



Policy Name:

DIGNITY AT WORK

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Approved By:

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1. Dignity at Work

- 1.1 Torfaen County Borough Council is committed to creating and maintaining an environment of positive working relationships within the Council which are governed by being supportive, fair and effective. The Council has policies and procedures that set out the standard of conduct that is expected from all Council employees. This enhances and replaces the original Harassment at Work Policy and can be considered in conjunction with the Council's Disciplinary Procedure and Confidential Reporting Code.
- 1.2 Torfaen County Borough Council believes all employees have the right to be treated with, and, share a responsibility for treating others with dignity, courtesy and respect in the course of their employment. It is committed to providing a supportive working environment to foster a positive working culture where the diversity of its' workforce is respected and valued.
- 1.3 The Council seeks to promote positive behaviours in the work environment which fully underpin the Council's beliefs, vision and values. It seeks to ensure that behaviours displayed in working relationships and with customers are positive, and are displayed in such a way that intentions cannot be misinterpreted and do not cause offence to others.
- 1.4 This Policy applies to all non-School based staff. It is recommended for adoption by School Governing Bodies.

2. Principles

- 2.1 It is expected that Council employees, will ensure that:
 - i) Jokes, comments, behaviours, remarks and imagery are not potentially hurtful to others
 - ii) An individual's right to privacy is respected
 - iii) No individual or groups of individuals are subject to harassment or victimisation directly or indirectly on the grounds of age, disability, gender re-assignment, marriage, civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation or any other improper grounds, by any requirement or regulations which cannot be fully and legally justified
 - iv) All employees are entitled to be treated with dignity, respect and courtesy
 - v) All employees are entitled to be valued for their skills and abilities
 - vi) Complaints of bullying, harassment or unacceptable behaviour can be brought without fear of ridicule, reprisal or victimisation

- vii) Unfair and discriminatory behaviour and failure by management to tackle it will be viewed as a serious disciplinary offence

3. Responsibilities

- 3.1 Managers at all levels are responsible for upholding the standards of behaviour outlined in this framework
- 3.2 Everyone is responsible for their own behaviour and should ensure that their behaviour does not cause offence to others
- 3.3 Chief Officers/Headteachers are responsible for ensuring that acceptable standards of behaviour are known by all staff and that their own behaviour is of the highest standard.
- 3.4 Managers should ensure that appropriate and prompt action is taken to challenge and correct inappropriate and/or offensive behaviour.
- 3.5 Everyone should be prepared to support colleagues who are being harassed, bullied, victimised or discriminated against
- 3.6 Everyone is responsible for speaking out against unacceptable behaviour they may have witnessed
- 3.7 Everyone is responsible for challenging all forms of harassment and ensuring the personal dignity of others
- 3.8 Managers who fail to investigate allegations of harassment, bullying or discrimination will be subject to a disciplinary investigation
- 3.9 Individuals personally responsible for acts of harassment may be personally liable to pay compensation and can be prosecuted under criminal as well as civil law
- 3.10 The Head of Strategic HR will be responsible for:
 - (a) advising upon the application of this Policy;
 - (b) maintaining a record of complaints of harassment;
 - (c) implementing training within Service Areas either upon request or where records indicate a training need.

4. Positive Behaviours

- 4.1 When dealing with our peers and partners it is important that we work together to achieve shared goals, to deliver directly or indirectly a level of public service that will benefit the whole community.
- 4.2 In working towards these goals it is important to be mindful of our behaviour towards one another and that a focus on achievement in improving service delivery and other personal and shared goals is not at the expense of the dignity and respect of our peers and partners and Torfaen County Borough Council's positive working culture.

- 4.3 In achieving their goals, aims and objectives there is an expectation that managers will display the behaviours and competencies outlined in the framework below. Although these competencies are predominantly focussed on managers, the principle of these behaviours should be followed by all Council employees and third parties.

