



FALKIRK COUNCIL

DIGNITY AT WORK POLICY

(How to deal with harassment, bullying and victimisation at work.)



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INDEX

		Page Number
PART 1	POLICY STATEMENT	3
	1.1 Policy Statement	3
PART 2	POLICY	3
	2.1 Introduction	3
	2.2 Scope	3
	2.3 Definition	3
	2.4 Roles and Responsibilities	4
	2.5 Procedure	5
	2.6 Stage 1 - Informal	6
	2.7 Stage 2 - Formal	6
	2.8 Support	8
PART 3	3.1 Implementation	9
	3.2 Monitoring and Review	9
Appendix 1	Legislation	11
Appendix 2	Harassment Checklist	12
Appendix 3	Mediation	13
Appendix 4	Support Contacts	14

PART 1

1.1 POLICY STATEMENT

Falkirk Council is committed to creating a safe working environment free from harassment and bullying, where everyone is treated with dignity and respect, and where complaints of harassment are dealt with quickly, positively and confidentially even where the harassment is not directed at the complainant.

All employees should be treated equally irrespective of their sex, marriage and civil partnership, age, race, ethnic origin, sexual orientation, disability, religion, gender reassignment and pregnancy and maternity. Falkirk Council will not tolerate any form of harassment, or victimisation of a person who has raised an allegation, and where necessary it will be treated as a disciplinary matter.

Falkirk Council also recognises that its employees may be subject to harassment from third parties and will take all reasonable steps to protect employees.

PART 2

2.1 INTRODUCTION

The aim of this policy is to highlight the options available to employees if they are subject to bullying and/or harassment and to ensure that those responsible for managing and supporting employees are aware of their responsibilities.

Harassment causes stress, anxiety and unhappiness to individuals, creates an unpleasant environment in which to work and may, in some cases if substantiated, be the basis for prosecution in law.

Harassment reduces efficiency and may ultimately have an impact on the way in which services are delivered to customers. For these reasons it is important that the Council, as an employer, and individual employees strive to achieve a working environment which is harassment free.

This policy is written to take account of all forms of harassment based on discrimination, as outlined in the Council's Equal Opportunities Policy and relevant legislation. (Refer to Appendix 1)

2.2 SCOPE

This policy applies to all employees. If the complainant or alleged harasser is not employed by the Council (e.g. agency worker) this policy will apply with any necessary reasonable modifications.

2.3 DEFINITION

The definition of harassment 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”.

Whether intentional or not, harassment is unacceptable and all complaints will be treated seriously.

Harassment can take many forms including:

- Spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment, marriage and civil partnership, pregnancy and maternity);
- Copying memos that are critical about someone to others who do not need to know;
- Ridiculing or demeaning someone i.e. picking on them or setting them up to fail;
- Exclusion or victimisation;
- Unfair treatment;
- Overbearing supervision or other misuse of power or position;
- Unwelcome sexual advances – touching, standing too close, display of offensive materials; including signs, pin ups and calendars;
- Making threats or comments about job security without foundation;
- Deliberately undermining a competent worker by overloading and constant criticism;
- Preventing individuals progressing by intentionally blocking promotion or training opportunities;
- Jokes, banter, emails or deliberate abuse directed at a person or group.

Whilst the list of above examples is not exhaustive it is representative of many types of behaviour that others may object to and find offensive which could create an intimidating working environment.

NB: A harassment checklist can be found at Appendix 2

2.4 ROLES AND RESPONSIBILITIES

Failure to deal with allegations of harassment, bullying or victimisation at work or by a third party such as a client of the Council may expose both the Council and employees to a number of legal consequences. Complainants can cite both the employer and individual employees as respondents at Employment Tribunal and, if the case is upheld, both may be held liable.

Everyone must therefore take responsibility to ensure that his or her area of work is free from harassment.

2.4.1 Employees

No one should practice, encourage or allow any form of behaviour that contravenes this policy or may be viewed by others as harassment. Every employee is expected to support colleagues who may be experiencing harassment problems and raise concerns with a relevant Manager/ Senior Manager.

2.4.2 Managers and Elected Members

Managers must take responsibility for addressing performance issues such as capability, time keeping and attendance. Training will be provided to ensure managers deal with these issues in accordance with the relevant policy.

Falkirk Council requires managers to behave in a professional manner at all times and to be aware of how their own behaviour can adversely impact on staff and potentially be perceived as harassment or bullying depending on the circumstance, including:

- Deliberately imposing grossly excessive or unachievable workloads or impossible deadlines in order to make life difficult for a particular employee;
- Repeated unfair criticism or destructive and negative criticism that focuses on blame rather than future improvement;
- Criticising individuals in front of colleagues;
- Excessive or overbearing monitoring of a particular employee's work without good reason.
- Ordering a particular employee to work below his or her level of ability, or to perform mundane demeaning tasks, with no proper reason;
- Removing an employee's responsibility without consultation and for no proper reason.
- Threatening an employee with dismissal.

