

DIGNITY AT WORK PROCEDURE

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DATE OF IMPLEMENTATION

This is a new procedure which will apply to all Dignity at Work based cases **from Tuesday 1st November 2005. 1st review June 2007**

DIGNITY AT WORK (DAW) PROCEDURE

1 Introduction and Aims

- 1.1 **Purpose** – The Council's Code of Conduct aims to provide employees with an environment free from harassment, bullying and/or victimisation - and this procedure is designed to manage allegations of harassment, bullying and/or victimisation at work.
- 1.2 **Line management responsibilities** – Line managers are responsible for creating an environment where employees are aware of both their rights and responsibilities, so that any discrimination or unacceptable behaviour involving harassment, bullying and/or victimisation are robustly challenged and tackled. Managers are responsible for treating their staff fairly and taking **prompt** action where they are aware of unacceptable behaviour. Reasonable time off will be provided to the employee and his/her representative to meet in order to prepare for any formal meetings, prepare witnesses ' for the case subject to clearance in advance with line management..
- 1.3 **Employee's responsibilities** – Employees are responsible for treating both their colleagues and management with dignity and respect at all times and for cooperating with the implementation of this procedure, particularly if they are an alleged perpetrator of unsatisfactory behavior. Employees are also responsible for taking all reasonable and appropriate steps to resolve the DAW complaint informally prior to invoking the formal procedure.
- 1.4 **Statutory requirements** - The Health and Safety at Work Act places a general duty of care on employers to protect the health, safety and welfare of their employees, and managers are trained to do this. The Protection from Harassment Act 1997 covers civil offences such as serious bullying or harassment and criminal offences of assault and all employees should be aware that they are personally liable for their behaviour. Domestic and European law makes both the Council and individual employees liable for acts of harassment at work.
- 1.5 **Employee representation** – Trade Union (TU) representatives or workplace representatives are granted reasonable time off within the appropriate stages of this procedure to represent staff who make this request.
- 1.6 **Communication of this procedure** – Current employees will be informed about this procedure, and new employees will receive details of this procedure during their induction and ongoing supervision meetings as and when appropriate. It is also available from the HR department and posted on the intranet. A full copy of the procedure is also available on request.

2. Principles – based on ACAS guidance

- Council commitment to investigate all complaints concerning harassment, bullying and/or victimisation
- Line manager concerned to invite the complainant to a meeting **as soon as possible** to discuss the complaint and provide for her/him to be accompanied, if requested
- Line manager concerned to hold investigations with the alleged perpetrator(s) and any other relevant parties as promptly as possible

- Line manager concerned to focus on the issues raised by the complainant and take all reasonable steps to cease the unsatisfactory behaviours of the perpetrator **as soon as possible**
- Line manager concerned to have particular regard in decision making about the specific wishes and/or health concerns of the complainant, particularly where the latter wants the unsatisfactory behaviour(s) to cease at the earliest opportunity and/or the issue resolved at the lowest possible level
- Line manager concerned to notify the complainant in writing of the decision of any formal DAW investigation and to confirm the complainant's right of appeal if s/he feels that the complaint has not been satisfactorily resolved – with any such appeal meeting held as soon as possible
- Council commitment to promote ongoing standards of conduct which encourage mutual respect and eradicate harassment, bullying and/or victimisation

The following principles will also apply:

- Meetings to be conducted in a manner that enables the complainant to raise her/his concerns openly and without fear
- Provision for the alleged perpetrator(s) of the DAW complaint to explain her/his actions at an appropriate investigatory hearing
- Provision for reasonable adjustments to be made as required by the Disability Discrimination Act
- Provision for issues of Child Protection and dealing with Vulnerable Adults to take precedence.

3 Scope

- 3.1 **Eligibility** – This procedure applies to all employees except the Chief Executive & Directors, school based staff and centrally based teaching staff, who have their own procedures.
- 3.2 **Collective complaints** – Where there is a collective DAW complaint the group of employees should select a spokesperson to express/represent their concerns eg a TU representative or workplace colleague.
- 3.3 **Job titles or roles** – Job titles or roles may be changed as a result of organisational changes. It is management's responsibility to determine who has authority to implement the procedure.

4. Standards in applying this procedure

Managers applying this procedure should:

- Investigate the complaint fully, promptly and with sensitivity to the complainant
- Provide for all parties affected by the complaint to present their perceptions of the issues raised
- Ensure that the person against whom the complaint is made has access to documentation pertaining to section 3 of the DAW complaints form at the appropriate stage to enable a full and fair investigation to take place
- Seek to resolve DAW complaints at the lowest possible level, through support, engagement of the council's mediation service problem solving and active employee involvement

- Advise the employee that if the complaint is found to be vexatious at any stage of the investigation process, formal action against the employee under the Disciplinary procedure will be considered.
- Provide for the complainant to progress her/his complaint at any stage of the procedure
- Illustrate to the complainant that the complaint will be taken seriously
- Have regard to the Equality and Diversity policy
- Maintain confidentiality and privacy at all times
- Maintain appropriate records, having regard to such issues as the Data Protection Act 1998