Positive Behaviour Framework

- (i) **Demonstrate** emotional intelligence, that is improve relationships and understanding through being able to acknowledge own emotional behaviour and manage it, and understand how this impacts on the behaviour and emotions of others.
- (ii) **Listen** and communicate with others and respect the rights of others to have a voice, put forward a viewpoint, and be heard.
- (iii) **Ensure** teams have an opportunity for a positive exchange of views and ideas. Where a firm approach is necessary this should be communicated in an understanding and empathetic way with a proper explanation and justification for the end result
- (iv) **Resolve** conflict in a calm and rational manner, and swiftly take appropriate action if there is evidence of, or observation of inappropriate, bad, unethical or hostile behaviour
- (v) **Achieve** results through negotiation, co-operation and collaboration with peers and partners
- (vi) **Think** and act strategically – create, communicate, and inspire by being a role model for others.
- (vii) **Display** flexible thinking and leadership in the changing environment by seeking long term solutions, and, encouraging the ideas of others to seek new solutions to resolve issues and achieve aims and objectives
- (viii) **Facilitate** partnership and team working, be friendly, respectful, supportive and loyal, and be a champion of fairness and equity, not treating one individual or group of individuals more favourably, but treating all individuals equally and on merit
- (ix) **Understand** their strengths and weaknesses, acknowledge and learn from mistakes and not seek to blame others
- (x) **Empower** and trust others, be self-motivated and encourage others to grow and develop their skills and abilities, has a can do approach, copes with stress.
- (xi) **Develop** and encourage self awareness, self confidence and self reliance

5. Negative Behaviour

- 5.1 Behaviour that is unwanted, unwelcome and undermines a person's dignity at work is unacceptable behaviour. This includes behaviour that might unreasonably threaten a person's job security, promotion prospects or creating an intimidating, distressing, offensive or humiliating working environment. Behaviour that might be perceived as unacceptable even where there was no intent to cause offence.
- 5.2 Unacceptable behaviour can take many forms and can range from physical attack to more subtle conduct. It can include actions, jokes or suggestions that might create a stressful working environment. It can also include the production, distribution, display or communication and discussion of material that may cause offence. It includes behaviour which deliberately or inadvertently excludes individuals from normal activities in the workplace.
- 5.3 Unacceptable behaviour excludes legitimate actions by managers to support and encourage an employee to perform against key objectives and to manage performance appropriately. Legitimate actions taken within formal procedures such as the disciplinary process are excluded from being unacceptable behaviour.
- 5.4 The behaviour of those in authority who use their position to bully, abuse or harass others or assume an intimidating or threatening management style are not within the scope of acceptable behaviour. Practices which are discriminatory or potentially discriminatory are not legitimate action.

6. Equality and Diversity

- 6.1 Torfaen County Borough Council values the positive benefits that a diverse workforce can bring to assisting it achieve its' aims and objectives. A culturally diverse workforce makes the Council better equipped to provide services that benefit the local population. The Council values the difference between individuals in its workforce and recognises that a workforce that is diverse in culture, language and ethnicity that reflects the community it serves and values the wide range of skills, ideas, innovations and talents that diversity of its workforce can bring to enhancing the organisation's performance.

6.2 Council's equality statement:

"Torfaen County Borough Council is committed to achieving equality as an employer in all aspects of our business. The Council will ensure that the community we serve and current and potential members of staff have equality of opportunity to access all our services and opportunities. The Council will seek to ensure that no one receives less favourable treatment on the grounds of disability, race, language, gender, colour, religion, age, sexual orientation,

marital status, social position, or any other improper grounds, by any requirement or regulations which cannot be fully and legally justified”

- 6.3 In addition to undermining the dignity and respect of individuals and/or groups of individuals it is unlawful to discriminate against someone who has, is perceived to have, or is associated with someone that the Equality Act 2010 defines as having a “Protected Characteristic”.

There are 9 Protected Characteristics

1. Age
2. Disability
3. Gender Re-assignment
4. Marriage and Civil Partnership
5. Pregnancy and Maternity
6. Race
7. Religion or Belief
8. Sex
9. Sexual Orientation

