to another employee (e.g. such as any disciplinary sanction that may ensue) as this is confidential.
- 6.19 In situations where employees working environments have had to be separated during the investigation process the communication and physical reintroduction of working environments/locations will be managed sensitively and in a supportive manner.
- 6.20 Where the outcome is that the matter be referred to the formal disciplinary policy, there may be a need to further extend any temporary amended working arrangements/locations or review suspension arrangements.

7.0 Recording of meetings

- 7.1 The employee, or any person acting on their behalf, is not permitted to record electronically any meeting held by the council as part of the dignity at work procedure. This is to encourage openness and full participation by all parties during meetings. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal.
- 7.2 In very limited circumstances, where the employee is disabled, the council may permit the meeting to be recorded electronically as a reasonable adjustment under the Equality Act 2010. Where the council does permit the meeting to be recorded electronically, it will take responsibility for making the recording.