

**FALKIRK COUNCIL**

**Subject: REFERRAL FROM JOINT CONSULTATIVE COMMITTEE**  
**Meeting: COUNCIL**  
**Date: 8<sup>TH</sup> OCTOBER 2014**  
**Author: DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

**1. INTRODUCTION**

- 1.1 At the meeting of 12<sup>th</sup> March 2014, Council asked Officers to amend the Dignity at Work Policy. This report outlines the changes made and seeks approval for the amended policy which has been referred to Council by the Joint Consultative Committee.

**2. DIGNITY AT WORK POLICY**

- 2.1 As a reminder, on 12<sup>th</sup> March 2014, Council asked that the Dignity at Work Policy be amended to incorporate the following changes:
- All complaints of bullying or harassment of an employee by a Councillor must be investigated by the Chief Officer of the service of the employee making the complaint;
  - Where the outcome of the investigation is that bullying or harassing behaviour has taken place, the outcome will be reported to Council;
  - Council will consider the appropriate action to be taken against the Councillor and, in particular, whether a referral should be made to the Standards Commission.
- 2.2 These changes have now been incorporated into the revised Policy along with a number of other minor amendments, including clearer definitions of harassment, bullying and victimisation and clarity that legitimate management action does not constitute a breach of an individual's dignity at work. The policy also explains that complaints in relation to unacceptable conduct by third parties should now be dealt with under the Council's Policy and Procedure for the Management of Violence and Unacceptable Actions at Work.
- 2.3 The amended policy was considered by the Joint Consultative Committee on 12<sup>th</sup> August 2014 at which time it was agreed to refer the policy to Council for approval.

**3. RECOMMENDATION**

- 3.1 Members are asked to approve the Dignity at Work Policy for immediate implementation.

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**DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

Author: T Gillespie, ext 6239, K Algie, ext 6223  
Date: 01/09/14

**BACKGROUND PAPERS**

## **FALKIRK COUNCIL**

**Subject: DIGNITY AT WORK POLICY**  
**Meeting: JOINT CONSULTATIVE COMMITTEE**  
**Date: 12<sup>th</sup> AUGUST 2014**  
**Author: DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

### **1. INTRODUCTION**

- 1.1 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. The Council's Dignity at Work Policy aims to highlight the options available to employees if they are subject to bullying, harassment and/ or victimisation and to ensure that those responsible for managing and supporting employees are aware of their responsibilities.
- 1.2 The purpose of this report is to advise Committee of updates to the Dignity at Work Policy.

### **2. DIGNITY AT WORK POLICY**

- 2.1 Following review and update, the revised policy:
- Includes clearer definitions of harassment, bullying and victimisation.
  - Provides clarity that legitimate management action does not constitute a breach of an individual's dignity at work;
  - Clearly outlines the responsibility of individual employees in helping create a climate at work in which bullying and harassment are unacceptable;
  - Highlights that complaints in relation to unacceptable conduct by third parties should now be dealt with under the Council's Policy and Procedure for the Management of Violence and Unacceptable Actions at Work;
- 2.2 The early resolution of concerns is a key aim of this policy to prevent possible issues escalating. As such, the revised policy aims to simplify the processes for dealing with dignity at work matters with an increased focus on informal mechanisms of resolution.
- 2.3 Committee will also be aware of the decision reached by Council on 12<sup>th</sup> March 2014 that the Policy be amended to incorporate the following changes:
- All complaints of bullying or harassment of an employee by a Councillor must be investigated by the Chief Officer of the service of the employee making the complaint;
  - Where the outcome of the investigation is that bullying or harassing behaviour has taken place, the outcome will be reported to Council;
  - Council will consider the appropriate action to be taken against the Councillor and, in particular, whether a referral should be made to the Standards Commission.

- 2.4 This has now been incorporated into the revised Policy as requested by the Council and requires to be referred back to Council as per Council's decision.
- 2.5 A copy of the revised policy is attached for Committee's consideration.

### **3. RECOMMENDATION**

- 3.1 It is recommended that Committee agree the changes to the Dignity at Work Policy and refers it to the next meeting of Falkirk Council for approval.

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**DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES**

Date: 16<sup>th</sup> June 2014

Contact Name: Kathleen Docherty, Senior Human Resources Adviser

#### **LIST OF BACKGROUND PAPERS**

None



# FALKIRK COUNCIL

## DIGNITY AT WORK

## POLICY

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



\*\*\*\* 2014

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## **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 or belief, 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, harassment and/ or victimisation and to ensure that those responsible for managing and supporting employees are aware of their responsibilities.

The Council recognises that any such unacceptable conduct can create an intimidating, hostile or humiliating work environment which can impact on the health, confidence, morale and job performance of employees.

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. All allegations of a breach of Dignity at Work will therefore be treated seriously. 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.

### **2.2 SCOPE**

This policy applies to all employees of Falkirk Council. The Policy applies when a complaint is made against an Elected Member and provision is made for this at Section 2.7.4.