7. Unlawful Discrimination

- 7.1 Employers are legally responsible for discriminatory acts, harassment and victimisation carried out by employees in the course of their employment. They may also be responsible for the actions of “agents”, that is someone who is not an employee who is acting with the Council’s authority, this is regardless of whether or not it was known they were carrying out a discriminatory act.
- 7.2 You must not treat a person worse than someone else just because of a protected characteristic, and must not do something to someone in a way that it will have a worse impact on them and/or other people who share a protected characteristic than on people who do not have that characteristic. Only in circumstances where different actions could be objectively justifiable which could include making a decision or apply a ruling or way of doing things differently may this be lawful. Where they cannot be objectively justifiable this will be direct or indirect discrimination. An Employment Tribunal will ultimately decide whether a different action is objectively justifiable.
- 7.3 Where you know or could reasonably expected to know that a person is disabled, you must not treat that person unfavourably because of something connected to their disability where you cannot show that what you are doing can be objectively justified. In this case where someone was treated unfavourably it would be discrimination arising from disability.
- 7.4 You must not treat a person worse than someone else because they are associated with a person who has one of the following protected characteristics; age, disability, gender re-assignment, race, religion or belief, sex or sexual orientation.

- 7.5 You must not treat a person worse because it is your perception that they have one or more of the following protected characteristics; age, disability, gender reassignment, race, religion or belief, sex or sexual orientation. This applies regardless of whether or not the perception is correct.
- 7.6 In the case of a woman who is pregnant or on maternity leave the test is not whether some was treated worse than someone else, but whether she is treated unfavourably from the time she tells you she is pregnant to the end of maternity leave.
- 7.7 You must not victimise or treat a person badly because they have complained about discrimination or helped someone else complain or have done anything to uphold their own equality rights or those of others. Forcing someone who has complained to transfer to another job role may be victimisation unless they ask to be transferred and you are certain that this is what they want, and are satisfied that the request does not arise from their complaint having not been fully dealt with.

8. Harassment

8.1 Definition

Harassment, in general terms, is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Harassment may be persistent or an isolated incident. It is important to remember that it is not the intention of the perpetrator that is key in deciding whether harassment has occurred but whether given the actions or comments by the perpetrator, it is reasonable to consider that the conduct that has taken place would have the purpose or effect of violating people's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

- 8.2 Torfaen County Borough Council believes that any form of harassment by or against its' employees or third parties is unacceptable. The conflict which is created by harassment should not be underestimated. It threatens the dignity of those affected, breaches ethical standards and when not addressed may affect physical and psychological health, including leading to high levels of stress, increased absenteeism, employee turnover and a less productive workplace.
- 8.3 A workplace environment which is free from workplace hostility enables people to contribute more effectively to organisational success and to achieve higher levels of job satisfaction.
- 8.4 Occurrences of bullying and/or harassment can be a one off incident or a systematic pattern of behaviour, be amongst colleagues, superiors and

subordinates or may involve other third parties. It may range from minor cases of disrespect to serious acts that may be a criminal offence

8.5 Bullying behaviour may or may not amount to harassment under equality law. Harassment in equality law has to be one of three types

8.6 **Unwanted behaviour**, that is behaviour that is 'unwelcome' or 'uninvited' related to the protected characteristics; age, disability, race, sex, gender reassignment, religion or belief or sexual orientation which has the purpose of violating a person's dignity or creating for that person an intimidating, hostile, degrading, humiliating or offensive environment. As well as the person being subjected to unwanted behaviour the law extends to a person who is incorrectly thought to have a protected characteristic or who is associated with someone who has that characteristic ie some who is thought to have a disability or someone who experiences unwanted behaviour because of the sexual orientation of a family member.

8.7 It is also harassment where any person finds that their treatment violates their dignity or creates an intimidating, hostile, humiliating, degrading or offensive environment. This applies even where the behaviour is not directed at them.

8.8 It may be the case that a one-off incident may be clearly an act of harassment or equally, a systematic pattern of behaviour that could reasonably be considered to be bullying or harassing behaviour.

8.9 If it is the intention of the person carrying out the unwanted behaviour to violate the other persons dignity, or create an intimidating, hostile, degrading or humiliating or offensive environment for them, this will be harassment in itself regardless of how this is interpreted by the individual. If it is not the intention of the person to carry out the unwanted behaviour, it will amount to harassment if it is reasonable to consider that that an environment that violates someone's dignity, is intimidating, hostile or degrading is being, or has been created.

8.10 **Sexual Harassment**

This occurs where conduct of a sexual nature which could be verbal, non-verbal or physical which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading or humiliating environment for that person. This could include jokes of a sexual nature, touching, the displaying of imagery, sending emails with a sexual content.