5 Definitions of unacceptable behaviour

- 5.1 The Council firmly believes that harassment, bullying and victimisation are unacceptable behaviour, cause offence and in some instances may be unlawful. Appendix 1 illustrates examples of the required standards of behaviour that have been set through the Merton Code of Conduct. It also outlines examples of unacceptable behaviour. (The summary is not exhaustive)
- 5.2 **Harassment** is unwanted or unwelcome behaviour and/or conduct, which has the effect of violating an individual's dignity. It may be related to an individual's gender, gender identity, disability, race, religion, sexuality, age, politics or trade union activities. It may be a single act or continue over a period of time.
- 5.3 **Bullying** involves undermining the confidence and self esteem of an employee through offensive, intimidating, malicious, insulting and /or belittling behaviour. It can involve an abuse or misuse of power and usually continues over a period of time.
- 5.4 **Victimisation** is unfavourable treatment against an employee because s/he may have in good faith made a complaint of discrimination under one of the Discrimination Acts or made a complaint about bullying or harassment or supported another employee in such a complaint.
- 5.5 **Potential disciplinary action** – The Council does not tolerate any form of harassment, bullying or victimisation and will consequently investigate robustly any complaint that is made. Where an investigation arising from a DAW complaint indicates that the potential perpetrator has breached the Council's Code of Conduct the matter will then trigger the **Discipline** procedure.

6 Records

- 6.1 Records are confidential and are kept within the requirements of the Data Protection Act 1998, which allows access to records by employees. Documents relating to child protection and vulnerable adult investigations will be retained, together with a written record of the outcome of the investigation, in accordance with local Authority Retention of Records Guidance.
- 6.2 Records will include
- Details of the complaint made by the employee
 - The findings and any action(s) taken
 - The decision letter(s)
 - Whether an appeal(s) was lodged
 - The outcome of any such appeal(s)

- Any subsequent developments.

6.3 Decision letters regarding the resolution of a DAW complaint are kept by HR on a confidential basis.

7 Authority to take action and to conduct appeals – includes agency staff managing Council employees

NOTE – This procedure necessarily uses the generic terms ‘line manager’ and ‘line manager’s manager’ – and each department will designate specific managers who are delegated to undertake these roles, based on the current staff appraisal arrangements.

- 7.1 The Council has delegated authority to Chief Officers to specify the levels of management to take action regarding DAW complaints, as follows. The specification will be in accordance with this framework.
- 7.2 The line manager is responsible for investigating and, where possible, resolving a complaint raised by a member of her/his team, using the informal and formal stages of this procedure outlined in sections 11 and 12 below.

NOTE – Where the complaint is against the line manager, the complainant may elect either to discuss the matter informally with the line manager or refer the complaint directly to the line manager’s manager.

- 7.3 The line manager’s manager is responsible for investigating and, where possible, resolving any complaint made by an employee about her/his immediate line manager, using the appropriate informal and formal stages of this procedure.
- 7.4 The Head of Service (HOS) is responsible for hearing appeals arising from the formal stage of the procedure, as outlined in paragraph 13.2.
- 7.5 Where the complainant remains dissatisfied about the outcome of an appeal to a HOS s/he may make a further appeal to the Director, as outlined in paragraph 13.3.
- 7.6 Where the complainant reports to a HOS, the HOS is the responsible manager unless the complaint is about her/him; in which case the Director is the responsible manager. The Chief Executive is the responsible manager for hearing appeals – who may delegate any such appeal to a Director who has not been involved in the DAW complaint.
- 7.7 Where the complainant is a HOS, the Director is the responsible manager unless the complaint is about her/him; in which case the Chief Executive is the responsible manager. The Chief Executive may delegate any such DAW complaint to a Director who has not been involved in the complaint.

NOTE – Where appropriate, the line manager concerned makes arrangements for the release of any witnesses and arranges a note taker for any appropriate formal DAW complaints review hearing and/or appeal hearing. (For confidentiality reasons the note taker will be a Council employee who is not related to the parties concerned)

8 The role of Human Resources (HR)

- 8.1 To assist all parties to identify the full facts of the case and advise the Council's officers on appropriate action(s) at all stages of the procedure.
- 8.2 To seek to ensure fairness and consistency in the application of the procedure, and advise on the HR implications of relevant codes of practice.
- 8.3 To inform both the employee making the complaint and the alleged perpetrator where they can obtain support and advice at both the informal and formal stages of the procedure from the Councils confidential staff counseling (EAP) and mediation services.
- 8.4 To attend all formal DAW hearings and/or appeal hearings and make the appropriate administrative arrangements for such meetings eg arranging the date, time, venue and documentation. (However, the line manager concerned is responsible for arranging a note taker, as appropriate). The same HR representative can attend all formal meetings unless a conflict of interest is identified.
- 8.5 To assist in the resolution process, particularly at the informal stage.
- 8.6 To maintain confidential files on harassment, bullying and/or victimisation.
- 8.7 To conduct regular reviews of DAW complaints monitoring data with Staff Side.