## 2.3 DEFINITION

This policy deals with bullying, harassment and victimisation in the workplace which may be defined as follows:

Bullying (as defined by ACAS) is:

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

Harassment (as defined by the Equality Act 2010) 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”.

For the purposes of this Policy, harassment will also include conduct of a similar nature which is not related to a protected characteristic.

Victimisation, for the purposes of this policy, is less favourable treatment of an individual because they have made a complaint or intend to make a complaint about being bullied or harassed or act as a witness in this regard.

Whether intentional or not, such conduct is unacceptable and all complaints will be treated seriously. Examples of unacceptable behaviour are:

- 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.

When determining whether a matter may constitute a breach of Dignity at Work, an important factor to be considered is the perception held by the individual who is claiming

to have been harassed, bullied or victimised **and** whether it was reasonable for him/ her to hold that perception.

It is also important to note that effective management of employees is not bullying or harassment. Managers are expected to lead and manage employees which involves setting and making sure employees understand performance standards. Legitimate, constructive and fair criticism of an employee's work performance or behaviour either informally or formally is not bullying.

## **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**

Employees have a clear role in helping create a climate at work in which bullying and harassment are unacceptable. All employees therefore have specific responsibilities as follows:

- Treat all colleagues and service users with respect and dignity and contribute positively to effective working relationships;
- Not discriminate against other employees;
- Not intimidate, threaten or bully other employees or otherwise behave in a manner inconsistent with fair and dignified treatment of employees at work;
- Not victimise any individuals who have raised concerns or acted as a witness in relation to any breach of this policy;
- Bring to the attention of management any breach of this policy witnessed, providing evidence where possible; and
- Support any proceedings to consider allegations under this policy and not misuse the provisions of this policy by making malicious or groundless complaints.

### **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. Complaints in relation to unacceptable conduct by third parties should be dealt with under the Council's Policy and Procedure for the Management of Violence and Unacceptable Actions at Work.

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.

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**

### **2.6 STAGE 1 - INFORMAL**

The early resolution of concerns is a key aim of this policy, particularly to prevent possible issues escalating. It is also essential to stop any inappropriate behaviour occurring or being repeated to minimise anxiety for the employees concerned. As a result, all employees have a responsibility to work towards an early resolution of their concerns. Where possible, employees who are subjected to a breach of their dignity at work should make every reasonable effort to resolve this informally through one of the mechanisms listed below.

Informal mechanisms available are:

- 2.6.1. Speaking to the alleged harasser** – Acts of bullying and harassing behaviour are not always intentional with individuals not being aware of the impact of their behaviour on others. By making the individual aware of the impact of their behaviour, this can often resolve the matter. The complainant should speak directly to the alleged harasser explaining that they feel uncomfortable in the way that they act towards them and asking them to stop behaving in that manner. If the employee feels unable to do this, they may

ask their line manager, trade union representative or a colleague to do this on their behalf. If the person is their line manager, they can ask a more senior manager to talk to them. Equally, if the complaint relates to the conduct of an Elected Member, the employee may raise this with their Head of Service/ Chief Officer and seek their support to raise this on their behalf.

**2.6.2 Mediation** – Mediation is a process of conflict resolution between two individual employees facilitated by an independent 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. It can be used at any stage in the Dignity at Work process. 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.

The Council has ensured that trained mediators, selected from varying backgrounds, are available to facilitate this process. If an employee wishes to consider mediation as an informal mechanism to address their concerns, they should raise this with their line manager ( or where relevant, a more senior manager) who will liaise with Human Resources to arrange for a mediator to be allocated.

If an employee elects to undertake the meditation process then this does not stop them from progressing their complaint more formally if the matter remains unresolved i.e. the unacceptable conduct is continuing.

**2.6.3 Approaching one of the Council's trained Harassment Support Officers** for advice and support in total confidence with no obligation to take it further (see Appendix 1).

The role of the Harassment Support Officers is to:

- Advise what the terms bullying and harassment mean and which types of behaviour may fall or not fall within the remit of this Policy;
- Explain the process for dealing with Dignity at Work complaints, including informal mechanisms and potential outcomes and implications; and
- Promote the benefits of seeking an early resolution to complaints.

Harassment Support Officers will discuss cases in confidence and will not divulge information to any other person without the knowledge of the employee.

Employees who have been accused of unacceptable conduct under this Policy may also contact an Harassment Support Officer who will be able to explain the above.

Additionally or alternatively, employees may wish to seek support from a trained Counsellor from the Employee Counselling Service. 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 they 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 1 or on the Councils' Underground site).

The matter should only be progressed to the formal stage of this Policy if:

- the informal approach does not bring about the desired result i.e. the unacceptable conduct is continuing; or
- the employee feels that an informal approach is not appropriate due to, for example, the seniority of the other individual concerned; or
- the employee feels that the matter is so serious that an informal approach is not possible ( in determining this, it is important that employees retain a sense of proportion in identifying behaviour which is perceived as causing offence).