8.11 The difference between sex harassment and sexual harassment is that sex harassment occurs when there is unwanted conduct related to the sex of a person whereas sexual harassment occurs where a person subjects another to unwanted verbal or physical conduct of a sexual nature.

8.12 **Less favourable treatment** occurs where a worker is treated worse than someone else, or less favourably because for example he or she either submits to or rejects sexual harassment or harassment related to sex or gender reassignment.

8.13 **Third party Harassment**

An employer can be held responsible for harassment of a worker by someone who is not employed by them. Harassment on the grounds of age, disability, gender reassignment, race, religion or belief, sex or sexual orientation is unlawful. When a worker has been harassed in the course of their employment at least twice, not necessarily by the same person, the employer becomes legally responsible and must take reasonable steps to protect them from further harassment. In such circumstances managers are responsible for ensuring that these reasonable steps are taken.

9. **Bullying**

9.1 **Definition**

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.

9.2 Autocratic management styles, work overload, a blame culture or tolerating and/or promoting aggressive behaviour can create an organisational culture of institutional bullying. A bullying culture does not make this behaviour acceptable in any circumstance.

9.3 As well as threatening an individual's dignity and being a potential cause of stress, increased absenteeism, employee turnover and unproductive teams and individuals a bullying culture can impact on an organisation and its' abilities to achieve its' goals because of the climate of fear that it creates. It may prevent creativity and innovation as individuals or teams are reluctant to try new ways of doing things or put forward new ideas for fear of blame or reprisal.

9.4 Both harassment and bullying may range from physical violence to ignoring someone. It may take place with or without witnesses and can be persistent behaviour over a period of time or a one-off act and will broadly fit into one or more of the categories outlined in Appendix (1).

9.5 The Council's policy regarding appropriate usage of the Council's IT equipment is outlined in the Council's IT Security Policy. There is an expectation that all individuals who use e-mail will follow appropriate netiquette ie will communicate in a courteous manner as with any other form of written communication that is written on behalf of the Council.

10. Policy Statement

- 10.1 Torfaen County Borough Council aims to be a good employer and to progress towards its principal values of being fair, supportive and effective. It regards harassment as being totally at odds with this aim and as such will not tolerate the harassment of its employees.
- 10.2 Harassment will be regarded as misconduct and may be regarded as gross misconduct. Formal complaints of harassment bullying or any intimidating behaviour will be investigated within the terms of the Council's Disciplinary Code. In all cases where the bullying and/or harassment is serious, where it is the complainant's preference or where an informal approach has failed it will be dealt with using the formal procedure.

11. What Should be done by Employees experiencing bullying and/or harassment

11.1 Informal Resolution

In some circumstances it may be possible to rectify matters informally. Staff are encouraged wherever possible to seek to resolve issues informally and be prepared to engage in conflict resolution with appropriate support. It is acknowledged that this may not be possible in all cases.

- 11.2 People are not always aware that their behaviour is unwelcome and an informal discussion can lead to a greater understanding that the behaviour will cease. An individual may feel comfortable with requesting the alleged perpetrator to stop themselves, but if an employee finds this difficult or embarrassing they may ask for the support of an HR representative, their manager, work colleague or trade union representative.

- 11.3 Employees who believe they are being bullied and/or harassed are encouraged to report this behaviour at the earliest opportunity. Cases should normally be reported to the employee's direct line manager, unless the line manager is the perpetrator, in which case it should be reported to the next line manager in the Service Area's/School's structure. Where employees believe that they cannot report their belief of harassment within their employing Service Area, they have the right to report the matter to the Head of Strategic HR or any employee of the HR Division and to seek advice upon their best course of action. Whilst such a reference will initially be treated in confidence, it will subsequently, and normally with the employee's consent, be discussed with the appropriate Chief Officer/Headteacher before action is taken.

11.4 Formal Resolution

An employee complaining of harassment may ask that their complaint be formally investigated. A meeting will be held with the complainant to discuss the event or events that have taken place. Where the actions, events or words could reasonably be considered to be an act of bullying and/or

harassment, the matter will be formally investigated with the alleged perpetrator in accordance with the terms of the Disciplinary Code.