9 The role of the Occupational Health Service (OHS)

- 9.1 The Occupational Health Service (OHS) is available to arrange confidential counseling for those persons involved in the complaint (any such counseling must be arranged through HR). The Employee Assistance Programme is also available to assist all staff affected by the complaint via the PPC confidential counselling service.

10 Key aspects of the DAW complaints procedure – guidance

- 10.1 The Council believes that it is often best for all parties concerned if a complaint concerning harassment, bullying and/or victimisation is resolved **informally** wherever possible – as many complainants simply want the unacceptable behaviour to stop. In addition, an informal discussion and agreement often leads to an improved understanding by the alleged perpetrator, particularly if s/he is unaware that her/his behaviour is unwelcome and unacceptable.

However, the informal stage does not detract from the seriousness of the situation - rather it empowers a complainant with greater flexibility in choosing the way forward.

- 10.2 It is recognised that the sensitive nature of a DAW complaint is such that a complainant may not wish to discuss it initially with either the alleged perpetrator or her/his immediate line manager. Section 11 therefore outlines the **informal** options that are available to the complainant to resolve her/his complaint – whilst section 12 outlines the **formal** stages of the procedure.

- 10.3 The complainant is advised to keep a record of any instances of harassment, bullying and/or victimisation, the action(s) that were involved and if there were any witnesses.
- 10.4 Appendix 2 provides guidance regarding the management of DAW complaints, and is available to complainants.
- 11 **Informal stage (conducted by the line manager – unless the complaint is against her/him)**
 - 11.1 The complainant should attempt to resolve her/his DAW complaint informally, using either or both of the informal processes outlined below.
 - 11.2 The Council's independent Mediation Service is available to staff at the informal stage and can be accessed via the HR team and the mediation coordinator. Staff are strongly advised to consider the use of this service in order to assist in resolving the complaint at this stage.

Stage 1 - Raising the issue with the person causing the complaint

- 11.3 A complainant who believes that s/he is the subject of harassment, bullying and/or victimisation may, **if s/he feels able to do so**, immediately tell the individual concerned that her/his behaviour is unwanted or offensive and that s/he wishes it to stop. (There is a duty on the individual(s) concerned to cooperate). If the complainant feels unable to raise the issue on her/his own, s/he may wish to seek support and advice from either their line manager, another manager within the department, a TU representative and/or a workplace colleague. The HR department is also available to offer advice and to advise on the names of other persons within the Council who may be able to assist.

Stage 2 – Raising the issue through the complainant's line manager

- 11.4 If Stage 1 above has either been unsuccessful or the complainant elects not to discuss the complaint directly with the individual concerned, s/he may choose to ask her/his line manager to talk to the perpetrator.

NOTE - Where the complaint is about the complainant's line manager, the complainant may instead elect to discuss the complaint informally with her/his line manager's manager. There may be circumstances where the employee's line manager's manager may be personally involved or implicated in the issue. In such cases, the HOS may decide to appoint an appropriate manager who is independent of the case to conduct the investigation or hearing. These persons can be from within or outside of the employee's Department, however the Head of HR and Director must be consulted before such a decision is made.

- 11.5 Where the complainant seeks to resolve the complaint informally through stages 1 and/or 2 above, s/he may then consider the use of the formal procedure outlined in section 12 if s/he considers that the complaint has not been satisfactorily resolved.
- 11.6 For a **collective** complaint, the designated spokesperson for the group should apply the same principles outlined above.

12 Formal procedure (conducted by the line manager- unless the complaint is against her/him)

12.1 Submitting a formal DAW complaint

12.2 This formal procedure is designed to investigate complaints of harassment, bullying and/or victimisation swiftly and effectively with minimum distress to all parties.

12.3 The complainant should use the formal procedure outlined below in the following circumstances:

- Where the informal stages outlined in section 11 above have not satisfied the complainant or
- Where the complainant elects not to use the informal stages in section 11 above eg if s/he believes that they are inappropriate.

Registering a formal DAW complaint

12.4 The complainant **must** submit her/his complaint to her/his line manager in writing, using the DAW complaints form outlined in Appendix 3 below. S/he must answer the questions outlined in the form, sign and date it and give it to her/his line manager. Any such formal complaint must normally be lodged within 10 working days of the alleged incident concerned – unless it is an accumulation of alleged incidents over a period of time. (in which case within 10 working days of the latest incident)

NOTE – If the line manager is the source of the complaint the complainant should submit the completed DAW complaints form to the line manager's manager who will then investigate the complaint (in this case all subsequent references below to the term 'the line manager' refer instead to the 'line manager's manager').

Where the allegation has been made by a complainant(s) outside of the employee's Department, the investigation will still be conducted by the immediate line manager.