## **2.7 STAGE 2 - FORMAL**

### **2.7.1 Making a formal complaint**

Circumstances may arise where informal approaches do not resolve the employee's concerns i.e. the breach of dignity at work does not stop or the matter is so serious that the employee does not consider that informal resolution is practicable. If the employee/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, confirming whether informal approaches have been unsuccessful or giving an explanation of why it was not practicable.

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 process 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 Human Resources.

### **2.7.2 Preliminary Meeting**

On receipt of the complaint, if the recipient considers that an informal approach may assist in resolving the situation, this will be discussed with the employee. Otherwise, the individual line manager ( where they have not been involved in the complaint to date) or a more senior nominated manager will arrange to meet with the employee/complainant with a representative from Human Resources present. The employee has the right to be accompanied at this meeting by a work colleague or trade union representative.

At this meeting, the employee will be invited to explain the basis of their complaint which will be sensitively explored to determine:

- Whether the complaint is appropriately dealt with under the Council's Dignity at Work Policy – when determining whether a matter may be considered a breach of Dignity at Work, an important factor to be considered is the perception held by the individual who is claiming to have been harassed, bullied or victimised **and** whether it was reasonable for him/ her to hold that perception;
- Whether all appropriate informal mechanisms to resolve the problem have been explored and the issue remains unresolved i.e. the inappropriate behaviour is continuing;
- Whether a management intervention may resolve the matter e.g. the manager may attempt to find a joint resolution between the parties through facilitated discussion led by themselves or a mediator or may take the view that the matter may be resolved through training, clarity of roles etc;
- Whether the matter requires to be fully investigated as a potential disciplinary matter see Section 2.7.3 below.

This list is not exhaustive.

The manager should write out within 5 working days of this meeting to confirm their decision in relation to the course of action to be adopted. If the complainant is not satisfied with this decision or feels dissatisfied with the conduct of any subsequent investigation or its outcome, they have the right of appeal against this decision within 10 working days of receipt of the outcome letter. Any appeal will be considered in line with the appeals stage of the Council's Grievance Policy.

### **2.7.3 Investigation Process**

Where the decision is taken that an investigation is appropriate due to a potential breach of the Dignity at Work Policy, an Investigating Officer will be assigned to explore the allegations and he/she will be supported by Human Resources. The investigation will be conducted in line with the Council's Disciplinary Policy.

The complainant will be advised, at the outset, that the allegations have been taken seriously however, if allegations are found to be malicious or allegations are unsubstantiated, that Disciplinary action may be invoked against them.

The Investigating Officer should submit a written report recommending the outcome to the Head of Service/ Chief Officer. The Head of Service/ Chief Officer will ultimately determine the final outcome and 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.

The outcome of any disciplinary proceedings is confidential and, as such, will not be disclosed to the complainant. The behaviour which caused the original concerns will be expected to stop and the complainant will be advised, in writing, in general terms whether or not their concerns were substantiated. They will have the right of appeal against either the conduct or the outcome of the investigation conducted as outlined in 2.7.2 above.

#### **2.7.4 Application to Elected Members**

Where a complaint relates to the conduct of an Elected Member, it should be considered in the first instance by the Director (or Chief Finance Officer or Chief Governance Officer in the case of the Finance and Governance Divisions) of the Service in which the person making the complaint works. The Director should meet with the employee as described in 2.7.2 with a view to determining:-

- Whether the complaint is appropriately dealt with under this Policy; and
- Whether any of the informal mechanisms to resolve the problem are appropriate and whether the employee wishes to pursue these.

If the Director determines that the complaint should be dealt under this Policy and either has further determined that the informal mechanisms are not appropriate or has determined that they would be appropriate but the employee does not wish to pursue them, the Director will appoint a Chief Officer to conduct an investigation of the complaint.

The purpose of the investigation will be determine whether, on a balance of probabilities, the conduct complained of has taken place and whether this amounts to bullying, harassment or victimisation. In the event that the Chief Officer finds that there has been conduct in breach of the Policy, the Chief Officer's report will be referred to Council.

The Council will consider the appropriate action to be taken against the Elected Member and, in particular, whether a referral should be made to the Commissioner for Ethical Standards

## **2.8 SUPPORT**

The Council recognises the need to offer support to employees who feel they have suffered harassment, victimization or bullying. Support Contacts are listed in Appendix 1.

## **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**

The Head of Human Resources & Customer First 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.

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

## SUPPORT CONTACTS

### Harassment Support Officers

Employees can seek support from the Council's harassment support officers. Please contact Human Resources on 01324 506222 for further information and contact details.

### Trade Unions

You may choose to contact a Trade Union representative.

### Employee Counselling Service

**Address:** Headquarters  
8<sup>th</sup> 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](http://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*