Managers are responsible for ensuring that where an employee reports any act of harassment by a third party such as a client of the Council, that these complaints are dealt with timeously and that reasonably practicable steps are taken to prevent such third party harassment. The Council may be liable if an employee reports third party harassment three times and the Council has failed to try to prevent this. This harassment may be by different third parties.

Managers and Elected Members have a particular duty to set a proper example by treating everyone with dignity and respect.

They will be committed to the elimination of harassment, and be vigilant in preventing acts of harassment and victimisation where possible. This includes protecting employees from inappropriate behaviour by third parties.

They will pass this responsibility down through all levels of management and to all employees.

Managers are responsible for ensuring that the policy is drawn to the attention of employees. They will ensure appropriate guidance and support is given in the implementation and application of the policy.

2.5 PROCEDURE

Issues of bullying or harassment can be addressed using either the informal process and/or the formal process as outlined in 2.6 and 2.7.

2.6 STAGE 1 - INFORMAL

Many problems can be resolved at a very early stage by using some or all of the following methods:

- Speaking to the alleged harasser - This would involve the complainant speaking to the alleged harasser explaining that they feel uncomfortable in the way that they act towards them. If complainants feel unable to do this, they may ask their line manager or a colleague to do this on their behalf.
- Mediation – this is a flexible approach to conflict resolution and an opportunity to discuss issues with an ‘impartial third party’. This is a voluntary, confidential and independent process which can be used at any stage of the Dignity at Work process. (Refer to Appendix 3).
- Approaching one of the Council’s trained Harassment Support Officers (refer to section 2.8.1) for advice and support in total confidence with no obligation to take it further. A list of Harassment Support Officers is shown in Appendix 4 and is available on the intranet. Additionally or alternatively, employees may wish to seek support from a trained Counsellor from the Employee Counselling Service. (Refer to Appendix 4).

The complainant has the right to proceed to the formal stage if he/she feels that (a) the complaint is serious and therefore the informal processes are insufficient or (b) has tried to resolve the issue informally on another occasion.

2.7 STAGE 2 - FORMAL

2.7.1 Making a formal complaint

If the complainant feels it is necessary to progress the matter more formally, the complaint must be made in **writing** either to their line manager or next appropriate Senior Officer or the Service HR Adviser.

2.7.2 Duty of Care During Investigation

Falkirk Council has a duty of care towards all of its employees; therefore depending on the nature of the allegations, and to ensure that the integrity of the investigation is not compromised, it may be difficult for both parties to continue to work in the same environment. In specific circumstances, it may be appropriate to consider temporary redeployment or suspension, however this must be done in consultation with the Head of Human Resources. It would be advisable in situations like this to contact your Service HR Adviser to discuss alternative options in the first instance.

2.7.3 Investigation Process

An Investigating Officer will be assigned to explore the allegations and he/she will be supported by an HR Adviser. The purpose of the investigation is to consider the allegations being made by the complainant and report within the timescales. The process below should be followed:

- Arrange a meeting, in writing, with the complainant within 10 working days of receipt of the written complaint, it is recommended that a minimum of 5 working days notice of any meeting is given. The purpose of this meeting is to discuss the allegation(s) ensuring that accurate records are taken as part of the investigation. The complainant has the right to be accompanied by a work colleague, trade union representative, harassment Support Officer or a representative of their choice. The complainant should be advised the allegations have been taken seriously however, if allegations are found to be malicious or allegations are unsubstantiated, that Disciplinary action may be invoked.
- Interview the alleged harasser based on the complaint and subsequent meeting. The alleged harasser has the right to be accompanied to this meeting by a trade union representative, work colleague or a representative of their choice.
- Interview any witnesses considered relevant, where applicable, ensuring that all meetings are recorded and witness statements signed. Witnesses must be advised that should the matter proceed to a formal process i.e. disciplinary or industrial tribunal, their statement may be referred to or they may be called to give evidence.
- All individuals involved in the investigation should be reminded of the Council's expectations in terms of confidentiality.

2.7.4 Investigation Outcome

The investigation should normally be concluded within 15 working days following the meeting with the complainant however, this will depend on the complexity of the complaint and the number of individuals to be interviewed. The Investigating Officer should submit a written report recommending the outcome to the Head of Service.