- 11.5 Wherever possible a written record of any incidents should be kept, including the time, date, place and description of any incident and whether there were any witnesses. It is recognised that some forms of bullying or harassment are complex and it may be difficult to keep a definitive record of the dates, times and place of any incidents that have taken place and there may be no witnesses. It is however advisable to maintain a record so that if necessary evidence is available should the matter be dealt with formally. Normally, although not always, an employee who has complained of bullying and/or harassment will give evidence at a Disciplinary Hearing.
- 11.6 Employees who have been subject to harassment will have access to independent counselling as will the perpetrator of the bullying or harassing behaviour. The perpetrator may be encouraged to attend counselling to help them accept the impact of their behaviour, change their behaviour or prevent further incidents.
- 11.7 Employees may be represented by their Trade Union or a work colleague at any stage of this procedure.
- 11.8 Employees who are dissatisfied with they way in which their complaint of harassment has been investigated will have access to the Grievance Procedure.

11.9 **Victimisation**

Victimisation is where a person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them. All cases of victimisation will be dealt with formally through the Council's Disciplinary Process. Cases should normally reported to the employees direct line manager, unless the line manager is the perpetrator, in which case it should be reported to the next line manager in the Service Area's/School's structure. Where employees believe that they cannot report their belief of victimisation within their employing Service Area/School, they have the right to report the matter to the Head of Strategic HR or any employee of the HR Division and to seek advice upon their best course of action. Whilst such a reference will initially be treated in confidence, it will subsequently, and normally with the employees consent, be discussed with the appropriate Chief Officer/Headteacher before action is taken.

11.10 **Mediation**

It some circumstances, subject to the agreement of both parties, be appropriate for the matter to be dealt with by way of mediation, this will depend upon the nature of the complaint. This involves the appointment of a

third-party mediator, who will discuss the issues raised by all of those involved and seek to facilitate a resolution. It may be appropriate at any time in this process for mediation to be utilised, and in particular may be helpful in instances where formal action has been taken and a complaint has been upheld or not upheld, but both the recipient and perpetrator are still in the same working environment and working relationships need to be rebuilt. Employees are encouraged, wherever it is achievable to attend mediation to seek resolution.

APPENDIX 1

Verbal

- Spreading rumours or gossip;
- Unwelcome remarks about a person's age, dress, appearance, race or marital status;
- Jokes, offensive language, gossip, slander, sectarian songs and letters;
- Failing to safeguard confidential information;
- Shouting at and being abusive towards others;
- Being hostile to others;
- Persistent criticism;
- Personal insults;
- Spreading malicious rumours or insulting someone, particular in relation to individuals who hold a protected characteristic;
- Ridiculing or demeaning someone – picking on them or setting them up to fail; and
- Making threats about job security without foundation
- Criticising an employee in front of colleagues and/or members of the public

Non-Verbal

- Removing areas of responsibility without consultation;
- Ignoring someone's views or presence;
- Isolation or non-cooperation and exclusion from social activities;
- Pestering, spying or stalking;
- Exclusion or victimisation;
- Unfair treatment;
- Overbearing supervision or other misuse of power or position; and
- Deliberately undermining a competent worker by overloading them, setting unreasonable tasks preventing individuals progression by intentionally blocking promotion or training opportunities;
- Copying memos that are critical about someone to others who do not need to know;

Physical

- Unwanted physical contact;
- Physically attacking others; and
- Unwelcome sexual advances – touching, standing too close, displaying offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected.

Cyber Bullying

Examples of bullying or harassment at work using electronic means include:

- Offensive e-mail – sending offensive e-mails to a colleague or other third party even if it is supposed to be a joke in which a person might be offended by the content of the message or any attachments;
- E-mail threats – as well as a direct threat this could also include relatively inoffensive messages in terms of content but the implied meaning behind the message can constitute a form of bullying;
- Flame mail – sending aggressive and/or abusive emails to individuals or groups of individuals;
- Posting comments on blogs and social networking sites; and
- Copying individuals into emails who do not need to know about the content, particularly in instances where an individual is asked to do something and more senior or junior members of staff are copied in.

Note

It is anticipated that all complaints made under this procedure will be based on a belief by the complainant that the allegations made are genuine. Where a complaint is found to be malicious or vexatious the Council reserves the right to take action against that individual in accordance with the Council's Disciplinary Procedure.