12.5 The line manager registers the complaint formally by acknowledging it within five working days of its receipt.

Arrangements for the initial DAW complaints meeting

12.6 The line manager consults the complainant, and her/his representative where appropriate, over the date of the initial DAW complaints meeting, which should be held without unreasonable delay and normally within 5 working days of receipt of the complaint.

12.7 The complainant is allowed one change to the initial complaints resolution meeting date if either s/he, or her/his representative, is unable to attend for reasons which were unforeseen when the meeting was arranged. The reconvened meeting must take account of the availability of all parties and be held within five working days or by mutual agreement. Sickness will only be treated as a reason for non-attendance where the health condition of the employee is such that s/he cannot attend the hearing or follow the proceedings. Any such delay does not count against the limit of fifteen working days to investigate and, where possible, resolve the complaint.

- 12.8 The line manager meets with the complainant, and her/his representative as appropriate, to review the DAW complaints form, discuss the nature of the complaint and consider the proposed resolution. Where appropriate, the line manager may be able to take remedial action with **immediate** effect.
- 12.9 Where such immediate remedial action is not possible, the line manager may need to substantiate or clarify facts. In these circumstances s/he may then decide to hold investigatory interviews with any witness(es) nominated by the complainant, and the alleged perpetrator(s) of the complaint and/or any other relevant person(s). The line manager either undertakes these investigation discussions herself/himself or makes arrangements, in consultation with the HOS and HR, for the appointment of an appropriate manager to conduct the investigation (hereafter called the 'Investigating Officer')
- 12.10 Any such investigatory interviews are conducted separately with sensitivity and with the importance of confidentiality stressed at all times. They must be independent and objective with respect for the rights of all parties to be properly heard and represented.

Where the alleged perpetrator(s) are interviewed as part of the investigation process, the complainant will be advised that section 3 of their Dignity at Work Procedure Complaints Form will be made available in order that the alleged perpetrator(s) are in a position to respond fully to the complaint/allegation.

The investigation process, including any statements from the individuals concerned, should be completed within ten working days of the receipt of the complaint – as the line manager is seeking to investigate and, where possible, resolve the complaint within an optimum maximum period of fifteen working days of its receipt. (Where it is not possible to investigate and resolve the complaint within fifteen working days, the line manager provides an explanation for this and advises the complainant when a response can be expected).

- 12.11 The line manager, in consultation with the appropriate HR manager, reserves the right to eliminate any contact between both parties if, for example, one is a direct report of the other. For the alleged perpetrator, this may mean either a temporary transfer to an alternative area, position and/or department or a suspension from duty whilst the matter is under investigation. Any such transfer or suspension is handled sensitively and does not infer any implication of guilt. (paragraphs 12.22- 12.23 also refer).
- 12.12 The line manager may also discuss with HR and/or the OHS the possibility of counselling and the use of the Employee Assistance Programme to provide support to any of those involved.
- 12.13 Where there is an investigation, outcomes are dependent on findings.

Action and outcomes following the investigation process

- 12.14 When the investigation process is complete, the line manager meets with the complainant, and her/his representative as appropriate, as soon as is practicable. During the meeting the line manager obtains the views of the complainant about the investigation report, discusses any recommendations that have been made and, as appropriate, considers the statements made by the alleged perpetrator. The line manager then confirms the actions that s/he proposes to take to resolve the complaint – and arranges for a written record of the meeting to be made which will

remain confidential. (Although it may be presented as evidence at any subsequent DAW appeal and/or Disciplinary hearing that may arise)

- 12.15 The line manager may recommend to the complainant that a **joint** DAW complaints review meeting is held with the alleged perpetrator(s) to discuss the findings of the investigations and any proposed resolutions. It is emphasized, however, that the onus is on the **complainant** to decide whether or not s/he wishes to participate in any such joint meeting – and s/he may therefore elect **not** to attend if s/he feels that it would be too stressful. (If the complainant agrees to any such joint meeting the line manager will ensure that it is handled in a sensitive and non adversarial manner)
- 12.16 Where the line manager identifies personal training and development issues for the individual(s) concerned, s/he addresses these as soon as practicable.
- 12.17 Where the line manager identifies unsatisfactory working relationships s/he takes appropriate remedial action as soon as is practicable, through the provision of additional support, training and development, counseling and/or mediation as appropriate – and this action may involve either the complainant and/or the alleged perpetrator as appropriate.
- 12.18 Where appropriate, the line manager reviews working arrangements and practices to ensure that unacceptable behaviour is openly challenged and eradicated.
- 12.19 Where the complaint is upheld the proposed remedial action(s) is implemented as soon as possible - and aimed at preventing any repetition of the matters causing the complaint.

NOTE – For the proposed actions outlined in 12.16 –12.19 above, the line manager may take account of advice from HR, the Learning and Development section and/or the OHS as appropriate.