The Head of Service will ultimately determine the final outcome, whilst taking account of the recommendations contained in the initial report. Although not exhaustive, the following are possible outcomes of the investigation:

- On the balance of probabilities there is a case to answer and therefore disciplinary action is appropriate regarding the alleged harasser;
- No case to answer therefore no further action;
- Both parties partially responsible therefore recommend support through training;
- Counselling and/or mediation;
- Complainer raised a vexatious claim and therefore should be subject to disciplinary;
- Proceedings;
- Redeployment on the grounds of breakdown in the working relationship.

If the Head of Service has been directly or indirectly involved with the investigatory process they should not participate in a Disciplinary or Grievance Panel associated with the case.

Where it is not possible to conclude the investigation within these timescales the complainant and alleged harasser must be kept informed regarding the progress and revised timescales.

2.7.5 Communicating Outcome

The Investigating Officer will be responsible for notifying the complainant in writing of the final outcome of the investigation. This must:

- Respond directly to the initial complaint.;
- If allegation(s) have been substantiated provide assurance that the Council will take appropriate action in accordance with the relevant policies;
- If the allegations could not be substantiated an explanation should be provided as to the basis for this decision. This should summarise the main aspects of the investigation in direct response to the allegations made. Advise the complainant that if they are dissatisfied with this outcome or the way in which the investigation has been handled they may submit a grievance in accordance with the Grievance Policy, following which a formal grievance hearing will then be arranged;
- If temporary redeployment/suspension was initiated, confirm the return to work arrangements.

The Investigating Officer will be responsible for notifying the alleged harasser of the outcome of the investigation in writing. This must:

- Advise whether, as a result of the investigation, the allegations have been substantiated and the recommendation e.g. disciplinary action, training counselling etc. If Disciplinary action is recommended then the Disciplinary procedure will apply;
- If the allegations could not be substantiated, advise that no further action will be taken;
- If temporary redeployment/suspension was initiated, confirm the return to work arrangements.

A copy of the report should be provided to both the complainant and alleged harasser. Witness statements should not be provided at this stage. Should the matter proceed to disciplinary hearing, statements, where appropriate will be presented as part of managements case.

2.7.6 Discipline & Grievance Process

Should a formal Disciplinary or Grievance arise as a result of the Dignity at Work investigation, a separate investigation will not be required under these policies. The original Dignity at Work investigation will form the investigatory stage of these processes. The Investigating Officer will present managements case at any relevant hearing.

2.8 SUPPORT

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

2.8.1 Harassment Support Officers

Harassment Support Officers are volunteers from a variety of services. They have received appropriate training to enable them to provide guidance and support to any

employee who feels they are being harassed or victimized. (For list of Harassment Support Officers refer to Appendix 4)

2.8.2 Employee Counselling Services

Falkirk Council provides an independent counselling service for all employees. The service is confidential and may help the complainant /alleged harasser to:

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

Counselling sessions allow employees to air their views and feelings with a qualified counsellor, who will help them to get to the root of the problem (for contact details, refer to Appendix 2 or on the Councils' intranet site).

This support is available for both the complainant and the alleged harasser.

PART 3

3.1 IMPLEMENTATION

The Council expects that all employees will be aware of the fact that they are individually and collectively, responsible of their own behaviour.

Managers and Elected members have a direct responsibility for ensuring the proper implementation of the Dignity at Work policy.

Managers are also responsible for raising the awareness of all employees of this policy.

Information and training will be provided to ensure that employees particularly managers understand what harassment is, their responsibilities to take action to stop it and the procedures to be followed where such cases occur. Elected members, particularly those likely to be involved in the related Appeals process, will also be offered training.

These measures will assist in ensuring that harassment does not occur in the first instance and all employees are afforded the right to dignity at work.

3.2 MONITORING & REVIEW

Harassment Support Officers will complete monitoring forms when incidents are reported to them. These forms will be collected and analysed by Human Resources. The results will be reported to the People and Equality Working Group, which is an umbrella/steering group with the primary function of overseeing employment related issues. All results are held in complete confidence and anonymity is respected throughout.

The Head of Human Resources will review this policy as per the agreed HR Policy review timetable in conjunction with Service Directors and Trade Unions taking into consideration reported incidents, investigations monitored, legislative amendments and

best practice advice. There is a responsibility on each service area to monitor Dignity at Work statistics for their Services and to identify any patterns.

This Policy has been Equality Impact Assessed and no adverse impact has been identified.