Communicating the outcome of the DAW complaints meeting to the complainant

- 12.20 Where possible, the line manager gives the decision and the reasons for it verbally to the complainant on the day of the DAW complaints meeting outlined above. S/he also provides in writing within five working days a decision letter confirming either that there is prima facie evidence for upholding the complaint or that the complaint is not upheld, the reasons for the decision and any remedial action that is being taken, which may include investigating the actions of the alleged perpetrator(s) within the terms of the Discipline procedure. The line manager also confirms to the complainant the person to whom an appeal can then be made if the complaint is not upheld. (Any such appeal must be made within five working days of the date of the decision letter – see Section 13 below)

Subsequent progress review with the complainant

- 12.21 The line manager meets with the complainant after an appropriate interval to check that the matter is resolved or otherwise contained eg possible fortnightly meetings for up to 2/3 months as appropriate.

Discussions with the alleged perpetrator, including potential Disciplinary action

- 12.22 Where the line manager believes that there are prima facie breaches of Merton's Code of Conduct by the alleged perpetrator(s), s/he may consider that there are potential grounds for disciplinary action. In such cases, the line manager, in liaison with HR as appropriate, writes to the alleged perpetrator(s) outlining the reasons for her/his concerns - including, where appropriate, any proposed remedial action and/or any proposed referral to the Discipline procedure. Where disciplinary proceedings are commenced they **must then**, under employment legislation, be conducted as a separate process within the terms of the Discipline procedure - and cannot be determined by the DAW procedure.
- 12.23 Where disciplinary proceedings are invoked in relation to a DAW complaint, the line manager with the appropriate authority arranges for an investigation to be held at the appropriate stage of the **Discipline** procedure - with the DAW-based complaints investigation report and the subsequent summary of the DAW complaints review meeting used as the key reference documents for the Disciplinary investigation. The rights of the alleged perpetrator will then be in accordance with the Discipline procedure – and the procedures set out in this (DAW) document should not inhibit any action that may be taken under the Discipline procedure. Although the line manager may request the complainant to attend any such Disciplinary investigation hearing involving the alleged perpetrator, the complainant may elect not to attend any such hearing eg if s/he believes that it would be stressful (recognising that the cause(s) of her/his DAW complaint will have already been documented during the initial DAW complaints review/investigation process). Should this be requested and agreed to, the hearing officer will need to undertake and consider separate case presentations/interviews of all the parties before presenting his/her findings.

13 Appeals procedure

13.1 The complainant may appeal on the following grounds: -

- The procedure – a failure to follow procedure had an effect on the decision and/or
- The decision – where the manager decides **not** to uphold the complaint and/or
- Proposed remedial action – where the complainant considers that the proposed remedial action will not resolve her/his concerns (subject to the NOTE below) and/or
- New evidence – has come to light since the DAW complaints hearing, and was not reasonably available at the time of that hearing.

NOTE In accordance with paragraph 12.22 above, there is no right of appeal either where disciplinary proceedings are already being progressed against the alleged perpetrator(s) and an outcome has yet to be determined or against the outcome of any disciplinary proceedings that have been concluded against the alleged perpetrator(s).

13.2 Stage 1- Appeal to the HOS

Subject to the grounds outlined in paragraph 13.1 above, the complainant may appeal in writing to the HOS within 5 working days of the date of the decision letter. The appellant **must** provide a written statement using the DAW complaints form outlined in Appendix 3 - stating why s/he remains dissatisfied, as outlined in paragraph 13.1 above. The completed form is submitted to the HOS, together with

any other supporting evidence eg the decision letter outlined in paragraph 12.20 above.

The HOS acknowledges the complaints appeal within five days of its receipt.

The HOS investigates the facts of the DAW complaints appeal and seeks to meet and respond to the appellant within 15 working days of receipt of the appeal letter. The HOS confirms her/his decision in writing, as outlined in paragraph 12.20 above.

13.3 Stage 2 - Appeal to the Director

Subject the grounds outlined in paragraph 13.1 above, the complainant may appeal to the Director if s/he considers that the appeal undertaken by the HOS is not satisfactory – with the appeal made to the Director within 5 working days of the date of the HOS's decision letter. The appellant **must** provide a written statement using the DAW complaints form outlined in Appendix 3 - stating why s/he remains dissatisfied, as outlined in paragraph 13.1 above. The completed form is submitted to the Director, together with any other supporting evidence eg the decision letter outlined in paragraph 13.2 above.

The Director acknowledges the complaints appeal within five working days of its receipt.

The Director investigates the facts of the complaints appeal and seeks to meet and respond to the appellant within 15 working days of receipt of the appeal letter. The Director confirms her/his decision in writing, as outlined in paragraph 12.20 above.

There is no level of appeal beyond the Director.

NOTE - For an appeal involving a **collective** complaint, the designated spokesperson should apply the principles outlined above on behalf of her/his group.

14 Sickness absence during the DAW complaints procedure

- 14.1 Where either the complainant or the alleged perpetrator is unfit to attend a scheduled investigation meeting or a DAW complaints review meeting s/he must provide a medical certificate confirming that s/he is incapable of attending the meeting.
- 14.2 Where sickness absence has made it impossible to arrange a DAW complaints review meeting under section 12 above within twenty working days, the manager should cancel the scheduled meeting and write to the complainant with the proposed resolution and confirm the name of the person to whom the complaint can be referred if s/he remains dissatisfied.

15 Employees who leave the Council

- 15.1 It is recognised that an employee who has raised a DAW complaint may leave the Council's employment during the course of the DAW complaint investigation process. If the employee wishes to pursue her/his outstanding DAW complaint, s/he should implement the process and principles outlined in Section 14 of the (separate) Grievance procedure – and the employee's line manager and/or HR department will advise on the process to be used.

16 Review of the procedure

- 16.1 The Council has delegated powers to the Chief Executive to determine and implement this procedure. The procedure has been developed following detailed consultation with a wide range of stakeholders, and will be reviewed on a regular twelve monthly basis in accordance with 'best value' continuous improvement principles.

Ged Curran
Chief Executive

Appendix 1

Examples of a) Merton's Code of Conduct and b) Unacceptable behaviour

This list is not exhaustive, but is illustrative.

Mertons Code of Conduct – 'Best Practice' standards	Examples of Unacceptable Behaviour
<ul style="list-style-type: none"> • Respect and value colleagues 	<ul style="list-style-type: none"> • Insensitive jokes and comments including unwanted nicknames, mimicry, abuse relating to the personal characteristics of the individual • Impolite or discourteous behaviour
<ul style="list-style-type: none"> • Sensitivity of comments to colleagues 	<ul style="list-style-type: none"> • Unwelcome comments about appearance or beliefs • Negative stereotyping
<ul style="list-style-type: none"> • Respect for individual boundaries 	<ul style="list-style-type: none"> • Unnecessary body contact
<ul style="list-style-type: none"> • Proper use of IT systems 	<ul style="list-style-type: none"> • Accessing/distributing offensive material from the internet
<ul style="list-style-type: none"> • Consensual approach to relationships 	<ul style="list-style-type: none"> • Requests for sexual favours • Displays of 'pinups' in any format and offensive posters
<ul style="list-style-type: none"> • Respect for privacy and different cultures and lifestyles 	<ul style="list-style-type: none"> • Intrusive speculation about private life and/or sexual activities
<ul style="list-style-type: none"> • Non threatening behaviour 	<ul style="list-style-type: none"> • Threatened physical violence or actual violence of any type • Threats of dismissal or loss of promotion for any reason
<ul style="list-style-type: none"> • Inclusion of work colleagues 	<ul style="list-style-type: none"> • Deliberate exclusion from conversations, social activities.
<ul style="list-style-type: none"> • Promote effective team working 	<ul style="list-style-type: none"> • Shouting at a work colleague in public and/or in private

Mertons Code of Conduct – ‘Best Practice’ standards	Examples of Unacceptable Behaviour
<ul style="list-style-type: none"> • Positive management of performance – including ongoing 1 to 1 meetings • Positive use of the performance appraisal process to review past performance, agree forward objectives and identify appropriate learning activities 	<ul style="list-style-type: none"> • Unfair or unjustified criticism and persistent reminders of past failings • Unreasonable change of duties and setting unreasonable workloads • Unnecessary checking of work and tight supervision • Unreasonable refusal of requests for leave and or learning activities

NOTES

In summary, the Merton Code of Conduct requires management and staff to:

- Set a good personal example
- Challenge and/or report any such unacceptable behaviours – either to the line manager and/or to the HR department

Dignity at Work procedure

Guidance regarding the management of DAW complaints

This summary provides guidance about managing complaints about alleged harassment, bullying and/or victimisation (collectively called Dignity at Work) as/when they arise, and the framework that the Council currently operates to engender a positive DAW environment.

1. Options available to a DAW complainant

An employee who suffers inappropriate DAW behaviour has the following options:

- S/he may feel able to speak to the alleged harasser directly to express their concerns and ask that the behaviour is ceased.
- Alternatively, s/he can approach someone that they trust and whom they think will understand their feelings eg their line manager, another manager within the department, HR, a TU representative or a workplace colleague. HR may also arrange other contacts eg the possible use of (independent) persons who are trained to facilitate such discussions. (Section 2 below refers)
- S/he can implement the formal stages of the DAW procedure – particularly where any prior informal discussions have not stopped the harassment, bullying and/or victimisation. The formal stages provide for two levels of appeal.

Section 4 below consequently outlines examples of inappropriate DAW behaviours. In addition, Section 5 outlines the framework that the Council operates to achieve a positive DAW environment.

It is emphasised that the complainant may elect to 'transfer' her/his complaint from the informal stage of the DAW procedure to the formal stage **at any time** eg if the informal process has not resolved the unsatisfactory behaviour(s). Conversely, the complainant may elect to invoke the formal stage of the procedure with no prior informal discussions.