LEGISLATION

Equality Act 2010

The new Equality Act came into force on 1 October 2010, bringing together over 116 separate pieces of legislation into one single act. It has two main purposes – to harmonise discrimination law and to strengthen the law to support progress on equality. The act brings together and re-states all the enactments and other related provisions to provide new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The main existing pieces of legislation will be repealed as follows –

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Employment Act 1989 (sections 1-7 and 9)
- Disability Discrimination Act 1995
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Civil Partnership Act 1994 (Section 6(1) (b) and (2))
- Employment Equality (Age) Regulations 2006 (other than schedules 6 & 8)
- Equality Act 2006 (part 2)
- Equality Act (Sexual Orientation) Regulations 2007

Harassment Checklist

It is important to assess whether an employee was the subject of harassment. The following questions are a useful guide to determine whether they have been subject to harassment in the workplace.

1. Unwanted conduct – did the respondent engage in unwanted conduct related to one of the protected characteristics –

- Age;
- Disability;
- Gender Reassignment;
- Race;
- Religion or Belief;
- Sex;
- Sexual Orientation
- Pregnancy and Maternity;
- Marriage & Civil Partnership.

and did that conduct in question have the purpose or effect of –

- (i) violating the claimant's dignity or
(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for them.
- engaging in conduct of a sexual nature

2. The grounds for the conduct – was that unwanted conduct on the grounds of –

- sexual nature or that is related to gender reassignment or sex;
- the claimant's rejection of or submission to the conduct, alleged harasser treats the claimant less favourably than they would treat the claimant if they had not rejected or submitted to the conduct.

3. In deciding whether conduct has the effect referred to each of the following must be taken into account –

- the perception of the claimants';
- the other circumstances of the case;
- whether it is reasonable for the conduct to have that effect.

MEDIATION

What is mediation?

Mediation is a process of conflict resolution between two individual employees facilitated by a trained mediator. The purpose of mediation is to allow the individuals concerned an opportunity to explore issues of conflict with the aim of reaching a mutually agreeable solution. There needs to be willingness on the part of the employees concerned to enter into mediation on a voluntary basis, no-one can be forced into this process, and the outcome will be non-binding.

Mediation is appropriate when:

- An ongoing working relationship is required;
- There is a need to act co-operatively;
- Conflict/differences are affecting work;
- It is in both parties interests to resolve;
- There is a willingness by both parties to resolve.

Role of Mediator

To act as an independent third party to facilitate communication between the two employees and to promote a settlement.

The Council has ensured that trained mediators, selected from varying backgrounds, are available to facilitate this process. Human Resources will be responsible for appointing an independent mediator.

How to access mediation

In the first instance you need to raise your concerns with your line manager. If you do not consider this appropriate, discuss the issues directly with your shop steward, a Harassment Support Officer or Service HR Adviser.

If you elect to undertake the mediation process then you should be aware that this does not in any way stop you at a later stage from entering into the formal Council procedures.

SUPPORT CONTACTS**Harassment Support Officers**

Name	Service	Place of Work	Telephone Number	Email Address
Graham Buchanan	Corporate & Neighbourhood	Roughmute Depot	07730687999	
Sandy Harvie	Corporate & Neighbourhood	McLaren House	01324 506641	sandy.harvie@falkirk.gov.uk
Elaine Mackie	Corporate & Neighbourhood	Municipal Buildings	01324 506238	elaine.mackie@falkirk.gov.uk
Mari Moffat	Corporate & Neighbourhood	Suite 5, The Forum	01324 590743	mari.moffat@falkirk.gov.uk
Cheryl Muir	Corporate & Neighbourhood	Municipal Buildings	01324 506240	cheryl.muir@falkirk.gov.uk
Chaneen Pettigrew	Social Work	Dundas Resource Centre	01324 504302	chaneen.pettigrew@falkirk.gov.uk
Dot Reid	Development	Earls Road Depot	01324 501145	dorothy.reid@falkirk.gov.uk
Shirley Sisman	Corporate & Neighbourhood	Seabegs Road	01324 503087	shirley.sisman@falkirk.gov.uk
John Wood	Community	Bo'ness Recreation Centre	01506 778510	john.wood@falkirk.gov.uk

You can choose anyone from the list, but if they cannot see you straight away, you have the option to contact someone else.

Trade Unions

You may choose to contact a Trade Union representative.

Employee Counselling Service

Address: Headquarters
8th Floor Savoy Tower
7, Renfrew Street
Glasgow

Tel: 0800 435 768 (Self referral)
0141 332 9833 (Helpline)
01324 506246/7/9 (Employee Care)

You can also log on to the counselling service website www.empcs.org.uk which has an employee resource section specifically designed to provide additional information and support to all employees. Employees can log in under the *Employee Area* with the username **falkirkcouncil** and password **emp51**.

You can self refer by telephoning the above number