2. The informal approach – potential support for the complainant

It is important that the complainant feels able to speak to someone whom they can trust and have confidence in e.g. possibly a person of the same sex or ethnic background. S/he may consequently elect to approach either their line manager, a HR colleague, the OHS, a Trade Union representative and/or a workplace colleague. Access to the EAP service is available throughout the operation of the procedure. The Council's Mediation Service is available to staff at the informal stage and can be accessed via the HR team and the mediation coordinator. Staff are strongly advised to consider the use of this service in order to assist in resolving the complaint at this stage.

Any such 'facilitator' who is approached in this way should ensure that they find a quiet place to discuss the issue without interruption or being overheard, listen carefully, make notes to ensure that they remember everything and then explore the options open to resolve the issues concerned. The 'facilitator' concentrates on how the alleged behaviour has made the complainant feel because, although it is possible that the facilitator's reaction to the set of circumstances may have been different, the important issue is whether the behaviour of the alleged perpetrator has made the complainant feel harassed, bullied and/or victimised. It is important that the complainant does not feel that s/he will be judged as being 'too sensitive' or 'over-reacting' and/or made to feel that they must 'suffer in silence'.

3. Management responsibilities – handling a DAW complaint

The over-riding principles in dealing with a DAW complaint are that they must be taken **seriously**, addressed **speedily** and dealt with on a strictly **confidential** basis.

Any employee with a DAW complaint has the right to be listened to and given sympathetic and informed advice on how the matter may be resolved. There are usually a number of different options and the way of responding will depend largely (although not entirely) on the complainant's view of how they feel the matter can best be tackled. This will include the manager interviewing the complainant, alleged perpetrator and any identified witnesses separately and allowing time for adjournments during any joint DAW complaints resolution meeting. If in any part of the DAW procedure a lack of knowledge of the English language or a hearing impairment is identified by the complainant/alleged perpetrator, an interpreter and/or a sign language should be offered as necessary.

All documentation submitted by witnesses, the employee and/or his representative and management will be provided to both parties prior to the meeting to ensure a fair and balanced process. The manager has a right to instruct attendance of any key witnesses to any meetings arranged under the formal procedure.

The responsibility for dealing with DAW complaints rests with management - and not the complainant. It is therefore essential that both managers and employees are fully aware of the unacceptable behaviours that constitute harassment, bullying and/or victimisation and the serious attitude that will be taken by the Council. Although such behaviours may be knowingly or unknowingly performed, it is essential that the perpetrator understands how her/his actions have made the complainant feel and learns not to do it again.

Where the manager has required that remedial action is undertaken by the perpetrator(s), s/he should then monitor with the complainant that the unsatisfactory behaviour of the perpetrator(s) has ceased eg by holding a one to one progress meeting with the complainant on, say, a fortnightly basis for 2/3 months.

4. Examples of harassment, bullying and victimisation

NB This summary supplements the definitions/examples outlined in the DAW procedure.

Harassment - examples

Harassment is unwanted, unreasonable, offensive, intimidating or insulting behaviour of either a sexual or racial nature by one employee towards another, whether made by a male or female. Such behaviour can amount to harassment, even if it is intended innocently; and employees must recognise that what is acceptable to one employee is not acceptable to another.

Sexual harassment - examples include:

- Insensitive jokes and comments
- Comments about appearance
- Unnecessary body contact
- Displays of sexually offensive material, e.g. pin-ups
- Requests for sexual favours
- Speculation about another's private life and sexual activities
- Threatened or actual sexual violence
- Threat of dismissal, loss of promotion etc for refusal of sexual favours

- Any other unwanted sexual advances

Racial harassment – examples include:

- Insensitive jokes and comments
- Mimicry
- Deliberate exclusion from conversations
- Threatened or actual violence on racial grounds
- Any other racial abuse

Gender Identity harassment – examples include

- Insensitive jokes and comments
- Speculation about another individual's gender
- Failure to address a person by his/her proper name
- Invasive enquiries about an employee's medical history
- Specific comments on characteristics such as facial hair, vocal pitch, and body shape or size
- Drawing unwelcome attention to an individual's gender identity
- Exclusion from normal workplace conversation or social events
- The circulation or display of offensive material relating to gender identity

Disability harassment – examples include

- Insensitive jokes and comments about the individual's disability
- Derogatory remarks and patronising behaviour
- Drawing unwelcome attention to an individual's disability
- The circulation or display of offensive material relating to disability
- Exclusion from normal workplace conversation or social events based on an individual's disability
- Discussion of the effects of a disability on an individual's personal life
- Uninvited touching of, or staring at, an individual's disability
- Inappropriate questioning about the impact of someone's disability
- Mockery, taunts or jibes regarding personal attributes
- Refusal to work alongside a person with a disability
- Communicating with a person with a disability via a third party
- Prejudging an individual's capabilities without reference to her/him

Religious harassment – examples include

- Insensitive jokes and comments
- Remarks about an individual's religion or religious garments
- Drawing unwelcome attention to an individual's religious beliefs
- Exclusion from normal workplace conversation or social activities based on an individual's religious belief
- The circulation or display of offensive material related to religion

Sexuality harassment – examples include

- Insensitive jokes and comments
- Innuendo or gossip in reference to an individual's sexuality
- Expressing or acting on stereotypical assumptions
- Failure to accept that same-sex partners should be recognised in appropriate

circumstances

- Threats of disclosing sexuality
- Drawing unwelcome attention to an individual's sexuality
- The circulation or display of offensive material related to sexuality
- Exclusion from normal workplace conversation or social activities based on an individual's sexuality

Ageist harassment – examples include

- Insensitive jokes and comments
- Expressing prejudicial assumptions about abilities based on chronological age
- Drawing unwelcome attention to an individual's age
- The circulation or display of offensive material related to an individual's age
- Exclusion from normal workplace conversation or social activities based on an individual's age

Harassment on the grounds of Political or Trade Union Affiliation or Conviction

- Embarrassing or derogatory comments regarding an individual's membership or non-membership of a Trade Union
- Embarrassing or derogatory comments about an individual's political beliefs
- Drawing unwelcome attention to an individual's trade union membership or political convictions
- Exclusion from normal workplace conversation or social activities based on an individual's trade union membership or political convictions
- The circulation or display of offensive material related to an individual's trade union membership or political convictions

Bullying

Bullying is unreasonable, offensive, intimidating or insulting behaviour, which makes the recipient feel upset, threatened, humiliated or vulnerable and/or undermines confidence – which may cause stress. It involves criticism of a person, rather than their mistakes. Bullying can occur at any level and is not confined to management or supervisory relationships. Generally, bullying takes the form of a pattern of behaviour rather than a single event. Examples include:

- Shouting at staff in public and/or in private
- Instantaneous rage, often over trivial matters
- Unfair or unjustified criticism
- Humiliating or disparaging remarks about an individual's ability, personality or characteristics – including physical isolation from other workers.
- Persistent reminders of past failings
- Unreasonable change of duties eg giving menial or pointless tasks
- Unreasonable refusal of requests for leave, training, etc.
- Setting unreasonable workloads, standards, impossible targets and/or deadlines – thereby undermining responsibility
- Unnecessarily detailed checking of work, excessively tight supervision
- Threatened or actual violence
- Any other abusive behaviour

Victimisation

Victimisation is unfavourable treatment against an employee, compared to her/his colleagues. The causes are various – but could arise, for example, where an employee has made a complaint against a particular employee eg a possible discrimination complaint or use of the ‘whistleblower’ provisions.

5. Generating a positive DAW culture

The Council is committed to creating a working environment where there are no incidents of harassment, bullying or victimisation. The framework includes:

Learning, development and education

All new employees are briefed at induction about the Council’s robust policy towards harassment, bullying and victimisation – and it is stressed that all complaints of harassment, bullying and/or victimisation are treated very seriously. In addition, the Council provides occasional workshops for staff and managers on harassment, bullying and victimisation in the workplace.

Removal of offensive materials

The Council discourages the display of offensive materials such as pin-ups and posters, and, where necessary, inspects work areas and removes offending materials.

Creating a positive DAW environment – management behaviours

The Council recognises the sensitive nature of complaints of harassment, bullying and victimisation and that individuals may either feel embarrassed or afraid to make a complaint. Managers are therefore required to set a positive example and to investigate and resolve any DAW complaints that arise **as soon as possible** - and are subject to the Discipline procedure if they breach the DAW standards required.

6. Further advice

Members of both the departmental and corporate HR teams are experienced in dealing with such DAW complaints and are available to advise managers, employees, and TU representatives on a **confidential** basis at any stage of the informal or formal DAW procedure.



Appendix 3

Dignity at Work procedure – Complaints Form

THIS FORM IS STRICTLY PRIVATE AND CONFIDENTIAL

TO – SEE NOTE BELOW with the exception of section 3. which will be required to be shared with the alleged perpetrator(s) at the point of investigation.

Name of complainant: Job Title.....

Department: Section.....

- 1 Have you either discussed your complaint informally with your manager or raised it at an earlier formal stage of the Dignity at Work complaints procedure?

Yes/No

2. **If yes**, please state when you did this, why you remain dissatisfied with the outcome and your proposed resolution. If you have **already** raised the complaint formally, please provide a copy of your original DAW complaints form(s) and the response.

- 3 **If no**, please outline below the nature of the complaint and, where possible, provide background details eg names of witnesses, dates and places, as appropriate.



4 Please state how and why the complaint affects you.



5 What would you wish to happen now as a result of your complaint?

6. Who do you wish to accompany you at any DAW complaints resolution meeting?

What is their **NON** availability during the next ten working days?

Signed:..... Date:.....

NOTE

1. Please give this completed DAW complaints form and any attachments to your line manager – **or** to your line manager's manager if the complaint concerns your line manager.
2. If this DAW complaints form is an **appeal** to your HOS, please give it to her/him.
3. If this DAW complaints form is an **appeal** to your Director, please give it to her/him.

NB Please continue on an additional sheet if required.